



We are family

The new *Family Court Bill* is set to put families and children front and centre



Mojo rising

Is confidence just a state of mind? Here's how to open the doors of perception



The road less travelled

Solicitor David Joyce speaks to the Gazette about his route into the profession

gazette

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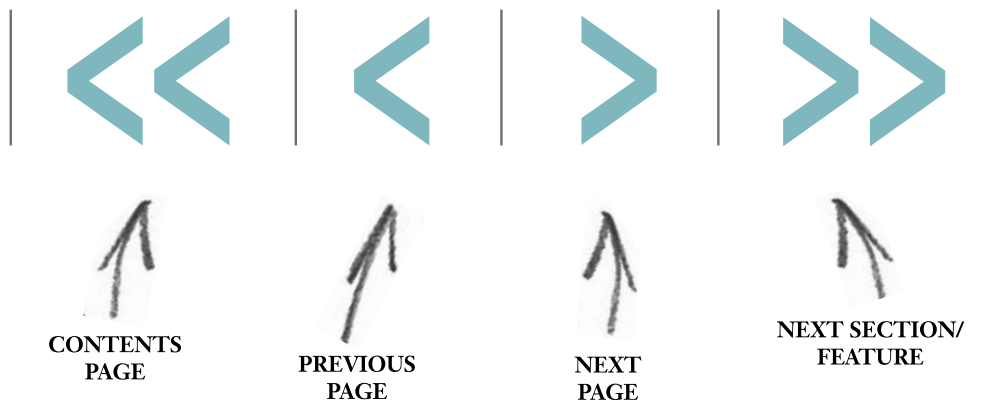
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PRESIDENT'S MESSAGE

PLANNING FOR EMERGENCIES

Recently, a colleague fell ill and may never return to their office. This happens occasionally to hardworking solicitors who have given lifelong service.

Consider the consequences for staff, clients, the solicitor's family and the Law Society. There is immediate interruption to workflow, client money, staff payment, and leadership. Never taking health for granted, we should have a temporary management agreement with a colleague to cover a period of incapacity.

In the event of death, a special executor and practice trustee named in a solicitor's will allows immediate management, including of client accounts, without the will being probated.

It takes a lifetime to put a business and systems in place. Every small practice is a very valuable asset, and should be an asset readily transferable to the next generation.

Unmanaged closures are very expensive to the profession. We all contribute to the running of the Law Society's Practice Closures Section. It is also a big job for any solicitor to wind-down their own practice.

I would encourage all practitioners to take a close look at the practice note, '[Planning for emergencies in a sole practitioner's/principal's firm](#)', which includes a wealth of information on this topic, and the piece on [p11](#) of this *Gazette*.

Successor woes

I am receiving communications from solicitors who are approaching the end of their careers who say they are unable to find a younger solicitor to take over. There are over 2,000 small practices in towns throughout the country that provide a living for solicitors and their families.

Taking over an existing business is far preferable to setting up one's own, and is something that should not be feared. A wonderful opportunity is opening up for employee solicitors who wish to have the freedom of managing their own businesses.

The person who takes over an office, having left a large office where they specialised, will continue to carry that expertise and can maintain their relationship with their former office as a contractor rather than as an employee – a win-win.

The profession is becoming more specialised in the services offered by individual solicitors. In the future, small offices will emphasise particular areas of practice, which is different to specialisation. Your Law Society is supporting these offices. That is policy.

Digital channels

The pandemic has validated the benefits of digital communication, including the use of social media. For many of us, the communication that comes with physical social interaction is hard to replace – it is part of what makes us human. It is important to recognise and accept the validity of these new communication channels.

“UNMANAGED CLOSURES ARE VERY EXPENSIVE TO THE PROFESSION”

Would you like the *Law Directory* to be redesigned so that a firm's chosen social-media channels can be listed by them as part of their profile in the [online directory](#)? I am happy to explore the possibility of allowing 'live hyperlinks' to be enabled in each entry. Please get in touch with me as part of the Society's ongoing representative function.

Finally, legal aid will soon be payable to solicitors representing victims, families, and offenders seeking parole under the *Parole Act 2019*, which is about to be commenced. [G](#)



JAMES CAHILL,
PRESIDENT

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The Cabinet has approved the *Family Court Bill 2020*, with the aim of putting families and children front and centre in the family courts system, explains Helen Coughlan

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Fundamental issues concerning the checks and balances of democracy were helpfully considered and explained in a recent judgment. Duncan Grehan enlightens us

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Austin Powers' 'ring of confidence' dispels fear, opens doors and powers his mojo. Fiona McKeever says that by exploring our personal strengths, we boost our confidence, thus allowing us to grab the opportunities that life presents



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THE BIG PICTURE

EVERY BREATH YOU TAKE

A relative prays next to the funeral pyres of COVID victims at Ghazipur cremation ground in New Delhi. India is experiencing record day-to-day increases in coronavirus infection rates. On 27 April, more than 361,000 new cases were recorded in a single day, with daily death rates of 3,000 people and rising, amid an oxygen crisis. As we go to press, India has 18.5 million official cases, almost 15 million have recovered, while 201,000 people have died from the virus



PIC: NAVEEN SHARMA/SOPA IMAGES/SHUTTERSTOCK

SIGN OF THE TIMES



The Law Society's vibrant PPC1 trainees have been incredibly busy setting up social and cultural groups never before seen at Blackhall Place. The Legal Sign Language Society (run by Ciara Fagan, Greg Flynn and Sara O'Sullivan) hosted sign-language classes tailored to the legal profession. The courses were taught by TCD's assistant professor of deaf studies Patrick Matthews and ISL interpreter Pauline McMahon. In all, five six-week courses were held, with a total of 61 PPC1 trainees completing their certification (see News, p11)

PILLARS OF DIVERSITY AND INCLUSION



The first ever Law School Diversity and Inclusion Committee has been established, featuring six pillars: disability; gender diversity; international, ethnic and cultural diversity; LGBTQ+; mental health; and social mobility. Panel discussions to date have included a celebration of Black History Month, and International Men's Day (see News, p11)

STREET LAW MOVES OUTDOORS



St Francis Xavier National School in Coolmine, Dublin, has taken Street Law into the open. Here, pupils listen intently as Mary Ann McDermott (Law Society) explains their rights as Irish citizens (See News, p10)



'A right to education' – we really like that one!



"Every home should have one" – Mary Ann speaks about the importance of the Irish Constitution



“ We’re
about
getting lawyers
and law firms
to page 1 of
Google.

LEGAL INDEX
I R E L A N D

LEGAL INDEX IRELAND

Legal Index Ireland is not about tech, it's not about why we're better than this or that SEO company.

We're about getting lawyers and law firms to page 1 of Google.

That's it. That's what we do.

We also believe in the power of simplicity – of focusing on one thing, and working very hard to fix it. We wanted to solve a problem.

The problem was: being on page 1 of Google is a priority for law firms – but getting there is expensive, very expensive.

Could we create a product that would get you there and make it affordable as well?

KEEPING IT SIMPLE

We lived with the problem day and night and, gradually, peeled away the complexities of it until we came up with Legal Index Ireland, which is a very simple solution.

We believe in the power of simplicity. We focus on one thing, not five or six.

That's what search engine optimisation (SEO) and digital marketing companies do: they talk about SEO, pay-per-click (PPC), ads, social media, web design, “connecting you to your target audience”, “making every click count”, or “getting results instantly”.

We don't do any of that.

We get you to page 1. That's it.

In reality, all lawyers want – deep down – is to be visible online.

“Could you guarantee that?” you ask.

They couldn't. We can.

Lawyers want to be seen so that they can compete on a level playing field, rather than being ‘spent-to-death’ by their competitors.

SIMPLY THE BEST

We discovered that when people search for legal services, the dominant word they used – over and over – was ‘best’, as in ‘best solicitors

Dublin’, ‘best criminal solicitor Cork’, ‘best family solicitor Kilkenny’, “best corporate solicitors Galway’, etc.

That was what members of the public were searching for.

MEETING THE NEED

So, we thought about that and we developed technology to meet the need.

We didn't do what a lot of SEO companies do: design technology and then tell law firms they needed to have this ‘wonderful new thing because we created it and we think it's just great’. We did the opposite: we started with the customer experience (people are searching for ‘best solicitors in Dublin’, etc) and we worked backwards to the technology to develop the product.

That's what you have to do. You have to look at an existing problem and figure out an answer to that problem – not develop a solution that the customer wasn't looking for in the first place.

Our solution is Legal Index Ireland.

PUT ME ON PAGE ONE

It's very simple. Law firms want to be on page 1 of Google.

Once they register with us, we put them there. Where they'll be seen. That's what we're about.

And we don't ask people to take our word for it. We can do it immediately, as in right away – not in three to four months served with a dollop of ‘maybe we can get you there’.

You register with us, you're on page one for ‘best solicitors’ in your town, city or county – exactly the search the public are using.

Simplicity.

Maybe your practice is ‘family law’? Once you register and choose ‘family law’ as your area of practice, you're on page one of Google

for the ‘Best family law solicitors’ in your town, city or county. The same applies to ‘criminal law’, and many other areas of law.

And not just in one town or county: three.

We're not on page one of Google for every area of law in every part of the country – yet. But we are in over 77% of cases, and that figure grows every single day.

We didn't choose the word ‘best’ – we just developed a product that the public was searching for. If you Google the expression ‘best solicitors’ in any town, city or country in Ireland, you'll see Legal Index Ireland on page 1.

TOP TIER

In most cases, we're in the top three to four results on page 1.

In many cases we're the top result on Google.

Once a law firm, solicitor or barrister registers with us, and chooses whatever town or city and area of law they want to be prominent in, they're also on page 1.

And they don't need a website, because our system automatically creates one for them. You can insert your contact details, a description of your firm, photos, articles and (most importantly) videos.

Our system is optimised to allow you upload multiple videos where you can demonstrate who you are and what you're about. Nothing competes with video for credibility.

Simplicity.

And you can do this for as little as €20 a month.

In fact, you can register now for three months for free, and if you don't think it's been beneficial, you can jump off after three months and it won't have cost you a penny. But we don't believe any law firm, solicitor or barrister in the country will be able to say that.

INSURANCE INDUSTRY 'HAS TRIUMPHED AT EXPENSE OF ORDINARY CITIZENS'

■ Guidelines on the level of damages that may be awarded as a result of claims for personal injuries came into effect on 24 April.

The *Personal Injuries Guidelines*, which were approved by the Judicial Council in March, will be used by both the Personal Injuries Assessment Board (PIAB) and the courts to assess compensation in such claims. The guidelines reduced the amounts that can be awarded for many categories of injury.

Cabinet approved the amendment of the *Judicial Council Act 2019* and the *Personal Injuries Assessment Board Act 2003* to bring the new guidelines into effect – meaning that the new guidelines now supersede the *Book of Quantum* in PI cases.

The new guidelines apply to applications already made to PIAB – except where an assessment has been made. The *Book of Quantum* will continue to apply where PIAB assessments have been made or where a hearing is already before the courts.

Announcing the 24 April start date, Justice Minister Helen McEntee said that the guidelines should assist in reducing costs and, in time, boost competition in the Irish insurance market. “It is now important that the insurance industry follows through and brings down the cost of insurance,” she added.

Responding to the introduction of the new guidelines, Pres-



ident of the Law Society James Cahill expressed serious concern that they would reduce access to justice for many injured people.

“The commencement of the ‘much-lauded’ *Personal Injuries Guidelines* represents a new departure for compensation to victims of personal injury. The pendulum has swung too far in favour of the insurance industry,” he said.

Mr Cahill accused the insurance industry of “avarice”, saying: “Lower insurance premiums for consumers is the reason put forward for massive cuts to victims’ compensation. Surely then, a reasonable assumption is that a guaranteed 50%-plus drop in damages would result in a 50%-plus drop in premiums. Yet, the

insurance industry would prefer to safeguard its eye-watering profits of hundreds of millions of euro than confirm reductions for their customers.”

The introduction of the guidelines meant that “the insurance industry has triumphed at the expense of the ordinary citizen”, he said, adding that the balance needed to be redressed.

“The insurance companies like to put the blame on victims and their solicitors, while they are the ones reaping enormous profits,” Mr Cahill said.

Overburdened courts

The president also expressed concern about reduced access to justice, saying that many injured

people would be appearing before the already overburdened District and Circuit Courts, which, he said, were ill-equipped to handle the increase in cases.

“These courts cannot allocate the necessary time to have injured people’s cases heard,” he said. “This added pressure on those courts will require more judges, staff and courtrooms. Failing that, the inevitable result will be huge delays. Justice delayed is justice denied,” he warned.

‘Insult to injury’

The president said that the Society had always supported the decision to ask the Judicial Council to set appropriate personal injuries guidance, but stated that solicitors could not be true to their clients and support “enormous reductions”.

“There is no denying that the effect of the severe reductions outlined will leave many injured people substantially undercompensated – adding insult to injury,” he concluded.

Under the Government’s *Action Plan for Insurance Reform: December 2020*, the Department of Justice will report on the implementation and early impact of the guidelines by December 2021. Under the terms of the *Judicial Council Act*, the guidelines must be reviewed within three years of being adopted, and every three years thereafter.

TAKING STREET LAW TO THE HEDGE SCHOOL

■ Not to be outdone by the public health emergency, this year’s *Street Law* programme took place at St Francis Xavier National School in Coolmine, Dublin, as an outdoor event, writes Mary Ann McDermott.

The programme, run by Law Society staff and trainee solicitors, taps into students’ interest in the law. It promotes legal literacy and social skills through mock trials (including the *Three Little Pigs v Big Bad*

Wolf, which is listed for June.)

The ‘Outdoor Classroom’ was the brainchild of principal Adrienne Darby. This modern-day ‘Hedge School’ comprised picnic tables for group work in an outdoor space.

The school’s first session saw children taking a class on judicial reasoning – where a traditional courtroom setting was mapped out in a large green space. Imaginations, unsurprisingly, ran riot! (See *People*, p7.)

PLANNING FOR LIFE'S EMERGENCIES

■ Ceasing practice is a matter that is usually a well-planned process. The steps for ceasing practice are laid out in the Society's information booklet *Solicitors Ceasing Practice*.

The pandemic has brought into focus the need for prudent planning within a firm and what to do in the event of an emergency situation where, for example, a sole practitioner/principal may become incapacitated, either on a temporary or permanent basis, or on the death of a principal in practice.

In addition to planning an effective wind-down of a practice, a sole practitioner/principal should also consider drafting a plan to be enacted in the event of an emergency. The practice note 'Planning for emergencies in a sole practitioner/principal's firm' (published on 10 September 2007) gives guidance on some steps to take and what to include in any such plan.

The practice note outlines what the plan might cover to minimise any disruption to client affairs, provide security to staff,

and assist the firm in continuing, if it is the wish of the solicitor and/or their family. The plan also provides for the practice to be sold, if that is the wish of the solicitor and/or their family.

The practice note includes a precedent clause for inclusion in a will of a sole practitioner/principal and a precedent 'agreement for management', which can be amended by firms to suit their needs.

It recommends that sole practitioners/principals should make a will and execute three deeds that will be of assistance if any such plan needs to be implemented during the solicitor's lifetime: an agreement for management; a power of attorney; and an enduring power of attorney.

Practice manager

Section 61 of the *Solicitors Act 1954*, as substituted by section 31 of the *Solicitors (Amendment) Act 1994*, provides that, where a solicitor who was a sole practitioner has died, his personal representative may appoint another solicitor to carry out his practice



manager is paid for by the principal's estate, not the Law Society.

The High Court may also, on application of the Society, appoint a solicitor to manage the practice on such terms as the court thinks fit, pursuant to section 61 of the *Solicitors Acts 1954* as substituted by section 31 of the *Solicitors (Amendment) Act 1994*, if a sole practitioner/principal becomes temporarily or permanently incapacitated.

Distressed closures

It is the responsibility of the firm's principal to plan proper cessation of a firm. The Society does not deal with the wind-down of a solicitor's firm or the process of distributing client files, unless the closure is a distressed closure and a High Court order has been obtained. At that point, the Society's practice-closure department will take possession of the clients' files and moneys and carry out a distribution of the files. If the Society is required to take over a firm's files, the principal or their estate may be liable to the Society for its costs.

for such a period, and on such terms as the Society thinks fit.

A section 31 application should issue to the Society as soon as possible, and the Society must approve the nominated practice manager before they take up the position. No legal services may be provided by the firm until such time as a solicitor is appointed under section 31. The *Professional Indemnity Regulations* prohibit a firm from practising without a practice manager or principal in place. Solicitors should note that the practice

PPC1 OPENS UP EXCITING VIRTUAL WORLDS

■ This year's PPC1 course ran against the backdrop of the COVID-19 pandemic, writes *Marianne McClafferty*. The PPC1 Social Committee has been organising and adapting events to run virtually.

These events have provided trainees with some much-needed relief from the demands of their daily, intensive, virtual training courses. Events have included a virtual 'BYOB' social night, a cocktail-making class, an evening with artist Bob Ross, and a cook-along with Ciara's Kitchen.

The committee has also helped organise several fundraising campaigns for the Peter McVerry Trust, Team Hope's



Christmas shoebox appeal, and a fundraising cookbook in aid of ALONE.

Trainees have also been helped to set up a wide range of societies and to organise virtual events.

The Legal Sign Language Society has been hosting sign-language classes tailored to the legal profession.

The first-ever Law School Diversity and Inclusion Committee has also been established (panel discussions have included Black History Month and International Men's Day). The first Blackhall Coding Club was set up, and other popular societies include the yoga club, the International Students' Society, the book club, Zumba, and Pound Fitness.

Here's hoping that, by the time PPC2 begins, we'll be able to finally meet our peers in person.

ENDANGERED LAWYERS

LI YUHAN, CHINA



Li Yuhan (64) is a veteran human-rights lawyer based in Beijing, where she moved in 2009 from Liaoning because of harassment and persecution by Shenyang police. Li Yuhan has represented sensitive cases on freedom of belief and access to government information.

Like other human-rights lawyers in China, she has been subjected to physical violence and harassment by the authorities. In one such incident in May 2015, Beijing police abducted and assaulted her after she had reported the obstruction of justice by local officials in a civil case, leaving her unconscious with concussion and other injuries. Later that year, she spoke to members of the UN Committee Against Torture about treatment of detainees, and the worsening situation of lawyers detained in the '709 crackdown'. Li Yuhan defended Wang Yu, a fellow lawyer who was one of the main victims of that crackdown.

She was taken by police in October 2017 without warrant or notice to her family, formally arrested five weeks later, and continues in pre-trial custody ever since. Li's detention, according to her lawyer, Lin Qilei, appears to be partly in retaliation for her repeated appeals to authorities

to locate lawyers who had disappeared into police custody during the 709 crackdown. She was charged with 'picking quarrels and provoking trouble' and a charge of fraud was added in 2018.

She has made serious allegations of mistreatment and torture in custody, including deprivation of medical care. Her health is frail and she is at high risk of cerebral haemorrhage and stroke. When seized in 2017, she was reportedly suffering from atrial fibrillation arrhythmia, coronary heart disease, hyperthyroidism, diffuse gastritis, and other health problems. She has been forced to bathe in icy water in sub-zero temperatures, endure harassment and abuse by cellmates, deprived of sufficient drinking water, and pressured in many ways.

Trial dates have been set and postponed, and her bail applications have been refused. Visits by her lawyer have been blocked since January 2020 on grounds of COVID-19. She was offered freedom and continuation of her lawyer's licence to practice by a trial court if she would admit her 'offences', but she rejected the offer.

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

STIGMA IS A PROBLEM – IBA



■ The initial findings of a [global survey of wellbeing](#) in the legal profession are a “cause for concern”, with stigma a major problem, according to the International Bar Association (IBA). The study was part of the work of a taskforce set up by the IBA in 2019 to implement coordinated responses to wellbeing issues.

The study included two surveys – one for individuals, one for legal institutions – and drew responses from more than 3,000 legal professionals and 180 organisations. The IBA says that the wellbeing index scores gathered from the data, which were based on World Health Organisation methodology, show that lawyers' levels of wellbeing are below the global average in every regional forum.

More than 40% of respondents said that they could not discuss wellbeing issues with their employer without worrying that it would damage their career or livelihoods.

The survey also found that awareness about available local and international support and services was low. In addition, 22% of those surveyed said there

was no wellbeing help, guidance, or support in place in their jurisdiction.

Most employees think that their employers need to do more in the area, including 75% of respondents aged between 25 and 35.

The IBA said that wellbeing issues were having a disproportionate impact on the young, women, those who identify as an ethnic minority, and those with disabilities – with those groups reporting wellbeing scores consistently below the global average for other respondents.

Dignity Matters

Meanwhile, the Law Society has launched an independent research study on bullying, sexual, and other forms of harassment in the profession. The aim of the [Dignity Matters](#) project is to help transform workplace culture (see this *Gazette*, p15).

The Law Society has also [invited firms](#) to show their commitment to workplace wellbeing by signing up to its Professional Wellbeing Charter (see lawsociety.ie/Solicitors/Representation/wellbeing-hub).

ARTHUR COX FOUNDATION WINDS UP

■ This year is the 60th anniversary of the establishment of the Arthur Cox Foundation, and it is the year in which the foundation is due to complete its work and wind-up its activities.

Founded in 1961 by colleagues of Arthur Cox on the occasion of his retirement from practice, the foundation was set up to honour his long and distinguished career. The former senator, Law Society president, chair of the Company Law Reform Committee, and director of several of Ireland's largest public companies, Arthur Cox retired at the age of 70 to pursue a vocation to the priesthood, which subsequently took him to work on a mission in Zambia, where he died in a motor accident two years after his ordination in 1965 (See *Gazette*, May 2013, p6).

The foundation is now winding-up, having supported 79 projects, including grants to authors and publishers to assist the publication of key Irish legal texts, and many prizes to law students. Books assisted by the foundation include early editions of Wylie's *Irish Land Law* and *Irish Conveyancing Law*, McMahon and Binchy's *Irish Law of Torts*, Brady and Kerr's *Limitation of Actions*, and Keane on *Company Law* and *Equity and the Law of Trusts in Ireland*.



Arthur Cox – a long and distinguished career

In recent years, the foundation has supported niche publications, such as Dr Shivaun Quinlivan's *The Right to Inclusive Education in International Human Rights Law*, Dr Laura Cahillane's *Drafting the Irish Free State Constitution*, and *The Notary of Ireland: Law and Practice*, by the late Dr Eamonn Hall and E Rory O'Connor, published in 2018.

The foundation's work in supporting authors, publishers and law students has been a very fitting memorial to the energy and dynamism of Arthur Cox, and a wonderful endorsement of the high esteem in which he was held by the many original contributors to the fund.

NEW FIRM FOR CORK

■ A new firm, **ODS Solicitors**, has opened in Cork city. The practice, co-founded by solicitors Annette Sheehan and Helene O'Donovan, provides expertise across a broad range of services, including litigation, family law, property, commercial, wills and probate.

Sheehan specialises in family law and sits on the Law Society's Family Law Committee. O'Donovan is an expert in corporate law, land and conveyancing matters, and renewable energy. The firm's offices are situated a short distance from Cork Circuit Court at Crosses Green.

