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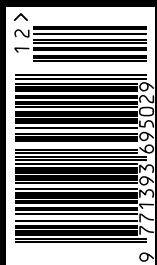


LAW SOCIETY OF IRELAND



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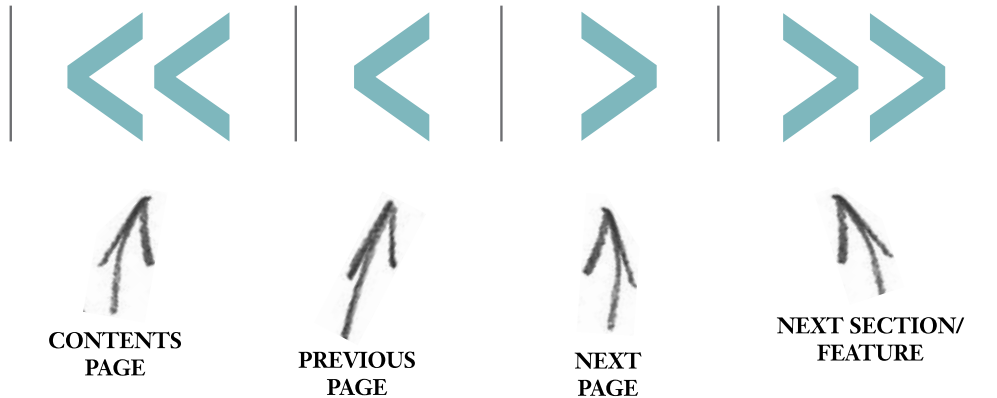
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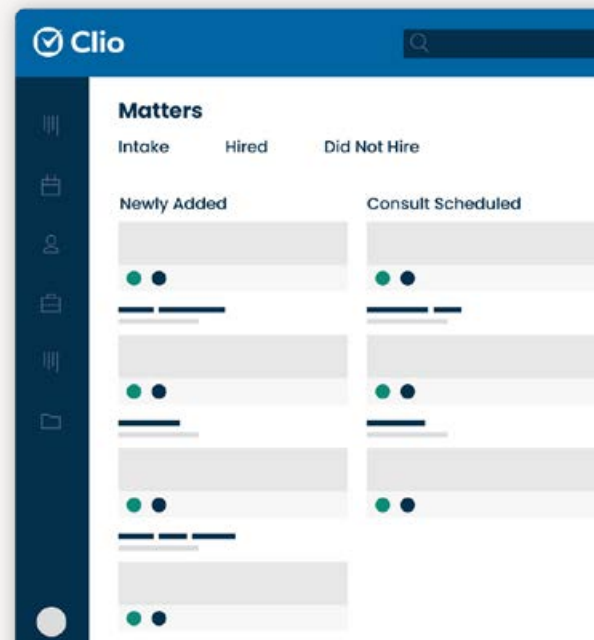
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NASA PHOTO BY BILL INGALLS/UPI CREDIT: UPI/ALAMY LIVE NEWS

THE BIG PICTURE

SPACE COWBOYS' DEEP IMPACT

The SpaceX *Falcon 9* rocket launches from California with the Double Asteroid Redirection Test – or DART – spacecraft onboard. DART aims to be the world's first full-scale planetary-level defence test, demonstrating one method of asteroid deflection technology that will be familiar to aficionados of Hollywood disaster sci-fi blockbusters. The mission was built and is managed by Johns Hopkins APL for NASA's Planetary Defence Coordination Office. *Death Star* it ain't, but we have to start somewhere...

CALCUTTA RUN RAISES €500K FOR HOMELESS DURING PANDEMIC



The solicitors' profession has raised €500,000 during its legal fundraiser, the Calcutta Run, since the start of the pandemic. This brings the total amount raised over the last 23 years to a staggering €4.8 million in the fight against homelessness in Dublin and Kolkata. On 18 November, Law Society President Michelle Ní Longáin presented the Calcutta Run's charity partners, the Peter McVerry Trust and The Hope Foundation, with cheques for €100,000 each at the annual cheque handover ceremony at Blackhall Place. Pictured are Michelle Ní Longáin and Pat Doyle (CEO Peter McVerry Trust)



The 23rd annual Calcutta Run took place virtually for the second time this year from 17 September to 26 September. Law Society President Michelle Ní Longáin presents a Calcutta Run cheque for €100,000 to Charlotte Kavanagh (The Hope Foundation)



(Back, l to r): Charlotte Kavanagh (The Hope Foundation), Michelle Ní Longáin (Law Society president), and Pat Doyle (CEO, Peter McVerry Trust); (front, l to r): Eoin Mac Neill, Mick Barr, and Joe Kelly (A&L Goodbody)



(Back, l to r): Charlotte Kavanagh (The Hope Foundation), Michelle Ní Longáin (Law Society president), and Pat Doyle (CEO, Peter McVerry Trust); (front, l to r): Andrea Borain and Clodagh Ruigrok (both William Fry)



(Back, l to r): Charlotte Kavanagh (The Hope Foundation), Michelle Ní Longáin (Law Society president), and Pat Doyle (CEO, Peter McVerry Trust); (front, l to r): Fiachra MacElhatton and Ciara Ryan (both Maples Group)



(Back, l to r): Charlotte Kavanagh (The Hope Foundation), Michelle Ní Longáin (Law Society president), and Pat Doyle (CEO, Peter McVerry Trust); (front): Peter Fahy (Eversheds)



(Back, l to r): Charlotte Kavanagh (The Hope Foundation), Michelle Ní Longáin (Law Society president), and Pat Doyle (CEO, Peter McVerry Trust); (front): Sarah Kelly (The Panel)



(Back, l to r): Charlotte Kavanagh (The Hope Foundation), Michelle Ní Longáin (Law Society president), and Pat Doyle (CEO, Peter McVerry Trust); (front): Dermot Furey (Gartlan Furey)

FEARLESS DG ABSEILS DOWN SMITHFIELD TOWER



Director general Mary Keane got roped into a Calcutta Run fundraising event that demanded a head for heights. On 20 October, Mary abseiled down Smithfield Tower, Dublin, in the company of five other legal eagles. Pictured with Mary (centre) are (from left) Peter Fahy (partner, Eversheds Sutherland), David McGovern (partner, Walkers Ireland), Alex McLean (partner, Arthur Cox LLP), Daniel McNamara BL, and Tony O'Sullivan (partner, Beauchamps LLP). Their exploits added a five-figure sum to the event's coffers

ALL PICS: JASON CLARKE PHOTOGRAPHY



PRESIDENT, DG ATTEND VIRTUAL MAYO SOLICITORS BAR ASSOCIATION MEETING



P.C.: CIAN REDMOND

Attending the meeting on 3 November were (top, l to r): James Cahill, Mary Keane, Patrick Dorgan, and Stuart Gilhooly; (second row, l to r): Marc Loftus, Sorcha Hayes, Douglas Kelly, and Ita Feeney; (third row, l to r): Catherine Bourke, Samantha Geraghty, Elizabeth Gallagher, and Pat O'Connor

FIVE NEW PARTNERS FOR RONAN DALY JERMYN



Ronan Daly Jermyn has appointed five new partners across its corporate, employment, healthcare, litigation and real estate practices (l to r): David Phelan (real estate), Michelle Ryan (employment), Richard Martin (managing partner), Marie Gavin (corporate and commercial), Michael Quinlan (litigation) and Ruth Finnerty (healthcare)

HOMS APPOINTS NEW PARTNERS



Holmes O'Malley Sexton LLP has appointed Rachael O'Shaughnessy and Sean Fitzgerald as partners in HOMS Assist. Rachael leads the firm's medical negligence service, while Sean heads up HOMS Assist's workplace accidents team; (l to r): Sean Fitzgerald, Robert Bourke (partner), and Rachael O'Shaughnessy

LIFETIME ACHIEVEMENT AWARD 2021



ALL PICS: PAUL SHERWOOD PHOTOGRAPHY

The 2021 Irish Law Awards 'Lifetime Achievement Award' was presented to Mr Justice Michael Peart, the first solicitor appointed to the High Court. (More pictures from the event, held on 29 October in Dublin, will feature in the Jan/Feb Gazette)



A Special Merit Award was presented to former Law Society director general Ken Murphy for his many years of service to the solicitors' profession



A Special Merit Award went to Tralee solicitor Patrick Mann (Patrick Mann and Co), who represented the Hayes family in the long-running Kerry Babies case



Bill Holohan SC (Holohan Lane LLP) received the 'Lawyer of the Year Award'



'Law Firm of the Year' went to Dublin-based Reddy Charlton LLP

NÍ LONGÁIN NAMED 151ST PRESIDENT

■ Dublin-based Michelle Ní Longáin has become the fifth woman to serve as President of the Law Society – and the 151st person to hold that office. She is joined by senior vice-president Maura Derivan and junior vice-president Eamon Harrington.

Michelle is a senior partner in ByrneWallace LLP, heading the firm's public sector group. She will serve a one-year term as president of the 22,500-strong profession, while continuing in practice.

Michelle comes from Letterkenny, Co Donegal. She attended school in Loreto Convent, Letterkenny, and studied law at Queen's University Belfast.

She qualified as a solicitor in Northern Ireland in 1994, where she practised employment and equality law in McClure & Co. In 1996, she joined Thompsons Solicitors in England before returning to Ireland in 1999, when she joined ByrneWallace LLP.

Michelle has been a member of the Law Society's Council since 2004, and also served as a member of the Council of the Pharmaceutical Society of Ireland (2007-2013). She has chaired the Society's Education and Finance Committees, audit subcommittee, and the Gender Equality, Diversity and Inclusion Task Force.

Three jurisdictions

Her experience of practising in three jurisdictions, and her membership of the councils of two professional regulatory bodies and many of their committees, has helped to inform her advice to clients, particularly in the public and regulatory sectors. She won the Lexology International Law Office Client Choice Award for Employment and Benefits in 2016.

Commenting on her appointment, Michelle said that it was a privilege to serve as president: "I



PIC: CIAN REDMOND

Michelle Ní Longáin with Maura Derivan (senior vice-president) and Eamon Harrington (junior vice-president)

am particularly mindful of the importance of representation for our future female legal leaders, and look forward to building upon the progress made in this area by my predecessors."

Improving diversity

Outlining the core priorities for her term in office, Michelle said that she would continue to focus

on progressing gender equality, diversity, and inclusion in the solicitors' profession. "Looking ahead, we know that the future of this profession is more diverse and more inclusive at all career stages. A key priority for me over the coming year is promoting gender equality, diversity, inclusion and increased access to the profession, including at leadership levels. I

believe that this is very important to ensure that there are more diverse voices in the room."

As chairperson of the Gender Equality, Diversity and Inclusion Task Force, she has worked with her colleagues to position diversity as "a cornerstone of the profession".

Michelle will be focusing on enhancing health and wellbeing matters during her term of office. "It's vital that our members are empowered to access available supports that will help to protect their personal mental health and wellbeing," she commented, adding: "How the Society responds to the urgent priority of climate justice will also be an important focus of mine during the year ahead. We will concentrate on supporting our members to help them become more sustainable in their practices.

"Society and the economy have been dealing with extensive challenges during the past 18 months," she added. "Leading the profession through these challenges, through business recovery, and what follows, will be a priority for me."

COUNCIL ELECTION 2021 – RESULTS

The scrutineers' report of the results of this year's Law Society's Council election declares the following candidates elected (the number of votes received by each candidate appears after each name): Sonia McEntee (1,275), Bill Holohan (1,259), Keith Walsh (1,246), Justine Carty (1,239), Valerie Peart (1,153), Richard Hammond (1,144), Siún Hurley (1,140), Helen Coughlan (1,083), Gary Lee (1,075), Paul Egan (1,059), Brendan Cunningham (1,028), Morette Kinsella (1,011),

Paul Keane (968), Liam Kennedy (915), Susan Martin (880), and Maeve Delargy (863).

As there was only one candidate nominated for the province of Munster, there was no election for that province. The candidate who was nominated and returned unopposed was Shane F McCarthy. As there was more than one candidate nominated for the province of Connaught, an election was held. The winning candidate declared elected was David Higgins.

APPEAL TO SUPPORT AFGHAN JUDGES GRANTED SAFE HAVEN IN IRELAND

■ A coalition of legal bodies in Ireland has been formed to support members of the Afghan judiciary and their families who have been targeted by the Taliban, and who are being offered protection in Ireland.

The Irish Justice Community Response to the Afghan Crisis has been set up to express solidarity and support for Afghan judges, who have faced enormous challenges in recent months. The position of female legal professionals in particular, and judges and lawyers right across Afghanistan, is precarious under the Taliban regime.

The new body aims to help in three ways:

- Offers of housing and accommodation,
- Financial assistance, and



- Providing grassroots **collegiate and professional development support.**

Founders include members of the judiciary led by the International Association of Women Judges and the Association of Judges in Ireland, the Law Society, the Bar of Ireland, and Irish Rule of Law International. The

coalition has the full support of the Government.

Safe passage and protection have already been secured for 11 Afghan female judges and their families by the Irish State. Their arrival in Ireland is imminent.

In preparation, members of the Law Society have generously pledged financial donations, collegiate support, and suitable

accommodation – but more is needed.

A special fund – the Justice Community Fund – has been set up to assist with providing support to the judges and their families. Donations will help these families to start afresh in Ireland and contribute to the cost of food, accommodation, and health and social care.

The Law Society is appealing to all members of the profession to do what they can to support the Justice Community Fund. Contributions, no matter how small, can be made at www.irishruleoflaw.ie/afghanistan_appeal, or make a donation directly by opening your phone camera over the following QR code.



CALCUTTA RUN AIMS TO HIT €5M IN 2022

■ This year’s virtual Calcutta Run has raised €200,000 for the Peter McVerry Trust and The Hope Foundation. Law Society President Michelle Ní Longáin described it as “an outstanding success” at a cheque-presentation ceremony at Blackhall Place on 19 November.

The success of the virtual runs of the past two years has been due to the dedication of law firms, staff, volunteers and sponsors, Ní Longáin said. This year’s event from 17–26 September had participants from Ireland to Sydney, Italy to New York.

Fundraising efforts by charities representing the homeless have been hard hit by the global pandemic, and badly need vital funds to keep their operations running. “They were not let down,” Ní Longáin said, “and everyone in the legal profession should be truly proud of their achievements in this year’s Calcutta Run.”



(Back, l to r): Charlotte Kavanagh (The Hope Foundation), Michelle Ní Longáin (Law Society president), and Pat Doyle (CEO, Peter McVerry Trust); (front, l to r): Andrew Webb (facilities manager), Glen Newman (risk, administration and project executive), Hilary Kavanagh (PPC Hybrid course administrator), and Cillian MacDomhnaill (director of finance, Law Society)

The run has now raised €500,000 virtually over the past two years – and a grand total of €4.8 million during its 23 years of operation.

The goal is to reach the grand total of €5 million in 2022, when the run will celebrate its 24th year.

Of the two charities that benefit from the proceeds, the Peter McVerry Trust provides homeless and housing services, drug treatment and detox facilities, as well as under-18 residential services to Dublin’s homeless. The Hope Foundation in India is dedicated to promoting the

protection of children and the most underprivileged on the streets and in the slums of Kolkata.

The date for next year’s event has been confirmed for 28 May 2022, and the organisers’ fervent hope is that it will be an ‘in-person’ event at Blackhall Place.

PHOTO: CIÁN REIDMOND

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CELEBRATING A CENTENARY OF WOMEN AT THE BAR

■ November 2021 marked the first 100 years of women at the bar, with the admission of Averil Deverell BL and Frances Kyle BL following the enactment of the *Sex Disqualification (Removal) Act 1919*, write Jane Purdom and Aoife McNicholl (*Irish Women Lawyers Association*).

It is hard to believe that only in 1913, Gwyneth Bebb, in seeking to be admitted as a solicitor, was refused by both the High Court and the Court of Appeal on the grounds that she was not a ‘person’ under the *Solicitors Act 1843*.

Since being allowed access to the bar, women have been instrumental in effecting change for all Irish women, through numerous legislative reforms. However, while women barristers have achieved remarkable feats in that time, they are still in the minority of the profession.

Maura McNally SC (chair of the Bar of Ireland) notes that 36% of the Bar is currently female – 40% are junior counsel,



Averil Deverell BL and Frances Kyle BL

but only 18% are senior counsel. We are, therefore, a long way from a legal bar that adequately reflects the diversity of the people it is supposed to serve.

The Bar of Ireland is committed to supporting and increasing the numbers of women at the bar. Their *Equitable Briefing Policy* seeks to raise awareness of unconscious bias in briefing decisions and support the equitable distribution of briefs to

both female and male counsel in all areas of practice. The Bar also fosters an *Equality Action Plan*, which seeks to address the challenges faced by under-represented, disadvantaged and minority groups in pursuing a career at the bar, with a specific focus on gender.

The Bar has also launched initiatives to ensure that, once at the bar, women are equipped with resources to encourage them to

stay. These include a confidential helpline for members; the Dignity at Work Protocol, which supports members in identifying and responding to inappropriate behaviour, such as bullying and harassment; the Law & Women Mentoring Programme; and reduced subscription rates for members taking maternity leave.

The Legal Services Regulatory Authority is *undertaking research* for the Minister for Justice with a particular focus on equity of access and entry into the legal professions, and the objective of achieving greater diversity within the professions.

One hundred years of women at the bar is a cause for celebration and reflection. In recognising all that women have achieved in this time, we must also consider what we can do to build on these endeavours towards achieving equality. It is important that solicitors also do their part by briefing and championing women barristers.

HLJ INVITES SUBMISSIONS FOR 21ST VOLUME

■ The *Hibernian Law Journal* (*HLJ*) is now accepting submissions for volume 21. The journal is particularly interested in receiving articles that examine domestic, European, common or international law, especially those relevant in an Irish context.

Submissions should be between 5,000 and 15,000 words, formatted in OSCOLA Ireland style, and sent to editor@hibernianlawjournal.com by 6pm on 8 January 2022.

Joshua Kieran-Glennon (deputy editor – editorial) says: “Every year since its inception, the journal and its staff have been proud to provide a platform for trainees, practising solicitors, our col-



leagues at the bar, students, and early-career academics to contribute to Irish legal discourse. The standard of submissions received by the journal has always been high, and we are sure this year will be no exception. In light of the significant legal developments

of the past year, we look forward to seeing what this year brings.”

Successful submissions will be published in volume 21 of the *HLJ*, which will be published in hard copy and online (via HeinOnline and Westlaw) in July 2022. An annual prize will

be awarded for the best article, chosen by the journal’s judge-in-residence. A separate prize will be presented by the Law Society for the best article from a trainee solicitor.

Established in 1999 under the patronage of the Law Society, the *HLJ* is edited by trainee and newly qualified solicitors. It is also supported by benefactors drawn from the inner bar and sponsor firms: Arthur Cox, Matheson, and McCann FitzGerald.

