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gazette
LAW SOCIETY

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FEATURES

REGULARS

Vision for the future

I am deeply honoured to lead the profession as your 152nd president of the Law Society and its sixth woman president. Originally from Dublin, I now practise with my husband Patrick in Carrick-on-Suir, Co Tipperary.

I have been advised by many esteemed past-presidents that there is only so much that a president can do in one year, whether for the profession, the Law Society, and for the public good. I will, however, do as much as I can during my term in office to further the interests of all, for the common good.

I am excited and pleased to be working with our director general Mark Garrett in shaping and making policy, and in bringing the Law Society to the forefront as a respected, enthusiastic body committed to the development and improvement of the justice system. I very much share Mark's vision for the future of the Law Society.

Access to justice

The first theme and project for my presidential year is the significantly important 'access to justice', focusing on the under-resourcing of our justice system, and also seeking a balance between the rule of power versus access to justice and the rule of law.

It is important that the Law Society is in a position to make and shape policy, and to provide assistance and expertise both to the Government and government bodies for the common good. The legal profession and the Law Society have a wealth of knowledge and expertise that can be applied to further the improvement of access to justice and to creating a just and equitable society.

Professional courtesy

My second theme is the renewal of professional courtesy and standards in the profession. We are indebted to the significant work of the Guidance and Ethics Committee for the production of the latest *Solicitor's Guide to Professional Conduct*.

Professional courtesy, however, is our own individual responsibility. We have all been through difficult times in recent years, which has affected all firms – large, small, rural and urban. We cannot always be aware of the pressures experienced by our colleagues, be it the difficult application of ongoing regulation, financial pressures, or health pressures. This project will be carried out as part of the ongoing communication contact with all members of the profession.

Events in 2023

One of the most significant events that the Society will celebrate in the New Year will be the centenary of the admission of the first woman solicitor to the profession. This falls in a year during which all of the presidents of the main representative bodies of the solicitors' profession are women – the Law Society, Dublin Solicitors' Bar Association, and the Southern Law Association. Events will be held at Blackhall Place to celebrate this event, and I hope to meet all of you there.

In addition, in order to recognise those solicitors who have given so much service to the profession for the public good during their 40 years (and more) of legal practice, an event will be held to celebrate their significant contributions.

Annual conference

I have received many inquiries about the possibility of reconvening the Law Society's annual conference. I am happy to announce that a conference will be held on 12 May 2023 at Mount Juliet, Kilkenny. Its focus will be on the continuing dialogue with the profession in respect of shaping strategy and in making and shaping policy. A brochure containing full details will be circulated in due course.

Finally, I pledge to you that I will do my utmost to promote our esteemed profession and to further the projects and principles of the Law Society during my presidential year.

As the shops and online retail outlets are full of Christmas goods and cheer, may I take this opportunity to wish you all a very happy, peaceful and restful Christmas, and a prosperous New Year.

LAW SOCIETY OF IRELAND

> I PLEDGE TO DO MY UTMOST TO PROMOTE OUR ESTEEMED PROFESSION

Maura Derivan

MAURA DERIVAN,
PRESIDENT

THE BIG PICTURE

DAYS LIKE THIS

British pro surfer Tom Lowe rides the first waves of the 2022-23 North Atlantic big-wave season on Sunday 6 November at Mullaghmore Head, Co Sligo. Tom tore up some titanic waves alongside 20 other hard-core surfers who had travelled to the popular surfing spot. Lowe lives in Portugal but flies to Ireland for big days like this

PIC: MICHAL CZUBALA, SLIGO

Irish Law Awards winners 2022

ALL PICS: PAUL SHERWOOD

This year's Dye & Durham Irish Law Awards winners were revealed at a gala ceremony on 28 October at the Aviva Stadium, Dublin. The event was hosted by Ivan Yates, accompanied by chair of the awards, Richard Hammond SC. Celebrating its tenth year, the awards aim to identify, honour, and publicise outstanding achievements, and recognise those who have dedicated their lives to serving in the legal profession. Pictured above is Law Firm of the Year – *overall*: Flynn O'Driscoll LLP; *Connacht/Ulster*: O'Donnell McKenna; *Leinster*: Coghlan Kelly Solicitors; *Munster*: Regan Wall LLP

Lifetime Achievement Award – Noleen Blackwell

International Law Firm of the Year (Ireland) – Covington & Burling

Pro Bono Public/Community Law Firm/Lawyer of the Year – Mercy Law Resource Centre

