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this year's sold-out
President's Conference



WHO'S NEXT?
The encroachment
of privacy law on
corporate transparency



FAMILY BUSINESS
The proposed changes in
the new *Family Courts Bill*
are welcome – if funded



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LAW SOCIETY



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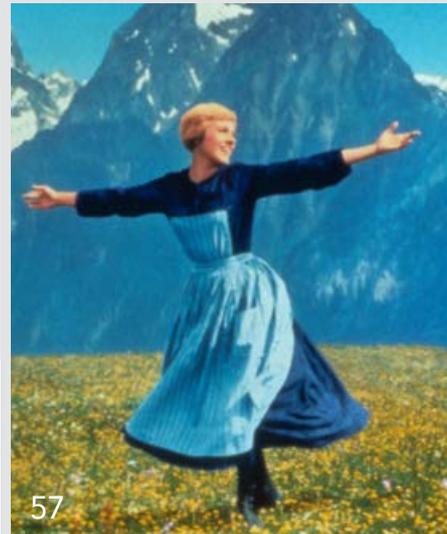
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The pendulum moves!

We are all aware of the well-founded and well-established arguments advanced in seeking significant improvements in access to justice, particularly in relation to family-law cases, criminal-law cases and the rights of children. These arguments are significant, valid, and necessary in seeking a better system to protect the rights of our people but, given the rise of the 'rule of power versus the rule of law and access to justice', is it time to turn the camera inwards and focus on access to justice within our own courts system?

Solicitors who practise in the area of personal injuries are well acquainted with the 'swaying pendulum'; however, has this pendulum swayed too far away from the centre? Is it now the day of the defendant? In previous president's messages, the equality-of-arms principle and the necessity of having a level playing pitch has been highlighted so as to ensure the fundamental rights of our people to access to justice.

Gold standard

In this high-tech age, the gold standard promulgated in society is efficiency – however, there is a difference between 'efficiency' and 'effectiveness'. Has striving for efficiency over-influenced our courts system? Are our independent high-quality judiciary, who guard fiercely the rights of our people, not also subject to the pressures of efficiency and productivity?

There is little doubt that plaintiffs' solicitors have encountered significant difficulties, particularly since COVID, in preparing and processing cases for individual plaintiffs in the courts system. In this area of law, the defendants *per se* are, in fact, the insurance companies, the State, and corporate bodies.

There has been a significant rise in complaints and objections by defendants, often filed in court documents or otherwise raised during court hearings, about plaintiffs who exercise their rights under statute and legislation in relation to the processing of their claims.

Statute of Limitations

The *Statute of Limitations* allows a period of two years within which to file and obtain a section 50 receipt from PIAB. A further six months is allowed by legislation for the plaintiff, who has obtained an authorisation from PIAB, to issue proceedings. The *Superior Courts Rules* allow the plaintiff to serve those proceedings within 12 months. Yet plaintiffs who have encountered significant difficulties over a period of time in obtaining necessary documents to process their claims have been criticised for using these time periods allowed by statute.

Pronouncements have been made that difficulties encountered during the pandemic should not apply as, after all, the legal profession obtained exemptions from restrictions, and normal work continued. How short can our memories be? It is said by psychologists that humans need to have memories of bad times fade quickly in order to continue to embrace life and its challenges.

Enormous challenges

Let us cast our minds back to that period of March 2020. Let us remember the struggles and enormous challenges that solicitors faced in trying to keep safe, keep their staff and clients safe, keep their offices open, safeguard employment and, at the same time, trying to practise in an extremely restricted and difficult system. We have not yet caught up. We are not back to pre-COVID times.

It is heartening to know that we can rely on our judiciary who have recognised this scenario and have indicated that 'law is for the people and therefore law must adapt to the situations and challenges of life'.

The balance will always return when the pendulum moves again, but the pendulum will not move by itself and we, as guardians of the law, must do our utmost to strive to maintain our excellent and fair courts system, which will always guarantee access to justice for our people.



PLAINTIFFS
HAVE BEEN
CRITICISED
FOR USING THE
TIME PERIODS
ALLOWED BY
STATUTE

Maura Derivan

MAURA DERIVAN,
PRESIDENT

THE BIG PICTURE





THE EMPIRE STRIKES BACK

Israel's short-range 'Iron Dome' air-defence system intercepts missiles launched on 11 May from the Gaza Strip near Sderot in southern Israel. Palestinian militants in Gaza fired rockets towards Israel in retaliation for a series of air strikes carried out by the Israeli military on Islamic Jihad members and hardware. Each truck-towed unit fires radar-guided missiles to blow up short-range threats like rockets, mortars, and drones in mid-air. The system determines whether a rocket is on course to hit a populated area – if not, the rocket is ignored and allowed to land harmlessly. The system had a 96% success rate in intercepting rockets during the May attacks. The interception system costs between tens of thousands and millions of euro to shoot down incoming threats, though Israel is said to be developing a laser-based system that would cost just €2 per interception

President's Conference basks in sunny south-east



ALL PICS: GIAN REDMOND

The President's Conference 2023 took place at Mount Juliet Estate, Co Kilkenny, on 12 May. President Maura Derivan opened the conference: 'Your future – building a successful legal profession, legal career and legal practice over the next decade', which attracted a full house (*full story, p44*)

President Maura Derivan



John Carroll, Maura Derivan, Paddy Derivan and Pat Mullins



Laurette Hegarty, Maura Derivan and Joseph Hogan



Teri Kelly, Rosemarie Loftus (junior vice-president) and Imelda Reynolds



Nap Keeling, Sarah Kelly and Paula Fearon



Michelle Ní Longáin and Attracta O'Regan



Paul Egan and Bernadette Cahill



Imelda Reynolds and Teri Kelly



Christopher Callan, Brendan Twomey and Thomas Menton



Joyce Good Hammond and Richard Hammond



Tailte Éireann, a new State agency to manage and develop Ireland's land, property, and location data.

The Property Registration Authority, the Valuation Office, and Ordnance Survey Ireland have merged to become a new organisation called Tailte Éireann.

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Orla Deasy



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Peter Collins and Joan Collins



David O'Malley and Muriosa O'Malley



Kate Ashmore, Kamal Vaid and Julie Brennan



Ellen Hegarty, Bernadette Cahill, Fiona FitzGerald, Fiona Grogan, Angela McCann, Olivia McCann and Morette Kinsella

Midlands General Practice Update



ALL PICS: AARON LEVY

The Midlands General Practice Update 2023 took place on 4 May 2023 at the Midlands Park Hotel, Portlaoise. The Law Society Skillnet event was held in association with the Laois Solicitors' Association, Kildare Bar Association, Midland Bar Association and Carlow Bar Association, and welcomed 90 practitioners



Brian O'Meara, Anne Marie Kelleher, Kelly McNamara and Marc Bairéad



Ann Stephenson

Department of Education - ex gratia scheme for the implementation of the ECtHR judgment in O'Keeffe v Ireland remains open until July 2023

The Minister for Education, Norma Foley, TD, announced in July 2021 that the Government had approved the reopening of an ex gratia scheme implementing the European Court of Human Rights (ECtHR) judgment in O'Keeffe v Ireland.

The ex gratia scheme was first opened in 2015 following the ECtHR judgment in respect of the case taken by Ms Louise O'Keeffe against the State. The scheme was put in place to provide those who had instituted legal proceedings against the State in respect of day school sexual abuse,

and subsequently discontinued those proceedings following rulings in the High Court and Supreme Court, and prior to the ECtHR judgment, with an opportunity to apply for an ex gratia payment.

To be eligible to apply for the revised scheme, an individual must demonstrate that they come within the parameters of the ECtHR judgment. In particular, they must meet the following criteria:

- they must have issued legal proceedings against the State by 1 July 2021 seeking damages for childhood sexual abuse in a recognised day school;
- have been sexually abused while a pupil at a recognised day school with this abuse occurring before November 1991 in respect of a primary school, or before June 1992 in respect of a post-primary school, and;
- that, had the Department of Education's Guidelines for Procedures for Dealing with Allegations or Suspicions of Child Sexual Abuse (November 1991/June 1992) been in place at the time the sexual abuse occurred, there would have been a real prospect of altering the outcome or mitigating the harm suffered as a result.

Details of the revised scheme are available on:
<https://www.gov.ie/en/service/90a42-revised-ex-gratia-scheme/>

The scheme will remain open for applications until 20 July 2023.



An Roinn Oideachais
Department of Education

Law School hosts Stanhope Street coders



ALL PICS: GIAN REDMOND

Stanhope Street fifth-class students attended a graduation ceremony at Blackhall Place on 10 May, in the presence of their teachers and Law Society personnel, including director general Mark Garrett and director of education TP Kennedy. Pictured are TP Kennedy, Donna O'Reilly, Mark Garrett, Caroline Kennedy, Róisín O'Grady (teacher, Stanhope Street NS), and Paul Mooney



Mentoring opportunities still open

● Applications for the Women in Leadership Mentoring Programme are still open for both mentors and mentees, countrywide, from all practice areas.

The programme aims to enable women to advance their careers to a more senior level, and provide the support that may contribute to their successful careers.

Timelines

- **22 June** – closing date for applications from both mentors and mentees,
- **August** – applicants (mentors and mentees) are informed via email if they have been successfully matched, in line with application preferences, and given access details to the self-paced online courses (to be completed in advance of the training session in September),
- **September** – one-hour training in best-practice mentoring techniques (following successful completion of training, applicants are informed of their match details)
- **October** – mentoring relationship begins.

The total time commitment will be approximately ten hours.

Additional information is available at lawsociety.ie/womeninleadership. See also the article titled 'Mentoring is a two-way street' on p20 of this Gazette.

New in-house guide out now



PIC: CIAN REDMOND

Alison Bradshaw, Mark Garrett (director general), President Maura Derivan, Caroline Dee Brown (committee chair) and Geoffrey Shannon (director of policy); (back, l to r): Aisling Fitzgerald, Ciara Daly, Jeanette Codd McDonagh, Roisin Magee, Peter White, Louise Campbell, and Ronan Lennon

● The Law Society has published an updated *Guide for In-House Solicitors Employed in the Corporate and Public Sectors*. The guide takes account of the different perspectives and requirements of in-house solicitors in the private and public sectors.

At the launch at Blackhall Place on 10 May, Law Society President Maura Derivan thanked the Society's In-house and Public Sector Committee for their work on the sixth

edition of the guide. "To work as an in-house solicitor in Ireland at the present time is an ever-changing, challenging, and exciting experience," President Derivan said. "The Law Society is very aware of the need to provide supports to this important segment of the profession."

As the Irish economy has evolved, the sector has expanded. In-house solicitors in the private and public sectors now comprise approximately

a quarter of the Law Society's membership and 23% of practising certificate holders.

The updated guide refers to the practical issues that may confront in-house solicitors in fulfilling their duties, such as instructing external legal advisors, professional practice issues they may encounter, as well as support services available to the in-house solicitor.

The guide is now available at lawsociety.ie (search for 'in-house guide').

Trainee team takes Peart prize proudly

● Trainees from the Society's Law School travelled to Belfast on 11 May to take part in the annual Michael Peart Challenge Cup competition in Belfast.

This cross-border competition is a collaboration between the Law Society of Ireland and the North's Institute of

Professional Legal Studies (IPLS). The contest promotes the value of resolving disputes through mediation. It's designed to help trainees from both institutions to develop their mediation skills, while receiving feedback from expert practitioners.

Eight teams of four trainees each took part in two mediation rounds. Barbara Jemphrey (director, IPLS) presented the cup to the winning Law Society team: Sarah Courtney, Niamh Ferry, Andrea Whelton (all Arthur Cox), and Steven Scanlan (RDJ).

Society welcomes ‘new era for legal capacity in Ireland’

● The Law Society has welcomed the commencement of the *Assisted Decision-Making (Capacity) Act 2015*.

“This is an important day for continuing recognition of the rights of citizens,” President Maura Derivan said. “The commencement of the 2015 act represents a new era for legal capacity in Ireland.

“The act focuses on assisting people to make decisions for themselves and puts in place a legal structure to allow vulnerable people greater control and autonomy over decisions relating to their own lives.”

She added that the commencement now meant that Ireland had fully ratified the *Convention on the Rights of Persons with Disabilities*.

Article 12 of the convention states that all persons with disabilities have the right to recognition everywhere as “persons before the law”. Article 13 mandates State parties to ensure effective access to justice for people with disabilities on an equal basis with others.

Broad-scope legislation

The president said that the legislation, which had taken some time to be brought fully into force, was very broad in its scope, repealing wardship, amending the law for the creation of enduring powers of attorney, dealing with advance healthcare directives, and establishing the Office of the Director of Decision Support Services.

“Considerable amendments were made by the *Assisted Decision-Making (Capacity) (Amendment) Act 2022*,



PICT: CIAN REDMOND

Law Society President Maura Derivan

which has also delayed commencement,” Derivan said. “However, the time for progress is right now, and today is the day this begins. With this legislation, the new system will create a formal legal structure to support a person in their decision-making. This reflects a new approach and an essential modernising of our laws, while ensuring respect for vulnerable citizens.

“We are encouraged by Minister for Justice Simon Harris and Minister Roderic O’Gorman for their leadership in this area. We look forward to continuing to work alongside Government, the Decision Support Service, and other stakeholders as the new system and provisions under the act are implemented to ensure access to justice for all,” the president concluded.

Essential practice info sessions

● The Law Society’s Practice Support team continues to offer a series of web-based information sessions for businesses and sole practitioners.

Upcoming sessions include:

- 7 June – Benefits of running a small practice,
- 14 June – Conflict of interest: questions to ask yourself that will help determine if you are conflicted,
- 28 June – Tech, AI, and the future of ethics.

To register for any of the above, visit lawsociety.ie/solicitors/business-career-resources/smallpracticehub/webinars. Recordings of previous information sessions are available at the same web address.

Scheme for sex-abuse cases closes 20 July

● Solicitors with clients eligible for the *Revised Ex Gratia Scheme* in relation to childhood sexual abuse in day schools should be aware that the deadline for applications for redress is 20 July.

The scheme provides for *ex gratia* payments to be made to those who qualify and who satisfy the criteria set out in the scheme’s terms of reference. The scheme arises as part of the implementation of the European Court of Human Rights judgment in *O’Keeffe v Ireland*.

Stephen Kirwan of the Law Society’s Human Rights Committee says that

the introduction of an *ex gratia* scheme for historical sexual abuse in schools is an important and vital step in providing vindication and recognition for victims. “It is hoped that as many eligible applicants apply as possible, and we would encourage as many members of the legal profession to ensure that claims are lodged as a matter of priority,” he added.

Eligible clients must have issued legal proceedings against the State by 1 July 2021, seeking damages for childhood sexual abuse in a recognised day school. The cases must relate to abuse that

occurred before November 1991 in respect of a primary school or before June 1992 in respect of a post-primary school. The proceedings must also demonstrate that, had the *Guidelines for Procedures for Dealing with Allegations or Suspicions of Child Abuse* been in place at the time the sexual abuse occurred, there would have been a real prospect of altering the outcome or mitigating the harm suffered by them as a result.

Awards of up to €84,000 may be offered through the scheme, which closes on 20 July 2023. For more information, visit gov.ie.

ENDANGERED LAWYERS

SAUDI JUDGES



PIC: DEMOCRACY NOW

PhD dental student Salma al-Shebab

● As reported in *The Irish Times* on 1 March, “Saudi Arabia’s terrorism court has charged ten formerly prominent judges with the capital crime of high treason for failing to impose harsh sentences in cases they tried, according to Washington-based Democracy for the Arab World Now (DAWN).”

According to DAWN, the judges were first detained in April 2022 and were charged before the Specialised Criminal Court (of which six of them were members) in a closed hearing on 16 February. Meanwhile, they were held incommunicado and without legal counsel. As noted in *The Washington Post*, these judges “do not have entirely clean hands”, having been involved in the administration of politically motivated and oppressive justice and handing out harsh sentences. One of them convicted prominent women’s rights activist Joujain Alhathloul on terrorism charges for “inciting change to the basic ruling regime” – she led a campaign for women to be allowed to drive. She was sentenced to five years and eight months, and released on parole after three years.

Another sentenced many of the 81 people executed in March 2022 for offences ranging from joining militant groups to holding deviant beliefs, according to the Saudi Interior Ministry.

DAWN reported that the judges were compelled to sign confessions admitting they had been too lenient. They were replaced by loyalists to crown prince Mohammed Bin Salman, who reviewed cases and increased sentences. For example, a PhD dental student in Leeds University and mother of two young boys, Salma al-Shebab, had her sentence increased from 34 to 45 years – she had called for reforms and the release of detained activists. Nourah al-Qatani’s sentence was bumped from 13 years to 45 for retweeting criticisms of the regime, according to reports.

The Saudi crown prince and *de facto* ruler continues in character, acting ruthlessly to eliminate any threat to his absolute power while gaining popularity by removing oppressive social restrictions. He has curtailed the power of the religious police and conservative clerics. Women may now drive, be guardians to their children, get passports and travel without male permission, and attend sporting events. Cinemas and cafés can open, and gender segregation is eased. There are concerts and sporting events staged by the authorities.

Alma Clissmann is a member of the Law Society’s Human Rights and Equality Committee.

Shannon declares for Circuit Court



PIC: COLLINS PHOTO AGENCY

● The Law Society’s former director of policy Dr Geoffrey Shannon SC made his declaration as a judge of the Circuit Court on 25 May in the Supreme Court.

Dr Shannon was nominated on 7 March to the Circuit Court, alongside barristers Sinead Behan and Dermot Sheehan. The three vacancies arose following the commencement of the *Assisted Decision-Making (Capacity) (Amendment) Act 2022*. The act provides for the statutory complement of the ordinary

judges of the court to be increased from 37 to 40.

Shannon was educated at NUIG and UCD and qualified as a solicitor in 1996. He chaired the Adoption Authority of Ireland from 2007-20, and was named a senior counsel in 2020. He also served as Special Rapporteur on Child Protection from 2006-19. He recently completed his independent report into historical child sex-abuse allegations in St John Ambulance.

Maximum sentence for assaults on gardaí to rise

● The Government has agreed to a proposal to amend laws to increase sentences for assaults causing harm to gardaí and other emergency workers.

The amendments will change the maximum sentence for assaulting or obstructing a police officer from seven to 12 years. The changes will be brought forward by way of committee stage amendments to the *Criminal Justice (Miscellaneous Provisions) Bill 2022*.

The increase in maximum sentences will apply where the

assault causing harm in question is against an on-duty garda or emergency-service worker, such as hospital staff, prison officers, members of the fire brigade, ambulance personnel, or members of the Defence Forces.