Additional information on submission guidelines can be found at <http://hibernianlawjournal.com/submit>. Queries about submissions should be sent to editor@hibernianlawjournal.com.

ENDANGERED LAWYERS CHANG WEIPING, CHINA



Chang Weiping, from Baoji, China, is known for his public-interest litigation in defence of people facing discrimination based on health status, sex, gender identity and sexual orientation. He has provided legal counsel to human-rights defenders, victims of defective vaccines, as well as women, LGBT persons, and persons living with HIV/AIDS and hepatitis B, who face discrimination in the workplace.

He was first detained in January 2020 after he attended a private gathering of lawyers and activists in Xiamen after the '1226 crackdown' targeting human-rights lawyers and citizen activists. He was among a number of those detained. His licence to practise law was suspended, and he was held under 'residential surveillance at a designated location' (RSDL) – in this case, a hotel – for ten days.

In the months following his release, he said that the local police had kept him under surveillance at his home in Baoji, telephoned him daily, and visited him at least once a week.

He was arrested again in October 2020, a few days after openly accusing Baoji police of torture during his January detention. Bail and access to a lawyer were refused. He spent six months under RSDL at an undisclosed location. His father was allowed a brief visit in the presence of security officers at a police station in November 2020.

Arising from a protest in December 2020, many family members

and friends were interrogated and came under surveillance, their mobile phones confiscated. His wife was also frequently visited and threatened. By February 2020, four lawyers had withdrawn from his case, indicating official pressure.

In March, police refused to end his secret detention or grant access to lawyers, on the grounds that it would "impede the investigation or result in the leaking of state secrets".

In April, his family was informed that he was charged with "subversion of state power", punishable by life imprisonment. In July, strenuous efforts were made by his (sixth) lawyer to find out the position. In August, his wife and young son (travelling 1,900km from their home) with a family-appointed lawyer and friends, travelled to the remote Feng County Detention Centre to seek a meeting, and give him money for living expenses. They were refused and lodged complaints to local authorities, but again were stonewalled and got no answers.

He was allowed his first meeting with his lawyers on 14 September, and recounted details of torture and degrading treatment.

Alma Clissmann is a member of the Law Society's Human Rights Committee. She wishes to thank Frontline Human Rights Defenders for their input.

MANAGING PARTNER'S SECOND TERM



ByrneWallace LLP has announced the reappointment of Fergal Brennan as managing partner for a second three-year term. Brennan joined ByrneWallace in 2000. Prior to his election as managing partner in June 2018, he headed the firm's corporate practice from 2011.

Commenting on his reappointment, Brennan said: "Look-

ing forward, I believe that we are very well positioned as one of Ireland's leading law firms to grow and prosper in the years ahead as we support our many clients through a post-pandemic world of challenge and opportunity. I'll certainly be putting all my energy into delivering on that objective to the very best of my abilities."

PINSENT MASON'S NEW OFFICE HEAD



Pinsent Masons has appointed Ann Lalor as head of its Dublin office. Ann succeeds Gayle Bowen, who steps down after three years to focus on her role as head of the Irish investment funds practice.

Managing partner John Cleland said: "The Dublin office has experienced consistent growth since its launch in 2017, and I'm confident it will continue to thrive under her leadership."

Commenting on her appointment, Ann said: "It is an exciting time for us. We have several new

hires joining our talented team, a comprehensive trainee programme in place, and our focus on diversity, wellbeing and inclusion has inspired a number of our people to help drive the local and global initiatives, which are felt within the culture of the office. We have made a great start in Ireland, and I look forward to further strengthening the office in the years ahead."

The firm's Dublin office has expanded into a team of more than 60 staff, including ten partners and 41 lawyers.

BUSY TERM AT LAW SOCIETY HELM

■ Mary Keane has enjoyed a busy nine months at the helm of the Law Society since taking over as director general from Ken Murphy, who retired last March.

She is the first woman to hold the director general position in the Society's 191-year history. Mary stepped into the role on an interim basis and will soon hand over the reins to the incoming director general Mark Garrett, who is set to join the Society on 3 January.



PIC: CIAN REDMOND

NEW McCANN MANAGING PARTNER



■ McCann FitzGerald LLP has announced the appointment of Stephen Holst as its incoming managing partner, effective May 2022. Stephen will succeed Barry Devereux after his second term ends in April 2022. Stephen is currently a partner in the firm's employment, pensions and incentives group, and its disputes group. Catherine Deane (chair, McCann

FitzGerald LLP) said: "Understanding we live in a different world, with a changing business and operating environment, Stephen has the expertise, ambition and vision to guide the firm forward."

She thanked Barry Devereux for his "outstanding contribution to the firm as managing partner over the past seven years".

MAYO'S NEW PRESIDENT



PIC: JOHN O'GRADY PHOTOGRAPHY

Mayo Solicitors' Bar Association immediate past-president Dermot Morahan (Oliver P Morahan & Son) congratulates incoming president Marc Loftus (Bourke, Carrigg & Loftus Solicitors) following the handing over of the chain of office at the association's recent AGM

IRLI IN MALAWI MALAWI FAILING CHILDREN IN DETENTION



On 5 June 2018, the Malawian High Court, in *R v Children in Detention at Bvumbwe and Kachere* (Review Case 21 of 2017), ordered the release of all children in prison. The court held that children should only be detained in exceptional circumstances before a finding of responsibility is made against them and that, where a detention order is made, the child should be detained in a safety home.

The recent case of *Francis Kapu & others v The State* (Miscellaneous Criminal Review No 5 of 2021) emphasised that children should not be detained, and the court noted with concern that, despite the ruling in the Bvumbwe case, children were still being arrested and placed in detention.

Malawian law is well documented and concise, and provides that no one under 18 shall be detained in a prison while awaiting trial, nor even after conviction (*Child Care Protection and Justice Act 2010* [CCPAJA]). Instead, they must be kept in a place of safety or a reformatory centre.

Where a detention order is made against a child before liability against the child is made, it is the requirement of the law that such detention should be in a safety home. Section 2 of the CCPAJA defines a safety home as "an appropriate place where

a child in need of care and protection can be kept temporarily, and includes a foster home".

In practice, however, children not yet found liable of offences are detained in police custody, some for prolonged periods. This has subjected children to an environment that does not take into account their vulnerabilities and is harmful to their physical and mental development.

The main issue is lack of compliance with the Constitution, the CCPAJA, and court orders by relevant duty bearers. It appears that a culture of acceptance has taken over, instead of a push to sustainably resolve the issue of child detention.

The road map for change has been put forward by the CCPAJA and the courts. In the *Kapu* case, the relevant minister was directed to identify sites and declare safety homes. However, the ministry took a different approach, and stated that all street children will be arrested if they are found to be homeless.

The continued efforts by civil society to advocate and litigate cases of children who have been in custody or detained at a place not authorised by the law are commendable. However, permanent solutions are urgently required.

Immaculate Maluza is IRLI programme lawyer – Office of the DPP, Malawi.

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MALCOLM FRASER, 1962 – 2021

■ On 2 September 2021, our much-loved friend and colleague Malcolm Fraser passed away peacefully after a long illness.

Malcolm attended The High School, Rathgar, and from there progressed to Trinity College, Dublin, where he graduated with a degree in ESS (1984). Malcolm completed his apprenticeship in Eugene F Collins in the late '80s – a period he valued both for the experience gained and the enduring friendships made.

Following qualification, Malcolm joined the firm of Hussey O'Higgins, Ballsbridge, where he worked assiduously for his entire career, becoming managing partner of what became Hussey Fraser Solicitors – one of the foremost personal-injury and construction law practices in the country.

While Malcolm loved law and revelled in the 'cut-and-thrust' of practice, he was also an astute businessman with an entrepreneurial spirit, constantly exploring ways to generate an efficient, service-driven and progressive practice. He nurtured and respected his team and delighted in their individual and collective success.

Malcolm was a trusted advisor who unwaveringly dedicated himself to serving his clients' best interests, while always



remaining an unfailingly courteous and respected colleague. He had an abiding sense of justice and believed that the system could ultimately be relied upon to deliver. He was known to be meticulously prepared and to maintain a calm presence and a sense of humour in the white heat of a tension-filled hearing.

In the words of one counsel who worked with Malcolm on

many occasions: "I can truly say it was a privilege to have received his trust, faith, and friendship. Malcolm was a gifted lawyer and the ideal solicitor. He was highly intelligent, hard-working, forward-thinking and discreet. He had a steely determination and was a tough negotiator. One always knew that the client and the case was safe in Malcolm's hands."

Alongside his career success, Malcolm had a deep sense of humanity and an appreciation for what really mattered in this life. This was reflected in his significant *pro bono* work, in addition to his voluntary work as chairman of Care Local (now Crosscare), and as an esteemed board member of the Dogs Trust Charity. Malcolm enjoyed the outdoors and was an accomplished skier, enjoyed hiking with his pals, and was a popular member in both Powerscourt and Lahinch Golf Clubs.

He had a great capacity for friendship and a unique ability to relate to people from all walks of life. He was a true gentleman to the end, resolute and gracious in the face of his challenging illness. He was deeply appreciative of the care and support he received from a broad circle of friends, and especially from his loving wife Shirley, for whom his loss is immense and his memory will be cherished.

Malcolm is also deeply mourned by his parents Bill and Connie, his brothers Simon and Sandy, sister Moira, sisters and brother-in-law, nephews, nieces, cousins, many friends, especially Jack and colleagues, including all of the team at Hussey Fraser Solicitors.

SH

LEGAL EZINE FOR MEMBERS

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

Make sure you keep up to date: subscribe on www.lawsociety.ie/newsletters or email eZine@lawsociety.ie.



LAW SOCIETY
OF IRELAND



Our 'Ask an expert' section deals with the wellbeing issues that matter to you

HOW DO I CALM DOWN ANGRY CLIENTS?

Q I am a solicitor in family practice. I sometimes have to deal with challenging phone calls from clients who are irate. Although I am clear on the correct course of action, I find it hard to know how long to let them vent, and how to calm them down, so that I can move the conversation forward and solve their problem.

A Dealing with irate calls from clients can be challenging for a number of reasons. As you say, it is hard to know how long to let them vent. It can be difficult to isolate the issue if the caller is emotional, you may not have an immediate solution, and it is hard not to take the anger personally.

In training that I have facilitated on this topic, we share some general tips:

- It is important to listen. Even if you think you know the answer, suspend judgement and listen.
- Take notes. This helps with listening effectively, capturing important information, and providing a re-

cord of the discussion.

- Stand up. Many people find it helps them to stay cool and confident if they stand up. As your voice is projected in a different way, it can help you to take control of the conversation.
- Ask questions and take a problem-solving approach.
- Focus on what you can do.
- Offer options. This turns the focus to solutions and away from the problem, once acknowledged.
- Remember – it's not personal. The person is irate for a reason. They are asking you to help them. It may sound like a personal attack, but it is generally a result of what has happened to them. Put yourself in their shoes. If you imagine the caller is a family member looking for help, it's a good way to tune in (known as the 'Grandma Rule').

With regard to the structure of the conversation, we recommend following the 'HEAL' technique:

- Hear the client,
- Ease the tension,

- Act to improve the situation, and
- Leave on a positive note.

If you follow these four steps, it will make life a lot easier when handling challenging client calls.

The most important step, and the one that is most often omitted, is the 'E' – ease the tension (that is, empathise). Many people forget to empathise and to let the person know that they understand. If we do not acknowledge the human emotion, we cannot proceed to doing business. If, for example, a client says: "I am very angry that...", it is critical that you acknowledge the emotion presented. So say: "I understand that you are very angry..."

This gives you permission to move forward. If you don't acknowledge the emotion presented, the person will either repeat it until you do, or their emotion will escalate, making it more difficult to handle them.

In an extreme case, where a caller is very abusive and uses threatening language, you can implement the 'Three Strikes

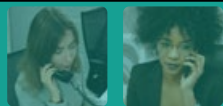
Rule'. This involves politely asking the person to refrain from using threatening language or behaviour. If it continues, you repeat the warning and, on the third occasion, you can let them know that you are terminating the call.

If you do handle irate calls, be sure to be kind to yourself afterwards. Share it with a colleague, take a walk, have a cup of coffee, or just take a break to unwind.

To submit an issue you'd like to see addressed in this column, email professionalwellbeing@lawsociety.ie. Confidentiality is guaranteed.

This question and answer are hypothetical, and were written by Naoise Blake (Naoise Blake Training and Development). Any response or advice provided is not intended to replace or substitute for any professional psychological, financial, medical, legal, or other professional advice.

LegalMind is an independent and confidential mental-health support available to Law Society members and their dependants, 24 hours a day, and can be contacted at 1800 81 41 77.



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DIGNITY MATTERS 'DISTORTS REALITY'?

From: Ronan O'Brien, partner, TP Robinson, Solicitors, Fitzwilliam Street Upper, Dublin 2

I refer to the recent publication of the *Dignity Matters* report.

In the Society's *eZine* of 21 July 2021, it was reported that a sample size of 10% had been achieved. It seems to me that a survey result based on only 10% of those the survey set out to capture cannot be viewed as credible.

This survey was announced last May as "a landmark survey". It has always puzzled me how a survey could be described as 'landmark' before it was carried out. It suggests to me an element of premeditation.

In my view, this report distorts reality and misrepresents the profession. The sad thing



is that it will be used by others, especially journalists, to cast

obloquy on the profession, and this is something the profession

does not need, and certainly does not deserve.

DIGNITY MATTERS FINDINGS 'SIGNIFICANT, ROBUST, AND CREDIBLE'

From: Teri Kelly, director of representation and member services, Law Society of Ireland

In response to Ronan O'Brien's comments, I would make the following points.

The *Dignity Matters* research consisted of quantitative research (a survey of 1,565 individuals) and qualitative research (open-ended questions in the survey and interviews).

In relation to the quantitative research, the margin of error for 1,565 responses out of a total 15,217 population of solicitor

members is $\pm 2.35\%$ with a 95% confidence level. This means that the maximum variation between the real population value (that is, had the entire population of 15,217 members answered the survey) and that of the survey findings is 2.35%, at least 95% of the time.

In relation to the qualitative research, there is a 'saturation' point where adding more input does not add any more to the data collected, because all relevant themes have been identified. The consistency across many

responses in the survey demonstrates these points.

This makes the findings of the report statistically significant, robust, and credible.

With regard to using the word 'landmark' to describe this research, the term was employed because the survey marks an important turning point for solicitors.

Never before has a survey been carried out among the profession in Ireland that invites honesty and openness about an important topic that has been

ignored for such a long time. The invitation to solicitors and trainee solicitors to participate in the survey encouraged them to speak up and unite their voices in a way that has never been done before.

It now falls to the Law Society, firms, and individual members to address the findings in order to achieve real change for the benefit of the entire profession. You will see more information on exactly how that will be done in the coming months and beyond.

CORPORATE EVENTS, WEDDINGS, INTERIORS, PORTRAITS

CIAN REDMOND
PHOTOGRAPHER

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EUROVISION

Many EU citizens may be unaware that the Conference on the Future of Europe is taking place – and that they are entitled to fully take part in it. **Thomas Byrne TD** is encouraging lawyers to have their say on the future direction of the EU

THOMAS BYRNE IS MINISTER OF STATE AT THE DEPARTMENT OF THE TAOISEACH AND THE DEPARTMENT OF FOREIGN AFFAIRS WITH RESPONSIBILITY FOR EU AFFAIRS, AND IS A FORMER SOLICITOR



THE CONFERENCE IS A CITIZEN-CENTRED EXERCISE WHERE CITIZENS DIRECT THE CONVERSATION. IT IS FOR THEM – THE PEOPLE AFFECTED BY THE DECISIONS OF THE EU – TO OUTLINE WHAT TYPE OF UNION THEY WANT

Should we increase the EU competence in health? Should the EU be more assertive in its foreign policy? Should the EU have a common taxation policy?

These are the types of questions being posed and considered by EU citizens in the [Conference on the Future of Europe](#). It is now some six months since the conference was launched in Strasbourg on Europe Day, 9 May 2021. I am concerned that many EU citizens may be unaware that the conference is taking place – still less of their entitlement to fully participate in it.

In one way, this is not that surprising. Over the last six months, we have all been consumed with dealing with the global pandemic. However, the challenges facing the EU prior to the pandemic remain and, in some respects, have come even more sharply into focus.

The pandemic has caused citizens and governments alike to think deeply about matters we have taken for granted for so long. As we emerge from the pandemic, the time is ripe for a considered reflection on the type of society we aspire to live in, and how we wish that society to be governed.

Citizen-directed conversation

The conference is a citizen-centred exercise, where citizens direct the conversation. It is for



them – the people affected by the decisions of the EU – to outline what type of union they want. At its core, the basic idea behind the conference is to start a conversation with our citizens, particularly our younger people, about how we see the EU progressing over the next five, ten and 20 years.

We in Ireland can take some credit for the basic premise underlying and inspiring the conference. Ireland has led the way in prioritising the issue of citizen engagement and trying to forge a more participative democracy. Various European and international states have noted and admired how our Citizens' Assemblies have been a vehicle for social change in our country.

As the minister with lead responsibility for this issue, I have been engaging in an extensive series of virtual consultations with groups and communities around the country. If this conference is to be a success, we need as many diverse voices

and opinions as possible.

As a former solicitor, I am well aware of the valuable contribution lawyers can bring to these discussions. Lawyers can contribute not only through ideas and ideologies, but can also bring a deep understanding of how those ideas and ideologies can be practically implemented.

Europhile or Eurosceptic?

Whether you consider yourself to be a Europhile or Eurosceptic, we would like to know how you see the future of Europe. We want to know what issues you would like the EU to prioritise, how you would like the EU to spend taxpayers' money, and so on.

There is no limit or strictures on the type of issues to be considered. The purpose of the convention is to discuss issues that matter to and affect ordinary citizens of the EU – for example, a student I was talking to recently suggested that there should be a pan-European central applications system for university entry.

I expect there are a myriad of issues that confront solicitors every day that engage issues surrounding the future of Europe. You may have an interest in the role of the European Court of Justice; you may be interested in working as a lawyer in another member state; you may be deeply concerned about the migrant crisis; or about climate change.



PICTURE: SHUTTERSTOCK

These are just examples of the types of issues that are currently being debated all across Europe.

Citizen panels

To reflect the fact that citizens – not politicians – are at the very core of this conference, four **Citizens’ Panels**, each consisting of 200 randomly selected but demographically representative EU citizens, are now in session across Europe. I am delighted that one of these panels will have its final, decisive session in Dublin in early December 2021.

The proposals and recommendations emerging from these panels will be a critical element in determining the final output from this conference.

