



DEAD CALM

Helping asylum-seekers on the Isle of Lésvos



THE CARETAKERS
The Legal Aid Board's
new head, Joan Crawford,
talks to the Gazette



CORRECTIVE MEASURES
We must continually review
penal policy to uphold a just,
humane, and safe society



A COUNTRY PRACTICE
The upsides of smaller,
'provincial' practice
outside the capital

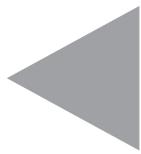


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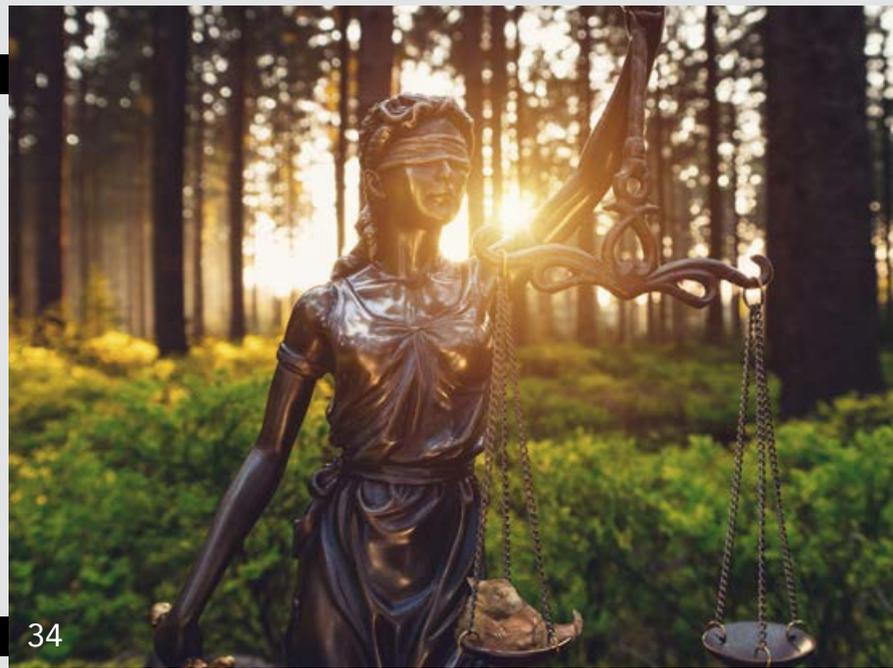
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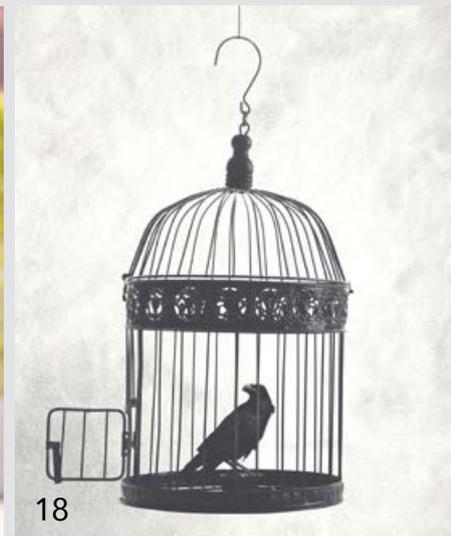
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The canary sings?

Like the miners in the days of old, who brought canaries down the coalpits to give them early warning that it was time to leave due to changing circumstances and danger, is it time for us to listen intently as to whether the canary is still chirping in relation to legal practice?

In previous President's Messages, 'the rule of power versus the rule of law and access to justice', and the pressure on the rights of our people by commercial interests and the State have been highlighted.

Three recent legislative enactments have been outlined as particular examples of the pressure and attack on the rights of our people, but who will bring this developing situation to the fore?

Taking up the call

At the recent Justice Media Awards (JMAs), journalists and members of the media – who are fundamental to a proper functioning democracy – were urged to take up the call. Every year, the Law Society hosts the JMAs, which, this year, saw the largest number of entrants.

Through these awards, the Law Society recognises the significant investigative work and journalism carried out by journalists in our society, in order that our people are kept informed of all relevant matters.

The Society also recognises the intrinsic value and importance of a free press that is unfettered by State restrictions (which happens in some countries but, thankfully, not in Ireland), but also a free press that is unfettered by significant commercial pressures that force media organisations to become sensationalist and entertaining in order to achieve maximum marketability.

Journalists, as guardians of information, and

lawyers, as guardians of the law, are essential to the proper functioning of society. Both professions have a duty to bring to the attention of our people matters that directly concern their rights.

Causes of concern

Recent legislation, including the *Draft Planning and Development Bill 2022*, the *Patient Safety (Notifiable Incidents and Open Disclosure) Act 2023*, and the *Personal Injuries Resolution Board Act 2022* are causes of concern to the rights of our people. Who will tell them of these concerns? Where is the canary, and is it still singing?

Attacks from vested interested parties on solicitors and on the importance of independent legal advice and representation is detrimental to access to justice for individuals.

One example of this is the answering message that is relayed on every contact to the Personal Injuries Assessment Board. Victims of accidents are advised that there is no requirement to appoint a solicitor and, if any third party is appointed, a professional fee will be incurred. Where, then, will a victim get independent professional advice to make the necessary

“ATTACKS FROM VESTED INTERESTED PARTIES ON INDEPENDENT LEGAL ADVICE IS DETRIMENTAL TO ACCESS TO JUSTICE

decisions in the difficult and stressful circumstances that victims of accidents encounter?

All of these circumstances would lead one to believe that the song of the canary is getting more difficult to hear!



Maura Derivan
MAURA DERIVAN,
PRESIDENT

THE BIG PICTURE





CLIFFHANGER

An athlete competes during the second stop of the Red Bull Cliff Diving World Series in Paris on 18 June. Held in front of the Eiffel Tower, 12 male and 12 female athletes dived from 21-metre and 27-metre platforms mounted on the Port Debilly on the river Seine. A total of 45,000 spectators witnessed the world-class divers reach speeds of 85kph before entering the water. Constantin Popovici made it two out of two wins in Paris, but it all came down to the last dive of the day in the women's competition, when Rhiannan Iffland beat her main rival Molly Carlson to take the French title

PICTURE: TOM NICHOLSON/SHUTTERSTOCK

Constitutional lessons in a post-colonial world



The EU and International Affairs Committee, together with Law Society Professional Training, were delighted to welcome the Indian Ambassador to Ireland, Akhilesh Mishra, together with Dr Donal Coffey (lecturer/assistant professor, Maynooth University of Ireland) and John O'Dowd (lecturer, School of Law, UCD) to Blackhall Place on 4 May 2023. Pictured are John O'Dowd, Bill Holohan SC, Ambassador Akhilesh Mishra, and Ross McMahon

Dinner to honour past-president James Cahill



PICTURE: LENSEMEN

The Council of the Law Society held a dinner in honour of past-president James Cahill at Blackhall Place on 15 June. Guests included (l to r): Kevin O'Higgins, Patrick O'Connor, Katherine Killalea, Law Society President Maura Derivan, James Cahill, Michelle Ní Longáin, Rosemarie Loftus, Keith Walsh and Adrian P Bourke

Geoffrey Shannon declared judge of Circuit Court



Dr Geoffrey Shannon SC was declared a judge of the Circuit Court on 25 May in the Supreme Court. Among the special guests was his proud mum Ailish



Past and present members of the Law Society's Family and Child Law Committee congratulate Dr Geoffrey Shannon on his declaration as a judge of the Circuit Court, including Siún Hurley, Joan O'Mahony, Geraldine Keehan, Judge Geoffrey Shannon, and Helen Coughlan

Blackhall Ball pumps up the volume!



ALL PICS: ALAN HARRISON

On 31 March 2023, Mount Wolseley in Co Carlow came alive with the much-anticipated annual Blackhall Ball. Sponsored by specialist recruitment consultancy Hunter Savage, the event drew more than 400 attendees. The Blackhall Music Society took the award for 'Best Society Event' for their 'Blackhall takes Whelans' International Women's Day charity gig, which raised over €1,000 for Women's Aid



The Blackhall GAA squad and their trophy from their successful outing to the Netherlands. See the follow-up story at www.gazette.ie

Calcutta Run celebrates its silver anniversary

ALL PICS: JASON CLARKE PHOTOGRAPHY



Almost 1,300 runners took part in the 25th annual Calcutta Run, the Legal Fundraiser, at Blackhall Place on 27 May 2023. The run aims to raise €400,000 this year for The Hope Foundation and Peter McVerry Trust. To donate, visit www.calcuttarun.com



Winners of the 10K men's race Brian Cronin (third), Conor Deane (first) and Christopher O'Reilly (second)



Winners of the 10K race were Ciara Woulfe (second), Jennifer O'Sullivan (first) and Aoife Duggan McSweeney (third)



Winners in the 5K race were Patrick Conlon (second), Eoin Molloy (first) and Jerome Curran (third)



Isabel Bart (Peter McVerry Trust) lets her feet breathe at the end of the run



And they're off – celebrating the silver anniversary of the Calcutta Run

Cork's Calcutta Run a family and furry-friend affair



There's no gain without pain! At the starting line in Blackrock, Cork, on 28 May



The organisers of the Cork event: Brendan Cunningham, Joan Byrne, Emma Meagher Neville (SLA president), Dermot Kelly and Kieran Moran



Valerie, Rian, Caoimhe and Dermot Kelly



Young competitors took it all very seriously



Room with a view in sunny Florence



The County Cavan Solicitors Association travelled to Florence recently for its annual outing. The trip had originally been flagged for May 2020, but the pandemic put those plans on hold. The group enjoyed lots of sight-seeing and great weather, cuisine, and company – and even a morning run! Enjoying the scenery at the Fattoria di Bagnolo vineyard were (front, l to r): Niall Fox, Eilis McCabe, Gemma Costello, Jackie Maloney, Lorraine McCoy, Brid McQuillan, Helena Brady, Eamonn Carolan, and Noel O’Gorman; (back, l to r): Kevin Hickey, Fiona Baxter, Sonia McEntee, Mary McAveety, John Keaney, Damien Glancy, Rita Martin, Rory Hayden, Paul Kelly, Martin Cosgrove, Robert O’Connell, Denis McDwyer, Garrett Fortune, Charlie Murtagh, Breege Mimmagh, and Piers O’Sullivan

Partners in Pride support OUTLaw in Dublin



PC: CIAN REDMOND

Law Society President Maura Derivan and director general Mark Garrett joined colleagues from across the legal profession to support the OUTLaw Network at Dublin’s Pride parade on 24 June 2023. The Law Society is a proud supporter of the LGBTQIA+ community and recently committed to being a Partner of Pride at Work. For more information, visit: www.lawsociety.ie/pride

Sligo solicitors' summer soirée



Sligo Bar Association held a summer soirée at the Bridgefoot House Restaurant on 1 June. The association's committee made a presentation to newly appointed senior counsel Michele O'Boyle. (From l to r): John Anderson (secretary), Fiona Gallagher (president), Michele O'Boyle and Caroline McLaughlin (PRO)



Ita Lyster, Laura Spellman, Áine Mulderrig, Judge Sandra Murphy, Michele O'Boyle and Noelle Galvin

ALL PICS: DONAL HACKETT



Noelle Galvin and Carol Ballantyne



Joe Keys, John Anderson and Donncha O'Connor



Members of the Sligo Bar Association with the solicitor profession's latest senior counsel, Michele O'Boyle

Doyle secures JMA's top gong

● Michael Doyle of *The Irish Sun* has won this year's 'Overall Justice Media Award' for his extensive reporting on the Gerry Hutch murder trial. The Law Society announced the winners at an awards ceremony lunch at Blackhall Place on 22 June.

His series in the 'Court reporting (print/online)' category stood out from a record-breaking 340 entries to win the top award.

Law Society President Maura Derivan said that the Law Society was inspired and encouraged to see such a strong standard in Irish legal journalism. "The talent and skill among Irish journalists are strong and thriving, from seasoned national reporters and local journalists to podcasters, broadcasters, and newcomers."

Access to justice

"Journalism that promotes a greater public understanding of the law and our people's rights, access to justice, legal literacy, and the legal system is of immense value to society. This year, the winning entry demonstrates these characteristics," the president said.



Sonia McEntee (judging panel member), Michael Doyle (*The Irish Sun*), president Maura Derivan, and director general Mark Garrett

"By reporting on the Gerry Hutch trial, Michael Doyle has succeeded in providing an accessible explanation and detailed account of this high-profile case and the law surrounding it.

"These insights gained from inside the Special Criminal Court are invaluable to society's understanding of the law and to ensuring that justice is delivered transparently, in public."

The president congratulated all of this year's winners and thanked all those who had entered the awards.

Broad range

Reporters were recognised for their work on issues such as cancer screening, relationship breakdowns, golden visas, NIMBYs, and the treatment of Uyghurs.

Legal affairs correspondent Catherine Sanz won the podcast category for the second year, alongside Neville Cox and Carolyn Goulden, for an interview with Caoilfhionn Gallagher KC on defending pro-democracy campaigners around the world.

Business Post journalist Barry

J Whyte was awarded a merit for his investigation into Ireland's immigrant investor programme, which the judges said, "demonstrated the highest standards of journalism, showing the need for reform in Ireland's immigrant investor-programme system". *The Business Post* performed strongly, winning three category awards and three merits.

Anglo-Celt reporter Séamus Enright won in the Print/Online Journalism (local) category. The full list of winners can be viewed at www.lawsociety.ie.

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Trainees take targeted learning to new heights

● The first of the Law Society’s advanced elective courses were delivered in May and June 2023. Trainees could choose from a suite of 25 new Law School courses.

While the core compulsory elements of the new Professional Practice Course honour a deeply held commitment to the ‘generalist’ approach to solicitor training, such a broad offering of advanced electives has provided trainees with an array of bespoke learning opportunities.

The advanced-elective courses offered in May included well-established subject content areas such as advanced dispute resolution, banking and finance, commercial contracts, commercial and complex property transactions, corporate transactions, data protection, employment law, health care law, and insolvency.

The PPC team also offered more specialised content areas. For example, Ireland is a recognised global hub for the aviation leasing-and-finance industry, with more than 60% of the world’s fleet of leased aircraft owned, leased or managed in Ireland. In this regard, the Aviation, Leasing and Finance advanced course provided trainees with in-depth insight into the legal issues that parties typically encounter when acting in such transactions.

The delivery of such a diverse range of advanced elective courses marks an exciting development for the Law School. The team will continue to monitor new and emerging areas of practice to ensure they are appropriately covered at the advanced-elective stage.



ALL PICS: CIAN REDMOND

At the launch of the Data Protection elective were (l to r) Fleur O’Shea (deputy commissioner, Data Protection Commission), Daragh O’Brien (managing director, Castlebridge), and Megan Murphy Byrne (course leader)

Trainees who are particularly interested in advanced-elective topics can further specialise in their preferred area by undertaking one of the Diploma Centre’s courses. These follow-on courses will result in a higher qualification in the subject and additional practical skills.

Such courses include the Diploma in Aviation Leasing and Finance, Diploma in Finance Law, and Diploma in Employment Law, all of which will be offered in autumn 2023. Diploma Centre courses can be explored at www.lawsociety.ie/diplomacentre.



Aviation, Leasing and Finance lecturer Kate Clancy (senior associate, McCann FitzGerald)

Central Office appointments

● The Law Society’s Litigation Committee wishes to remind all practitioners to cancel an appointment made with the Central Office if it is no longer required.

The Central Office is reporting hundreds of ‘no-shows’ each week, which is a very poor reflection on the profession and unfair on the members of the Courts Service.

By cancelling an appointment, you are freeing up that time for a colleague and allowing the Central Office to manage its resources more efficiently. The committee would encourage all members to comply with this request.

Enjoy the Wellbeing Festival!

● Take a break and join the Law Society’s Professional Wellbeing Festival at Blackhall Place from 6-8 September 2023.

Hear from stimulating speakers and thought leaders about how to be a high-impact professional. Connect, relax and enjoy! Visit www.lawsociety.ie/ps.

Work/life balance rights for parents in July

● Employees will gain some new employment rights from 3 July, when parts of new legislation on work/life balance come into effect.

Under the changes, the entitlement to breastfeeding

breaks will be extended from the current period of six months – a time that coincides with maternity leave – to two years.

In addition, parents and carers will be entitled to a new right to unpaid leave for

medical purposes.

The right to request flexible working for parents and carers will be commenced after the preparation of a Code of Practice by the Workplace Relations Commission.

ENDANGERED LAWYERS

SONIA NDIKUMASABO, BURUNDI



The 'Burundi Five', including Sonia Ndikumasabo (president, AFJB), Marie Emerusabe (general coordinator), and three prominent members of APDH

● Last February, Sonia Ndikumasabo and three colleagues were arrested in Bujumbura as they waited to board their flight to Uganda for a meeting with the international NGO *Avocats sans Frontières*. A fifth person was arrested the same day in Ngozi. Sonia is the president of the *Association des Femmes Juristes du Burundi* (AFJB). Arrested with her was Marie Emerusabe, its general coordinator. The others belong to the *Association pour la Paix et la Promotion des Droits de l'Homme* (APDH) and are its executive director, legal representative, and land-project coordinator. The AFJB and APDH work on gender-based violence and land rights, and are officially registered.

Those arrested are accused of working with an international NGO, which is, in fact, not contrary to Burundian law. Interior Minister Martin Niteretse stated: "The case is ongoing. The results we have at the moment show that there is a high probability that there is a risk of financing of terrorism through these funds. We must be vigilant on all points to ensure that nothing disturbs peace and public order."

Under international human-rights law and standards, seeking, obtaining and using financial resources, including from foreign and international sources, is a vital component of the right to freedom of association. Undue restrictions on resources available to organisations have a negative impact on the right to freedom of association.

Carina Tertsakian of the Burundi Human Rights Initiative says: "The charges of endangering state security and rebellion against these five human-rights defenders are absurd. If the authorities have questions about their sources of funding, these can be solved through normal administrative channels, as provided for by the law."

There have long been tensions between the authorities and civil society NGOs. During the late president's third and final term (2015 to 2020), independent civil society and media were often targeted and their members attacked, forcibly disappeared, detained, and threatened. There has been almost total impunity for these actions. Scores of human-rights defenders and journalists fled the country, and many remain in exile.

On 15 March, the Court of Appeal upheld a High Court ruling to keep the five in detention, pending trial. There has been no update online in relation to events since.

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

Special Merit Award for Shannon



PICTURE: JASON CLARKE PHOTOGRAPHY

● Law Society policy director Geoffrey Shannon SC, who was recently appointed a Circuit Court judge, has been honoured with a Special Merit Award at this year's *Irish Law Awards*.

Accepting the award on 9 June at the Clayton Hotel, Dublin, Dr Shannon said that he became a lawyer in order to work to improve the lives of the less fortunate.

Presenting the award, solicitor Richard Hammond SC quipped that, given Dr Shannon's peerless work rate, output, and erudition, he could receive such an award annually. Hammond added that Shannon was one of those "rare forces of nature who, when he speaks, everyone stops to listen". He was cited for his work as an accomplished author, a former special rapporteur on children, and an independent legal expert to successive governments.

This year, the award was made for Shannon's work as independent reviewer of St John Ambulance Ireland, examining both historical handling of child sexual abuse and reviewing current safeguarding practices. He was previously awarded a Special Merit Award in 2013.

Accepting the accolade, Dr Shannon said that he was both humbled and shocked: "I've always felt enormously privileged to undertake work that shines a light on the least privileged members of society," he said.

A second Special Merit Award went to Dr Louise Crowley of UCC for developing and leading its Bystander Intervention Programme. That programme has now also been utilised at the Law Society for PPC students.