IRLI IN AFRICA

ACCESS TO JUSTICE FOR TANZANIA'S CHILD SEX-ABUSE VICTIMS



Community sensitisation session in Mpwapwa District, Tanzania

Irish Rule of Law International's (IRLI) project on investigating and prosecuting child sex-abuse crimes in Tanzania is continuing to produce results. The programme, which is operating in conjunction with our Tanzanian partners, the Children's Dignity Forum, aims to enable access to justice to victims of child sex abuse through a two-pronged cross-jurisdictional approach, namely: (1) building the capacity of criminal justice participants in Tanzania to respond to child sex-abuse issues, and (2) cross-border cooperation in the form of institutional and information exchanges with criminal justice actors in Ireland.

The programme seeks to build on the lessons learned by Irish and Northern Irish criminal justice participants in historical cases of institutional child sex abuse during the 1990s. It is envisaged that the programme will have a long-lasting, sustainable impact, and that it will serve as a vehicle for Tanzania's criminal justice system to respond to crimes involving vulnerable victims more generally.

Despite obstacles due to the COVID-19 pandemic, the project has achieved a number of key milestones, mostly in the Mpwapwa District of central Tanzania. Dozens of criminal justice participants – from magistrates to police prosecutors to investigators – have received training in general child-justice issues and re-

levant juvenile court procedural rules. The project has already resulted in increased coordination between those involved in the criminal justice system – this will need to be sustained to effectively respond to ongoing child sex-abuse matters.

Police officers, as well as medical personnel in hospitals, have also been educated about the psycho-social facilities provided by social-welfare officers that are available to child sex-abuse victims. To date, the programme has provided such services to over 60 women and children.

In order to understand the reason behind the under-reporting of child sex-abuse crimes, the programme has also organised community sensitisation sessions – these have reached over 1,500 people, raising their awareness on mechanisms for redress and the support services available to victims of child sex abuse, as well as people's legal rights.

IRLI has also begun a series of dialogues with senior members of An Garda Síochána and the Irish judiciary – relevant guidelines on best practices have been shared with Tanzania. IRLI is looking forward to forging strong collaborations for technical and information exchanges in the coming months.

James Douglas is director of programmes at IRLI.



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

**PUBLIC
NOTICE**



NOTICE

**In the matter of the Landlord and Tenant
(Ground Rents) Acts 1967-2019**

**And in the matter of the Landlord and Tenant
(Ground Rents) (No. 2) Act, 1978**

**And in the matter of an application by Dublin City
Council, Civic Offices, Wood Quay, Dublin 8**

**And in the matter of the property known as Terenure
Library, Templeogue Road, Terenure, Dublin**

TAKE NOTICE any person having an interest in the free hold estate of the property known as Terenure Library, Templeogue Road, Terenure, Dublin, now held under a yearly tenancy which commenced on the 1st April 2018, subject to a yearly rent of £19 (€24.13) between The Community Enterprise Society Limited and Dublin City Council.

TAKE NOTICE any person having an interest in the free hold estate of the property held under indenture of lease dated 31st May 1948 between The Sundrive Cinema Limited and the Right Honorable Lord Mayor Alderman and Burgesses of Dublin, which commenced on the 1st April 1948, subject to a yearly rent of £19 for a term of 70 years.

TAKE NOTICE any person having an interest in the free hold estate of the property held under Indenture of lease dated 2nd September 1873 between the Right Honorable Sir Fredrick Shaw and Griffith Burford in respect of ALL THAT AND THOSE that part of the lands at Terenure with the cottages and stables and garden situate in the Barony of Rathdown and County of Dublin containing in the whole one rood and one perch and one quarter Statute Measure. Which said lease commenced on the 25th March 1873 for a term of 150 years subject to a yearly rent of £5.

TAKE NOTICE any person having an interest in the free hold estate of the property held under Indenture of lease dated 28th March 1876 between the Right Honorable Sir Fredrick Shaw and Thomas Moyers in respect of ALL THAT AND THOSE the plot or piece of ground situate at Terenure in the Barony of Rathdown and County of Dublin containing the one whole acre three roods and seventeen perches statute measure. Which said lease commenced on the 25th March 1876 and was for a term of 180 years subject to a yearly rent of £27.

TAKE NOTICE any person having an interest in the free hold estate of the property held under Indenture of Sub-Lease dated 20th November 1893 between Richard Wharton, Christina Wharton, George Barnes, Ada Louise White and Thomas Moyers and The Dublin and Blessington Steam Tramway Company in respect of ALL THAT AND THOSE the dwelling houses stables and premises known as Moira House and Moira Ville Terenure with the garden and premises adjoining same. The term of the sub-lease was 160 years subject to the yearly rent of £65.

TAKE NOTICE that Dublin City Council intends to submit an Application to the County Registrar for the County and City of 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 undermentioned solicitors within 21 days from the date of this notice.

TAKE NOTICE that in default of such notice being received, the Applicant Dublin City Council intends to proceed with the application before the County Registrar at the end of 21 days from the date of this notice and will apply to the County Registrar in the County and City of Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest or interests including the freehold reversion, to the aforementioned property is unknown or unascertained.

Date: 7th May 2021

Signed: Yvonne C Kelly, Law Agent, Dublin City Council,
Civic Offices, Wood Quay, Dublin 8.

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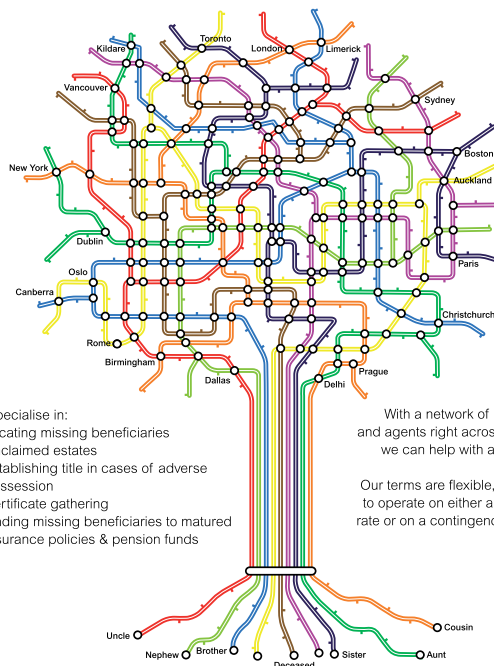
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DIGNITY MATTERS SURVEY LAUNCHED

■ In a bid to tackle oppressive workplace cultures, the Law Society is carrying out an independent research study on bullying, sexual, and other forms of harassment in the solicitors' profession.

A confidential survey is being carried out with the help of external consultants Crowe, following ethical research guidelines, with the goal of providing an objective assessment of the current work environment as it relates to these matters. Law Society members, both practising and non-practising, as well as Blackhall Place trainees, have been invited by Crowe via email to participate in this survey.

The goal of the **Dignity Matters** project is to help transform workplace culture. The research will also provide recommendations to the solicitors' profession on how best to tackle bullying, harassment and sexual harassment, and how to prepare for challenges ahead, as guided by the IBA's *Us Too?* report recommendations.

Open invitation

The survey is not solely for those who have experienced oppressive workplace environments. It is vital that Crowe hears from everyone, including those who have not been affected, to fully establish an accurate depiction (positive and negative) of workplace culture. Bystanders to harassment are also invited to contribute their views and detail their subjective experience.

Given the confidential nature of the survey, submissions do not need to meet any legal requirements under the definition of bullying or harassment. Participants will not be bound, in any way, by their answers.

Bullying at work is defined as repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, which



could reasonably be regarded as undermining the individual's right to dignity at work.

The survey breaks down various types of bullying, such as:

- Being deliberately given too much or too little work, work not appropriate to the position, or manipulating job content and targets,
- Overbearing supervision, undermining of work output, or constant unproductive criticism,
- Exclusion or withholding work-related information,
- Verbal abuse/insult, including offensive jokes or comments, ridiculing, or demeaning language, shouting, or spreading malicious rumours,
- Inappropriate written material (text messages, emails, letters),
- Inappropriate visual displays, such as posters, emblems or badges,
- Misuse of power or position, including threats or comments about job security,
- Ongoing or public criticism,
- Jostling, shoving or any form of physical assault,
- Intimidatory gestures, posturing or threatening poses,
- Implicit or explicit threats, other than relating to the categories above,
- Isolation or exclusion from work or social activities, including work online/phone chat groups,

- Pressure to behave in a manner the respondent found inappropriate,
- Work requirements that impact on child/carer/other personal arrangements, such as early morning meetings, late working, requirement to answer emails while not at work,
- Difficulties surrounding maternity issues,
- Bullying or harassment via social media,
- Being treated less favourably than colleagues, including being blocked from promotion or training opportunities,
- Violence/aggression (actual or implicit/explicit threats), and
- Interview questions relevant to a discriminatory ground.

Data is key

Sexual harassment is any form of unwanted verbal, non-verbal, or physical conduct of a sexual nature that has the purpose or effect of violating a person's dignity and/or creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

This is not a forum through which to report distressing incidents, and respondents are respectfully asked not to identify any individuals or organisations. The purpose of this survey is to obtain data. Crowe will review all responses and present aggregated findings to the Law Society. Individual survey responses will not be shared with the Society. There will be open text boxes in the survey with the object of understanding this difficult topic more deeply.

Evidence-based programme

The Dignity Matters survey is one part of an evidence-based programme of action to address bullying, harassment and sexual harassment in the solicitors' profession, and to support a culture

of dignity, respect and inclusivity. A change programme to implement the recommendations will follow, upon approval by the Law Society Council.

As we go to press, a confidential email with a link to the survey is to be sent to everyone on the Roll of Solicitors, with instructions about how to participate. Law School trainees will not be contacted directly by Crowe. However, they will be directed by the Law School about how and where to access the survey link online when the survey is launched. Clicking on the link will bring survey invitees to the individual survey. A helpdesk will be made available by Crowe during the period the survey is open – it will be accessible via email and phone and will respond to technical queries only.

Mental-health supports

There are **mental-health supports** available for solicitors who experience distress on completion of, or while completing, the Dignity Matters survey. Individual counselling is also available to Law School trainees through Law School Psychological Services.

Crowe and the Law Society appreciate that recollecting incidents of bullying, harassment and sexual harassment may be distressing, and encourage participants to seek appropriate support.

Your dignity matters

Solicitors' voices have the potential to transform workplace culture and ensure dignity, respect and inclusivity. The Law Society is asking all of its members to be part of the change and have their say on dignity matters.

Julie Breen (Professional Well-being Project coordinator) is coordinating the rollout of the Dignity Matters survey. If you have feedback or questions, you can contact Julie at professional-wellbeing@lawsociety.ie.

MONUMENT SOLICITOR TO GET MBE

■ Solicitor Sabina Purcell is to receive an MBE from the British queen for her work in bringing *The Haunting Soldier* sculpture to Dublin in November 2018, to mark the centenary of the World War I armistice.

The monumental sculpture, crafted from scrap and depicting a weary soldier leaning on his rifle, was seen by up to 500,000 people in St Stephen's Green.

"I was completely flabbergasted to be selected for an MBE," Sabina told the *Law Society Gazette*. "It came out of the blue, as did the formal letter confirming my award in March. It is genuinely so nice to be acknowledged. It was also emotional, as I think about the stories of those who served from this island. I am honoured and delighted, and will be presented with my award by the British Ambassador when restrictions are lifted," she said.

Sabina, who works in the Chief State Solicitor's Office, said that she had first come across the sculpture "completely by chance" while online. She saw its potential to commemorate the centenary of the ending of the war without glorifying it, and its ability to encourage reflection on the many thousands from Ireland



who served in the British forces.

With the help and support of the OPW and the Department of Culture, Heritage, and the Gaeltacht, she arranged for the sculpture to come to Dublin in time for the armistice centenary: "I saw the sculpture for the first time at 7am on 3 November 2018

on the back of a Nolan's Transport lorry. The OPW was marvellous in its support of the commemoration. When the sculpture was erected, with the assistance of Sisk and AIG, the sheer size and scale was breathtaking."

The Haunting Soldier also brought this part of Irish his-

tory to the next generation, says Sabina, due to the number of school trips that saw it.

"My interest in World War I is a personal one, in that my grandfather and my grand-aunt, Elizabeth O'Malley, served in the war – and came home," she said. Her main research has focused on those who returned from the front. Sabina began her research in 2011, uncovering records for 40,000 men and women who had served from the island of Ireland. She then set up the website www.worldwar1veterans.com.

When survivor names are submitted to her, they are frequently accompanied by a story behind the names. This includes five Roscommon Moraghan brothers, all of whom returned home. In contrast, three O'Shea brothers from Tipperary served, but only one returned. Two were killed and buried in France, reflecting a similar story for many families.

Her next project will be a permanent WWI memorial comprising three figures – a young injured soldier and a nurse to commemorate the 150,000 men and women from Ireland who served, and a dog to recollect the important role played by animals during the war.

BARS UNITE AGAINST CHINA'S LAWYER SANCTIONS

■ The four professional bodies of barristers and advocates of Ireland and Britain have issued a joint statement of condemnation of the sanctions announced by the China against barrister members of the legal profession and their immediate families.

The Bar of Ireland, the Bar Council of England and Wales, the Bar Council of Northern Ireland, and the Faculty of Advocates of Scotland have united in denouncing the move.

The matter concerns four barristers in China who gave

a legal opinion for lay clients, who then published that opinion publicly. The opinion related to legal issues arising from alleged human-rights violations by Chinese authorities against the Uyghur population in the Xinjiang Province.

The statement says that the imposition of sanctions on lawyers for providing a legal opinion clearly contravenes the UN's *Basic Principles on the Role of Lawyers*, which state that "lawyers shall not be identified with their clients or their clients' causes as a



result of discharging their functions".

It continues: "The naming in the sanctions of a barristers'

chambers, which comprises some 95 other barristers who practise from the same premises, but as independent legal practitioners, is a further indiscriminate attack on legal professionals. It is inconsistent with respect for the rule of law.

"We call on the People's Republic of China government to review these sanctions, which call into question its commitment to the rule of law, as well as its status and reputation as a reliable partner in international trade and commerce."

JUDGES PAY TRIBUTE TO TIPPERARY SOLICITOR BRIAN MAGUIRE

■ It has been over 12 months since the courts have had to close due to the pandemic, save for emergency sittings. It was during recent, restricted-access court sessions in Clonmel Courthouse, that tributes were paid to the late Bryan Maguire.

At the sitting of the Circuit Court, presided over by Judge Alice Doyle, and at the sitting of the District Court the same day, presided over by Judge JW Terence Finn, a limited number of people heard of the high regard in which Bryan (Maguire Bardon Solicitors, and formerly of O'Shee Murphy & Company) had been held.

'Mine of information'

Judge Doyle remarked how she understood that he "was a mine of information in relation to title in conveyancing matters in Tipperary", but that, above all, he was a family man. For that reason, she said, "it would have given Bryan great solace to see his daughter Deirdre Maguire, solicitor, and her husband Patrick Bardon, solicitor, together with their children, his grandchildren, here today".

Johnny Walshe, barrister, concurred with Judge Doyle's comments. He spoke about working with Bryan, when he served as State Solicitor, and about his dedication to his own clients, and his dedication to his work as State Solicitor.

Kieran Cleary, solicitor, Clonmel, said that Bryan had been regarded as the "solicitor's solicitor" who assisted colleagues and imparted his knowledge of title and legal complexities to fellow colleagues.

Paul Morris (coroner, South Tipperary) attributed "an attitude of optimism grounded in a deep faith, coupled with a self-



less generosity of spirit towards other people" as the hallmark of Bryan's character.

Paul Fitzpatrick (State Solicitor) expressed his appreciation for having had the good fortune to work with Bryan, "who was a formative influence and a generous mentor to so many solicitors during his career".

Chief Superintendent Smart, speaking on behalf of his colleagues and retired members

of the force, remarked on his "empathy, understanding and most of all, high degree of respect for everyone".

Jim Redmond, clerk of the Courts Service, fondly recalled his first and last encounter with Bryan and how he was "one of nature's gentlemen" who had "an immense knowledge of the law."

Huge legacy

Mr Maguire continued working into his 90th year, having practised as a solicitor for 66 years, leaving behind a huge legacy and a great void. He did his apprenticeship in Anthony Carroll & Company (Fermoy) and worked in Callan, Co Kilkenny, set up his own firm in Cashel, Co Tipperary, and had a sub-office in Fethard, Co Tipperary. Frank Murphy subsequently persuaded him to join O'Shee Murphy & Company in New Quay, Clonmel, which became Maguire Bardon in 2018.

The concluding tribute was paid by Judge Finn, who recalled his early encounters with Bryan

many decades earlier. Judge Finn had worked as an apprentice solicitor to his own father in Mitchelstown and always found Bryan to be "knowledgeable, accomplished and erudite, with no sense of self-importance, a man who knew his law, and was always prepared to engage with anyone, and to meet a case fair and square".

Judge Finn added that, following his appointment to the bench, he would not have encountered Bryan so frequently, but when he did, he found "his paperwork accomplished and his presentation of matters to the court exemplary".

The judge extended his sympathy to his daughter Deirdre, who had "followed in her father's footsteps and onto the court scene", to the entire family, and to his office staff.

Sympathies are extended to his wife Margaret, children Sorcha, Mairéad, Gráinne, Bryan and Deirdre, sons and daughter-in-law, grandchildren, extended family members, colleagues and friends.

DIPLOMA CENTRE OFFERS FREE ECO-LAW ONLINE COURSE

■ Environmental law and climate change is the theme for the Diploma Centre's 2021 massive open online course (MOOC), starting on Tuesday 18 May.

MOOCs are free online courses open to everyone as part of the Law Society's public legal-education initiative. Since the public legal-education stream launched in 2014, Diploma Centre MOOCs have attracted over 14,000 participants from over 70 countries.

This year's MOOC will provide participants with a comprehensive guide to the key legal



and ethical issues affecting the environment and climate. It will examine international, EU and

national obligations regarding climate change, the *Climate Action and Low Carbon Development (Amendment) Bill 2021*, climate justice and environmental enforcement, the circular economy, green finance, fast fashion, plastics, renewable energy, biodiversity, sustainability, ecocide and green crime.

Eight CPD points are available for completing this MOOC, which runs over a five-week period. For further information and to sign up, see mooc2021.lawsociety.ie.



If you like many practitioners or professionals with an interest in employment law are finding an increase in queries on employment law then you should join the Employment Law Association (ELAI) so that you can keep up to date on the changing landscape. We hold a number of interesting, lively and relevant seminars/social events each year which will be a mix of online and in person events when permitted.

Our next event and AGM will take place on 11 May 2021. We are delighted that An Tánaiste, Leo Varadkar will be giving the key note address on the Making Remote Work Government Strategy detailing the government extensive and progressive response to remote working, which will impact many employees and businesses.

ELAI was established in 2010 and membership is extremely good value at a cost of €85 per year with a maximum fee per organisation for €850 for 10 or more members. A student/newly qualified solicitor rate is also available.

ELAI is now open for new members interested in joining the group and further details about the organisation and membership can be found on our website.

<https://www.elai.ie/>

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O'REGAN APPOINTED TO EXPERT GROUP



■ Solicitor Attracta O'Regan has been appointed as a member of the **Expert Group on European Judicial Training**, which is managed by the EU Commission's Directorate-General Justice and Consumers. Attracta is one of 25 experts and five alternates appointed. A total of 14 expert members are appointed in a personal capacity, while 11 experts and the five alternates represent a common interest of stakeholders. Attracta is head of Law Society Professional Training and serves as the rule of law advisor to the Council of Bars and Law Societies of Europe.

LINKLATERS' DUBLIN DUO

■ London firm Linklaters has announced that Nicole Kar and Richard Cumbley will be the co-leaders of its **new Dublin office**.

Kar currently heads the firm's England and Wales antitrust and foreign investment team, while Cumbley is its global head of technology, media and telecommunication, and intellectual property law. The two will work across both London and Dublin offices, offering EU law advice.



WELLBEING

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

TIME TO 'WALK THE TALK'

Q *I work in a small legal practice, where we treat each other as family. However, the ongoing lockdowns greatly restricted our ability to connect, both socially and professionally. I have noticed that one of my colleagues appears to be struggling. In normal times, I would find space to have a face-to-face chat. As this is not possible now, what should I do?*

A Working in the legal profession can be very satisfying, but we also know that it can be particularly challenging and pressurised, resulting in poor wellbeing. This is borne out by a recent **study** conducted by the International Bar Association, which showed that those who work in the legal profession scored substantially lower than the general population on the WHO wellbeing index.

Providing support in the workplace, or elsewhere for that matter, can be challenging. The current social restrictions may add some additional challenges. Recognising that a colleague may be experiencing a mental-health challenge can be the first step in providing support. Signs can include not meeting deadlines, withdrawal, and working longer hours to get usual workloads completed. Regular contact with colleagues is important, as you will not be able to observe

the signs through incidental contact. Observing non-verbal cues (like facial expressions and body language) might be more difficult over the phone or via video-calls, so you will need to pay particular attention to tone and speech.

At all times, you should ensure that your conversation is private. It can be helpful to find out if they are at home alone, or if a partner or children are at home as well. Ask if they can move to a more private area, or you could consider going for a virtual 'walk and talk' together over the phone.

Once you have opened the conversation, you will need to rely more heavily on your verbal skills to show you are listening, and to convey empathy and understanding.

Empathy can be conveyed by expressing that you are seeking to understand what might be going on for them. This includes asking questions that show that you genuinely care, re-stating what they have said, and summarising facts and feelings. You should also be patient, as the person may not be communicating well. Remember that empathy can be conveyed in the tone of your voice and what you say. Try not to interrupt the person when they are speaking.

You may need to be more direct in your conversations, and to ask more questions than

usual to really understand what is going on for them. If you are providing support via webchat or texting, it will be especially important to ask clarifying questions to ensure you have understood them. Pauses and silences are okay, but can be more awkward over the phone. Think about whether the silence is awkward, or just awkward for you. Remember, you are not a miracle worker and, where possible, try to signpost the person to independent supports, such as LegalMind (tel: 1800 81 41 77), their GP, or the Samaritans (tel: 116 123).

Finally, if you believe the person is at risk to themselves or others, you may need to call the emergency services.

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

The question and response in this column are hypothetical and written by Martin Gillick, manager of Mental Health First Aid Ireland. 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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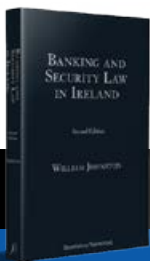
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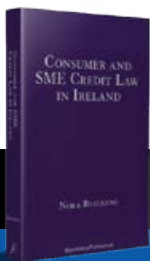
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WYLIE ON IRISH LAND LAW

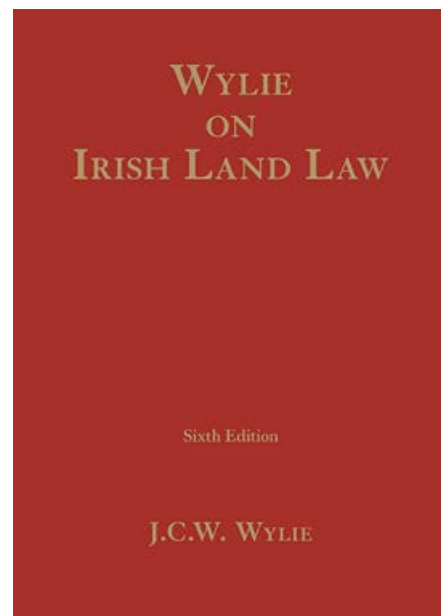
JCW Wylie. Bloomsbury Professional (2021), www.bloomsburyprofessional.com. Price: €260.45.