The purpose of this article is to encourage as many people as possible, including members of the legal profession, to get involved and organise their own discussions on the future of Europe. These discussions can take any


form you wish – whether they be over your lunchbreak at work, or in a more formal setting, such as a discussion group. The simple purpose is to get people talking and thinking about the future of Europe.

Any ideas or proposals emerging from these conversations can be officially recorded for consideration on the conference’s digital platform (www.futureeu.europa.eu), which is available in all 24 EU languages. The digital platform also has plenty of practical information and guidance on how to organise an event in connection with the conference.

The conference is designed to be as flexible and non-prescriptive as possible. The only assurance, to which all member states have committed, is that whatever recommendations eventually emerge from the conference, these must be taken seriously and acted upon by the European institutions.

New departure

The conference is a really exciting and new departure for the European Union. One of the frequent criticisms levelled at the EU is the perception that decisions affecting citizens are made by faceless institutions in faraway cities, which leads to a disconnect between those institutions and the citizens they serve. The EU is aware of, and alive to, these criticisms. It is committed to a more participative democracy, where the voice of ordinary citizens can be loudly heard.

The entire purpose of the conference is to afford citizens a platform for their voices to be heard and to enable the EU to hear those voices loud and clear. Members of the legal profession have a unique and valuable contribution to make to this discussion. I would urge you all to fully engage in this exciting project, and to seize the chance to have a say in the future of Europe. It is an opportunity not to be missed. 

ANY IDEAS OR PROPOSALS EMERGING FROM THESE CONVERSATIONS CAN BE OFFICIALLY RECORDED FOR CONSIDERATION ON THE CONFERENCE’S DIGITAL PLATFORM, WHICH IS AVAILABLE IN ALL 24 EU LANGUAGES



OPEN THE BLAST DOORS

Workplace bullying is a global epidemic in need of an antidote. **Ellen Fink-Samnick** shares tips to help you resist the Dark Side

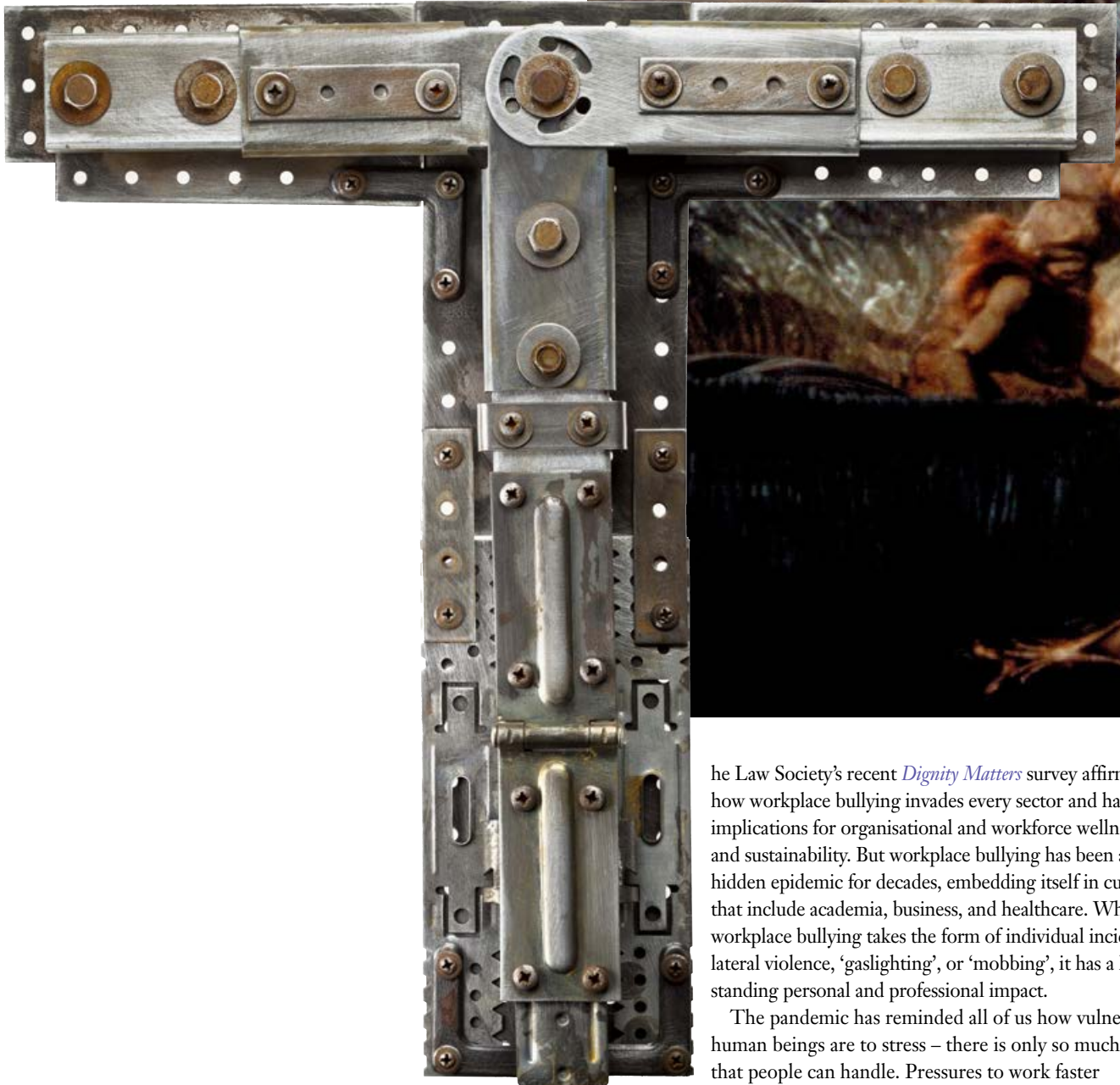
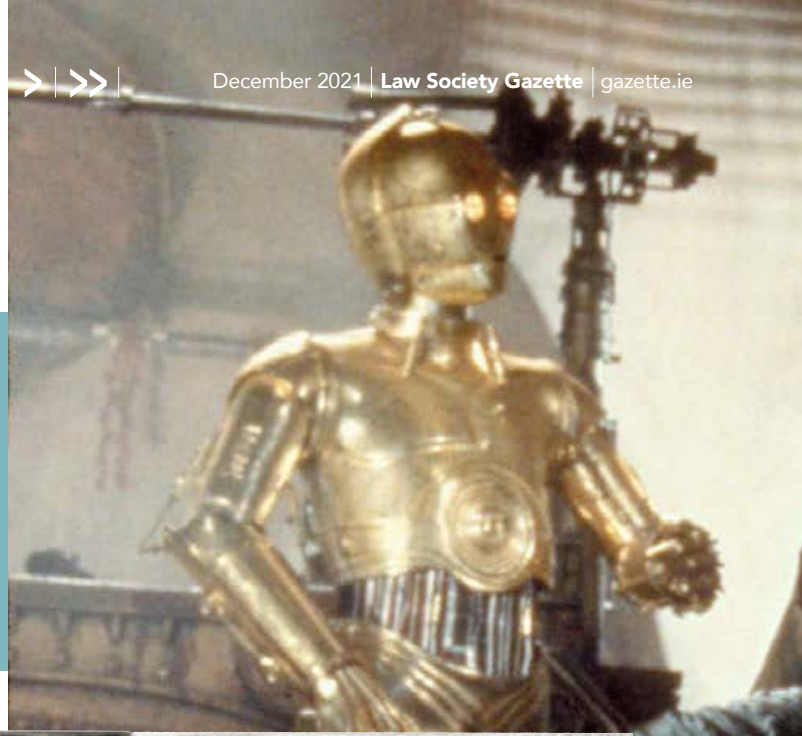
ELLEN FINK-SAMNICK IS PRINCIPAL OF EFS SUPERVISION STRATEGIES LLC AND AN ADJUNCT WITH THE DEPARTMENT OF SOCIAL WORK AT GEORGE MASON UNIVERSITY, VIRGINIA, USA

MOST PEOPLE RESIST INVOLVING HUMAN RESOURCES, BUT IT'S IMPORTANT TO DO SO. IT IS VITAL TO DEMONSTRATE THAT ALL EMPLOYER CHANNELS WERE ACCESSED, EVEN IF YOU QUESTION THEIR USEFULNESS



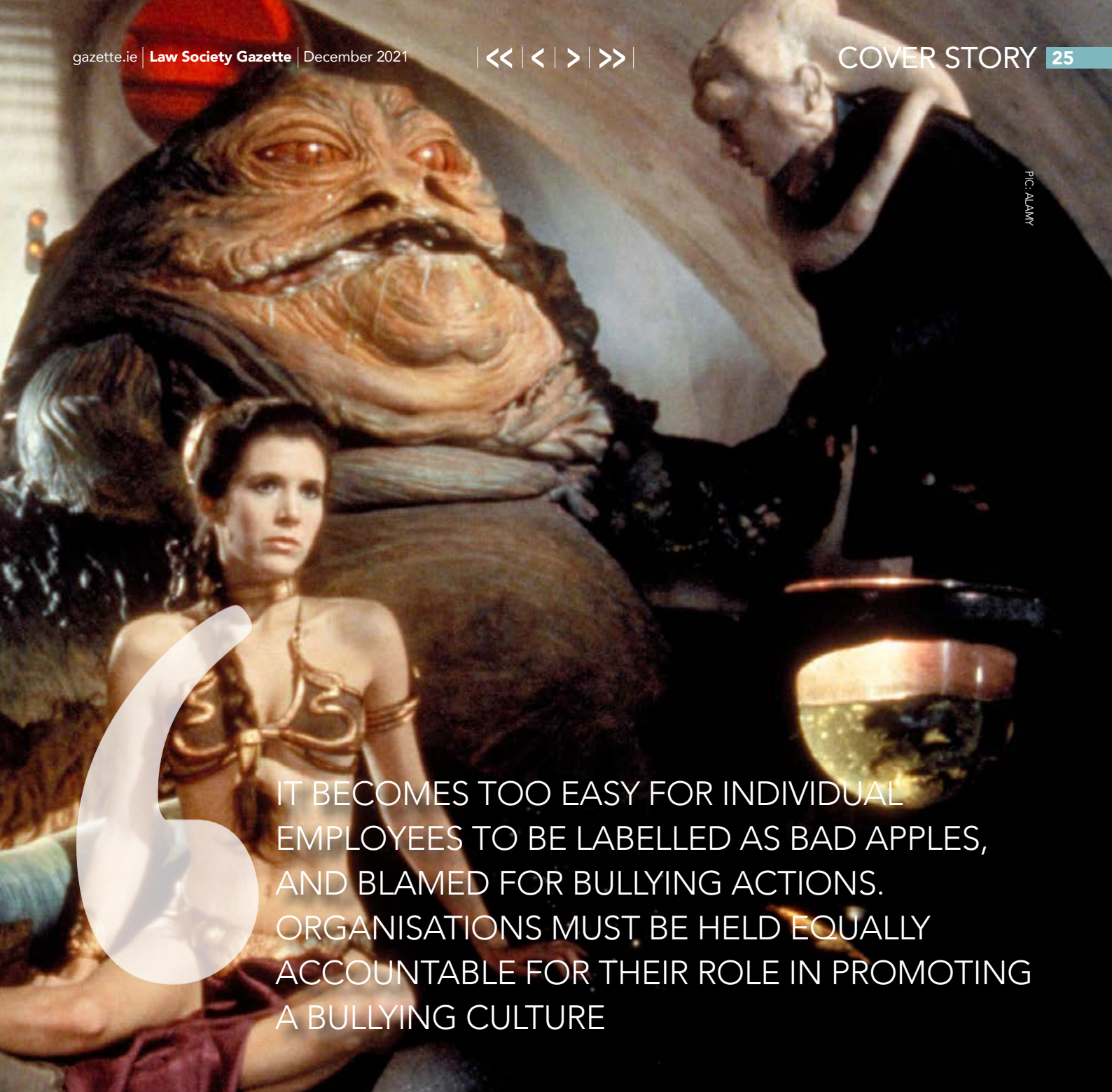
≡ AT A GLANCE

- Workplace bullying has been a hidden epidemic for decades
- The last five years have seen a steady flow of actions to address workplace bullying
- Organisational commitment to manage incivility starts with acknowledging a culture that allows bullying
- Cultural changes are tough, but possible with constant and unwavering action



The Law Society's recent *Dignity Matters* survey affirmed how workplace bullying invades every sector and has implications for organisational and workforce wellness and sustainability. But workplace bullying has been a hidden epidemic for decades, embedding itself in cultures that include academia, business, and healthcare. Whether workplace bullying takes the form of individual incident, lateral violence, 'gaslighting', or 'mobbing', it has a long-standing personal and professional impact.

The pandemic has reminded all of us how vulnerable human beings are to stress – there is only so much that people can handle. Pressures to work faster



IT BECOMES TOO EASY FOR INDIVIDUAL EMPLOYEES TO BE LABELLED AS BAD APPLES, AND BLAMED FOR BULLYING ACTIONS. ORGANISATIONS MUST BE HELD EQUALLY ACCOUNTABLE FOR THEIR ROLE IN PROMOTING A BULLYING CULTURE

and achieve fiscal imperatives play out across every practice setting. Direct, curt communications between colleagues and team members to get the job done replace respectful interactive dialogues. Workplace bullying can easily become more the norm than the exception.

Use the force

A study by the [International Bar Association](#) yielded results consistent with *Dignity Matters*. For over 700 British lawyers,

the prevalence of workplace bullying by employers was 62% for females and 41% for males.

In the healthcare sector, workplace bullying is particularly fierce and grossly affects every aspect of patient care, as well as workforce retention and mental health. Quality patient-centred care is best rendered by a team of individuals who can effectively work together. However, what happens when those efforts are negated by workplace bullying? [Studies](#) continue to affirm the

prevalence of medical errors from [poor team communication](#) and fragmentation secondary to bullying – as many as [250,000 incidents](#) annually are associated, with upward of [100,000 deaths](#). These numbers shocked the industry upon their release. New language was developed to address workplace bullying across established resources, from organisational accreditation standards to licensure regulations, standards of practice, and codes of ethics.

Yet, despite industry's recent best

A NEW GENERATION OF REMOTE-WORKING PROFESSIONALS IS FORCED TO CONTEND WITH A RISING INCIDENCE OF WORKPLACE BULLYING – 50% DURING VIRTUAL MEETINGS AND 9% VIA EMAIL

intentions, bullying prevalence is too dependent on pressures brought to bear on the workforce. The pandemic has amplified levels of stress and burnout, if not high rates of **collective occupational trauma**. Concerning levels of workplace bullying have emerged, as every member of the healthcare workforce struggles to manage unparalleled illness morbidity and mortality rates, as well as issues of diversity, equity, inclusion, and social and racial injustice. This perfect storm of factors has advanced workplace bullying and imperilled the quality of patient care.

Let the Wookiee win

Perhaps the following phrases sound familiar to you. They are among a list of reasons that spark hesitancy in addressing workplace bullying:

- “Workplace bullying was here long before I got here, and will still be here long after I’m gone”,
- “I have no authority to change things”,
- “The workplace bullying elevator is local – it starts at the top of my workplace, and hits every floor going down”,
- “If I call out bullying, I’ll be fired”,
- “Workplace bullying is nothing new – don’t let it get to you”, and
- “Ms S is a bully – ignore her like everyone else does!”

The last five years have seen a steady flow of actions to address workplace bullying – and there is far too much data to fight the mandate for change. For example, in the United States:

- A total of 79.3 million workers are affected by workplace bullying – in all, 75% of the

workforce is affected, **whether as target or witness**,

- People in non-leadership roles experience workplace bullying that is double the rate of those in managerial positions, including **65% of bullying by bosses**,
- A new generation of remote-working professionals is forced to contend with a rising incidence of workplace bullying – 50% during virtual meetings and 9% via email, and
- Workplace bullying costs exceed **\$200 billion annually in lost productivity**, sick days, increased medical claims, legal costs, and staff turnover.

Research in Europe indicates that people exposed to workplace bullying had a higher risk of **cardiovascular disease**, as well as other chronic illnesses.



The power of the dark side

To begin with, organisational commitment to manage incivility starts with acknowledging a culture that allows bullying. The following three workplace cultures influence the prevalence of bullying in organisations:

- **Autocratic culture** – power and control reign, with high levels of staff secrecy and jealousy. Competition is prioritised over collaboration, while positive employee relationships are viewed as a threat, since they would create cohesion rather than maintain the current state of fragmentation.
- **Fragmented culture** – core values are absent, with hierarchical power and bureaucratic rules the norm. Inconsistent enforcement of policies and procedures,

as well as knee-jerk reactions, guide the management of staff conflict, or the lack thereof.

- **Enduring culture** – clear goals, rules, and values are embraced by all leadership for employees and contractors. Communications reflect mutual respect, with consistent action and consensus to address behaviours that run counter to accepted standards.


Corporate cultures play a major role in encouraging all types of workplace culture. Companies may reward assertive, if not aggressive, behaviour by promoting such individuals or providing monetary bonuses. As far as the leadership is concerned, these people get the job done – how they achieve it doesn't matter if a successful outcome is achieved. Simply stated, the end justifies the means.

A majority of organisations continue to dismiss, deny, or discount bullying behaviours – in the US, more than 60% **have no policies** in place to manage these situations. It is particularly unfortunate when these situations reach a point of individual self-harm and/or occupational trauma before action is taken to stop the disruptive behaviours. We know that increased workplace bullying leads to **worse mental health** and greater suicidal ideation and behaviour.

The droids you're looking for

It becomes too easy for individual employees to be labelled as bad apples and blamed for bullying actions. Organisations must be held equally accountable for their role in promoting a bullying culture. Cultural changes are tough, but possible with constant and unwavering action at the individual level:

- 1) **Address incivility early** – everyone has rough days, but there's a big difference between 'one-and-done' versus a more enduring pattern. Address the behaviours early, and directly, with the person involved. Grab a witness to the conversation whenever possible.
- 2) **Use human resources** – most people resist involving human resources, but it's important to do so. Should you seek legal recourse, it is vital to demonstrate that all employer channels were accessed, even if you question their usefulness.