A Lifetime Achievement Award for Michael V O'Mahony (1993/94 Law Society president, former McCann FitzGerald partner, and UCD tutor) was accepted by his son Robert, as the recipient was on a previously arranged vacation.

"Michael O'Mahony is considered by many to have been the architect of the *Solicitors (Amendment) Act 1994*, which heralded a seminal evolution in the role of the solicitor in Irish society," Richard Hammond of the judging panel said in his citation. He added that Mr O'Mahony remains an influential and valuable member of, and consultant to, numerous Law Society committees.

Defending the rule of law in Europe

● Irish-trained solicitor Michael O’Flaherty (director of the Vienna-based EU Fundamental Rights Agency) gave a public address entitled ‘Defending the rule of law in Europe’, at Blackhall Place on 15 May. The event was organised by the Law Society’s EU and International Affairs Committee.

Emphasising the importance of the rule of law in our societies, O’Flaherty outlined some worrying indicators, including politicians who speak words of exclusion and hate. He also highlighted the action required to tackle any attempt to undermine the rule of law. In this regard, the role of an independent, impartial and efficient judiciary is pivotal. Other key elements of the battle to resist any erosion include national human-rights institutions, equality bodies, civil



Cormac Little SC, Michael O’Flaherty (director, Vienna-based EU Fundamental Rights Agency), and Ross McMahon (chair, EU and International Affairs Committee)

society, and the media. O’Flaherty concluded his address by a call to action – emphasising that, as ‘guardians of the court’, all European lawyers have a duty to combat threats to the rule of law.

New senior counsels named

● The Government has approved the granting of Patents of Precedence and the title of senior counsel to 19 barristers and three solicitors. The solicitors are: Philip Andrews, Michele O’Boyle and Jennifer O’Brien.

The barristers include: Andrew Beck, Patricia Brazil, David Browne Niall Buckley, David Bulbulia, David Casserly, Eoghan Cole, Brian Conroy, Nathy Dunleavy, Karl Finnegan, Caren Geoghegan, Niall Handy, Alan Keating, Mark Lynam, Cathy Maguire, Emily Egan McGrath, Patricia McLaughlin, Mark Mulholland, and Derek Sheahan.



Michele O’Boyle named as SC

President of the Law Society Maura Derivan complimented the three solicitors: “Congratulations to our newly-appointed senior-counsel colleagues. I trust your achievements and leadership will inspire future leaders and increased representation of solicitors among senior counsel in future years.”

IRLI IN AFRICA

MALAWI’S ‘CHILDREN IN NEED’



Martha Pigott (IRLI) reviews police-custody books with Malawi Police Service Sub-Inspector Billy Chiphiko (child protection officer, Lumbadzi Police Station)

● According to Malawi’s *Child Care, Protection and Justice Act 2010 (CCPJA)*, children who come into contact with the law must be separated from adult offenders and housed in so-called ‘safety homes’. The situation, however, is quite different, and many children are not accessing these facilities.

In the Central Region, I visit five different police cells, some on a daily basis, and gather data on the number of children found in the cells. From my data, between the months of September 2022 and January 2023, a total of 364 children spent time in these police cells. Additionally, almost half of these children overstayed their time in custody, well exceeding the maximum 48 hours any person should spend in a cell before their case is processed. This is the reality on the ground.

According to Malawian law, almost anyone can take a child in need of care and protection to a safety home. In fact, the phrase ‘safety home’ appears in the CCJPA 101 times, and ‘reformatory centre’ 113 times. However, as we have learned from our other work in Malawi, these facilities are actually few and far between, and the ones that do exist either refuse the children outright or lack the resources to care for them effectively.

In training with Malawi’s police on dealing with children in conflict with the law, the number-one challenge cited is knowing where to put them – there are simply no viable facilities to house children while they are in the criminal-justice system.

In light of these challenges, we have been working with the Malawi Police Service and the Ministry of Gender, Community Development and Social Welfare to improve coordination between them on child cases and develop strategies to separate children from adult offenders while in custody.

IRLI is also working on a comprehensive report to take to the ministry and, hopefully, parliament itself, so that the proper resources can be allocated to create safety homes for these children. Once armed with the necessary information on these issues, we are hopeful that our partners in Malawi, both public and private, will work to address these challenges.

Martha Pigott is programme lawyer (Malawi Police Service) with *Irish Rule of Law International*.



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 www.lawsociety.ie/centenary. Ireland's first woman District Court judge, Eileen Kennedy, was appointed in April 1964.

First female District Court judge

Eileen Kennedy, Ireland's first female District Court judge, was from Carrickmacross, Co Monaghan. The daughter of solicitor PJ Kennedy, she was educated at St Louis Convent, Carrickmacross, and UCD.

She trained as a nurse at St Vincent's Hospital, Dublin, and during 'the Emergency' served as a nurse in the military hospital at the Curragh, Co Kildare.

She qualified as a solicitor in 1947 and practised with her brother James A Kennedy in the firm of PJ Kennedy and Son. She served as coroner for South Monaghan.

She was appointed Ireland's first female District Court judge in April 1964. She presided over the Juvenile Court for many years, where she was known for her compassionate approach to youth offenders.

In 1967, she became chairperson of the Commission on Industrial and Reformatory Schools, which was tasked by the then Minister for Education Donogh O'Malley to carry out a survey of the reformatory and industrial school system. The commission published its report in 1971.

Judge Kennedy regularly spoke at events campaigning

for reform of the law on children.

In November 1969, she was appointed to be a member of the Commission on the Status of Women. She died in 1983, aged 69.

The then leader of Fianna Fáil Charles Haughey TD described her, as follows: "Eileen Kennedy more than justified the confidence placed in her, as her work in the Children's Court over the years testifies. Comprising a special blend of wisdom and compassion, her judgments were always fair, just and enlightened" (*The Irish Times*, 13 October 1983). 

EILEEN KENNEDY MORE THAN JUSTIFIED THE CONFIDENCE PLACED IN HER, AS HER WORK IN THE CHILDREN'S COURT OVER THE YEARS TESTIFIES

PICTURE: IRISH PHOTOGRAPH ARCHIVE / EILEEN KENNEDY COLLECTION

District Judge Eileen Kennedy

Source: Celebrating A Century of Equal-opportunities Legislation – The First 100 Women Solicitors, published by the Law Society of Ireland.

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 to share a story for this 'Professional Lives' column.

Self-compassion and how to practise it

Last month, I discussed the importance of self-compassion and how it is key to emotional resilience. This month, I will share with you the tools you'll need to practise self-compassion.

Compassion arises when kindness meets suffering. In case you're put off by the word 'suffering', it's important to note that we all suffer at times – we might feel stressed or anxious, we might experience conflict with another person, we might make a mistake, we might feel overwhelmed, or we might encounter physical pain.

It isn't enough to simply acknowledge that 'there is suffering'. For compassion to arise, there must also be the sincere wish (at some level) to alleviate that suffering – 'kindness meets suffering'. It is a human quality we all share.

There are three ingredients to self-compassion (mindfulness, common humanity, and kindness). A simple practice that integrates each component is the three-step 'self-compassion break', developed by Dr Kristen Neff (one of the pioneers of 'mindful self-compassion').

Step 1: Mindfulness

This is a moment of suffering. First, we must connect with the difficult experience without over-identifying with it or drowning in it. This is counterintuitive, and it takes some courage. Normally, when a difficult experience arises, our first instinct is to recoil and contract. 'Mindfulness' means being aware of our present-moment experience

as it is. This gives us perspective. We can witness the physical sensations that go along with this difficult experience coming and going – the tension, the resistance, the contraction. We acknowledge the difficult experience, but don't have to over-identify with it and get lost in a spin-cycle of thought. Mindfulness creates a little distance and gives us space to breathe.

Step 2: Common humanity

Suffering is part of life. Next, we acknowledge that this difficult experience is part of an authentic human life. We are not alone in this. Even on my very worst day, I know that millions of others feel the same. Recognising this truth takes the magnifying glass off me and my experience. Again, acknowledging the common humanity of suffering gives us perspective. This is just part of life. It's normal to feel anxious, angry, overwhelmed, frustrated, embarrassed, or sad at times. We all make mistakes, and we all fall short. I'm not alone, and I don't have to beat myself up.

Step 3: Kindness

In the midst of all this, without having to fix everything, can I be kind to myself? For the final step, we offer ourselves some kindness. It's probably easy to do this for a good friend, but perhaps not so easy for yourself?

Think for a moment about what you might say to a good friend who is going through this same difficult

experience. Imagine that they are struggling right now. What is your facial expression as you sit with them? What is the tone of your voice? Are you rolling your eyes and telling them that it's all their fault? Are you telling them all about the worst-case scenario? Are you going to kick them while they are down? If you are not having a really bad day yourself, probably not. Without having to fix everything, in your better moments you might be able to offer your friend some kindness and support.

Now, without it feeling phony, can you offer some of this same kindness to yourself? What words do you need to hear? 'This will pass'; 'It'll be okay'; 'I'm doing the best I can'; 'I'm not alone'; 'This is hard, but I know I can learn from this experience'.

What would help right now? Maybe you can simply return your attention to the connection between your feet and the floor. There may be a sense of support there? Can you release some tension in the body or perhaps allow the breath to slow and deepen? Even one deep breath?

So that's the practice. It's very simple – but it's not always easy. 

Barry Lee is the founder of Mindfulness for Law (see www.mindfulnessforlaw.ie and www.mtai.ie).

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That little **tent** of blue

As a society, we must continuously review penal policy in order to continue to uphold a just, humane and safe society – and to promote pro-social behaviour by all our citizens, argues Orla Dunlea

OUR PRISONS ARE ALREADY CHRONICALLY OVERCROWDED. IN THE TWO DECADES FROM 2001 TO 2021, THE AVERAGE NUMBER OF PEOPLE IN CUSTODY INCREASED BY 20%, AND THERE ARE OVER 4,000 PEOPLE IN PRISON NOW

*'When we use art
It is though
The walls disappear.
When we use art
We escape
As though our souls
Are no longer here.'*

(Poem by a prisoner on the wall in the education centre of Mountjoy Prison.)

The announcement by the Government last February to appoint an additional 44 new judges in two phases has been welcomed by the Law Society and the public.

The *Courts Act 2023* was signed into law by the President on 19 May, allowing for the first tranche of new judges to be appointed in advance of the Oireachtas summer recess this year.

Access to justice will be considerably improved. There are long waiting lists in some courts, the Planning Court (a divisional court of the High Court) could begin operating, and the additional judges will facilitate a speedier criminal-justice system to serve its citizens.

It is also anticipated that the appointment of the new judges will result in a greater number of committals to prison as more cases will be heard.

Overcrowding

Our prisons are already chronically overcrowded. In the two decades from 2001 to 2021, the average number of people in custody increased by 20%. The Prison Service said recently that capacity in the system is 4,409, but 4,571 people are currently in custody, resulting in 162 prisoners having to be accommodated on the floors of cells with other inmates.

The cells in Mountjoy were designed as single-cell rooms and the overcrowding means 'doubling up' is the only option, which means a mattress on the floor.

Among other things, overcrowding contributes to a negative impact on the mental health of prisoners, escalations of violence and bullying and, perhaps, increased drug use as a coping mechanism, as described by staff on a recent visit to Mountjoy.

Governor Eddie Mullins and his team have genuine concerns for the safety and mental health of prisoners and staff due to overcrowding. There have been recent disturbing reports of violent attacks on prison officers. Overcrowding also means fewer resources for rehabilitative activities, like opening the library or attending addiction services.

Governor Mullins and his colleagues are in favour of non-custodial reform for relatively minor non-violent crimes that

would ordinarily attract a short sentence. This, he says, would considerably reduce the current strain being put on prison resources and make it a safer environment for his staff and the prison population.

Benefits of education

Mountjoy opened in 1850, with the Dóchas Centre following in 1858. Prior to that, there was a heavy reliance in this jurisdiction on transportation to the penal colonies and corporal punishment (including whippings) and execution.

The majority of Irish prisoners have never sat a State exam – over half left school before the age of 15. Many factors, including family background and circumstances, education, employment, social network, and problematic drug use (among others) are cited in research as contributory factors in offending behaviour and crime (see Prof Ian O'Donnell's 2020 report on recidivism).

On our recent visit to Mountjoy, it was evident from meeting with a group of prisoners that they are intelligent men. It was difficult to reconcile these people with their criminality, which led to their incarceration and to the pain and suffering that they have caused to victims and their families. Inspiring head teacher Dr Ann Costello is passionate about providing these men with educational



opportunities (sometimes their first experience of education), which she hopes will help in their rehabilitation and reintegration journeys.

However, reports in the

media that some men are continuing to direct criminal operations from within prison are alarming, in addition to other reports suggesting that prisoners deliberately get

arrested in order to bring drugs into prison.

Why care?

When we think of the cost-of-living crisis and the increased

strain on our health and education services – not to mention the rights of and impact on victims of crime – it might be hard for an ordinary member of the public to be



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concerned with overcrowding in our prisons. After all, they argue, prisoners have committed crimes and deserve their punishment.

While acknowledging judicial discretion, as a society do we need to consider interventions and services to promote better social behaviour, rehabilitation, and to end offending?

There is some research that suggests community sanctions can play a role in addressing criminality, reducing reoffending, and providing protection to the public, while holding the individual accountable. Non-custodial sentences for minor non-violent crimes, including sentencing offenders to undertake community service, mean that they can retain links to their own communities, which improves the chances that they will not reoffend.

In the words of Governor Mullins: “Prison should be a last resort. People should find a way

to repay society another way. While some people need to be there, many do not.”

The Hang Room

The final stop on our Mountjoy visit, the Hang Room – last used in 1954, but which remains intact – grimly illustrates how approaches to crime and punishment change over time. In all, 45 men and one woman were hanged between 1901 and 1954, including the young Kevin Barry and nine other volunteers executed in Dublin during the War of Independence.

It was a stark reminder that, as a society, we must continuously review penal policy in order to continue to uphold a just, humane and safe society and promote pro-social behaviour by all our citizens.

The *Review of Policy Options for Prison and Penal Reform 2022-2024* states: “While punishment for those who commit crime is a central

element of our justice system, the rehabilitation and reintegration of offenders is at the core of our penal system. Criminal sanctions represent punishment for crimes committed against individuals and society. All sanctions imposed, whether custodial or community based, represent a visible punishment and interrupt a person’s liberty or freedom of movement. However, punishment alone, as experience and research have shown, does not prevent offending or make everyone safer. Interventions and services to promote pro-social behaviour, rehabilitation, and desistance from offending are necessary to drive and sustain real change.”

Orla Dunlea is a solicitor and mediator. She recently visited Mountjoy Prison along with other colleagues as part of the Law Society’s Diploma in Judicial Skills and Decision-Making.

PRISON SHOULD BE A LAST RESORT. PEOPLE SHOULD FIND A WAY TO REPAY SOCIETY ANOTHER WAY. WHILE SOME PEOPLE NEED TO BE THERE, MANY DO NOT

FOCAL POINT REVIEW OF POLICY OPTIONS

Last August, the Minister for Justice announced that the Government had approved the *Review of Policy Options for Prison and Penal Reform 2022-2024*, together with an associated action plan. Among its recommendations is reducing the use of short custodial sentences (especially sentences under three months) and exploring how the judiciary can be provided with a greater range of non-custodial sanctions.

Including 21 actions, the review identifies six priority actions – interventions that have been identified in order to reduce reoffending, support desistance from offending, avoid overcrowding in prisons, and reduce reliance on custodial sentences as the primary criminal sanction (except where determined necessary and proportionate to the suffering of the victim, particularly in relation to serious crimes that may result in life sentences):

- 1) Consider the incorporation of prison as a sanction of last resort in statute in relation to people who do not pose a risk of serious harm, to reduce reoffending and overcrowding in prisons,
- 2) Develop and expand the range of community-based sanctions, including alternatives to imprisonment to reduce reoffending and overcrowding in prisons,
- 3) Take forward the implementation plan of the taskforce established to consider the mental health and addiction challenges of those imprisoned, and primary-care support on release,
- 4) Ensure that all criminal-justice policy decisions are pre-assessed to determine, as far as possible, their impact across the criminal-justice sector,
- 5) Establish a Penal Policy Consultative Council, and
- 6) Introduce judicial discretion to set minimum tariffs for life sentences, and examine the effectiveness of the use of mandatory minimum sentences for certain crimes.

LOOK IT UP

LEGISLATION:

- *Courts Act 2023*

LITERATURE:

- *An Evidence Review of Recidivism and Policy Responses* (Prof Ian O’Donnell, Department of Justice, 27 May 2020)
- *Report of the Judicial Planning Working Group* (Department of Justice, 24 February 2023)
- *Review of Policy Options for Prison and Penal Reform 2022-2024* (Department of Justice, 31 August 2022, last updated 20 September 2022)



Under the net

The NGO European Lawyers in Lésvos works with asylum-seekers on the Greek island – and beyond – based on the core belief that access to a lawyer is fundamental to upholding the rule of law and ensuring that human rights are respected. From first-hand experience, Cormac Little SC describes its work



Have you seen *The Swimmers*? This recently released Netflix movie tells the true story of two sisters who fled Syria during the civil war and wind up living in Germany, via Lésvos. Reaching this Greek island is a key route for migrants seeking protection in Europe. It's not just Syrians who attempt the often-dangerous sea crossing from Turkey, but (as shown in the film) Afghans, Somalians, and other nationalities also fleeing violence in their own countries. Upon arrival in Lésvos, these migrants seek asylum/international protection from the Greek authorities. This is when a non-governmental organisation, such as European Lawyers in Lésvos (ELIL), becomes involved.

Established around seven years ago, ELIL's core activity is the provision of expert legal assistance to asylum-seekers in Greece (and, more recently, Poland). Underpinning this service is the core belief that access to a lawyer is fundamental to both upholding the rule of law and, also, ensuring that human rights are respected. During a sabbatical from William Fry, I was fortunate to have had

the opportunity of spending three weeks working in ELIL's office in Mytilene, the largest town on Lésvos, last September.

The sandcastle

Under the 1951 *Geneva Convention* on the protection of migrants, asylum is a fundamental right and must be recognised by all signatories, including each EU member state. The EU's Common European Asylum System (CEAS) establishes agreed standards to ensure that asylum-seekers in the EU are treated equally and in a transparent/fair manner. In



“EUROPE’S MIGRANT CRISIS IS, SADLY, FAR FROM OVER. THIS MEANS THAT, UNFORTUNATELY, THE LAUDABLE EFFORTS OF ELIL AND OTHER NGOs WILL LIKELY BE REQUIRED FOR YEARS TO COME

theory, no matter where in the EU someone applies for asylum, the outcome should be similar. An asylum applicant essentially needs to show that he/she is being persecuted based on nationality, ethnic origin, gender, religion, or sexual orientation (and so on) throughout his/her home country.

A key plank of the CEAS is the so-called *Dublin III Regulation*, the aim of which is to determine the EU member state responsible for examining an application, while ensuring speedy access to the relevant procedures. Normally, this is the country where the asylum-seeker first arrives in the EU. The ‘system’, therefore, places huge pressure on countries on the EU’s eastern and southern borders, particularly Greece and Italy.

Flight from the enchanter

The Syrian civil war has its origins in the Arab Spring, a series of protests across North Africa and the Middle East that occurred around a decade ago. These led to the overthrow of regimes in countries such as Tunisia, Libya and Egypt. Unrest began in Syria in spring 2011, with pro-democracy marches first taking place in the southern city of Deraa. The violent response of the security services led to nationwide protests, with many demanding the departure of President Bashar al-Assad, whose family has ruled Syria since 1971. With the Assad regime continuing to use brutal measures to suppress

protests, opposition militias representing various factions, including the jihadist group ISIS, were formed. By 2012, the violence had expanded into civil war.