This is the sixth edition of Wylie's tome on land law in Ireland. It is seven years since the publication of the previous edition and, in that time, there has been the publication of a significant amount of legislation, including the *Residential Tenancies (Amendment) Acts* (2015, 2016 and 2019) and the *Land and Conveyancing Law Reform (Amendment) Act 2019*.

Naturally, in the meantime, there have also been a number of notable cases relating to enforcement of mortgage debts and judgment mortgages, rules governing the appointment of receivers, licences to occupy land and rights of residence, the operation of NAMA (including its duties and powers), and the operation of the doctrine of adverse possession.

The book is divided into various parts and includes a history of land law from the period prior to the 12th century to the 21st century. It has a significant section devoted to mortgages, looking at their historical background and the enforcement of security, and a chapter devoted to *lis pendens* and judgment mortgages. It sets out in detail the requirements for registration of a judgment mortgage, referencing legislation, the *Rules of the Superior Courts*, and case law. It provides a discussion on the difficulty of the enforcement of judgment mortgages registered against the interest of one of two or more joint tenants prior to the enactment of the *Land and Conveyancing Law Reform Act 2009*, together with a discussion on the position since the enactment of the 2009 act, and a compare-and-contrast in respect of the position for registered land and unregistered land.

A distinct part is devoted to succession law, with separate chapters relating to wills, intestacies, and administration of estates. A section is devoted to landlord and tenant law and the formalities for such a relationship to exist, together with a chapter devoted to the control of tenancies – reviewing architectural tenancies, business tenancies, and residential



tenancies – and it discusses rent controls and rent-pressure zones.

A useful chapter is devoted to licences and similar interests, again with reference to case law and legislation. It reviews rights of residences and, in particular, the recent case of *Ryan v Bank of Ireland* relating to the construction of a bequest of right of residence, support, and maintenance to a surviving spouse.

A chapter is devoted to registration of title and also to the registration of deeds. Adverse possession is reviewed in detail, considering both unregistered land and registered land.

Overall, the book is a useful publication for both college students and the practitioner who has an interest in land law from the historical aspects to current practice issues. It provides significant reference to case law, legislation and statutory instruments, rules and orders.

Joyce A Good Hammond is a partner at Hammond Good in Mallow, Co Cork, and is a member of the Law Society's Conveyancing Committee.

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IRISH FAMILY LAW HANDBOOK

Deirdre Kennedy and Elizabeth Maguire. Bloomsbury Professional (2020), www.bloomsburyprofessional.com. Price: €165.75.

Irish Family Law Handbook gives practitioners an expedient source of reference for the most up-to-date legislation. The text brings together distinct issues pertaining to family law, and amalgamates the law from various pieces of legislation into one space. In practice, this allows one to focus on the issue at hand and allows practitioners to see all relevant legislative provisions applicable to the matter.

This is advantageous to any practitioner, as one can consider the issue, comforted in the knowledge that the authors have edited and combined the legislation pertaining to that issue in one text. The text is easily navigated and indexed. However, one would be remiss to consider this text a mere codification of the law to hand. The text is not a mere dragging together of the pieces of legislation.

This new edition addresses new legislation enacted since 2015, when this text was last published. The legislation introduced since then is by no means insignificant. These new pieces of legislation include the



Mediation Act 2017, the Domestic Violence Act 2018, and the Family Law (Divorce) Act 2019. These are significant, as they affect not only the practical application of the law, but also some of the central factors for consideration in cases. These acts have had a significant impact on the way in which cases are heard and resolved. Being able to use the handbook during proceedings brings the matter from the realm of academic debate swiftly back into the realm of practical application of the law.

Irish Family Law Handbook brings together legislative provisions and considers how these interact with the court rules. That it brings together constitutional provisions, legislation, both updated and previously established law, and court procedure into one easily accessible text is a relief to this practitioner in the consideration of cases.

Colleen Sparling O'Riordan is a solicitor with Anne O'Neill Solicitors, Washington Street West, Cork.



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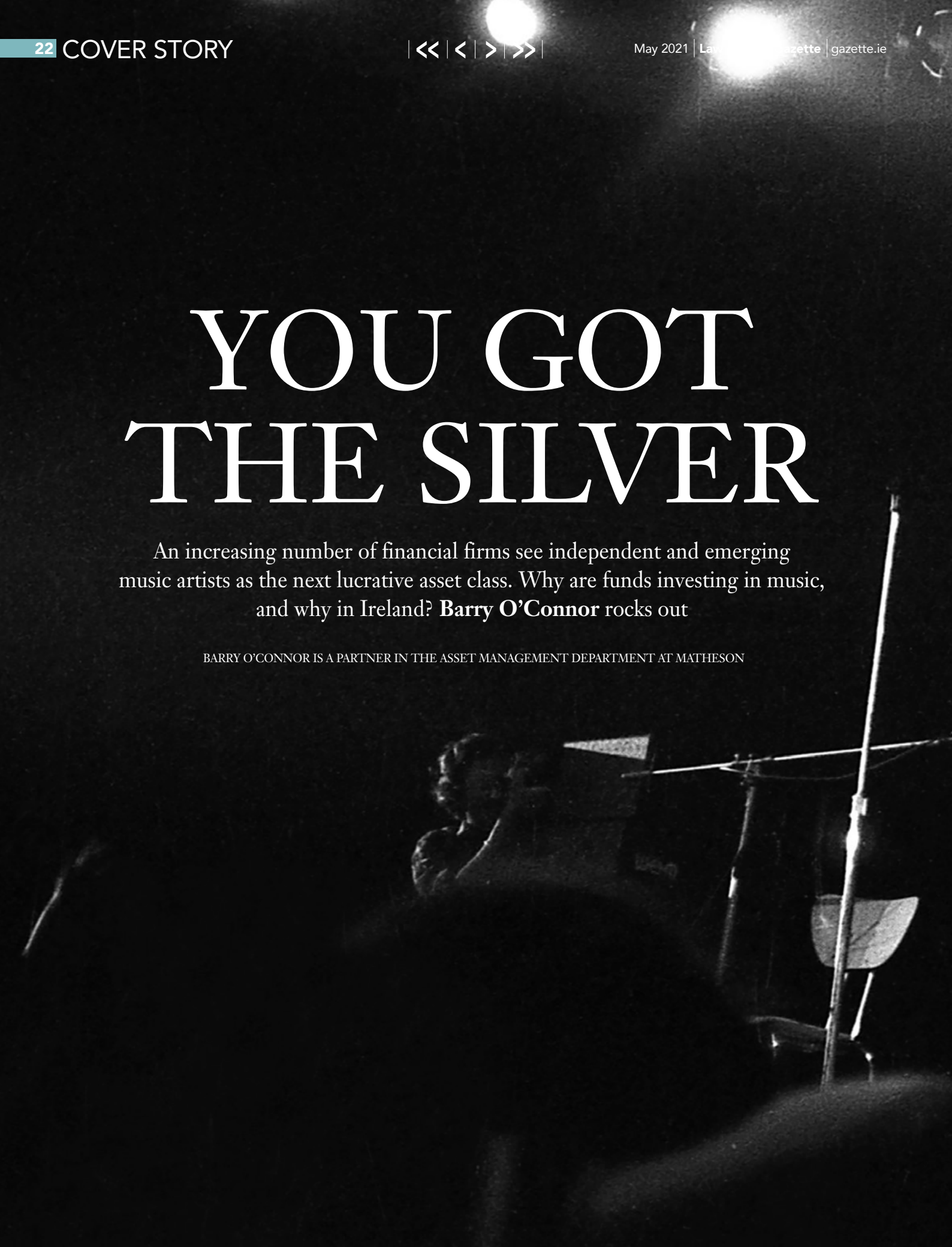
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YOU GOT THE SILVER

An increasing number of financial firms see independent and emerging music artists as the next lucrative asset class. Why are funds investing in music, and why in Ireland? **Barry O'Connor** rocks out

BARRY O'CONNOR IS A PARTNER IN THE ASSET MANAGEMENT DEPARTMENT AT MATHESON





≡ AT A GLANCE

- The monetary value of music derives from public performances, live concerts, films and TV, and now, more than ever, online revenues. Its legal value lies in the IP
- Music funds provide shareholders with a desirable and growing level of income, combined with the potential for capital growth, by investing in a portfolio of songs and their associated music IP
- From a fund's perspective, therefore, acquiring and holding the IP in the best possible way is key, and Ireland is an ideal location for this



Ireland is an international hub for fund services, with many large investment funds established here. Very recently, there has been an interesting trend of funds investing in music royalties, and law firms and music industry bodies, like the Irish Music Rights Organisation, have seen a marked interest in this type of investment.

Firms such as BlackRock's Alignment Artist Capital and AGI Partners' Unison Fund see independent and emerging music artists as the next lucrative asset class. Others, such as Hipgnosis Songs Fund Limited, which invests in legacy catalogues of the likes of Blondie and Barry Manilow, recently had its market capitalisation exceed \$1.6 billion. In the last few months, we have seen the entire back catalogue of Bob Dylan being bought out by Universal.

In 2019, Goldman Sachs updated its 'Music in the Air' dossier to forecast that, by 2030, the global recorded music industry will be generating \$45 billion annually (up on a restated prior forecast of \$44 billion). It also believes that paid streaming will generate \$27.5 billion for labels and artists in that year (up on a restated prior forecast of \$27.1 billion) and that the overall annual global trade in streaming revenues (including advert-funded) will reach \$37.2 billion.

Some music composers and authors wish to realise immediate value in their works rather than recouping royalties over a period of time. David



PIC: WWW.DAVEKEEGANPHOTOGRAPHY.COM

MUSIC IP FUNDS ARE REGULATED IN IRELAND AS 'QUALIFYING INVESTOR ALTERNATIVE INVESTMENT FUNDS'. QIAIFS ARE A FLEXIBLE REGULATORY AUTHORISATION THAT CATERES FOR A WIDE RANGE OF INVESTMENT STRATEGIES, INCLUDING MUSIC IP

Bowie, always a trend setter, was the first to do this in the 1990s and, since then, many others have followed suit.

Have a cigar

For investors, this is an interesting opportunity. Not only are these returns growing, but they have a predictable shelf life, and are relatively

uncorrelated to the market in general. After all, people listen to music all the time, whether the stock market is up or down, whether interest rates are high or low.

The monetary value of music is derived from a number of sources – from public performances in pubs and restaurants, to live concerts, to films and TV, and now (more than ever) to online

revenues, which are growing exponentially. Whatever the source, however, its legal value lies in the intellectual property (IP).

Music funds provide their shareholders with a desirable and growing level of income, combined with the potential for capital growth, by investing in a portfolio of songs and their associated music IP. These portfolios are

established by investing in catalogues of songs from famous songwriters and recording artists, with each song considered a separate asset.

The IP rights from each song deliver periodic payments in the form of royalty payments; generally speaking, the fund will seek to acquire 100% of a songwriter's copyright interest in each song, which would comprise their writer's share, their publisher's share, and their performance rights.

From the fund's perspective, therefore, acquiring and holding the IP in the best possible way is key, and Ireland is an ideal location for this. As one of the world's largest exporters of pharmaceuticals and computer software (industries that are entirely reliant on strong IP regimes), Ireland's wide range of legal protections have been trusted by the owners of the world's most valuable IP, for a number of reasons:

- **IP management:** a 2019 study showed that IP-intensive industries accounted for 27.1% of employment in Ireland, and that 65% of GDP in Ireland was directly generated by IP-intensive industries, compared with just 44.8% of GDP in the EU. In particular, 13% of Irish GDP generated by IP-intensive industries is related to copyright (including the creative sector), compared with just 6.9% in the EU.
- **Government support:** the Irish Government appears to be strongly committed to the new EU *Copyright Directive*, and its transposition into Irish law features prominently in the latest Programme for Government.
- **Common law jurisdiction:** after Brexit, Ireland is one of the last remaining pure common-law countries in the EU. Products whose value depend upon IP rights, like



software, books, music, film/video, etc, enjoy strong and practical protection in Irish law, bolstered by common-law jurisprudence and the developing EU law on the area. Being a common-law country ensures Irish cohesion with North American, British, and Commonwealth legal systems, while meeting all relevant international treaties (*Berne Convention*, *TRIPS Agreement*, and the 1996 *Geneva Copyright Treaties*) and EU IP directives.

- **Legal framework:** Irish copyright law is progressive and allows room for innovation and the development of new technologies. For example, it is one of the few countries

internationally that has legislated for who the author can be for a computer-generated work.

- **Courts:** the Commercial Court ensures an efficient resolution to IP disputes, and is highly respected internationally.
- **Tax:** Ireland's network of double taxation treaties generally makes it possible to reduce or eliminate withholding taxes on royalty payments to Ireland's treaty partners. Irish funds will generally be exempt from tax on their royalty income, and will be able to distribute profits to investors without any withholding taxes.

Be my friend

Managers often select Ireland as the location for their investment funds as a result of a number of factors:

- The companies and individuals working in the Irish industry offer the highest level of service and expertise,
- The regulatory environment is robust but also flexible, well defined and innovative. It also offers a clear and practical framework, including guaranteed turnaround times for regulatory submissions,
- The tax environment is clear and simple – in most cases, there are no charges paid at the fund level, and no tax on non-resident investors (Irish-resident investors do pay tax, however).

For all of these reasons, and more, Ireland has long been a leading domicile for internationally distributed investment funds – according to statistics published by the European Fund and Asset Management Association, it is the third-largest global centre, and the second-largest in Europe. When it comes to non-traditional asset

FUNDS INVESTING IN MUSIC AS AN ASSET CLASS ARE PARTNERING WITH CMOS SUCH AS IMRO, AS IT MEANS THOSE FUNDS DO NOT NEED TO BUILD UP THEIR OWN INTERNAL EXPERTISE AND SYSTEMS TO COLLECT ROYALTIES DUE TO THEM ON FOOT OF THEIR COPYRIGHT REPERTOIRE

TYPICALLY, A HOLDER OF MUSIC IP RELIES ON A COLLECTIVE RIGHTS MANAGEMENT ORGANISATION TO COLLECT AND DISTRIBUTE ROYALTIES ARISING FROM THE PUBLIC PERFORMANCE OF COPYRIGHT WORKS

classes, such as music IP, Ireland really is the global leader. Of the world's hedge funds, over 40% are administered in Ireland.

Working for MCA

Music IP funds are regulated in Ireland as 'qualifying investor alternative investment funds' (QIAIFs). The QIAIF is a flexible regulatory authorisation that caters for a wide range of investment strategies, including music IP, provided that the fund is only made available to qualifying investors. Broadly speaking, these are investors who possess the experience, knowledge, and expertise to make their own investment decisions and properly assess the risks involved. In addition, they must make an initial investment of at least €100,000.

The QIAIF can be established within a number of different legal entities, but the most popular is the Irish Collective Asset-management Vehicle (the ICAV). The ICAV is a corporate body, but not a company under the *Companies Act*. Instead, it exists under its own legislation (the *Irish Collective Asset-management Vehicle Act 2015*) and, while the ICAV has many similarities to a regular company (for example, separate legal personality, board of directors, shareholders), it also has some key differences. In particular, the ICAV can purchase back shares from shareholders in the normal course of day-to-day business (this is the process by which an investor gets back their money) and can house multiple funds within the same corporate body, simultaneously maintaining the single separate legal personality of the ICAV and a segregation of assets and liabilities as between those funds. The ICAV is regulated by the Central Bank of Ireland, which, among other

things, will approve the offering documents and the appointment of the board of directors, as well as impose a number of requirements on the operation of the ICAV.

QIAIFs typically appoint a management company, called an alternative investment fund manager (AIFM). The AIFM does not have to be Irish, and its own location and regulatory status will affect the QIAIF in a number of ways. For example, if the AIFM is authorised in the EU, the QIAIF will be able to market its shares across the EU using a simple marketing passport regime and, indeed, that is the most common option. However, if the AIFM is regulated outside of the EU (typically the US and, in the near future, the UK), then it will not be able to access that passport. This option is most commonly taken by managers who plan to market the fund only outside of the EU or, if inside the EU, only on a limited private-placement basis.

Welcome to the jungle

Typically, a holder of music IP relies on a collective rights management organisation (CMO) to collect and distribute royalties arising from the public performance of copyright works. IMRO is an international CMO based in Ireland. It administers the performing right in copyright music on behalf of its 15,000 members (songwriters, composers, and music publishers), and on behalf of members of the 80+ international overseas societies that are affiliated to it.

When you hear a song being played, depending on the circumstances, there can be various rights attached to it, requiring various licences. A song will be subject to:

- A performing right, which allows the song to be performed in public,


- A combination to the public right, which allows the song to be disseminated in the online environment,
- A sound recording right, which allows a recording of the song to be performed, or
- A synchronisation right, which allows a song to be made part of a film or television programme, among others.

Music users, such as broadcasters, online platforms, venues, and businesses, pay for their use of copyright music. IMRO's role is to administer the music authors' performing rights, and to collect and distribute royalties arising from them. IMRO does this through its licensing agreements with music users, in line with the *Copyright and Related Rights Act 2000*.

Funds investing in music as an asset class are partnering with CMOs (such as IMRO), as it means those funds do not need to build up their own internal expertise and systems to collect royalties due to them on foot of their copyright repertoire, and instead can rely on the internationally established mechanisms operated by the likes of IMRO.

Through membership of, and governance by CISAC, and via myriad international licensing agreements, organisations like IMRO ensure that royalties arising from the performance of a work within the repertoire of a fund are remitted to the copyright holder.

Beggars

Next time you listen to a song on the radio, TV, streaming service, online, or in a pub or restaurant, you'll know that a royalty is being paid to a CMO like IMRO, which distributes those funds to songwriters, publishers and, potentially, Irish funds that have purchased the IP in songs. 



TRAVELLIN' THRU

Proud Traveller and Irishman David Joyce talks to **Mary Hallsisey** about his route into the solicitors' profession

MARY HALLSISEY IS A JOURNALIST WITH THE
LAW SOCIETY GAZETTE

S

olicitor David Joyce was in the droll position as teenager of waving his parents off, while he stayed at home to mind the house: “Normally, it’s the youngster who runs away from the family, but my parents went back on the road!” he laughs. His parents were Travellers who had settled for several years in Navan, Co Meath, before ‘taking a notion’ to explore the Midlands. The 17-year-old David, meanwhile, had been offered an

apprenticeship as a car mechanic after ‘sporadic’ primary and secondary-school education, so he decided to stay at home and pursue it.

“My parents were a traditional Traveller family – they moved around the Midland counties until I was 13 or 14, when they moved into a house, in the early 1980s,” he explains.

His teenage years were spent in Navan, where extended family had settled since the 1970s. One of a family of eight, David describes himself as an Irish person with a proud Traveller heritage.

PEOPLE KNOW I'M A TRAVELLER AND I WOULD NEVER DENY IT. IT'S SOMETHING I HAVE PRIDE IN, BUT IT'S NOT SOMETHING I WEAR EVERY DAY. I GO TO WORK AS A SOLICITOR, THAT'S MY JOB, THAT'S WHAT I DO



“People know I’m a Traveller and I would never deny it,” he says. “It’s something I have pride in, but it’s not something I wear every day. I go to work as a solicitor, that’s my job, that’s what I do.”

Blowin’ in the wind

He doesn’t know whether he’s the first Irish Traveller to become a lawyer, but he certainly hopes not to be the last. One swallow doesn’t make a summer, however, and the fact that David is a solicitor from a Traveller background does not, of itself, make the profession diverse. “There are still challenges there for the profession, in how it reflects an Ireland that has become more diverse and multicultural,” he says.

The law has bottlenecks in terms of financial access to professional training for candidates with a broader social profile, he believes. At practitioner level, he says that more could be done, in terms of affirmative policies, to bring diverse trainees into smaller, private-sector firms. “Bigger firms are more likely to look critically at their intake,” he states. “The Law Society can have great inclusion strategies, but what incentives are there for small practitioners to be diverse?”

He believes that there may be others in the profession who are of Traveller heritage but who, for various reasons, remain silent. They may lack the confidence to make that declaration because of historical views of the Travelling community and how they are seen in Irish society. “I can understand that,” he says. “There has been a stigma.”

Though David shies away from being seen as a role model, he is clear about his responsibility to be open: “I don’t mind

CULTURAL CROSSROADS

When it comes to the portrayal of Travelling people in Irish literature, David has strong opinions. He contrasts Kerry writer Bryan MacMahon for his sympathetic portrayal of Traveller culture in rural society in *The Honey Spike* with that of John B Keane: “I don’t like Keane. He always portrayed the Traveller as an outsider, almost a scoundrel, a character to be ostracised or laughed at. I never found him sympathetic to the Traveller. MacMahon is completely different and is more humane in his portrayal of Travellers.”

Because Travellers had an oral rather than

a written tradition, the most interesting way of learning about their history is through the law – whether it tried to criminalise, exclude, expel or outlaw them. His scholarship of nomadic populations under the law shows that, historically, pedlars and tinkers have been referred to in Elizabethan statutes and earlier.

“Technically, living in a wagon or tent, under 1800s vagrancy legislation, and wandering abroad without lawful excuse, was a criminal offence right up until 1988, when it was repealed,” he points out.



THE POTENTIAL AND ACHIEVEMENTS OF YOUNG TRAVELLERS NOW GOING ON TO THIRD LEVEL SHOW THE ABILITY THAT IS THERE – AND THE FAILURE TO TAP THAT POTENTIAL IN THE PAST

being seen as a role model, but I don't hold myself out as one," he says, referring to the many strong and inspirational women in the community who are active locally, yet largely silent at a national level.

While he was the first person in his family to go to university, four of his siblings, in turn, have gained third-level qualifications – one sister to master's level. "My parents were not highly educated, but both were literate and both had an interest in reading and writing and education, which may not have been

common among other families."

Access to education on a fair and equitable basis is the essence of a nurturing society, but mechanisms that address historical disadvantages must also be part of the package, David believes.

He knows of several younger Traveller women with law degrees, so things are changing: "The potential and achievements of young Travellers now going on to third level show

the ability that is there – and the failure to tap that potential in the past," he says.

Several of his own children have pursued third-level qualifications – one daughter is a doctor, and two of her siblings work in education.

Tangled up in blue

In light of these achievements, he objects to the lazy labelling, stereotyping and generalisations made about Travellers. He abhors the way in which Travellers are

characterised as one “amorphous blob”. In particular, he despairs at the online hate that was directed at Travellers after the tragic Carrickmines fire, in which ten lives were lost, including those of young children.