ADR Firm Team/Lawyer of the Year – Comyn Kelleher Tobin LLP

Employment Law Firm/Team/Lawyer of the Year – *Connacht/Ulster/overall*: Alastair Purdy & Co; *Leinster (including Dublin)*: Reddy Charlton LLP; *Munster*: Aoife Hennessy (Sweeney McGann LLP)

Family Law Firm/Team/Lawyer of the Year – *Leinster (including Dublin)/ overall*: Keith Walsh Solicitors; *Connacht/Ulster*: Geraghty & Co Solicitors LLP; *Munster*: Karen Tobin

Lawyer of the Year – *overall*: Richard Grogan; *Connacht/Ulster*: Donnacha Anhold; *Leinster*: Alvaro Blasco; *Munster*: Kieran Mulcahy

Criminal Law Firm/Lawyer of the Year – Frank Buttimer & Company

In-House (Non-Civil Service/Public Sector) Legal Team/Lawyer of the Year – Speed Fibre Group

High Court judge honoured at Blackhall Place

PIC: CIAN REDMOND

At a dinner to honour Ms Justice Eileen Roberts, the second female solicitor High Court judge, in Blackhall Place on 9 November, were *(front, l to r)*: Mr Justice David Barniville, Garrett Breen, Ms Justice Eileen Roberts, Michelle Ní Longáin (then president), Peter Law and Mark Garrett (director general); *(back, l to r)*: Enda Hurley, Séamus Ó Cróinín, Liam Kennedy, Mairead Sherlock and Niamh O'Sullivan

Society marks committees' contributions

ALL PICS: CIAN REDMOND

The annual Committees Dinner was held in the Presidents' Hall in Blackhall Place on 19 October

IWLA celebrates return of the annual gala

ALL PICS: SUSAN KENNEDY LENSMEN

The Irish Women Lawyers Association, in collaboration with Law Society Skillnet and supported by McCann FitzGerald LLP, were delighted to welcome friends and colleagues back to the Law Society of Ireland on 22 October 2022 for the annual IWLA Gala. At the event were *(front, l to r)*: Anne Tuite, Ms Justice Nuala Butler, Ms Justice Eileen Creedon, Michelle Ní Longáin, Ms Justice Marguerite Bolger, Judge Patricia McNamara and Maura McNally SC; *(back l to r)*: Paula Reid, Paulyn Marrinan Quinn SC, Andrea Martin, Sonia McEntee, Carol Plunkett, Deirdre O'Hanlon, Rosemary Hayden, Aisling Mulligan BL, Aoife McNicholl, Prof Yvonne Daly, Leanne Caulfield, Audrey Byrne, Fiona McNulty, Nessa Cahill SC and Deirdre Fox

Marion Walsh, Rachel Kavanagh, Geraldine Kelly, Maura McNally SC, Ms Justice Eileen Creedon, Fiona Crawford BL, Ms Justice Mary Rose Gearty and Maura Derivan

Noeline Blackwell, Michelle Ní Longáin and Prof Yvonne Daly

The IWLA committee *(front, l to r)*: Rosemary Hayden, Aoife McNicholl and Audrey Byrne; *(back l to r)*: Aisling Mulligan BL, Deirdre O'Hanlon, Fiona McNulty and Leanne Caulfield

Rosemary Hayden, Michelle Nolan, Anna Bazarchina BL, Eithne Lynch, Miah Phelan Sweeney, Hilkka Becker and Noeline Blackwell

Guide to Professional Conduct launched

The launch of the *Solicitor's Guide to Professional Conduct* (fourth edition) took place on 21 September at Blackhall Place

Justine Carty (chair of the Guidance and Ethics Committee) addresses the audience

ALL PICS: JASON CLARKE

Special guest at the launch was President of the High Court Mr Justice David Barniville

Dr Niall Connors (director of regulation and Registrar of Solicitors), Shane Dwyer (head of Regulatory Legal Services), and Juliet Dwyer

Pamela Connolly (secretary, Guidance and Ethics Committee), Wesley Hudson, Susan Martin, Brendan Dillon (committee members), Robert Baker (vice-chair), Catherine MacGinley (committee member), Justine Carty (chair), Gus Cullen and Cian Moriarty (committee members)

Council tributes for Michele O'Boyle

The Law Society Council hosted a dinner recently in honour of past-president Michele O'Boyle for her stalwart service to the solicitors' profession. During her term as president (2019/20), she led the Society and its members through the many challenges posed by the COVID pandemic. Michele was presented with a framed photo montage of images from her time as president by then senior vice-president, Maura Derivan, while tributes were paid by then president, Michelle Ní Longáin, and past-presidents Elma Lynch, Geraldine Clarke SC, Michael V O'Mahony, and Philip M Joyce