This conflict triggered the flight of many Syrian residents to bordering countries such as Turkey, Lebanon and Jordan. In 2015, over a million migrants arrived in Europe – many of whom were fleeing the Syrian civil war. This huge increase, coupled with the distressing news regarding those who sadly perished during the often-hazardous sea crossings, was top of the European news agenda, with the result that the EU came under huge pressure to act.

The sea, the sea

In March 2016, the EU and Turkey agreed a joint approach to the migrant situation. The ‘deal’ contained three main initiatives. Firstly, Turkey would try to stem the clandestine flow of asylum-seekers to five Greek islands – Lésvos, Chios, Samos, Leros and Kos. Secondly, anyone who arrived on these Aegean islands irregularly from Turkey could be deported. Finally, for every Syrian returned from these islands, EU member states would accept a Syrian who had remained in Turkey. In exchange, the EU gave the Ankara government €6 billion to improve the humanitarian situation of refugees in Turkey, while also granting visa-free travel within the EU for Turkish citizens.



THE SO-CALLED *DUBLIN III REGULATION* AIMS TO DETERMINE WHICH EU MEMBER STATE IS RESPONSIBLE FOR EXAMINING AN APPLICATION, WHILE ENSURING SPEEDY ACCESS TO THE RELEVANT PROCEDURES. NORMALLY, THIS IS THE COUNTRY WHERE THE ASYLUM-SEEKER FIRST ARRIVES IN THE EU

While the EU/Turkey ‘deal’ did greatly reduce the numbers crossing to the five islands irregularly, very few migrants have been deported. This is because Turkey, in March 2020, began refusing to accept migrants returning from Greece, perhaps taking advantage of the COVID-19 pandemic.

The chances of applicants from Syria, Afghanistan, Somalia, Pakistan, and Bangladesh being granted asylum were significantly weakened by a June 2021 joint ministerial decision (JMD) of the Greek Government to designate Turkey as a safe haven. When claiming asylum in Greece, nationals from those countries must first show that it is not safe for them to remain in Turkey. Only if this is proven will the Greek authorities examine the eligibility of an applicant’s claim based on the risks he/she faces in his/her homeland. Given that Syrians, Afghans, and Somalians are among the nationalities most often seeking asylum in Greece, allied to the fact that the vast majority of asylum-seekers in Greece arrive from Turkey (with Istanbul being a key nodal point for ‘people-smugglers’), the JMD has clearly had a dampening effect on the numbers of successful applications.

The nice and the good

At its narrowest point, Lésvos lies only 5.5km from the Turkish coast. It is an obvious point of access for those seeking protection in the EU. At about 1,600 km², the island is only slightly larger than Co Leitrim. However, here the geographic comparison ends, as Lésvos has

approximately 400km of coastline. Indeed, after Crete and Euboea/Evia, Lésvos is the third-largest Greek island and has a population of around 85,000. Its economy is primarily based on agriculture – olive-growing is the main source of revenue. The manufacture of soap and ouzo, Greece’s aniseed-flavoured national liqueur, are also important income-generators. Lésvos’s most famous native is perhaps Sappho, widely regarded as one of the greatest ever lyric poets, who lived on the island from around 630 to 570 BC. Although it has generally tended to attract fewer visitors than better-known Greek islands such as Corfu, Rhodes and Santorini, tourism is not an insignificant part of Lésvos’s economy.

In September 2015, asylum-seekers from Syria, Afghanistan and Iraq began reaching the eastern shores of Lésvos – from Molyvos in the north to Mytilene in the south. That year, the island saw the arrival of more than half a million migrants. Many of those reaching Lésvos ended up living in the Moria migrant camp. This facility, which was intended for 2,500 to 3,000 residents had, by the summer of 2020, a population of around 20,000. Reputedly, this made the camp one of the most densely populated places in the world. The facility was destroyed by fire in September 2020 and not rebuilt. Many of its former residents were transferred to the Greek mainland.

Although the annual number of migrants arriving on the five Aegean islands has greatly decreased from its peak of 800,000 in 2015 to almost 13,000 last year, the islands remain an important access point for those seeking asylum in Europe. They also constitute a buffer zone between Turkey

and Europe, with asylum-seekers typically being required to remain in situ while waiting for their claims to be evaluated. This has meant that thousands of migrants have been trapped in camps with harsh living conditions. At present, there are around 2,300 asylum-seekers living in the Mavrovouni migrant camp, just north of Mytilene. This camp is due to be replaced later this year by a purpose-built EU-funded camp, with space for up to 5,000 people, at Vastria in northern Lésvos. Critics complain that this facility is located in a remote forest area (about 4km from Mytilene) that is prone to wildfires.

Time of the angels

The vast number of asylum-seekers arriving required the Greek authorities to process thousands of applications with limited resources. The Greek State does not provide legal aid to asylum-seekers at first instance, meaning that most attend their initial interview without having consulted a lawyer.

With the overall aim of addressing this difficulty, at least on Lésvos, ELIL was founded in June 2016 by the Council of Bars and Law Societies of Europe (CCBE) and the Deutscher Anwaltverein (DAV – the German Bar Association), with the Conseil National des Barreaux (French Bar Council) joining three years later. This NGO is supported by 47 other European bar associations, including the Law Society of Ireland.

The spirit of ELIL is driven by the belief that all asylum-seekers should receive free, high-quality assistance from an independent

experienced lawyer before their first asylum interview. (ELIL does not advise on appeals to the first-instance decision of the Greek authorities). A month after its foundation, ELIL, with support from both the CCBE and DAV, negotiated guaranteed access to the Moria camp. Overcoming some hurdles along the way, ELIL has provided legal support to over 18,000 asylum-seekers since its foundation. In 2020 and 2021, nearly 70% of those assisted have been granted asylum, compared with the overall Greek average of 32%.

ELIL's team comprises full-time and volunteer lawyers, interpreters, and other support staff. The Greek asylum authorities operate accelerated timeframes with short notice periods, so the Lésvos team must react quickly to prepare asylum-seekers for their interviews. The full-time lawyers need to be fluent in both Greek and English, given that ELIL's working language is the latter, but any engagement with the relevant authorities needs to be in the former.

My time with this organisation was divided into two main tasks – consultations with asylum-seekers in conjunction with a Greek colleague, plus asylum interview preparation/research. Typically, there is the lack of a common language, so consultations must be conducted through interpreters. ELIL makes extensive use of technology – it is not uncommon to meet an asylum-seeker 'face to face', with the interpreter 'dialling-in' via WhatsApp or Zoom. Clearly, consultations using interpreters are twice as long as those without. Moreover, as asylum-seekers are asked to recount traumatic events in their lives, ELIL lawyers need to show compassion and sensitivity while still trying to elicit the required information. For any consultation I attended with asylum-seekers from Somalia, Afghanistan or Syria, the main focus (due to the JMD) was on admissibility – that is, his/her experiences while living in Turkey and why this country is not safe.

ELIL has expanded its operations beyond Lésvos, opening offices on Samos (2020), Athens (2021), and Thessalonica (2022). These developments reflect the fact that, in 2021, for the first time since the beginning of the ongoing situation, the number of those crossing into mainland Greece via its northern land border with Turkey exceeded the numbers of people arriving on the relevant Aegean islands. Responding to the pressure on the Polish immigration system due to the large numbers of Ukrainians fleeing as a result of last year's Russian invasion, ELIL opened an office in Warsaw last summer. More recently, ELIL has begun assisting asylum-seekers who have crossed the Poland-Belarus border.

Message to the planet

More broadly, recognising that the overall immigration system needs repair, the European Commission proposed a 'New Pact on Migration and Asylum' in 2020. The purpose behind this proposed framework is to make sure that migration is managed in a humane manner,

UNDER THE 1951 GENEVA CONVENTION ON THE PROTECTION OF MIGRANTS, ASYLUM IS A FUNDAMENTAL RIGHT AND MUST BE RECOGNISED BY ALL SIGNATORIES, INCLUDING EACH EU MEMBER STATE

while addressing the concerns of certain member states that worry that the number of arrivals may exceed their capacities. However, critics of the New Pact argue that this proposal focuses (like the JMD) on returns of migrants, while outsourcing controls to third countries. Moreover, its detractors also claim that the planned accelerated procedures would undermine the protection of human rights. Indeed, the big lesson that I learned during my time in Lésvos is that the EU must always remember, given the trauma that so many asylum-seekers have endured, to approach each individual situation in a compassionate and humanitarian manner.

Leaving aside the debate on how best to address it, Europe's migrant crisis is, sadly, far from over. This means that, unfortunately, the laudable efforts of ELIL and other NGOs will likely be required for years to come. Various Irish solicitors have spent time volunteering with ELIL – it would be great to see others follow suit. To find out more, visit www.europeanlawyersinlesvos.eu/volunteer-with-us.

Cormac Little SC is a partner at William Fry LLP, the Law Society's representative on the Irish delegation to the CCBE, and a member of the Society's EU and International Affairs Committee.

LOOK IT UP

LEGISLATION:

- *Asylum Procedures Directive* (Directive 2013/32/EU)
- *Dublin III Regulation* (Regulation (EU) No 604/2013)
- *Qualification Directive* (Directive 2011/95/EU)
- *Reception Conditions Directive* (Directive 2013/33/EU)

WEBSITES:

- Amnesty International
- European Country of Origin Information Network
- European External Action Service
- European Lawyers In Lesbos
- EU Pact on Migration and Asylum – European Parliament
- European Union Agency for Asylum
- Human Rights Watch
- United Nations High Commissioner for Refugees

AT YOUR SERVICE

SOLICITOR JOAN CRAWFORD, WHO NOW LEADS THE LEGAL AID BOARD, SAYS THAT THE WORK HAS THOROUGHLY HOOKED HER – THOUGH, AS SHE REVEALS TO MARY HALLISSEY, SHE NEVER INTENDED TO REMAIN SO LONG IN THE SAME ORGANISATION

he fulfilment that comes from truly helping people at a difficult time in their lives is clearly immensely satisfying, since Joan Crawford has now spent 27 years at the [Legal Aid Board](#). The new board's new head has worked as a solicitor, managing solicitor, regional law-centre manager and, subsequently, chief executive – a role she assumed in April.

Challenges for the Legal Aid Board include implementing training to deal with the heavyweight changes that come with the enactment of the *Assisted Decision-Making Capacity Act* this year and the knock-on effects on up to 3,000 former wards of court.

The legislation will also affect people in nursing homes, or anybody who has any crucial decision





to make, where functional capacity is a concern, Joan explains. Previously, capacity was determined by a medical report.

The board will assist in assessing whether the client understands the decision to be made, and it will also have a role in future health directives under the legislation.

Significant challenge

Crawford describes the substantial increase in international protection applicants, which has hugely increased the Legal Aid Board's workload, as a significant challenge.

"It started to build up in November 2021 and then it gathered pace in 2022, but we became absolutely inundated with applicants since last May, with a 500% increase in applications," she says. "We've been hectically busy for that reason," she says. "To be able to deal with that work, we've had to increase resources very, very quickly, because we must give people the earliest possible legal advice, before they fill in the international-protection application."

There are specialist Legal Aid Board units for this work in Dublin, Cork, and Galway. While every international-protection applicant can come to the board, it is aware (through IPO statistics) of a cohort that don't apply.

"In cooperation with the International Protection Office, we are looking at putting staff in Timberlay House [Lower Mount Street, Dublin 2], which is where they first apply, to hopefully bridge that gap," Joan says. "We will be there when they go in to apply for protection. We will have staff there that can give them advice and information in respect of what services the Legal Aid Board can provide for them, and how they can apply for it. We will help them with that process from the very beginning."

The International Protection Appeals Tribunal is the only tribunal the Legal Aid Board can appear before, as it's precluded from matters before the Residential Tenancies Board or the Social Welfare Tribunal, for instance.

There may be some recommendations for changes to this, as well as in respect of financial eligibility, because of the civil-legal-aid review.

Free service

Crawford has also served on the implementation committee for the new Family Justice Strategy.

"The *Family Courts Bill*, and the change in the way that family law will be delivered in the courts around the country, together with the civil legal aid reviews, make this a very positive time to be taking over this role," she says. "We also have a terrific mediation service, which is free – and that's something that not many people are aware of. It's a free service, and we have probably the most experienced mediators in the country working for us. Mediation is exceptionally important and, again, we are promoting it under the Family Justice Strategy."

Mediation centres are often co-located with Legal Aid Board law centres. The board's workload shoots up during a



I WANT THE PUBLIC TO KNOW WE ARE A NATIONAL ORGANISATION –
THOUGH, WHEN ALL IS SAID AND DONE, WE ARE LOCAL. WE ARE YOUR LOCAL
LAW CENTRE, AND WE WANT YOU TO KNOW HOW WE CAN HELP YOU,
AND THAT YOU SHOULD COME TO US

recession, due to unemployment and the stress that this brings to relationships.

There are both financial eligibility and merit tests applied before the Legal Aid Board takes on a case, with a cut-off of disposable income below €18,000 net annually, and disposable capital above €100,000. There are also allowances for bills, loans and childcare included in the sums. And “we don’t take the family home into consideration in the capital contribution,” Joan says.

Some matters are not charged for at all, such as child abduction cases and mortgage-arrears cases under the ‘Abhaile’ scheme.

Frivolous cases

“We don’t take frivolous cases, as we are funded by the taxpayer, and we have to be very careful about that,” Joan says.

The decision to take a case or not is made by an assessing solicitor, with a right of review and appeal to an appeals committee.

“Our office in Caherciveen, Co Kerry, which issues legal-aid certs, would seldom disagree with that decision. They might review it or ask for more detail.”

While the Legal Aid Board was decentralised to Co Kerry in the late 1990s, the organisation still runs two offices, with a large premises in Dublin 7.

“The whole operation didn’t go, because it was necessary to keep some support functions here in Dublin. Most of our head-office staff do work in Caherciveen, but that’s our support staff – it’s not our frontline staff. We have support staff in this building as well and, for the first time ever, we have 550 staff,” she adds.

Of this number, 98 are solicitors, on varying pay scales, as well as many legal clerks, who do case-preparation work. The recent staff increases are driven by the growth in international protection applications as well as new legislation.

Incoming matters are assessed on a teamwork basis, with clerical staff assisting the deciding solicitor to progress the file.

“It empowers the staff, who have a lot of ability and

a lot of knowledge – we have people in the organisation for 30 years who have a huge amount of expertise,” Joan explains.

Gap in legal services

The Legal Aid Board also recently identified a gap in legal services for Travellers and has set up a specialist unit to address it, which will shortly move to the Ballymun office. “We really were delighted with the response. We’ve had a huge amount of interaction with the different Traveller groups around the country, and we’ve upped our knowledge and communication in respect of the availability of that service.”

Recruiting staff is a serious challenge, given the pay scales to which the board must adhere and the accommodation difficulties that staff themselves face. Some of the workload has been pushed out to Legal Aid Board offices around the country, but much remains Dublin-based, particularly child-law matters.

SLICE OF LIFE

● Biggest influence on your life?

My parents.

● What are you reading at present?

The Making of the Modern Middle East, by Jeremy Bowen.

● What are you currently watching?

The Diplomat.

● Favourite music?

Rhythm and blues.

● Favourite band?

Eurythmics.

● Must-have gadget?

iPad.

● Favourite sports person?

Johnny Sexton.

● Favourite film?

As Good As It Gets.

● Holiday destination?

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The board has 34 full-time and three part-time centres, with specialised child-care units for children being taken into care. “We act for the parents, and that’s exceptionally busy work. It’s never without challenges and it’s always busy. It’s ongoing – 12 months of the year.”

“The Legal Aid Board is a dispersed organisation, and that has its own challenges,” Joan says. “We have regular staff engagements.” She describes visiting regional law centres as a major, albeit pleasant, part of her job: “It also helps me understand what’s going on for the staff.”

Joan feels very conscious of the toll that child-care legal work takes on staff, especially where sexual abuse is involved: “I’m conscious that we have a lot of young staff coming in, and I want to give them the tools to cope.”

“The Legal Aid Board is a good organisation – it’s got a very committed and good staff doing really difficult work, and they all work very hard. They’re very committed to the public service, which I think is important,” she says.

“I want the public to know we are a national organisation – though, when all is said and done, we are local. We are your local law centre, and we want you to know how we can help you, and that you should come to us,” Joan says.

She encourages lawyers to consider moving to the Legal Aid Board, because the work really makes a difference to people’s lives. The board offers great career flexibility, she stresses, as well as fulfilling work.

Alive, alive-oh!

Joan has spent almost her entire working life in Dublin, and now lives close to where she was brought up in Terenure.

She loved debating in school and always knew she wanted to be a solicitor – and had a strong example of community and charitable work from her parents. She plunged straight into legal work after school, learning a massive amount on a summer job at Beatty Healy Solicitors in the city centre and describing whizzing around town on a motorbike doing legal errands and falling in love with the work: “I was very lucky in that I was given a lot of responsibility. I learned all about probate,” she recalls.

Joan felt torn about leaving her job to become a full-time law student and



“WE HAVE PROBABLY THE MOST EXPERIENCED MEDIATORS IN THE COUNTRY WORKING FOR US. MEDIATION IS EXCEPTIONALLY IMPORTANT AND, AGAIN, WE ARE PROMOTING IT UNDER THE FAMILY JUSTICE STRATEGY”

ultimately opted for night classes at the then Dublin Institute of Technology’s Rathmines College of Commerce. “A lot of people on that course are now either senior people in large firms, judges, or county registrars. They did well because I think we just got a very good grounding.”

Eventually Joan moved on to do her articles as an apprentice at Blackhall Place. She has worked full-time in the law for all her career since leaving school, while also being a mother to six children. They were born in a nine-year span, with the youngest now 31, and there are also several grandchildren in the family: “It wasn’t easy, but we’re very lucky at the end of the day. Because they were so close in age, they kind of brought each other up.”

Keeping the door open

The door is never closed to career progress, she notes, and the trials and tribulations of

life engender empathy for the misfortunes of others. She acknowledges that she has had great help and support, and her message to young mothers is that, while things may be difficult for a while, ultimately chances will come to further one’s career, once the children are grown up.

Joan has added numerous qualifications to her CV along the way, including a master’s in management, as well as qualifications in child-care law and European law.