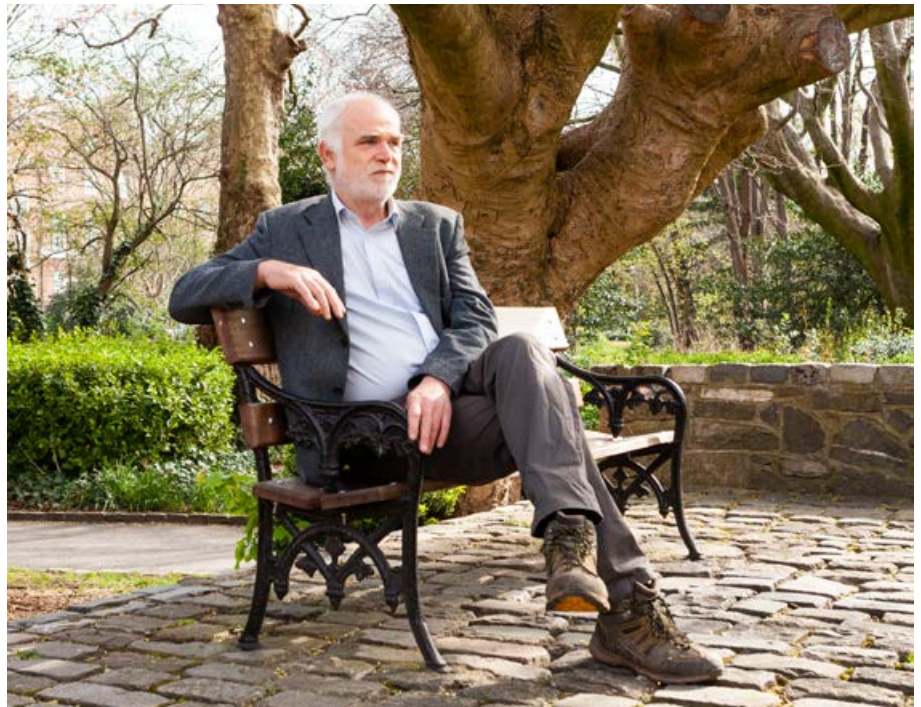
“Who is to say that those children didn’t have the same potential and hope for the future as any other child in society? To label them as Travellers, in order to then say that they are not worthy, was very upsetting. I grew up in a caravan. I’m not any better than any other child because I became a lawyer. Anybody has the potential to be a lawyer or a doctor, or a road-sweeper – they have human potential. The Carrickmines reaction was sad.”

David acknowledges that, given his progression through life, his values are probably vastly different to those of others in his wider family.

“The community is diverse, it’s not homogenous, there are different values and attitudes. Societies are diverse, and within that diversity is further diversity. I identify as Irish, and Traveller is another aspect of my identity.”

All I really want to do

David Joyce’s own varied and wide-ranging career reflects his nomadic heritage, he says. He began as a tradesman, qualifying as a motor mechanic in his early 20s, then



gravitated towards youth and community-development work with young Travellers in Navan and Tullamore. A diploma from NUI Maynooth followed during his late 20s, gaining him a professional qualification in community development.

Meanwhile, he started to see that the law was where the social changes he wished to see could best be effected: “I wanted to get

an understanding of public administration and local government law and how it worked, particularly in terms of housing policy,” he says.

So, he began a Diploma in Legal Studies at the King’s Inns in 2000, at the age of 31, while working as a policy and accommodation officer with the [Irish Traveller Movement](#).

He developed a real *grá* for law, and continued with a BL before being called to the Bar in 2005. He devilled for a year with Siobhan Phelan, now SC, and specialised in public administration and judicial review, with a particular focus on housing law.

After being called to the Bar, several years of practice at the Law Library and on the Midland Circuit followed. David found work as a barrister, but is realistic that certain avenues of income may well have been closed to him. “To say that sounds like I’m bitter about it – I’m not. I did have work, I found work. It’s not uncommon for many barristers to struggle in their first ten years.

“To say I struggled because I am a Traveller would be completely unfair on *their* struggle. To say I was in the Bar for ten years and nobody liked me – that wouldn’t be true. To say nobody liked me because I was a Traveller, that would be even less true.

“I made some very good friends at the Bar. And I made some, I won’t say enemies, but people I didn’t warm to, and maybe they

SLICE OF LIFE

Chief influence?

■ My mother.

Pastime

■ I restore old Volkswagen camper vans and use them to go travelling around Ireland with my younger daughters. I have an affinity for wanting to move – I like to move around the country and see different parts. There is so much to Ireland, that you could travel for ten generations and not see all of it.

Cats or dogs?

■ A cat person by default – we have an eight-year-old cat who does her own thing. She’s called ‘Coffee Rose’ or ‘Cat’!

Favourite flick?

■ *Léon*.

Favourite songster?

■ Bob Dylan. But I love roots, Americana, and most forms of folk music.

Page-turner?

■ The closure of bookshops has me dipping into the shelves at home. Currently, I’m re-reading *The Known World*, a historical novel by Edward P Jones. It examines the issues regarding the ownership of black slaves by both white and black Americans. I read *The Third Policeman* at least once a year, so that’s probably my favourite book.

Go-to place?

■ Anywhere in the west of Ireland. The south-west has, in last few years, become my go-to-place, my favourite parts being Sheep’s Head or the Beara Peninsula.

THE COMMUNITY IS DIVERSE, IT'S NOT HOMOGENOUS, THERE ARE DIFFERENT VALUES AND ATTITUDES. SOCIETIES ARE DIVERSE, AND WITHIN THAT DIVERSITY IS FURTHER DIVERSITY. I IDENTIFY AS IRISH, AND TRAVELLER IS ANOTHER ASPECT OF MY IDENTITY

didn't warm to me because we had different politics, background, family upbringing. All that has a bearing on who you relate to.

"The legal profession reflects society and, within the legal profession, there are people with prejudices and attitudes that are archaic, perhaps."

David Joyce wants a society that is just and equal. He derives meaning from the fact that we are all human, and we all bear the burdens of living and suffering in society, as well as the responsibility to steward the earth for the next generation.

Things have changed

David felt drawn to the closer lawyer/client relationship that would ensue from working as a solicitor. He decided to do the Law Society's [Essentials of Legal Practice Course \(ELPC\)](#) for barristers who wish to convert to solicitors.

"I like the solicitor relationship with clients that you don't get as a barrister coming in as an expert. As a solicitor, you are with clients from the beginning. I think that aspect came from my previous work in community development. My real interest is in people," he says.

Dealing with vulnerable clients, particularly those in need of housing, can be draining, though: "In the housing area, you can become very embroiled with your clients, particularly where there are families and children involved. It is intense and there is burnout," he notes.

David observes that local-authority eviction procedures are now more rigorous in terms of showing 'cause', and must make reference to the European Convention on Human Rights. "The human-rights aspect of law interested me," he reflects.



His interest led him to being selected as a human-rights commissioner on the then Equality Authority and Human Rights Commission, which subsequently became the Irish Human Rights and Equality Commission under the [2014 act](#).


While doing the ELPC course, David worked at Sheehan and Partners, the well-known Dublin criminal law practice. A solicitor role at housing charity Mercy Law Resource Centre in Dublin 8 saw him representing clients on housing-provision and welfare issues.

He now works as a legislative drafter with the Office of Parliamentary Legal Advisers, which is the in-house legal team of the Houses of the Oireachtas that offers specialist, non-partisan legal advice to members of the Dáil and Seanad and staff.

The unit is completely independent of Government and offers a drafting service for private members' bills, while also assisting with research and development of policy proposals, as well as drafting bills and their amendments right up to committee-stage scrutiny.

"All societies are bound by laws," David says, "rules for how we interact with each other. Getting them right is always important in ensuring an equitable and fair society. Good law makes for a good society."

"It's a different aspect to the legal profession," he adds. "I have a fondness for litigation, and this is a non-litigation role within the profession, but we are immersed in legislation, and the mechanics of law."

And though working for TDs and senators may be different, the lawyer/client relationship remains the same: "That's always been an aspect of my professional career – that I enjoyed having clients." 

☰ AT A GLANCE

- Family law is set to undergo a seismic change in Ireland
- The Family and Child Law Committee made submissions to both the Joint Oireachtas Committee on Justice and the Department of Justice's Family Justice Oversight Group on the *Family Court Bill*
- However, significant investment is required to create a family justice system to meet the needs of modern Ireland

FAMILY DEAL

The Cabinet has approved the *Family Court Bill 2020*, with the aim of putting families and children front and centre in the family courts system, explains **Helen Coughlan**

HELEN COUGHLAN IS A PARTNER IN PATRICK J FARRELL AND CO, CHAIR OF THE LAW SOCIETY'S FAMILY AND CHILD LAW COMMITTEE, AND A MEMBER OF THE LAW SOCIETY COUNCIL



Family law is set to undergo a seismic change. The *Family Court Bill 2020* aims to reform the family justice system so that courts are more efficient and user-friendly, and put families and children front and centre in the process.

The Law Society's Family and Child Law Committee made [submissions](#) to both the Joint Oireachtas Committee on Justice and the Department of Justice's Family Justice Oversight Group on the proposed



THE PROPOSED FAMILY LAW RULES COMMITTEE SHOULD CONSIDER, AS A MATTER OF PRIORITY, THE DEVELOPMENT OF E-FILING AND THE USE OF TECHNOLOGY FOR REMOTE HEARINGS AND CASE MANAGEMENT

PIC: ALAMY

legislation. While broadly welcoming the reforms, significant investment, both in terms of infrastructure and personnel, is required to create a family justice system to meet the needs of modern Ireland.

The general scheme of the bill proposes the following major changes:

- The establishment of a District Family Court, a Circuit Family Court, and a Family High Court as divisions within the existing court structures (specialist judges will sit in these courts, which will have their own special rules),
- The creation of regional District and Circuit Family Courts,
- The elimination of the jurisdiction of the High Court to hear judicial separation, divorce, civil partnership, cohabitation, and other family law disputes,
- Increased jurisdiction of the District Court to hear judicial separation, divorce, civil partnership, and cohabitation cases,
- Active case management of cases, and
- Greater emphasis on alternative dispute resolution (ADR) and, in particular, mediation.



PIC: SHUTTERSTOCK

The guiding principles (Head 5) of the draft legislation refer to promoting ADR to resolve family disputes and conducting proceedings in a family-friendly way to reduce conflict and, in cases involving children, ensuring the best interest of the child is a primary consideration.

On a promise

Promises of family law reform date back to the 1970s, when the issue of a Family Law Court was on the agenda of the Law Reform Commission. In the intervening period, we have seen several reports published, but little progress in implementing meaningful change. Excellent legislation has been enacted to reflect the changing reality of contemporary family life. Unfortunately, this has not been matched with the necessary infrastructure and resources to support the new legislation. This has left Ireland with first-world legislation but third-world infrastructure.

The creation of District and Circuit

Family Court divisions will transform the family justice system. The legislation provides for a judge to complete a three-year term in the Family Court. Currently, some District and Circuit Court areas have unassigned (or travelling) judges presiding. This leads to a lack of consistency and can require re-hearing of matters. This provision will create efficiencies and reduce time spent in court. It is also welcome that judges may have to undertake such courses or training as may be required by the Judicial Studies Committee. This is important in ensuring that any judge appointed is fully trained in the complexities of family law.

Regional hubs

District and Circuit Family Courts will require proper resources in terms of infrastructure and personnel. An increase in the number of judges at District and Circuit Court level is required to allow these new courts to be appropriately staffed.

The legislation also provides for the creation of new districts, divided into “convenient geographic areas”. It remains to be seen where these regional hubs will be located, and this will have significant implications for both court users and family law practitioners.

There are valid concerns regarding access to justice if centralised courts are established around the country. A functioning justice system requires a reasonable method of accessing that system, and justice cannot be so far removed from the reach of citizens so as to make it prohibitive. If family law courts are centralised, unless there is a very good public-transport system available, this will cause hardship for people. Increased travel times and associated costs may affect those who can least afford it, at a time of great distress in their lives. Often, the most vulnerable members of society are involved in family and child-care proceedings,

THERE ARE VALID CONCERNS REGARDING ACCESS TO JUSTICE IF CENTRALISED COURTS ARE ESTABLISHED AROUND THE COUNTRY. A FUNCTIONING JUSTICE SYSTEM REQUIRES A REASONABLE METHOD OF ACCESSING THAT SYSTEM

THE STATUS OF THE HIGH COURT AS A COURT WITH FULL ORIGINAL JURISDICTION IS CENTRAL TO THE DEVELOPMENT OF FAMILY LAW. THE COURT DELIVERS WRITTEN JUDGMENTS, PROVIDING A RICH LEGACY OF JURISPRUDENCE IN THE AREA OF FAMILY LAW

particularly in the District Court.

However, there are advantages to consolidating services. For example, there is a benefit to developing properly resourced regional hubs to provide a 'one-stop shop' of services such as mediation, voice-of-the-child/welfare experts, and family therapies, as well as courtrooms in a focused holistic setting.

It is vital that sufficient consideration is given to public transport and the physical infrastructure of such facilities, including proper consultation rooms and waiting facilities. The current situation – where family court users may have to wait five or six hours for cases to be called, and the lack of private consultation rooms, often with instructions taken outside the court building in full view of the general public – cannot continue. This is particularly so if we are committed to protecting citizens at the most vulnerable time of their lives.

Problematic expansion

The proposal to expand the jurisdiction of the District Court to deal with matrimonial cases is problematic. Expecting an already overstretched and under-resourced District Court to deal with more cases is not feasible. The District Court is already under severe pressure due to the huge volume of cases it is handling.

In tandem with increasing the work of the District Court, the draft legislation envisages the diminution of the jurisdiction of the High Court. The removal of judicial separation and divorce from the High Court will have far-reaching consequences, and will have a detrimental impact on the development of family law. The High Court operates very efficiently in hearing family

law matters. There is consistency in the High Court, with a judge specially assigned to deal with family law matters and a support judge.

The Constitutional status of the High Court as a court with full original jurisdiction is central to the development of family law. The High Court delivers written judgments, providing a rich legacy of jurisprudence in the area of family law. This gives invaluable guidance to practitioners in the interpretation of the legislation on such provisions as 'proper provision'. These written judgments provide legal certainty and put flesh on the bones of legislation. It is vital that this body of case law continues to be generated.

The emphasis on ADR is welcome. This is important as a means of reducing conflict for families. ADR should be actively promoted and facilitated wherever possible, having regard to the facts and circumstances of every case and the needs of individual clients. The proposed legislation specifically mentions mediation – ADR should be defined to include collaborative law, lawyer-assisted settlements, and arbitration. In addition, a system of regulation of mediators should be introduced to ensure a uniform standard in the provision of mediation services. ADR should be seen as a useful mechanism for resolving family law disputes, not as a cost-saving measure. It is not a panacea to resolve all family law disputes, particularly where there is domestic violence.

Top priority


Active case management is highly desirable in family law proceedings. Coupled with this is the need for e-filing and e-court

documents to simplify the application/motion process, and minimise the cost and time for both the Courts Service and practitioners. The Family Law Rules Committee (proposed in this legislation) should consider, as a matter of priority, the development of e-filing and the use of technology for remote hearings and case management. This recommendation takes on an added emphasis in the context of [EU Regulations 2020/1783](#) and [1784](#), which will become binding in July 2022 and will make e-filing the norm in cross-border child and family law cases.

The Family Law Rules Committee will be pivotal in determining the success of the proposed family court system.

Due to space constraints, I have not been able to address the issue of the voice of the child and how this can be properly addressed. I will deal with this in a separate article, as it requires and deserves adequate space to set out the issues in detail.

The *Family Court Bill* is currently undergoing pre-legislative scrutiny, and it is anticipated that it will be at least a year before it is enacted – another year of waiting for families in crisis.

I wish to acknowledge the contribution of the Family and Child Law Committee in preparing very detailed submissions, and in particular the expertise of Dr Geoffrey Shannon, who chaired a specially convened subcommittee to prepare submissions for the Joint Oireachtas Committee and Justice Oversight Group. The [submissions](#) can be accessed at www.lawsociety.ie/Solicitors/Representation/Submissions. 

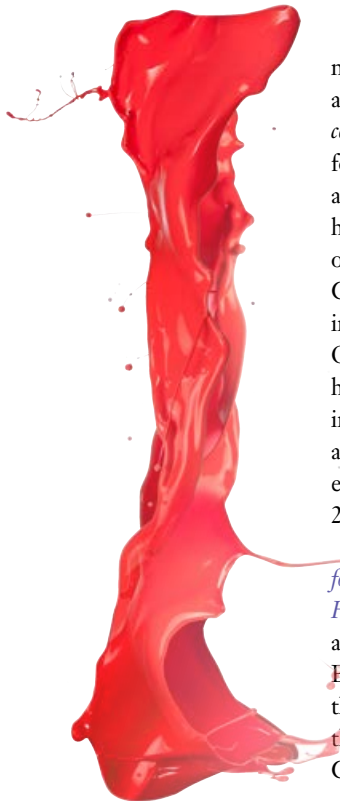
☰ AT A GLANCE

- A significant recent judgment analysed many principles of international, EU and national law, before concluding that the respondent minister's refusal to warrant the transfer of the sentenced applicant (a German national) from the Central Mental Hospital to an equivalent psychiatric hospital in Germany be overruled by order of *certiorari*
- This is an example of the constitutionally independent power of the judiciary to set aside an executive order

A MATTER OF INTERPRETATION

Fundamental issues concerning the checks and balances of democracy were helpfully considered and explained in a recent judgment. **Duncan Grehan** enlightens us

DUNCAN GREHAN IS A SOLICITOR AND MEMBER OF THE LAW SOCIETY'S EU AND INTERNATIONAL AFFAIRS COMMITTEE



In a recent High Court judicial review application, an applicant sought an order of *certiorari* quashing an order of the Minister for Justice that had refused the applicant – an interned, sentenced, non-national who had been found to be not guilty by reason of insanity – to be transferred from the Central Mental Hospital to a mental-health institution in his homeland of Germany. Of core concern was whether the State law had properly implemented the applicable international convention to which it is a party. The High Court judgment was electronically delivered on 11 December 2020 by Mr Justice Garrett Simons.

The significant judgment in *S v Minister for Justice and Director of the Central Mental Hospital (Notice Party)* analyses many justice and human-rights principles of international, EU and national law before concluding that the respondent minister's refusal to warrant the transfer of the sentenced applicant (a German national) from the Central Mental

Hospital to an equivalent psychiatric hospital in Germany be overruled by order of *certiorari* (an example of the constitutional, independent power of the judiciary to set aside an executive order).

Respectful of Judge Simons's expertise and his order requiring the applicant's anonymity, I shall simply recite paragraphs of his judgment, as to quote his words is much safer and more instructive than



THIS JUDGMENT HAS ASSISTED OUR STATE IN ITS FUTURE COMPLIANCE WITH ITS INTERNATIONAL AND DOMESTIC-LAW DUTIES, AND ITS ROLE IN SAFELY NAVIGATING AFFECTED PERSONS TO THEIR HUMAN-RIGHTS REMEDIES



SUCH A PERSON WOULD HAVE BEEN SENTENCED TO CUSTODY AS PER THE 1883 ACT AS A 'CRIMINAL LUNATIC'

paraphrasing or commentary. This is especially appropriate, as many of the contentious issues in the case turned on, and were decided by, identifying and applying the law on the interpretation and construction of legislative wording, such as 'criminal responsibility' and 'sentence'.

The law under review required the consideration of [section 5](#) and [section 26\(2\)](#) of the *Interpretation Act 2005*. The latter section provides: "The idea in the new enactment shall not be taken to be different merely because a different form of words is used". The common law considered in the hearing also included much of the

leading Irish and European case law on the interpretation of legislation, as well as textbook commentaries (such as *Craies on Statute Law* and *Maxwell on the Interpretation of Statutes*) and the international principle of *contra legem*.

Base laws and key issues

The *European Convention on Human Rights* (ECHR) was the base for the first case heard by the European Court of Human Rights in Strasbourg. That case (referred to as '*In re Lawless*', ECHR 1 Jul 1961) also concerned prisoners' rights, and the legality of the applicant's arrest and detention, and originated from proceedings first before the courts of Ireland.

The ECHR only became mandatory here when applying Ireland's domestic statutory law with the *ECHR Act 2003*. Section 3(1) provides that "every organ of the State shall perform its functions in a manner compatible with the State's obligations under the convention's provisions". (A breach gives an individual a right to claim damages within one year.) Our law base (as mirrored in the Constitution) and our concept of justice require respect for, and vindication of, human rights, taking account of due process, maxims like 'justice delayed is justice denied', personal integrity, public court hearings, privacy, and the weighing-up and scaling of any concurring and competing

THE RESTRICTIVE INTERPRETATION URGED UPON THE COURT BY THE MINISTER WOULD RENDER THE DOMESTIC LEGISLATION INCONSISTENT WITH THE REQUIREMENTS OF BOTH THE CONVENTION AND THE FRAMEWORK DECISION

public and private interests.

Article 29.3 of the Constitution “accepts the generally recognised principles of international law as its rule of conduct in its relations with other States”. In *Lawless*, the Supreme Court held that “this refers only to the relations between States and confers no rights on individuals”.

Mindful of this, Judge Simons pointed to the “inordinate delay” in the processing of the transfer application, and he barred any reporting or broadcasting of any matter relating to the proceedings likely to identify the applicant.

The *Transfer of Sentenced Persons Act 1995* (as amended in 1997) was enacted to implement the 1983 *Convention on the Transfer of Sentenced Persons*.

In the respondent’s submissions, it was explained: “Prior to the enactment of the *Criminal Law (Insanity) Act 2006*, where a person was found to have carried out the acts charged against him but to have been insane at the time, the jury were required to enter the special verdict provided for in section 2(1) of the *Trial of Lunatics Act 1883*. This is often referred to as the special verdict, ‘guilty but insane’.”

Such a person would then have been sentenced to custody, as per the 1883 act, as a ‘criminal lunatic’. Section 5 of the 2006 act first changed that for a newly named special verdict, to the effect that the accused person is ‘not guilty by reason of insanity’.

December judgment

In the first paragraph of his judgment in December, Judge Simons helpfully explained: “The principal question for

determination in these proceedings is as follows. Can a person who is detained in the Central Mental Hospital following a special verdict of ‘not guilty by reason of insanity’ be characterised as a ‘sentenced person’ for the purposes of the *Transfer of Sentenced Persons Act 1995*. If the answer to this question is ‘yes’, then such a person is eligible to be transferred to another convention state in order to serve the balance of their ‘sentence’ (as defined). The applicant had been tried for an offence of dangerous driving causing death, and the jury returned a special verdict to the effect that the applicant was not guilty by reason of insanity.