Minister for Justice Simon Harris said: “This legislation applies to any assault – any unlawful use of force, or threat of force, direct or indirect – against a garda or emergency worker: that might be a punch, it may involve the use of a weapon, or it might be ramming their vehicle.”

LK Shields: new managing partner



Richard Curran (right) with David Williams

● LK Shields has appointed Richard Curran, currently head of its corporate-and-commercial team, as its new managing partner, effective 1 May. Curran succeeds David Williams, who continues in the financial-services team.

The firm also appointed Gemma Forde to head its Galway office, while David Naughton has been named head of financial services. In

addition, Lester Sosa Villatoro has been promoted to partner in the firm's corporate team.

Curran joined as a partner in 2005 and became head of the corporate-and-commercial department in 2018.

He advises a large portfolio of domestic and international clients on corporate finance, mergers and acquisitions, and development-finance transactions.

Kelly steps down as IRLI chief

● The executive director of Irish Rule of Law International, Aonghus Kelly, is stepping down.

Kelly has been supporting the prosecution of international crimes with the [EU Advisory Mission to Ukraine](#) while on sabbatical and has decided to remain there to continue this valuable work.

Wishing him well, IRLI described Kelly as a “driving

force behind the success” of the organisation, adding: “His leadership and commitment to justice and human rights have set a high bar.”

James Douglas will take over as executive director. IRLI said: “With vast experience in human-rights law, James has been with us as director of programmes since 2020 and has already made significant contributions to our work.”

IRLI IN AFRICA TANZANIAN MILESTONE



IRLI staff and policing experts from An Garda Síochána and the Police Service of Northern Ireland, together with colleagues from the Tanzania Police Gender and Children's Desks, at a discussion event in Dar es Salaam on 29 March 2023

● Since 2021, [Irish Rule of Law International's](#) programme ‘Institutional Partnership Building between the Irish, Northern Irish, and Tanzanian Criminal Justice Systems’ (funded by Irish Aid through the Irish Embassy in Dar es Salaam) has been working to improve the handling of child sexual abuse in Tanzania. In March, the programme reached another milestone when we were accompanied on a visit to the country by Garda and PSNI experts.

The week-long visit was designed to allow the delegation to meet with counterparts from the Tanzanian police to discuss challenges in the effective handling of child sexual abuse. While resource constraints and geographical considerations are different from those on the island of Ireland – Tanzania is approximately the size of France and Germany combined, with vast rural areas – many problems and solutions-based approaches are common to the three jurisdictions.

During the trip, the Tanzanian police were interested in learning from Ireland and Northern Ireland, while the gardaí and PSNI were keen to learn about their knowledge on preventing and investigating female genital mutilation. A trip to the Police Gender and Children's Desk in Kigamboni demonstrated both the dedication of the staff working there and the efforts being made to improve the experiences of survivors of sexual and gender-based violence (SGBV) crimes. Likewise, the one-stop centre at Mwananyamala Hospital demonstrated the benefits of the co-location of police, medical, and social-welfare personnel.

In discussions with the staff of Women in Law and Development in Africa (WILDAF), the delegation witnessed the vital impact that local lawyers are making in the handling of SGBV crimes. Working to provide legal advice and assistance to survivors, members of WILDAF shared their valuable insights into the difficulties facing those involved in the Tanzanian criminal-justice system.

All in all, the trip offered many opportunities for discussion and mutual learning. Next up in the project is a return visit by members of the Tanzanian police to Dublin, Galway and Belfast, marking the continued cooperation between criminal-justice actors across the three jurisdictions towards improved handling of child sex abuse cases.

Sean McHale is director of programmes at Irish Rule of Law International.



COMING SOON

IRISH CHILD
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Ireland announces new
online service

Coming late 2023, our Irish Child and Family Law Service will provide subscribers with unlimited access to key titles – both market-leading and new – covering a range of aspects of family law in Ireland. The service includes a monthly update of developments in Irish family law written exclusively for the service. Each update will contain commentary on relevant new cases or developments.

Titles will include:

- *Family Law: Practice and Procedure* by Lyndsey Keogh (Coming Feb 2024)
- *Divorce and Judicial Separation Proceedings: A Guide to Order 59* by Keith Walsh
- *The Law of Family Formation in Ireland* by Nuala Jackson and Sarah Murray (Coming May 2024)
- *Pensions: A Handbook for the Family Law Practitioner* by Laura Cahill and Sonya Dixon
 - *Irish Family Law Handbook* by Deirdre Kennedy and Elizabeth Maguire
- *Domestic Violence: Law and Practice in Ireland* by Keith Walsh and Sonya Dixon (Coming Dec 2023)

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MHC promotes 11 partners



PIC: MASON HAYES & CURRAN

Ciara Deasy, Aoiffe Moran, Robert Rooney, Mark McCabe, Irene Nic Chárthaigh, William Carmody (managing partner), Jay Sattin, Hannah Perry, Kady O'Connell, Emer Shelly, Aine Quirke, and Alan Burns

● Mason Hayes & Curran has announced 11 new partners across a range of areas. The firm says that the appointments are part of its ongoing growth strategy, particularly in new and emerging areas of

law. It adds that the promotions address areas of strong demand, such as financial services, built environment, and technology. The firm now employs more than 580 staff in Ireland, Britain and the US.

Ms Justice Donnelly for Supreme Court

● The Government has nominated Ms Justice Aileen Donnelly to the Supreme Court. She is currently a judge of the Court of Appeal. The vacancy arose following the retirement of Mr Justice John MacMenamin on 25 November 2022.

At a Cabinet meeting on 23 May, ministers also nominated two High Court judges – Mr Justice Charles Meenan and Ms Justice Tara Burns – to the Court of Appeal. These additional posts were created under the *Courts Act 2023*, which provides for the statutory complement of the court's ordinary judges to be increased from 15 to 17.

Ms Justice Donnelly was appointed as a judge of the High Court in 2014 and moved to the Court of Appeal in 2018. Educated at UCD and King's Inns, she was called to the Bar in 1988 and the Inner Bar in 2004.

Mr Justice Meenan was educated at UCD and King's Inns, and was called to the Bar in 1980 and the Inner Bar in 1998. He became a High Court judge in 2017.

Ms Justice Tara Burns, also educated at UCD and King's Inns, was called to the Bar in 1995 and the Inner Bar in 2013. She was appointed to the High Court in 2018 and is currently president of the Association of Judges of Ireland.

Courts Service
seeks feedback

● The Courts Service is seeking feedback from users. In particular, it wants feedback on communications shared on social media and on its website. Service users are requested to complete the survey as part of a review by the organisation. Practitioners can give their views at www.surveymonkey.com/r/Y8TW3G6.

‘Everyone Can Code’ graduates



PIC: CIAN REDMOND

Fifth-class students of Stanhope Street Primary School with their teachers and Law Society staff

● Since 2019, the Law Society has been opening its doors and lecture rooms to the students of the local Dublin 7 Stanhope Street girls’ primary school to teach them, not about law, but coding.

The programme is a voluntary outreach initiative of the Law School. It aims to teach primary-school students important skills, such as problem-solving, cyber-security, and the basics of coding,

following the Apple ‘Everyone Can Code’ curriculum.

On 10 May, Stanhope Street fifth-class students attended a graduation ceremony at Blackhall place, in the presence of their teachers and Law Society staff. The Law Society became the first professional educator in Europe to receive the ‘Apple Distinguished School’ award in 2016 and was recently reaccredited until 2023.

Free law and social-media MOOC

● ‘Social media and the law’ is the theme for this year’s massive open online course (MOOC), which is running in June and July. MOOCs are free, open to all, and are part of the Law Society’s Public Legal Education initiative.

Offered by the Diploma Centre, they have attracted over 24,000 participants from more than 85 countries since they first started in 2014. The courses are taught online using live-streamed and recorded presentations. Interactive discussion forums and quizzes give participants the chance to engage directly with the expert presenters.

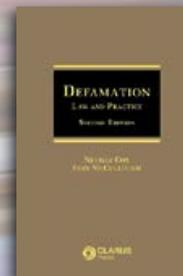
This year’s MOOC will provide a comprehensive overview of the key legal issues affecting social-media law in Ireland, and further afield. Expert speakers, lawyers, and academics will examine topics that include online safety legislation, online harassment, disinformation and fake news, cancel culture, data privacy, child-safety online, social media in the courts, ChatGPT, and much more.



The MOOC is free to join and open to all – no previous knowledge or experience of law or the legal sector is required. The course, which began on 30 May, runs for a five-week period – all content is recorded and available to view on playback, so you can sign up now! (Seven CPD points are available for solicitors who complete the MOOC.)

For further information and to sign up, visit mooc2023.lawsociety.ie or email: mooc@lawsociety.ie.

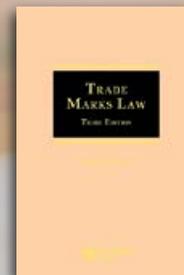
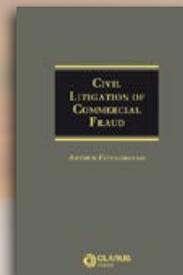
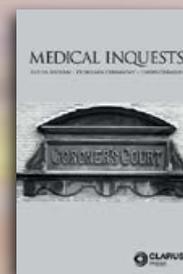
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100 YEARS OF WOMEN IN THE PROFESSION

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. Mayo's MacBride sisters, Clohra and Sheila, proved a remarkable 'double-act', with both achieving their own 'firsts'.

MacBride sisters put Mayo on the map!

Clohra MacBride was the seventh woman solicitor on the Roll – and the first in Co Mayo. She was born on 1 May 1906 to Joseph and Eileen MacBride of Westport. Educated at Our Lady's Bower, Athlone, Clohra was awarded a BA from the NUI. She was apprenticed to Westport's John Kelly and started her three-year apprenticeship in December 1924. She was admitted to the Roll on 15 January 1929.

Paid employment was hard to find in those days, so she set up her own practice in Westport.

No doubt, it was helpful that her father Joseph was a local TD from a prominent Republican family. (He was a brother of John MacBride, the hero of the Boer War who was executed after the 1916 Rising.)

Clohra ran a successful practice for a number of years. She lived at the family home, which was a lively one, with three younger sisters and one younger brother. She owned and drove a car (a novelty in those days) and played tennis, golf, and bridge.

She continued her practice

until her marriage in 1943 to James Murphy, who worked in the Munster and Leinster Bank. Bank officials back then regularly moved from town to town, leading to periods spent in Kinsale, Newcastle West, Naas, Rathkeale and Castlebar, retiring eventually to Limerick. They had one daughter, who lives in England.

Her niece and godchild Rose Mary Kirwan remembers frequent stays with her aunt and uncle in their various homes. She describes Clohra as "a very lively lady who enjoyed sociability. She was good at bridge and golf, as was her husband Jim. She had an independent mind of her own, loved reading, and was always good fun." Clohra died in 2001, having spent her last years in a nursing home.

First in class

Clohra's sister Sheila was the youngest of the five children born to Joseph and Eileen MacBride. Sheila and Clohra were always close, so it was no great surprise when the younger sister followed her sibling into law, having also attended the same secondary school.

Sheila was apprenticed to her sister. She came first in her class in her final examinations in April 1937 and was awarded the Overend Final Examination Scholarship.

She was admitted to the Roll on 6 July 1937 – the 41st woman to qualify. Sheila obtained a position in the Land Registry as a legal assistant. She worked there until her marriage in 1942 to John Durcan, also from Mayo, who was then a junior barrister. John later became president of the Circuit Court.

Other than a few months of temporary work in a practice in Dublin, Sheila never again practised law after her marriage. She had three children – Paul (the well-known poet), Rose Mary (a solicitor), and Ivan (also a solicitor). They lived in Dublin, enjoying frequent social outings, reading, and golf. Sheila also played bridge.

She retained her links with Westport over the years and always remained in close contact with Clohra. She lived an active life and was involved with her many grandchildren. Three of Sheila's eight grandchildren followed her into the solicitors' profession. She spent her final years in a nursing home and died in 2004. 



Clohra MacBride

Sources: retired solicitor Rose Mary Kirwan (daughter to Sheila and niece to Clohra) and solicitor Ivan Durcan (Sheila's son) provided much of the above information for the book [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 – the key to resilience

I'll start by acknowledging that the term 'self-compassion' can sometimes be off-putting for some people. Sixteen years ago, I was working as a newly qualified solicitor in a corporate law firm. There was a lot of work-related stress in my life, and I was suffering with anxiety and panic attacks. Often, it felt like I was struggling to get through the day. I needed help. Reflecting back on this time, what would my younger self say if someone told him: "Barry, I can see that you're struggling – you should really consider learning about self-compassion"?

Being honest, I can see my younger self scoffing and rolling his eyes at the idea – 'self-compassion?' In fact, it was exactly what I needed.

What misgivings do you have about practising self-compassion? Do you notice any of the following reactions as you read this article?

- Self-compassion is weak,
- It is self-indulgent,
- It will undermine my motivation to get things done,
- It's a form of making excuses,
- It's like self-pity.

It's interesting to know that none of the above is true. Self-compassion is actually the key to resilience, strength in the face of failure, and the ability to learn from mistakes.

A common trait shared by many of us (especially lawyers)

is a tendency towards being very harsh and self-critical. Research shows that self-criticism actually makes us weaker in the face of failure, more emotional, and less likely to assimilate lessons from our failures.

An example might help to illustrate how unhelpful self-criticism can be. I remember, as a young solicitor, making a mistake at a completion meeting. As we were nearing the end, I realised I had forgotten an important document. My heart sank. I spent several minutes frantically looking for it but failing to find it. Looking back, it wasn't the end of the world but, at the time, it felt like that. I apologised to everyone, but sensed some frustration and impatience in the room. I was by far the least experienced lawyer there and was holding up the show. Both sets of clients were there too.

On the short walk back to my office to retrieve the document, I remember feeling physically sick. I was sweating and told myself that everyone must think me an idiot. I wanted to disappear. I didn't know it at the time but the emotion I felt so intensely was shame. The rest of the meeting was a blur. That night in bed, it was all I could think about. I was trapped in a spiral of rumination, reliving the experience and imagining multiple worst-case scenarios. My confidence was rocked.

At the next completion meeting, I brought all the

documents, but it was an awful experience because I was so nervous. I couldn't think clearly because I was paralysed by the fear of making another mistake. My old boss used to say: "Measure twice and cut once". It's good advice – and that was the lesson to be learned from my experience. In this example, my natural tendency towards self-criticism was really unhelpful and caused me much unnecessary stress and anxiety.

If my colleague had forgotten a document, I would never in a million years have treated him or her in the way I treated myself. I wouldn't have reminded him about his mistake last thing at night and first thing in the morning. If I had known about self-compassion at the time, I might have paused and responded with some kindness and encouragement. I know I would have bounced back more quickly, and I would have been much better at my job as a result.

How? The practice of self-compassion involves meeting any difficult experience with mindfulness, a sense of common humanity, and self-kindness. It's a skill anyone can learn. Next month, I'll explain in more detail. 

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

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Mentoring is a two-way street

The Law Society's Women in Leadership Mentoring Programme aims to support women who wish to grow personally and professionally and advance their careers to a senior level. Justine Carty explores its benefits

IN THE WOMEN IN LEADERSHIP MENTORING PROGRAMME, A STRATEGY ON HOW THE PARTIES WILL INTERACT IS AGREED AT THE OUTSET, WHICH CREATES BOUNDARIES AND SETS EXPECTATIONS FOR THE INDIVIDUALS INVOLVED

The word 'mentor' has many and varied meanings, with some arguing that the concept itself can be traced as far back as indigenous elder relationships, where elders played a central role in passing on cultural and traditional teachings, values, and practices.

Some colleagues may describe the word 'mentor' as a relationship between a protégé yearning to develop new skills and knowledge, and an experienced guide willing to share expertise – akin to the former master/apprentice-style training relationships that once existed in our profession.

More recent attempts to define the word highlight how mentoring arrangements have become more diverse in recent years, indicating a move from the traditional historical mentoring relationship towards a newer mentoring style. Notably, definitions that are put forward tend to be specific to (and reflective of) the researcher's discipline – for example, education or business. For instance, mentoring in business is defined as a means of developing emotional responses and providing leadership. In entrepreneurial learning, the mentor's function

is to guide a mentee from the initial start-up phase to business growth and development.

However, when reviewing the various definitions offered, in most traditional definitions, mentors are more experienced professionals orienting newcomers to the work, standards, and culture. The lack of an agreed definition highlights the significance of considering all aspects of mentoring to develop a deeper understanding of the term.

Growth and accomplishment

Some researchers suggest that mentoring relationships are reciprocal, with the protégé and mentor benefiting from the relationship. This view is consistent with the perspective that mentoring relationships focus on the growth and accomplishment of an individual. That growth and accomplishment can be reciprocal and is evidenced by the number of mentors who continue to say that they "get something out of the relationship" and who continue to act as mentors on the Women in Leadership Mentoring Programme, year after year.

Mentoring can be a two-way process, so that the mentor

and the mentee benefit from what is learned, which implies that growth and learning are indeed reciprocal. The growth and accomplishments are enhanced by providing training and feedback to encourage individuals to further reflect on their mentoring approach each year as part of the programme.

So how does a mentoring relationship focus on the growth and accomplishment of an individual? This growth occurs since mentoring provides the ability to learn wisdom and experience from another who 'has been there and done that'. By sharing experiences, each party can learn and grow from the relationship. The level of growth pattern can vary due to the mentoring relationship's quality, stage, and nature, so this is why, in a structured mentoring programme, the initial matching between mentor and mentee is critical.

Support and development

Secondly, there is consensus that a mentoring relationship may include broad forms of career support and development, role modelling, and psychosocial support.

In fulfilling psychosocial functions, mentors may model,



PIC: ALAMY

counsel, show acceptance, and provide confirmation to their mentees. Mentors may also actively listen, criticise constructively, and encourage development. Career support involves the mentor providing advice, support, and information related to task accomplishment. In comparison, psychosocial support enhances a mentee's

REAL-LIFE EXPERIENCE

Those taking part in the Women in Leadership Programme praise its efficacy.

Sole practitioner Geraldine Kelly got involved to give back to the younger members of the profession. "I enjoy it because I'm helping somebody and encouraging the mentee to develop their own ideas," she says. Geraldine believes her mentee has benefitted from their arrangement: "We have met once a month and we have stuck to that," she explains.

She runs a general practice in Dublin's Kimmage and has been in practice for nearly 30 years. "It would have been wonderful to have a mentor back then," she muses, recalling that new

solicitors were expected to "know everything", however unrealistic that stance. "It was very lonely setting up practice on your own," she says.

Through her years of involvement with the DSBA, Geraldine has realised that solicitors can't "know everything" and shouldn't be expected to: "That's the piece of advice that anyone who's come through my door here – trainee, legal executive or solicitor – is told.