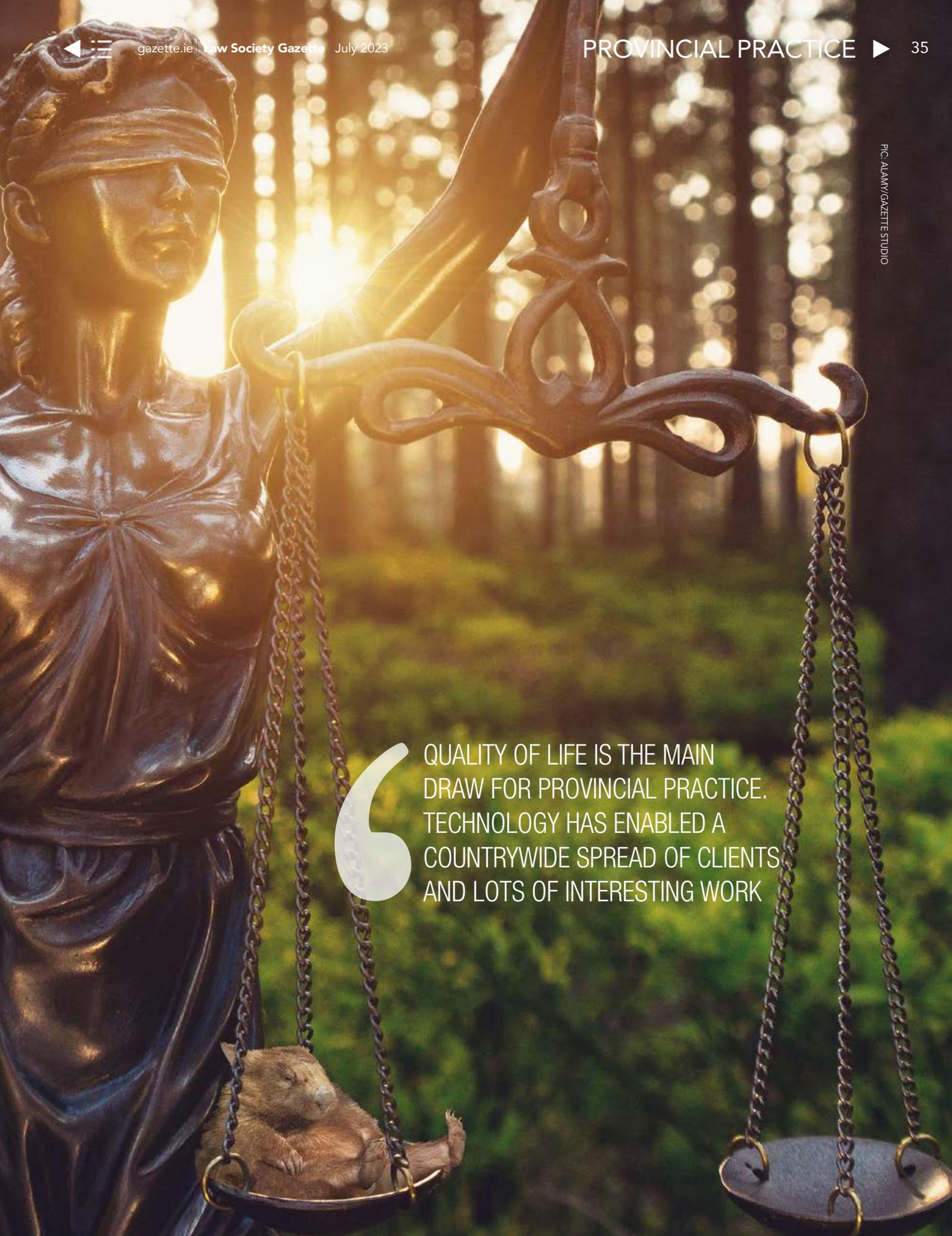
She enjoys standing up in court and advocating for people leading very difficult lives, even if the law can’t fix everything: “I like the sense of service and the difference we can make,” she says. “And, in general, people are honestly very grateful and very appreciative of the service that the Legal Aid Board gives.” 

Mary Hallissey is a journalist at the Law Society Gazette.

A BREATH OF FRESH AIR

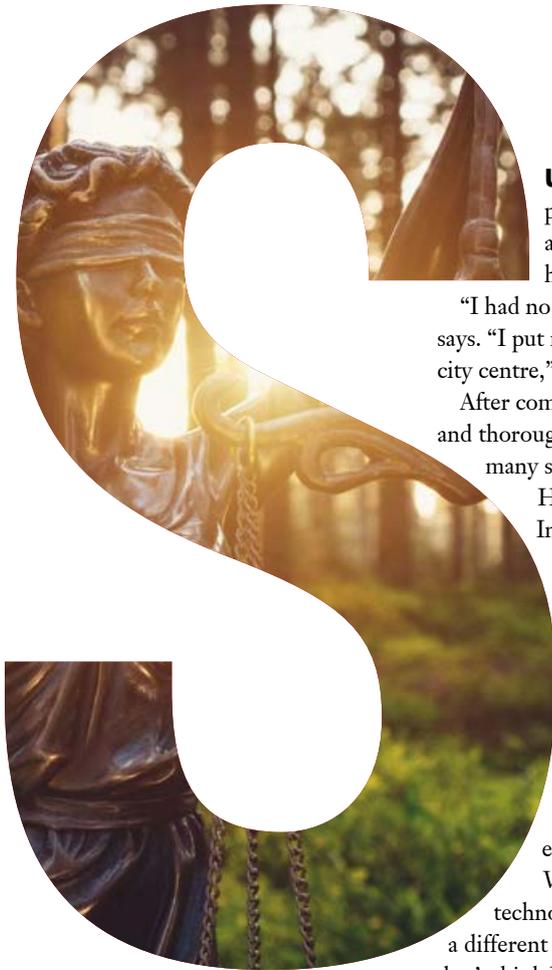
Three solicitors with practices outside of the capital talk to Mary Hallissey about the upsides of smaller, 'provincial' practice





“

QUALITY OF LIFE IS THE MAIN DRAW FOR PROVINCIAL PRACTICE. TECHNOLOGY HAS ENABLED A COUNTRYWIDE SPREAD OF CLIENTS AND LOTS OF INTERESTING WORK



Suzanne Parker is a solicitor with a substantial

practice in Waterford city, specialising in tax advice, estate planning, conveyancing, and family law. A Waterford native, she always envisaged a career based in her home place, but the ‘Great Recession’ narrowed her options for a time.

“I had no choice but to go to Dublin for a traineeship, though I never planned it,” she says. “I put my CV up on the Law Society’s trainee register, and I got an offer in Dublin city centre,” she explains.

After completing a master’s at UCC in 2009, Suzanne took up the traineeship in Dublin and thoroughly enjoyed her decade-long professional and social life in the capital, with many strong friendships that still endure.

However, as life moved on, the pull of family and her home county was strong. In October 2019, Suzanne fully made the move back to Waterford, having set up her practice the previous March. She now lives with her husband and one-year-old baby in a spacious rural setting, only 20 minutes’ drive from her attractive Henrietta Street office in the city.

Her family are all around, and her sister works as office manager. Suzanne won ‘Munster Sole Principal of the Year’ at the Irish Law Awards and ‘Waterford Businesswoman of the Year’ at the Network Ireland Awards.

The practice now employs 11, following a merger with established Waterford practitioner Morette Kinsella. In the office, there are two other solicitors, including Morette working as a consultant, and three legal executives.

While the pandemic was difficult, Suzanne feels it accelerated the use of technology, which has ultimately made her working life more fluid and flexible. “It’s a different lifestyle in Waterford. In Dublin, I lived in a one-bedroom apartment, and I don’t think I would have survived COVID,” she reflects.

The timing for the move all fell into place. Suzanne found that working for herself gave her more options when starting a family. Ultimately, childcare availability would have been prohibitive in the capital, she believes.

Quality of life is the main draw for provincial practice, she maintains. Technology has enabled a countrywide spread of clients and lots of interesting work: “It’s more demanding [than being an employee], in that you are now running a business,” she notes.

She also feels that she is serving her local community and making life easier for her clients: “Since coming to Waterford, I’m doing an awful lot of property, conveyancing, and probate – and a lot more family law.



Suzanne Parker



Fergal McManus



Ann McGarry

Starting her own practice was an obvious move, given Suzanne's experience and training in Dublin and a paucity of suitable roles locally. She has now carved out a very satisfying and fulfilling practice.

Cavan's commercial call

Fergal McManus, who works as a sole practitioner at [Mercantile Solicitors](#) in his native Cavan, is clear about the upsides of the step he took to specialise in commercial and company law, using his master's in that area in a more focused manner.

After training in a mid-sized Dublin firm, Fergal worked for two decades in general practice, but felt the pull to offer specialist legal services to small and medium enterprises in the region.

He recognised that the Cavan-Monaghan-Longford region has a highly entrepreneurial small-firm culture, and Fergal had a hunch that there was a business need there: "In 2018-19, I decided I had grown a little bit tired of general practice, and so I took the plunge to set up my own firm. There's a huge number of small businesses and indigenous industry here."

Fergal kept his start-up operation lean and tight, with just two part-time support staff, with the goal of keeping focus on his desired work and turning down general-practice matters. "I'm getting loads of work, thankfully. There was a gap in the market, which I'm addressing. I've kept the business 'low cost' and the work is flowing in. There's an efficiency in being quite specialist," he observes. "I get to choose who I work for, I get to choose the type of work I do, and I get to control my own diary."

Fergal relishes this flexibility, though he recognises the tension between taking time off and completing his workload. He would welcome more networking with other sole practitioners in similar niches throughout the country. "The downside of being on your own is that you're probably still only getting to see a small enough segment of what's happening in the company and commercial-



I'M GETTING LOADS OF WORK. THERE WAS A GAP IN THE MARKET, WHICH I'M ADDRESSING. I'VE KEPT THE BUSINESS 'LOW COST' AND THE WORK IS FLOWING IN

law end of the marketplace. Being able to share experience and knowledge with colleagues would be useful," he suggests.

Running in the right direction

Solicitor Ann McGarry, who runs [her own practice](#) at the Old Bank House in Clones, Co Monaghan, feels that, by working for herself, she has got off the treadmill, and on to a path of her own choosing.

"I have taken control of my professional life and feel that I have a much stronger sense of purpose. The business is still in the germination phase, so I am still working out how I want the business to develop, but I am enjoying the process and am optimistic for the future," she explains. "As an employed solicitor, I often felt like I was running to stand still. With my own business I am still running – in fact, often sprinting – but I feel like I am moving. I am tailoring the practice to suit my personal skills and interests. In doing so, I am creating a career that I enjoy and feel passionate about."

Despite opening the practice just as the COVID lockdown kicked in, Ann's business not only survived, but thrived: "I'm still here and still going," she laughs.

Ann still tends to burn the midnight oil, but isn't complaining. She has relished the challenge of running her own business and learning about aspects of practice management that were new to her. She describes experiencing significant satisfaction in building her practice, while also having a greater sense of presence in her family life and community.

She recalls a recent description of Clones in the national media as "a small town with a huge heart". She couldn't agree more and

describes feeling blessed by the support she has received from local people, as well as the collegiality of other local solicitors. "I am much more involved in community life now that I can create a work schedule that accommodates my family, my interests, and career goals. I do some local voluntary work, I am always at the side of the pitch watching my boys' matches, and I have even started playing some GAA myself. I have been able to take on more Law Society committee work, which keeps me interested in the bigger legal framework and current developments in the profession," she explains.

Ann's ambition was always a career in law: "I told people I was going to be a solicitor before I was old enough to spell 'solicitor!'"

She outlines how she feels very grateful, having no family background in law, to have been given an opportunity to work and learn from some exceptional solicitors over the years.

Her niche before setting up on her own was in personal-injury work. Today, her own practice has a much more varied caseload, which she believes is required for a successful country practice. She admits that the scope of work comes with its challenges but, overall, Ann has found the experience of change "a breath of fresh air".

Resources for setting up a practice can be found on the 'Business Hub' at [lawsociety.ie](#). For more information, contact Justin Purcell (practice support executive) at j.purcell@lawsociety.ie.

Mary Hallissey is a journalist with the Law Society Gazette.

Three recent CJEU rulings will require substantial modernisation and reform of many of Ireland's public-register digital portals. Duncan Grehan explains

Subject matters

Article 15 of the GDPR is entitled

'Right of access by the data subject'. The Court of Justice of the EU has recently explained:

- Anyone has the right to know who has checked personal data (in its ruling on 12 January in Case C-154/21, *RW v Oesterreichische Post AG*),
- The scope of the right to get a copy (ruling of 4 May 2023 in Case C487/21), and
- The protection of such data rights and the right to compensation when breached (on 4 May, Case C-300/21).

My May 2023 *Gazette* article ('Who's been checking your data?', p54) queried, among other things, the right to access Ireland's public registers in the light of the *RW v Oesterreichische Post* ruling. The two further CJEU rulings, on 4 May, provided wider explanations on the right for any 'natural person' to 'a copy' of personal data 'information' held by its controller. It considered, in depth, article 15 of the GDPR on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

The first ruling in May concerns one's right to a copy of one's personal data held



by its controller; the second defines the right to have the member-state court determine whether one is entitled to compensation, even for non-material damage suffered by an infringement of your right to your personal data and to its protection.

Preliminary applications

For preliminary ruling applications under article 267 of the *Treaty on the Functioning of the EU* that concern intellectual-property legal questions, the CJEU offers the hearing services of several chambers of its court, unlike for the interpretation of other issues of EU law that are also referred to it by any member-state court on foot of the article 267 pathway.

In this way, on the same day, the first chamber and the third chamber of the CJEU issued rulings on the scope of data-protection rights, summarised below. The availability of several CJEU chambers assists the processing and progress of IP-related applications, as many applications (whether relating to IP or other subjects) can often be thrown out for inadmissibility, on grounds like the interpretation of the law in question having been already answered in another earlier application, or the legal question being not broadly important enough for its clarification by the CJEU.

In its official recommendations (latest edition 2019) on its procedures to the national courts, it states that this type of application should only be made “when, in a case before a national court, a question of interpretation that is new and of general interest for the uniform application of EU law is raised, or where the existing case law does not appear to give the necessary guidance to deal with a new legal situation”.

Noteworthy is the recognition for special procedural consideration to “expedited and urgent” referrals. All referral applications concerning all law-issue types are free of charge.

REFORM IS NEEDED TO
ENABLE ENFORCEMENT, AND
REMEDIAL STEPS ARE ALSO
REQUIRED AGAINST PRIVATE
CONTROLLERS

First Chamber ruling

In Case C487/21, the CJEU’s First Chamber received a request for a preliminary ruling under article 267 TFEU from the Austrian Federal Administrative Court in proceedings entitled *FF v Österreichische Datenschutzbehörde*, with an intervening applicant party, CRIF GmbH.

CRIF GmbH’s business is to provide its clients with creditworthiness reports on third parties. A complaint had been filed by an individual (‘FF’) with the Austrian Data Protection Authority that CRIF had not provided a complete copy of the personal data to FF, the complaining third party, when requested. The matter then went before the Federal Administrative Court, which, in its referral to the CJEU, sought clarification of the scope of the article 15(3) GDPR provision of the right to ‘a copy’.

After considering the observations submitted on behalf of the complainant, FF, and those of Mr Max Schrems, as well as the earlier opinion of Advocate General Pitruzella (15 December 2022) and observations from several other countries, the CJEU (First Chamber) ruled that the first sentence of article 15(3) with regard to the processing of personal data, and on the free movement of such data, “must be interpreted as meaning that the right to obtain from the controller a copy of the personal data undergoing processing means that the data subject must be given a faithful and intelligible reproduction of all those data. That right entails the right to obtain copies of extracts from documents or even entire documents or extracts from databases which contain, *inter alia*, those data, if the provision of such a copy is essential in order to enable the data subject to exercise effectively the rights conferred on him or her by that regulation, bearing in mind that account must be taken, in that regard, of the rights and freedoms of others”.

The third sentence of article 15(3) “must be interpreted as meaning that the concept of ‘information’ to which it refers relates exclusively to the personal data of which the controller must provide a copy pursuant to the first sentence of that paragraph”.

In his December 2022 opinion, considered by the court, AG Pitruzella had written: “It should be borne in mind that it is settled case law that, for the purpose of interpreting a provision of EU law, it is necessary to consider not only its wording, but also its context and the objectives of the legislation of which it forms part [paragraph 25] ... it should be noted that, unlike with the term ‘copy’, the GDPR does explicitly define the concept of ‘personal data’, in article 4(1) of that regulation, according to which personal data are ‘any information relating to an identified or identifiable natural person’ [paragraph 32]. The scope of the concept of ‘personal data’ resulting from that definition is very broad. As can be inferred from the court’s case law, the use of the expression ‘any information’ in that definition reflects the aim of the EU legislature to assign a wide scope to that concept” [paragraph 33].

“The choice on the part of the controller to provide, where possible, a compilation of the personal data undergoing processing cannot, therefore, warrant some data being omitted or provided incompletely or not reflecting the reality of the processing” [paragraph 44].

No unconditional right

Also on 4 May, the Third Chamber of the CJEU delivered its much-anticipated judgment in Case C-300/21, *UI v Österreichische Post AG* (the ‘Austrian Post case’). It is the first CJEU judgment to address the issue of non-material damage under article 82 GDPR.



THE CHOICE ON THE PART OF THE CONTROLLER TO PROVIDE, WHERE POSSIBLE, A COMPILATION OF THE PERSONAL DATA UNDERGOING PROCESSING CANNOT, THEREFORE, WARRANT SOME DATA BEING OMITTED OR PROVIDED INCOMPLETELY OR NOT REFLECTING THE REALITY OF THE PROCESSING

The court observed that “it is important to note that the fourth sentence of Recital 146 of the GDPR states that the rules laid down by the GDPR apply without prejudice to any claims for damages deriving from the violation of other rules of EU or member-state law [paragraph 41]. In the light of all of the foregoing reasons, the answer to Question 1 is that article 82(1) of the GDPR must be interpreted as meaning that the mere infringement of the provisions of that regulation is not sufficient to confer a right to compensation [paragraph 42]”.

In consideration of Recital 12 of the GDPR, the CJEU, *obiter*, noted the duty when applying the law “to ensure a consistent and high level of protection of natural persons with regard to the processing of personal data within the European Union and, to that end, to ensure consistent and homogeneous application of the rules for the protection of the fundamental rights and freedoms of natural persons with regard to the processing of personal data throughout the European Union”.

The CJEU (Third Chamber) ruled that:

- 1) The GDPR “must be interpreted as meaning that the mere infringement of the provisions of that regulation is not sufficient to confer a right to compensation”,
- 2) Article 82(1) of Regulation 2016/679 “must be interpreted as precluding a national rule or practice which makes compensation for non-material damage, within the meaning of that provision, subject to the condition that the damage suffered by the data subject has reached a certain degree of seriousness”, and

- 3) Article 82 of Regulation 2016/679 “must be interpreted as meaning that, for the purposes of determining the amount of damages payable under the right to compensation enshrined in that article, national courts must apply the domestic rules of each member state relating to the extent of financial compensation, provided that the principles of equivalence and effectiveness of EU law are complied with”.

In this *Austrian Post* ruling, the CJEU provided more detailed explanation as to the conditions to compensation rights: “the sixth sentence of Recital 146 of the GDPR states that that instrument is intended to ensure ‘full and effective compensation for the damage they have suffered’ [paragraph 57] ... in view of the compensatory function of the right to compensation under article 82 of the GDPR, as the advocate general pointed out, in essence, in points 39, 49 and 52 of his opinion, financial compensation based on that provision must be regarded as ‘full and effective’ if it allows the damage actually suffered as a result of the infringement of that regulation to be compensated in its entirety, without there being any need, for the purposes of such compensation for the damage in its entirety, to require the payment of punitive damages [paragraph 58]”.

Reform required

From these three rulings, substantial modernisation and reform of many of Ireland’s public-register digital portals and an increase in the registers’ trained human-resources personnel is required. This is needed to ensure that Ireland complies with the EU law standards on the personal-data

access rights of anyone requesting a copy, seeking to establish any infringement of their data rights being protected, and to gain compensation for all damage actually suffered.

Reform is needed to enable enforcement, and remedial steps are also required against private controllers. Where data errors or shortfalls arise in reply to a request, or loss or injury is proven in consequence of data-protection law breaches, fair access to justice requires simple cost-free remedies.

Duncan Grehan is a solicitor and a member of the Law Society’s EU and International Affairs Committee.