“**T**he applicant is currently detained in the Central Mental Hospital. The parties are all in agreement that it would be in the best interests of the applicant were he to be transferred to his home country of Germany. The parties are also agreed that the applicant is eligible for transfer under the terms of the *Transfer of Sentenced Persons Convention* itself (‘the convention’). The dispute between the parties centres on whether the convention has been properly implemented into domestic law. Remarkably, the Minister for Justice invites this court to adopt a restrictive approach to the interpretation of the domestic legislation, with the consequence that the applicant would be rendered ineligible for transfer. The logic of the position adopted by the minister is that, as a result of legislative amendments introduced in 2006, domestic law is no longer fully compliant with the

convention. The minister’s submission that the domestic legislation should be given a restrictive interpretation is all the more surprising, given that the adequacy of the Irish State’s legislative regime governing the transfer of sentenced persons is to be the subject of infringement proceedings. More specifically, the European Commission has publicly announced its decision to refer Ireland to the European Court of Justice for failing to transpose Council Framework Decision 2008/909/JHA of 27 November 2008. The framework decision replaced the corresponding provisions of the convention with effect from 5 December 2011 insofar as transfers between member states of the European Union are concerned.”

Judge Simons continued: “The applicant had been charged with an offence of dangerous driving causing death, and was tried before a judge and jury in the Circuit Criminal Court. The jury returned a special verdict, finding the applicant not guilty by reason of insanity pursuant to section 5(1) of the *Criminal Law (Insanity) Act 2006*. Relevantly, such a special verdict entails a finding by the jury that the accused person committed the act alleged against them, but that they ought not to be held responsible for the act because they were suffering at the time from a mental disorder. Thereafter, the trial judge made a finding, in accordance with section 5(2) of the act, that the applicant was suffering from a mental disorder (as defined), and required in-patient care and treatment. The trial judge then made an order committing the applicant to a specified

designated centre, namely the Central Mental Hospital. As required under section 13 of the act, the applicant has been subject to periodic reviews by the Mental Health (Criminal Law) Review Board. On each occasion, the review board's decision was that the applicant still fulfilled the criteria for detention, and the board ordered that his detention continue pending further review."

Indefinite detention

Judge Simons pointed out that, under Irish law, "the jurisdiction to commit a person who has been found 'not guilty by reason of insanity' to indefinite detention at the Central Mental Hospital is contingent on a jury having returned a special verdict in criminal proceedings", and "there is an additional requirement that the trial judge be satisfied that the accused person is suffering from a mental disorder (as defined), and is in need of in-patient care or treatment".

He further explained: "The Irish State ratified the *Convention on the Transfer of Sentenced Persons* on 31 July 1995. The recitals to the convention provide that foreigners who are deprived of their liberty as a result of their commission of a criminal offence should be given the opportunity to serve their sentences within their own society, and that this aim can best be achieved by having them transferred to their own countries. The term 'sentence' is defined as follows ... [it] means any punishment or measure involving deprivation of liberty ordered by a court for a limited or unlimited period of time on account of a criminal offence.

"Relevantly, the convention distinguishes between (i) the commission of a criminal offence ([that is] in the sense of the carrying out of the acts or omissions making up the offence), and (ii) the concept of criminal responsibility. This arises under article 9 in the context of the transfer of persons who, for reasons of mental condition, have been held not criminally responsible for the commission of the offence. The Irish State, by way of declaration, has indicated the procedure it will follow in the case of such persons: 'In accordance with the provisions of article 9, paragraph 4, Ireland may apply the convention to persons detained in hospitals or other institutions under orders made in the course of the exercise by courts and tribunals of their criminal jurisdiction.'

"There is no doubt, therefore, that a person who has been held not criminally responsible for the commission of an offence, but is detained in an institution under an order made by a criminal court, can apply for transfer into the Irish State. It is also accepted by the minister that such a person is eligible for transfer out of the Irish State."

'Sentenced person'

Later in his judgment, Simons J states: "For the reasons set out under the previous heading, I have concluded that the domestic law definition of 'sentence' (and the cognate definition of 'sentenced person') can legitimately be given an interpretation which is consistent with the convention. On this interpretation, the applicant represents a 'sentenced person' and is thus eligible for transfer as a matter of domestic law.

"The same result is reached by reference to the *Framework Decision on the Transfer of Prisoners* (Council Framework Decision 2008/909/JHA of 27 November 2008) ... Relevantly, a national court is obliged to interpret domestic law in conformity with a framework decision. This interpretative obligation is qualified by the *contra legem* rule. See Case C-105/03, *Pupino* (at paragraph 47), as follows: 'the principle of conforming interpretation cannot serve as the basis for an interpretation of national law *contra legem*. That principle does, however, require that, where necessary, the national court consider the whole of national law in order to assess how far it can be applied in such a way as not to produce a result contrary to that envisaged by the framework decision'."

Decision and orders

Judge Simons found that the applicant is eligible for transfer as per the framework decision as a 'sentenced person', also confirmed in the European Commission handbook on such transfers, and that the High Court must interpret the 1995 act in conformity with the framework decision, which (while now the subject of the *Criminal Justice (Mutual Recognition of Custodial Sentences) Bill 2020*) is yet to be transposed into domestic law. And, he noted, Ireland is to be referred by the European Commission to the ECJ for the delay in effecting such transposition.

In winding up his 26-page judgement, Simons J then stated (paragraphs 76-77): "For the reasons set out herein, the minister's decision to refuse the

MANY OF THE CONTENTIOUS ISSUES IN THE CASE TURNED ON, AND WERE DECIDED BY, IDENTIFYING AND APPLYING THE LAW ON THE INTERPRETATION AND CONSTRUCTION OF LEGISLATIVE WORDING, SUCH AS 'CRIMINAL RESPONSIBILITY' AND 'SENTENCE'

PICT: SHUTTERSTOCK



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application for a transfer on the basis that the applicant is not a ‘sentenced person’ is erroneous in law. The restrictive interpretation urged upon the court by the minister would render the domestic legislation inconsistent with the requirements of both the convention and the framework decision. Such an interpretation would be contrary to the principle that the courts should endeavour, if possible, to give the domestic legislation a meaning which conforms with the Irish State’s obligations under the convention ... More fundamentally, it would be contrary to the interpretative obligation imposed upon a national court by EU law ... The correct interpretation of the *Transfer of Sentenced Persons Act 1995* is that it applies to a person, such as the applicant, who

for reasons of mental condition has been held not criminally responsible for the commission of an offence.”

Useful clarity

This judgment has usefully exposed and clarified many basic routes to justice and care for insane sentenced detainees who are not Irish nationals and need expert medical treatment in their native language and in their homelands. It has assisted our State in its future compliance with its international and domestic law duties, and its role in safely navigating affected persons to their human-rights remedies. It has marked those routes more clearly for the private legal sector. It has lit up our laws and the applicable principles on how legislation is to be interpreted.

LOOK IT UP

CASES:

- *In re Lawless* (ECHR, 1 July 1961; application no 332/57)
- *S v Minister for Justice and Director of the Central Mental Hospital (Notice Party)* [2020] IEHC 632; 2020 No 462 JR

LEGISLATION:

- *Criminal Justice (Mutual Recognition of Custodial Sentences) Bill 2020*
- *European Convention on Human Rights Act 2003*
- *Interpretation Act 2005*
- *Transfer of Sentenced Persons Act 1995*

☰ AT A GLANCE

- It's perfectly normal to have a dip in confidence or to have some self-doubt
- Beliefs about confidence can discourage people from seeking new responsibilities or recognising their accomplishments
- However, there are practices that may help you think of confidence in a new way

YEAH BABY!

Austin Powers' 'ring of confidence' dispels fear, opens doors and powers his mojo. **Fiona McKeever** says that by exploring our personal strengths, we boost our confidence, thus allowing us to grab the opportunities that life presents

FIONA MCKEEVER IS A QUALIFIED LAWYER, NOW WORKING AS AN EXECUTIVE AND LEADERSHIP COACH

W

hen you hear the word 'confidence', what impact does it have on you? Would you describe yourself as confident, or ascribe it to others? For many, being confident is a seemingly elusive quality – like Austin Powers, you either have it or you don't!

This static view can, however, hold people back in their professional lives. Beliefs about confidence can discourage a person from seeking and taking on new responsibilities or recognising and integrating accomplishments and achievements. This can ultimately lead to feelings of dissatisfaction, professional stagnation, and unfulfillment. By exploring new practices and beliefs about a person's strengths, qualities and experiences, professionals can enhance



P.C. ALAMY/GAZETTE STUDIO

their confidence and participate in the opportunities for growth that are available to them.

I've lost my mojo!

The first thing to note is that it's perfectly normal to have a dip in confidence or to have some self-doubt. Temporary dips in confidence often coincide with periods of work or career transition, such as moving from a trainee role to a newly qualified role; associate to partner; private practice to in-house.

A lack of 'access' to confidence is often quite common at a senior level when a person becomes responsible for larger and

more complex teams and portfolios. New expectations and responsibilities can create feelings of fear of failure or inadequacy, even where the person was confident in their old role.

During the current pandemic, it is also perfectly natural to have a dip in confidence. The future feels less certain. You may have doubts about the direction of your career, or you feel that opportunities may no longer be available to you.

Confidence tricks

Confidence is a dynamic state and can fluctuate from one context to another. Questioning one's self-belief, in a particular

time or context, may be appropriate and keep us safe. More concerning, however, is when feelings of doubt become permanent and pervasive. When your beliefs become rigid and fixed, it is much more difficult to believe yourself to be confident. Life or career challenges that you may ordinarily be able to face may become daunting.

A dictionary definition of confidence is "the *belief* that one can have faith in or rely on something" and "a feeling of *self-assurance arising from an appreciation* of one's abilities" [emphasis added].

Beliefs are at the heart of confidence. What you tell yourself – whether that is positive or negative – will affect your

self-belief. Often we equate a belief with a truth. Appreciation is also core to confidence building. How often do you pause to acknowledge or appreciate your accomplishments?

The following four practices may help you think of confidence in a new way.

Regular positive stock-taking

How do you capture and celebrate achievements, small and large? Do you do it all? We tend to distort and delete our past achievements by focusing largely on areas where we could have been better. This means that, when faced with a tricky or new challenge or situation, we are not able to draw successful memories and analogies from which we can shore up our confidence.

In enhancing confidence, it is important to take stock regularly of our achievements and to integrate that knowledge as part of our professional identity. By paying attention to the strengths, qualities, and skills that we have deployed in a successful situation, we will much more easily access memories of being successful and competent if subsequently faced with self-doubt. In-the-moment, empowering memories can help neutralise the feelings of inadequacy or fear of failure.

There are many ways of stock-taking. It may be as simple as internally acknowledging the email from a client or colleague which says: "Thanks, well done. We couldn't have done this without you." You may also want to diary an 'appointment with yourself' every two months and spend some focused time on your accomplishments over the previous period. What is critical is that this time is focused and habitual.



You can't bottle mojo. Oh, hang on...

In my experience, professionals tend to pay more attention to negative feedback than positive feedback, which can lead to a one-dimensional analysis of a situation. Positive stock-taking is not an invitation to ignore constructive feedback. Rather it is an invitation to have a more balanced perspective on events so that, in line with the dictionary definition, we learn to appreciate our abilities.

Finally, appreciating your achievements recognises the role of competence in enhancing confidence. Competence is often downplayed in favour of mantras such as 'just do it', or 'fake it til you make it'.

Regularly review your increased competence. What knowledge have you increased in the last three months? What skills have you developed? What professional relationships have you deepened? What do you know now that you did not know before you worked on a matter? A reluctance to acknowledge one's increasing competence can undermine efforts to build and enhance confidence.

Managing the inner critic

Do you ever notice the running commentary that is going on in your head? That voice might be motivating ("you can do it") or it might be negative ("you shouldn't apply for that role; you're not experienced enough"). Do you notice if you are linking your confidence or lack of self-belief to a label that you use to describe yourself? ("I'm not confident because I'm [insert class, sex, ethnicity, nationality, gender etc].")

If all the thoughts and beliefs in your head are negative or disempowering, it will affect how you feel, how you behave, and how others experience you. Often, these thoughts, beliefs and feelings are automatic, and may be triggered by a particular person or a specific environment, making confidence difficult to control.

As the definition of confidence indicates, belief is crucial. Noticing automatic thinking patterns and belief systems (the inner critic) and interrupting them in some way is a key aspect of enhancing one's confidence.

A useful model to interrupt automatic responses is the 'ABCDE model' (see panel, right).

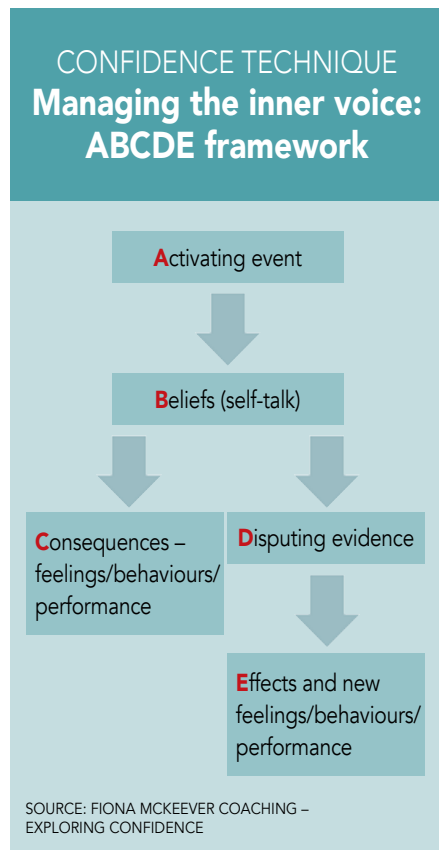
It works as follows: a trigger event happens (A), and your feelings, actions and behaviour can be observed (C). Unconsciously, certain beliefs (B) may be at play that are automatically leading to the observable behaviours. You break the pattern by noticing the automatic thoughts and beliefs, and attempt to generate alternative thoughts based on alternative perspectives or additional evidence (D). By generating alternative thoughts and beliefs, you are creating the conditions for new behaviours or a new response (E).

PROFESSIONALS TEND TO PAY MORE ATTENTION TO NEGATIVE FEEDBACK THAN POSITIVE FEEDBACK, WHICH CAN LEAD TO A ONE-DIMENSIONAL ANALYSIS OF A SITUATION. POSITIVE STOCK-TAKING IS NOT AN INVITATION TO IGNORE CONSTRUCTIVE FEEDBACK



WHEN YOUR BELIEFS BECOME RIGID AND FIXED, IT IS MUCH MORE DIFFICULT TO BELIEVE YOURSELF TO BE CONFIDENT. LIFE OR CAREER CHALLENGES THAT YOU MAY ORDINARILY BE ABLE TO FACE MAY BECOME DAUNTING

The following example illustrates. A colleague asks you to present in front of a new client on short notice. You are told that it is an important new relationship (A). You present nervously in front of the client, lacking the fluency you desire, and fluff the answers to some of the questions. This reinforces your self-doubt (C). Between (A) and (C), what may be at play is a belief (B) that you are not a strong presenter, and that to overcome your lack of confidence, you tend to overprepare.



Consider the following, where the scenario remains the same. A colleague asks you to present in front of a new client on short notice. You are told that it is an important new relationship (A). You pause and notice your belief that you are not a strong presenter, but you commit to generate additional, more empowering beliefs. You recognise that you have dismissed positive feedback on your previous presentations. You know the subject matter very well, and you have developed strategies for handling difficult questions. These thoughts make you feel more confident, generating excitement, agency, and you deliver a more accomplished presentation (E). This, in turn, increases your confidence.

The trigger event for each scenario is the same – the thoughts and beliefs are different, which contribute to different behaviours, outcomes, and enhanced confidence.

Finally, pay close attention to thoughts that start with ‘I can’t’, ‘It’s always like that around here’, and ‘I will never’. Words such as ‘always’ and ‘never’ suggest a rigidity in thinking that will unravel your attempts to break automatic response patterns.

Behaving as if...

In response to an admission of a lack of confidence, some people may offer the ‘fake it til you make it’ philosophy in response. Many people, including me, distance themselves from the phrase, as it can be interpreted as advocating fakery or trickery. The concept also triggers negative connotations associated with bravado and charisma.

A more appropriate approach would be to consider adapting the behaviours of a confident

(not arrogant) person. If you think about the eye contact and posture of a confident person, could some of those behaviours be integrated into your own style? Are there clues to be found in the voice, pace, tone and choice of language of a confident person?

Adopting the behaviours of a confident person, in conjunction with the other practices mentioned, can have a role to play in enhancing your confidence.

Breathing patterns

If you find yourself needing an immediate dose of confidence, having some breathing techniques at your disposal is quite useful. Changing your breathing pattern in the moment will create some calm, which is necessary for the brain to respond constructively to a challenge. One simple, practical exercise is to breathe in for four counts, hold for seven counts, and breathe out for eight counts. Repeat this three times.

Breathing exercises are not a substitute for doing the work on stock-taking or managing your inner voice, but they can help in a moment of crisis or pressure.

Got my mojo working

I will end on a note of caution. These practices are not life-hacks or quick fixes. To be effective, you may have to unlearn old habits and learn new ones. You may have to let go of old, ingrained ways of thinking and belief systems. Existing patterns of behaviour and thinking may be more comfortable than the effort required by change.

Working on confidence is not a one-time-only practice. But have no doubt that commitment will lead to professional rewards and satisfaction.

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CYBER SECURITY ADVICE FOR SOLICITORS

Questions and answers with David McNamara, MD of CommSec

Q What type of cybercrime attacks are solicitors' firms being hit with?

Cybercrime has increased by 400% since the beginning of the COVID 19 crisis. Solicitors' firms are attractive to cyber criminals as they are often perceived to be a particularly lucrative target for cybercrime. This is because the perception exists that particularly smaller firms will handle some large transactions but are not necessarily equipped with adequate security and are under-prepared to withstand a targeted cyber-crime attack. The most common attacks against small and medium sized legal firms are phishing attacks undertaken with a goal of committing invoice redirect fraud.

What this means is that if an attacker has gained access to a solicitor's email account through a phishing attack, they have full access to all email on the account and can watch for any sizeable upcoming transactions. Imagine the solicitor who has been compromised is now handling a house sale. When the time comes to receive the money from the purchaser, the criminals strike. The criminals send an email to the purchaser, from the solicitor's email account, with the "new" bank account details to transfer the money to. The buyer often doesn't question this as the email is expected and has come from the solicitor's genuine email account. They then transfer the house purchase fund to the criminal's bank account without realising they have reacted to a fraudulent email instruction.

In our recent experience, we have been involved in helping small / medium sized legal firms to recover from serious cyber-attacks just like this. The crimes are usually only discovered when the solicitor who was expecting to receive

the funds queries payment delay. At that point both parties realise they had been the victims of a cybercrime – with the money to purchase the property now gone to a criminal's bank account that has since been closed.

We worked with the solicitor's firms and law enforcement to forensically trace the criminal's activities and gather evidence to assist in their efforts to reverse transfer of the funds, in addition to finding and removing the compromise on the affected email accounts.

A more detailed breakdown of how a Phishing attack like this works is available to read here: <https://commsec.ie/2020/07/10/gone-phishing/>

Q What can solicitors do to minimise the risk of IT security threats?

Every solicitor's firm should ensure that their staff are trained to be aware of the possible IT security threats. This can be done by using end user IT security awareness training which is now easy to setup, is not expensive, and which can pay for itself many times over when it prevents theft. Secondly we strongly encourage every business to maintain yearly penetration tests of the IT systems, and this can be supplemented by regular vulnerability scans that will help with improving the security of their IT systems and reduce risk.

Q Looking ahead, what are the next steps for legal firms to take to maintain good cyber security?

They should consider the use of a managed IT security monitoring service, to help protect themselves from phishing and ransomware attacks. These services are now available for different sizes

of organisations and are much more affordable than before. In the event of an attack – the service provider has the authority and access to take remedial action and shut down the cyber-attack quickly.

Q What advice would you give to a legal firm looking to improve their IT security?

They should look to work with an organisation who specialises in IT security and governance and has the skills and expertise to help them to improve their IT security and reduce their risk. Security is much more than having a firewall and anti-virus on the user laptops! There are also benchmark standards that we can help them attain, such as Cyber Essentials or ISO 27001.

Q Is this level of IT security protection available to all sizes of legal organisations, even those with limited resources and budgets?

Yes, even relatively small legal firms and solicitors' practises can now benefit from the latest IT security services as these are far more affordable than in the past.

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REMOTE CONTROLS

The new *Rules of the Superior Courts* allow affidavits to be executed remotely for the first time. **Liam Kennedy SC** and **Nadia Skelton** rewind

LIAM KENNEDY SC IS A DISPUTE RESOLUTION PARTNER IN A&L GOODBODY AND IS ON THE LAW SOCIETY'S COUNCIL. NADIA SKELTON IS A SOLICITOR IN A&L GOODBODY'S LITIGATION AND DISPUTE RESOLUTION DEPARTMENT



IN PRACTICE, IT MAY OFTEN BE SIMPLER FOR PRACTITIONERS TO HAVE AFFIDAVITS EXECUTED IN THE TRADITIONAL MANNER. HOWEVER, THIS OFFERS A WELCOME ALTERNATIVE, BOTH DURING THE COVID-19 RESTRICTIONS AND IN OTHER CIRCUMSTANCES

Many solicitors will have been vexed by the difficulty of arranging for affidavits to be sworn during the pandemic, especially if the deponent was vulnerable, elderly or unable to travel.

The Law Society has been advocating reforms to allow remote execution of affidavits, arguing that this was consistent with the relevant legislation and with other developments in other common-law jurisdictions. Our efforts have borne fruit. Helpfully, the High Court Rules Committee has recently approved rules to facilitate the remote swearing of affidavits. We welcome the introduction of the *Rules of the Superior Courts (Affidavits) 2021*, which came into operation on 31 March 2021.

Until now, the person swearing the affidavit and the person witnessing it needed to be in the same place when the affidavit was executed. The new procedure allows the deponent and the person witnessing it to be remote from each other, but simultaneously communicating via videoconferencing platform, for example, Zoom, MS Teams, etc. There are procedures to safeguard the integrity of the process.

While it may be simpler for practitioners to have affidavits executed in the traditional manner in normal circumstances, this is a welcome alternative during COVID-19. Furthermore, the rules may be helpful

even after COVID-19, when dealing with overseas deponents or other deponents who are unable to travel.

Requirements and safeguards

The rules permit remote swearing of affidavits where, for reasons stated briefly in the affidavit, it is impracticable for the deponent to attend in the physical presence of a solicitor or commissioner for oaths. They impose additional requirements when an affidavit is executed remotely. While they may appear complicated, the requirements ensure that the integrity of remote swearing matches a 'physical' execution.

Rule 9(3) outlines how affidavits may be executed by videoconference:

- Before, or at, the videoconference, the solicitor must be provided with a copy of the affidavit and exhibits. An electronic copy will suffice.
- The solicitor must satisfy themselves as to the deponent's identity in the usual ways.
- The solicitor must be satisfied that the videoconferencing platform allows the deponent to see and hear the solicitor, and the appropriate sacred text must be available to the deponent.
- During the videoconference, the deponent must produce the original of any verification documents and identify each

page of the affidavit and exhibits that they are signing (ensuring that both parties are looking at the same documents).

- After the videoconference, the signed affidavit and exhibits are sent to the solicitor, who, having confirmed that the documents are those identified during the videoconference, will complete the jurat. The jurat will indicate the date the affidavit was sworn by the deponent, where the solicitor was when witnessing the affidavit, and the fact that it was sworn by videoconference.