"I've always said – never be afraid to ask, because I've learned that there's always somebody you know who will help you out with the problem. I've got great satisfaction out of the sense that I'm helping

and encouraging the mentee as they develop their own ideas and to have more confidence in themselves."

Solicitor and mentee Michelle Beazley, who works at Thomas Coughlan and Co in Cork, specialises in immigration and refugee law. She was delighted to be paired with an expert in her field, Hilka Becker, whom she describes as being at the forefront of her field.

"I thought it was very well matched," Michelle says. "I'm in Cork and she's in Dublin, so we met online a couple of times, and then I also travelled to Dublin and we met in person. I found it extremely beneficial professionally," she adds.

SOLICITOR MENTORS HAVE A UNIQUE KNOWLEDGE OF THE PROFESSION BASED ON LIFE EXPERIENCE. SHARING THIS KNOWLEDGE AND EXPERIENCE THROUGH A MENTORING RELATIONSHIP CAN HELP GUIDE OTHER SOLICITORS WHO ASPIRE TO A SPECIFIC SPECIALITY AREA OF PRACTICE

self-worth by offering, among other things, protection and a safe environment.

In law firms, mentoring can also be used as a method of communicating professional norms. These norms may include expectations about hours on the job, access to files, honing of legal talents, and appreciation for unspoken views about organisational norms. These normative expectations of legal practice are conveyed and deciphered through mentoring relationships. Mentoring can play a crucial role in knowledge acquisition, socialisation, and lawyers' successful career development.

Reciprocal relationships

Thirdly, there is consensus that mentoring relationships are personal and reciprocal. Traditional mentoring typically entails one-way learning, where the mentee is cast as a learner. Although these relationships do not consider reciprocal learning and growth between the mentee and the mentor, reciprocity and learning may occur.

The reconceptualised idea of mentoring as an educative practice resulted in a move away from traditional knowledge transmission between an expert and novice, and towards a shared knowledge-transformation process. Some mentoring models have moved towards collaborative knowledge sharing, while encouraging mentees to challenge accepted norms and engage in critical reflection.

Direct interaction

Fourthly, it is personal, involving direct interaction or meetings between the mentor and the mentee. These interactions differ from other relationships, as mentors



Fulfil your potential

typically provide guidance rather than instructions.

As part of the training, we are told that mentoring relationships involve commitment from both sides to develop their interactions. Trust, an open environment for discussion, and confidentiality are key elements of mentee/mentor interactions. The quality of mentoring relationships and how the mentor and mentee interact with each other can have an impact on the positive developmental outcomes of mentoring.

In the Women in Leadership Mentoring Programme, a strategy on how the parties will interact is agreed at the outset, which creates boundaries and sets expectations for the individuals involved.

Mentor's experience

Finally, mentoring emphasises the mentor's greater experience, influence, and achievements within a particular organisation or profession. According to some, mentors' professional knowledge stems from their own professional experiences and preferences – and the surroundings in which learning takes place has been found to strongly influence mentors' conceptions and practices of mentoring.

For solicitors, part of our learning and expertise is gained from 'lived experience'

encountered throughout our careers. Solicitor mentors have a unique knowledge of the profession based on life experience. Sharing this knowledge and experience through a mentoring relationship can help guide other solicitors who aspire to a specific speciality area of practice.

Changing practices

The practice of mentoring – like its definition – varies, and the models it uses are changing and expanding. Mentoring in a modern and contemporary context is considered an *interdependent* process as opposed to a *hierarchical* one. Thus, the mentor needs the mentee, and vice versa.

The 'newer' mentoring models vary from those that include multiple mentors and multiple experiences, and range from a personal relationship to an educational process or a cultural context. Some of these mentoring models may include the role of mentor and mentee being fluid and changing.

The definition of contemporary mentoring proliferates as trends change and mentorship expands in modern times, in which equity, inclusiveness, and social justice are principles.

The use of technology during the pandemic fostered new opportunities for mentoring. While some people argue that the pandemic may have threatened learning opportunities, new possibilities have emerged, allowing access to mentors online or through virtual communities. 

Justine Carty is a member of the Law Society Council and a mentor on the Women in Leadership Mentoring Programme.

Mediation – your clients have real choice

*From: Austin Kenny,
67B George's Street Upper,
Dun Laoghaire, Co Dublin;
email: austin@austinkenny.ie*

● You probably know that mediation is cheaper than going to court, is quicker, and preserves relationships that a court can't do. Mediation can come up with a range of settlement options and is confidential, which a court isn't. However, I would like you to consider a far more important point of difference – the introduction of a skilled and gifted individual to drive the process.

We all know that without someone sitting in the driver's seat of even the fastest or the most eco-friendly car, it still goes nowhere. Why do the disputing parties – who pay the bills – want mediation? To get the job done.

How do they achieve it? They need and want a mediator that they can afford, who is highly skilled, innovative, knowledgeable, commercial, experienced, calm, brave, and who can communicate with humility and deference with those involved.

The effectiveness of a mediator is measured by getting the



job done. That depends on the impact of the mediator and, in particular, his or her skills of working with the parties before, during, and sometimes after the mediation day.

The parties are the ones who stand to gain from this process. It is the skill of the mediator that matters the most in achieving their satisfaction. In turn, the parties must give their undertaking to the mediator that they hold the authority and will work in an honest and constructive way towards achieving a voluntary settlement.

A voluntary, non-coercive, and flexible process – the inspiring ideals of mediation.

As the mediation sector in Ireland grows and expands, thankfully due to market demand, your clients can choose whether they would rather have a skilled, neutral, negotiating mediator who knows what (s)he is working for and loves what (s)he does; or a mediator offering a variation of the litigation process, probably along with a third legal opinion, and not much more.

Arranging a mediation, appointing a mediator, and planning

a strategy for the event is the action of at least two teams of people – supported by the hard-working, skilled and focused mediator – who all intend to bring the matter to a conclusion as quickly and as completely as possible in the form of a legally and commercially robust settlement agreement.

How should we measure what getting the job done means? My experience tells me that it is in client satisfaction. This is because clients stop buying professional services for several different reasons, the main ones most likely being (a) price, (b) being sold something completely inappropriate that was not what they wanted or needed, or (c) experiencing a poor or indifferent service or an unhelpful attitude or bias.

My experience also tells me that your clients do want the opportunity for a voluntary, non-coercive, and flexible process as a true alternative – and not a process that is simply a junior alternative to the justice system.

I suspect that skilled neutral negotiators who are mediators will always be in demand: the ones who know what they work for and love what they do.



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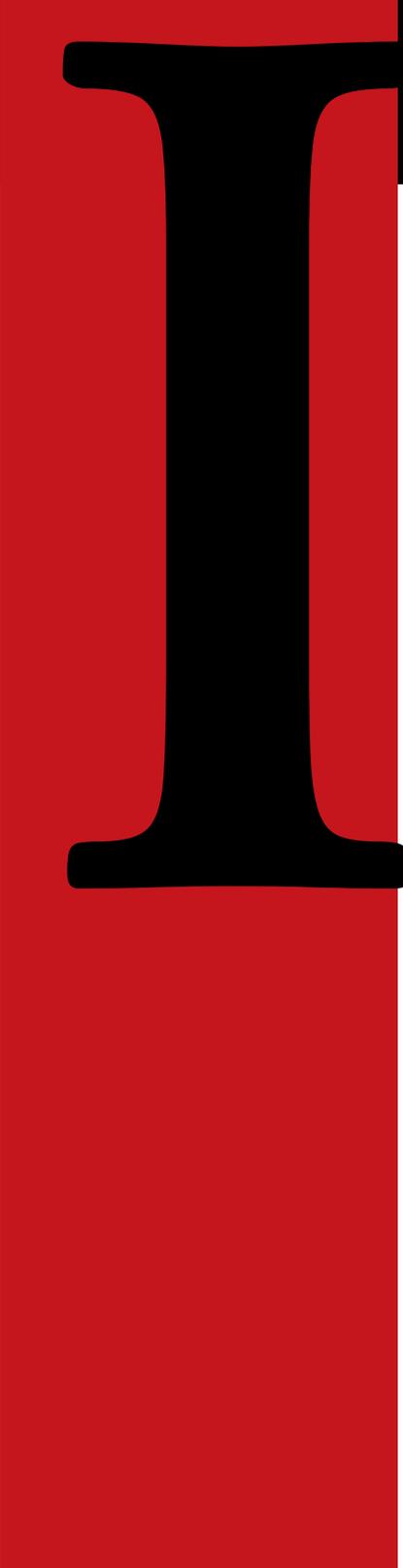




Attack mode!

THE GAZETTE BEGINS A NEW SERIES ON FIGHTING CYBERCRIME IN THE OFFICE. WHAT IS IT, HOW CAN YOU IDENTIFY IT AND – MOST IMPORTANTLY – HOW CAN YOU STOP IT IN ITS TRACKS? TANYA MOELLER, NICOLA KIELY AND DEBORAH LEONARD CONTAIN THE VIRUS





If something doesn't feel right, it normally isn't. As with most professions, cybercrime is an ever-growing and increasing problem for legal practices. The Department of Justice defines cybercrime as a criminal offence that can comprise traditional offences such as fraud, content-related offences, or "offences unique to computers and information systems". The latter include attacks against such systems, spread of malware, and hacking to steal sensitive, personal, or industry data. Our series on cybercrime will focus on the last category of offences. Unfortunately, solicitors' client accounts and the confidential information that solicitors hold can prove all too enticing for attackers.

Irish law firms have been the victims of increasingly sophisticated and complex cyberattacks in recent years and, unfortunately, these can have an extremely serious impact on client relationships, the firm's reputation and, indeed, the firm's finances.

It is heartening to know, however, that not every attempted attack will be successful. Cyberattacks can be warded off through a combination of technical and organisational measures that law firms can take to stay safe. While technical measures focus on IT infrastructure and software components, organisational measures range from good management to business continuity planning and observing safe behaviours.

Our aim is to help firms evaluate their approach to cybersecurity. Our series will cover topics such as carrying out a risk assessment of your firm's threat defences, safe banking transactions, and successful breach management. The good news is that many of the preventative measures do not require much financial investment.

Human error

Human error is still a major gateway for cyberattacks but, thankfully, this means that each staff member can positively contribute to keeping the law firm safe. Using the internet (browsing, social media, or emails) provides a possible point of entry for cyberattacks.

All solicitors and staff with access to the internet should be trained to recognise suspicious emails and attachments, especially if their professional details are displayed on the firm's website or on a social-media platform. Training should also be provided to ensure appropriate use and installation of USB drives and/or all other portable devices – if these are permitted. Staff training is a cybersecurity policy requirement, so practice managers would kill two birds with one stone.

One way to provide effective training, for example, is by showing examples of suspicious emails, since these are becoming increasingly sophisticated in how they look and feel. Training providers frequently request staff to complete tests by spotting genuine versus fake emails as part of the training programme.

Common threats

There are a number of common threats:

Ransomware blocks access to a firm's computer system, or threatens to publish confidential information unless the firm pays a ransom. This usually occurs due to an unsuspecting staff member clicking on a corrupt attachment to an email or a hijacked hyperlink. Daily back-up



procedures for these files will mitigate the effects of such malware attacks.

Viruses are activated by opening infected files, such as attachments. Once activated, they may delete or alter files, leaving staff with little or no access to certain parts of their computer or computer system.

Trojans, as the name suggests, download onto a computer disguised as proper and legitimate programs. These can cause considerable damage before staff become aware of what has occurred. A trojan can often ‘monitor’ a computer keyboard and gather information before installing additional malware. Staff may only notice that something is amiss when computer settings have been changed.

Malvertising is a relatively new cyberattack that can be quite difficult to detect. Online advertising is used to spread and install malware or redirects traffic. *Spyware* is often installed using this method in order to steal financial data or bank-card details. Malvertising can be hard to detect and, worryingly, does not require any user action except by visiting a malicious website or clicking on an advert.

Impersonation is a common method for attackers who wish to gain access to a firm’s data through a firm’s unsuspecting and unwary employees – whether solicitors or support staff. Emails or social-media messages can impersonate other employees within the firm, or prospective clients, in order to seek confidential information. For example, bad agents are increasingly using LinkedIn as a way of building a personal relationship with staff members and obtaining their contact details. Once they have both, they may send a corrupt email, which is opened by the staff member on the basis of a recent chat on LinkedIn. This type of social engineering is becoming more common as threats become more complex in nature.

Protections available

Besides technical protections, such as efficient firewalls (more on that in a later article), one of the most efficient ways to protect against a cyberattack is to have *all* staff

within the practice fully trained to ensure that everyone becomes vigilant and able to ‘think twice’ before taking any action. The primary focus should be on understanding the threats.

Firms that engage in regular security awareness and training suffer fewer successful security attacks. The main aim, therefore, is to prevent risk from human error. The implementation of some simple tips can yield effective results.

Corrupt emails often contain the following errors:

- Hyperlinks may seem legitimate, but something is wrong with them. For example, ‘linkedin.com’ may be misspelled as ‘linkdin.com’,
- Sender addresses may similarly contain spelling errors,
- Consider the request received. If it sounds suspicious, then it usually is! All staff members should be actively encouraged to develop a healthy sense of suspicion and practice authentication through a different channel other than that through which the request was sent. For instance, any instruction to transfer funds to a different account should be verified via a telephone call to a legitimate and trusted telephone number of the organisation. (A future article will deal with safe ways to transfer moneys in a solicitor’s practice.)

One way to identify unsafe websites is by checking to see whether they are missing a ‘lock’ symbol in the browser address bar. This symbol signifies that the URL contains the ‘https’ protocol. ‘HTTP’ is a method to transfer data

CYBERSECURITY CHECKLIST

- 1) Train employees on email and internet-security best practices,
- 2) Limit personal use of business email and browsers,
- 3) Create strong passwords and change these regularly,
- 4) Handle portable memory devices carefully,
- 5) Follow safe practices when working on the go,
- 6) Avoid open, public Wi-Fi,
- 7) Log out.

DATE	EVENT	CPD HOURS	FEE	DISCOUNTED FEE*
IN-PERSON CPD CLUSTERS 2023				
8 June	North West Practice Update 2023 , Lough Eske Castle Hotel, Donegal		€150	
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			
IN-PERSON AND LIVE ONLINE				
7 June	Human Rights & Equality Committee Lecture 2023 Online via Zoom Webinars	1 General (by eLearning)		Complimentary
8 June	Probate Update - Tips for Solicitors Drafting Wills & Taking Instructions Online via Zoom Webinars	1 General (by eLearning)	€65	
13 June	Irish Sign Language (ISL) In the Legal Setting - Workshop 2 Law Society of Ireland	5.5 Management & Professional Development Skills (by Group Study)	€365	€300
14 June	Build your own Professional Brand 2023 Law Society of Ireland	6 Management & Professional Development Skills (by Group Study)	€225	€200
20 June	Digital Upskilling – MS Excel Advanced Level 3 Online via Zoom Meetings	3 Management & Professional Development Skills (by eLearning)	€175	€150
29 August	Personal Effectiveness Workshop Law Society of Ireland	3 Management & Professional Development Skills (by eLearning)	€175	€150
ONLINE, ON-DEMAND				
Available now	Common Law and Civil Law in the EU	2.5 General (by eLearning)	€175	€150
Available now	Legaltech Talks Hub	See website for details		Complimentary
Available now	LegalED Talks CPD Training Hub	See website for details		Complimentary
Available now	Effective Advocacy for Young People	See LegalED Talks CPD Training Hub		Complimentary
Available now	Suite of Social Media and Website courses	Up to 4 Management & Professional Development Skills (by eLearning)	€175	€150
Available now	Plain English for Lawyers	See LegalED Talks CPD Training Hub		Complimentary
Available now	Proposed Solicitors Accounts Regulations	See LegalED Talks CPD Training Hub		Complimentary
Available now	Legislative Drafting Masterclass	3 General (by eLearning)	€280	€230
Available now	New Laws Applicable to Technology Use and Creation Conference	2.5 General (by eLearning)	€198	€175
Available now	International Arbitration in Ireland Hub	Up to 7.5 General (by eLearning)	€125	€110

See website for online, on-demand courses in Property Law, Employment Law, Construction Law and more.



ALL SOLICITORS AND STAFF WITH ACCESS TO THE INTERNET SHOULD BE TRAINED TO RECOGNISE SUSPICIOUS EMAILS AND ATTACHMENTS

over the internet – the ‘s’ stands for ‘secure’, which means that it uses a secure encryption. Any attacker would only see a string of seemingly random characters, instead of useful information.

- Encourage staff to create strong unique passwords with a mixture of letters, numbers and characters. The website of the Data Protection Commission has [useful guidance](#) on building strong passwords.
- Ensure staff understand the dangers of logging into practice systems using a public Wi-Fi network. They should also receive training on the physical care and security of laptops and other equipment belonging to the practice while out and about, for example, when visiting a client or working in a local courthouse. Privacy screens can be obtained to limit a third person from viewing information on a laptop – and staff should also remain aware of simple loss and theft.
- Ensure staff are aware of the dangers of ‘juice jacking’ and the risks associated with charging a company phone/computer at a public charging station at hotels/airports, etc. Charging a device at a public station can open the pathway for a cybercriminal to access company information. Staff should be aware that public USB ports may be compromised.
- Consider hosting a cyber-awareness week in the office. In addition, strategically placed posters and stickers are a constant reminder to staff to warn them to remain vigilant, always. Make the language on cybersecurity posts clear, relatable, and understandable – ensuring that staff can personally relate to the dangers.
- Teach employees to be suspicious. The new or sudden appearance of a suspicious app or programme on a computer or laptop should prompt the staff member to report it immediately. Another useful indicator is the device becoming slower than usual. Encourage staff members to report anything suspicious, without delay. (This series of articles will provide information on how to report suspected or attempted cybersecurity attacks.)

Changing behaviour

More than anything, staff training should be behaviour changing. Many security attacks or cybercrimes can effectively be prevented by simply reducing the instances of human error. Helping employees to understand the importance of cybersecurity by assisting them to

identify potential threats and harm could prevent a major cyberattack on a firm’s software and, ultimately, the firm’s bank account. Remaining secure against cyber-threats ought to be a major aim for any practice throughout 2023.

Next month, we will discuss the differences between ‘phishing’, ‘smishing’ and ‘vishing’. We will talk through useful technical measures and what safety precautions to consider when enlisting third-party services. 

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

USEFUL RESOURCES

CYBERSECURITY AND YOUR PRACTICE

The Law Society of Ireland provides its members with some very useful guidance on cybersecurity at: www.lawsociety.ie/Solicitors/business-career-resources/Cybersecurity. This section covers the following topics:

- ‘Cybersecurity fundamentals’
- ‘Preventing an attack’
- ‘Responding to an attack’, and
- ‘Other resources’, including: ‘Reporting an issue’, ‘Data protection and cyber attacks’, and ‘Useful contacts and resources’.