- 3) **Stay engaged** – bullies strive to isolate their victims. Keep connected with your colleagues and peers for support.
- 4) **Document everything** – an old mantra exists in healthcare: 'If it's not written down, it never happened'. Maintain documentation of all bullying interactions and conversations that address the events, including dates and the names of those present.
- 5) **Show your resilience** – bullies strive for reaction from their victims. Instead of immediately reacting, take ten seconds to stop, breathe, process, and restore your resilience. Only then can you effectively assess and best manage the situation.
- 6) **Remember: bullying victims are rock stars** – bullies go after those persons who threaten them, usually their most ethical and competent employees. Let the bully know you're on to them, and thank them for acknowledging your 'rock star' status. It will totally unnerve them.
- 7) **Behavioural health support is a must** – bullying wears at your resilience, fuelling anxiety, depression, insomnia, and stress. Obtain a mental-health consultation for objective support and intervention (see the **LegalMind** section of the Law Society's Wellbeing Hub at lawsociety.ie).
- 8) **Be part of greater change** – bullying is a hot topic across professional associations and accrediting entities. Most have crafted language for standards of practice and codes of ethics, making bullying and incivility subject to reprimand. Join public-policy and **advocacy initiatives** to stop bullying on a macro scale. Workplace bullying legislation is advancing in the US, via the **Healthy Workplace Bill**, now introduced across 31 states.
- 9) **When the culture can't change, move on** – there are times when the bullying culture either can't or won't change. When you've done all you can to stop the incivility cycle, it's time for a career shift. Can you afford to wait?
- 10) Repeat the following mantras (and keep them where you can see them):
 - We deserve respect,
 - We deserve to have our knowledge and expertise valued,
 - We deserve to feel safe,
 - We deserve not to feel trapped in a toxic workplace,
 - We deserve to have confidence that all are accountable for their actions,
 - We deserve to be able to confront workplace bullying without fear of retribution. 

LOOK IT UP

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Law Society President Michelle Ní Longáin talks to **Mark McDermott** about her employment law career in three jurisdictions, her pressing plans for her presidential term, and her link to *Derry Girls*

MARK McDERMOTT IS EDITOR OF THE *LAW SOCIETY GAZETTE*

NORTH STAR

F

or anyone who's ever travelled to Donegal, one view you'll never forget is your first sight of its highest mountain, Errigal. Its gracious presence conveys quiet confidence – a dignified assurance that the world's axis hasn't moved.

Michelle Ní Longáin, who claims Donegal as her home place, possesses some of the same characteristics of that landscape – a calm confidence and a measured assurance – leading one to suspect that it would take something rather significant to disturb her equilibrium.

Michelle's story started in Limerick, where she was born. The family lived in Tipperary, Birr, Cork city, and finally Letterkenny at the tender age of six. "I arrived in Donegal with a Cork accent!" she laughs.

The moves were due to both parents being teachers. Her dad Seán was a school inspector. They moved northwards where he became CEO of the Donegal Vocational Education Committee, a post he held for 33 years. Following retirement, he began devilling, and now practises as a barrister. Her mother Eileen took a break from teaching for some years, returning when the children got older.

So what led to Michelle's decision to opt for law?



I HOPE THAT WE HAVE CAUSED PEOPLE TO STOP AND THINK ABOUT HOW THEY ENGAGE WITH OTHERS, AND TO UNDERSTAND THAT, IF THE WAY THAT THEY'RE BEING TREATED IS NOT CORRECT, THEN THERE'S A ROUTE FOR THEM TO RAISE IT

"I was interested in a number of things, too many things really. They piloted transition year in my school, so I did quite a number of placements, one of them in a law firm. I also did a lot of debating in school, and I think my parents thought my talent for arguing was quite good!"

Donegal blas

Her move to Queen's University in Belfast was the unlikely result of visits to the Donegal Gaeltacht for many years. "I knew a lot of people from Belfast as a result, and that made me gravitate towards the city. So I decided to head to Queen's, during the Troubles."

How was that for her? "My name is Ní Longáin, so that was interesting! And I didn't translate it [to English]. I think I realised very early on that people made a lot

of assumptions, which I was very quick to correct. I used to phone home in Irish a lot. Years later, I'd have people saying to me, 'I remember you used to be phoning home in Irish from the halls of residence in Belfast'. We used Irish to speak confidentially as a family, but then I stopped doing that."

While she qualified as a solicitor in Northern Ireland, it was some time before she travelled to Blackhall Place. She had been thinking of taking the bar at King's Inns. In the end, she attended the Institute of Professional Legal Studies in Belfast. "It was the automatic place to go to from Queen's in any event," says Michelle. "Mary McAleese was the pro-vice-chancellor at that time. She was very influential.

"Because I had been planning on going to King's Inns, I hadn't arranged an apprenticeship, so I ended up walking the streets of Belfast ringing doorbells, asking to speak to various partners about one. I got offered a few, but the one that wanted me most, I wanted them too. That was McClure & Co, located opposite the Law Society in Belfast.

"They were great. My master was a solicitor called Paul Shevlin. He's recently retired. McClure's was mainly a trade-union firm, but Paul was very much a social-conscience type of person, very good humoured, and a very good teacher."

Meaty case

"I ended up – in my first week there – in what was then called an industrial tribunal in a transfer-of-undertakings case, very meaty employment-law stuff. We were representing people who were doing cleaning, portering, and catering work in a hospital. There were maybe 11 different respondents – all different employers – against us. I was there as the trainee taking notes and attending the meetings. It was a huge learning curve, but it was great. I really loved it and thought 'I want to do this'."

She was taken on by McClure's subsequently, but times were tough. When she qualified in 1994, many people were leaving the North. "I was kept on for six months, and then a year, but I was looking around. I saw an ad for an English solicitors' firm that sent a lot of trade-union work to McClure's. I decided to apply, and ended up moving to England in 1996 to work for Thompsons in Nottingham.



Michelle with her husband David and their children Ciara and Cormac



“There was a ceasefire in the North when I applied, but then came the Canary Wharf bombing. And I thought to myself: ‘They won’t want to take me, coming from the North. They’ll be afraid to.’ But they weren’t like that. Thompsons was very big – the biggest trade-union firm in Britain at the time. Ironically, it merged with McClure’s the day after I left Thompson’s.”

Michelle stayed there for three-and-a-half years. “I learned so much. They had 18 offices when I left, with their headquarters in Congress House – the trade-union building. The only employers they would act for were trade unions – and probably the Labour Party. I was the only employment lawyer for the duration when another senior partner had to take premature maternity leave. That was a serious learning curve. It was incredibly busy, I was transferring jurisdiction, and they also had race discrimination law, which we hadn’t had in the North. Three months isn’t really long enough to learn your way into a new jurisdiction!”

Moving home

Her decision to move back to Ireland was largely due to the heavy workload she was bearing. “My job was about three times too busy. When I left, they took on three employment law solicitors. I began to realise that I’d quite like to move and, after doing five years of employee work, I thought it might be interesting to move to the employer side.

“When I started in Thompsons, two men had started a few weeks ahead of me. Another woman had begun just two weeks before that. As it turned out, I married one of those men – David Burgoyne from Sheffield – and the other woman married the other!”

Before taking the decision to move home, Michelle had applied for a job at another English solicitor’s firm. She knew the solicitor involved. During the second interview, he said: “I’m offering you a job, but I don’t think you want to come here. I think you want to go home!” His comment proved to be insightful, because Michelle had already applied for a number of positions in

Ireland. When she admitted this, he advised her to contact ByrneWallace.

She moved back to Ireland in October 1999, coinciding with the enactment of the *Employment Equality Act*. “Similar legislation had come into existence in England in 1996,” says Michelle. “I had religious discrimination experience in Northern Ireland, and race and disability experience in England, so I had expertise that others didn’t have in Ireland.”

David followed two years later, and they were married in 2003. He continued working as a solicitor for a number of years in Ireland, but now looks after their children.

Michelle has been with ByrneWallace for 22 years – the law firm is now Ireland’s seventh largest. She is an equity partner and head of the firm’s public sector group, “so it worked out okay!” she jests. When she arrived, there were approximately 70 people working there – the figure is now closer to 300.

No gap year

As a senior partner in the firm, is she planning to take a ‘gap year’ during her presidential term?



SLICE OF LIFE

■ *You don't wear a watch. Any reason?*

I have an Apple watch. But I found that I was overly tracking my steps and physical activities. That's one of the reasons I stopped wearing it. I also found several times in court hearings that the watch started to 'talk', to remind me about some target or other, so I started putting it in my bag!

■ *Big influence?*

Definitely my mum and dad, but also Mary McAleese, who was very influential in my solicitors' course in Belfast.

■ *Kicking back?*

Music's not my thing, but I do like to read. So I always have my Kindle with me and have Audible on my phone.

■ *Favourite genre?*

I read a lot of crime fiction – a lot of British or Irish writers, but not really gore. I like the puzzle element.

■ *Personal treat?*

We got a dog during lockdown – a seven-month-old Border Collie called 'Liath'. We enjoy taking her for walks to the Phoenix Park.

■ *Holiday destination?*

Ballycastle in North Mayo – we visit my father's old home place.

■ *Favourite poem?*

Mid-term Break, by Seamus Heaney.

■ *Something surprising?*

I draw a lot. I could be drawing at any given moment – like character sketches. I also did my O-Levels in the school that *Derry Girls* is based on – Thornhill College on the Culmore Road in Derry. In transition year, my parents didn't believe in slacking off. They were a bit worried that I wouldn't be working hard enough, so we all ended up doing O-Levels or GCSEs there. My brother did his GCSEs there, too, just like the 'wee English fella, James'!

"I don't believe anyone has done so in recent years. I'll be taking my presidential responsibilities very seriously, but I'll continue doing client work and will be involved in the running of the firm," she says.

So what does she most want to achieve during her year as president?

"The one thing that overarches my presidential term at present is the *Dignity Matters* report on bullying and harassment in the profession – and how the Law Society is planning to deal with its recommendations."

Were its findings a massive shock, despite the similar conclusions in the IBA *Us Too* report?

"I think it really brings it home to you. It's more 'real' in some respects. It means that when you're reading the *Dignity Matters* report, you know that you almost certainly know somebody who has contributed some of the quotes, and that's a hugely powerful thing. And I think it also highlights that none of us hasn't observed, or certainly hasn't in some way encountered, the behaviours that are referred to there."

Sound of silence

Is it too strong to suggest that perhaps most of us have contributed in some way to bullying or harassment in the profession, given the strength of the findings in the report?

"I think 'contributed' is too strong a suggestion, but we've certainly not done enough to prevent it. Silence is a problem, or turning a blind eye. So we have to look at it and be brave enough to face it. The comment has been made to me that, given that the profession is one that people normally go to for help in relation to bullying, harassment and sexual harassment matters, isn't it ironic that solicitors themselves don't report it within their own profession?"

"I think it shows that there's a difference between advising in your role as a lawyer, and looking after yourself. It shows that we all have the same difficulties in reporting matters – the same difficulties that are encountered across all professions and workplaces.

"I want this report to be something that is spoken about and addressed in all of the organisations in which our members work – whether those are firms or in-house roles in the public or private sectors. We need

I THINK IT REALLY BRINGS IT HOME TO YOU. IT'S MORE 'REAL' IN SOME RESPECTS. IT MEANS THAT WHEN YOU'RE READING THE *DIGNITY MATTERS* REPORT, YOU KNOW THAT YOU ALMOST CERTAINLY KNOW SOMEBODY WHO HAS CONTRIBUTED SOME OF THE QUOTES, AND THAT'S A HUGE POWERFUL THING

to recognise that there may be a potential problem in the place where we work that we need to deal with – and that it's actually named.”

This time next year

Will the profession look significantly different this time next year?

“We're only really getting started – I don't think you can transform the profession in a year. I think that people are more receptive to hearing about this now – perhaps due to COVID. People seem to be more open to talking about difficult things.

“I'll be seeking to lead by influencing and directing and guiding. So I hope that we will have achieved a significant change in the attitude of our members, whether they're employers, employees, or self-employed people who deal with others. And that we have caused people to stop and think about how they engage with others, and to understand that, if the way that they're being treated is not correct, then there's a route for them to raise it.”

Another major presidential theme for Michelle Ní Longáin is diversity, inclusion, and women in leadership. “I'm the fifth woman out of 151 presidents – it's extraordinary to say that. That said, in this year's Council election, 50% of the successful candidates are women, so that's an interesting development. But on the day that I took the chair, I also pointed out to our Council that we lack diversity among our own cohort. Whatever amount of gender diversity we have, we have less of everything else, so we need to work on encouraging a




more diverse cohort to get involved on the committees and on the Council of the Law Society.”


Very different experiences

The new president is also focused on business recovery plans for the profession: “Our members have had very different experiences in their businesses as a result of COVID. Everybody has had to change – some have had significant adverse business impacts;

some to a lesser degree.

“My major desire is that we focus on the central role of the lawyer in our society, which is paramount. Each one of us is the face and voice of the trusted solicitors' profession. So, central to *Dignity Matters* and to gender equality, diversity, and inclusion is the need to emphasise that solicitors are central to society.

“We need business recovery for solicitors – but also for solicitors to be at the centre of business and societal recovery.” 



AIN'T NO MOUNTAIN HIGH ENOUGH

≡ AT A GLANCE

- The High Court has ruled that the HSE bears a statutory obligation to provide disability and mental-health services in Ireland
- The decision arose in the context of judicial review proceedings related to failings in the care of a child with a disability
- The case concerned a serious ongoing failure to provide care for an adolescent child with a disability over a period of several years

A recent judgment offers a stark insight into the consequences of the underfunding of disability and mental-health services in Ireland.
Joanelle O’Cleirigh and Kate O’Donohoe overcome the obstacles

JOANELLE O’CLEIRIGH (PARTNER) AND KATE O’DONOHOE (SENIOR ASSOCIATE) WORK IN THE LITIGATION, DISPUTE RESOLUTION AND INVESTIGATIONS GROUP IN ARTHUR COX LLP

In a recent decision, the High Court ruled that the HSE bears a statutory obligation to provide disability services and mental-health services in Ireland. The decision arose in the context of judicial review proceedings related to failings in the care of a child with a disability.

The case (*Y and X v The HSE* [HC, 18 October 2021]) concerned a serious ongoing failure to provide care for an adolescent child with a disability over a period of several years. Having engaged with the child since August 2017, it was acknowledged by the HSE from spring 2020 that the child needed a residential placement or more intensive home support. Notwithstanding this acknowledgement, the appropriate treatment and care were not forthcoming from the HSE. As a consequence, the child’s health deteriorated and, by March 2021, it was accepted by the HSE that residential placement was the only viable option.

Despite communicating that a residential placement would be provided by mid-August 2021, no placement materialised. The child’s condition deteriorated further and reached a crisis point in the summer of 2021.

Following a hospital admission in late July 2021, the child was transferred to respite accommodation in early August 2021. In late August 2021, the child was transferred from respite care to a regional hospital, where she remained at the time of the delivery of the judgment in October 2021. Staff were stationed outside the hospital room to make sure the child did not escape. The court found that the child had been left to “languish in long-term semi-isolation” in a hospital room off a busy emergency department ward. During this hospitalisation, the child had not been outside for fresh air.

Judicial review

The child’s representatives instituted judicial review proceedings seeking declarations from the court regarding the lawfulness of the HSE’s treatment of the child, including declaratory relief that her current and/or continued placement in the hospital was not in her best interests and/or detrimental to her welfare, and breached her constitutional and human rights. A declaration was also sought that the HSE had failed to discharge its statutory obligations.

The HSE opposed the application for judicial review. It highlighted its

ongoing provision of services to the child's family and argued that, while the HSE is fully committed to the provision of a residential placement to the child, it was not in a position to do so within the immediate timeframe required in this case. It envisaged having a placement in early 2022. The HSE argued that it was the responsibility of the Child and Family Agency, a notice party to the proceedings, to meet the short-term needs of the child.

The court undertook a detailed analysis of the statutory obligations owed by the HSE to the child. The court analysed [section 7](#) of the *Health Act 2004* and held that it relates to the promotion and protection of the health and welfare of 'the public', and not an individual member of the public. It, therefore, did not impose any specific obligation on the HSE with respect to her care.

The court held that the HSE has a duty to perform its functions and exercise its powers lawfully and in a rational and reasonable manner. The court concluded that the HSE "has repeatedly acted in a manner that is unreasonable and, at points, crossed the line into irrationality". In this regard, the court referenced the occasion when, despite professional opinion that the child could not safely return home, and an agreement having been reached on that date between the HSE and the family solicitor that the HSE would continue to accommodate the child for an agreed period, the HSE contacted the child's parents to seek to insist that the child must return home that same day.

By way of further illustration of the unreasonableness, if not irrationality, of



the HSE's actions, the court noted the lack of medical justification for the continuing containment of the child in a busy hospital in the midst of a pandemic. The evidence indicated that the placement was having a significant and detrimental impact on the child.

The court also had regard to the fact that the child had not been placed in a centre that had been adapted to meet the needs of juveniles as illustrative of unreasonableness, if not irrationality, in the actions of the HSE. The child did not have educational or recreational facilities available to her, save for access to a TV and the internet.

Statutory duty

The court held that the HSE has a statutory duty to vindicate the child's personal rights under the Constitution insofar as is practicable. In this regard, the court noted the judgment in *O'Donnell v South Dublin City Council*, which involved the provision of adequate housing by the county

council to a minor who was a person with a disability and a member of the Traveller community. The court in that case found that the council's knowledge of the child's exceptional circumstances was sufficient to impose a special duty under article 40 of the Constitution towards that child to vindicate their rights, insofar as is practicable. In the present case, the court found that the HSE's knowledge of the child's exceptional case imposed a similar special duty.

The court held that ineffective efforts by the HSE to address the child's situation could not prevent a finding that there was an objective breach of her personal rights. The HSE sought to place reliance on the fact that the disability services required to meet the needs of the child are not provided by the HSE directly, but are sourced from outside service providers.

The court held that, insofar as the HSE elects to rely on external providers, it ought to be aware that there will be lead-in periods and difficulties associated with that structure. Any associated delays and difficulties do not absolve the HSE from its responsibility and obligations to provide these services. It was the court's strongly held view that, given what it described as the extraordinarily long lead-in to the hospital admission in this case, there was ample opportunity for the HSE to provide appropriate residential treatment, which it failed to do.

Right to privacy

The court also recognised the child's right to privacy under [article 8](#) of the *European Convention on Human Rights* and concluded that the HSE had not offered any good legal basis for its interference in her right to privacy.

THE COURT GRANTED THE DECLARATORY RELIEF SOUGHT, INCLUDING A DECLARATION THAT THE CHILD'S CURRENT AND/OR CONTINUED PLACEMENT IN HOSPITAL IS NOT IN HER BEST INTERESTS AND IS DETRIMENTAL TO HER WELFARE

THE COURT ALSO GRANTED A DECLARATION THAT THE FAILURE BY THE HSE TO FACILITATE THE CHILD'S DISCHARGE TO A SAFE AND SUITABLE RESIDENTIAL PLACEMENT HAS RESULTED IN A DISPROPORTIONATE AND UNLAWFUL INTERFERENCE BY THE HSE WITH THE CHILD'S CONSTITUTIONAL AND HUMAN RIGHTS

In addition, the interference with the child's personal rights through the failure by the HSE to secure suitable accommodation for the child pending her transition to long-term care was not proportionate. Having regard to the extended period of HSE engagement that preceded the child's health crisis, the court concluded that, following the decision in *Meadows v MJE*, the HSE had failed to impair the child's rights as little as possible.