Statutory declarations?

Unfortunately, the rules only cover affidavits. Statutory declarations cannot yet be witnessed remotely. This is because of the wording of the legislation governing statutory declarations. Section 2 of the *Statutory Declarations Act 1938* states "every statutory declaration shall be signed by the person making the same *in the presence of*" the witness.

The Law Society submitted, and the Rules Committee agreed, that statutory provisions requiring affidavits to be sworn 'before' a solicitor could be satisfied by videoconference. However, audiovisual swearing would be inconsistent with the statutory requirement for a *statutory declaration* to be made 'in the presence' of a solicitor. Primary legislation would be required to allow



for remote execution of statutory declarations. Accordingly, these rules only cover affidavits.

Longer-term solution

The Law Society has been advocating the introduction of statements of truth in lieu of affidavits in civil proceedings. Such reform could ultimately reduce the importance of both affidavits and statutory declarations in litigation.

Section 20 of the *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020* allows the court to introduce rules that permit parties to initiate and conduct civil proceedings online. Section 21 allows the courts – in the context of online filing of pleadings and evidence – to introduce rules permitting the use of statements of truth as an alternative to affidavits and statutory declarations.


Statements of truth will essentially confirm the deponent's belief that the facts contained therein are true, and they will not be witnessed in the same way as affidavits or statutory declarations. The Law Society advocates for the introduction of statements of truth, not only for reasons of cost and convenience, but so as to avoid taking affidavit evidence on the basis of a religious oath, a requirement that appears increasingly anachronistic in modern Ireland.

However, statements of truth depend on the introduction of further court rules, and will only be permitted in civil proceedings where the electronic filing of evidence and pleadings is facilitated (another development advocated by the Society).

While statements of truth will ultimately be a welcome alternative for affidavits, it will be some

time before they come on stream, since court rules are required and these are likely to be rolled out as part of future e-filing arrangements.

These reforms are welcome. In practice, it may often be simpler for practitioners to have affidavits executed in the traditional manner. However, this offers a welcome alternative, both during the COVID-19 restrictions and in other circumstances, including where clients are overseas or otherwise unable to attend in person. The Society is also advocating for the introduction of corresponding rules in the District and Circuit Courts as soon as possible.

Longer term, the Law Society will continue to advocate for the introduction of statements of truth as a more appropriate means of introducing evidence in court proceedings. 

UNFORTUNATELY,
THE RULES ONLY
COVER AFFIDAVITS.
STATUTORY
DECLARATIONS
CANNOT YET
BE WITNESSED
REMOTELY

LET'S STICK TOGETHER

Donegal native and trainee solicitor Donna Ferry is an evangelist for the Law Society's Small Practice Traineeship Grant. **Mary Hallissey** reports

MARY HALLISSEY IS A JOURNALIST WITH THE LAW SOCIETY GAZETTE



THIS GRANT IS A GREAT INCENTIVE FOR SOLICITORS TO REACH OUT AND SEEK A TRAINEE TO BOOST THEIR FIRM. TRAINEES BRING NEW LIFE AND IDEAS, AND THIS GRANT PROVIDES GREAT FINANCIAL SUPPORT AND OPPORTUNITIES TO SMALL FIRMS

Donna Ferry is following her dream of working in criminal law and training as a solicitor. The substantial funding for her educational costs, largely funded by the Law Society's [Small Practice Traineeship Grant](#), allows her to train relatively close to home.

She's the only trainee solicitor working with sole practitioner [Phelim O'Neill](#) of Strokestown, Co Roscommon. Not surprisingly, Donna is an enthusiastic evangelist for the grant. The busy Strokestown practice has never had a trainee, and is enjoying the positive impact that another pair of hands is bringing to the firm.

Having completed her FE-1s in just over a year, Donna began work with her training firm last July. The grant assists small firms outside the urban districts with the cost of employing a trainee solicitor (see panel). The total value of the grant to the firm and the trainee is €25,000 over two years.

"This grant gave me the opportunity to live in a small community without having to relocate to Dublin," explains Donna. "This was always my goal. I now live in Carrick-on-Shannon, where rent prices are extremely affordable, and I am just a two-hour drive from my hometown of Letterkenny."

Dance away

In December 2020, Donna began the Hybrid PPC1 course, completely stress-free, as the



Donna Ferry – Law Society funding was crucial to her Roscommon firm taking her on as a trainee

grant covered €7,000 of her fees.

"This grant is available to all trainees and, since I am completing the hybrid option, it means I can work continuously throughout my two-year traineeship without taking long breaks to attend Blackhall Place."

The grant has proved to be a boon, both to the trainee and her law firm, and has enabled her to specialise in criminal defence – her first love – having chosen criminal justice and criminology as her NUI Galway BCL electives, before she graduated in 2018.

Donna (24) is one of a cohort of 80 PPC trainees benefiting from the Law Society's [hybrid option](#), and hopes to qualify from Blackhall Place in early 2023. The hybrid course offers flexibility to those who wish to qualify as a solicitor, but who are unable to commit to either moving to the capital or commuting long distances to study.

Originally from Falcarragh in Co Donegal, her family moved to Kilmacrennan, ten minutes outside Letterkenny, when she was quite young. She never had a desire for big-city life, she says, and chose to study a BCL in the "cosier environs" of NUI Galway.

More than this

With her focus on getting a traineeship at a rural law firm relatively close to home, she was delighted to hear about the Small Practice Traineeship Grant, and is now an enthusiastic advocate for the option.

"The rent in Leitrim is one of the lowest in the country," she notes, and feels she is much closer to achieving her life's goals, such as property ownership, without the expense of big-city living.

She loves the variety in her law firm and the fact that the legal team travel quite a lot when representing clients, including to Letterkenny Courthouse. (She's looking forward to the day when she'll be able to stop at her parents' house for tea and a chat following a busy day in court.)

Donna helps her firm to prepare the paperwork for both Circuit Court and Court of Appeal cases, and, when required, travels to both Dublin and Cork Central Criminal Courts for proceedings.

She believes that the Small Practice Traineeship Grant will help contribute, in some measure, towards the economic rebalanc-

PICT: ALAMY



ing of rural areas by spreading “good jobs” around the country.

“You can be just as successful out in the country,” she comments. “You can do just as well, buy a house, and get along quicker.”

Out of the blue

She comments that, without the Law Society funding, her Roscommon firm would not have taken on a trainee. In addition, the help towards her PPC1 fees

is very welcome and has removed much of the financial pressure.

The application process is very short, she explains, and includes a section for the training solicitor to explain what experience is on offer at their firm.

“A lot of small firms would be keen on this grant, especially if there is no family coming through. Phelim is very anxious to get me qualified, and I’ve settled in very quickly. I work closely with him and alongside a lot of barristers. I don’t think I would get this experience at all if I was in a bigger practice.”

Of course, quite apart from the advantages being enjoyed by Donna, her training firm has the benefit of knowing that she won’t have to take nine months out at Blackhall Place to continue with her PPC training: “I’m working throughout the whole course,” she enthuses.

Take a chance with me


“From my experience seeking a traineeship, I learned that you should not fear voicing the idea of the Small Practice Traineeship

Grant to your prospective firm. It adds an extra element to your CV, and may just secure that much-needed traineeship.

“This grant is a great incentive for solicitors to reach out and seek a trainee to boost their firm. Trainees bring new life and ideas, and this grant provides great financial support and opportunities to small firms,” she says.

Donna also describes the flexibility of the Hybrid PPC as “excellent” – spending four days in the office, and two days studying. Multiple online communication channels encourage constant interaction with fellow trainees.

“Everyone is very happy on the hybrid course – there are no drawbacks – and we’ve had our skills classes, one-to-one. In addition, you can work that extra time you’d otherwise spend when travelling,” she concludes.

“It’s probably better than being on-site at Blackhall Place, because you don’t have to travel and get organised. Even for those not far from Dublin, everyone could benefit.” 

SUPPORT FOR A NEW GENERATION OF SOLICITORS

The Small Practice Traineeship Grant scheme provides funding of €18,000 to the training law firm over the course of the two-year training contract. It also provides funding of €7,000 to the trainee solicitor by way of a discount on the PPC1 fee. In 2021, five grants will be made available.

- Be a small firm, consisting of five or fewer solicitors (including principal, partners, consultants and employed solicitors), and
- Agree to pay the trainee at least the living wage (currently €12.30 per hour).

For more information, download the [Small Practice Traineeship Grant rules](#) on the Law Society’s website.

Entries for the grant must be submitted by 2 July 2021. For further information, see www.law-society.ie.

Eligibility criteria

The proposed training contract firm should:

- Be located outside of the city and county of Dublin, and the urban districts of Cork, Limerick and Galway,

THE PC BRIGADE

Brexit is the gift that keeps on giving. **Duncan Grehan** explains international law practice post-Brexit and solicitors' practising certificates in Ireland

DUNCAN GREHAN IS A CONSULTANT WITH DUNCAN GREHAN & PARTNERS, SOLICITORS, AND A MEMBER OF THE LAW SOCIETY'S EU AND INTERNATIONAL AFFAIRS COMMITTEE



SINCE 1 JANUARY 2021, THE THOUSANDS OF LAWYERS FROM THE UK WHO HAVE ENROLLED AS SOLICITORS HERE IN RECENT YEARS HAVE NO EU LAW-BASED RIGHT TO CALL THEMSELVES PRACTISING IRISH SOLICITORS

On 11 November 2020, the Law Society – anticipating Brexit – published on its website a detailed review of the regulatory framework for issuing practising certificates to lawyers based outside of the jurisdiction. This review remains applicable today, due to the Society's recent discussion and settlement of issues post-Brexit with the law societies of England and Wales, and Northern Ireland. It sets out various guides for those lawyers falling into any of the three categories reviewed, namely:

- 1) Changes now to the annual certification process by the Law Society of Ireland,
- 2) The post-Brexit practice rules applying to UK lawyers,
- 3) The conditions for lawyers qualified in an EU member state practising in Ireland or other EU member states, and the possibility of lawyers from other countries in the world practising law in Ireland and in other EU states.

Items (1) to (3) take into account the definition of EU lawyers' free movement and establishment rights, as provided in the *Establishment Directive* (98/5/EC) of 16 February 1998, and as clarified by the CJEU decision of 7 May 2019 in the case of *Eirinaios v Athinon* (C-431/17), in which a monk in Greece, having acquired the professional title of a lawyer in another EU member state (Cyprus) was wrongfully refused entry to the Athens Bar.

The directive's article 3 provides that any EU lawyer registered by the competent authority in his home member state shall be entitled to pursue, on a permanent basis, in any other member state under his home country's professional title, the activities then specified in article 5. Article 6 states that the lawyer "shall be subject to the same rules of professional conduct as lawyers practising under the relevant professional title of the host member state in respect of all activities he pursues in its territory".

Annual certification

The annual certification process by the Law Society of Ireland of permitting the practice and supply of legal services as solicitors has a new regulatory basis, replacing (although not much changing) the old rules with effect from 1 January 2021. As before, any breach may be considered misconduct, which can result in criminal charges and in permanent strike-off from the Roll. This process is interlinked to items (2) and (3).

The *Solicitors Acts 1954-2015* and their implementing regulations confirm that a practising certificate (PC) only entitles a solicitor to practise in Ireland from a physical establishment here, and a PC will only issue to someone so established in Ireland and who meets all the other requirements, such as proof of professional indemnity insurance (PII). Irish-qualified

solicitors based in the UK or elsewhere seeking a PC from the Law Society have no entitlement to one.

The 2021 rules on PCs are found in *SI 655 of 2020* (Irish solicitors' PCs) and in *SI 642 of 2020* (registered EU lawyers' 'qualifying' PCs). Each statutory instrument defines 'practise' as the provision of legal services, or the intention to do so, "from an establishment in the State" where such services "relate to the law of the State", including EU law as it forms part of the law of the State. These certificates, which are only valid for a year, define the free movement and territorial scope of an Irish solicitor's law practice to one that is established in the State.

The admission of non-Ireland qualified lawyers to practise in Ireland (or elsewhere) is largely dependent on the terms of any bilateral agreement between the Law Society and the competent authority or bar association of the applicant's country.

The professions of solicitors and barristers in Ireland are trained in two separate independent institutions – the Law Society of Ireland and the Bar of Ireland – although both have a common statutory regulator of their services. This article deals primarily with the former.

The right of solicitors qualified in Ireland to practise as a solicitor is limited. It is subject to a year-to-year, one-year term, and a valid PC. It must be from a

PC: SHUTTERSTOCK/GAZETTE STUDIO





THE RIGHT OF SOLICITORS QUALIFIED IN IRELAND TO PRACTISE AS A SOLICITOR IS LIMITED. IT IS SUBJECT TO A YEAR-TO-YEAR, ONE-YEAR TERM, AND A VALID PC

physical establishment in Ireland and relate to the laws of Ireland, including EU law. Irish barristers' professional service is not subject to any similar limited right.

Post-Brexit regulation

Since 1 January 2021, the thousands of lawyers from the UK who have enrolled as solicitors here in recent years have no EU law-based right to call themselves practising Irish solicitors. In March 2021, following talks, a bilateral agreement with the Solicitors Regulatory Authority (Britain) was concluded. It was agreed to reintroduce mutual recognition on the same basis as had been in place before 31 December 2020.

It has the status of public law by SI 741/2020, by which, from 1 January 2021, section 44 [inserted by section 52 of the *Solicitors (Amendment) Act 1994*] of the *Solicitors Act 1954* came into operation for the profession of solicitors in England and Wales.

PC applications will still need to be successful, and renewed annually. An equivalent SI to cover the members of the Law Society of Northern Ireland has also been enacted on the same bilateral basis.

With the Law Society of Scotland – a separate jurisdiction within Britain, but with a mix of civil and common law and now outside the EU – there is a different agreement in place on the basis of mutual examination arrangements.

The mutual recognition and reciprocity arrangements between the barristers' profession in the UK and Ireland is unclear and unknown. As matters stand, the former have no EU professional practice rights in Ireland, unless as 'frontier' workers whose rights have been preserved by the EU/UK *Withdrawal Agreement*.

Leading lawyers from Ireland, the UK, France and Belgium (in an informal network called the 'European Circuit') presented their views on cross-border legal

practice in post-Brexit Europe in an online conference on 28 January 2021. Former Bar Council chair Paul McGarry SC explained some of the statutory and regulatory changes in the regime now operating here since 1 January and noted that barristers and solicitors now have a common regulator, the Legal Services Regulatory Authority (following the *Legal Services Regulation Act 2015*).

Hugh Mercer QC maintained that the *Withdrawal Agreement* offers certain UK lawyers the right to practise in the EU if qualifying as vouched 'frontier workers' (article 26), and may have other practice rights where there is an inter-state bilateral agreement. Equally, lawyers from the EU can also so qualify to practise in the UK, but cannot then describe themselves as solicitor or barrister, cannot appear in court, and cannot engage in conveyancing; nor must they register with the law society or the

bar unless they are partners in a UK firm or chambers. Such EU lawyers must, however, be “under the supervision” of a licensed UK lawyer who will then be liable to the consumer who receives that EU lawyer’s professional services. The reason for this, Mr Mercer explained, is to ensure the quality of the profession and the safety of the consumer.

The panel accepted that the UK withdrawal from the EU does now complicate issues beyond professional practice rights, such as first seisin of jurisdiction, where there may be parallel proceedings about the same dispute issued in one or more of the courts of the 27 EU states and also in the UK courts. This creates controversy about how service of proceedings is effective to secure jurisdiction priority, with subrogation and *lis pendens* consequences, as well as comity of nations’ principles.

Freedom of movement

In many countries, a license to practise (for example, to either a non-national, where nationality is a decisive condition to any application’s success, or to a lawyer trained in some country’s laws but not those of the issuing country) will depend on various different factors irrespective of whether the applicant is from an EU member state. This was made clear during the ‘European Circuit’ webinar. Prominent Paris lawyer Louis Buchman said that all lawyers can seek registration in France as a ‘foreign legal consultant’ if there is a bilateral agreement between France and the state of the applicant lawyer. But if registered, such a lawyer cannot appear and advocate in a French court, although there are no such role limits in arbitration hearings. Peter Callans, president of one of the multiple Belgian bars, mentioned that Brussels is packed with lawyers from all over the world and so its local bar operates a ‘tableau’

tiered system. Those on its List A, who must be nationals of one of the 27 EU states, are subject to the local regulatory laws and at the moment will see no changes to their practice license before 2022. Those on List B are from the USA and other non-EU states and have no right to appear or advocate in the local courts and enjoy no lawyer professional privilege rights, but may engage in transactional work and arbitrations.

For those qualified in EU states, admission to practise anywhere within the EU is governed by EU statutory and case law as outlined already above. However, again, admission is also a matter for domestic laws and for bilateral agreement between international bars. In Ireland, the Law Society website has [helpful guidelines](#) and sets out the requirements and conditions. These have the force of law by [SI 35/2010](#), which shows how much possible arrangements require the interplay of national competent authorities to conclude bilateral agreements to enable cross-border practice, irrespective of membership of the EU.

Currently, there are only eight categories of qualified lawyers who are eligible to apply here for the issue by the Law Society of certificates of eligibility, and only such qualified lawyers are eligible to sit the Law Society conversion test, called the Qualified Lawyers Transfer Test (QLTT). They must then pass it and register to qualify as solicitors in Ireland. These tests happen in Dublin twice a year. Applications must be by post, not by email. The eight include Scotland, some US states (New York and Pennsylvania with restrictions, and California), one Australian province (New South Wales, though under Australian reciprocal rules this now extends to all Australian jurisdictions), New Zealand, all EFTA lawyers, and all those from the 27 EU member

states. If qualified and eligible to apply, even then the application (which can be downloaded from the Law Society website) and its vouchers are subject to a review by the Education Committee of the Law Society.

Solicitors from England and Wales and Northern Ireland are exempt from having to pass the QLTT; but must successfully apply for a certificate of admission.

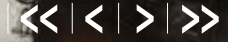
Such freedom to apply and be registered is costly. The application alone requires a processing fee of €350 to be paid. The registration fee for those less than three years qualified on 1 January 2020, including all additional levies and voluntary contributions, comes to €2,300. It’s more once the applicant has passed the first three years.

In conformity with the *Establishment Directive’s* basic standard (article 6), the registration applicant must meet the local regulatory standards, as must all solicitors with PCs practising in Ireland, and also submit a declaration of compliance with standards proof as part of the application.

All other lawyers outside these categories who seek to practise under the annual license of the Law Society must start from scratch and undergo the full standard training process to become an admitted solicitor (such as the FE-1 and two exams, and the traineeship).

The term ‘lawyer’ is generic. Most local laws and regulations apply merely to those lawyers seeking registration. This is not mandatory for legal consultants or academic lawyers. As article 6 of the *Establishment Directive* makes clear, a ‘foreign’ or ‘immigrant’ or other titled lawyer “shall be subject to the same rules of professional conduct as lawyers practising under the relevant professional title of the host member state in respect of all activities he pursues in its territory”.

THE ADMISSION OF NON-IRELAND QUALIFIED LAWYERS TO PRACTISE IN IRELAND (OR ELSEWHERE) IS LARGELY DEPENDENT ON THE TERMS OF ANY BILATERAL AGREEMENT BETWEEN THE LAW SOCIETY AND THE COMPETENT AUTHORITY OR BAR ASSOCIATION OF THE APPLICANT’S COUNTRY



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HAVE YOUR CLIENTS GOT AN APPROPRIATE IP STRATEGY?

Each year, the World Intellectual Property Organisation holds a World Intellectual Property Day, with the purpose of increasing general understanding of intellectual property (IP). This year, it focused on the importance of IP in fostering innovation and creativity, and in protecting and building value for SMEs.

SMEs are the backbone of the Irish economy, accounting for around 99% of total enterprises in Ireland and employing approximately 65% of total employees in the country.

Many SMEs fail to consider or put in place an IP strategy, or may not have the time, resources or knowledge to address it, even though IP is potentially their most valuable asset. In order to survive and remain competitive, identifying, protecting and managing IP is increasingly important for SMEs.

IP allows a business to distinguish itself and/or its products from others, improve competitiveness, and protect against others unlawfully exploiting or taking advantage of the reputation, know-how, or technology it has created.

SMEs are a key sector for solicitor firms, large and small. It is therefore essential that practitioners can advise their SME clients in relation to IP matters. Accordingly, the IP and Data Protection Committee of the Law Society thought it timely to provide practitioners with a reminder of some key IP issues to keep in mind when advising SMEs.

Is the client aware what IP it holds and uses?

The IP a business holds may include trademarks, design rights, copyright, patents, trade

secrets, and know how. Every business has IP, whether it realises it or not – if it has a name, it has IP. Businesses are not always aware that what they have or use constitutes IP that might be protectable. Undertaking an IP audit can be a useful starting point in developing an IP strategy.

Has ownership or authority to use IP been properly documented?

The formal ownership of IP used by a business is often not considered, or a business may believe that the IP used is owned by it when in fact it is not. Having good title to IP is extremely important. This has a bearing on licensing, assignment, and enforcement of rights. It may also affect the attractiveness of a business from an investor or purchaser perspective. Appropriate assignments of IP, registrations, or licences should be put in place to demonstrate that the business owns or is entitled to use the IP it has. In addition, it is prudent to include an IP assignment in all contracts with employees and contractors in relation to any IP they may develop in the course of their engagement.

Is confidentiality of business know-how protected?

With a business or product name, the intention is to get it out to as many people as possible. With other types of business IP, keeping it secret and confidential is the name of the game – to protect it. The trade secrets and know-how of a business are commercially sensitive and valuable IP. It will not always be possible to formally protect such IP, and ensuring confidentiality is the first line of defence.

Employee, contractor, customer, and supplier contracts should be reviewed to ensure that they include appropriate confidentiality provisions, and it is also useful to develop a standalone non-disclosure agreement for the client that can be deployed as required when sensitive information may be disclosed.

Is the business name protected?

A business builds its brand and reputation on its name. This is therefore a key IP asset to be protected. It is a common misconception that, if a business name is registered with the Companies Registration Office, it is protected. This is not the case. Ensuring that the business has registered the relevant domain names and the name with the various social media accounts will assist in ensuring that others cannot readily use the name.

An established reputation will provide some protection in the common law tort of passing-off where the name is not registered, but the evidential burden the business must meet to successfully take such a claim is high.

Undoubtedly the best protection is to have a registered trademark in the name. Once registered, it gives the trademark owner an exclusivity (within its chosen categories of goods and services and territory) to use the name and an entitlement to enforce that exclusivity against others who may seek to use that name or one that is confusingly similar in respect of those goods and services.

Carrying out appropriate searches before becoming too attached to a name can save a lot of expense and inconvenience in the long run for a business.

In considering a trademark application, there are a number of key things to consider:

- What is to be registered?
- Is it in fact registerable?
- What goods and services are to be protected?
- Where is protection required?

Does the business own or have permission to use copyright material?

Copyright subsists as a matter of fact by virtue of the creation of the work, and it vests in the party who has created – it does not require any formal registration. Common issues that arise include:

- A misunderstanding by businesses that, because they commissioned something, they own the copyright – which is not the case unless it has been expressly agreed in writing by the creator,
- A business using third-party copyright material without realising that it is not entitled to do so without appropriate consent.