The best defence against the possibility of a cyberattack is to stand collectively together. The Law Society maintains a dedicated reporting channel, cybersecurity@lawsociety.ie, where members can report a potential cybersecurity issue. Confirmed attacks can, in turn, be reported anonymously on the website, to protect fellow members.

Members are also invited to ask questions of the Law Society’s Technology Committee, which will make every effort to provide assistance.

DEPARTMENT OF JUSTICE

- ‘Cybercrime’ (20 September 2022)

DATA PROTECTION COMMISSION

- ‘Protecting personal data when working remotely’ (Data Protection Commission, 12 March 2020)
- ‘Data protection: the basics – know your obligations’ (July 2019; see section ‘4.1 Access authentication – passwords/passphrases’ under the ‘Access control’ heading)

Can you dig it?

The *Gazette* speaks to Rachel Minch, chair of the Society's new Environmental and Planning Law Committee. Mary Hallissey pores over the plans

ast January, the Law Society launched its new Environmental and Planning Law Committee to position and inform the profession in this complex and rapidly evolving arena. The Society had perceived a need for a committee of experts some time ago, on the recommendation of an internal task force, that could become an official voice in this important area. A stint as chairperson of the Irish Environmental Law Association made Rachel Minch a natural fit to chair the new committee.

Rachel had a multilingual and international upbringing. A child of Eurocrats, her mother was a European Commission lawyer, while her father was an economist with the same body.

She had a formative time at a progressive school in Washington DC, "which was my first exposure to conservation and environmental issues", she says. "By the time I finished school in Brussels, I was already very interested in becoming an environmental lawyer," she adds.

Paper plan

She then went to study law at Cambridge University, describing it as "challenging at times – I had come from this very international European background and there weren't many international students at undergraduate level".

The education, however, was outstanding and included small-group tutorials with leading professors in a beautiful setting.





“Cambridge law is very serious, very work intensive. Some of my friends were having a lot more fun!” she muses.

But the university opened doors, and a traineeship followed for Rachel at McCann FitzGerald in Dublin, following a conversion course in order to sit the Law Society entrance exams.

“I was curious to come home, as it were, and see what it was like to live here,” she explains.

During downtime in her traineeship studies, Rachel volunteered at a turtle conservation project in Costa Rica, as well as working on Appalachian trail maintenance in Vermont, before qualifying as a solicitor.

Qualifying into the construction group at McCann FitzGerald led to interesting work on motorway development, waste recovery, and other infrastructure projects: “It was a fantastic learning experience working with a strong team, developing expertise in planning and environmental law”.

She then moved to Barry Doyle and Co on

the Dublin quays when a unique opportunity arose to work for the Environmental Protection Agency (EPA) and An Bord Pleanála. As well as judicial review, the work included representing the EPA in enforcement actions and prosecutions, which took Rachel to District Courts around the country, in addition to securing High Court injunctions against unlawful waste activities.

In 2013, Minch moved to Philip Lee as a partner, where her practice continues to focus on advising and representing public bodies and decision-makers.

Planner's dream goes wrong

“Court judgments of the last five or six years have placed significant emphasis on environmental considerations,” Minch points out. “Public bodies are more aware of their legal obligations under EU law, for example, to protect nature conservation areas and to consider environmental impacts in their decision-making processes.”

The number and nature of decisions being challenged has also sped up, with sometimes weekly judgments being issued,

making it challenging even for specialist legal practitioners to keep up.

The new Environmental and Planning Law Committee may seek to assist in setting up a centralised information point for planning authorities and other bodies, flagging key decisions and legal developments in a digestible fashion.

It doesn't see itself as having a policy or advocacy role as such, and it is very conscious to present an objective and balanced view on legal issues and reform: “We hope we have a balanced committee and different viewpoints – with solicitors from small firms to commercial practices, representing developers, the regulators, environmental NGOs and observers in the planning process, as well as solicitors from academia and in-house counsel,” the chair explains.

Making plans for Nigel

“We are looking at legislative reform – one of the committee's core objectives is to ensure that national law is workable, coherent,

relatively easy to understand and apply, and compliant with EU and international law.”

In this respect, the committee is, of course, very focused on the draft *Planning and Development Bill 2022*, including the provisions concerning access to justice.

Changes are proposed to standing requirements and who can bring judicial reviews, as well as to the litigation process and cost rules in environmental cases.

“The committee is generally agreed that the procedural rules shouldn’t, in themselves, lead to further litigation and delays, where possible,” Rachel explains. “There is a concern that these changes in the draft bill could lead to more satellite litigation and further delays to the planning process.”

These issues, among others, were raised by the committee in its statement and evidence to the Joint Oireachtas Committee on Housing, Local Government, and Heritage on the draft bill.

Best-laid plans

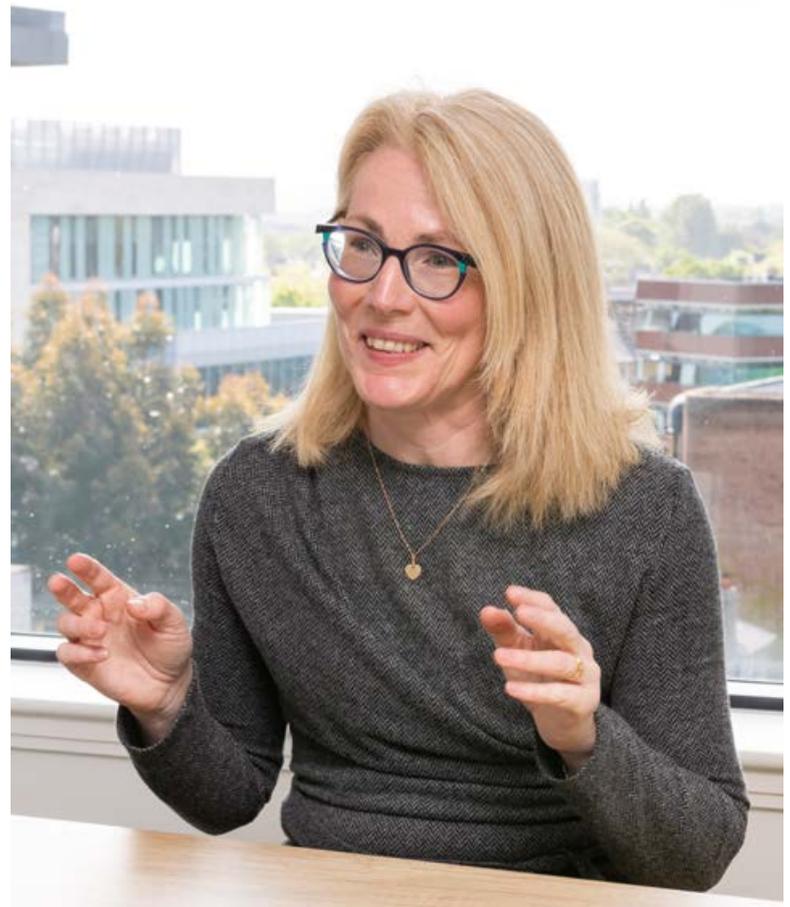
The committee is currently reviewing the pre-legislative scrutiny report published last month, and the impressive 153 recommendations made, with a view to further participation in the consultation process.

One of the first recommendations in the report is that the draft *Planning Bill* contain a high-level objective to ensure that proper planning and sustainable development aligns, among other things, with climate action.

While it can be difficult to achieve agreement on complex issues in the planning and environmental sphere, “I’d like to think the committee can and does have consensus on the importance of seeking to address climate change and how the legal framework might assist to achieve that,” Rachel says.

Key questions include climate targets and whether they can be enforced by the courts, as well as balancing the various environmental considerations when it comes to renewable energy projects.

THE COMMITTEE IS VERY FOCUSED ON THE DRAFT *PLANNING AND DEVELOPMENT BILL 2022*, INCLUDING THE PROVISIONS CONCERNING ACCESS TO JUSTICE



SLICE OF LIFE

● *Headspace hobbies?*

Yoga and printmaking, in the West of Ireland.

● *How do you handle stress?*

Reasonably well, helped by a great team and family.

● *Most proud of?*

Aligning my values and my work.

● *Favourite country to live in?*

Costa Rica.

● *Any tough career decisions?*

I really have been very fortunate and happy with my choices.

● *Describe yourself*

Others may be better placed to describe me but I hope I am open-minded, hardworking and a team-player.

● *Guilty pleasures?*

Eating my children’s sweets after they have gone to bed!

Offshore wind energy, seen as critical to meeting our 2030 climate and energy targets, can potentially be detrimental to wildlife and in contravention of strict EU biodiversity and habitat protections, Minch explains. Striking the right balance in terms of ensuring that projects required to protect our environment from climate change can proceed, and deciding what is an acceptable level of risk of impact on the local environment, is a topical area.

The Environmental and Planning Law Committee is looking forward to working on these issues and exploring how they may be addressed in the legal context – including at the Climate Justice Conference that it will host in October.

Her and the committee’s considerable experience in this key area of law make their work one to watch in this crucial area of public interest. 

Mary Hallissey is a journalist at the Law Society Gazette.



PG: ALAMY

The new *Family Courts Bill* proposes significant changes to the family-justice system in Ireland. While the objectives behind the bill cannot be faulted, Keith Walsh SC looks to the future, asking whether the proposed changes will be delivered



towards the end of 2022, the Government published its *Family Courts Bill* and its first national *Family Justice Strategy 2022-2025*. The proposed reforms are the first significant structural reform of the family-justice system since the Law Reform Commission's *Report on Family Courts* in 1996 and the introduction of divorce.

Most of the proposed reforms are welcome and will modernise the practice of family law. Minister McEntee also announced the replacement of “the present inadequate and fragmented facilities for family law in central Dublin at Dolphin House, Chancery Street, Phoenix House, and in the Four Courts” with a purpose-built Family Law Court complex in Hammond Lane, Dublin.

The *Family Courts Bill 2022* (currently at second stage before the Seanad) provides for the establishment of a Family High Court, Family Circuit Court, and Family District Court as divisions within the existing court structures. The aim is the development of a more efficient and user-friendly family-courts system – a system that puts families at the centre of its activities, facilitates access to specialist supports, and encourages the use of appropriate dispute resolution in family-law proceedings.

Proper resourcing

Traditionally, family law has been the poor relation when it comes to securing court buildings and Government funding. There has been a huge increase in family-law litigation in the Circuit and High Courts since the legislation was passed in relation to judicial separation in 1989, divorce in 1996, and civil partnership and cohabitation law in 2010. In addition, over 50,000 different summonses in family-law matters were initiated in District Courts in 2022, according to the Courts Service. These cases included child care, maintenance, guardianship, access, custody, and domestic violence. While the Circuit Courts are struggling to cope with the volume of family-law cases, District Courts in many areas cannot deal with the volume of such cases.

Additional resources are needed in order to make the proposed reforms work – without these resources, the new family-justice system cannot function effectively. It is hoped that there will be a commitment to both restructuring and funding the family-justice system. A very important part of that system is legal aid, and the Legal Aid Board

requires sufficient funding so it can provide the necessary legal services to those who qualify for legal aid – and so that the private-practitioner scheme can be restructured with adequate and fair fees being paid to those who do this work.

The recommendations arising from the work of the Chief Justice's Civil Legal Aid Review, which is currently examining this area, have the potential to complement the changes in family law.

Family-law division

The bill proposes the establishment of a separate division of courts – to be known as the Family Courts, comprising District, Circuit and High Courts – with each jurisdiction having a principal family-law judge and separate dedicated family-law judges. The number of districts and circuits for family law would be reduced and decoupled from the rest of the geographical districts and circuits, so you would have a small number of specialist family courts around the country dealing with all family-law cases.

Based on information provided, which is not part of the *Family Courts Bill*, but part of the remit of the Courts Service, it appears likely that these Family District and Family Circuit Courts would be located in one location in each new enlarged family district or circuit.

Local courts would lose their jurisdiction to deal with family law, which would only be dealt with by the specialist courts set up under this system. This loss of local jurisdiction, particularly for cases involving domestic violence, is of concern.



Another serious concern is the adequate provision of resources for these specialist courts, their staffing by the Courts Service, and the allocation of sufficient judiciary. If, for example, ten specialist family-law court hubs were set up around Ireland, then it is likely they would be located in areas such as Dublin, Limerick, Galway, Dundalk/Drogheda, Naas, Bray, Cork, Waterford, and Kilkenny. No other family law cases would be heard, except in these locations.

The number of new districts and circuits has not been announced, nor has the location of any of these new family-law courthouses. However, considerable resources and reorganisation is required before this could be possible.

Guiding principles

A welcome set of guiding principles is set out to be followed by all those involved in the family courts, including ensuring the importance of the welfare of children involved in the proceedings or likely to be affected by their outcome, encouraging alternatives to litigation, promoting good case-management practice, ensuring that proceedings are conducted as far as possible in a user-friendly manner, and (where feasible) minimising the cost of the proceedings.

District Court jurisdiction

While the bill is very welcome, as it substantially reforms the existing family-courts system, it unfortunately contains a fatal flaw at its centre that threatens to corrupt the good intentions of the rest of the bill if left unchanged.

The first element of this flaw is the proposal to increase the jurisdiction of the District Court to €1 million and to permit the District Court to deal with judicial separation, divorce, civil partnership, and cohabitant cases where the market value of the property involved is less than €1 million.

The second element is the proposal to increase the jurisdiction of the District Court in the area of maintenance to €1,500 per week for a spouse/civil partner/cohabitant (currently €500) and €500 per week for a child (currently €150).

This effectively removes the Circuit Family Court from most of these maintenance, divorce, judicial separation, civil partnership, and cohabitation cases. The High Court jurisdiction for these cases remains the same – that is, €3 million. This means that the Circuit

Court will only deal with judicial separation, divorce, civil partnership, and cohabitant cases between €1 and €3 million.

Anyone who has been in any District Court in the past 15 years is aware of the delays caused by the huge volume of cases that this court is expected to deal with. It is rare for District Court judges to be able to devote any significant length of time to cases without creating a significant backlog. This proposed change to move judicial separation, divorce, and other cases down to the District Court will result, not in better processes, experiences, and outcomes for families, but is very likely to cause grave difficulties in the District Court and delay these cases, as well as other family-law cases that were already there and that currently are already experiencing delays around the country relating to access, guardianship, and maintenance. If this downgrading of judicial separation and divorce cases to the District Court takes place, it risks undermining all of the other very important reforms in the bill.

The District Court is a court of summary and local jurisdiction. The proposed changes mean that it will no longer be local – in the sense that it will now be part of a specialised small number of family-law ‘hubs’ around the country, in my estimate likely to be between eight to 12 in total, and it will no longer be summary.

Based on the figures in the 2019 *Courts Service Report*, the Dublin Solicitors’ Bar Association’s submissions on the general scheme of the bill estimated that over 51,750 family-law cases were initiated in the District Court in 2019, while over 7,330 were initiated in the Circuit Court and over 350 in the High Court.

Family Courts Report

The Law Reform Commission, in its *Report on Family Courts* in 1996, reached conclusions that remain relevant today (see paragraph 4.19, p29): “... fundamental issues relating to the status of persons are not appropriate for determination at District Court level. Some further explanation is required. It was not intended to suggest that district judges lack the qualifications or capacity to make such decisions. Indeed, it is important to recognise that, in the context of child protection and domestic violence, the District Court already has powers to make far-reaching decisions which may indeed have a fundamental and long-term impact on family members and

their relationships. However, we remain of the view that, as long as the District Court remains a court of ‘summary jurisdiction’ with considerable limitations in its jurisdiction generally (that is, not only in relation to family law), it would appear, to say the least, anomalous to confer upon it a comprehensive family-law jurisdiction. Further, given the status and the high level of protection guaranteed to the family and its members, especially under articles 41 and 42 of the Constitution, it would be objectionable to confer a comprehensive jurisdiction in respect of family-law matters on a court of summary jurisdiction. On the other hand, it should be noted that the legislature has already gone far in the extent of the family-law jurisdiction which it has conferred on the District Court”.

The LRC said (paragraph 4.20) that there was much to be said for a unified family courts system that draws on the resources of both courts. However, a unified courts system is not proposed in the 2022 bill.

The LRC concluded at paragraph 4.21: “We do not believe that remedies such as divorce, annulment or judicial separation should be made available at the level of a court of summary jurisdiction. Therefore, if there is to be a unified family-law jurisdiction, as we strongly believe there should be, it must at this time be established at circuit level.”

Flaw removal

If the jurisdiction of the District Family Court is not changed, and judicial separation, divorce, and other cases remain in the Circuit Family Court as currently, the new proposed system is likely to function well, as these cases can be dealt with expeditiously under the proposed new system. There does not appear to be any reason to insist that an already overcrowded District Court would seek to take on further cases that would not get dealt with and would cause further delays, even in the proposed new structure.

Submissions by the Law Society, the DSBA, and other stakeholders that the proposal in the general scheme to remove the jurisdiction of the Family High Court may not be constitutionally permissible appear to have been taken on board, and the new bill does not remove the High Court’s jurisdiction, which, in relation to judicial separation and divorce cases, remains limited to cases where the market value of property in the case is over €3 million. The High Court is an important source of case law on family

law, as judgments are not typically delivered in the Circuit Court, and the retention of this guiding jurisprudence is welcome.

Other proposals

Joint applications: It is proposed in the bill that spouses be permitted to make a joint application for a decree of judicial separation or for a decree of divorce, and that civil partners make a joint application for a decree of dissolution of a civil partnership. This raises serious concerns with regard to separate legal representation and independent legal advice. This proposal deserves very close scrutiny but, on its face, raises some very serious questions.

New rules committee: The bill proposes the establishment of a specialist Family Law Rules Committee or, alternatively, the creation of Family Law Subcommittees within the existing rules committees. The new committee/subcommittees will have the task of streamlining procedures and making the family-courts system more efficient. This focus on streamlining procedures and a unified approach to family law is to be welcomed and, if family law is to be truly reformed, this new committee will have a crucial role to play.

Child care matters: The Family Circuit Court is provided with concurrent jurisdiction with the Family District Court in relation to child care matters.

Financial implications: The explanatory and financial memorandum published with the *Family Court Bill 2022* states that its primary costs will arise from the establishment of the Family High, Circuit, and District Courts and will relate to the renovation and modernisation of court buildings, capital costs for information and communications technology (ICT), judicial appointments, and support staff. The delivery of Family Court buildings and ICT infrastructure will be part of the wider necessary process of renovating, modernising, and ICT-enabling courthouses where the Family Courts will be located. Construction of a purpose-built family-law court complex at Hammond Lane in Dublin is a key project, funded under the National Development Plan 2021-2030.