The court did not countenance any attempt by the HSE to deflect responsibility for failings in the provision of care to the child to other agencies. The court rejected outright, as wrong in law, the submission by the HSE that it was the responsibility of the Child and Family Agency to address the short-term needs of the child. While acknowledging the ongoing efforts on the part of the Child and Family Agency to provide support and to work collaboratively with the HSE to try to resolve the situation, the court ruled that the provision of disability services and mental-health services are the legal responsibility of the HSE.

The court granted the declaratory relief sought, including a declaration that the child's current and/or continued placement in hospital is not in her best interests and is detrimental to her welfare, and a declaration that the failure by the HSE to facilitate the child's discharge to a safe and suitable residential placement has resulted in a disproportionate and unlawful interference by the HSE with the child's constitutional and human rights, namely (a) her right to have decisions made in her best interests, and/or (b) her right to dignity, and/or (c) her

right to autonomy, and/or (d) her right to personal and bodily integrity, and/or (e) her right to privacy.

The court declared that it was in the best interests of the child, and necessary to promote her health and welfare, that a residential placement be immediately identified for her in order to vindicate her rights under the Constitution.

The court was unequivocal in its judgment that statutory responsibility for the provision of disability services and mental-health services rests with the HSE. The court has found that a special duty arises where a public authority, such as the HSE, undertakes to exercise its statutory powers in relation to a person and is aware of the exceptional circumstances relating to that person. The public body is under a statutory duty to vindicate the personal rights of that person under the Constitution insofar as is practicable.


Outsourced care

The HSE's ongoing reliance on third-party providers to deliver disability and mental-health services in Ireland cannot be relied upon as a defence to breaches of their statutory obligations. This is particularly significant, given the HSE decision to outsource care to third-party service providers and the real issues concerning underfunding of many of those entities.

Underfunding of disability services was acknowledged by the HSE in 2020 in materials released by the HSE under freedom of information legislation. In these materials, the HSE identified that 2,179 new full-time residential placements were required in order to provide adequate healthcare to citizens over the projected

five-year planning horizon to 2025.

The HSE also noted that an additional 90 intellectual-disability residential placements are required per year over the period 2019-2025. Importantly, the information disclosed reveals that, at the time, the HSE recognised that planned residential care is the most appropriate and cost-effective means of meeting the needs of people with disabilities. However, in 2020, of the 2,061 active cases profiled by the HSE, there were still 552 people deemed to be in need of immediate emergency residential care.

The system failings at the centre of the judgment are unfortunately not exceptional, and the case is a salutary reminder of the ongoing impact of underfunding on disability and mental-health services in Ireland in the level of care available to the most vulnerable in our society who have a disability and/or are experiencing mental-health difficulties. 

LOOK IT UP

CASES:

- *Meadows v MJE* [2010] 2 IR 701
- *Y and X v The HSE* (HC, 18 October 2021)
- *O'Donnell v South Dublin City Council* [2015] IESC 28

LEGISLATION:

- *Constitution of Ireland*, article 40
- *European Convention on Human Rights*, article 8
- *Health Act 2004*

☰ AT A GLANCE

- *The Future Way We Work* survey found that 91% of the profession would prefer a mix of remote and office working
- The figures for remote working were much higher among those working in larger organisations, in-house, and the public sector
- For most solicitors, the benefits of remote working outweigh the costs
- For employers, offering the opportunity to work remotely will be key to attracting and retaining staff

HYBRID THEORY

New research from the Younger Members Committee shows that, while solicitors strongly favour a hybrid model of working, they also have concerns that employers need to address. **Andrew Fanning** forgets to mute his Zoom

ANDREW FANNING IS A JOURNALIST COMMISSIONED BY THE *LAW SOCIETY GAZETTE*



ven without the recent extension of public-health advice on working from home, all the signs were that the pandemic had changed working practices across society for good. Though the longer-term effects of this shift are still up for debate, recent research makes it clear that many solicitors will enthusiastically embrace it.

A new Law Society study contains warnings, however, that this brave new world comes with risks.

The report – *The Future Way We Work* – was commissioned as a result of an initiative by the Younger Members Committee (YMC). The survey of just over 1,200 solicitors (carried out by Smith & Williamson) found that 91% of the profession would prefer a mix of remote and office working in the future.

The finding that only 5% wanted to work from home full-time, however, shows that there are some aspects of office life that solicitors do not want to be lost in the transition.

Recognising that the results could be skewed if the survey were addressed only to newer members, the YMC decided to seek the views of all practising solicitors, over a two-week period from 19 July to 3 August 2021.

The respondents represent around 15% of the total number of solicitors in Ireland, while the fact that a quarter of the respondents were either partners or sole practitioners meant that the perspective of employers was also captured.

At the time of the study, almost 40% of respondents had been working exclusively on a remote basis since the outbreak of



pic: SHUTTERSTOCK

COVID-19, with another 40% operating a blend of remotely and on-site.

The figures for remote working were markedly higher among those working in larger organisations, in-house, and the public sector.

There was a notable gender-based difference among those still working in the office – 26% of men were on-site, compared with only 14% of women. Location also

appeared to be a factor, with 26% of those based outside Dublin still working in the office, but only 13% of those in the capital.

Points of authority

The findings indicate that, for most solicitors, the benefits of remote working outweigh the costs. Almost 70% of solicitors agreed, or strongly agreed, that they were more productive when working remotely.

This is backed up by other findings: just over 40% of solicitors said that they put in more hours when working remotely than they had in the office (almost half felt that they were working the same number of hours).

Almost 80% of those surveyed were also responding to out-of-hours work-related communications, with the figure topping 90% for those working in larger

organisations (those with ten or more partners). For just over one-third, this was done by choice – for another third, it was due to their workload.

More than 80% of the respondents agreed, or strongly agreed, that remote working made it easier for them to manage family or care responsibilities. The reduced cost of commuting was also welcomed by a significant number of solicitors.

Overall, the survey did not uncover increased stress levels among those working from home, with just over three-quarters reporting either lower stress levels or no difference.

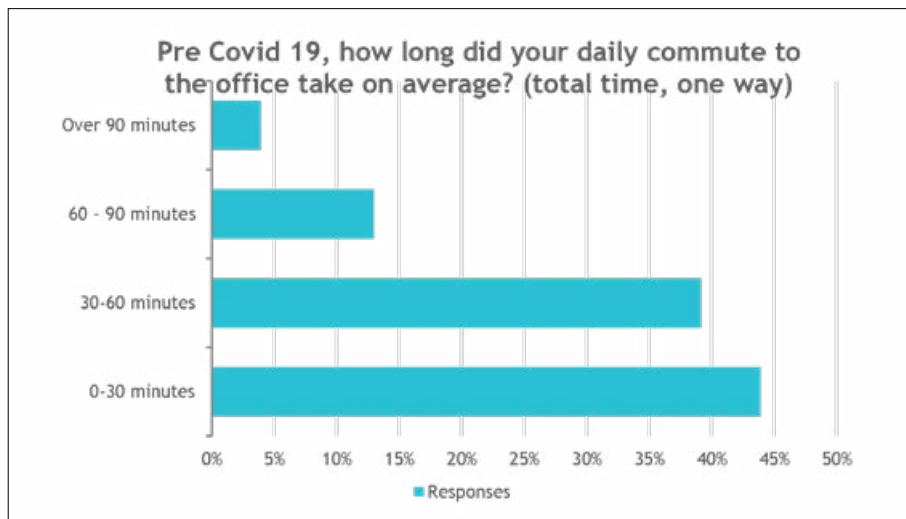
Papercut

The main downsides of working from home were broadly linked to the reduction in social interaction – and this appears to worry solicitors in both a personal and professional sense.

Most solicitors (70%) felt feelings of isolation from colleagues, with the figure slightly higher for those working in bigger organisations. The question of whether working from home increased expectations about availability appeared to divide opinion almost equally – with only a marginal majority agreeing with this proposition.

From a professional point of view, almost two-thirds of respondents expressed concern about the ability to learn from senior colleagues while working remotely, while more than 70% worried about the effect of a lack of mentoring on their junior colleagues. More than half of those in managerial roles were also concerned about the impact of off-site working on staff training.

While most respondents who worked



remotely were provided with equipment by their employers, the survey found that just over 60% spent some of their own money – the median figure was a not-inconsiderable €300, and the practice was more prevalent among newly qualified or younger solicitors.

The vast majority of those surveyed were reasonably satisfied with how they were set up for remote working (only 13% described this as ‘poor’). Not surprisingly, the figures were higher for those working in bigger firms with more resources.

One step closer

For employers, the message from the survey is loud and clear: offering the opportunity to work remotely will be key to attracting and retaining staff.

Almost two-thirds of solicitors stated that the ability to provide such arrangements would influence whether they would remain with their current employer. For women, the figure was even higher, at almost 70%.

When asked what factors would influence their thinking about work in future, more than a third cited ‘work/life balance’, with ‘flexible working arrangements’ important to almost 30% of respondents.

There is little desire, however, to cut the connection with the office completely, with only 5% of respondents preferring to work full-time from home in the future.

More than one-third of the profession would prefer to work one or two days a week from home, while a quarter would like to choose their own arrangements.

Solicitors seem to be split on whether remote working would affect their career progression, with 45% expecting no impact, but almost 40% believing that absence from the office would ‘mildly adversely’ hit their future prospects. Only around 10% thought their progress would be ‘severely’ affected by working from home.

For those at a managerial level, two-thirds believe remote working will have no impact on employees’ career progression, although a significant 28% see it as having a negative effect.

With you

How should the Law Society respond to the findings? The report makes several recommendations – including measures on training and wellbeing initiatives – to help employers and staff to move to more flexible arrangements.

It adds that the Society should press for continued remote access to the courts, and also look at promoting tax incentives to reduce the costs of the equipment needed for long-term remote working.

JUST OVER 40% OF SOLICITORS SAID THAT THEY PUT IN MORE HOURS WHEN WORKING REMOTELY THAN THEY HAD IN THE OFFICE



THE MAIN DOWNSIDES OF WORKING FROM HOME WERE BROADLY LINKED TO THE REDUCTION IN SOCIAL INTERACTION – AND THIS APPEARS TO WORRY SOLICITORS IN BOTH A PERSONAL AND PROFESSIONAL SENSE

The survey throws up a wide range of other suggestions from respondents, with protocols on remote-working policies and guidance on data-privacy requirements among some of the most important.

Many solicitors also want guidance on the right to disconnect. “Emails sent after 8pm should not be delivered until 8am the next morning, subject to an exception,” one respondent suggests.

For employers in general, the main message is to communicate their remote-working policies more clearly to staff. This should include assurances on training and career progression, an explanation of how staff performance will be monitored, and the firm’s expectations on out-of-hours communications.

In the end

In all, 40% of management respondents – mainly in larger firms – believed that remote working had had a negative impact on the culture of their organisation. The report calls on employers to take steps to address this – including regular review meetings, adequate training for junior staff, and social and team events.

A similar number of managers saw remote working as having negative consequences on collaboration and communication, with this view again more prevalent in larger organisations.

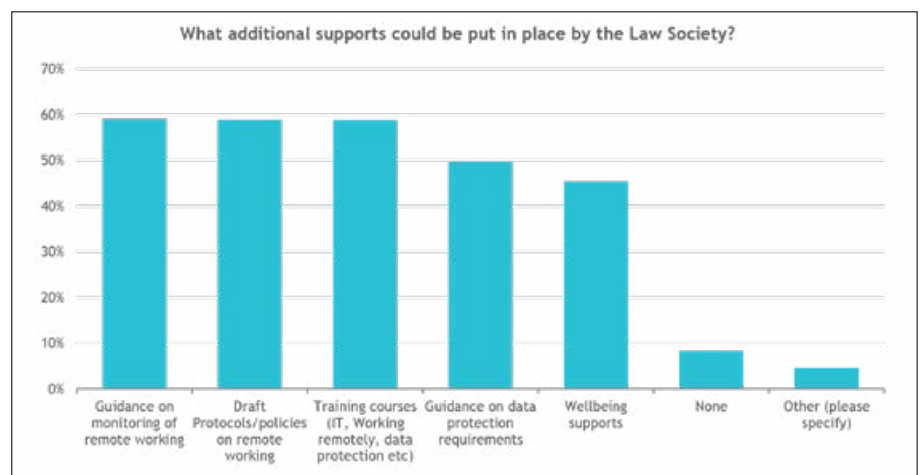
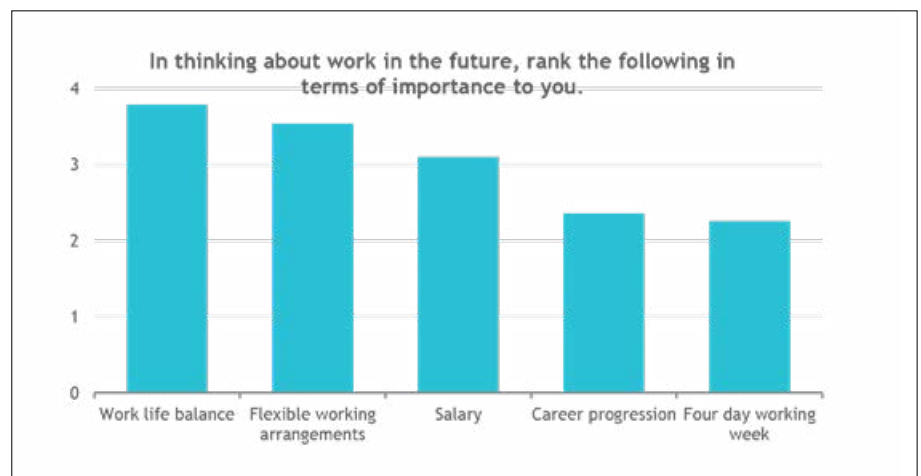
“The larger the organisation and team size, the more difficult it is to maintain cultural influence and engagement,” the report says.

Despite these concerns, however, 70% of managers say that they are ‘likely’, ‘very

likely’, or ‘definitely’ going to facilitate remote working in the future.

Responding to the findings, junior vice-chair of the Younger Members Committee Maeve Delargy said that the pandemic had changed the way solicitors work – perhaps forever.

She urged employers to take a pragmatic approach, stressing that setting out expectations, and providing assurances on issues such as training and career development, would help to eliminate some of the main concerns identified in the research. [E](#)



While working from home has great benefits for both employers and employees, this year's online In-house and Public Sector conference warned about the work/life challenges presented by hybrid working.

Mary Hallissey reports

MARY HALLISSEY IS A JOURNALIST WITH THE *LAW SOCIETY GAZETTE*

THE GREEN, GREEN GRASS OF HOME



orking from home can turn into living at work without due care, this year's In-house and Public Sector conference on 14 October heard. Speakers warned of the dangers of isolation, as well as lack of proper demarcation between work and home life. Career trajectories may also be hampered by fully remote work, attendees heard.



☰ AT A GLANCE

- Working from home – great benefits for employers and employees
- It can turn, however, into ‘living at work’ without due care
- ‘Remotes’ should have the same opportunities for education and career development as those working in the office
- Security of information is a key factor in more informal ways of communicating

And remote workers should be wary of an always-on ‘hustle mentality’, where every weekend or holiday involves checking emails – because this is a sure route to burnout and fatigue.

Wellbeing must be weaved into whatever model of work emerges, post-pandemic, the attendees heard, and trust must be extended from employers to

employees. They also discovered that fully remote companies tended to have a large emphasis on not celebrating overwork – and discouraging excessive hours – with procedures and practices to monitor the over-use of digital technology.

Practitioner surveys show a desire for blended options, with some physical presence in the office to make social

connections and to meet and collaborate with colleagues.

Emma Redmond (global lead for privacy and data protection at Stripe) told the conference that young lawyers working remotely may not have the confidence to reach out and ask for help or guidance: “It’s pretty tough,” she said.

To try to address this challenge, Stripe



Speakers at this year's In-house and Public Sector conference included: (top, l to r) Anna-Marie Curry (Irish Residential Properties REIT plc), Rowena Hennigan (RoRemote), and Emma Redmond (Stripe); (middle, l to r) Helena Kiely (Office of the Director of Public Prosecutions), Liam Kennedy SC (A&L Goodbody), and Gavin Woods (Arthur Cox); and (bottom, l to r) Maria Kennedy (John Sisk & Son Ltd), Tom Heerey (Microsoft), and Elaine Oonan (Chief State Solicitor's Office)

launched a 'buddy-up' mentorship system, which has worked well. The company pioneered remote working, even before the pandemic, as part of its mission to "expand the GDP of the internet".

"It improved our ability to tap into the amazing talented software engineers that are out there, living outside the metro areas," Redmond explained. "You need to ensure that any 'remotes' have the opportunities for education and career development that are equal to those of a person who's in the office."

No-meeting Wednesdays

Participants agreed that there was a need to get away from the incessant slew of emails – and new tools for instant communication, without a formal scheduled meeting, were strongly recommended.

Initiatives such as 'no-meeting Wednesdays' can definitely help with Zoom fatigue, the gathering heard.

Helena Kiely (chief prosecution solicitor at the DPP's Office) said that her organisation had a "strong oral tradition", pre-virus, which required some adjustment into virtual ways of meeting,

communicating, and collaborating, given the limitations of social distancing in the office. Much of the work is court driven, she explained, in a very office-based organisation.

Voicemails on all devices, email clarity, and conciseness (eliminating verbosity for the sake of clarity) were all part of the management strategy. There was also a sense of email fatigue, with communication taking longer online than in person.

"Really, it's been a learning process around collaboration," Kiely said. She advised that the Government's stated objective is that 20% of civil servants will work remotely. This will be subject to necessary adjustments for essential and frontline services. The Government strategy on remote working will be published by March 2022.

Information security

Security of information imparted and retained under legal privilege is another key factor in navigating more informal ways of communicating, the webinar heard.

"From a legal perspective, it's actually

that little bit more complicated because of the sensitivity of the communications," Stripe's Emma Redmond agreed.

Different methods of collaborating were also discussed, where some team members operate on-site and others remotely. Some speakers felt that it was important to gather all team members together every so often.

The golden rule of online meetings should be to maintain device and audio quality, with everyone on headsets, speakers agreed. In addition, shared folders and files under discussion should go back to a digital central storage point.

Speaker Rowena Hennigan (RoRemote consultant) co-founded and authored Ireland's first remote-working skills undergraduate 'level eight' module in 2019 for Technological University, Dublin. She addressed research showing strong evidence that visual communication works better online for participant engagement: "Be visual," she advised.