Does the business have product designs that would benefit from registration?

Design rights protect the visual appearance of a 3D object. In Europe, designs enjoy automatic unregistered design rights for a period of three years from the date on which the design was made public. However, if protection is required for a longer period or outside of the EU, formal design registration might be considered. Irish or European protection can last up to 25 years. Unregistered design rights, while helpful, are much more difficult to enforce than a registered design, which brings much more certainty.

Does the business have an idea or invention that could be patented, and should it be patented?

A patent grants exclusivity for the use and exploitation of an invention that offers a new solution to a problem or a new way of doing something. The exclusivity extends only to the jurisdiction in which a patent is registered. In order to secure a patent, that invention or idea must be (a) new, (b) involve an inventive step (not obvious to a person skilled in that field), and (c) be something that can be commercially exploited. As with registering other rights, searching to ensure

that there is nothing else out there before you is important.

Has use by third parties been appropriately documented and exploited?

SMEs that have valuable IP may be able to commercialise the IP they have created through licensing or franchising. Ensuring that appropriate contractual protection is in place will be essential to protect the IP, regulate how it is used by third parties, and reserve appropriate rights to the business.

Are IP registration renewal dates monitored?

It might seem an obvious point,

but renewal dates are often years in the future, so it is worth ensuring that they are diarised forward to avoid any renewals being missed. The impact of allowing IP registrations to lapse could be detrimental to a business.

Does the business qualify for any tax relief, grant, or other supports related to its IP?

The Knowledge Development Box tax regime has been extended until 31 December 2022. This regime provides for a reduced effective corporation tax rate of 6.25% in respect of income arising directly from certain qualifying IP assets.

There are a number of tax reliefs available to businesses in relation to the acquisition of IP and R&D expenses in the development of IP. Enterprise Ireland offers supports for research and development and business innovation projects.

Not all practitioners who advise SME clients will be comfortable advising on the specifics of IP issues and, indeed, elements of IP practice are technical and specialist. However, given the increasing importance of IP to SMEs, practitioners should equip themselves with sufficient knowledge to be able identify where a client may have gaps in their IP strategy that ought to be addressed.

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Leave a legacy

Make-A-Wish® Ireland has a vision – to ensure that every child living with a life threatening medical condition receives their one true wish. You could make a difference by simply thinking of Make-A-Wish when making or amending your will and thus leave a lasting memory.



"Make-A-Wish Ireland is a fantastic organisation and does wonderful work to enrich the lives of children living with a life-threatening medical condition. The impact of a wish is immense – it can empower a child and increase the emotional strength to enable the child to fight their illness. It creates a very special moment for both the child and the family, which is cherished by all."

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

"I cannot thank Make-A-Wish enough for coming into our lives. Having to cope with a medical condition every hour of everyday is a grind. But Make-A-Wish was amazing for all of us. To see your children that happy cannot be surpassed and we think of/talk about that time regularly bringing back those feelings of joy happiness and support."

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

COVID-19: DUE DILIGENCE AND WARRANTIES

As a result of the pandemic, the Business Law Committee has been requested by practitioners to raise awareness of useful tools/checklists that may be used in common business transactions to facilitate businesses continuing day-to-day operations and, indeed, acquiring or disposing of businesses.

The annual Business Law conference in November 2020 already addressed areas of particular concern for practitioners, including:

- The company law update on interim measures introduced by the *Companies (Miscellaneous Provisions) (COVID-19) Act 2020*,
- The execution of documents virtually, using electronic signatures,
- Competition law enforcement in the COVID-19 era, and
- The impact of COVID-19 on contractual obligations.

As a follow-on to the fourth item, the committee has been requested to raise awareness for practitioners of areas of additional due diligence and warranties that should be considered in light of COVID. The areas outlined below are not intended to be all-encompassing, but are merely a flavour of some areas that practitioners commonly seek to address in due-diligence questionnaires and in warranties/

indemnities, not just in share/asset sales, but in general commercial agreements.

Common examples of some areas that practitioners might consider raising specific questions on, in light of the COVID-19 pandemic, include:

- *Banking* – has the business availed of any loans, grants or Government support in connection with COVID-19 or requested/obtained moratoriums or defaulted on loans? Has the impact of COVID or the target company's response triggered any default (or events of default) or notification requirements in the target company's existing facility agreements?
- *Contracts* – has any contract, transaction or arrangement been terminated or discharged by frustration, or suspended or varied due to COVID?
- *General business relations* – what impact has COVID had on dealings with third parties, including customers, suppliers, creditors and debtors?
- *Health and safety* – have all Government guidelines and laws been implemented?
- *Employment* – have all employees and service providers complied with health-and-safety obligations under statute, common law, and any applicable

guidance? Have there been any layoffs or any changes in working arrangements due to COVID-19? Were any subsidy schemes availed of? Has there been any salary/pay reductions? What other alterations occurred in relation to the employees'/contractors' arrangements due to COVID? How many employees are working remotely and what impact, if any, has this had on the business?

- *Information technology/GDPR* – what measures have been taken to move the business online? What are the remote-working arrangements? What additional security and GDPR measures have been put in place to facilitate remote-working arrangements? In light of COVID-19, have any changes been made to existing disaster-recovery plans?
- *COVID-19* – what number of cases have been confirmed among staff? Are there any suspected cases pending results? Have any claims been made or are any claims pending?
- *Insurance* – are there any policies subject to special or unusual restrictions? Have premiums increased due to COVID? Have any claims been made to insurers for business inter-

ruption? Have there been any claims against the business or notifications to insurers?

- *Property* – have any rates-holidays/waivers been availed of? Are any rent reductions or payment breaks in place, or non-payment of rent? What is the position on service changes?
- *Tax* – seek full details of all Government measures availed of to assist businesses in response to COVID, for example the Temporary Wage Subsidy Scheme. Have all returns been made on time? Has there been any warehousing of tax?

In summary, it is essential to bear in mind that, when the pandemic is over, there will be a look-back; this may have a knock-on effect on all businesses for liabilities incurred, or clawbacks of Government schemes that were entered into at the time. Therefore, it is particularly important to consider the above areas today and going forward. Remember, this is merely a high-level overview of certain areas, and each set of circumstances needs to be considered in tandem with the business owners and their other advisers, in addition to any standard due-diligence questions and warranties that may be sought.

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.



GUIDANCE ON RESPONSES TO AUDIT QUERIES

The Business Law Committee has recently been considering the practice in relation to solicitors responding to routine audit queries. In light of the increased requests to reply to audit queries that are not in the form as agreed between Chartered Accountants Ireland, the Law Society of Ireland, and the Law Society of Northern Ireland (‘non-standard audit letter’), the committee has decided to issue guidance to members with respect to certain aspects of the responses to non-standard audit letters, as set out below.

This guidance is advisory and non-binding, and members should not consider themselves required to depart from their own risk-management procedures with respect to audit letters and their responses. Solicitors are advised to pay particular attention to their responses in the case of a non-standard audit letter.

Insofar as a solicitor is requested to address an audit query by means of an online portal, the considerations mentioned below will nevertheless apply, and solicitors should have regard to any terms and conditions that are accepted and, in case of doubt, may wish to provide a written response in preference.

1) *Non-standard audit letters*

Attached as appendix 1 is the approved-form audit letter, which

was agreed between Chartered Accountants Ireland, the Law Society of Ireland, and the Law Society of Northern Ireland. Although not usually specifically agreed in relevant terms of engagement, there is nevertheless a reasonable expectation among most clients that solicitors will reply to this letter in a reasonably timely manner, having regard to the fact that this letter forms an important part of the audit-checking process.

Where a non-standard audit letter is provided, no such expectation is reasonable by default, and solicitors should exercise their judgement as to the manner in which they might reply, but the committee recommends that the following matters might be addressed in the reply:

- The reply is subject to the relevant terms of engagement,
- Any estimates given or accepted are given or accepted on the basis that the solicitor will not incur any liability for any loss or damage that may be suffered by any person by reason of any such estimates being incorrect. Any estimates of costs incurred are given without commitment to the amounts estimated.

Where commentary is requested about a specific matter or possible exposure, and where the solicitor agrees to provide such commentary, the client’s instruc-

tions to do so should be confirmed, and the solicitor should have regard to issues such as privilege, confidentiality, and the potential impact that any commentary might have on the conduct of the matter.

A sample form of a letter that might accompany a reply to a non-standard audit letter is attached at appendix 2.

2) *Estimates of liabilities*

It is expected, where no matter is specified in schedule 1 in relation to an approved-form audit letter, that the proper response is ‘no matter specified’. It is not for the solicitor to identify matters that might give rise to a liability.

Where an estimate is given as to a potential liability in relation to a specified matter, either in relation to an approved-form audit letter or otherwise, it is important that any appropriate caveats to which this is subject are specified in a covering letter (for example, the estimate is preliminary in nature only or no inquiry/discovery has been made with respect to this matter and, accordingly, any estimate of liability is subject to change as further information about the matter becomes available). It is also prudent to ask whether any reflection of the estimate will be made available in any publicly filed accounts in case this has a bearing on conduct of the matter.

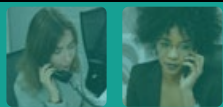
3) *Groups of companies and engagement letters*

It is not uncommon for audit letters to refer to groups of companies. It is for the solicitor to check that he has an engagement with the relevant companies, and to ensure that his engagement letter extends to providing services to related companies, but also to ensure that his agreed limitation of liability extends to the audit-confirmation letters to all relevant companies.

4) *Title documents*

It has become common for confirmations to be sought as to possession of title documents. Where such a confirmation is sought, the solicitor should take care to ensure that no confirmation as to quality of title, or other statement that is capable of creating reliance in relation to title matters, should be included in any reply to an auditor’s query without specific instructions to conduct appropriate title verification and steps, and subject to the usual caveats.

Accordingly, a suitable disclaimer should be included in any confirmation regarding possession of title documents, such as: “While we confirm that we have custody of documents which [relate to (the property)] or [are represented to us to relate to (the property)], we give no assurance or confirmation as to whether or not those documents represent or comprise good or marketable title to [the property].”



Urgent Call for Lawyers to Volunteer on FLAC's Telephone Information Line



During Covid-19 FLAC is experiencing a demand for our services which we just cannot meet without your assistance



We are asking qualified solicitors and barristers to volunteer on a regular basis remotely for a day or half-day on FLAC's telephone information line providing basic legal information.



Please send your expression of interest and a short CV to info@flac.ie

APPENDIX 1

This letter and form have been approved by the Institute of Chartered Accountants in Ireland, the Incorporated Law Society of Ireland and the Incorporated Law Society of Northern Ireland.

From:
[Name of accountancy firm]
Client:
[Name of client]
To:
Solicitors:

Dear Sir(s),

RE: Balance Sheet as at []

1) In connection with the preparation and audit of our accounts as at the date mentioned

above, the directors of the company have made estimates of amounts of the ultimate liabilities (including costs) which might be incurred and are regarded as material, in relation to the matters set out in Schedule 1, on which you have been consulted.

We should be obliged if you would confirm that, in your opinion, these estimates are reasonable and, where you take a different view, please insert your own estimate.

If you leave any of the director's estimates unchanged, it will be taken that you agree with the same.

It is agreed that any estimates given or accepted by you are given or accepted on the basis that you will not incur any liability whatever for any loss or damage which may be suffered by any person by reason of any such estimates being incorrect either on the basis of facts presently known or facts subsequently coming to light.

2) Would you please estimate in Schedule 2 the amount of costs and outlay due or accrued to you by the company as at the balance sheet date, together with your costs for dealing with this query form, so far as is possible without necessarily draw-

ing a bill of costs and without any commitments on your part to the amount so estimated.

3) Would you please indicate in Schedule 3 the amount of any monies held by you on behalf of the company as at the balance sheet date?

4) This letter and form are submitted in duplicate. Please retain the copy and send the completed original to our Auditors.

[Accountancy firm]
[Address]

Yours faithfully

Director/Secretary

Auditors' name		Auditors' address
Client's name	Client's address	Audit period end
Schedule 1 – Estimate of liabilities Matter	Directors' estimate €	Solicitors' estimate €
		[No matter specified] ¹
Schedule 2 – Costs and outlay accrued due by client at Balance Sheet date (estimated) €		
Schedule 3 – Monies held by Solicitor on behalf of client €		
Date:	Signed:	

¹ If no matter is specified, the correct response is 'no matter specified'.

APPENDIX 2

Appendix 2
[] Chartered Accountants
[]

Date:
Your ref: Our ref:

Matter: [] Ltd (the 'Company')
Balance Sheet Date:

Dear Sirs,
Please find enclosed our completed response to the letter

requesting certain information in respect of the Company for the purposes of its audit for the above balance sheet date. Our response is given subject to our terms of engagement [as set out in our engagement letter dated []].

[While we confirm that we have custody of documents which [relate to [the property]] or [are represented to us to relate to [the property]], we give no assurance

or confirmation as to whether or not those documents represent or comprise good or marketable title to [the property].]

[Refer to any limitations subject to which matter liability estimates are given.]

Kindly note that any estimates given or accepted by this firm are given or accepted on the basis that we will not incur any liability whatsoever for any loss or damage which may be suffered by any

person by reason of any such estimates being incorrect, either on the basis of facts presently known or facts subsequently coming to light.

Furthermore, indications of amounts of fees incurred as at the balance sheet date are indicative /estimated only and are not to be regarded as final or binding on this firm.

Yours faithfully

CPD Cluster Events 2021

The 2021 Law Society Finuas Skillnet clusters are run in partnership with the regional bar associations and will provide essential practice updates on key issues relevant to general practitioners.

Topics, speakers and timings vary for these training events and all offer a mix of general, regulatory matters and management and professional development CPD hours. In order to enable access for all, these events will be available to attend as webinars with live Q&As. All materials will be sent to delegates in advance.

- | | |
|---------------|--|
| 11 May | Essential Solicitor Update 2021 in partnership with the Leitrim Bar Association, Longford Bar Association, Roscommon Bar Association and Sligo Bar Association |
| 20 May | Midlands General Practice Update 2021 in partnership with the Laois Solicitors' Association, Kildare Bar Association, Midlands Bar Association and Carlow Bar Association |
| 17 Jun | North West Practice Update 2021 in partnership with the Donegal Bar Association and Inishowen Bar Association |
| 2 July | Essential Solicitors' Update 2021 in partnership with the Clare Bar Association and Limerick Bar Association |

To register please visit www.lawsociety.ie/cpdcourses

DATE	EVENT	CPD HOURS	DISCOUNTED FEE*	FULL FEE
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ONLINE COURSES

Where courses are listed with two dates, please select one date to attend.

14 May	Judicial Guidelines, Remote Hearings & Costs Online via Zoom Webinar	2 General (by eLearning)	€160	€186
18 May	Employment Law: Return to Work Challenges Online via Zoom Webinar	2 General & 1 Management & Professional Development Skills (by eLearning)	€160	€186
19 May	Communication Skills** Online via Zoom Meetings	6 Management & Professional Development Skills (by eLearning)	€160	€186
25 May	Business Acumen and Finance*** Online via Zoom Meetings	6 Management & Professional Development Skills (by eLearning)	€160	€186
27 May	Remote Working and the in-house solicitor Online via Zoom Meetings	2 Management & Professional Development Skills (by eLearning)	€65	
Online, On Demand	Negative Interest Rate Charges and Solicitors' Accounts	1 Regulatory Matters (Accounting & AML Compliance) (by eLearning)	Complimentary	
Online, On Demand	BrexEd Talks	Varies depending on modules attended	€160	€186

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

or contact a member of the Law Society Professional Training team on: P: 01 881 5727 | E: Lspt@lawsociety.ie | F: 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.

GUIDANCE QUESTIONS FOR PROSPECTIVE CASE-MANAGEMENT SOFTWARE VENDORS

The Law Society previously published a Small Practice Bulletin on the main features and benefits of a 'case-management system' (CMS). This note contains a list of questions and issues that you may wish to address with a prospective vendor when planning and acquiring a CMS that may be additional to, or part of, an on-site/live demo.

When considering a CMS, it is prudent to explore whether to implement it as 'software-as-a-service' (SaaS) – that is, web-based, which is accessed over the internet; or self-hosted on your firm's hardware/premises. Both types of offerings have advantages and disadvantages for a business from an operational perspective, as well as the costings involved. The questions below cover both scenarios but, obviously, if you are going with a cloud-based service, assurances regarding security and access to data are of most importance. If you intend hosting the system on your hardware, then disruption to business caused by updates and the availability of support may be of more relevance.

Please note that this list of questions is for guidance purposes only. It is non-exhaustive, and professional guidance from your IT providers and/or experts should always be sought.

The provider

- Please provide a background to your organisation.
- Approximately how many Irish law firms currently use your software?
- What type of firms are you primarily focused on – sole practitioners, small to mid-sized firms, large firms; working across what particular areas of law – general or specialist?

- Do you have any certificates/ISO standards that you comply with? Please provide details.
- What is your unique selling point that sets you apart from your competitors?
- Do you have testimonials available regarding your services?
- Can you provide contact details for two referee firms of a similar size to ours?

The case-management system

- Do you provide a cloud-based hosted solution, or will the system be self-hosted on my firm's server(s)?
- What legal accounts packages does the case-management system integrate with?
- Does it integrate with other software, such as digital dictation, voice recognition, etc? Please give examples.
- What other applications is the software required to interact with (for example, Outlook) and what versions of those applications?
- Is there an app and, if so, what operating systems and their versions do you support?
- Does the software have granular access-control based on a user's role – that is, can we control who has access to what?
- What service-value add-ons (for example, productivity tools, user development, user training, ongoing support) do you provide?
- Can we customise workflows in relation to tasks and cases?
- Does the system come with precedents and, if so, are they (a) updated (and how often), and (b) customisable?
- Are there any quantifiable limitations to using the system that a user should be aware of (for example, hardware or bandwidth requirements, lim-

ited capacity of users, it only works with certain versions of Windows, it is only supported on a limited number of smartphone operating systems, etc)?

- How is the system backed up?
- What problems or issues are most reported by users?

Cost

- How is the system priced – per user, per subscription?
- Please provide a breakdown of the various costs incurred in using your system.
- What ongoing costs should we expect?
- Can you buy full-user or light-user licences?
- What services are included in the annual licence fee?
- Please provide worked examples of costs that may be incurred for [X] users for each of (a) installation, (b) on a standard annual basis, and (c) for exceptional circumstances (upgrade, termination and transfer to new user, etc).

Installation

- Please give a brief outline of the installation process, together with timeline (days involved, downtime, etc) to include data transmission, installation and training, and going live.
- How many hours/days do we need to budget internally for software implementation and training?
- What kind of configuration changes can be made to change the look, feel, and performance of the software – are there additional costs for this?
- Do you keep a copy of our old system for a period – if so, for how long and how is it deleted?
- What happens if we encounter significant difficulties during the initial use period? How easy/dif-

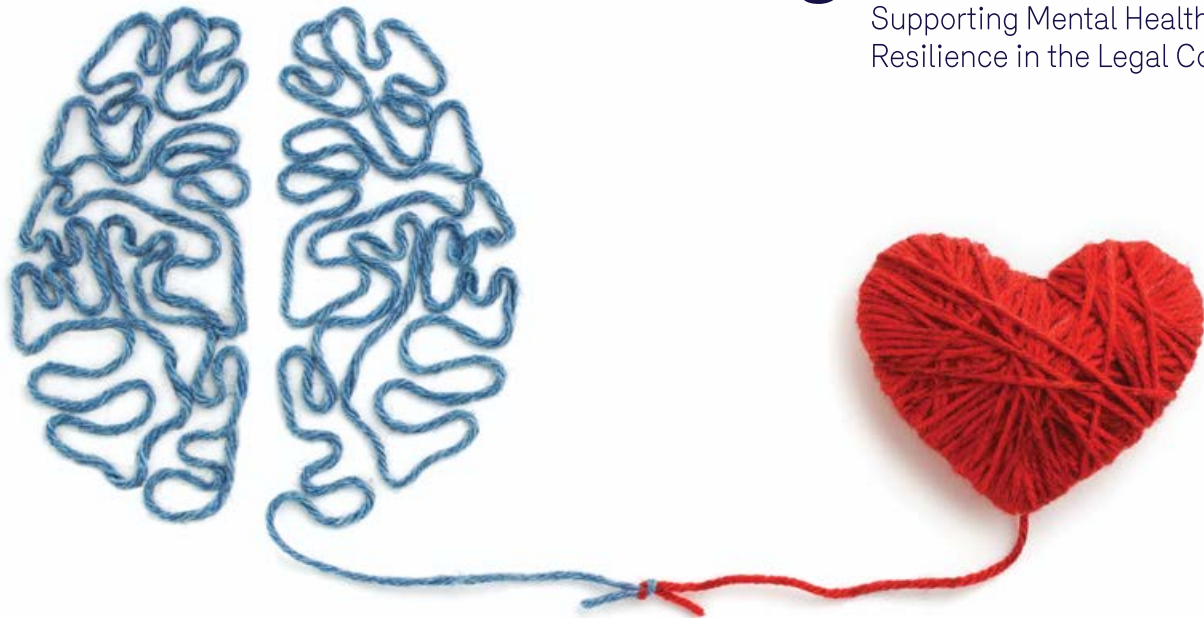
ficult would it be to roll back?

Support

- What support services do you offer to your customers?
- What is the escalation process and the response time for each?
- How frequent are your service outages, and how long do they last on average?
- Where are your support engineers based?
- What is your number of installations already installed in Irish legal offices?
- What type of interactive help features are included?
- Which of the following support resources are available: technical manuals, video tutorials, online chat, remote access, 24/7 email and phone support, and user support communities?
- What training resources do you make available to users?
- Is there an active online community for users of the software/system?
- What is your disaster-recovery plan? Please provide details.
- Who is your point of contact if we are interested in engaging with you?

Upgrades and patch updates

- How often do you (version) upgrade your software?
- Are upgrades covered by the licencing agreement?
- What type of planning must go into upgrades – how are they effected, and will we experience any downtime/slowdown/limited use during an upgrade? Will it affect the service-level agreement (SLA)? Please provide details.
- Do you provide phone-based/on-site/remote tech support during software upgrades?
- Is there an additional charge for any such upgrades?



LegalMind

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LegalMind is a confidential, independent, low-cost mental health support for solicitors and their dependants.

The support is a permanent support, based in Ireland, and will be there for solicitors through any personal or professional challenges.

Solicitors can call LegalMind at any time of the day or night, from all over Ireland, and talk to a mental health professional about any issues they or their family may be facing.

After this initial conversation, solicitors may then avail of further low-cost supports – counselling, psychotherapy or psychological supports within a 30 kilometre radius of their home.