While this acceptance that financial resources are required is welcome, no mention is made of funding access to specialist supports for families going through relationship breakdown. Without sufficient resources – and family law has never received resources comparable to either criminal or civil or commercial courts – the reforms proposed will make the situation worse, not better, as we will have an excellent set of proposals on paper, but not the resources to put them into practice.

Delayed reform?

The *Family Courts Bill* provides a much-needed strategic plan to improve and overhaul the current family-law system. Most of the proposed reforms will assist litigants, court staff, judges, lawyers, witnesses, and all those involved in the family-justice system.

The guiding principles, specialist judges, specialist courts, dedicated court rules, and new court buildings

IT UNFORTUNATELY CONTAINS A FATAL FLAW AT ITS CENTRE THAT THREATENS TO CORRUPT THE GOOD INTENTIONS OF THE REST OF THE BILL IF LEFT UNCHANGED



are welcome. If these reforms are dependent on new court facilities being provided to house the new courts, then we will be delaying reform for another generation of families (and judges, Courts Service staff, and lawyers) unless the resources are provided. The delays in the proposed Hammond Lane facility are not encouraging; however, it appears that a momentum is building within Government and the Department of Justice to move these reforms on. The *Family Courts Bill 2022* contains many excellent proposals, but they require substantial long-term investment and ongoing commitment.

The unwise proposal to transfer the majority of judicial separation, divorce, civil partnership, and cohabitation applications to the already overstretched District Court has the potential to undermine and destroy the many excellent elements of the bill. If this proposal proceeds, it will result in very significant delays and problems for everyone in the already overcrowded District Court and would leave the Circuit Court with very few cases. Another serious concern is the proposal to permit joint applications for divorce and judicial separation, and this proposal requires very close examination.

It is now up to us in the Law Society, our colleagues, and all those involved in, or interested in, reforming the family-law system to make further submissions and to work together to produce a better system of justice for those involved in family law. This opportunity is too important to be missed, as the next one may not come around for a very long time. 

Keith Walsh SC is a Council member of the Law Society and a member of the Family and Child Law Committee.

LOOK IT UP

LEGISLATION:

- [Family Courts Bill 2022](#)

LITERATURE:

- [Family Justice Strategy 2022-2025](#) (Department of Justice, 16 November 2022, last updated 25 November 2022)
- [Report on Family Courts](#) (Law Reform Commission, 1996)

WHO ARE YOU?



A new battleground in data-protection is opening up, by way of an attack on the public availability of information about the ownership and control of companies. Paul Egan SC examines the encroachment of privacy law on corporate transparency

We have recently seen data-protection law

being raised in high-profile appeals against criminal convictions. Away from those well-reported cases, a new battleground involving data-protection law is developing, this time by way of an attack on the public availability of information about the ownership and control of companies.

Recent rulings of the Court of Justice of the European Union (CJEU) on privacy have struck at the public visibility of company ownership and control. Their immediate effect has been the closing down of public access to information on the beneficial ownership of

companies, along with a disincentive to the investigation of company ownership and on public disclosure or reporting of it. Many commentators and public-interest organisations have concluded that this headlong rush to secrecy goes a considerable distance towards imperilling business probity.

Won't get fooled again

On 22 November 2022, the CJEU delivered its ruling in the joined cases of *WM v Luxembourg Business Registers* and *Sovim SA v Luxembourg Business Registers*. These were unconnected sets of proceedings, the first concerning the registers' refusal to prevent the general public's access to information concerning the status of 'WM' (a court-designated anonymising alias) as the beneficial owner of a real-estate company, and the other concerning the registers' refusal to prevent such access to information as to Sovim's beneficial owner.

The law under attack in these cases was an element of EU law targeting money-laundering and terrorist financing, which started with the *First Money Laundering Directive*. Originally with a focus on targeting the proceeds of the sale of narcotics, these measures have broadened in scope to target the proceeds of crime and the funding of terrorist activity. It is these measures that are responsible for the extensive 'know-your-client' due diligence that we, as solicitors, must now conduct before we open a file.

The seeker

The 2015 *Fourth Money Laundering Directive*, transposed by SI 560/2019, introduced the requirement for companies other than listed companies to keep a beneficial ownership

MANY COMMENTATORS AND PUBLIC-INTEREST ORGANISATIONS HAVE CONCLUDED THAT THIS HEADLONG RUSH TO SECRECY GOES A CONSIDERABLE DISTANCE TOWARDS IMPERILLING BUSINESS PROBITY



register that would hold "adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held".

A 'beneficial owner' is the natural person who ultimately owns or controls a legal entity through direct or indirect ownership of a "sufficient percentage" of the shares or voting rights – that is, above 25%. Where there is no direct or indirect shareholder with more than 25% of the shares, then the register must note the directors and, if not already a director, the chief executive.

The information to be recorded is:

- The name, date of birth, nationality, and residential addresses of each beneficial owner (or, where applicable, the directors and CEO),
- The nature and extent of the interests held,
- The dates on which each person was entered on the register, and on which they ceased to be a beneficial owner.

The 2015 directive provided for a central register of beneficial ownership of companies in each EU member state, which would be accessible by:

- Competent authorities and financial-intelligence units,
- "Obligated entities" (financial institutions, lawyers, etc) within the framework of customer due diligence, and
- Any person or organisation demonstrating a "legitimate interest".

The 2018 *Fifth Money Laundering Directive*, transposed by SI 110/2019, extended a right of access to certain information in this central register beyond any person with a "legitimate interest" to any member of the general public, which, in Ireland, was specified as:

- The name, the month and year of birth, and the country (that is, not the address) of residence and nationality of each beneficial owner,
- A statement of the nature and extent of the interest held or control exercised by each such beneficial owner.



THE 2018 DIRECTIVE EMPOWERED MEMBER STATES TO DENY PUBLIC ACCESS TO OWNERSHIP INFORMATION WHERE ACCESS ‘WOULD EXPOSE THE BENEFICIAL OWNER TO DISPROPORTIONATE RISK’

The 2018 directive empowered member states to deny public access to ownership information where access “would expose the beneficial owner to disproportionate risk, risk of fraud, kidnapping, blackmail, extortion, harassment, violence or intimidation”.

A legal matter

While law targeting money-laundering was advancing transparency of company ownership, in the background has been the *EU Charter of Fundamental Rights*, with its guarantees of personal privacy, along with GDPR as its practical manifestation. Article 7 of the charter affirms the right to respect for a person’s private and family life, home, and communications. Article 8 affirms a right to protection of personal data, requiring it to be processed fairly for specified purposes and on the basis of consent or other legitimate basis.

Following a line of CJEU jurisprudence, in the *WM/Sovim* case, the court quickly concluded that the general public’s access to information on beneficial ownership, provided for in the 2018 amendment of the 2015 directive, constituted an interference with the rights guaranteed in articles 7 and 8. In light of the international and unlimited access to the information, it was a “serious interference”. The court then considered whether, as can be the case, this interference could be justified.

The court decided that it could not: the principle of transparency could not be considered an objective of general interest capable of justifying the interference with the charter’s fundamental rights resulting from the general public’s access to beneficial-ownership information. The availability of individual exemptions for those fearing

a disproportionate risk was insufficient to justify general-public access. Access should be limited to those with a “legitimate interest”, as had been the case before 2018.

The real me

Criticism of this ruling was swift and to the point. Transparency International stated: “Access to beneficial ownership data is vital to identifying – and stopping – corruption and dirty money. The more people who are able to access such information, the more opportunity to connect the dots. We have seen, time and time again ... how public access to registers helps uncover shady dealings. At a time when the need to track down dirty money is so plainly apparent, the court’s decision takes us back years.”

The EU Parliament, the council, and the commission had made a submission in this case to this effect – public access has a deterrent effect, enables greater scrutiny, and facilitates the conduct of investigations, including those carried out by the authorities of third countries, and that those consequences could not be achieved in any other way. It is unclear whether the court considered any evidence to contradict this submission when coming to its conclusions.

It soon emerged on investigative websites that the shy ‘WM’, who had wished to conceal his ownership of a real-estate company, appeared to be a very public individual indeed: a chief executive of a large company, with dozens of directorships, a comprehensive professional biography online, and a healthy and active LinkedIn profile with thousands of followers. The personal data that he sought to conceal from the public – with the exception of his ownership interest in that unnamed real-estate company – was already public information.

The court then took the unusual step of hurriedly putting out a statement on its LinkedIn feed – but not on its website – selectively quoting from its ruling, which purported to provide reassurance that access to beneficial ownership was still available to journalists and public-interest organisations. That might be the case, but the subsequent disclosure to the public by journalists or those organisations appears vulnerable to comparable challenge, which somewhat renders this statement irrelevant.

The CJEU has elevated concealment from the public of ownership of companies as a fundamental right, which, it is submitted, is surreal. The court dangled the carrot of a potential definition of ‘legitimate interest’ as providing a solution – for example, someone about to conduct business with a company, journalists, and public-interest organisations. However, it is submitted that, as limited liability is a privilege conferred by the laws of a country, it is the legitimate interest of every citizen to know the identity of controllers of companies who benefit from that limited liability.

I’ve had enough

Article 15 of the GDPR provides that data subjects have the right to know from a data controller whether or not their personal data is being processed and, where it is, to be given the identity of those to whom it has been or will be disclosed.

On 12 January 2023, the CJEU delivered its ruling in the case of *RW v Österreichische Post*, where ‘RW’ had asked Österreichische Post for access under article 15 to information as to the identity of the recipients of their personal data.



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The CJEU ruled that article 15 means that the controller must provide the actual identity of those recipients, unless it is impossible or the requests are manifestly unfounded or excessive (as to cost), in which cases the controller may indicate only the categories of recipient.

The CJEU's LinkedIn statement had purported to affirm the right of, for example, journalists to access beneficial-ownership information. However, what use is that right if the beneficial owners can have a standing request at beneficial-ownership registers to be informed about who has been requesting information about them? It opens the prospect of, at best, actions to seek to prevent any reporting of what the journalist has found out or, at worst, intimidation of the journalist.

It does not look as though matters will improve. Article 82 of the GDPR provides that any person who has suffered material or non-material damage as a result of an infringement of the GDPR has a right to compensation for that damage.

On 27 April 2023, a CJEU advocate general delivered an opinion (*VB v Natsionalna agencija za prihodite*) that concluded that non-pecuniary damage consisting of the fear of potential future misuse of personal data might give rise to such a right to compensation.

What is misuse? Public disclosure of company ownership by a journalist or by a public-interest organisation? In a decision of 4 May 2023, in the case of *UI v Österreichische Post*, the CJEU ruled that, while mere infringement of GDPR is insufficient to confer a right to compensation, member-state law cannot set a minimum threshold of seriousness for the right of compensation to arise.

Trick of the light

The company laws of member states contain obligations of disclosure and rights of access to information, all fundamentally underpinned by the social bargain that limited liability is a legal privilege – the corresponding duty being that of disclosure about who is benefiting from that limited liability. For example, in Ireland, information of those in control of, and registered as holders of shares in, companies is found in a variety of publicly available records (*see table, above*).

REGISTER OR DOCUMENT	INFORMATION
Register of members CRO forms identifying particulars of members (B5, annual return)	Name, address of members, number of shares held
Register of directors and secretaries CRO forms identifying particulars of directors (B10, annual return)	Director's name, date of birth, residential address, nationality, business occupation, directorships held within last five years
Disclosable interests register (interests of directors and secretaries in shares or debentures)	Name, shares or debentures in question, purchase or sale price
Financial statements at CRO of large companies	Particulars of shares and other securities held by named directors at start and end of financial year

The unavoidable corollary of this sequence of developments in the EU is that the availability of this information may now come under threat, using the same reasoning as has underpinned the CJEU rulings. And why stop there? Public access to registers of ownership of land, ships, and aircraft could also be put at risk.

My generation

These legal developments appear to have been met with indifference in the EU institutions, with the currently proposed *Sixth Money-Laundering Directive* likely to affirm concealment from the public of beneficial-ownership information. Commendably, a number of Eastern European member states have chosen to keep public access to their registers of beneficial ownership, grounded on a variety of legal bases.

In Ireland, there has been no change to the transposition of the directives, with access to the Register of Beneficial Ownership restricted to the authorities and to designated persons. Journalists and public-interest organisations do not yet have the unequivocal access to which the CJEU's LinkedIn statement alluded.

In a final irony, supposedly deregulated Brexit Britain decided in April 2023 that, not only will it maintain public access to the UK's register of "persons with significant control", but it will extend that to its sunny overseas territories. Accordingly, we can look forward to more corporate transparency in the British Virgin Islands than in Sweden. 🇬🇧

Paul Egan SC is a senior consultant at Mason Hayes & Curran LLP.

LOOK IT UP

CASES:

- *RW v Österreichische Post AG* (Case C154/21, 12 January 2023)
- *VB v Natsionalna agencija za prihodite* (C340/21, opinion of Advocate General Giovanni Pitruzzella, 27 April 2023)
- *WM and Sovim SA v Luxembourg Business Registers* (Joined Cases C-37/20 and C-601/20)

LEGISLATION:

- Council Directive 91/308/EEC of 10 June 1991 on prevention of the use of the financial system for the purpose of money-laundering
- Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of

- the financial system for the purposes of money-laundering or terrorist financing
- Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing
- European Union (Anti-Money-Laundering: Beneficial Ownership of Corporate Entities) Regulations 2016 (SI 560/2016)
- European Union (Anti-Money-Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019 (SI 110/2019)
- General Data Protection Regulation (2016/679)

Kilkenny conference call

This year's fully subscribed President's Conference, held in Mount Juliet, Kilkenny, proved a major hit with members due to its practical advice from in-house and external experts. Mark McDermott reports

PREDICTING THE FUTURE ISN'T SUFFICIENT IN ITSELF. THE LAW SOCIETY AND THE SOLICITORS' PROFESSION, TOGETHER, MUST SHAPE THE FUTURE. WE'VE GOT A JOB OF WORK TO DO TO MAKE THAT A REALITY IN THE TEN YEARS AHEAD

The Law Society's annual conference made a very welcome return this year – repackaged, rebranded, and reborn – after a three-year hiatus imposed on the profession by the global pandemic.

But it was far from 'business as usual' and more like 'business on steroids'. If you thought you were heading to the stunning Mount Juliet in Kilkenny on 12 May solely to kick back, then you hadn't read the brochure

very closely! R&R would come only after five or more hours of intensive presentations from a list of largely home-grown and talented presenters – all experts in their fields and anxious to ensure that each participant got excellent value for their hard-earned cash.

We all know about the challenges and opportunities that the profession has faced in recent times. We weren't exactly in newflash territory either as speakers spoke about the

challenges and opportunities facing small, medium, and larger-sized law firms – both now and into the future. But what was new – and very welcome – was the hard-won advice, tips, and traps shared by those experts, making this one of the most practical, money-saving, and money-generating conferences for members for many years.

Smart tools

Welcoming her audience, Law Society President Maura Derivan advised members to take advantage of all the smart tools and directions provided by the speakers, which would point their business, in weather terms, towards 'fair'. (For the millennials who've never seen an old-fashioned – or should that be 'vintage' – hall barometer, 'fair' is 'good'!) But it wasn't all about making or maintaining profitable practices – the all-important work/life balance got plenty of airtime.

Before introducing the speakers, the president revisited several of the themes she has been airing in her monthly message in the *Gazette*. Access to justice has been a major concern, as has been the issue of the rule of power versus the rule of law.

"Who would have thought that any of us, in our generation, would see a land war in Europe's backyard?" the president asked. But while it



Law Society President Maura Derivan addresses the conference

ALL PICS: GIAN REDMOND



was important to focus on the war in Ukraine and to support our fellow Europeans in their right to preserve their territorial sovereignty, the ‘rise of power versus access to justice’ was “now taking place right here on our own doorstep”, President Derivan said.

“I’m referring to several pieces of legislation, including the *Planning Bill* that is currently going through the Houses of the Oireachtas. You’ll all be aware that there were initial concerns, which have continued, over the restriction of rights of the ordinary individual who, if the legislation remains unchanged, will find that they face significant difficulties if they try to bring judicial reviews against planning proposals that they oppose.

“The legal profession needs to ensure that the voice of our people continues to be heard,”

the president added, “and to ensure that fairness in terms of access to justice continues, so that one sector of society isn’t ruling over everyone else.”

Crystal-ball gazing

Mark Garrett, the Society’s director general, brought matters even closer to home. Referring to the recent survey

of the profession carried out by the Law Society, he allowed us to stare briefly into his crystal ball, with the warning that “if we’ve learned anything in the last decade or more, it’s been that it can be a bit of a mug’s game, because predicting the future is becoming more and more difficult”.

The DG referred to the

major trends that he sees having an impact on the profession, which could be regarded as both challenges and opportunities. “We see technology, digitalisation, and increased regulation as having significant impacts. Those come up in the Law Society’s survey, as do the changing expectations of those already in the workplace – and



Speakers (l to r): Maura Derivan, Attracta O’Regan, Mark Garrett, Paul Healy and Sarah Kelly



Mike O'Reilly, Siobhan Masterson, Antoinette Moriarty, Gillian Cregan, Katherine Kane, Sarah Kelly, Paula Fearon, Barry MacCarthy, Brian McMullin, Teri Kelly, Brendan Twomey, Richard Hammond, Attracta O'Regan, TP Kennedy, Maura Derivan, Ann Greene, Barbara Carroll, Mark Garrett, Niall Connors, Sonia McEntee, Rosemarie Loftus, Nap Keeling, Sorcha Hayes, Mark McDermott and Justin Purcell

those joining or about to join law firms.”

He referred to the profession's past – specifically this year's commemoration of the centenary of the first women to become solicitors in Ireland. “If we go back to 1923, there were 1,000 solicitors in Ireland. It took 75 years for that to grow to 4,500 solicitors. In the last 25 years, we've grown from 4,500 solicitors to almost 12,000 practising solicitors. So, there's been huge growth in the profession in a relatively short period of time.”

Added to that, the Law Society currently has the largest number of trainees in its history going through the Education Centre – almost 2,000 currently – revealing a “huge demand for people to get into the profession, which is still very attractive for a lot of people”.

In addition, Ireland was now being promoted internationally, with overseas trade missions promoting Ireland as a destination for law.

But while all of these were very positive developments, the director general pointed to the significant challenges ahead for many counties in Ireland. He cited the fact that there are currently 11 counties in Ireland that have either one or no trainee solicitor preparing to enter the profession: “Three counties have no trainees whatsoever at the moment. And if we think about that in terms of access to solicitors and access to justice, whether that be a family-law case or a legal-aid case, there are significant problems down the line in five to 20 years. These are challenges for all sides of the profession – and for other professionals, too.”