LOOK IT UP

CASES:

- *Facebook Ireland and Schrems* (Case C-311/18, 16 July 2020)
- *FF v Österreichische Datenschutzbehörde, intervening party: CRIF GmbH* (Case C487/21, 4 May 2023)
- *RW v Oesterreichische Post AG* (Case C-154/21, 12 January 2023)
- *UI v Österreichische Post AG* (Case C-300/21, 4 May 2023)

LEGISLATION:

- *General Data Protection Regulation* (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, repealing Directive 95/46/EC)
- *Rules of Procedure of the Court of Justice*
- *Treaty on the Functioning of the EU, article 267*

Helicopter view

Director general Mark Garrett shares his insights on some of the findings emerging from the Law Society’s recent survey of the profession. Mark McDermott and Angela Flanagan report



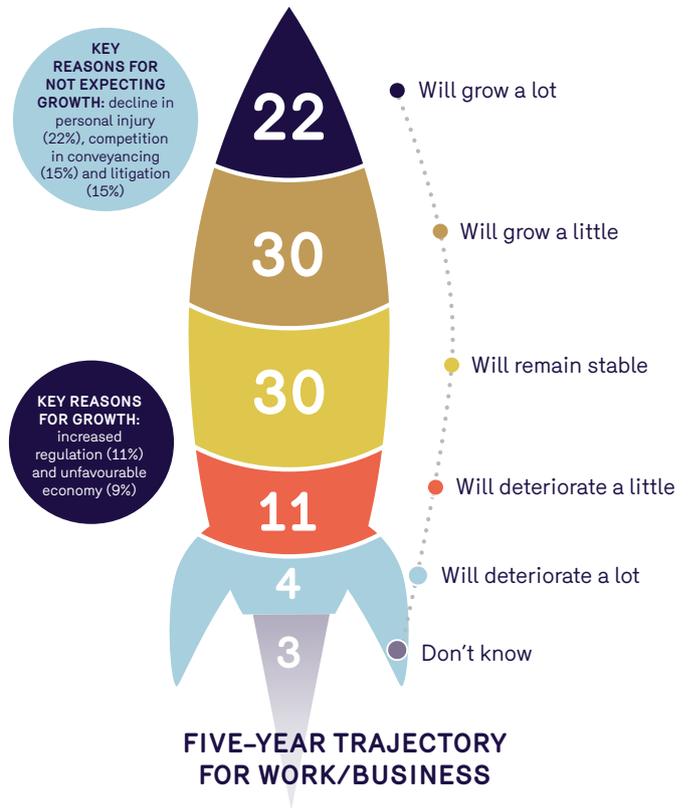
Mark Garrett

How will the Law Society and the solicitors’ profession evolve in the next five years? Law Society director general Mark Garrett is slow to be drawn on this question.

“The first thing that jumped out at me from the Law Society’s recent survey of solicitors and trainees was the level of optimism within the profession,” he says. “Another key point is that solicitors clearly see a wide range of opportunities, as well as challenges, in how they will practise law over the next five years.”

The results of the survey are based on the responses from 2,264 solicitors and trainees, who represent the full cross-section of the profession, constituting a rate of response of about 12%. It’s a substantial response rate, reflecting the views of members practising in firms ranging from sole practitioners to those with over 200 solicitors, and from in-house lawyers from the public and private sectors, to those working in a wide variety of practice areas.

FOCUSING ON DIGITAL TECHNOLOGY AND THE GROWING INCIDENCE OF CYBERCRIME ARE AREAS WHERE THE PROFESSION SEES IT CAN PLAY A STRONG ROLE



The results offer a snapshot of solicitors’ work in terms of both size of practice and their work profiles.

The survey provides a valuable insight and better understanding of the work, pressures, and

possibilities that solicitors are facing today – and the trends they expect will impact on their work in the coming years.

Key focus

“The key focus, from my point of view, is that this is a really good picture of how the profession sees itself,” Garrett says. “And that’s something we have to reflect on. Rather than come to any conclusions about how the Law Society will evolve, the survey confirms that there are many solicitors, many law firms already preparing for the future.

“They’re very well aware of





the headwinds and tailwinds, the positives, the negatives, the opportunities, and challenges,” he adds. “We have to absorb that, along with the other parts of the strategic process, which include talking to external stakeholders outside of the profession, evaluating how the world around the profession is operating – including the political, economic and legal environments. We will bring all of that together to provide us with a comprehensive picture about how to help the profession navigate the challenges and opportunities. This is only the start of the process. We haven’t come to any conclusions – nor should we at this stage.”

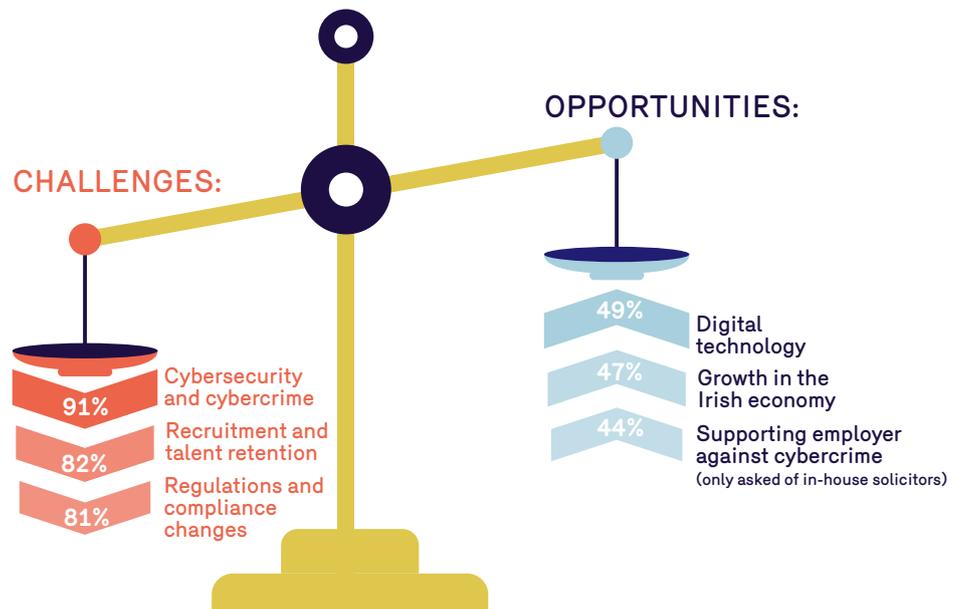
The director general is quick to point out that the survey is just the first of a four-stage strategic process: “The first phase is the ‘discovery and research’ phase, where we are gathering all of the information from different stakeholders.

The second phase is ‘purpose’ – so knowing all we know from the discovery phase, we will then look at the Law Society’s purpose, bearing in mind the need to balance the interests

of our members and the public interest that we serve. The third phase is ‘devising the strategy’. Once we’ve determined our purpose, the strategy will be put in place to achieve it. The final

phase will be ‘implementation’, where we will install an implementation plan to make sure that we achieve our strategy.

“By jumping to the conclusions now, we would



TOP THREE CHALLENGES AND OPPORTUNITIES FOR THE PROFESSION

be missing the opportunity to absorb the information that the profession and other key stakeholders are giving us.

“It’s too tempting, almost, to grab the opportunity to say what we must do. I would caution every-body not to jump to conclusions at this stage, other than to say that people are relatively optimistic about the future. They’re giving a sense that there is more likely to be growth than decline in most cases.

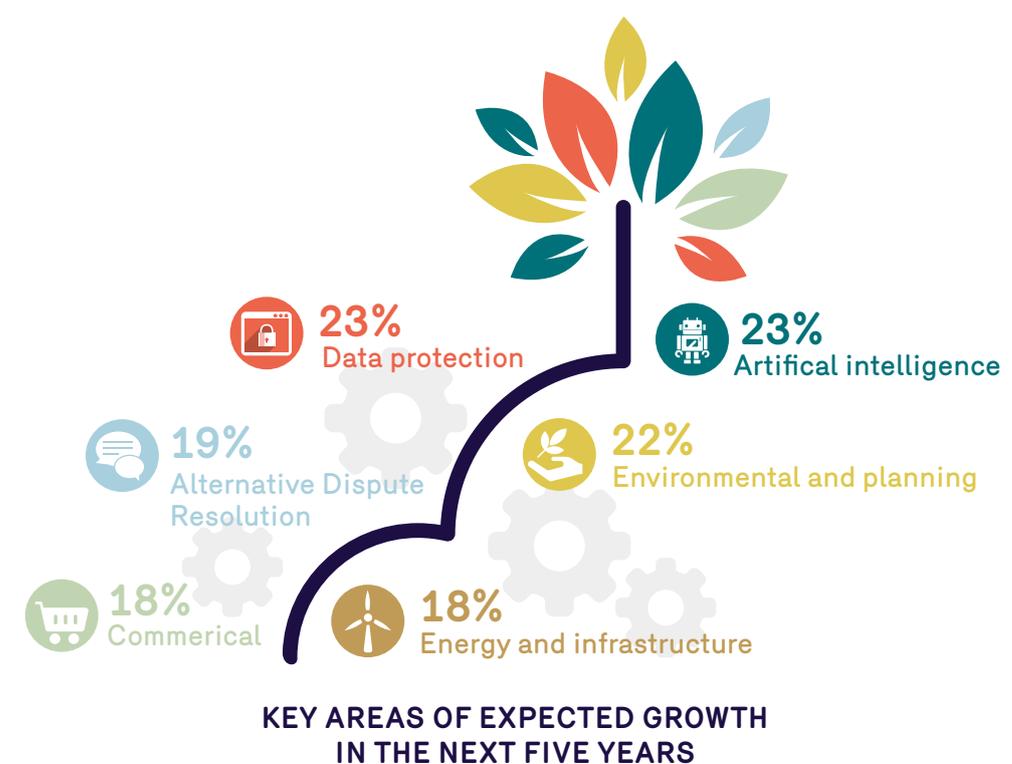
“The profession has given us an insight to what they’re currently dealing with, what’s on their desks, from a professional, business, and personal perspective. The personal issues are around wellbeing, bullying, harassment, sexual harassment – all issues that all need to be addressed and looked at,” he says.

Key message

Mark Garrett says that he has been fascinated by the responses to questions about the current and likely future workplace – the challenges, opportunities, areas of growth and decline, as well as where the Society needs to focus its attention and resources.

“The key message I take from the survey is that, while the profession is optimistic for the future, solicitors are dealing with a range of changes and challenges in their practice. And as the practice of law evolves, solicitors are clear that they expect the Law Society to evolve also.

“There is no doubt that change is inevitable but, from my vantage point, there are significant interlinked legal, societal and market changes that will most directly have an impact on the legal profession. This survey confirms that this is a dynamic, resilient, forward-looking profession that is already aware of where the tailwinds and headwinds are, and many are already preparing for that.”



Facts and figures

The B&A survey was designed in three parts, focusing on the legal profession, the Law Society, and justice and law reform.

In terms of work, the key areas of practice for solicitors are conveyancing (44%), litigation (38%), civil litigation/personal injuries (32%), probate (31%), and commercial (28%) law.

As the graph below shows, respondents are positive about the future of the profession, with a 40% optimistic versus a 29% pessimistic view. The data show that there is a greater optimism among in-house, equity partners, trainees, and larger firms.

Optimism is lower among sole practitioners and partners, and practices of three or fewer solicitors.

Looking to the trajectory for growth or decline in the area of practice or work over the next five years, 52% of people are expecting growth (of which 22% expect to grow a lot), 30% are expecting to remain stable, while 15% are anticipating a deterioration.

This is a profession that operates in an Ireland that has a modern, open economy and society, and where the economy is the main influencer on the trend for the demand for legal services. While the economy continues to remain strong, an air of caution and hesitation is signalled by some in this survey, while others foresee, and are preparing for, continued growth.

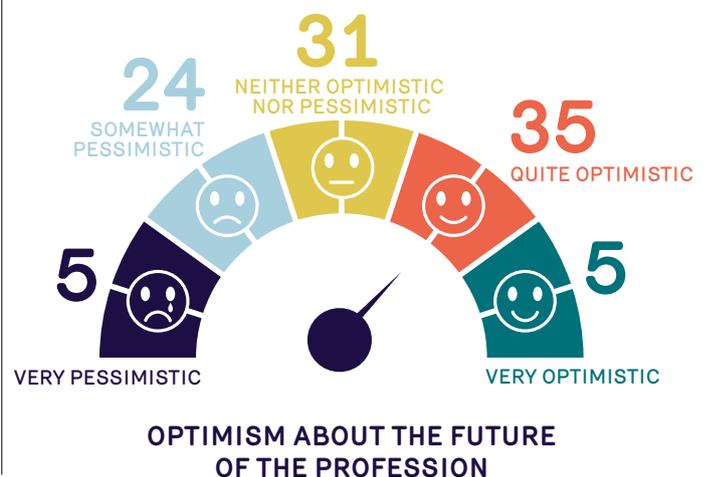
Interestingly, almost one in three practitioners expect their work or area of practice

to remain stable. This view is across the board – from sole practitioners to solicitors in firms of up to 100 solicitors.

Technology's dominant role

The dominant role of technology in our lives is an evident thread throughout the survey results. When asked about challenges and opportunities, respondents acknowledged it to be among the top opportunities – and the top challenges.

Key areas of expected growth



are artificial intelligence (AI), data protection, environmental and planning law, alternative dispute resolution, commercial law, and energy and infrastructure law. AI and data protection both topped the score at 23% each in terms of where growth is envisaged.

“The survey findings are very interesting and reveal a sophisticated view from the profession, which sees both sides of the ‘opportunities-and-challenges’ coin. The technology and cybersecurity issue is a classic example – clearly, it’s top of the list in terms of the obvious challenges it poses – but also in terms of the opportunities it presents. It’s the same with regulation,” Mark Garrett says.

The hybrid working environment, digital technology, protecting employers against cybercrime, and continued growth in the economy are seen as they key opportunities within the profession for the next five years.

A total of 43% of respondents see ‘significant’ opportunity in hybrid-working, with 19% describing it as ‘very significant’.

Digital technology and the growing incidence of cybercrime are areas where the profession sees it can play a strong role.

However, even with this optimism and potential, the director general says that he is “under no illusion about the challenges that come with it also”.

Cybercrime and cybersecurity are live issues on the minds of the vast majority (91%) of solicitors, with 43% of respondents stating it as an ‘extremely challenging’ issue, while 48% describe it as ‘challenging’.

While continued growth in the economy is an opportunity, it can be argued that it creates

the recruitment and retention challenges cited by 82% of practitioners, of whom 34% say that recruitment and retention are ‘extremely challenging’.

Wellbeing and mental health

The business environment for solicitors is getting ever more competitive and pressurised, and expectations are rising. The survey results capture valuable and disturbing data about the impact on personal and professional wellbeing. More than one in four respondents described wellbeing and mental health as an ‘extremely challenging’ issue (27%), with just over one in every two respondents saying it was ‘challenging’ (51%). The data reveals that this is a more intense issue for those in larger firms.

“In addressing this issue, I wish to draw your attention to two ways in which the Law Society can support the mental health and wellbeing of solicitors and trainees,” says Garrett. “Firstly, ‘LegalMind’ is an independent, subsidised, confidential mental-health support for all solicitors.

“Secondly, and uniquely, all trainees are encouraged to engage in free time-concentrated therapy as part of their personal and professional development in the Law School. As employers, leaders, training solicitors and colleagues, I

would ask you to share details of these resources within your organisation. The figures above don’t lie – we have an obligation to support the profession as a community.”

It is important to highlight, too, that over one-third of those surveyed highlight that ‘bullying, harassment or sexual harassment’ was a ‘significant’ (32%) or ‘very significant’ (6%) issue for them.

“That is an unacceptable level in any workplace,” the director general says, “and while the legal profession is not alone in dealing with these issues, it emphasises once again the need to continue to prioritise the recommendations of the *Dignity Matters* report published by the Law Society in 2021 to address these concerns.”

Services to the profession

Turning to the Law Society itself, solicitors have sent a clear message. “Many of the services offered by the Law Society are valued by the profession, especially the education and qualifications offered, the standards set by regulation, as well as information services such as the *Law Society Gazette* and *Gazette.ie*. But there are areas in which we can do more, and do better,” the director general says.

“When respondents were asked how much the Society needed to change to tackle

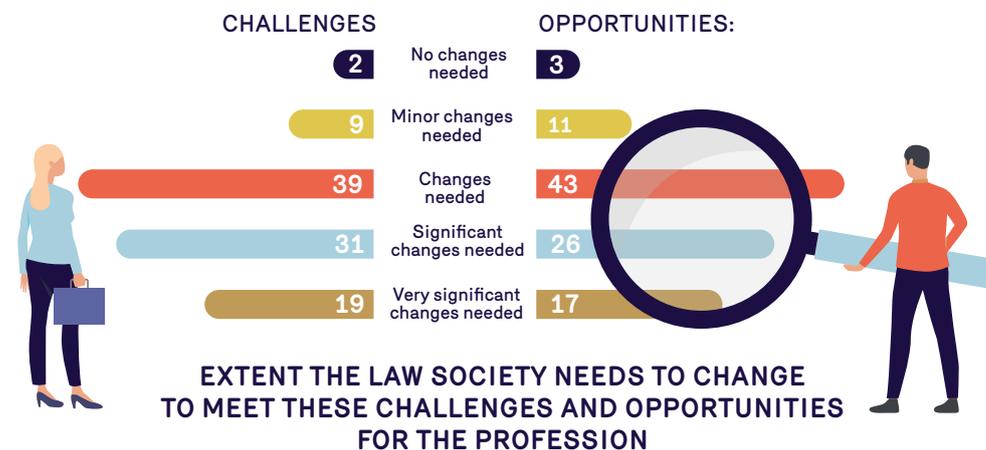
the challenges the profession might face, 89% of you stated that ‘change is required’, 31% indicated ‘significant change’, and 19% selected ‘very significant change’.

“I would like to thank all of the solicitors and trainees who took the time to participate in this survey,” Mark Garrett says. “I’d also like to emphasise that it will play a valuable part in the current strategy process that will shape the priorities for the Law Society over the next five years. The current strategy concludes at the end of 2023 and we are using this process to help develop a roadmap to navigate the challenges and opportunities the profession faces, as well as to fulfil our public-interest mandate.

“This survey is a significant piece of research, rich with data that requires reflection and consideration. Along with interviews with external stakeholders, submissions from bar associations and further desk research, it will help inform the development of the next Statement of Strategy for the Law Society.”

For further information on the survey results, please visit www.lawsociety.ie. 

Mark McDermott is editor of the Law Society Gazette. Angela Flanagan is project manager and strategy advisor at the Law Society.



Stress test

What technical security measures should solicitors' practices put in place to minimise their risk of suffering a cybersecurity attack – and to mitigate the effect of any attack? Tanya Moeller, Nicola Kiely and Deborah Leonard get testing

IT IS NOT A GOOD IDEA TO USE ANTIVIRUS SOFTWARE THAT DOES NOT SCAN ON A CONTINUOUS BASIS BECAUSE, ONCE YOUR SYSTEM IS INFECTED, IT WILL BE MUCH HARDER TO REMOVE THE VIRUS

In our first article, 'Attack mode' (last issue, p24), we introduced the concept of cybercrime and how important it is for employees to understand that human behaviour is key to keeping firms safe. Technical measures complement such essential organisational awareness and prevention. In fact, [article 32](#) of the GDPR requires both "appropriate technical and organisational measures to ensure a level of security appropriate to the risk" to personal data.

So, what type of technical measures are most relevant for practices?

Let's get physical

Many people forget about physical IT security measures. These can include physical access restrictions to IT assets, such as securing windows and doors appropriately, installing CCTV, or locking laptops with a laptop cable overnight. Retired devices should be safely destroyed if files are stored on the hard drive (see below, 'Share and share alike'). Firms should consider maintaining a log of work laptops and work-related mobile devices. Consider appointing an employee to maintain and control this log.

On the road again

A public Wi-Fi network can expose your computer to a virus or malware due to its lack of

security if it is compromised by a hacker. A similar threat can occur if a Wi-Fi password is insecure. (For more information on strong passwords, see last month's article.)

If the staff of your law firm frequently work outside the office or their home, you should consider using a 'virtual private network' (VPN), ideally in combination with a mobile hotspot. A VPN is a system whereby your internet traffic is routed through an encrypted private server. In this way, VPNs protect you on public Wi-Fi, because your real IP address is hidden and nobody can see what you are doing. Sensitive data is cloaked and cannot be intercepted. VPNs are not as complex to set up as they sound – there are software providers who specialise in this.