She also cautioned that the pandemic had led to certain employees moving to new roles and duties, and new hires

THE MOST IMPORTANT BUTTON IN ANY DIGITAL TOOL, HOWEVER, IS THE 'OFF' SWITCH. WORKERS SHOULD MAKE NOTE OF SCREEN-USAGE TIMES, AND BUILD AWARENESS ABOUT STAYING WITHIN ACCEPTABLE BOUNDARIES

coming into the company. Participants at meetings should be cognisant of this – and also of those who were (and were not) working remotely. “When you are going back to the office, just have a check on who should be involved and who’s working ... they could play a key part [in decision-making],” she said.

Company secretary and general counsel at IRES REIT plc, Anna Marie Curry, added that sometimes it was better for a participant to be present virtually, than not at all.

Remote-working hubs

Remote-working hubs have stepped up in quality over the period of the pandemic, the meeting heard, and now meet – and exceed – very high-quality framework standards.

There is now enhanced communication security, with soundproofing and private cubicle space available for calls – this is key for lawyers working with sensitive information.

Many legal departments, however, have strict rules about where and when remote working should take place – again because of confidentiality concerns.

It was suggested, however, that ‘walk-and-talk’ meetings that involved a break outdoors could be a good option.

Rowena Hennigan reiterated that matters were progressing quickly in terms of remote-working hubs, and that lawyers should not rule them out as a possibility: “It’s a matter of keeping an open mind – at least give them an opportunity to pitch,” she advised.

Noise-cancelling headphones were improving all the time, she noted. Lawyers

working from home were also encouraged to experiment with two screens, to see how they could enhance productivity.

Productivity hacks

Practitioners should also educate themselves about ‘productivity hacks’, such as turning off notifications to improve concentration.

The most important button in any digital tool is the ‘off’ switch, Hennigan said. Workers should make note of screen-usage times, and build awareness about staying within acceptable boundaries.

That said, she was convinced of the socio-economic, organisational, and personal benefits afforded by remote working. She pointed out that fully remote organisations tended to be very good at creating psychological safety and discouraging overwork, through active listening and mentoring systems.

Emma Redmond of Stripe agreed that disabling technical equipment was a good way to signal the end of the working day.

One trick used by some remote workers at the start of the working day was to walk out their back door and in through the front door before sitting down at their desks.

Opportunity knocks

Liam Kennedy (A&L Goodbody) and Gavin Woods (Arthur Cox) spoke about arbitration and jurisdiction clauses, as well as the Ireland for Law lobby campaign to bring legal business to Ireland, post-Brexit.

While English legal professionals have long been operating internationally, and London has been a renowned base for resolving disputes, Brexit has reduced those advantages, Kennedy commented. This has created an opportunity for Ireland to send out the same message to the world. The fact that Ireland is

now the main English-speaking common-law jurisdiction in the EU offers a real advantage to any global IT company, since, typically, the language of technology contracts is English.


Leadership positions are now situated in Ireland for many of the large multinational companies, Kennedy noted.

Strong Irish regulators will also be important in giving predictability to legal decisions, the webinar heard, and the Irish Government should ‘up its game’ in terms of basing more Irish lawyers in Brussels to provide input into policy discussions, where Britain may previously have done much of that work.

Kennedy said that the quality and speed of Irish courts’ decisions compared very favourably with similar cases in Britain, such as in the recent matter of insurance for publicans shut down by the pandemic. A pro-business climate and a specialist commercial court were key factors in making Ireland an attractive arbitration destination, he added.

Gavin Woods identified the key factors that an organisation should consider in reviewing its dispute-resolution clauses, including issues of cost, publicity and reputational issues, neutrality of venue, expertise of decision-makers, and timeframe to a conclusion.

Woods also spoke about arbitration as an alternative dispute-resolution procedure, pointing out that it is private and confidential, provides an expert decision-maker, and has flexibility on procedures, choice of law and venue.

He also explained how, if an arbitration clause was well drafted, arbitration might be the appropriate and effective choice for resolving a dispute. 

COURTING CHANGE

SI 490/2021, which came into effect on 13 November, introduces important practice and procedural changes for certain High Court default applications.

Conor MacGuill marks your cards

CONOR MACGUILL IS THE PRINCIPAL OF CONOR MACGUILL SOLICITORS, DUNDALK, A FORMER PRESIDENT OF THE COUNTY LOUTH SOLICITORS' BAR ASSOCIATION, AND A MEMBER OF THE LAW SOCIETY'S LITIGATION COMMITTEE



THE AIM OF THE RULES IS TO IMPROVE THE PROCEDURES AND APPLICATIONS TO THE HIGH COURT FOR ORDERS IN DEFAULT OF DEFENCE AND STATEMENTS OF CLAIM AND APPEARANCE

The author wishes to thank Riona Leahy (committee secretary) and Gareth Cooney BL for their assistance

C OVID-19 accelerated the progress of many anticipated changes in the routine of initiating and processing actions and applications in each jurisdiction of the courts. Many of those changes have been progressive and have led to greater efficiency in the preparation of actions to trial.

The fruit of such progress remains to be seen, as delays caused by restrictions – eased in recent times but still in place – continue to reverberate through the system. Although it is apparent that we will be living with the effects for some time to come, with the swifter progress of litigation, it is to be hoped that the more enlightened of these initiatives will remain, as the ‘new normal’ becomes just ‘the normal’.

Central Office

No form of apprenticeship or traineeship is complete without a visit to the High Court’s Central Office. While conveyancing practitioners of a certain vintage can draw comparisons with the ‘Merrion Square experience’, the presentation and (if permitted) on-the-spot amendment of documents for filing does at least teach an aspiring lawyer not to make the same mistake twice.

A degree of consistency is emerging in the scrutiny of such pleadings, but some mistakes

appear to be obvious, and some documents are, quite correctly, returned unfiled. The postal system has been in operation for some time, and can save resources, in that the previous queuing system was a time-consuming pursuit. It is in the practitioner’s and obviously the client’s interests that pleadings are properly completed in the first instance.

The Courts Service has introduced initiatives as a work in progress, which may be added to, or amended, as they are reviewed. Obviously, the input of the profession is necessary if this is to be an effective long-lasting exercise.

Cheques are no longer being accepted with papers since 22 October, and an online appointment system for the Central Office, Dolphin House, and Limerick Civil and Family Court office is available through Courts Service Online (www.csol.ie). The drop-box facility remains, but documents lodged by DX or post are prioritised. The highcourtscentraloffice@courts.ie email address is monitored during the day, and responses are usually issued within 24 hours.

Obviously, other offices of the Courts Services have email accounts that will apply to each particular area – both geographic and representational.

Members should pay close attention to documents being

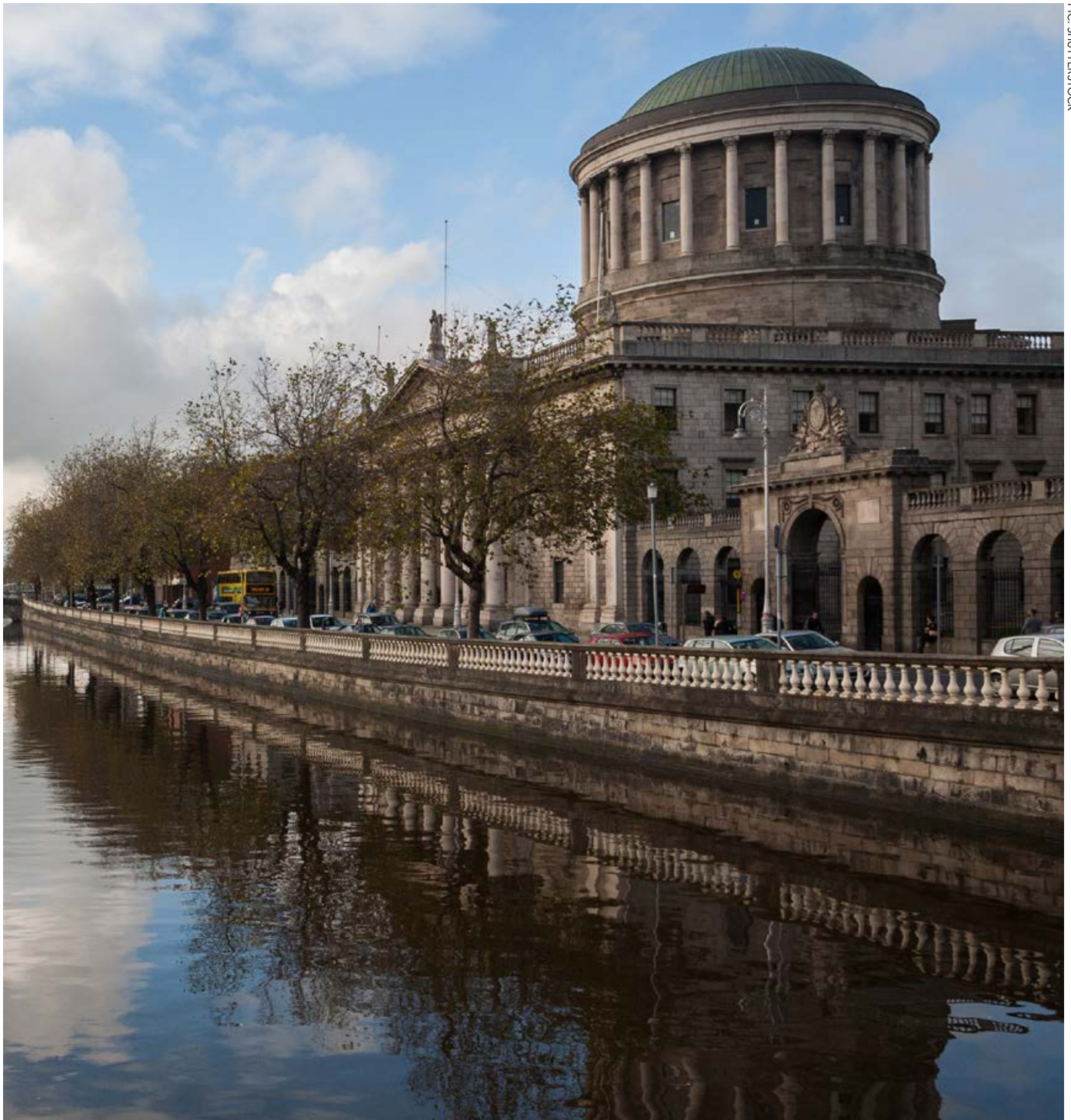
submitted and check for completeness and accuracy before attending an appointment. This will be a significant help in enabling the court office to facilitate a 15-minute turnaround time for users, to everyone’s benefit. Initial reports are that the appointment facility is readily available to those who are in need of urgent service.

New statutory instrument

SI 490/2021 introduced important temporal and procedural changes for certain High Court default applications. They came into effect on 13 November 2021. The new rules amend the *Rules of the Superior Courts* by substitutions of orders 13, 20, 21 and 27 and the amendment of order 2, rule 6 and order 63, rule 1. The aim of the rules is to improve the procedures and applications to the High Court for orders in default of defence, statements of claim and appearance, and to standardise time limits for the delivery of certain documents.

The main changes are:

- Judgment can be entered in a motion of judgment in default of defence and default of a statement of claim, except where justice requires an extension of time and, where such an extension is granted, the court shall make an ‘unless order’ permitting one court hearing only,



PICTURE: SHUTTERSTOCK

- The time period for delivery of a statement of claim and delivery of defence and counterclaim (if any) in all cases is eight weeks,
 - In actions for a debt or liquidated demand in money, a mere denial of the debt shall not be admissible,
 - The requirement for a 28-day warning letter being sent prior to the bringing of the application for judgment in default, including judgment in default of appearance: the plaintiff is required to serve the motion on the defendant in all applications for judgment in default of appearance.
- Interestingly, these rules will operate retrospectively to existing proceedings.
- The advent of the ‘unless order’, which has been flagged for some time, is a welcome development. Although the periods of time one might normally seek for the delivery of documents will be extended, judgment will be entered once certified, and it will no longer be required to bring

CALLING ALL HEROES

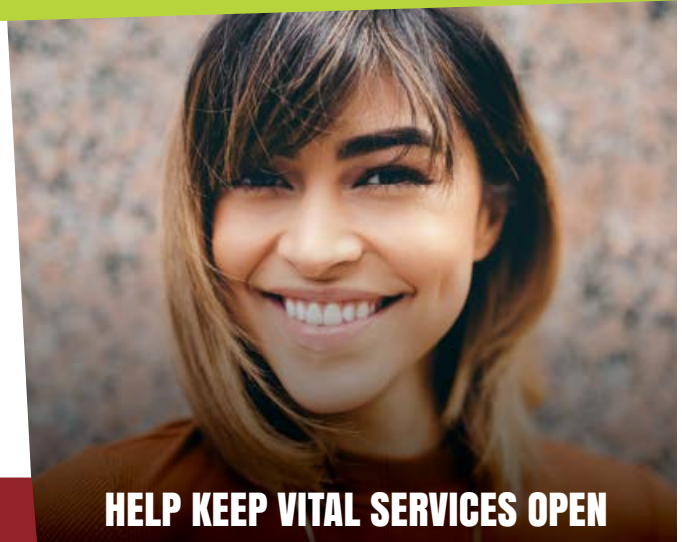
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HELP KEEP VITAL SERVICES OPEN



Restructuring & Insolvency Ireland

Restructuring & Insolvency Ireland (formerly the Irish Society of Insolvency Practitioners), an organisation comprising of accountants and solicitors working in the insolvency profession in Ireland, was established in 2004. From a small beginning membership has grown to several hundred.

RII has a number of objectives, including:

- Providing a forum for consideration and discussion of Insolvency matters.
- Promoting best practice in the area of Insolvency.
- Liaising with Government agencies and making recommendations on legislative reform governing Insolvency.
- Promoting the study and learning of Insolvency practice.

For more information about what we do, please go to our website www.rii.ie

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seirbhís tacaíochta cinnteoireachta

decision support service

About 200,000 adults across Ireland may require support exercising their right to make decisions. For example, they may have an intellectual disability, a mental illness, an acquired brain injury, or dementia.

The new Decision Support Service is now reviewing its draft codes of practice and would like to hear from you.

To learn more, and to play your part, please visit decisionsupportservice.ie/codes

Closing date Friday 7 January 2022.



DEALING WITH THE CENTRAL OFFICE

Originating documents (summons, etc)

- Title – if personal injuries, does it match the Personal Injuries Assessment Board authorisation?
- Do not include abbreviations. (For example, 'T/A' should be written 'trading as'),
- Address – if a limited company, insert 'having its registered office at...'

- Is there room to insert a place, date and time?

Affidavits

- Ensure address, name, title, and age are inserted.

Jurat

- Is it dated? Although rules state time and place, it is preferable to include street, town, and county.

Issuing clause

- Particulars of service – in family law, a legal-aid endorsement may be required also.

Identifier clause

- Although not strictly necessary, it is preferable to insert a clause, to the effect of: "I hereby certify to me knowledge of the deponent",
- Commissioners should print name and, preferably, stamp the document, for example, 'Joe Bloggs, practising solicitor'.

Motions and notices

- Is it dated and signed?
- Check addresses of the court office, and recipients,

additional motions and applications.

It is also to be hoped that these changes will be adopted in the lower courts, in time.

Harried devils


The online motion lists, while limiting exposure of much-needed 'on-your-feet' experience for trainees, is an efficiency. Attending harried devils on Monday mornings as they hoof it from court to court, awaiting their turn to say: "On consent could you ..." is probably not the *ne plus ultra* of legal training and, in certain respects, probably better replaced by the altogether less human form of email notification.

This is an area that, with the input of the profession, could be enhanced further. Many registrars have been most helpful in forwarding orders upon request to do so, but the creeping reluctance on the part of some judges to have cases adjourned or oth-

erwise mentioned in this fashion probably needs to form part of the next conversation.

Obviously, on circuit, be it Dublin or otherwise, different courts have different requirements, and practitioners are encouraged to be familiar with them. The advent of court users' groups is a particularly useful way of exchanging information towards the collective good, and bar associations have been to the fore in efforts to progress cases in those jurisdictions of the courts.

Any issues can, of course, be brought to the attention of the Litigation Committee, which is liaising with the Courts Service in relation to the grander scheme of things, but there is no substitute for conveying relevant ideas or concerns at a local level.

Hopefully, as 2022 advances, and the pandemic recedes, we will see these endeavours bear fruit – appropriately enough by spring-time. 

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RECOVERY POSITION

A recent Law Society report set out to understand the types of support that law firms believe they require from the Society and Government over the next 12-18 months to help achieve business recovery. **Teri Kelly** reports

TERI KELLY IS THE LAW SOCIETY'S DIRECTOR OF REPRESENTATION AND MEMBER SERVICES



THE SECTOR HAS PROVEN AGILE AND ADAPTABLE. TRADITIONAL WAYS OF WORKING WERE NOT APPROPRIATE OR POSSIBLE DURING THE PANDEMIC, AND A GOOD BASE HAS BEEN ESTABLISHED FROM WHICH FIRMS CAN CONTINUE AND STRENGTHEN INNOVATIVE WORK PRACTICES

The pandemic has had a significant impact on practices, and while that impact varies across practice areas, the overall effect has led to operational and financial pressures on practices. That's according to the Law Society's *Business Recovery Report*, conducted on its behalf by Crowe.

Practices have reported similar issues, including financial pressures, cashflow and workflow planning issues, a need for operational changes, remote and flexible working, and virtual/remote client interactions and file management.

The research consisted of an online survey, interviews with a cross-section of practices, and consultation with the Society and with other professional bodies that represent sectors and businesses impacted by COVID-19.

More than 2,350 solicitors were emailed and, based on at least one partner's response per firm, that meant a pool of 1,672 potential respondents. With 534 responses received, there was a margin of error of 3.5% at a 95% confidence level (which means that survey statistics are within 3.5 percentage points of the real population value 95% of the time).

COVID insights

Interviews were also held with a number of representative and regulatory bodies that were in a

position to provide insights relevant to the impact of COVID on the legal sector in Ireland, and internationally, including the Bar of Ireland, the CCBE, and the International Bar Association. Representatives of the business sectors affected included the Dublin City Local Enterprise Office and Fáilte Ireland.

Most respondents identified as a 'small practice' or 'sole practitioner' (45% and 43% respectively). The largest proportion of respondents was based in Dublin (37%).

At the time the survey was carried out, normal business hours were operating for the large majority of respondents (84%). Those working remotely amounted to 7%, those working from the office were at 36%, and 57% of respondents indicated a mix of both.

Responses and solutions

The responses indicated that the pandemic has had a significant impact on practices, especially from both operational and financial perspectives.

Despite that, the sector has proven agile and adaptable. Traditional ways of working were neither appropriate or possible during the pandemic, and a good base has been established from which firms can continue and strengthen innovative work practices.

Solutions introduced by prac-

tices that would have been unlikely 18 months ago are now accepted as commonplace, and are set to continue. Some responses to the new working environment have been quite transformative, including remote working, remote client interaction, virtual hearings, and paper reduction/going paperless.