Survey glimpse

He gave us a glimpse of the Law Society's recent survey, which suggests that the top three concerns for the profession, from the smallest to the largest firms, are cybersecurity and cybercrime, recruitment and

talent retention, and retirement and succession planning.

Garrett commented that each of these could be considered both threats and opportunities. His challenge, then, to the Law Society and the profession was not simply the need to understand where the future lay, but how we would adapt to the changes and challenges that would inevitably confront us. “Predicting the future isn't sufficient in itself,” he said. “The Law Society and the solicitors' profession, together, must shape the future. We've got a job of work to do to make that a reality in the ten years ahead,” he concluded.

Green economy

Other speakers included Paul Healy, CEO of Skillnet Ireland, who spoke about the new opportunities for the legal profession.

“In a rising age of tech, you're already dealing with issues around AI, for example.” He pointed out, however, that

only 27% of employers are currently providing information and communications technology training to their teams.

Healy predicted that the economy would begin to pivot on the basis of “green, skilled jobs” and that the higher-education and lifelong learning systems would focus on the so-called ‘green’ economy.

Taking a deep dive into the recruitment and retention concerns expressed by members, Sarah Kelly (of legal recruitment agency The Panel) addressed the topic of attracting and retaining solicitors, trainees, and support staff and identifying potential successors to your practice.

“It's very ‘boomy’ at the moment. It's very much a candidate-driven market; however, we're finding that candidates are much more difficult to manage. They need really close management during the hiring process. So, if you're in the process of hiring, you've got to keep a close eye



Donal Smyth, Tim Tracey and Raymond Flynn



Deirdre McDermott, Annie Egan and Orla Dennison



Brendan Twomey, Martin Crotty and Joe Clancy



Morette Kinsella and Una O'Donnell

on them, as they're getting multiple offers," Kelly said. "I'm sure you've had situations where you've made an offer to somebody, only to discover that they have multiple offers – or that they go back to their original firm to negotiate a better deal based on current offers.

"So, they have lots of choice, particularly the two-to-six-year PQE levels. The establishment of several international legal firms in the Irish market has had a huge knock-on effect when recruiting candidates."

Top recruit requests

"The top requests at the moment – no surprise – relate to flexible working arrangements, hybrid-working, part-time working, remote working."

In addition, candidates have been reporting back that they're looking for an inclusive and supportive environment when they're joining a new firm. They want to work in environments where they can bring their

'whole selves' to work, she said.

"This is a term that's probably come down from the multinational organisations over the last couple of years. It's no longer the case that you have to conceal the fact that you have childcare arrangements, pick-up collections, that you're looking after elderly parents, and you need to take time to get home to them. They're looking to join a firm where there's an investment in their future – where there are career opportunities and a genuine career path. They want growth and development opportunities. They also like to know that their personal values are aligned with the values of the firm, or vice versa – that might be around corporate social responsibility; environmental, social and governance; and diversity and inclusion."

Thorny topic

Rounding off the business session for the day, Sorcha Hayes (the Society's head of

practice regulation) addressed the thorny topics of practice viability and expansion, mergers, succession, and retirement. She tackled the regulatory issues around expanding and buying a practice, as well as succession, incapacity, and closure.

It was the kind of information you thought you knew, but realised that you could get out of your depth very quickly. Hayes was at pains to point out that the Law Society's Practice Regulation Section and the Regulation Department are only too happy to assist members with any queries they might have on this or any other regulatory questions. (You can email Sorcha at s.hayes@lawsociety.ie, and keep an eye on the *Gazette* for future practice regulation features.)

So, at the end of a long but instructive day, we eventually managed to soak up the sunshine at Mount Juliet, enjoying the expansive sweep

of treelined countryside that forms an impressive backdrop for the Jack Nicklaus-designed golf course. Had Tiger Woods popped out of the locker room to take a few practice swings on the driving range, we wouldn't have batted an eyelid.

Keeping an eye on the giant Rolex clock, it was soon time to converge with colleagues in the McCalmont Suite for the gala dinner and to share stories with old and new friends.

I won't name the mischievous individual who regaled us with a glorious tale of having slept in Jeremy Irons's bed in his famous Cork castle – minus Jeremy, it should be said. Let's just say that, hopefully, Jeremy wasn't hiding out in his larger-than-life replica Trojan Horse, spying on the shenanigans as his new bed was installed and tested out for size! 

Mark McDermott is editor of the Law Society Gazette.

Social and personal

A recent In-house and Public Sector panel discussion focused on the 'S' in 'ESG' – and its implications for in-house solicitors in the private and public sectors.

Mary Hallissey reports

ONE ATTENDEE POINTED TO CONFLICTING REQUIREMENTS IN ESG MEASURES, AS AGAINST STRICT DATA CONTROLS UNDER GDPR, AS TO WHETHER PROTECTED CHARACTERISTICS MAY OR MAY NOT BE RECORDED ON INDIVIDUAL EMPLOYEES

On 10 May, the In-house and Public Sector Committee held a panel discussion on the 'social' factors in 'environmental, social, and governance' (ESG) and its implications for in-house solicitors in the private and public sectors.

Richard Lee (Lee Solicitors) – who is finalising his doctorate on the topic – said that in-house solicitors are now expected to advise on the materiality and relevance of ESG. Lawyers must also draft ESG policies, keep up to date on sustainability law, and advise on due diligence in the context of reporting and procurement.

In-house solicitors should be aware of the fundamental shift that has occurred since the *Corporate Sustainability Reporting Directive* came into force in January, Lee added. "We now have ESG law," he explained, and the tenets of ESG have moved into the legal domain. Large companies that deal with smaller SMEs will have to have ESG compliance in mind, he said.

Disability and inclusion

Kate McKenna (Law Society Council member and committee member of the *disAbility Legal Network*) said she hoped for increased visibility, awareness, and facilitation of disability issues in the legal sector.

McKenna expressed the



Maura Derivan

ALL PICS: CIAN REDMOND

GUIDE FOR IN-HOUSE SOLICITORS

Speaking at the panel discussion, Law Society President Maura Derivan told attendees that the Society's new *Guide for In-House Solicitors Employed in the Corporate and Public Sectors* is available on the Law Society's website as an interactive [downloadable PDF](#).

For those who prefer, the guide is also available in a fully digital [HTML format](#), with the Law Society website's helpful accessibility tools that allows reading text aloud, modifying font sizes, and customising the experience.



Marion O'Donnell



Caroline Dee Brown



Joy-Tendai Kangere



Maeve Delargy



Kate McKenna



Richard Lee



Mark Garrett

hope that the final report by the Legal Services Regulatory Authority, following research and consultation on barriers for lawyers with disability and increasing diversity, reflects the disAbility Legal Network's submissions, which highlighted the difficulties faced by those with disabilities trying to navigate their way around the Irish legal profession.

"Disability could happen at any moment in anyone's career," she pointed out. In-house lawyers have the power

to change the culture in their companies, not least through the introduction of assistive technologies, but also when tendering for external legal work – making diversity a key term of that process.

Assistive technology and making reasonable accommodations can increase efficiency for everyone, she said. Government grants are available for the private sector, where cost might be a barrier for small in-house legal teams.

The legal industry is hard and demanding, McKenna said, but

technology can make it more inclusive.

Golden rule

Barrister Joy-Tendai Kangere said that the 'golden rule' was to treat others as one would wish to be treated.

"We need to check our assumptions and biases and prejudices," she commented, adding that, in a previous employment, she had been asked to wear a wig to cover her natural hair in order to look 'more professional' at work. She

NON-FINANCIAL METRICS SUCH AS WORKING CONDITIONS (ALL THE WAY DOWN THE VALUE CHAIN) ARE A FACTOR IN INVESTMENT DECISIONS



Jennifer O'Sullivan and Stephanie Ryan



Peter White, Ronan Lennon and Mark Garrett



Sandra O'Malley and Evelyn Savage



Peter White and Joy-Tendai Kangere

IN-HOUSE LAWYERS HAVE THE POWER TO CHANGE THE CULTURE IN THEIR COMPANIES, NOT LEAST THROUGH THE INTRODUCTION OF ASSISTIVE TECHNOLOGIES, BUT ALSO WHEN TENDERING FOR EXTERNAL LEGAL WORK – MAKING DIVERSITY A KEY TERM OF THAT PROCESS

said that she was not defined by titles, regarding herself firstly as a human, and would like to show Irish society that there are more similarities than differences among people.

Ireland has changed in terms of cultural diversity and this needs to be accounted for in ESG goals, Kangere said. ESG must work in harmony with UN sustainable-development goals.

The legal profession was strongly positioned to lead this change, she said, but must avoid 'tick-box' exercises in terms of diversity and inclusion. This would be achieved through accountability and awareness of the hierarchy of inclusion, she added.

Maeve Delargy (Philip Lee LLP) – who is a founding committee member of [OUTLaw](#) and founder of the [Lesbian Lawyers Network](#) – said that she is not recognised as the legal parent of two of her three children, born as a result of sperm donation from a friend. She finds this awkward and hurtful, and it means she cannot

sign medical or parental-consent forms. As a result, she is using her legal skills to campaign for change in this area.

Companies should be aware of the impact of their actions in giving visibility to LGBTQIA people and issues, she stated. Organisations should talk about what they are doing to support these individuals, and it would have a great impact on people like herself.

Non-financial metrics

Marion O'Donnell (director of sustainable investing, Fidelity International) said that non-financial metrics, such as working conditions (all the way down the value chain) are a factor in investment decisions.

The 'S' in ESG relates to a company's strength in dealing with both employees and the society in which they operate – customers, clients, regulators, and suppliers. And the 'S' is becoming a lot more prominent in investor decisions, she said.

The purpose of a company might no longer be just to

create shareholder value, but to incorporate values across all stakeholders, she commented. The challenges lay in terms of regulation, and lawyers should be aware of their responsibility to gather data and other material now. The more transparent a company was, the better the shareholder response, O'Donnell said.

The seminar also heard that questions about company culture were now commonplace in interviews, and were actually more common than salary queries.

A debate about whether ESG actually belonged to the legal function led to lawyers being urged to use their legal positions to lead with the practical implementation of ESG law. The challenges of ESG procurement policies meeting sustainability requirements would be particularly difficult, the seminar heard.

Richard Lee commented that ESG had now definitively moved into the legal domain. Non-financial reporting had



(Front, l to r): Richard Lee, Kate McKenna, Alison Bradshaw, Mark Garrett, Maura Derivan, Caroline Dee Brown, Geoffrey Shannon, and Louise Campbell; (back, l to r): Marion O'Donnell, Maeve Delargy, Joy-Tendai Kangere, Yvonne Keating, Tara Smith, Aisling Fitzgerald, Ciara Daly, Jeanette Codd McDonagh, Rachael Hession, Roisin Magee, Peter White, and Ronan Lennon

transformed into the *Corporate Sustainability Reporting Directive*: “And that is significant, as it is moving it into company law,” Lee said. “ESG is going to fall on many desks. It is a continual process, affecting all areas of a company, and does not fit neatly into one domain,” he said.

The work of ESG would also encompass that of the

operations manager, the chief financial officer, as well as the HR department – particularly in its social aspect. In all cases, it should be partnered with the legal team.

“My fear is that there is going to be non-compliance through oversight,” Lee warned. This won’t be deliberate, but would arise from a lack of under-

standing of the new ESG reporting regime. “There needs to be a plan from the get-go,” he said, adding that bringing the ‘S’ into contracts and procurement, without causing litigation, might be difficult.

“How do we effectively monitor this without going overboard – or is it even our job?” asked one attendee.

Another pointed to conflicting requirements in ESG measures, as against strict data controls under GDPR, as to whether protected characteristics may or may not be recorded on individual employees.

There will be conflict on what can be recorded or said, the seminar heard.

“It’s not easy. This is a big change, I don’t feel I’m overstating it,” Richard Lee said. “There are no easy answers.” It could well be terrifying to employers if what they record and report under ESG metrics leads to litigation, the seminar heard.

“There are very active NGOs who are going to come at you if you don’t meet targets,” commented Lee.

However, all of these questions would inevitably fall on legal desks – and collaboration and partnership would be very important, he concluded.

Mary Hallissey is a journalist at the Law Society Gazette.



Elise O'Neill and Yvonne Man



Mark Jennings, Yvonne Jennings, and Rachael O'Regan



Ronan Lennon and Jeanette Codd McDonagh

No silver bullets

Significant carve-outs have created the potential for a distortion of copyright rules for press publishers. Mary Hallissey reports on the recent IMRO and Law Society Annual Copyright Lecture

THERE IS NOTHING IN THAT FRAMEWORK THAT COMPELS ANY TECH PLATFORM TO NEGOTIATE WITH AN IRISH PUBLISHER. MORE IMPORTANTLY, THERE ARE NO CONSEQUENCES FOR NOT NEGOTIATING

The annual Irish Music Rights Organisation and Law Society Annual Copyright Lecture has been told that an EU directive “clearly improves” the position of press publishers and journalists in their relationship with technology giants. Dr Mark Hyland (IMRO Adjunct Professor of Intellectual Property at the Law Society) warned, however, that some of the wording in the directive was ambiguous and could lead to litigation.

The lecture on 3 May focused on article 15 of Directive (EU) 2019/790, on copyright and related rights in the digital single market, which harmonises and modernises EU copyright law and attempts to protect creativity in the digital age.

It heard from copyright experts and representatives from publishing and journalism, who told the event that very little had yet occurred in Ireland in response to the directive.

Article 15 is aimed at ensuring that press publishers are compensated for the re-use of their content by news aggregators run by ‘Big Tech’ firms such as Google, Apple, Microsoft, and Yahoo.

It tries to address the ‘value gap’ – the mismatch between the revenue passing to Big Tech firms and the much smaller revenue passing to the original creators of the protected work.

Dr Hyland said that the legislation was “no silver bullet”,

but there was now harmonised legal protection throughout the EU for press publishers and publications, strengthening their bargaining position against the news aggregators.

Press publishers now had a “clear legal right” that they could invoke against a digital platform that scraped their content without permission, he said.

Carve-outs

He pointed out, however, that there were important carve-outs – including private or non-commercial use, acts of hyperlinking, and “the use of individual words or very short extracts of a press publication”. “How are we going to determine what a ‘very short extract’ is?” Hyland asked, adding that this phrase “could generate a lot of litigation”.

He also expressed concern about the directive’s requirement for journalists to receive “an appropriate share of the revenues” paid by the news aggregator to the press publisher in the context of a licence agreement. “What is ‘an appropriate share’?” he asked, adding that there was uncertainty about whether there would be transparency in such agreements.

He pointed out that the Irish regulations on article 15, contained in SI 567/2021, had been a verbatim transposition of already problematic terms in the actual directive. “That’s not very good from the point of view of

legal certainty and clarity,” he said.

Hyland told attendees that there had been a move away from copyright law to competition law in dealing with the relationship between the press and digital platforms, led by Australia’s *News Media and Digital Platforms Mandatory Bargaining Code Act 2021*, which is overseen by the country’s Competition and Consumer Commission and has inspired similar rules in Canada, the US, and Britain.

He said that the Future of Media Commission had recommended a review of the impact of article 15 on the relationship between press publishers and digital platforms within 12 months of its transposition. Unfortunately, this had not happened, and it seemed that “the can had been kicked further down the road”.

No obligation

Dr Ula Furgal (School of Law, University of Glasgow) told attendees that, while the goals of the EU legislation were laudable, she was “not an enthusiast” – pointing out that it did not create an obligation for a platform to bargain with a press publisher, nor was there an obligation on the platform to remunerate fairly.

“It only gives a legal basis for a publisher to go to a digital platform, and say ‘you’ve been using my content – now come and pay up’,” she said.



PICTURE: CLIAN REDMOND

Katherine Kane (LSPT), Mark Tighe (*Sunday Independent*), Colm O'Reilly (chair, NewsBrands), TP Kennedy (director of education, Law Society), Victor Finn (chief executive, IMRO), Eleanor McEvoy (chairperson, IMRO), Dr Mark Hyland (IMRO Adjunct Professor of Intellectual Property, Law Society), Dr Ula Furgal (law lecturer, University of Glasgow), James Hickey (external director, IMRO), Bill Shanley (board member, IMRO), and Steve Lindsey (board member, IMRO)

A small number of EU member states were following the Australian model, she said, and were giving public authorities the power to determine the level of remuneration in the event of a dispute.

Dr Furgal described this approach as “problematic”, as it also gave platforms the right to seek a determination, depriving the publisher of the right to authorise publication.

She also expressed scepticism about the success of the Australian approach, saying that all deals that had been done in that country had been done outside of the code. Claims made about the financial benefits to publishers were only estimates, she added, because nobody had the details of the agreements.

Wiggle room

The copyright expert said that there was still a lot of “wiggle room” for member states on how they implemented article 15.

Furgal agreed with Dr Hyland that the directive did not state how an ‘appropriate share’ of

revenue for journalists should be determined. Some member states, like Ireland, had copied article 15 verbatim into national laws, but others had proposed widely differing figures – 2% to 5% in Italy, one-third in Germany, and a 50/50 split in Poland.

She pointed out that most countries had said nothing about the mechanisms for negotiating or distributing the ‘appropriate share’. Only Lithuania had set an exact figure for ‘very short extracts’ – 125 characters.

Colm O'Reilly (chair, NewsBrands Ireland, and chief operating officer at the *Business Post* Group) said that there was “very little” or “very slow” action going on in Ireland on foot of article 15.

Irish newspapers had a “complex relationship” with digital platforms, he said, adding: “We use Google for advertising; we use Facebook for distributing our content.”

He said that publishers had taken the view that meaningful discussions would be more advantageous than adversarial

ones. Collective management organisations (CMOs) representing publishers had proven effective in other countries, he said, but had yet to emerge in Ireland.

Only a framework

O'Reilly continued, saying that the Irish method of implementation, through a statutory instrument, had created only a framework: “There is nothing in that framework that compels any tech platform to negotiate with an Irish publisher. More importantly, there are no consequences for not negotiating.” As a result, a CMO was a “difficult proposition” in Ireland.

Asked why the Irish industry was no longer organised on a pan-European basis, O'Reilly pointed to the differing copyright laws across the EU. While, in theory, a statutory instrument could be amended more quickly, getting the Government to change it was not easy.

Sunday Independent journalist Mark Tighe commented that

article 15 had provided a “brand new right” that journalists had not been on top of, and would have to look at quickly. He added, however, that this Government had been very slow to look at laws that had an impact on journalism in general, and media came low on its list of priorities. [E](#)

Mary Hallissey is a journalist at the Law Society Gazette.