Mobile hotspots enable your laptop to connect to the internet using your mobile-phone network. This is a safe manner to access the internet

when working on the road, as the mobile phone hotspot is protected by a password (see network settings in your mobile-phone main menu). It is, however, dependent on your mobile-phone provider's network speed and data allowance.

Privacy screens are thin sheets of plastic that adhere to the monitor of your laptop. These should be used to obscure the monitor. When you are travelling on public transport or working in a crowded room, the person looking over your shoulder will not be able to view your information from an angle.

All devices should automatically lock if unused for a short period of time. You can change that in your laptop settings – make this an office-wide requirement.

It is important to understand how apps are used on mobile-phone devices. For example, if the office uses Microsoft

CHAIN REACTION

When laptops were stolen from the offices of the Revenue Commissioners, the Data Protection Commissioner found that "appropriate security measures" were in place nevertheless, such as chaining the laptops to desks.

"This case shows ... that security of personal data is not solely an issue of encrypting laptops or other equipment. The physical security of the data must also be considered." (*23rd Annual Report of the Data Protection Commissioner*, pp16-17).



PIC: ALAMY

Outlook as a SaaS (‘software as a service’) application in the cloud, a mobile version of Outlook can be downloaded and used by employees on the go. Therefore, the use of personal devices for work purposes should be controlled, and some organisations create a ‘bring your own device’ policy for this reason. Work information should be deleted

from that device at the end of employment. As that may not always be possible, some organisations issue work mobile phones to maintain clear boundaries.

Share and share alike

Storing files on a hard drive or using USB sticks or portable electronic storage devices should be discouraged, as they

can be easily accessed, lost, or stolen, and they can be carriers of corrupted files. If you must allow such practices, consider reducing your risk by using strong, up-to-date anti-virus software, and encrypting your hard drive and information on portable electronic devices.

However, it is the norm nowadays that information is shared using cloud-based

software, such as central case-management systems, Microsoft Office, or Google Suite. These all allow staff to access, edit, and share files remotely because the information is stored in the cloud (that is, in their servers). Having said that, while storing files on your software provider’s servers is convenient, enjoys industry best availability levels, protects against loss of data (due

THE LOSS OF A HARD DRIVE THAT IS NOT ENCRYPTED 'AT REST' MAY CONSTITUTE A NOTIFIABLE DATA BREACH. IN ADDITION, FILES NEED TO BE ENCRYPTED IN TRANSIT WHEN SHARED ON THE INTERNET. ONE WAY TO DO SO IS TO USE A CLOUD-BASED VENDOR WHO ENCRYPTS YOUR EMAILS OR FILES AUTOMATICALLY

to continuous backups), and is highly secure, this carries its own risks (see below, 'She sells sanctuary').

It is possible to use such software on an 'on-premises' basis and create your own, firm-internal cloud, but that requires your firm to operate its own servers and internal network, which carries its own risk and operational complexity.

As part of overall device management, firms should consider how they are passing equipment between their employees. Passing equipment between employees can often lead to unintentional data breaches if residual files of the former employee remain on the device and are accessed by the new employee. Firms are advised to ensure they use an appropriate partner when considering the re-use of electronic equipment, so that respective cleansing can take place.

That said, if a firm does not wish to pass equipment between staff, it is necessary to retain the services of a professional data-destruction service. This avoids breach of confidentiality and data protection if an unauthorised third party accesses firm files on electronic devices. In addition, it minimises the firm's digital footprint to only what is absolutely necessary. This, in turn, helps to avoid unnecessary risk associated with excessive information retention.

CHECKLIST

- Manage devices carefully. This includes use of personal devices for work, recycling work devices internally, and retiring work devices.
- Create safe ways to work on the road.
- Choose between hosting your own servers and relying on the cloud as storage. Consider whether hard drives are used to store files, or whether staff store and share devices when using cloud-based software providers.
- Install, update, and evaluate your technical measures, such as firewalls and encryption. Consider using pseudonyms.
- Assess your vendors diligently.
- Carry out a risk assessment (see next article for further information).



PICTALAMY

Out of control

Access to information by staff to files should be centrally controlled, so that it is limited to only what is strictly necessary. Equally, at the end of the employment, cloud-based access should no longer be possible and all devices should be returned, using your device log (see above). Implementing these measures also improve your data-protection compliance, as any personal data should be processed only on a minimal basis (need to know), and unauthorised access to information beyond the end of employment can result in a reportable data breach. Also, any malicious actor who is impersonating the employee will logically see less if the employee has limited access only.

Another brick in the wall

Firewalls screen information based on a set of security rules. They act as a barrier between your device and the internet to protect against unauthorised access by an outsider. Firewalls are provided by security-software providers who issue regular updates to ensure that

the firewalls remain effective. Many firewalls can be centrally managed by an administrative officer, so that the latest version is enabled for all.

Virus

Antivirus, or anti-malware, software works by detecting and deleting malicious software, such as viruses, ransomware, or Trojans (see previous article). Some products also include protection from phishing and malicious URLs.

Antivirus software runs in the background to check every opened file, such as executable files ('EXE', which run a program), zip archive files (which compress files), or actual files (which can contain infected macros). This is often referred to as 'real-time protection'. It is not a good idea to use antivirus software that does not scan on this continuous basis because, once your system is infected, it will be much harder to remove the virus. In the HSE breach of 2021, for example, the HSE monitored computers for viruses during daytime hours only. Real-time protection also avoids the need to run full-system scans (although these

can be helpful on computers with legacy files, or repaired computers that may still contain hidden malware).

Encrypted

Even if your firm is cloud-based and you prohibit the storing of files on hard drives for security, file management, and business-continuity purposes, it is recommended that hard drives are encrypted 'at rest', in case a device does get stolen and information was saved by a user on a hard drive, contrary to policy. The loss of a hard drive that is not encrypted 'at rest' may constitute a notifiable data breach. In addition, files need to be encrypted in transit when shared on the internet. One way to do so is to use a cloud-based vendor who encrypts your emails or files automatically, and large providers such as Microsoft Office or Google Workspace do this. There are alternative encryption software providers on the market, and you should consult an IT professional for advice on how encryption software would complement your cybersecurity set-up in your law firm.

Update

Electronic devices should be updated regularly, as updates include security features that will patch an identified vulnerability. This includes mobile-phone devices, apps on mobile phones, software on the computer (if downloaded), and the computer operating system itself.

She sells sanctuary

The above examples show that robust file management and technical-security measures rely on a suite of specialised service providers. Due to their software-as-a-service business model, these can be large global companies that may not be in a position to individually create

a bespoke product. Service contracts must comply with applicable legal requirements, including data-protection laws. Further information can be found, for example, on the website of the Data Protection Commission.

Law firms should evaluate the extent to which the use of a third-party service provider poses a risk to their information. Some cloud-based vendors are better at reducing this risk than others, and any residual risk is commonly accepted. However, it remains necessary to evaluate vendors on a case-by-case basis.

Important questions to ask include:

- Which security measures are in place?
- Is the risk tolerable, bearing in mind the information shared with this vendor?
- What security incident notification timelines exist?
- What encryption functionalities exist?

Some service providers allow you to create a special encrypted space within their cloud. An alternative is that you use an organisation-wide pseudonymisation system for extremely sensitive clients, such as code names (as is already done in M&A transactions). However, this is not possible when you record conversations with individuals over cloud-based video communications software, if the vendor stores recordings in its own cloud. Mobile telephone data can also be accessed (but watch developments in this space).

You should always research each provider carefully as, logically, no third-party provider will provide you with full protection. This brings us to the final point in this article – the fact that no security can ever be 100% means that you will need to carry out ongoing risk assessments.

Risk

Carrying out a risk assessment is an essential ingredient when considering the extent to which you wish to invest and implement technical security measures. No security measure operates in a vacuum: any security measure must be evaluated in the context of the risk it is intended to reduce – either through prevention (before the fact) or mitigation (after the fact).

This leads to the question: how do you implement and carry out such a risk assessment? Do you identify vulnerabilities, and do you have a plan in place to respond to a cybersecurity attack? While ISO 27001 certification is obtained by some law firms, it may not be necessary to implement and follow responsible information-governance principles. We will discuss risk assessment, insurance, and security breaches in the next article of this series. 

Tanya Moeller is in-house counsel with ServiceNow and vice-chair of the Law Society's Technology Committee. Nicola Kiely is a partner in Comyn Kelleher Tobin LLP and a member of the Technology Committee. Deborah Leonard is secretary to the Conveyancing Committee.



IF THE STAFF OF YOUR LAW FIRM FREQUENTLY WORK OUTSIDE THE OFFICE OR THEIR HOME, YOU SHOULD CONSIDER USING A 'VIRTUAL PRIVATE NETWORK' (VPN), IDEALLY IN COMBINATION WITH A MOBILE HOTSPOT

LOOK IT UP

LITERATURE:

- 'Attack mode', Gazette, June 2023, p24
- *Controller and Processor Relationships: A Practical Guide to Data Controller to Data Processor Contracts under GDPR* (Data Protection Commission)
- 'Dwyer: CJEU confirms ban on metadata retention' (Gazette.ie, 5 April 2022)
- 'HSE cyberattack: more than 100,000 people whose personal data stolen to be contacted', *The Irish Times*, 7 November 2022
- 'Questions for case-management software vendors' (lawsociety.ie, 13 January 2023)
- *23rd Annual Report of the Data Protection Commissioner* (2011)

Look to ADR

The advantages of mediation include ‘the creativity and ability to fashion a solution by taking a small scalpel to a matter’, Ms Justice Roberts told the Dublin International Disputes Week on 6 June. Mary Hallissey reports

Ms Justice Eileen Roberts has said that judges are hugely supportive of alternative dispute resolution (ADR) and will always give time for negotiation.

Speaking at the Dublin International Disputes Week prelude event on 6 June at Blackhall Place, the High Court judge said: “You will get that for the asking, since most new judges are trained mediators and understand the value of it. The real impetus for mediation must come from the parties,” she added, “and well-advised parties would always look at ADR.”

Unrepresented or poorly represented parties, or those who sought the publicity and fanfare of litigation, were the types of cases that ended up running, the

judge said at the event, which was organised by the Law Society’s Alternative Dispute Resolution Committee.

Judges might question why a party looked for an order compelling mediation, Ms Justice Roberts said: “Either that party has no case and just wants to drag people around a table to try and extract a settlement, or that party is dealing with an entirely unreasonable other side. If it’s the latter, making an order for mediation is likely to be much more useful,” she said.

Case management

With proper case management, judges could be involved at the outset and suggest settlement, she said.

The judiciary could only be of limited use, in that cases were almost ready for trial when they came before the bench, and money had been spent. “Very often, after an interlocutory application, I would make some comment that I hoped the parties would pick up ... that they should do something,” she added. “I’m still very surprised how many cases come in before me where it’s obvious to me that parties have not really engaged at all, even in the ‘neg’ part. I think that’s always a great pity,” she said.

The judge added that she had initially found it difficult to indicate to parties that she believed they should settle: “I looked like a work-avoidance person when I said that!” she joked.

I’M STILL VERY SURPRISED HOW MANY CASES COME IN BEFORE ME WHERE IT’S OBVIOUS TO ME THAT PARTIES HAVE NOT REALLY ENGAGED AT ALL, EVEN IN THE ‘NEG’ PART. I THINK THAT’S ALWAYS A GREAT PITY



Brian McMullin (ADR Committee, Law Society), Prof Dr Mohamed Abdel Wahab (panellist), Hannah Shaw (ADR Committee), Karen Killoran (ADR Committee), Ms Justice Eileen Roberts (High Court, and panellist), and James Kinch (ADR Committee)



There was a fear on the part of judges of being perceived as unwilling to hear a case or write a judgment, Justice Roberts added. In such cases, the judge said that she was neither unwilling nor unable to make a decision – but simply in favour of more creative thinking in the form of mediation.

“When a judge signals to you that the parties should engage, understand what that means,” she advised.

“It’s back to the cultural point – you can’t actually say ‘I think this person has an awful case,’” the judge pointed out. “You become very aware as a judge that you have a sort of ‘machete’, which can smash things in two – probably not to the benefit of many people,” she added.

One of the advantages of mediation was the creativity and the ability to fashion a solution by taking a small scalpel to a matter, the judge commented.

‘Cultural awareness’ key

The Middle East and North Africa region has not picked up on arbitration or mediation opportunities, with a tendency to seek an award for damages in the event of contract failure, renowned international arbitrator Prof Mohamed Abdel Wahab said at the event.

The academic added that some societies tended to be very litigious, and arbitration was not even begun, despite its success rates. There was a lack of trust between parties once a contract failed: “People always ask the question: where is the award and how are we going to enforce it?”

Dr Wahab said that working in international mediation had made him more aware of cultural differences, and that cultural awareness was key to working in the field. “You become more and more aware of the specificities and anomalies of different cultures, and to accept that

there is a degree of tolerance and understanding that certain things can be done in different ways – and they are all correct ways, depending on how and what way parties want to proceed,” he said.

‘Strategic outlook’

Solicitor Brian McMullin spoke about the need for a strategic outlook when focusing on successful outcomes for clients: “Lawyers should take a strategic outlook that means keeping an open and creative mind on methods of reaching agreement, rather than getting stuck on a framework of litigation,” he warned. “Clients want a successful outcome, or at least an outcome they can live with.”

Arthur Cox partner Karen Killoran said that independent expert determination was another very useful form of alternative dispute resolution, but should be used for bespoke, discrete issues. “The utmost important thing

is that you contemplate, at the time of entering the contract, the types of issues that may, in fact, cause a dispute,” she said.

Technical disputes on a large construction project could revolve around whether the project had reached practical completion or not. This type of dispute was very well suited to an independent expert determination, and crossed into areas of property and real-estate law, the Arthur Cox partner said.

Resorting to court might pause big projects for up to 18 months, she pointed out: “For that reason, I am a big proponent of dispute-resolution clauses,” she said. She pointed out, however, that the downsides were that a notice of dispute referring a matter to mediation would not ‘stop the clock’ on the statute of limitations.

Mary Hallissey is a journalist at the Law Society Gazette.

New kid on the block

More and more people are changing jobs and switching roles. Tess Drea gives us the tools to deal with the impact that such significant transitions can have on our lives and overall wellbeing

IF YOU KNOW THAT THERE IS ONE ASPECT OF THE NEW POSITION THAT YOU ARE UNFAMILIAR WITH, ADDRESS IT. DON'T BURY IT AND HOPE NO ONE NOTICES, BECAUSE IT MIGHT EVENTUALLY COME TO LIGHT – AND NOT ON YOUR TERMS. YOU DON'T WANT TO BE RUMINATING OVER THE POTENTIAL CONSEQUENCES

Changing jobs is more common than ever, with younger people most likely to move on from their current employment. In Evelyn Partners' *Irish Law Firm Survey 2022*, more than one in three top-20 firms and one in four Dublin-based firms experienced staff turnover levels in the range of 10-20%. As a result, newly qualified solicitors starting with new firms, solicitors being promoted internally, or solicitors moving in-house are experiencing significant transition in their lives. We often underestimate the impact this can have on our overall wellbeing.

I spent over five years at a British broadcaster, where I was promoted several times from junior lawyer to deputy, heading the acquisitions team. I was lucky, because my career was my primary focus, so I could grow around the new challenges without anything else in my life noticeably suffering. When I moved from London to Ireland in 2010, I didn't worry that I would settle quickly, because I had visited often and the job was so exciting and a step-up, running the business-affairs function of a busy, expanding animation studio.

I gave little thought to how all the transitions stemming largely from the new role would become overwhelming at times. Now, with the benefit of perspective and in my work

as an executive, creative and wellbeing coach – primarily in the legal profession and the arts sector – I am privileged to be able to help others navigate these pivotal moments in their careers and lives.

Savouring the moment

Firstly, consciously celebrate and savour this moment. No matter what the circumstances are leading up to a promotion, new job, or the challenges ahead, it is an opportunity for you to feel proud of your achievement. It's easy to forget to enjoy professional milestones because of competing external interests. But by bringing your awareness back to yourself (writing your thoughts and feelings down at the same time each day often helps) and your own unique career journey, you will feel positive and create a stronger foundation and growth mindset from which to move forward.

You should recognise that thoughts and feelings are not the same thing – and may seem conflicted or change a lot around this time, and that's okay. You can demonstrate confidence in your abilities as a lawyer, while also feeling nervous underneath about the new workload and settling into a new team. None of us is just one thing all the time, and something that might appear to make you vulnerable could turn out to be a strength or area you can learn from in your new

role. For example, if you have never managed anyone before, this will be a chance to embrace your own management style.

How to flourish

Accept the end of your previous position and the fact that there will be a transition period involving high and low points – but which won't last forever. Here are some suggestions to help you flourish:

- 1) *Make a great first impression* – it sounds obvious, but do whatever you need to do to feel your best physically and mentally, because it will show in the energy you feel and display. This may include holidays with loved ones between roles, timing your new commute so you are ready for 'day one', and organising your diary to allow for plenty of exercise, sleep, and nutritious food as you settle into the new job.
- 2) *Minimise uncertainty* – reduce the chances of feeling any anxiety by controlling what you can. For example, if you know that there is one aspect of the new position that you are unfamiliar with, address it. Don't bury it and hope no one notices, because it might eventually come to light – and not on your terms. You don't want to be ruminating over the potential consequences. Work out what existing skills you have that most align with this new requirement. For



PICTALAMY

Feeling like the new kid on the block?

instance, you may now be expected to present updates to a major external client, but you've only presented to a small peer group before. Afterwards, think about what went well and expand on it. If you still don't like presenting, seek out, early on, someone in the company who does it well and identify training in that area.

3) *Build meaningful relationships* – your team and your wider network will be crucial to how well you settle, so, in those early days, do your best to get to know colleagues, and be aware of the different styles of working that you come across when managing both up and down. This will make for a much smoother transition. If you are working remotely, this might be more difficult, but try to meet socially in person if you can, or plan specific sessions

virtually with a few key people who you want to connect with. Don't be afraid to ask for help in navigating this.

- 4) *Know your value* – they already know why they chose or promoted you, but take time to think carefully now about your strengths, what you specifically bring to the company, and how you can best communicate and demonstrate that from the start, for example, with the quality of your work and your area of expertise. Brainstorm ways to make a quick but lasting positive impact. Review your overall career goals and what success truly looks like to you – don't compare yourself with anybody else.
- 5) *Listen* – you will learn so much in the early days from really listening to what is going on around you. You aren't expected to know everything,

but be prepared to learn and grow in the new role. If there is no transition plan or handover in place in your new role, listen and systematically build your own by getting as much information as possible about what needs to be done, for whom, and by when.

Categorise projects carefully according to priority. Develop your own key contacts list. Have resources to hand to help you.

- 6) *Be aware of the consequences of your new position outside of work* – let the people you are closest to know that there is going to be a transition period, so they can be prepared to offer support – but also make time to support them. I often see clients going through big stressful life events at the same time as new jobs because that is just how life sometimes works, with relocation, new

relationships, having children, and bereavement. Factor all of this into the attention you give your overall wellbeing, and reframe your mindset so that the challenges become opportunities to grow and learn.

Finally, remember that no matter how many jobs you have had before, you are still going to have times where you feel like the new kid in school. Prepare for that feeling as best you can and make it work for you by being curious. Nobody else will be paying attention to your nervousness due to their busy routines. But if you need extra professional help, seek it out! 

Tess Drea is an executive, creative and wellbeing coach who helps clients address everyday wellbeing, nutrition, physical activity, stress management, life/career goals and mental health.