Looking to recent and future supports:

- The level of use of various Government schemes (74%) demonstrates a dependence on these for business continuity,
- Future supports asked of Government are financial and, in the main, consist of a continuation of existing schemes and grants,
- Future supports asked of the Law Society are knowledge-based (such as training and information), and financial (PC fee reduction),
- The digitisation trend is set to continue and, as such, initiatives, schemes and supports should follow this trend, and
- The level of preparedness (planned or otherwise) facilitated the speed of response, and should continue to ensure that the profession is in a position to respond quickly and appropriately to the aftermath of the pandemic, and to any future business disruptions (as a result of the pandemic or other future trends).



Open Skills Workshop Programme 2022

Throughout the Covid-19 pandemic, Law Society Finuas Skillnet developed and ran a number of half day workshops aimed at developing the skills of staff and managers within the legal profession. These workshops were largely non legal, and instead focused on improving the capability and efficiency of legal professionals.

These workshops included: Dealing with Challenging and Hostile Calls; Business Acumen and Finance, Personal Effectiveness, Building Emotional Resilience, and Belonging at Work: Diversity and Inclusion in the Workplace.

After the very successful launch and run of the 2021 Open Skills programme, we are delighted to announce that we will be running the Open Skills programme again in 2022. Workshops will run monthly from February to December and will be developed with your needs in mind in order to maximise the benefit to learners.

To ensure you are up to date with Open Skills 2022 information, email finuasskillnet@lawsociety.ie to join our mailing list.

For a full list of all of our 2022 CPD courses visit www.lawsociety.ie/cpdcourses

DATE	EVENT	CPD HOURS	DISCOUNTED FEE*	FULL FEE
7 December	Current Challenges and New Opportunities for International Arbitration in Ireland Online via Zoom webinar	1 General (by eLearning)	Complimentary	
9 December	Technology and the Legal Practice Online via Zoom webinar	3 General (by eLearning)	€160	€186
Online, on-demand	Anxiety Awareness Course with Caroline Foran	1 Management & Professional Development Skills (by eLearning)	Complimentary	
Online, on-demand	Depression Awareness Course With Alastair Campbell	1 Management & Professional Development Skills (by eLearning)	Complimentary	
Online, on-demand	Trauma Awareness Course With Dr. Sharon Lambert and Blindboy	1 Management & Professional Development Skills (by eLearning)	Complimentary	

For a complete listing of upcoming courses visit www.lawsociety.ie/cpdcourses

or contact a member of the Law Society Professional Training team on: Tel: 01 881 5727 | Email: lspt@lawsociety.ie | Fax: 01 672 4890

*Applicable to Law Society Finuas Skillnet members. ** Open Skills Training Programme open to all staff working in the legal sector

*** Open Skills Managers Training Programme open to all managers working in the legal sector.

Recommendations

The report's recommendations are based on member feedback, and they indicate what could be done in future, taking account of the experiences of the profession since March 2020.

In terms of public affairs and collaboration, the Law Society should:

- Liaise with decision-makers in Government departments and agencies. The Society should avail of opportunities through existing representative groups and relationships at Government level to communicate key data from the *Business Recovery Report* to stress the importance of Government supports to the survival and recovery of the sector,
- Use existing sector structures nationally and at EU level, and consider opportunities to work jointly with the Bar of Ireland on issues of mutual benefit,
- Maintain and build working relationships at a European and international level, and
- Liaise with the judiciary and the Courts Service to obtain and communicate information in relation to plans and pace of return to previous work practices in the courts' system.

There is also an evident need for a Society programme of supports and CPD to maintain and further enhance positive changes in work practices, and to equip the sector with the next-level skills required to manage business operations, finances and staff, and client relationships in the future working environment.

Priority should be given to:

- Financial, debtor, and cash-flow management,
- HR,
- Business development (including diversification) and client relationship management, and
- Mental-health supports.



The Law Society should continue with the digitisation of member information, supports, training and seminars. It should consider creating a COVID-19 'digital knowledge bank' to provide expert advice, guidance, FAQs, and webinars.

Further, the Society should:

- Create and facilitate connections within the sector, and build collaborative relationships with other representative organisations,
- Increase member communication and engagement, build awareness of supports and information available, and signpost the supports available via other agencies and organisations, such as Local Enterprise Offices,
- Set up a virtual members' network to encourage dialogue, highlight concerns, and facilitate collaboration on effective and workable solutions,
- Investigate the potential for creating podcasts for practices to learn from each other, continuously improve, develop business, and evolve their technology-enabled workplace, and
- Consider shared learning events and provision of individual or group mentoring as a model for support.

The report recommends that the Society should also review and monitor the situation, and respond as required as next stages evolve. It should also monitor market and economic develop-


ments in relation to COVID, and check in regularly with practices – for example, via biannual 'pulse surveys' – to assess how their businesses are continuing to experience and adapt to ongoing changes in the business environment.

Continuing impact

The *Business Recovery Report* provides concrete evidence of the effects of the pandemic across the profession, and how it has responded and adapted to the altered environment. It demonstrates that the continuing impact of COVID will require ongoing agility and resilience for some time.

While there are undoubtedly significant challenges for the profession, there is also a demonstrable adaptation of work practices in order to tackle the impact of COVID, and there are many examples of positive change at a pace, depth, and breadth that would not have occurred otherwise.

There is also a high degree of financial impact on businesses across all areas (actual income, projected income, cashflow, etc), which can be dealt with to some extent through internal cashflow management processes and finding efficiencies. However, the research also reflects a dependence on external supports through Government schemes and initiatives.

The global pandemic can be seen, in a way, as a 'forced experiment' – and practices have responded in ways that have sustained their businesses since March 2020. The key will be that those responsive, innovative processes and work practices continue – and are supported by the Law Society and State – so that all involved can capitalise on the 'forced' change in work practices and business operations, and maintain progress towards business stability and return/recovery. 

THE KEY WILL BE THAT THOSE RESPONSIVE, INNOVATIVE PROCESSES AND WORK PRACTICES CONTINUE – AND ARE SUPPORTED BY THE LAW SOCIETY AND STATE – SO THAT ALL INVOLVED CAN CAPITALISE ON THE 'FORCED' CHANGE IN WORK PRACTICES AND BUSINESS OPERATIONS, AND MAINTAIN PROGRESS TOWARDS BUSINESS STABILITY AND RETURN/RECOVERY

GETTING THE BALANCE RIGHT

The European Commission's ambitious package to tackle money-laundering and terrorist financing, while welcome, raises concerns about its potential to undermine the principle of self-regulation of the legal profession, says **Cormac Little**

CORMAC LITTLE SC IS PARTNER AND HEAD OF THE COMPETITION AND REGULATION UNIT OF WILLIAM FRY LLP AND CHAIR OF THE LAW SOCIETY'S EU AND INTERNATIONAL AFFAIRS COMMITTEE



THE CHANGES SUGGESTED BY THE COMMISSION UNDERMINE THE FINE BALANCE BETWEEN THE INDEPENDENCE OF THE LEGAL PROFESSION AND THE NEED TO COMBAT MONEY-LAUNDERING AND TERRORIST FINANCING

Last July, the European Commission announced an ambitious package of proposals aimed at modernising the EU's anti-money-laundering (AML) and countering the financing of terrorism (CFT) regime. Building on its action plan published in 2020, the commission's plans include the establishment of an EU AML Authority (AMLA), the introduction of a single EU rulebook for AML/CFT, plus the full application of these rules to the crypto sector. The commission is also proposing a rethink on how potential AML/CFT infringements from outside the EU are addressed.

While the package's attempt to strengthen the ability of EU member states to tackle money-laundering and terrorist financing is welcome, concerns have been raised regarding its potential to undermine the principle of self-regulation of the legal profession.

Harmonisation

The July 2021 package is comprised of four specific legislative proposals:

- A proposed regulation establishing the AMLA,
- A proposed regulation on the prevention of the use of the financial system for the purposes

of money-laundering or terrorist financing (also referred to as the 'single rulebook'),

- A proposed sixth *AML/CFT Directive*, and
- A proposed regulation on information accompanying transfers of funds and certain crypto assets.

The commission has clearly identified difficulties with the current 'decentralised' system. In other words, current EU AML/CFT rules, contained in the *fifth AML/CFT Directive*, are not enforced in the same way from EU member state to EU member state. The various diverging/fragmented national approaches to the implementation of this directive has led to gaps through which ill-gotten gains have flowed.

In theory, the commission hopes that the proposed harmonised rules will lead to a more level playing field and reduced compliance costs for designated persons with activities across two or more EU member states. (A designated person is subject to specific obligations under AML/CFT rules, including carrying out customer due diligence on clients/customers, in addition to reporting suspicious transactions to the police and other relevant authorities. Such designated entities include

banks, life insurance companies, accountancy firms, tax advisors and law firms.)

AML Authority

The proposed AMLA has two main roles. Firstly, it is designed to be at the centre of an integrated new system of EU AML/CFT supervision. Secondly, the AMLA will be tasked with supporting national financial intelligence units (FIUs) – in Ireland, this will mean collaboration between the AMLA and the Garda National Economic Crime Bureau (the Irish FIU is embedded within the GNECB).

The commission intends the AMLA to become the centre of an integrated system of national supervisory authorities, with a view to encouraging cooperation and mutual support. In Ireland, AML/CFT supervisory authorities include the Central Bank of Ireland (for the financial services sector), the Minister for Justice (for various designated persons, such as trust and company service providers), and the Law Society of Ireland (for solicitors).

The AMLA will directly supervise a small number of select financial institutions, active in a significant number of EU member states, that are exposed to the highest risk of



WHILE THE JULY 2021 PACKAGE PROVIDES THE BASIS FOR MORE ROBUST AND CONSISTENT EU RULES TO COMBAT MONEY-LAUNDERING AND TERRORIST FINANCING, AND SHOULD THUS BE WELCOMED, BAR ASSOCIATIONS AND LAW SOCIETIES THROUGHOUT THE EU ARE, NEVERTHELESS, CONCERNED REGARDING THE POTENTIAL NEGATIVE IMPACT ON THE PRINCIPLE OF THE SELF-REGULATION OF THE LEGAL PROFESSION

money-laundering and terrorist financing. These institutions will be chosen based on objective criteria centred on harmonised risk categorisation and cross-border activity. The relevant list will be reviewed every three years.

The commission plans to select the first set of directly supervised institutions in 2025, with EU-level supervision taking effect the following year. If a financial institution is engaged in repeated infringements of AML/CFT rules, the AMLA may remove the relevant entity from national supervision, and place it under its direct supervision – irrespective of whether the relevant criteria are met.

In the non-financial sector, the AMLA will have a coordination role, promoting supervisory convergence and a common supervisory culture. The AMLA will have a wide range of powers, including the ability to adopt binding decisions, administrative measures, and pecuniary sanctions towards directly supervised entities.

The AMLA will be 25% funded from the EU budget, with the remainder being provided by the financial institutions under its supervision.

Single rulebook

The ‘single rulebook’ refers to a unified AML/CFT regulatory framework, which includes directly applicable AML/CFT rules and requirements on designated persons. This rulebook will be more specific and detailed than the sixth *AML/CFT Directive*, while no longer requiring transposition into national law. The commission expects that the single rulebook will take effect by the end of 2025.

Firstly, the new rulebook proposes several additions to the list of designated persons. These include crypto-asset service providers, crowdfunding service providers, and mortgage credit intermediaries/consumer credit



providers (that are not currently financial institutions).

The commission also recommends the adoption of more detailed rules to clarify the type of information needed to identify beneficial owner(s). Furthermore, the single rulebook clarifies the existing requirement for legal entities to identify/verify their beneficial owners, while also elucidating their respective obligation to report that information to national beneficial ownership registers.

Thirdly, non-EU legal entities that have a link with the EU are required, under the single rulebook, to provide details of their respective beneficial ownership to the relevant registers. The proposed introduction of harmonised rules is hoped to improve the efficiency and accuracy of the available data. The single rulebook also includes new disclosure requirements for nominee shareholders/directors to counter any attempt to hide a beneficial owner's identity.

The commission is also proposing the establishment of a cross-border system enabling FIUs to access information from

other EU member states. A [proposed amendment](#) to the EU *Directive on Access to Financial Information* will ensure that law enforcement authorities can also access and search the system connecting bank-account registries. This will allow them to identify whether a suspect holds bank accounts in other EU member states. This change is intended to facilitate asset recovery in cross-border cases.

Another key element of the single rulebook is the proposed introduction of a cap of €10,000 for cash transactions. Cash is obviously a preferred medium for criminals, since it can be very difficult to trace. Large cash purchases allow the proceeds of crime to be ‘integrated’ into the financial system – this situation is already acknowledged by the fact that traders in goods that typically receive cash payments more than €10,000 are designated persons for the purposes of the EU's fifth *AML/CFT Directive* and, therefore, must currently apply customer due diligence to their customers (among other obligations). EU member states will be free to introduce a lower cap.

Some have already done so. For example, there is a €500 cap on cash transactions in Greece.

Third countries

The commission is also proposing the implementation of an updated common framework to screen potential AML/CFT threats from third countries to the EU's financial system. Both the commission and the AMLA will be tasked with identifying foreign threats to the EU's financial system and, where relevant, warning the relevant supervisory authorities at member-state level.

Key elements of this proposal include the classification of third countries via autonomous EU or Financial Action Task Force (FATF) evaluation, whereas the levels of subsequent measures should be proportionate to the level of risks posed. (FATF is an intergovernmental organisation founded in 1989 on the initiative of the G7 group of countries to develop policies to combat money-laundering.)

If there are serious shortcomings in a third country's AML/CFT framework, it will be placed on a 'blacklist' by the commission. A third country being 'subject to a call for action' by the FATF will have the same effect as being put on the commission's 'blacklist'. Third countries will be designated 'grey-list' status for less serious AML/CFT shortcomings.

Cryptocurrencies

The commission intends that EU AML/CFT rules should apply in full to the crypto sector. The proposed extension of the application of the EU's 2015 *Regulation on Transfer of Funds* to crypto-assets significantly enhances the capability of EU member states to monitor crypto-asset service providers, while also increasing the latter's regulatory compliance obligations. The single rulebook extends the existing requirements for wire transfers

to the activities of crypto-asset service providers.

The proposed adoption of the *Markets in Crypto Assets (MiCA) Regulation* will introduce increased requirements for issuers of crypto-assets and crypto-asset service providers based in the EU. These will include authorisation being compulsory for entities to provide crypto services in the EU and a ban on opening or using anonymous crypto-asset accounts, allied to an obligation on service providers to collect and make accessible to relevant authorities any data on the originators and beneficiaries of the transfers of the virtual or crypto-assets they operate. The *MiCA* is intended to help EU member states identify suspicious crypto transactions and, if necessary, block them.

The commission hopes that the *MiCA* (and other proposals) – while admittedly increasing the relevant regulatory burden – should enhance the reputation, rather than undermining the growth, of the crypto-asset sector in the EU.

Digital-identity solutions

The commission is also seeking to implement a robust framework enabling the safe use of digital-identity solutions throughout the EU. The proposed changes relating to the AML/CFT framework (such as a European digital identity) and the introduction of increased security requirements through the imposition of new technical standards are intended to increase cross-border digital interaction between EU member states and provide improved security for businesses and EU citizens alike.

Legal profession

While the July 2021 package provides the basis for more robust and consistent EU rules to combat money-laundering and terrorist financing, and should thus be welcomed, bar associations

and law societies throughout the EU are, nevertheless, concerned regarding the potential negative impact on the principle of the self-regulation of the legal profession.

The package introduces three levels of supervision for entities outside the financial sector. Firstly, self-regulated bodies act as the supervisors of independent legal professionals.

Secondly, article 38 of the proposed sixth *AML/CFT Directive* requires EU member states to establish supervision of self-regulated bodies by a national authority – this power of oversight includes the power to issue an instruction to remedy any failure to perform supervisory functions.

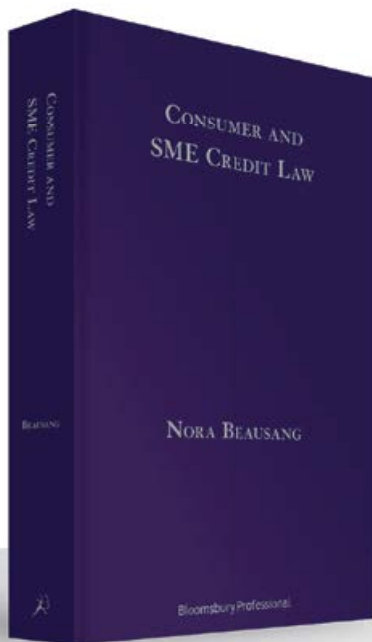
Thirdly, the AMLA may, under article 32 of the proposed *AML Regulation*, issue a formal opinion to a national authority supervising a self-regulated body and/or, *in extremis*, an individual decision to self-regulated bodies to remedy any relevant compliance issue.

By potentially giving AMLA and national authorities the power to intervene in specific cases, the changes suggested by the commission undermine the fine balance between the independence of the legal profession and the need to combat money-laundering and terrorist financing. Indeed, the commission has not produced any evidence to show that supervision by the AMLA would be more efficacious than national-level supervision by bars and law societies.

Access to quality independent legal advice for all natural and legal persons is an intrinsic element of the justice system in a democracy. Denying such access undermines the rule of law. Introducing the right of AMLA and/or national supervisors to oversee compliance of law firms with their relevant AML/CFT obligations is, therefore, a step in the wrong direction.

THE AMLA MAY, UNDER ARTICLE 32 OF THE PROPOSED AMLA REGULATION, ISSUE A FORMAL OPINION TO A NATIONAL AUTHORITY SUPERVISING A SELF-REGULATED BODY AND/OR, IN EXTREMIS, AN INDIVIDUAL DECISION TO SELF-REGULATED BODIES TO REMEDY ANY RELEVANT COMPLIANCE ISSUE

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REPORT OF LAW SOCIETY COUNCIL MEETING

5 NOVEMBER 2021

Taking of office

Following a speech from the outgoing president, James Cahill, the Council was addressed by new president Michelle Ní Longáin, new senior vice-president Maura Derivan, and new junior vice-president Eamon Harrington.

Appointments

The Council appointed extraordinary members of the Council from the Dublin Solicitors' Bar Association and the Southern Law Association, and the committees of the Law Society for the 2021/2022 term of office.

Report on the AGM

The president reported that the annual general meeting had been well attended, particularly by younger members of the profession, and had involved constructive debate around difficult issues. She very much appreciated that there had been significant input on the *Dignity Matters* report.

The Council approved the motions passed by the AGM, with one technical amendment.

Business recovery reports

The director general reported to the meeting on the:

- *Outsource Report* (September 2021), which included an analysis of current market conditions and regulatory/practice-management issues,
- *Legal Vacancies Report*, which illustrated increasingly strong growth in the legal jobs market,
- *Business Recovery Report*, which provided key insights and proposed a series of next steps that were approved by the Council.