LOOK IT UP

- Directive (EU) 2019/790 on copyright and related rights in the digital single market
- European Union (*Copyright And Related Rights In The Digital Single Market*) Regulations 2021 (SI 567/2021)
- Treasury Laws Amendment (*News Media and Digital Platforms Mandatory Bargaining Code*) Act 2021

Dropping the professional mask

Law Society Psychological Services launched its High-impact Professional Series on 26 April. Panellists Eadine Hickey, Katie da Gama, and Keelin Deasy share key messages from the webinar

BEFORE EVEN CONSIDERING PERSONAL PSYCHOLOGICAL SAFETY, IT IS NEARLY IMPOSSIBLE TO ENGAGE IN PSYCHOLOGICAL SAFETY WITH YOUR TEAM IF YOU STRUGGLE TO OFFER IT TO YOURSELF

Law Society Psychological Services, in partnership with Law Society Skillnet, launched its 'High-impact Professional Series' on 26 April 2023 to mark National Workplace Wellbeing day. The first webinar, which focused on psychological safety, was attended by over 500 delegates.

So, what is psychological safety – and why do we need it? A landmark study by Google of 180 high-performing teams identified psychological safety as the key factor in high performing teams, remarks Eadine Hickey.

Psychological safety is the shared belief that team members can speak up with ideas, questions, concerns or mistakes without fear of being punished, humiliated or silenced (as described by Prof Amy C Edmondson of Harvard Business School).

Features of a psychologically safe environment include:

- The ability to have open conversations about issues, mistakes, and concerns,
- Inclusion of team members from different backgrounds, and interest in their perspectives,
- Constructive and positive attitude towards trying something new,

- Supportive team environment where members willingly ask for, and receive, help,
- A balance of candour and personal care for team members, and where
- Interpersonal risk-taking is encouraged.

Says Hickey: "Timothy Clarke describes four stages of building psychological safety: *inclusion safety* – feeling included in conversations; *learner safety* – feeling that it's safe to make a mistake without being punished; *contributor safety* – where it's safe to contribute to important discussions; and *challenger safety* – where it's safe to challenge the status quo with new ideas or contrary perspectives."

Listening to learn

The key behaviour that supports psychological safety is the practice of 'listening to learn'. "This involves listening to other perspectives to genuinely understand where another person is coming from," says Hickey. "This is the foundation of psychological safety, because if we feel heard, we feel that our perspective matters, and we are more likely to contribute again in the future.

"Other team members will also see that it's safe to contribute – and may feel empowered to challenge a perspective once they see it's not met with a negative or silencing response."

'Listening to learn' does not mean agreeing with every other perspective – rather, it underscores the role of listening as a powerful way of understanding a situation in a different light, says Hickey.

A University of Rochester Medical Centre study offered key observations on psychological safety in the medical field. The study found that GPs, on average, listened for 23 seconds before interrupting their patients.

"Had these patients the opportunity to speak uninterrupted for an additional six seconds, they would have been able to fully articulate their concerns," Hickey comments.

Professional significance

The significance of psychological safety for the legal profession is threefold, argues Katie da Gama: firstly, the positive impact on high performance across all sectors and levels of the profession; secondly, the personal benefits to the individual in navigating



P.C. ALAMY

their work-life integration; and thirdly, the development of progressive cultural norms in all facets of legal life, whether in private practice, in-house, at the Bar, or any setting in which legal professionals contribute.

What ties these three areas together, she suggests, is “the component of psychological safety that embraces the openness to care about the people with whom we work – to care about them enough to listen fully to their opinions, their needs and their observations.

“It’s not a phrase that is often heard in fast-paced, complex and performance-driven workplaces,” da Gama says, “but it is one that is key to creating and maintaining a working environment that not only sustains, but also nourishes the profession.”

Psychological safety

“When we work as part of a team that practises psychological safety, we are aligned – working collaboratively towards a common goal,” says Hickey. “All team members feel included and valued for their efforts, irrespective of level or expertise. Everyone has a role to play. Team members feel a sense of connection and belonging.

“An added benefit of feeling a sense of belonging is the emission of higher levels of serotonin, oxytocin, and dopamine,” she says, “which serve to balance stress, enabling optimal performance in high-pressure situations, which contributes to lower levels of burn-out.”

Da Gama adds: “Everyone has a responsibility to act and behave in a way that promotes and enhances the environment

within which they work. It is no coincidence that an organisation that is founded on the strengths and knowledge of its people will flourish – both from a people and business perspective – if those people feel genuinely valued, heard, and respected. The benefits of a supportive working environment are clear: a more engaged workforce willing to extend their discretionary effort, increased morale, lower turnover, and, ultimately, stronger performance.

“Broadly speaking, the tradition in the legal profession is to work within formal hierarchies – partners, senior counsel, heads of department, managing partner, etc. It follows, therefore, that there must be a role to play for the leaders within those organisations to establish and maintain a psychologically

MOST IMPORTANT IS OFFERING YOURSELF SELF-COMPASSION. A HELPFUL WAY TO THINK ABOUT SELF-COMPASSION IS TO CONSIDER WHETHER YOU OFFER YOURSELF THE SAME COMPASSION YOU OFFER TO A CLOSE FRIEND

SUPPORTS

Professional wellbeing supports are available to practising certificate holders, members, and future members throughout the legal life-cycle. Confidential and subsidised therapeutic support is available through LegalMind for legal professionals, operated independently by Spectrum Life (freephone: 1800 814 177 – 24 hours a day, seven days a week). See www.lawsociety.ie/legalmind.

Law School trainees can avail of free time-concentrated therapy through the Law Society's dedicated in-house counselling service team by emailing counselling@lawsociety.ie.

Law Society Psychological Services invites you to get in touch with any queries or feedback at ps@lawsociety.ie.

As a Law Society Skillnet interactive course, a video will soon be made available on the Law Society Skillnet [LegalEdTalks Hub](#). Course information will be made available through the Law Society's *Legal Training Ezine*.

safe environment. If there is explicit role-modelling of inclusive, caring behaviours, and this is what is expected throughout the business, the culture of that organisation will reflect these norms.”

How we listen

“The ‘billable hour’ is undoubtedly a perceived barrier to listening to team members and building psychological safety,” says Hickey. In the research highlighted earlier, it would have taken GPs only an extra six seconds to fully listen to their patients. So it's worth considering *how* we listen – and the time needed. Are we distracted while listening to a team member? Perhaps it's worth paying attention to how we listen to our team, and to build from there.

“A benefit of psychologically safe work environments is the reduction in the energy and time spent addressing negative behaviours,” says Hickey. “When people are clear about where they stand, they spend less time second-guessing. Teams learn through open and honest conversations, mistakes are reduced, greater innovation arises as ideas are welcomed and, ultimately, there is reduced

turnover of staff due to the greater sense of wellbeing and team engagement.”

A challenge to building psychological safety, however, is the ‘professional mask’ worn by many professionals. “This can prove exhausting to maintain and may even make us appear invulnerable and detached,” Hickey warns. “Humility and a dash of vulnerability are valuable assets in cultivating psychological safety.”

The power within

Keelin Deasy encourages cultivating psychological safety from within: “Before even considering personal psychological safety, it is nearly impossible to engage in psychological safety with your team if you struggle to offer it to yourself.

“Personal psychological safety requires a really strong inner scaffolding. Some ways to build that include strengthening personal attributes, such as self-belief and self-confidence. However, most important is offering yourself self-compassion. This can be a rather curious concept. A helpful way to think about self-compassion is to consider whether you offer yourself the

same compassion you offer to a close friend?

“Self-compassion gives you the ‘bandwidth’ and permission (if needed) to make mistakes, take risks, and treat yourself kindly if a situation does not go according to plan. The research is also pretty clear on this – self-compassionate individuals are able to physiologically adapt their emotional responses to stressful events with more flexibility. Furthermore, engaging in self-compassion promotes empathy, so a positive practice that you offer yourself also has an impact on others around you.”

Internal dialogue

Perhaps the greatest challenge to personal psychological safety is our own internal dialogue about failure. Deasy comments that it is worth considering one's own thought processes relating to failure, and the messages you give yourself.

“And speaking of failure – we don't mean taking massive, unsafe risks. Rather, think about taking safe ‘leaps’, or even setting yourself a challenge in a professional context. Because giving yourself the ‘bandwidth’ to make mistakes or take risks enables growth and learning. Avoiding these situations will likely hold you back from reaching your potential.

“Another challenge to personal psychological safety is when an individual engages in comparative thinking. This may present as a running commentary in your head, observing what other people are doing and reminding you where you are falling short. This can be a really unproductive and self-defeating behaviour – engaging in self-compassion can address this unhelpful behaviour.”

Sometimes observing a lack of personal psychological safety in a colleague can offer more clarity – perhaps your colleague

does not raise questions, is risk-averse, avoids making mistakes, does not contribute ideas, or refrains from criticising the status quo. “Essentially, they are withholding information and, every time this arises, opportunities for interpersonal learning are lost,” said Deasy.

Lastly, a characteristic that can really build personal psychological safety is one's own inner resilience: “When we think about being resilient, what we really mean is how we handle and bounce back from disappointments. Processing the experience is always a helpful learning exercise – but can you deal with a disappointment and then move on? This is really important, especially when integrating constructive feedback, as would typically arise in a psychologically safe team environment.” 

Eadine Hickey is a Harvard-trained leadership development professional and executive coach (see www.resonateleadership.com). Katie da Gama qualified as a solicitor and barrister and is a business and executive coach and leadership development consultant (see coachingforlawyers.ie). Keelin Deasy is an accredited mental-health counsellor and a member of Law Society Psychological Services and its trainee counselling team.

LOOK IT UP

LITERATURE:

- MK Marvel, RM Epstein, K Flowers, HB Beckman, ‘Soliciting the patient's agenda – have we improved?’ (National Library of Medicine, 20 January 1999)
- *New York Times*, ‘What Google learned from its quest to build the perfect team’, 28 February 2016 (log-in required)

The sound of music

Broadcasting of musical works in the background in passenger transport is a communication to the public under EU law – but the installation of enabling equipment is not, says Alan McCarthy

In a 20 April 2023 judgment of the Court of Justice of the European Union (CJEU) in Joined Cases C-775/21 *Blue Air Aviation* and C-826/21 *UPFR*, the court considered an issue of freedom of establishment under the *Treaty on the Functioning of the European Union*.

Two Romanian collective management organisations handling music copyright and related rights brought actions in a Romanian court against the airline Blue Air and the Romanian rail-transport company CFR seeking remuneration and penalties for unlicensed broadcasting of music on aircraft and passenger carriages.

The Romanian court requested a preliminary ruling under article 267 TFEU and asked, in particular, (a) whether the broadcasting, inside a commercial aircraft occupied by passengers, of a musical work or a fragment of a musical work on take-off, on landing, or at any time during a flight, via the aircraft’s public-address system, was a communication to the public; and (b) if a rail carrier using train carriages in which sound systems are installed, intended for the communication of information to passengers, is making a communication to the public.

Exclusive right

The CJEU found that broadcasting a musical work as background music in a means of passenger transport is a



PICT: ALAMY

communication to the public under EU law. Member states provide authors with the exclusive right to authorise or prohibit any communication to the public of their works, including the making available to the public of their works in such a way that members of the public may access them from a place and at a time individually chosen by them.

Authors have a right that is preventive in nature, enabling them to intervene between possible users of their works and the communication to the public, which such users might contemplate making, in order to prohibit such communication. The broadcasting of a musical work as background music, in a means of passenger transport by the operator of that means of transport, is a communication to the public of that work, since, in so doing, that operator intervenes – in full knowledge of the consequences of its conduct – to give its customers access to a protected work.

In the absence of that intervention, those customers would not, in principle, be able to enjoy the broadcast work. That work is broadcast to all

the groups of passengers who, simultaneously or successively, took that means of transport.

By contrast, the mere provision of physical facilities to make a communication is not such a communication.

Enabling equipment

The right of communication to the public is a key exclusive right under copyright and has been the subject of much CJEU case law and legislation (for example, [Directive 2001/29/EC](#) on the harmonisation of certain aspects of copyright and related rights in the information society. This judgment confirms that.

However, airlines, train companies, and possibly other public locations (such as hotels) will look carefully at the CJEU’s view regarding the mere installation of enabling equipment and will seek to determine if and how that limits the ability of rights-holders/collecting societies to require licences. 

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

THE CJEU FOUND THAT BROADCASTING A MUSICAL WORK AS BACKGROUND MUSIC IN A MEANS OF PASSENGER TRANSPORT IS A COMMUNICATION TO THE PUBLIC UNDER EU LAW

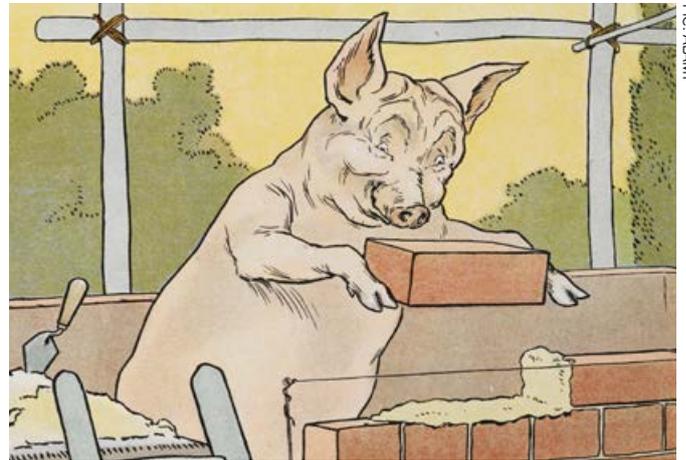
You can **bank** on that

Can a consumer repay a bank loan sooner than the loan term ends? What costs can a consumer have redeemed on an early repayment of a bank loan? Duncan Grehan asks the tough questions

The 16 February 2023 opinion of Advocate General Collins in *Case C-520/21 Bank M* (a Polish bank) is that it is a matter for national courts to determine, by reference to national law, whether consumers have the right to assert such claims and, if so, to rule on their merits. The Court of Justice of the European Union (CJEU) upholds that opinion in its interpretation of EU law, which provides such rights.

The opinion is that, after the annulment of a mortgage-loan agreement due to unfair terms, consumers may assert claims against banks that go beyond reimbursement of monetary consideration – while banks may not. The opinion is based primarily on Council Directive 93/13/EEC on unfair terms in consumer contracts.

Advocate General Collins advises the CJEU that a bank is not entitled to assert against a consumer claims that go beyond reimbursement of the loan capital transferred and payment of default interest at the statutory rate from the date of the request for reimbursement. By way of justification, he observes that the annulment of a mortgage-loan agreement arises as a consequence of the bank having introduced an unfair term into that agreement. A supplier ought not to derive any economic advantage from a situation it has created by its own unlawful conduct.



PICTURE: ALAMY

He also observes that the argument as to the stability of financial markets in Poland has no weight in the context of the interpretation of the directive, which aims, above all, at protecting consumers' interests. Banks, as creatures of the law, are under a duty to arrange their affairs in such a manner to respect all of its provisions.

On 9 February, the CJEU found in *Case C-555/21 Uni-Credit Bank Austria* that the consumer's right to a reduction in the total cost of the credit, in the event of early repayment of his or her mortgage credit, does not include costs that are not dependent on the duration of the agreement. The consumer can, therefore, claim only a reduction in interest and in costs that are dependent on the duration of the agreement.

On the question referred to it by the Austrian court, the CJEU considered Directive 2014/17/EU

on credit agreements for consumers relating to residential immovable property. That directive requires member states to ensure that the consumer has a right to discharge fully or partially his or her obligations under a credit agreement prior to the expiry of that agreement. It provides that, in such cases, the consumer is entitled to a reduction in the total cost of the credit, such reduction consisting of the interest and the costs for the remaining duration of the agreement.

That right does not, therefore, include costs that, irrespective of the duration of the agreement, are payable by the consumer to either the creditor or third parties for services previously rendered in their entirety at the time of early repayment. 

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

CONSUMERS MAY ASSERT CLAIMS AGAINST BANKS THAT GO BEYOND REIMBURSEMENT OF MONETARY CONSIDERATION – WHILE BANKS MAY NOT

GUIDANCE NOTE

CONVEYANCING COMMITTEE

BANK OF IRELAND V HADE

● The Conveyancing Committee wishes to bring two matters to practitioners' attention concerning the acquisition of properties from receivers and charge holders. Practitioners are reminded that different procedures apply where a property is to be acquired from a receiver and from a charge holder.

The *Land and Conveyancing Law Reform Act 2009* regulates the enforcement of charges entered into after 1 December 2009 and, while the previously applicable law is similar in many respects, this note addresses charges executed after that date.

The first matter concerns where a receiver is selling property, while the second concerns sales by charge holders – but each relates to the operation of section 97 and section 100 of the 2009 act, as follows:

1) A High Court judgment was delivered on 25 November 2022 (*Bank of Ireland Mortgage Bank v Niall Hade and Joyce Hade* [2014/1416S] and *Niall Hade v Bank of Ireland Mortgage Bank and Michael McAteer* [2014/4328P]), concerning the appointment of a receiver and enforcement of security over a number of properties. The court held that, while the charge holder was entitled to appoint a receiver over

certain properties, court orders for possession and sale of those properties should have been obtained by the receiver before concluding sales, citing section 97 and section 100 of the 2009 act, respectively. The Conveyancing Committee understands that this decision is under appeal and that, while the Land Registry is considering the impact of the judgment, it has withheld completion of registration in some receiver sale cases. Until an appeal is determined, the Conveyancing Committee recommends that practitioners acting in the sale of a property by a receiver should consider carefully, before entering into a contract, whether sections 97 and 100 of the 2009 act have application, and whether necessary court orders should be obtained.

2) Sales by the registered owner of a charge require a court order or borrower consent under section 100 of the 2009 act, unless that section has been properly disapplied in the relevant charge. This is permitted where the charge is not a 'housing loan mortgage', as defined by the 2009 act, which, in turn, requires an analysis of whether the charge secures a 'housing loan'. The Conveyancing Committee's atten-

tion has been brought to a Land Registry practice, which suggests that, in applying for registration of a transfer from a charge holder where the registered owner is not a body corporate, the applicant should lodge evidence of the court order or consent required under section 100, or evidence that the charge is not a 'housing loan mortgage'. The Land Registry, in turn, suggests that a solicitor's certificate be provided to the effect that the charge is not a 'housing loan mortgage', and that the registered owner did not act as a 'consumer' within the meaning of consumer credit legislation at the relevant time. The Conveyancing Committee recommends that practitioners should not provide such a certificate, and that such a certificate should only be provided by a person authorised to do so on behalf of the charge holder, or by way of a certificate contained in the relevant deed of assurance. Whether a borrower acted as a 'consumer' or whether the underlying loan was a 'housing loan mortgage' is likely to be beyond the knowledge of a solicitor representing the vendor/charge holder, and certainly will be beyond the knowledge of a solicitor acting for a purchaser.