DATE	EVENT	CPD HOURS		FEE	DISCOUNTED FEE*
IN-PERSON CPD CLUSTERS 2023					
14 September	Essential General Practice Update Kerry 2023, Ballygarry House Hotel and Spa, Tralee				€150
20 October	North East CPD Day 2023, The Glencarn Hotel, Castleblayney, Co. Monaghan				€150
26 October	Connaught Solicitors' Symposium 2023, Breaffy House Resort, Castlebar, Co. Mayo				€150
16 November	General Practice Kilkenny 2023, Hotel Kilkenny, Kilkenny				€150
23 November	Practitioner Update Cork 2023, The Kingsley Hotel, Cork				€150
06 December	Practice and Regulation Symposium 2023, The Westin Hotel, College Green, Dublin				€150
IN-PERSON AND LIVE ONLINE					
29 August	Personal Effectiveness Workshop	3 management & professional development skills (by group study)	Law Society of Ireland	€175	€150
20 September	Probate Cases - Tips for Solicitors drafting wills and taking instructions	1 general (by eLearning)	Zoom webinar		€65
28 September	EU & International Affairs Committee Annual Seminar	2 general (by group study)	Law Society of Ireland		€135
03 October	The Business of Wellbeing Summit 2023	2.5 management and professional development skills (by eLearning)	Zoom webinar		Complimentary
04 October	Environmental and Planning Law Committee Climate Justice Conference	TBC	TBC	€198	€175
05 October	Younger Members Annual Conference	2 general (by group study)	Law Society of Ireland		€135
12 October	In-house & Public Sector Annual Conference	4 general (by group study)	Law Society of Ireland	€198	€175
19 October	Property Law Annual Update	3.5 general (by eLearning)	Zoom webinar	€198	€175
25 October	Litigation Annual Update	3.5 general (by eLearning)	Zoom webinar	€198	€175
26 October	Training of lawyers on EU law relating to vulnerable groups of migrants (TRALVU)	5.5 general (by group study)	Law Society of Ireland		Complimentary
08 November	Employment & Equality Law Annual Update	3.5 general (by eLearning)	Zoom webinar	€198	€175
15 November	Business Law Annual Update	3.5 general (by eLearning)	Zoom webinar	€198	€175
17 November	Human Rights Annual Conference	4 general (by eLearning)	Law Society of Ireland		Complimentary
30 November	ADR Committee Annual Seminar	2 general (by eLearning)	Zoom webinar	€198	€175
ONLINE, ON-DEMAND					
Available now	Legaltech Talks Hub	See website for details			Complimentary
Available now	Legislative Drafting Masterclass	3 general (by eLearning)		€280	€230
Available now	New Laws Applicable to Technology Use & Creation Conference	2.5 general (by eLearning)		€198	€175
Available now	International Arbitration in Ireland Hub – suite of courses	Up to 7.5 general (by eLearning)		€125	€110
Available now	GDPR in Action: Data Security and Breaches	1 regulatory matters (by eLearning)		€125	€110
Available now	Pre-Contract Investigation of Title	3 general (by eLearning)		€125	€110
Available now	Suite of Social Media & Website Courses	Up to 4 management & professional development skills (by eLearning)		€175	€150
Available now	4th Annual IMRO Lecture	See LegalED Talks CPD Training Hub			Complimentary
See website for online, on-demand courses in Property Law, Employment Law, Construction Law and more.					

*This Law Society Skillnet discount is applicable to all practicing solicitors working in the private sector. For a complete listing of upcoming courses visit www.lawsociety.ie/CPDCourses or contact a member of the Law Society Professional Training or Law Society Skillnet team on Tel: 01 881 5727 Email: lspt@lawsociety.ie or www.lawsociety.ie/Skillnet

Dawn of justice

The CJEU has found that the European Commission is obliged to record interviews it conducts when collecting information for its investigations, says Alan McCarthy



THE OBLIGATION APPLIES IRRESPECTIVE OF WHETHER THE INTERVIEW IN QUESTION WAS CONDUCTED BEFORE OR AFTER THE FORMAL OPENING OF AN INVESTIGATION

In the 9 March 2023 decisions of the Court of Justice of the European Union (Cases C-682/20P *Les Mousquetaires and ITM Entreprises*, C-690/20P *Casino*, and C-693/20P *Intermarché Casino Achats*), the court set aside, in part, the judgments of the General Court and annulled the decisions of the European Commission ordering inspections (dawn raids) at the premises of French undertakings in the distribution sector due to suspicions of possible anticompetitive practices.

After receiving information concerning exchanges of information between undertakings in the food and non-food distribution sector, the commission adopted, in February 2017, decisions ordering several companies to submit to dawn raids. In those dawn raids, the commission visited the premises of the relevant companies, where copies of the content of computer equipment were taken.

The dawn-raided companies brought actions before the General Court seeking annulment of the commission decisions. In 2020, the General

Court upheld those actions – but only in part. Those undertakings then appealed that decision to the CJEU.

'Any-form' recordings

The CJEU found that the commission is required to record any interview that it conducts to collect information relating to the subject matter of an investigation. In that regard, the obligation applies irrespective of whether the interview in question was conducted before the formal opening of an investigation to collect indicators of the possible competition law infringement or afterwards, to collect evidence of a possible infringement. The commission may record the interviews in any form, including orally, thereby ensuring the effectiveness and speed of the investigation.

The General Court erred in law in holding that the obligation to record did not apply to interviews conducted by the commission with suppliers of the undertakings in question, on the ground that no investigation had yet been formally opened in respect of those undertakings.

To determine if those interviews came within the scope of the commission's obligation to record, the General Court should have considered if they were aimed at collecting information relating to the subject matter of an investigation, having regard to their content and context. Such an examination would have led to the conclusion that those interviews had to be recorded.

Since the information obtained in disregard of the obligation to record constituted the essential elements of the indicators on which the commission's decisions were based, they were not substantiated by sufficiently serious indicators, and the Court of Justice annulled the commission decisions.

This important judgment sets out clearly the obligations on the commission to record interviews (in this case, with suppliers of those undertakings) to be able to use such information from those interviews as indicators of a possible infringement. This places an important procedural requirement on the commission in competition-law dawn raids (and investigations in general).

Closer to home, the Competition and Consumer Protection Commission (CCPC) has wide-ranging dawn-raid powers under the *Competition Act 2002* (as amended), and these are going to be materially increased as a result of the *Competition (Amendment) Act 2022*, which is due to commence shortly.

There are few clear procedural guidelines for CCPC dawn raids, and the CJEU's decision throws sharp relief on the obligations on regulators to have clear procedures to protect the rights of undertakings (and individuals) under suspicion of anticompetitive practices. [g](#)

Alan McCarthy is a partner in A&L Goodbody LLP and a member of the Law Society's EU and International Affairs Committee.

Control your merges

The prohibition of abuse of dominance under the EU treaties allows *ex post* control (at the national level) of an acquisition that is not notifiable under EU merger control, says Alan McCarthy

ACQUISITIONS THAT CAN'T BE NOTIFIED TO THE COMMISSION UNDER THE EUMR AND THAT AREN'T ASSESSED BY LOCAL MERGER-CONTROL AUTHORITIES MAY STILL BE REVIEWED AFTER THEY HAVE BEEN COMPLETED

In a 16 March 2023 judgment of the CJEU, following a request for a preliminary ruling from the Cour d'Appel de Paris in *Case C449/21 Towercast SASU v Autorité de la Concurrence*, the court considered an issue of the application of EU competition law and merger control under the *Treaty on the Functioning of the European Union*.

A digital terrestrial television (DTT) platform had been in use in France since 2005. The main DTT network operator is TDF, which had enjoyed a state monopoly on the French terrestrial television broadcasting market. The liberalisation of the French audiovisual area enabled undertakings such as Towercast (a competitor of TDF) to enter the broadcasting market.

In 2016, TDF acquired sole control of Itas (also a competitor of TDF), which was not notifiable to the European Commission under the *EU Merger Regulation* (EUMR) or to the French competition authority under French merger-control rules. As a result, the acquisition was not reviewed under merger-control rules (and there was no article 22 EUMR reference to the commission for any 'sub-threshold' EUMR review).

Towercast argued that the TDF acquisition of Itas breached the prohibition of an abuse of a dominant position under article 102 TFEU (for example, by TDF hindering competition on the upstream and downstream

wholesale markets for DTT broadcasting services in France).

The French authority brought an appeal before the Cour d'Appel de Paris. That court asked the CJEU if a national competition authority can carry out, in view of the prohibition of abuse of a dominant position under article 102 TFEU, an *ex post* article 102 review of an acquisition by an undertaking in a dominant position, where that deal was under the EUMR and French merger-control notification thresholds, and thus not subject to *ex ante* merger control.

Notification thresholds

The CJEU found that an acquisition under EUMR notification thresholds may still be subject to control by member state national competition authorities and courts, on the basis of the direct effect of article 102 TFEU. The CJEU said that, notwithstanding the principle that the EUMR is the only regulation applicable to acquisitions meeting the EUMR thresholds, the procedural law of member states is still applicable to such acquisitions, which are not notifiable to the commission under the EUMR (or which have not been reviewed under national merger-control rules).

The EU legislature did not intend to render the control carried out at national level on an acquisition, in the light of the article 102 TFEU prohibition

laid down by primary law, to be devoid of purpose.

Consequently, the EUMR does not preclude control of acquisitions that do not meet the EUMR thresholds: while certain acquisitions may escape prior merger control (for example, by the commission under the EUMR or by local merger-control authorities), they may still be subject to a subsequent article 102 TFEU assessment.

When carrying out such a subsequent article 102 TFEU review of an acquisition, the authority in question must verify if a purchaser who is in a dominant position on a given market, and who has acquired control of another undertaking on that market, has by that conduct substantially impeded competition on that market.

Post-completion reviews

While this CJEU judgment is probably to be expected, it means that acquisitions that can't be notified to the commission under the EUMR and that aren't assessed by local merger-control authorities (such as the Competition and Consumer Protection Commission), may still be reviewed after they have been completed (for example, because they didn't require merger-control review) to determine if they are prohibited (or otherwise vulnerable) under article 102.

Such added 'deal uncertainty' may not happen very frequently



PICTURE: SHUTTERSTOCK

in practice, but it means that any deal completed because it was not notifiable under the EUMR or to the local merger-control authority must also factor-in whether their deal involves a dominant player in a market.

In all of this (including the new ‘call-in’ powers for the Competition and Consumer Protection Commission under the *Competition (Amendment) Act 2022* and the increasing tech/pharma scrutiny of the

commission on the article 22 EUMR power of referral by national competition authorities) is the added uncertainty about any post-completion article 101 TFEU application (that is, whether the completed deal

constitutes an anti-competitive agreement). 

Alan McCarthy is a partner in A&L Goodbody LLP and a member of the EU and International Affairs Committee.

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ENDURING POWERS OF ATTORNEY

MENTAL HEALTH LAW AND CAPACITY TASK FORCE
PROBATE, ADMINISTRATION AND TRUSTS COMMITTEE

● On 2 March 2012, the Law Society's Guidance and Ethics Committee issued guidelines for practitioners on 'Transactions involving vulnerable/older adults (to include requests for visits to residential care settings)'.

The guidance acknowledges that all individuals, no matter how vulnerable, have a fundamental right to control and manage their affairs and to have access to a solicitor. It further states that vulnerable and older adults have a right to be protected from financial abuse and that solicitors, working in cooperation with others in caring for an individual, can have a pivotal role in ensuring that to be the case.

In order to fulfil all ethical and professional obligations in respect of the execution of enduring powers of attorney (EPAs), solicitors must be vigilant of a wide range of risk factors in the area, which include undue influence, unconscionable conduct, conflict of interest, and fraud.

Practitioners will be aware of changes to EPAs brought about by the recent commencement of the *Assisted Decision-Making (Capacity) Act 2015* (as amended).

Applications to register, vary, revoke, or rescind an EPA must be accompanied by a statement from a legal practitioner, to be created after interviewing the donor and making any necessary enquiries, to specify that:

- The solicitor is satisfied that the donor understands the implications of creating, varying, revoking or rescinding an EPA,
- Where relevant, the donor is aware that they may amend or revoke the EPA prior to registration and prior to its notification,
- The solicitor is satisfied that there is no reason to believe that the instrument is being created, varied, revoked, or rescinded by the donor as a result of fraud, coercion, or undue pressure (solicitors will note that this certification is expanded from that required under the *Powers of Attorney Act 1996* and now includes being satisfied that the action(s) of the donor are not as a result of coercion).

Section 94 of the *Assisted Decision-Making (Capacity) Act 2015* (as amended) requires that the Mental Health Commission appoint a director of the Decision Support Service (DSS) to perform specific statutory functions.

At paragraph 2.6.3 of its *Code of Practice for Legal Practitioners*, the DSS requires that practitioners fully explain the scope, purpose, and implications of an EPA, ensuring that the donor understands each element and making/recording full and detailed notes in the context of providing the Legal Practitioner Certificate.

These requirements are critically important, as the DSS may, as part of an investigation (for example, in respect of the validity of an EPA or suitability of the attorney), request relevant records or information and/or summon the legal practitioner as a witness. As such, the provision of the legal statement is not a perfunctory exercise, and any practitioner who provides such a statement will have to engage fully with the client, taking a detailed attendance note in accordance with good professional practice and the requirements of the DSS's *Code of Practice for Legal Practitioners*.

The level of engagement required for a solicitor to be in a position to provide the necessary statement as to capacity for the purposes of completion of an EPA creates a solicitor/client relationship. As such, solicitors will be required to observe all requirements for those relationships, which include obtaining anti-money-laundering documentation, issuing terms and conditions of engagement, taking full and comprehensive instructions from the client, and providing advice in a manner/setting that mitigates against the risk of undue influence, coercion, or fraud by third parties.

Further, and in order to be in a position to provide the necessary legal statement, practitioners will need to engage with the client on the EPA, advising and counselling them in relation to its impact, in much the same manner as would have been the case for an

EPA created under the *Powers of Attorney Act 1996*.

Solicitors should have regard to the High Court judgment *In the matter of an application for registration of an enduring power of attorney of SCR dated 1 November 2013* ([2015] IEHC 308), which discusses the purpose of a certification of capacity in the creation of an EPA and the factors to be taken into account in making such an assessment. While this judgment relates to an EPA under the *Powers of Attorney Act 1996*, given the similarity of the solicitor's certification under that act and the new *Assisted Decision-Making (Capacity) Act* regime, it remains relevant until and unless there is further judicial guidance on what is required of the solicitor in respect of certification under the new regime. The judgment of the court in the above-referenced case in relation to the requirements incumbent upon a solicitor would suggest that, where a practitioner is unable to undertake a thorough engagement with the person wishing to create an EPA, they are unlikely to be able to provide the requisite legal statement.

Section 79 of the 2015 act had originally provided for the minister to prescribe (by regulation) the form of an instrument creating an EPA. However, the section was amended by the *Assisted Decision-Making (Capacity) (Amendment) Act 2022*, which inserted a new section 79(A), which provides that the director of the DSS may, with the consent of the minister, specify the form of instrument to create an EPA. Section 79(A) (2) further specifies that the director will ensure that the forms are made available in accessible formats.

The move to an online portal in respect of the creation of EPAs was not indicated by the DSS, or any other party, during the long lead-up to the commencement of 2015 act.

The Law Society is acutely aware of the operational difficulties that this development poses for clients and their solicitors, and will be making representations to the relevant bodies to alleviate these difficulties. ■

WILLS

Bristow, Kathleen (deceased), late of 100 Mount Prospect Avenue, Clontarf, Dublin 3, who died on 26 October 2022. Would any person holding or having knowledge of a will made by the above-named deceased please contact Michael J Kennedy and Co, Solicitors, Parochial House, Baldoyle, Dublin 13; tel: 01 832 0230, email: reception@mjksolicitors.com

Coughlan, Thomas (deceased), late of 15 Prior Hill, Clonmel, Co Tipperary. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 30 January 2023, please contact Declan O'Toole & Co, Solicitors, Holbar House, East Douglas Village, Douglas, Cork; tel: 021 489 5371, email: declan@dotlaw.ie

Devaney, Michael (deceased), late of 15 McAuley Park, Artane, Dublin 5, who died on 2 July 2014. Would any person having knowledge of the original will made by the above-named deceased, or if any firm is holding same or was in recent contact with the deceased or his family regarding his will, please contact Doyle O'Hanlon Solicitors LLP, 7 Glana Terrace, Spawell Road, Wexford; tel: 053 912 3077, email: info@doyle-solicitors.ie

Devine, Maurice (otherwise Mossie) (deceased), late of Knocknaglough, Aghlish, Cappoquin, Co Waterford, who died in or about 1 April 2023. Would any person having knowledge of any will made by the above-named deceased please contact Cathy Duffy Bolton, McCullagh Higgins & Co LLP, Solicitors, 1-2 Cois Mara, Dungarvan, Co Waterford; tel: 058 44 166, email: cathy@mccullaghiggins.com

Gavin, Mary (deceased), late of 167 Beaumont Road, Beaumont, Dublin 9, who died on 7 February 2023. Would any solicitor holding or having knowledge of a will made by the above-named deceased or the title deeds of the above property please contact

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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*.