For more information visit: www.lawsociety.ie/legalmind

Access the service directly and talk to a counsellor now on freephone:

1800 81 41 77


- What if additional training is required for an upgrade – will there be additional costs?
- What if we choose not to upgrade?
- How often do you publish patches and/or minor updates?
- Are patches/updates pushed automatically?
- Will there be any impact on business continuity caused by patches/updates?
- Does the data/information ever leave the data centre/our server?
- Does the data transfer outside the EEA?
- What happens to the data at the end of the contract?
- What precautions do you take to ensure compliance with data-protection legislation?
- (For web-based applications) – what does your SLA cover in terms of data loss or theft?
- Will we have dedicated or shared infrastructure? If shared, how do you maintain isolation and privacy of our data?
- Have you ever had to make a disclosure to the relevant authorities regarding a data breach?
- If software-as-a-service (SaaS), please provide details on the security measures you employ to prevent unauthorised access to the data we send and create.
- What compliance and security protections are enforced at the location(s) where the data is stored?
- Does your software support two-factor authentication, encryption settings, and audit trails or logs of all user activity?
- Do you run intrusion detection or intrusion protection on your network – can you provide any certification in relation to same?
- Please confirm that any individuals that are employed or engaged by you, who have access to our data, have already signed confidentiality agreements with you.
- Does the software include graphical reporting features?
- For SaaS, how often do you update firewall rules/policies?
- What insurance coverage do you have in place in the event of an IT security breach?
- What is your incident-response plan/process?
- Please advise as to who assumes risk in situations where your system has been breached or our data had been disclosed without our consent.
- What reports can you provide us regarding the use of, and access to, our data?

Data protection and security

- Please confirm (in writing) if you dispute that all data held in the system is owned by our firm.
- Do you propose to have access to the data on the system?
- What is your data-protection policy?
- Do you have a data-processing agreement to review?
- Please advise where exactly the data we send, and the documentation created, will physically reside.
- Does the data go to any other entity?

General queries

- Please provide a copy of your SLA and/or terms and conditions (issues to consider here include governing law, jurisdiction, warranties and indemnities, and any limitations on the liability of the vendor).
- How long is the contract?
- How much notice do we need to give to end our contract?
- What happens in the event of a dispute – can you lock us out of the system?
- Is there anything else about the software that we need to know?

We would suggest that you run this list by your IT support providers/experts to see if they have any additional questions or issues that may be particular to your firms’ current/future hardware and software requirements. 



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WILLS

Brennan, Martha (deceased), late of 99 Larkfield Gardens, Kimmage, Dublin 6W, who died on 29 August 1990. Would any person having knowledge of a will made by the above-named deceased please contact Lacy Walsh, Solicitors, 26 Fitzwilliam Square, Dublin 2; DX 109 054 Fitzwilliam; tel: 01 662 4810, email: william@lacywalsh.ie

Brennan, Maureen (deceased), late of 99 Larkfield Gardens, Kimmage, Dublin 6W, who died on 21 March 2021. Would any person having knowledge of a will made by the above-named deceased please contact Lacy Walsh, Solicitors, 26 Fitzwilliam Square, Dublin 2; DX 109 054 Fitzwilliam; tel: 01 662 4810, email: william@lacywalsh.ie

Corridan, Thomas (deceased), late of Apartment 6, Áras an Ghainn, Colbert Street, Listowel, Co Kerry, and Sandhill Road, Ballybunion, Co Kerry, who died on 28 September 2020. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Cormac Foley, Marshall & Macaulay Solicitors, The Square, Listowel, Co Kerry, within one month of the date hereof; tel: 068 21228, email: info@mmsolicitor.ie

Davitt, Colm (deceased), late of Charleville, Turlough, Castlebar, Co Mayo, formerly of Anneville, Clonard, Co Meath, and Castlepollard, Co Westmeath, who died on 1 March 2021. Would any person having knowledge of the whereabouts of a will by the above-named deceased please contact Powderly Solicitors LLP, Finnerty House, Maynooth, Co Kildare; tel: 01 601 6390, email: barry@powderlysolicitors.ie

Dinnegan, John (otherwise Donegan) (deceased), late of Terlicken, Ballymahon, Co Longford, who died on 15 November 2019. Would any person having any knowledge of the whereabouts of any will made or purported to be made by the above-

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%)
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ALL NOTICES MUST BE PAID FOR PRIOR TO PUBLICATION. ALL NOTICES MUST BE EMAILED TO catherine.earney@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 June 2021 Gazette: 19 May 2021.**

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

named deceased, or if any firm is holding same, please contact Kelly Caulfield Shaw Solicitors, 1 Chapterhouse, Friars Mill Road, Mullingar, Co Westmeath; tel: 044 934 8412, email: info@kcs.ie

Dowdall, Nora (deceased), late of 30 Mill Road, Killincarrig, Greystones, Co Wicklow. Would any person having any knowledge of a will executed by the above-named deceased, who died on 28 February 1982, please contact Mairead Leyne, solicitor, 3 Park House, Greystones, Co Wicklow; DX 205003 Greystones; tel: 01 287 3483, email: maireadleyne.solicitor@gmail.com

Dowdall, Patrick, (deceased), late of 30 Mill Road, Killincarrig, Greystones, Co Wicklow. Would any person having any knowledge of a will executed by the above-named deceased, who died on 16 November 1983, please contact Mairead Leyne solicitor, 3 Park House, Greystones, Co Wicklow; DX 205003 Greystones; tel: 01 287 3483, email: maireadleyne.solicitor@gmail.com

Enright, Nora (deceased), late of Killoughteen, Newcastle West, Co Limerick, who died on 22 May 2020. Would any person having knowledge of a will made by the above-named deceased please contact Reidy Associates Solicitors, 13 Warrington Place,

Dublin 2; DX 109023 Fitzwilliam; tel: 01 661 8286, email: mhogan@reidyassociates.ie

Geoghegan, Kenneth (deceased), late of 47 St John's Park West, Clondalkin, Dublin 22, who died on 24 November 2020. Would any person holding or having any knowledge of a will made and executed by the above-named deceased please contact Jones Solicitors, 3 Lower Mount Street, Dublin 2; tel: 01 685 3847, email: info@jonessolicitors.ie

Joyce, Joseph (deceased), late of Knockdoe, Claregalway, Co Galway, in the county of Galway, who died on 14 September 1999. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Patrick

J Daly, Patrick J Daly & Co, Solicitors, No 6 Dock Road, The Docks, Galway; ref: 6590/PD; tel: 091 567 066, email: info@dalysolicitors.ie

Kenny, John (deceased), late of Pluckerstown, Kilmegogue, Naas, Co Kildare, and/or Cooleragh, Clane, Co Kildare, who died on 29 August 2020. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Nichola Delaney, O'Flaherty & Brown, Solicitors, Greenville, Athy Road, Carlow; tel 059 913 0500, fax: 059 913 0501, email: nichola@oflahertybrown.ie

McDermott, Nora (née Crawley) (deceased), late of Eyrefield Manor Nursing Home, Church

**MISSING HEIRS, WILLS, DOCUMENTS
AND ASSETS FOUND WORLDWIDE**

FREEPHONE: 1800 210 210
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Sir John Rogerson's Quay, Dublin 2
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TRACING HEIRS TO ESTATES, PROPERTY & ASSETS

Lane, Greystones, Co Wicklow (formerly of 5 Mountainview Drive, Greystones, Co Wicklow). Would any person having knowledge of the whereabouts of a will executed by the above-named deceased, who died on 15 November 2020, please contact Edel O'Brien, Maguire McNeice Solicitors, Eglinton Road, Bray, Co Wicklow; tel: 01 286 2399, email: edel@maguiremcneice.com

Malone, Brenda (deceased), late of 28 Pinewood Park, Rathfarnham, Dublin 14. Would any person having knowledge of the whereabouts of a will dated 3 July 2001, or any will made by the above-named deceased, please contact Fagan Bergin Solicitors, 57 Parnell Square West, Dublin 1; tel: 01 872 7655, email: jkavanagh@faganbergin.com

Nordhoff, Jan Anders (deceased), late of 16 Adamstown Park, Lucan, Co Dublin, who died on 18 May 2020. Would any person having knowledge of a will made by the above-named deceased please contact Eamonn J Walsh & Company, Solicitors, 68 Middle Abbey Street, Dublin 1; tel: 01 440 7390, email: info@ejwalshsolicitors.ie

O'Connor, Mairead (deceased), late of 45 Harbour View, Howth, Co Dublin, who died on 2 March 2021. Would any person holding or having any knowledge of a will made by the above-named deceased please contact Michael J Kennedy and Company, Solicitors, Parochial House, Baldoyle, Dublin 13; tel: 01 832 0230, email: reception@mjsolicitors.com

O'Doherty, John (otherwise Jack) (deceased), late of 5 St Jarlath Road, Cabra, Dublin 7, who died on 30 March 2021. Would any person having knowledge of any will made by the above-named deceased, or if any firm is holding same, please contact Michael Hinkson, Eugene Smartt, Solicitors, Newlands Retail Centre, Newlands Cross, Clondalkin, Dublin 22; tel 01 403 7340, email: michael@smarttlaw.com

O'Leary, Sarah (deceased), late of 10 Hammond Street, Blackpitts, Dublin 8, who was born on 11 April 1948 and who died on 10 March 2021. Would any person having knowledge of a will made by the above-named deceased, or if any firm is holding same, please contact Glenda O'Leary (next of kin and agreed representative by family); tel: 085 192 7662, email: glenda.oleary@hotmail.com

O'Reilly, Daniel (deceased), late of 18 Daletree Court, Firhouse, Dublin 24, who died on 10 August 2020. Would any person having knowledge of any will made by the above-named deceased please contact Fiona O'Sullivan, David J O'Meara & Sons, Solicitors, Bank Place, Mallow, Co Cork; tel: 022 21539, email: fiona.osullivan@djomeara.ie

Sheehy, Declan (deceased), late of 13 Marguerite Road, Glasnevin, Dublin 9, and formerly of Derryglad, Curraghboy, Athlone, Co Roscommon, who died on 12 February 2021. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Hayden & Co Solicitors, Mardyke House, The Bawn, Athlone, Co Westmeath; tel: 0906 470622, email: info@haydensols.com

Whelan, Bridget Theresa (deceased), 53 The Cairns, Beauce, Drogheda, in the county of Louth, who died on 11 June 2017. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Kieran Quigley and Company, Solicitors, 35 Laurence Street, Drogheda, Co Louth; tel: 041 984 4944, email: info@kieranquigley.ie

TITLE DEEDS

John Robert Ronald (otherwise Ronnie) Kerrigan (deceased) and Nuala Kerrigan, 21 Dundela Avenue (formerly Site No 18, Dundela Avenue), Sandycove, Co Dublin. Would any

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person having knowledge of the whereabouts of title documents relating to the aforementioned property, or if any firm is holding same, please contact O'Callaghan Legal, Solicitors, Mounttown House, 62-63 Mounttown Road Lower, Dun Laoghaire, Co Dublin; DX 6018 Dun Laoghaire; tel: 01 280 3399, email: info@ocslegal.ie

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the former Post Office at Carrick-On-Suir, Co Tipperary: an application by An Post

Take notice that any person having any interest in the freehold estate of the following property: former post office at Carrick-On-Suir, Co Tipperary. Take notice that An Post (the applicants) intend to submit an application to the county registrar for the county of Tipperary for acquisition of the freehold interest in the aforesaid properties, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them) are called upon to furnish evidence of the title to the below named within 21 days from the date of this notice.

In default of any notice being received, the applicants intend to proceed with an application before the county registrar at the end of the 21 days from the date of this notice and will apply to the county registrar for the county of Tipperary for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date 7 May 2021

Signed: *Hugh O'Reilly, Company Solicitor, An Post, General Post Office, O'Connell Street, Dublin 1*

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2 Act) 1978 and in the matter of the lands and premises known as 5 Killoran Terrace, Catherine Place, Limerick, situate in the county of Limerick: an application by Pádraig Mawe

Take notice that any person having an interest in the freehold estate or any intermediate interest in the following property: the lands and premises known as 5 Killoran Terrace, Catherine Place, Limerick, situate in the county of Limerick, which were demised by indenture of lease of 8 February 1944 made between Delia Hartigan of the one part and Elizabeth Cassidy of the other part, held for a term of 850 years from 1 November 1943, subject to the yearly rent of £4 thereby reserved and the covenants and conditions therein contained.

Take notice that the applicant, Pádraig Mawe, intends to submit an application to the county registrar for the county of Limerick for the acquisition of the freehold interest in the aforesaid lands and premises, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them) are called upon to furnish evidence of the title to the below named within 21 days from the date of this notice

In default of any such notice being received, the said applicant intends to proceed with the application before the county registrar at the end of the 21 days from the date of this notice and will apply

DR ALAN MURTAGH

Consultant Psychiatrist and
Associate Clinical Professor
University College Dublin

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to the county registrar to the county of Limerick for directions that may be appropriate on the basis that the persons beneficially entitled to the superior interest, including the freehold reversion in the aforesaid lands and premises, are unknown or unascertained.

Date: 7 May 2021

Signed: *Pádraig Mawe (applicants), Knight Street, Ballingarry, Co Limerick*

In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2 Act) 1978* and in the matter of the dwellinghouse and premises known as 134 Emmet Road, situate in the town of Inchicore and county of Dublin, now known as in the city of Dublin: an application by Stephano Longo and Simona Longo

Take notice that any person having interest in the freehold estate or any intermediate interest in the following property: the dwellinghouse and premises known as 134 Emmet Road, situate in the town of Inchicore and county of Dublin, now known as in the city of Dublin, which was demised by indenture of lease, dated 13 July 1933 and made between Robert Holland of the one part and Dominick O'Dea of the other part, of the dwellinghouse, shop and yard described in the lease as 2 Emmet Road, Inchicore, which premises are now known as 134 Emmet Road, for the term of 150 years from 1 June 1933, subject to the yearly rent of £8 reserved by the lease and the lessee's covenants and the conditions contained therein.

Take notice that the applicants, Stephano Longo and Simona

Longo, intend to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them) are called upon to furnish evidence of the title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, the said applicants intend to proceed with the application before the county registrar at the end of the 21 days from the date of this notice and will apply to the county registrar for the city of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date: 7 May 2021

Signed: *Stephano Longo and Simon Longo (applicants), 451 South Circular Road, Saint James (part of Phoenix Park), Dublin, D08 KVA0, and Localita Casette 46, 37010 Cavaiion Veronese, Verona, Italy*

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, as amended, and in the matter of an application by Paddy Hanafin, Seamus Hanafin and Sinead Hanafin of c/o David Doyle, Solicitors, of Main Street, Urlingford, Co Kilkenny, and in the matter of the premises comprising the former furniture store and house situate at O'Donovan Rossa Street, Thurles, Co Tipperary

Take notice that any person having an interest in the freehold

estate or any intermediate interest in the property comprising the former furniture store and house situate at O'Donovan Rossa Street, Thurles, in the county of Tipperary, being the property the subject of a lease dated 1 June 1903 between Johanna Jennings and Denis Bray O'Brien of the one part and John Kett of the other part, for a term of 99 years from 1 November 1902 and subject to the yearly rent thereby reserved and to the covenants by the lessee and conditions therein contained, should give notice of their interest in the property to the solicitors named below within 21 days from the date of this notice.

Take notice that Paddy Hanafin, Seamus Hanafin and Sinead Hanafin intend to submit an application to the county registrar for the county of Tipperary for the acquisition of the freehold interest in the property and that any party asserting that they hold a superior interest in the property are called upon to furnish evidence of such title to the property to the solicitors named below within 21 days from the date of this notice.

Take notice that, in default of such notice being received, Paddy Hanafin, Seamus Hanafin and Sinead Hanafin intend to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Tipperary for such directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest, including the freehold interest, are unknown or unascertained.

Date: 7 May 2021

Signed: *David Doyle (solicitors for the applicants), Main Street, Urlingford, Co Kilkenny*

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, as amended, and in the matter of an application by Paddy Hanafin, Seamus Hanafin and Sinead Hanafin of c/o David Doyle, Solicitors, of Main Street, Urlingford, Co Kilkenny, and in the matter of the premises formerly known as the Muintir na Tire Hall, stores, offices and yard situate at O'Donovan Rossa Street, Thurles, Co Tipperary

Take notice that any person having an interest in the freehold estate or any intermediate interest in the property formerly known as the Muintir na Tire Hall, stores, offices and yard, situate at O'Donovan Rossa Street, Thurles, in the county of Tipperary, being the property the subject of a lease dated 30 December 1905 between Johanna Jennings and Denis Bray O'Brien of the one part and John Donaghy of the other part, for a term of 99 years from 1 May 1905 and subject to the yearly rent thereby reserved and to the covenants by the lessee and conditions therein contained, should give notice of their interest in the property to the solicitors named below within 21 days from the date of this notice.

Take notice that Paddy Hanafin, Seamus Hanafin and Sinead Hanafin intend to submit an application to the county registrar for the county of Tipperary for the acquisition of the freehold interest in the property and that any party asserting that they hold a superior interest in the property are called upon to furnish evidence of such title to the property to the solicitors named below within 21 days from the date of this notice.

Take notice that, in default of

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such notice being received, Paddy Hanafin, Seamus Hanafin and Sinead Hanafin intend to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of Tipperary for such directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest, including the freehold interest, are unknown or unascertained.

Date: 7 May 2021

Signed: David Doyle (solicitors for the applicants), Main Street, Urlingford, Co Kilkenny

In the matter of the Landlord and Tenant Acts 1967-2008 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the premises now known as 3 Nassau Street, Dublin 2 (held under two separate leases): an application by Martin O'Beirne

Take notice that any person having a freehold estate or any inter-

mediate interest in the premises now known as 3 Nassau Street, Dublin 2 (formerly 2A Nassau Street, and originally 7 Nassau Street, Dublin 2) held under lease dated 30 April 1805 between Mary Brownrigg of the one part and James Ball of the other part, for a term of 300 years from 29 September 1804, subject to the yearly rent of £100 and the covenants by the lessee and the conditions therein contained; and also the premises, originally a yard to the rear of 48 Kildare Street, Dublin 2 (now forming the rear part of 3 Nassau Street), held under lease dated 24 June 1970, made between The Royal Bank of Ireland Limited of the one part and T Kilmartin & Sons Limited of the other part for a term of 99 years from 29 September 1969 at a rent of £6.50 per annum and the covenants by the lessee and the conditions therein contained.

Take notice that the applicant intends to apply to the county registrar for the city of Dublin for the acquisition of the free-



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hold interest and all intermediate interests in both premises, and any party asserting that they hold a superior interest in the premises is called upon to furnish evidence of title to same to the below named within 21 days from the date of this notice.

In default of any such notice being received, the applicant intends to proceed with the application before the county registrar at the end of 21 days from the date

of this notice and will apply to the county registrar for the county of Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interests including the freehold reversion in the lands are unknown or unascertained.

Date: 7 May 2021

Signed: Sbeehan & Company LLP (solicitors for the applicant), 1 Clare Street, Dublin 2



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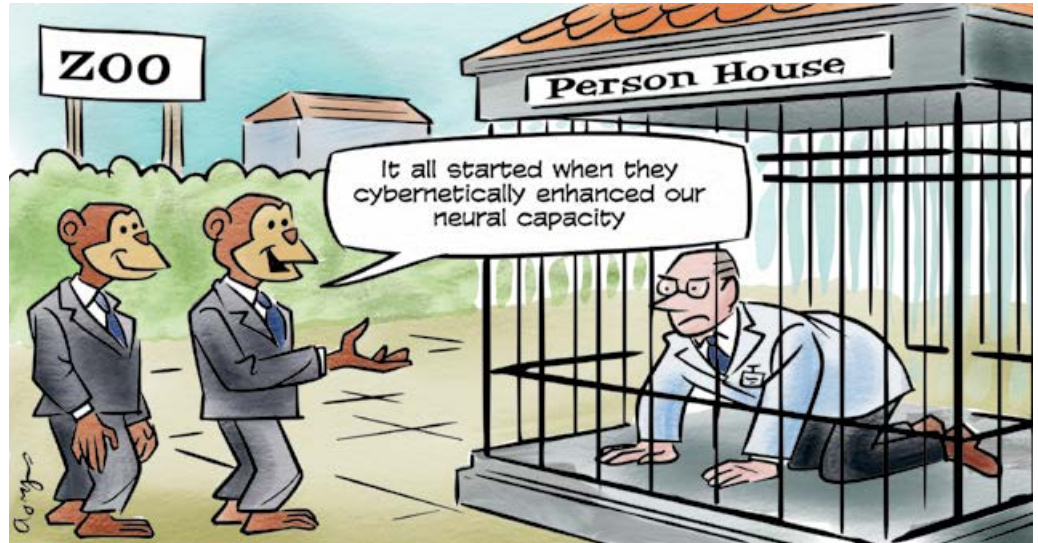
PRO BONOBO

MUSKY MONKEY MENACE EMERGES

It's up there with, "Say, let's clone these dinosaurs!" and "Why not let that computer decide on missile defence?", but don't say we didn't try to warn you.

As far back as 2003, your glorious *Gazette* flagged the sinister simian scourge. Now, we are one step closer to the apocalyptic: scientists at Neuralink (owned by SpaceX and Tesla) have augmented primates' petrifying powers with a cybernetic neural-link that allows them to play strategy war games – with their minds! (Well, *Pong*, but still...)

CNN.com says that the unholy uplink uses information from the beast's brain to predict its intended hand movements and model the relationship between mental activity and



movement. The output from a decoder can be used to move the cursor, instead of the monkey manipulating the joystick. It can

literally move things with its malevolent monkey mind!

Boffins claim the tech will eventually help paralysed people

communicate via smartphones, while later versions could allow paraplegics to walk. Well, they would say that, wouldn't they?

BONNIE BANKS COVID BREACH

In a tale reminiscent of the saucy Scotsman who was convicted of breaching COVID rules (see *Gazette*, Jan/Feb), a kayaker thought to have come from England was left up Scots creek without a paddle, and had to be rescued after becoming stuck on an island.

The man, who is believed to have travelled in breach of pandemic rules, camped over the Easter weekend on the island of Inchtavannach. Having gone for a walk, he found his paddle missing on his return and called the police. Loch Lomond Rescue went to the scene to transfer the man to the village of Luss, *The Guardian* said.

Staff at one of the world's biggest call-centre companies face being monitored by webcams to check whether they are eating, looking at their phones, or leaving their desks while working, *The Guardian* reports.

Teleperformance has told staff that special webcams – with facial recognition software to detect if someone else is at the desk – will be connected to a system that scans for breaches of work rules. If one is detected, a photo will be

sent to a manager and stored for up to 20 days. If workers need to leave their desks, they will have to click 'break mode' in an app to explain why – for example, 'getting water' – to avoid being reported for a breach.

AI-OH, AI-OH, IT'S OFF TO WORK WE GO!

CAT DELAYS IMPORTANT LAWYER STUFF

A sleepy cat recently probably caused court chaos when it curled up on the roof of a train to Manchester.

The Guardian reports that the little pussycat refused to leave the top of the 9pm train from London.

Passengers were transferred, and the train was taken out of service so staff could try to coax



the cat down from its perch, where it was perilously close to the 25,000-volt overhead lines. After two-and-a-half hours, they thought to pull up a bin beside the carriage, giving the cat a platform to disembark at its leisure.

The cat seemed unbothered, "swaggering off" into the night as though it had clients to see.

gazette

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