REGULATION

THE HIGH COURT: 2023 NO 21 SA

● **In the matter of Edward O'Brien, a solicitor previously practising as Edward O'Brien Solicitors, 8A The Village Centre, Lucan, Co Dublin**
Law Society of Ireland (applicant)
Edward O'Brien (respondent solicitor)

Take notice that, by order of the President of the High Court made on 8 May 2023, it is ordered that Edward O'Brien, solicitor, previously practising as Edward O'Brien Solicitors, 8A The Village Centre, Lucan, Co Dublin, be suspended from practice and

be prohibited from holding himself out as a solicitor entitled to practise until further order of the court.
Niall Connors, Registrar of Solicitors, Law Society of Ireland, May 2023

“We needed someone who understood business, finance and how to cut a commercial deal.”

Quote from parties to an acrimonious shareholder dispute.



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WILLS

Browne, Nuala Christina (deceased), late of 214 Cashel Road, Kimmage, Dublin 12, who died on 18 December 2021. Would any person having knowledge of the whereabouts of a will made by the above-named deceased on 24 March 1999, or any other will made by her, please contact Spelman Callaghan Solicitors, Corner House, Main Street, Clondalkin, Dublin 22 (ref: BS/FM/SOL0005/1); tel: 01 457 4522, fax: 01 457 2041, email: clondalkin@scsolitors.ie

Burke, Esther (née Golden) (formerly Esther Coy) (deceased), late of Legros, Ballysilla, Oylegate, Enniscorthy, Wexford; formerly of 29 Heathfield, Clonard, Wexford; formerly of Davitt Road, Wexford. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 9 March 2022, please contact Niamh Moriarty & Co, Solicitors, Parnell Road, Enniscorthy, Co Wexford; tel: 053 923 7666, email: trish@niamhmoriarty.ie

Cahill, Teresa (deceased), late of 'Inglewood', 10 Temple Road, Dartry, in the city of Dublin, who died on 17 December 2018. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Trea McGuinness, solicitor, BHSM LLP Solicitors, 76 Baggot Street Lower, Dublin 2; tel: 01 440 8330, email: tmcguinness@bhsml.ie

Carruth, Alice (née Eager) (deceased), late of 9 Mount Eustace Crescent, Tyrrellstown, Dublin 15, who died on 22 January 2023. Would any person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact Lacy Walsh Solicitors LLP, 26 Fitzwilliam Square, Dublin 2; tel: 01 662 4810, email: maurice@lacywalsh.ie

Connolly, Seamus (deceased), late of Derrymullen, Robertstown, Naas, Co Kildare, who died on 15 November 2010. Would anybody having knowledge of the whereabouts of the will of the above-

RATES

PROFESSIONAL NOTICE RATES

RATES IN THE PROFESSIONAL NOTICES SECTION ARE AS FOLLOWS:

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

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ALL NOTICES MUST BE PAID FOR PRIOR TO PUBLICATION. ALL NOTICES MUST BE EMAILED TO catherine.kearney@lawsociety.ie and PAYMENT MADE BY ELECTRONIC FUNDS TRANSFER (EFT). The Law Society's EFT details will be supplied following receipt of your email. **Deadline for July 2023 Gazette: 19 June 2023.**

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*.

named deceased please contact Robert Coonan, Solicitors, Bradfield House, Kilcullen, Co Kildare

Glass, Dr William Kenneth (otherwise Ken, otherwise Kenneth) (deceased), late of 6 Hainault Lawn, Foxrock, Dublin 18, who died on 13 January 2023. Would any person having knowledge of the whereabouts of any will executed by the said deceased please contact Hamilton Sheahan and Co, Solicitors, Main Street, Kinnegad, Co Westmeath; DX 235001 Kinnegad; tel: 044 937 5040, email: roisin@hamiltonsheahan.ie

Kelly, Philomena (née Ridgeway) (deceased), late of 11 Millmount Place, Drumcondra, Dublin 9, formerly of 153 Lower Drumcondra Road, Dublin 9, who died on 13 October 2022. 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 Thorpe & Taaffe Solicitors, 1 Main Street, Finglas, Dublin 11; DX 8005; tel: 01 834 4959, email: annalisa@thorpetaaffe.ie

Kelly, Vera (deceased), late of Pound Farm, Castletownshend, Skibbereen, Co Cork, who died on 22 March 2023. 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 con-

tact with the deceased regarding her will, please contact HD Keane Solicitors LLP, 22 O'Connell Street, Waterford City; tel: 051 874 856, email: lucy.blake@hdkeane.com

McLoughlin, John (deceased), late of Peel Hall, Ballytore (otherwise Ballitore), Athy, Co Kildare. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased, who died on 17 January 2023, please contact Eoin O'Connor, O'Connor McCormack Solicitors LLP, 16 South Main Street, Naas, Co Kildare; tel: 045 875 333, fax: 045 875 637, email: info@oconnormccormack.ie

Moore, Ciaran R (deceased), late of 79 Swilly Road, Cabra, Dublin 7,

who died on 19 March 2023. Would any person holding or having knowledge of any will made by the above-named deceased please contact Mackey O'Sullivan Binchy LLP Solicitors, 10 Merrion Square, Dublin 2; tel: 01 661 5655, email: reception@mosb.ie

O'Neill, Catherine (otherwise Cathy/ Kathy/ Elizabeth) (deceased), late of Tinornan, Baltinglass, Co Wicklow, and also Willow Way Ward, Baltinglass Community Hospital, Baltinglass, Co Wicklow, who died on 28 March 2023. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact James Cody & Sons, Solicitors, The Parade, Bagenalstown, Co Carlow; tel: 059 972 1303, email: abyrne@jamescody.ie

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Peppard, Desmond (deceased), late of 24 Norseman Court, Manor Street, Dublin 7, formerly 168 Castle Curragh Vale, Mulhuddart, Dublin 15, and 74 Fort Lawn Park, Blanchardstown, Dublin 15, who died on 23 June 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Phil Brady, Brady & Co, Solicitors, High Street, Trim, Co Meath; tel: 046 943 1034, email: info@bradyandcosolicitors.com

Power, Andrew (deceased), late of Kilsteague, Annewstown, Co Waterford, who died on 11 November 1995. Would any firm having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in contact with the deceased regarding his will, please contact HD Keane Solicitors LLP, 22 O'Connell Street, Waterford City; tel: 051 874 856, email: lucy.blake@hdkeane.com

Trodden, Patrick (deceased), late of 12 Woodfarm Avenue, Palmerstown, Dublin 20, and Willowbank Cottage, Blacklion, Greystones, Co Wicklow. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 13 March 2023, please contact Hibernian Law Solicitors, Pentium House, 8A Old Lucan Road, Dublin 20; tel: 01 872 3059, email: info@hibernianlaw.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 **Liam Saunderson and Derek Dalton as personal representatives of Maureen Meehan (deceased)**

Any person having a freehold estate or any intermediate interest in all that and those 152 North Strand, Dublin 1, being portion of premises the subject of a lease dated 21 June 1882 between Michael J Ralph of the one part and Henry Lawless of the other part, for a term of 190 years from 1 July 1882 at a rent of £10 per annum, the said lease being a sublease created out of a superior head-lease dated 3 November 1875 between Jonathan Doorley of the one part and Michael J Ralph of the other part for a term of 200 years from 1 November 1875 at a rent of £60 per annum.

Take notice that Liam Saunderson and Derek Dalton, as personal representatives of Maureen Meehan (deceased) (the applicants) intend to apply to the county registrar of the county of Dublin to vest in them the fee simple and any intermediate interests in the said property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to same to the below-named within 21 days from the date of this notice.

In default of any such notice being received, the applicants intend 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 appro-

priate on the basis that the person or persons beneficially entitled to the superior interests including the freehold reversion in the aforesaid property are unknown or unascertained.

Date: 2 June 2023

Signed: Mason Hayes & Curran (solicitors for the applicants), South Bank House, Barrow Street, Dublin 4

In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of premises situate at 42 Cabra Park in the manor of Grangegorman, barony of Coolock, and county of Dublin: an application by **Star Stone Property Investment Limited in its capacity as general partner of Star Stone Property Investment Fund 3 Limited Partnership**

Take notice any person having any interest in the freehold or leasehold estate of the following property: all that and those the premises previously known as 21 Cabra Park, Phibsborough, Dublin 7, and now known as 42 Cabra Park, Phibsborough, Dublin 7, being the premises comprised in and demised by indenture of lease dated 30 August 1899 between Charles Coates of the one part and George Murray of the other part, and therein described as "21 Cabra Park, Phibsborough ... situate in the manor of Grangegorman, barony of Coolock, and county of Dublin", for the term of 199 years from 25 March 1899, subject to the yearly rent thereby reserved and to the covenants and

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conditions on the part of the lessee therein contained.

Take notice that Star Stone Property Investment Limited, having its registered offices at 9 Bridge Street, Ashbourne, Co Meath, in its capacity as general partner of Star Stone Property Investment Fund 3 Limited Partnership, intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest of the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the aforementioned premises to the below-named solicitors within 21 days of the date of this notice.

In default of any such notice being received, Star Stone Property Investment Limited, in its capacity as general partner of Star Stone Property Investment Fund 3 Limited Partnership, intends to proceed with the application before the county registrar at the end of the 21 days from the date of this notice and will apply to the county registrar for the county of the city



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An Roinn Dlí agus Cirt
Department of Justice

of Dublin for directions as may be appropriate on the basis that persons beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date: 2 June 2023

Signed: Frances E Barron & Company LLP (solicitors for the applicants), 1A Ashbourne Court, Ashbourne, Co Meath

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

Take notice any person having any superior interest (whether by way of freehold estate or otherwise) in "all that and those that piece or parcel of ground, together with the houses now standing thereon and the field at the rear of said houses, now in the occupation of Bridget O'Rourke, widow of the late Thomas Patrick O'Rourke, containing about one rood, subject to the tenancies of the several persons now in occupation thereof, as set out in the schedule hereto, which said premises are bounded on the north by Castle Lane, on the south by Chapel Lane, on the east by the chapel ground and premises in the possession of Thomas O'Brien, lessor, and on the west by the field in the possession of Kate McCarthy, situate in Kilfinane, barony of Cochlea, and county of Limerick, which said premises are more particularly delineated and described on the map drawn thereon", held under a lease dated 18 April 1904 (the 'lease') made between Lieutenant Colonel Frederick Richard Thomas Trench Gascoigne of the one part and the Most Reverend Edward Thomas O'Dwyer and the Very Reverend John Carrick of the other part, for the term of 999 years from 25 March 1904 at the yearly rent of five pounds.

Take notice that Eileen Teresa Browne, Catherine Mary Neenan, and Teresa Murphy, as lessees of the said property under the lease, intend to submit an application to the county registrar for the county of Limerick for acquisition of the freehold and any intermediate interests in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them) are called upon to furnish evidence of their title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicants 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 the county of Limerick for directions as may be appropriate on the basis that the persons beneficially entitled to all superior interests including the freehold reversion in the premises are unknown or unascertained.

Date: 2 June 2023

Signed: Mason Hayes & Curran (solicitors for the

applicants), South Bank House, Barrow Street, Dublin 4

In the matter of the Landlord and Tenants 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 in respect of the premises known as 23 and 23a Leinster Square, Rathmines, Dublin 6

Any person having an interest in 23 and 23a Leinster Square, Rathmines, Dublin 6, the subject of an indenture of lease dated 4 September 1928 between Godfrey Robert Wills Sandford and Howard Rundell Guinness of the first part, and Amy Henrietta Wills and Sandford Wills of the second part, and Charles Joseph Priest and Frederick James Priest and Edward Percy Maybury Butler and Herbert Wood of the third part, whereby the premises then known as 14, 15, 16, 17, 18 and 19 Leinster Square, and now known as 20, 21, 22, 23, 24 and 25 Leinster Square, Rathmines, in the city of Dublin, were demised to Charles Joseph Priest, Frederick James Priest, Edward Percy Maybury Butler, and Herbert Wood for the term of 153 years from 25 March 1928, subject to the yearly rent of £59.

Take notice that Brian Cusack and Maureen Cusack intend to submit an application to the county registrar for the city of Dublin for the acquisition of the fee simple and any intermediate interest in that part of the premises demised by the lease and known as 23 and 23a Leinster Square, Rathmines, Dublin 6, and any party asserting that they hold a superior interest in the aforesaid premises is called upon to furnish evidence of their title to the below named within 21 days from the date of this notice.

In default of any such notice being received, Brian Cusack and Maureen Cusack 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 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 each of the aforesaid premises are unknown or unascertained.

Date: 2 June 2023

Signed: Rochford Gibbons (solicitors for the applicants), 16/17 Upper Ormond Quay, Dublin 7

In the matter of the Landlord and Tenant (Ground Rents) 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 Irish Life Assurance PLC and in the matter of the property known as 1 Adelaide Road, Dublin 2

Take notice any person having an interest in the freehold estate or any intermediate interest(s) of the property known as 1 Adelaide Road, Dublin 2,

now held under three fee farm grants as follows: fee farm grant dated 20 June 1837, made between Rev Mathew Daniel Peter of Peter Place in the county of Dublin of the one part and Benjamin Bradford, Esquire, of Adelaide Road in the county of Dublin of the other part, subject to a yearly rent of £8.10, together with 1/25th of £8.10, and subject to the covenants and agreements therein contained; and fee farm grant dated 21 June 1838, made between Rev Mathew Daniel Peter, granted to John Battersby, which commenced subject to a yearly rent of stg£9 and subject to the covenants and agreements therein contained; and fee farm grant made between John Synge and Walter Peter, which commenced on 10 December 1939, subject to a yearly rent of £9, 7 shillings and 5p and, subject to the covenants and agreements therein contained, the premises 1 Adelaide Road is now subject to the increased perpetual rents of £19, £9, £8.50, £7.45 and £2.20, with £4.50 indemnified of the perpetual rent of £8.50.

Take notice that the applicant, Irish Life Assurance PLC, being the person entitled to the lessees' interests under the said leases, intends to submit an application to the county registrar for the county and city of Dublin for the acquisition of the freehold interest and any intermediary interests in the aforementioned property, and that any party asserting a superior interest or any intermediate inter-

est in the aforementioned property, including the freehold reversion, is called upon to furnish evidence of such title to the aforementioned property to the under-mentioned solicitors within 21 days from the date of this notice.

Take notice that, in default of such notice being received, the applicant, Irish Life Assurance PLC, 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 in the county and city of Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest or any intermediary interests, including the freehold reversion, to the aforementioned property is unknown or unascertained.

Date: 2 July 2023

Signed: Mason Hayes and Curran (solicitors for the applicant), South Bank House, Barrow Street, 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 premises at 106 Oliver Plunkett Street in the city of Cork, which premises were demised by a lease made 16 July 1928 from Rose Olive Elizabeth Crosse as the mortgagee, and William Joseph Goold as the lessor, to Eugene Crowley and Ellen Crowley as the lessees, for

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a term of 99 years from 5 March 1928, and in the matter of an application by Mary Gibney

Take notice any person having any superior interest (whether by way of freehold interest or otherwise) in the following property, or who owns any encumbrance on the following property: the premises at 106 Oliver Plunkett Street in the city of Cork, the subject of a lease dated 16 July 1928 and made between Rose Olive Elizabeth Crosse of the first part and William Joseph Goold of the second part and Eugene Crowley and Ellen Crowley of the third part, for a term of 99 years from 5 March 1928 at the yearly rent of £40.

Take notice that Mary Gibney, who now holds the lessee's interest in the said property, intends to submit an application to the county registrar for the county of Cork for the acquisition of the freehold interest and any intermediate interest and any superior interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them), including but not

limited to any person claiming to be entitled to the mortgagee's interest of Rose Olive Elizabeth Crosse of Monkstown in the county of Cork, or lessor's interest of William Joseph Goold, c/o Lloyds Bank (Cox and King's Branch), Pall Mall, London, are called upon to give notice of their said claim and furnish evidence of their title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Mary Gibney intends to proceed with the application before the county registrar for the county of Cork at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Cork 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 premises are unknown or unascertained.

Date: 2 June 2023

Signed: Galvin Donegan LLP (solicitors for the applicants), 91 South Mall, Cork

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PRO BONOBO

Yes, we have no bananas

● An installation by Italian artist Maurizio Cattelan was eaten by a student who visited Seoul's Leeum Museum of Art recently, NPR reports.

The work in question, *Come-dian*, features a banana duct-taped to a wall. It's social commentary, or something... Given the short shelf-life of bananas, they are regularly replaced. The bendy fruit reminded Noh Huyn-soo that he had skipped breakfast that morning. As his visit to the gallery neared lunchtime, Noh seized the banana and ate it, ignoring the alarmed cries of museum staff. The artwork is estimated to be worth US\$120,000.

The museum decided not to pursue Noh for damages, while the artist was said to have seen the funny side.



The day the music died

● A London musician has been told she'll be fined £5,000 for playing any instrument in her own home. [Musicradar.com](#) reports that instrumentalist Fiona Fey was told that the law prevents her and other musicians from practising in their own homes.

"I was served a noise-abatement notice that forbids me to play any musical instru-



ment in my home at any time," she said.

Fey usually practises singing, guitar, and low whistle "at the volume of a conversation" between 11am and 3pm. "The environmental health officers stated that volume and time of day is irrelevant. Any music noise that can be heard by someone else can be classified as a nuisance."

Who's yo' daddy?

● Judges in the Netherlands have ordered a man to stop donating sperm, [RTÉ](#) reports.

The 41-year-old man, suspected of fathering more than 550 children through donations, was taken to court by a foundation protecting the rights of donor children and the mother of one of the children allegedly fathered from his sperm.

Dutch clinical guidelines say that a donor should not father more than 25 children in 12 families. Judges have estimated that the prolific donor helped to produce between 550 and 600 children since 2007. [g](#)

Penury for pothole pensioner?

● An Italian pensioner has been fined €882 for fixing a pothole, [The Guardian](#) reports.

Claudio Trenta (72) was so frustrated by the local council's failure to repair a 30cm pothole on a pedestrian crossing in Barlassina, Lombardy, that he took

matters into his own hands and filled it with bitumen. Trenta says he reported the pothole several times, but nothing was done.

Trenta shared the letter accusing him of violating the highway code, which he received from local police, on social media.

He was fined for carrying out a potentially dangerous job in a public space without permission or the competence to do so. He has been ordered to restore the hole, and says that he is filing a countercomplaint against the council for negligence.

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