Disciplinary findings publication

The Council agreed to amend the Society's policy on the publication of disciplinary findings in order to balance the interests

of the general public and those of practitioners.

Education

The chair of the Education Committee, Richard Hammond, reported that the Diploma Centre had enjoyed increased uptake during the course of the pandemic, and the Law School intended to recommence conferring ceremonies for diplomas and certificates in December 2021.

He advised the Council that the committee would meet the following week to discuss concerns around the absence of a visa scheme for trainee solicitors who were not citizens of the EU or EEA countries.

Finance


The chair of the Finance Committee, Chris Callan, reported on matters that included:

- Management accounts Q3 2021 for the Law Society and Law School,
- PII/PC Finance Scheme for members (2021/2022),
- Group Life Assurance Scheme,
- Voluntary contribution to the Irish Rule of Law International.

LSRA Task Force

The LSRA Task Force was established in 2011 under the chairmanship of Michael Quinlan. The current chair, Paul Keane, presented its final report to the Council.

During its tenure, the task force had engaged with the department and the Legal Services Regulatory Authority to represent the interests of the profession and, in doing so, responded to nine consultations on a range of topics.

Having enjoyed and appreciated the privilege of leading the task force for a time, Mr Keane paid tribute to its members over all the years. 



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CONVEYANCING COMMITTEE

EFFECT ON LPT WHERE DATE ON PURCHASE DEED IS NOT DATE OF CLOSING

Colleagues are reminded that, on the sale of a residential property, the liable person for local property tax (LPT) is the owner of the property on the liability date, being 1 November in every year. Accordingly, the owner of the property on 1 November 2021 is the liable person for the 2022 LPT.

The committee had raised with Revenue the scenario whereby a vendor closes a sale before a liability date (1 November), but the purchaser dates the deed after the liability date. On the face of it, it would appear to Revenue that the vendor is the liable person for the following year's LPT.

Revenue's position is that the LPT legislation (section 11(1) of the *Finance (Local Property Tax) Act 2012*) provides that the 'relevant date' is the date on which the purchaser is entitled to take immediate possession of such property (for a period that may equal or exceed 20 years) or is entitled to the rent (unless from a local authority or approved housing body) of such property (for a period that may equal or exceed 20 years).

Revenue appreciates that there is no requirement that the purchaser has *actually*

taken possession – it is enough if they are *entitled* to take possession. Revenue agrees that the vendor should not be held liable for the purchaser's LPT liability in such cases, but it cannot change the record until such time as they make enquiries of both the vendor and the purchaser as to when the purchaser was entitled to possession.

The vendor's solicitor should contact Revenue as soon as they become aware of the issue (at LPT@revenue.ie) and supply evidence to Revenue as to when the purchaser was entitled to go into possession – this can include the date closing funds were transferred, the date of closing searches, the date of redemption of the vendor's mortgage, etc.

Revenue will then make enquiries of both parties. In this regard, there are some matters that they cannot discuss (for data protection reasons) with the taxpayer's solicitor and, in relation to that information, they may have to contact the taxpayer directly. It has been confirmed that Revenue staff are instructed to escalate these cases once they come to Revenue's attention. [G](#)



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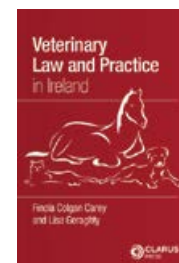
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SOLICITORS DISCIPLINARY TRIBUNAL

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

In the matter of Patrick McGonagle, a solicitor practising as McGonagle Solicitors, No 1 Main Street, Dumdrum, Dublin 14, and in the matter of the *Solicitors Acts 1954-2015* [2019/DT63]

Law Society of Ireland
(applicant)

Patrick McGonagle (respondent solicitor)

On 3 June 2021, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in that he failed to ensure that there was furnished to the Society an accountant's report for the year ended 31 December 2018 within six months of that date, in breach of regulation 26(1) of the *Solicitors Accounts Regulations 2014*.

The tribunal ordered that the respondent solicitor:

- 1) Stand censured,
- 2) Pay the sum of €1,500 to the compensation fund,
- 3) Pay the sum a €1,362 as a contribution towards the whole of the costs of the applicant.


In the matter of Ann Houlihan, a solicitor practising as Ann Houlihan Solicitors at Alexandra House, The Sweepstakes, Ballsbridge, Dublin 4, and in the matter of the *Solicitors Acts 1954-2015* [2019/DT68]

Law Society of Ireland
(applicant)

Ann Houlihan (respondent solicitor)

On 10 June 2021, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in that she failed to ensure that there was furnished to the Society an accountant's report for the year ended 31 December 2018 within six months of that date, in breach of regulation 26(1) of the *Solicitors Accounts Regulations 2014*.

The tribunal ordered that the respondent solicitor:

- 1) Stand censured,
- 2) Pay the sum of €1,500 to the compensation fund,
- 3) Pay the sum a €1,212 as a contribution towards the whole of the costs of the applicant. 

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WILLS

Banfield, Liam (deceased), 12 Glenville Way, Dublin 15, who died on 6 November 2020. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Bowler Geraghty & Co, Solicitors, 2 Lower Ormond Quay, Dublin 1; tel: 01 872 8233, email: bg@bowlergeraghty.ie

Barry, Adrienne (deceased), late of 6 Argyle Road, Ballsbridge/Donnybrook, Dublin 4. Would any person having knowledge of a will executed by the above-named deceased, who died on 23 March 2020, please contact B Vincent Hoey & Co, Solicitors, Law Chambers, Fair Street, Drogheda, Co Louth; tel: 041 983 1001, email: arafferty@bvhoey.ie

Boyle, Edward (deceased), late of Hillville, Castlegregory, in the county of Kerry, who died on 3 March 2019. Would any person having any 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 Thomas J O'Halloran, Solicitors, Ashe Street, Tralee, Co Kerry; DX 41015; tel: 066 712 3377, email: info@tohalloransolicitors.com

Brennan, John Joseph (deceased), late of Knocka, Drom, Templemore, Co Tipperary. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 29 July 2021, please contact Butler Cunningham & Molony, Solicitors, Slievenamon Road, Thurles, Co Tipperary; DX4006 Thurles; tel: 0504 21857/22315, email: info@bcmthurles.ie

RATES

PROFESSIONAL NOTICE RATES

RATES IN THE PROFESSIONAL NOTICES SECTION ARE AS FOLLOWS:

- **Wills** – €155 (incl VAT at 23%)
- **Title deeds** – €310 per deed (incl VAT at 23%)
- **Employment/miscellaneous** – €155 (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 Jan/Feb 2022 Gazette: 13 January 2022.**

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*.

Cullinan, Martin (deceased), late of 3 Radharc Na Locha, Ballyalla, Ennis, Co Clare, and Edenvale, Ennis, Co Clare, who died on 17 July 2021. Would any solicitor or person having knowledge and details of a will made by the above-named deceased please contact Lorraine Burke, Houlihan Burke & Company, Solicitors, Bank Place, Ennis, Co Clare; tel: 065 684 2244, email: info@houlihanburke.ie

Lawless, Patrick (deceased), late of 6 Woodview, Balrothery, and previously of 293 Swords Road, Santry, Dublin 9. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Tony Lawless, 60 Kincora Road, Clontarf, Dublin 3, D03HT32; tel: 087 253 4099, email: tony.lawless@irishlife.ie

Murphy, Paul (deceased), late of 4 Richmond Close, Ballynagge, Wexford, who died on 13 September 2021. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Paul Ebrill, Ebrill Solicitors, Iberius House, Common Quay Street, Co Wexford,

Y35TYD0; tel: 053 912 2044, email: info@ebrillsolicitors.ie

Rigney, Catherine (deceased), late of 66 Naas Road, Dublin 12, who died on 28 March 2021. Would any person having knowledge of the whereabouts of the original will, executed by the above-named deceased on 29 May 1982, please contact Daniel Spring & Co, Solicitors, 50 Fitzwilliam Square, Dublin 2; tel 01 644 99 00, email: reception@danielspring.ie

Synnott, Mark (deceased), late of Suncroft Lodge Nursing Home, Suncroft Village, The

Curragh, Co Kildare, who died on 11 May 2021. Would any person having any knowledge of the whereabouts of any will made by the above-named deceased please contact David Smyth, Cronin and Co, Solicitors, Main Street, Donabate, Co Dublin; tel: 01 895 8550, fax: 01 895 8552, email: david@croninlaw.ie

Walsh, Declan (deceased), late of 2 Brooke Grove, Farmhill, Strandhill Road, Sligo, who died on 7 September 2021. Would any person having any knowledge of any will made by the above-named deceased please contact Brendan L Johnson, O'Connor Johnson, Solicitors, Ballymote, Co Sligo; tel: 071 918 3304, fax 071 918 3526, email: bljohnson@oconnorjohnson.ie

LEGAL EZINE FOR MEMBERS

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

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TITLE DEEDS

Gorman, William and Anne (deceased), Broadleas, Ballymore Eustace, Co Kildare. Would anyone having information in respect of missing title deeds please contact the undersigned. The subject property is the dwellinghouse and lands at Broadleas, Ballymore Eustace, Co Kildare. Please contact Corcoran & Company, Solicitors, 12 Thorncastle Street, Ringsend, Dublin 4; tel: 01 561 7900, email: elaine@corcoran-solicitors.com

Mills, Norita (deceased), late of Beneavin House Nursing Home, Beneavin Road, Finglas, Dublin 11, who was born on 17 January 1919 and who died on 5 July 2021. Would any person having knowledge of the whereabouts of title deeds for the property 2A Griffith Lawns, Griffith Avenue, Dublin 9, D98X8C1, or if any firm is holding same, please con-

tact McKenna and Co Solicitors, 4 Upper Pembroke Street, Dublin 2; email: lisa@mckennaandcosolicitors.com

Landlord and Tenant (Ground Rents) Acts 1967-2019

Take notice that we, Peter and Patricia O'Halloran, persons entitled under the above acts, intend to apply to Cork Circuit Court on 11 January 2022 to acquire the fee simple and any other interests superior to our own in that property known as 43 Watercourse Road, Blackpool, Cork. Let any person having or claiming to own the freehold or any other interest in said property appear at said date and/or contact our solicitors, Finbarr Murphy & Co; tel: 021 427 3472

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 mat-**VACANCY FOR POSITION OF IN-HOUSE SOLICITOR FOR PROPERTY COMPANY IN THE WEST OF IRELAND**

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- Ability to exercise sound judgment in decision making with a high level of attention to detail.

Reply with cover letter and CV to: office@cavendishlane.ie

ter of premises situate at 35 School Street, Wexford

Take notice that any person having an interest in the freehold estate of the property known as 35 School Street, situate in the parish of Saint John's in the townland of townparks, barony of Forth, electoral division of Wexford Urban No 1 and town and county of Wexford, which said property formed part of the Dempsey Estate.

Take notice that Angela Hanrahan, as legal personal representative of Christina Furlong (deceased), intends to submit an application to the county registrar for the county and town of Wexford for the acquisition of the freehold interest and/or any intermediate interest in the aforementioned property, and any party asserting that they hold the freehold or any intermediate interest in the aforementioned

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Dr. Basil Elnazir, Consultant Respiratory Paediatrician & Medical Advisor to Make-A-Wish

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Wish Mother

If you would like more information on how to leave a legacy to Make-A-Wish, please contact Susan O'Dwyer on 01 2052012 or visit www.makeawish.ie

property is called upon to furnish evidence of their title thereto 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 intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest or interests, including the freehold reversion, to the aforementioned property is unknown or unascertained.

Date: 3 December 2021

Signed: M J O'Connor LLP
(solicitors for the applicant),
Drinagh, Wexford

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978, and in the matter of an application by Asset Resi 3

Limited, and in the matter of the property known as 1 Kenilworth Park, Harold's Cross, Dublin 6 (previously known as 11 Kenilworth Park, Harold's Cross, Dublin 6)

Take notice any person having an interest in the freehold estate of the property now known as 1 Kenilworth Park, Harold's Cross, Dublin 6 (previously known as 11 Kenilworth Park, Harold's Cross, Dublin 6) ('the premises'), held under an indenture of lease dated 2 May 1899 and made between John Healy of the one part and John William Morgan of the other part for the term of 196 years from 5 March 1899, subject to an initial annual rent of £5 10 shillings, and/or any person having an interest in the lease dated 5 March 1896 made between James Valentine Nolan and Maria Nolan of the one part and John Healy of the other part in respect of the premises.

Take notice that Asset Resi 3 Limited intends to submit an application to the county registrar for the county and city of

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Dublin for the acquisition of the freehold interest in the aforementioned property and that any party asserting a superior interest in the aforementioned property 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 intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of the 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 interests, including the free-

hold reversion, to the aforementioned property are unknown or unascertained.

Date: 3 December 2021

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

RECRUITMENT

We are seeking a solicitor with general practice experience. If you possess the requisite experience and qualifications, please contact Philip O'Sullivan and Company, Solicitors, 14 Denny Street, Tralee, Co Kerry; email: info@philipsullivan.com 

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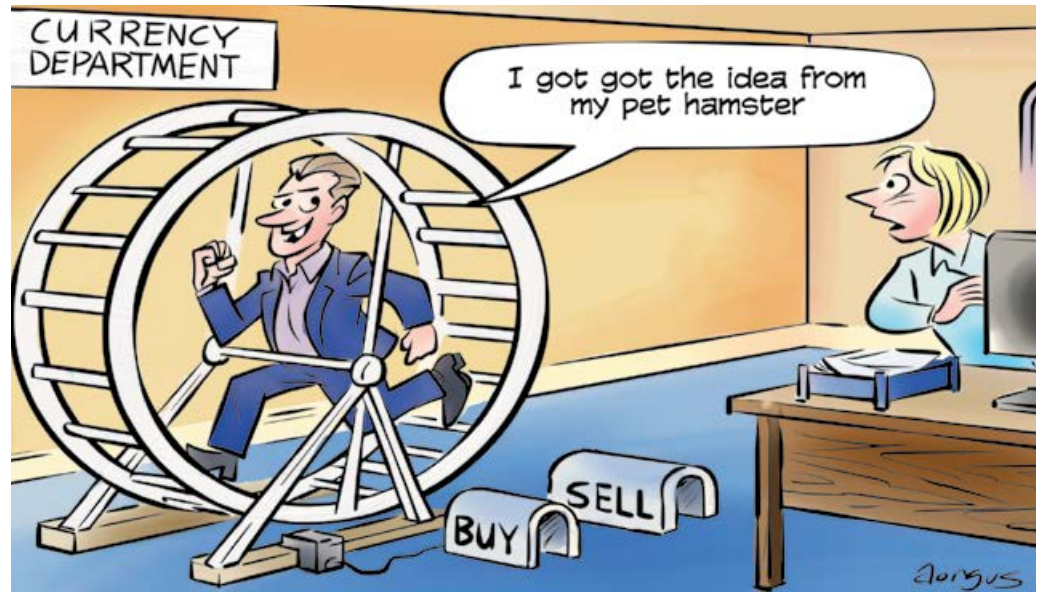
A hamster has been trading cryptocurrencies since June and has been doing better than Warren Buffett, Bitcoin, and the S&P500, says [npr.org](https://www.npr.org).

'Mr Goxx' uses a high-tech wheel that randomly selects from dozens of cryptocurrencies when he runs on it.

Then, deciding between two tunnels, the hamster selects whether to buy or sell.

The decision is sent to a real trading platform, with real money involved. He's said to be up nearly 20% since he started trading.

There's a lesson in there about the nature of financial advice...



GOOGLE MAPS YOUR DOOM

Mountaineering charities have criticised Google Maps for suggesting potentially fatal routes up Ben Nevis and other challenging Scottish mountains – including directing people over

a cliff, according to [BBC.com](https://www.bbc.com).

The John Muir Trust said that certain searches for routes up Ben Nevis directed users to the car park nearest the summit as the crow flies, and then indicated

a walking route that was “highly dangerous, even for experienced climbers”.

A safety adviser said: “It’s all too easy these days to assume that information on the internet

is all good stuff, correct, up to date and safe.”

A Google spokeswoman said they “built Google Maps with safety and reliability in mind” and are investigating the issue.

ADAMS' FAMILY FORTUNES

A US man is suing a psychic who claimed she could remove a curse on his marriage put there by a witch hired by his ex-girlfriend. Mauro Restrepo claims the clairvoyant had promised he would be happy again if he paid her US\$5,100 to exorcise the spell, [RTÉ.ie](https://www.rte.ie) reports. But after forking out a hefty \$1,000 advance, he saw no improvement in his fortunes.

Restrepo says he sought out ‘psychic love specialist’ Sophia Adams to help him get rid of his bad luck. Adams allegedly informed him that, unless the



curse was removed, misfortune would ruin Restrepo, his children and his marriage. But despite receiving the initial advance, Adams did not in any way help the marriage, court papers say.

'DELPHI BOT' SITS IN JUDGEMENT

Bot boffins have invented an AI that can answer some of the most profound ethical quandaries for us, such as ‘are men better than women?’ or ‘can I wear pyjamas to a funeral?’ and ‘should I help a friend in need if they break the law?’.

The Guardian reports that ‘Ask Delphi’ has been fed more than 1.7 million examples of people’s ethical judgements on everyday scenarios.

Specially recruited human arbiters agree with the bot’s ethical judgements 92% of the time.

Users can put a question to the

bot on its website. It does answer some questions with striking nuance.

For example, it distinguishes between whether it’s rude to mow the lawn late at night (it is), versus whether it’s OK to mow the lawn late at night when your neighbour is out of town (it is). But previous versions of the bot answered the question ‘Is genocide OK?’ with: ‘If it makes everybody happy’.

A newer, presumably Kantian, version of Delphi now answers: ‘It’s wrong.’



EBA

Employment Bar Association

EMPLOYMENT LAW CONFERENCE 2021

The 2021 EBA Annual Employment Law Conference will be held online on Friday 10 December 2021 from 2pm to 5.30pm.

Speakers & Topics:

Eileen Barrington SC – *The Organisation of Working Time Act: time for a snooze?*

Mark Connaughton SC – *Collective bargaining now and the Supreme Court judgment in NECI*

Cliona Kimber SC – *From Form to Forum – remedies in employment equality law*

Emma Davey BL – *Subject to satisfactory completion – employment rights during probation*

Cathy Maguire BL – *Medical Matters: doctors and decisions in employment law*

Tom Mallon BL – *Power v HSE: the end of acting up?*

Jane Murphy BL – *Taking and testing evidence in the adjudication of employment disputes*

To register attendance, please visit our website at: <https://ti.to/eba/2021annualconference>



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Attendance: 3 CPD Points

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This fee includes the PowerPoint presentations and Conference papers.

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