Sheelagh Doorley, Devitt Doorley Solicitors, The Valley, Roscrea, Co Tipperary; tel: 0505 22153, email: info@devittdoorley.ie

Geary, Josephine/Joe (otherwise Seósamh 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

Hearns, Liam (deceased), late of 54 Cluain Ard, Sea Road, Arklow, Co Wicklow, and 33 Sidmonton Gardens, Bray, Co Wicklow, who died on 30 September 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 contact with the deceased regarding his will, please contact Kenny Sullivan, Solicitors, Market Court, Townhall, Bray, Co Wicklow; tel 01 282 8124, email: info@kennysullivan.ie

Horan, Maureen (née Shea) (deceased), late of Riverside, Glenbeigh, Co Kerry, who died

on 17 November 2017. Would any solicitor or person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased please contact Patrick Sheehan, solicitor, 65 New St, Killarney, Co Kerry; DX 51008 Killarney; tel: 064 663 4266, email: reception@patrick-sheehansolicitor.ie

Kelly, Dominic (deceased), late of 34 Roxboro Road, Limerick, and Saint Camillus Hospital, Shelbourne Road, Limerick, who died on 14 March 2023. Would any solicitor or person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased please contact Kelly Law Solicitors, Ground

Floor, Old Windmill Court, Lower Gerard Griffin Street, Limerick; tel: 061 221 400; email: info@kellylaw.ie

McKenzie, Veronica (Squires) (deceased), late of The Bungalow, Cock Hill Road, Stamullen, Co Meath, who died on 31 July 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact O'Hare O'Dwyer, Solicitors, Greenfield Road, Sutton, Dublin 13; tel: 01 839 6455, email: law@ohareodwyer.ie

Mulvey, Michael Gerard (deceased), late of Lisnagabra, Four Roads, Roscommon, Co Roscommon, who died on 12 August 2020. Would any per-

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son having knowledge of any will made by the above-named deceased please contact Jennifer Liddy, solicitor, Liddy Neilan LLP Solicitors, Abbey Street, Roscommon, Co Roscommon; tel: 090 662 7498, email: jennifer@liddyneilan.ie

Noone, Thomas (Tommy) (deceased), late of 49 Woodstock Court, Ranelagh, Dublin 6; and 1 Tom Kelly Road Flats, Portobello Bridge, Rathmines, Dublin 6; and 5 Charlemount Gardens, Charlemount Street, Dublin 2. Would any person having knowledge of any will executed by above-named deceased, who died on 12 February 2023, please contact Denis M Molloy, Solicitors, Bridge Street, Ballina, Co Mayo; DX 14002 Balina; tel: 096 70660, email: denismolloylaw@gmail.com

O'Dwyer, Denis Christopher (deceased), late of Roan, Killauna, Co Tipperary, who died on 11 November 2019. Would any person having knowledge of a will executed by the above-named deceased please contact Patrick O'Dwyer, 21 Heritage Court, Llantarnam, Cwmbran, NP443HS, South Wales, email: podsteelfixing@yahoo.co.uk

O'Flaherty, Mary (deceased), late of 29 St Mobhi Road, Dublin, who died on 18 May 1982. 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 Staines Law Solicitors, Suite 126, The Capel Building, Mary's Abbey, Dublin 7; tel: 01 872 0888; email: james.staines@staineslaw.ie

Oglesby, Albert (deceased), late of 26 Newbrook Avenue, Donaghmede, Dublin 13. Would any person having knowledge of a will executed by the above-named deceased, who died on 6 June 2022, please contact Gaffney Halligan & Co, Solicitors, Artane Roundabout, Malahide Road, Artane, Dublin 5; tel 01 831 2470, email: agreene@gaffneyhalligan.com

O'Neil, Katherine (deceased), who died on 30 January 2023, late of 91 St Mobhi Road, Glasnevin, Dublin 9. 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 PG Cranny & Co, Solicitors, 230 Swords Road, Santry, Dublin 9; tel: 01 842 2919, email: info@pgcranny.ie

Shelley, Christopher (deceased), late of 101 Kiltipper Gate, Tallaght, Dublin 24, also with an address of Apt 9, Sackville Court, Blessington Street, Dublin 7, who died on 9 July 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Becker Tansey Solicitors, Jubilee House, New Road, Clondalkin, Dublin 22; DX 93002 Clondalkin; tel: 01 459 3927

Tobin, Carmel (deceased), late of 41 Brooklawn, Clontarf, Dublin 3, who died on 19 March 2023. 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 about a will, please contact Arthur McLean LLP Solicitors, 50A Patrick Street, Dublin 8; tel: 01 677 2519, email: info@arthurmclean.ie

Wali, Dr Muhammad Azam (deceased), late of 1 The Close, Huntsfield, Dooradoyle, Limerick, and formerly of 3 Tullyhall Way, Lucan, Co Dublin and 15 Elgon Walk, Ardkeen Village, Dunmore Road, Waterford, who died on 17 December 2022. Would any person having knowledge of any will made by the above-named deceased, or any firm is holding same or was in recent contact with the deceased regarding his will, please contact Julianne Kiely, Kiely McCarthy Solicitors, 1 New Wellington Terrace, O'Connell Avenue, Limerick; tel: 061 461 024, email: info@kielymccarthy.ie

TITLE DEEDS

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 Gertrude Horgan

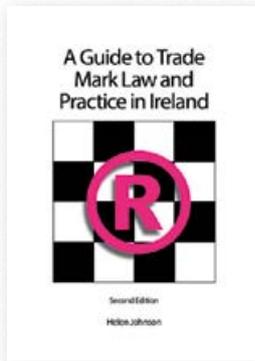
Any person having a freehold estate or any intermediate interest in all that and those the lands at 5 Leinster Square, Rathmines, Dublin 6, being portion of the property the subject of an indenture of lease dated 4 September 1928 between Godfrey Robert Wills Sandford and Howard Rundell Guinness of the first part, Amy Henrietta Wills Sandford Wills of the second part, and Charles Joseph Priest, Frederick James Priest, Edward Percy Maybury Butler and Herbert Wood of the other part, for a term of 153 years from 25 March 1928 at a the yearly rent of £24 per annum, the entirety of the property the subject of the lease being therein described as follows: "all that and those two pieces plots or parcels of ground lying northward and southward of the road or avenue now known as Leinster Square, leading from the Rathmines Road into the said square and forming part thereof, being parts of the lands of Harold's Cross East, situate in the urban district of Rathmines and Rathgar, the barony of Upper Cross, and county of Dublin: first as to the plot lying southward of the said avenue on part of which the dwellinghouses and premises known as numbers 21, 22, 23, 24, 25, 26, 27, 28 and 29 Leinster Square now stand (the remaining part comprising one-half of the aforesaid avenue immediately in front of the said dwellinghouses) and containing on the north side down the middle of the said avenue 220 feet; on the south side 167 feet, 6 inches; on the east side along Rathmines Road 158 feet, 4 inches; and on the west side, 144 feet, 6 inches, be the said several admeasurements or any of them more or less, bounded on the north by the second plot, hereby demised, on the south by premises in the occupation of the National Bank Limited, on the east

by Rathmines Road aforesaid, and on the west by premises now as number 20 Leinster Square; secondly, as to the plot lying northward of the said avenue on part of which the dwellinghouses and premises known as 1, 2, 3, 4, 5 6 and 7 Leinster Square now stand (the remaining part comprising one half of the aforesaid avenue immediately in front of the said dwellinghouses and a strip of waste land with trees thereon at the rear of the said dwellinghouses and adjoining Leinster Road) and continuing on the south side down the middle of the said avenue 227 feet, 6 inches; on the north side along Leinster Road aforesaid 114 feet; and on the west side, 144 feet, 6 inches, be the said several admeasurements or any of them more or less bounded on the south by the first plot hereby demised, on the north by Leinster Road aforesaid, on the east by Rathmines Road aforesaid, and on the west by premises known as Berlin Lodge, both of which said plots for greater clearness and not so as to restrict or enlarge the descriptions hereinbefore contained are more particularly delineated and described on the map annexed hereto and thereon edged red".

Take notice that Gertrude Horgan, the person being entitled to the lessee's interest in the premises at 5 Leinster Square, Rathmines, Dublin 6, intends to apply to the county registrar of the county of Dublin to vest in her 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, Gertrude Horgan 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

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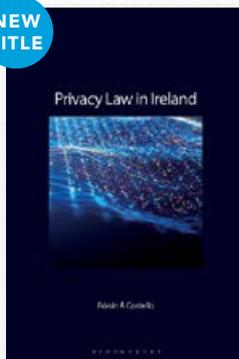
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interests including the freehold reversion in the aforesaid property are unknown or unascertained.

Date: 7 July 2023

Signed: *Sherwin O'Riordan (solicitor for the applicant), 74 Pembroke Road, Ballsbridge, 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 no 40 Charlemont Street, Dublin 2, and in the matter of an application by Una Carmody and Ruth Carmody

Take notice any person having any interest in the freehold estate of, or any intermediate interest in, the following property: all that and those the premises known as 40 Charlemont Street, Dublin 2, situate in the parish of Saint Peter and county of the city of Dublin, being that part of the property that is held by the applicants under an indenture of lease dated 8 January 1887 and made between Mary Mackesey of the one part and Thomas Crotty of the other part for a term of 200 years from 1 November 1886, in consideration of payment of a fine of £20 and subject to a yearly rent of £20 thereby reserved, but indemnified against all but £6.13.4 thereof, and to the covenants and conditions therein contained and being in the said indenture of lease dated 8 January 1887 described as “that piece of ground situate lying and being on the west side of Lower Charlemont Street in the parish of St Peter and county of the city of Dublin, containing in front to Charlemont Street aforesaid 24 feet, 7 inches or thereabouts, and in depth from front to rear on the south-east side 124 feet, 5 inches or thereabouts, and in depth from front to rear on the north-west side 124 feet, 5 inches or thereabouts, and in breadth in the rear 24 feet, 6 inches or thereabouts, bounded on the north by the premises 38 and 39 Charlemont Street (the property of lessor), on the south by the premises 41 Charlemont Street in possession of Thomas Keogh, in the east by Charlemont Street aforesaid, and on the west by premises in possession of the Providence House, together with the House and premises thereon formerly in the possession of Thomas Keogh and known as 40 Charlemont Street, all which aforesaid lands, houses, and premises are delineated on the map or terchart hereon endorsed”.

Take notice that the above-named applicants intend 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, and take notice that, in default of any such notice being received, the applicant 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: 7 July 2023

Signed: *Liston & Company (solicitors for the applicant), Argyle House, 103-105 Morehampton Road, Donnybrook, Dublin 4, D04 T2X5*

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 Barry Dunne in respect of part of the premises known as 2A Saint Patrick's Road, Dalkey, Co Dublin, situate to the rear part of premises at 21 Castle Street, Dalkey, Co Dublin

Take notice any person having an interest in that portion of the land more particularly described as “portion of coachhouse at rear” within an indenture of lease dated 14 April 1966 made between Anna-Maria Ivimey of the one part and Kathleen Kelly of the other part, held under the said lease for the residue unexpired of the term of 94 years from 1 May 1966 thereby granted, subject with the remainder of the premises demised by the said lease to payment of the yearly rent of £75 thereby reserved.

Take notice that Barry Dunne intends to submit an application to the county registrar for the county of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the said property are called upon to furnish evidence of the title to the aforementioned property 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 21 days from the date of this notice and will apply to the county registrar for the county of Dublin for such directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown or unascertained.

Date: 7 July 2023

Signed: *Dodd & Company (solicitors for the applicant), 12 Camden Row, Dublin 8*

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 (as amended) and in the matter of the hereditaments and premises situated at Main Street, Scariff, in the county of Clare, comprising and known as McNamara's Bistro Bar, shop and apartments: an application by Michael McNamara, Marie McNamara, and McNamara's Bar & Restaurant Limited

Take notice any person having any interest in the freehold estate or intermediate interest(s) of the hereditaments and premises situated at Main Street, Scariff, in the county of Clare, comprising and known as McNamara's Bistro Bar, shop and apartments, being all of the property demised by an indenture of lease dated 2 June 1948 and made between Miss Annie Hare, Frederick L Lee, Mrs Mary Finn, John F Scanlan, Mrs Frances Ryan, Jeremiah Scanlan and Thomas Scanlan (as lessors) of the one part, and Francis McMahan (as lessee) of the other part, for a term of 99 years from 29 September 1946, reserving a yearly rent of £18 and subject to the covenants therein contained.

Take notice that the applicants, Michael McNamara, Marie McNamara, and McNamara's Bar & Restaurant Limited, being the persons entitled to the lessee's interest under the said lease, intend to apply to the county registrar for the county of Clare for the acquisition of the freehold and any intermediate interest(s) in the said premises, and any party or parties asserting that they hold a superior interest in the premises 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 default of any such notice being received, Michael McNamara, Marie McNamara, and McNamara's Bar & Restaurant Limited intend 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 such orders or directions as may be appropriate on the basis that persons entitled to superior

interest(s) in the premises are unknown or unascertained.

Date: 7 July 2023

Signed: Meehan Moroney (solicitors for the applicant), Roche House, 8 Bank Place, Limerick, V94 C80H

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2019 and in the matter of lands and premises comprising a public house, dwellinghouse, premises and adjoining site situate at Penny Hill and Moffat's Lane in the town of Hacketstown, barony of Rathvilly and county of Carlow, and held by Elizabeth Cullen under lease and comprised in Folio 4945L of the register of leaseholders, Co Carlow, and in the matter of an application by Elizabeth Cullen to acquire the fee simple under the Landlord and Tenant (Ground Rents) Acts 1967-2019

Take notice any person having a freehold interest or any intermediate interest in "all that and those" the lands and premises comprising a public house, dwellinghouse, premises and adjoining site situate at Penny Hill and Moffat's Lane in the town of Hacketstown, barony of Rathvilly and in the county of Carlow (hereinafter called 'the property'), the subject matter of the leasehold estate that was created by a lease dated 11 January 1887 from John SB Vanston to Garrett O'Reilly for the term of 193 years from 29 September 1886 at the yearly rent of £1/15s and therein described as "all that and those" the small house, backyard, and premises as lately occupied by one Myles Doran and next adjoining the premises in which the said Garrett O'Reilly now resides, situate in Moffat's Lane in the town of Hacketstown, parish of Hacketstown, barony of Rathvilly and county of Carlow.

Take notice that Elizabeth Cullen intends to submit an application to the county registrar for the county of Carlow for the acquisition of the freehold interest in the aforesaid property, and that any party asserting that they hold a superior interest in the aforesaid property are called

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upon to furnish evidence of such title to the aforementioned property to the undermentioned solicitors within 21 days of this notice.

Take notice that, in default of such notice being received, the applicant, Elizabeth Cullen, 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 county of Carlow for such directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the property are unknown or unascertained.

Date: 7 July 2023

Signed: O'Gorman Begley LLP (solicitors for the applicant), Kincora, Athy Road, Carlow

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2019 and in the matter of lands and premises comprising a public house, dwellinghouse, premises and adjoining site situate at Penny Hill and Moffat's Lane in the town of Hacketstown, barony of Rathvilly and county of Carlow, and held by Elizabeth Cullen under lease and comprised in Folio 4945L of the register of leaseholders, Co Carlow, and in the matter of an application by Elizabeth Cullen to acquire the fee simple under the Landlord and Tenant (Ground Rents) Acts 1967-2019

Take notice any person having a freehold interest or any intermediate interest in "all that and those" the lands and premises comprising a public house, dwellinghouse, premises and adjoining site situate at Penny Hill

and Moffat's Lane in the town of Hacketstown, barony of Rathvilly and in the county of Carlow (hereinafter called 'the property'), the subject matter of the leasehold estate that was created by a lease dated 13 August 1879 from John Davis Vanston to Garrett O'Reilly for the term of 200 years from 25 March 1879 at the yearly rent of £14, and therein described as "all that and those" the dwellinghouse, yard, out offices and premises and "all that and those" the small house and backyard adjoining thereto, all situate at Penny Hill in the town of Hacketstown, barony of Rathvilly and county of Carlow.

Take notice that Elizabeth Cullen intends to submit an application to the county registrar for the county of Carlow for the acquisition of the freehold interest in the aforesaid property, and that any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of such title to the aforementioned property to the undermentioned solicitors within 21 days of this notice.

Take notice that, in default of such notice being received, the applicant, Elizabeth Cullen, 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 county of Carlow for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the property are unknown or unascertained.

Date: 7 July 2023

Signed: O'Gorman Begley LLP (solicitors for the applicant), Kincora, Athy Road, Carlow



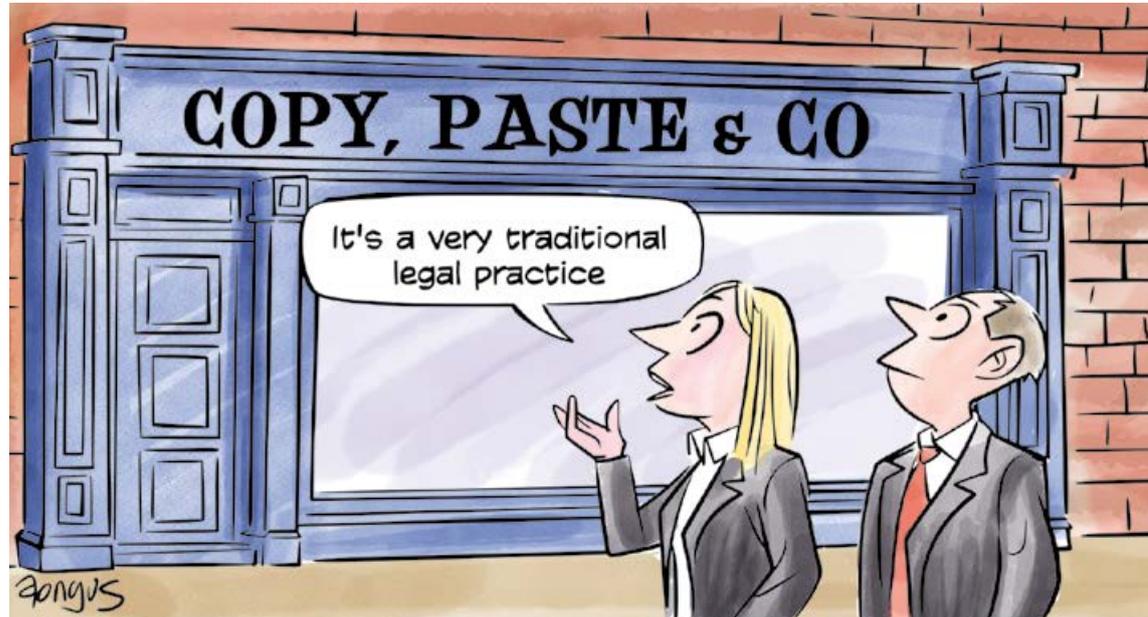
PRO BONOBO

That's why they pay us the big... oh, wait...

● A study published in *Proceedings of the National Academy of Sciences* tried to discover why clunky and obscure 'legalese' persists in legal writing.

The Economist reports that, in trying to get to the bottom of why legal writing is so awful, the researchers found no support for explanations based on precision, pretension, obfuscation, or 'in-group signalling'.

The paper's authors were left with a simple conclusion – the 'copy-and-paste hypothesis'. In other words, lawyers imitate what previous lawyers have done.



The truth is way out there

● David Grusch (36), an intelligence official with the National Geospatial Intelligence Agency, has caused headlines around the world with his assertion that the US has been collecting non-human craft "for decades".

The Guardian reports that some prominent experts are expressing growing scepticism over the whistleblower's claims that the US is storing UFOs. The stumbling block is due to Grusch's



"This model is U.S. army surplus."

extraordinary claims that the US had also recovered alien bodies.

He even suggested that the US had encountered "malevolent" alien pilots – having initially told *The Debrief* website that the government had possession of "intact and partially intact" alien vehicles.

Even ufologists are 'saucering' away – seeking proof, and suggesting that Grusch's assertions should be taken with a large grain of Mars salt. According to an alien spokesbeing, the government is said to be relieved.

Do you need a hand with that?

● A former manager of Harvard Medical School's morgue has been accused of stealing human body parts – among them heads, brains, skin and bones – from donated cadavers and selling them. According to wbur.org, Cedric Lodge (55) is facing charges of conspiracy and transport of stolen goods.

Also facing charges is Katrina MacLean, whose shop, Kat's Creepy Creations, was raided by the FBI, as was her home in Salem. Prosecutors said MacLean illegally bought two partially dissected heads for \$600 from the former morgue manager. Her social-media page advertises "creations that shock the mind and shake the soul," including bone art. [G](#)

'Beastling' turns out to be 'just a cat'

● A stalking 'beast' currently terrifying residents of Suwannee County in Florida, USA, after sending two people to the emergency room in separate attacks, has turned out to be a domestic feline with cat-itude.

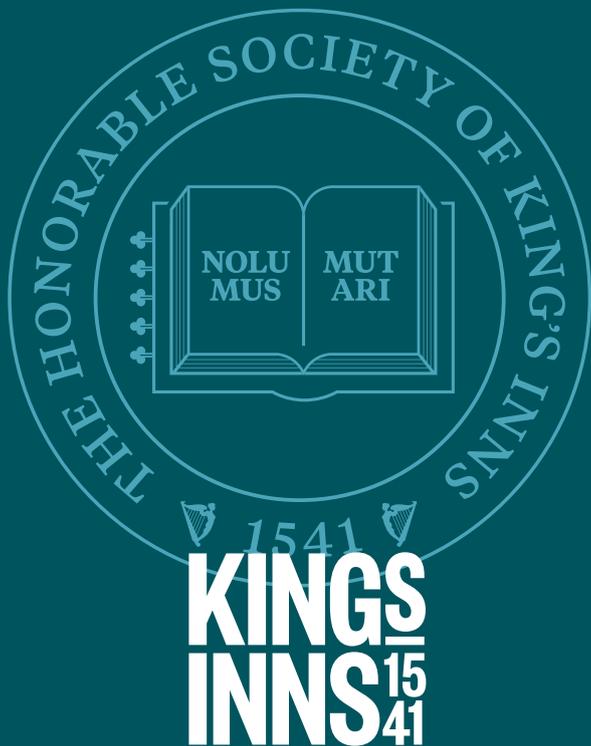
The Daily Star reports that one of the victims had been exercising at the time, while the other was walking along a street when the 'monster' mouser struck. Both incidents left the victim with injuries that

were serious enough to need hospital treatment, according to officials.

Deputies from the county sheriff's office have laid traps for the fierce feline but, so far, have failed to make an arrest.



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Sprioclá d'iarratais | Dé hAoine an 22 Meán Fómhair 2023

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