Cats' clowder at Kilkenny cluster

PIC: VICKY'S PHOTOGRAPHY, KILKENNY

Celebrating the tenth anniversary of Law Society Skillnet cluster events at the general practice update in Kilkenny on 9 November were *(front, l to r)*: Emma Snedker, Martin Crotty, Sonya Lanigan, Bernadette Cahill and John Elliot; *(back, l to r)*: Anne Tuite, Katherine Kane, Laurie Grace, Brian Reidy, Attracta O'Regan, John Harte, Colette Reid, Olivia McCann, and Tracey Donnery

Trick or treat for Temple Street

ALL PICS: CIAN REDMOND

Law Society staff took part in a 'Trick or Treat for Temple Street' charity bake-off on 26 October. All proceeds went to Temple Street Children's Hospital. Gail O'Donoghue won 'Best Baked Goods' for her witch's cauldron, and David Irwin's sweet muffins earned him runner-up. Pictured at the event were Gail O'Donoghue, David Irwin and Emily Rockwood

Maura Derivan is 152nd president

● Tipperary-based solicitor Maura Derivan has become the 152nd president of the Law Society – the sixth woman to serve in the role. Maura will serve a one-year term as president of the 23,000-strong Irish solicitors' profession until 10 November 2023. She is joined by senior vice-president Barry MacCarthy and junior vice-president Rosemarie Loftus.

Maura is the managing partner in the firm Derivan Sexton & Company in Carrick-on-Suir, Co Tipperary, where she specialises in the areas of personal injury litigation, medical negligence, and judicial review. She attended school in Mount Anville, Dublin, and studied law in University College Dublin, where she obtained a bachelor of civil law degree. Maura trained in Mason Hayes & Curran and qualified as a solicitor. She then joined Orpen Franks, where she became a junior partner, specialising in litigation and commercial litigation. She is married to solicitor Patrick Derivan, who also practises in the firm.

PIC: CIAN REDMOND

President Maura Derivan with Barry MacCarthy (senior vice-president) and Rosemarie Loftus (junior vice-president)

On Council since 2006

Maura has been a member of the Law Society's Council since 2006, having served on many of its most senior committees, including Coordination, Finance, the Administrative Subcommittee of Finance, and the Practice Management Standard Working Group. She has served as chair of a division of the Regulation of Practice Committee, the PR Committee, and the Negative Interest Task Force.

In 2018, she was the proposer of a motion brought to the Council of the Law Society to adopt a gender, diversity, and inclusion policy in respect of the Law Society. Arising from the motion, the Society established its Gender Equality, Diversity and Inclusion Task Force.

Commenting, she said: "I am honoured to serve as president of the Law Society and to lead the Irish solicitors' profession for the next 12 months. As only the sixth woman to hold the office of president, I recognise the importance of diversity, inclusion and representation. I am committed to serving the profession for my term as president."

Access to justice

Access to justice will be a significant focus during the year: "Democracy is founded on access to justice, which is the basis of fundamental human rights," she said. "The Law Society has always called for prioritising access to justice for all in society. We have highlighted the need for urgent investment in resources and personnel in the Courts Service.

"Most importantly, we have called for increased access and investment in legal aid; however, there is still significant improvement needed in this and other areas of the civil legal system to improve access to justice in the public interest. To have a properly functioning civil society, we all must be able to access justice when we need it," she said.

The new president will also prioritise the importance of professional standards and courtesy in the legal profession for all lawyers.

"As I enter my term as president, I will support, encourage and nurture the collegiality and synergies between the legal professions, clients, and stakeholders. By working together, we can champion the solicitors' profession and provide a high standard of service to our clients, stakeholders, and members of the public at all times, which is a vehicle to improve access to justice for all," she said.

"In addition, I will continue to build on the great work of the Law Society in the areas of gender equality, diversity and inclusion, which are at the core of the profession's values, and fundamental to its future."

Council election 2022

● Following the scrutineers' meeting on 29 September at Blackhall Place and pursuant to bye-law 6(13), as the number of validly nominated candidates for the annual election did not exceed 15, no ballot of members of the Society took place. As there were 15 nominated candidates, the following were provisionally declared elected: Christopher Callan, Maura Derivan, Joan Doran, Stuart Gilhooly SC, Richard Grogan, Eamon Harrington, Áine Hynes SC, Martin Lawlor, Aidan Leahy, Rosemarie Loftus, Barry MacCarthy, Kate McKenna, Brian McMullin, Tony O'Sullivan, and Brendan Twomey.

As there was only one candidate nominated for each of the two relevant provinces (Leinster and Ulster), there was no election and the candidate nominated in each instance was returned unopposed: Sonya M Lanigan (Leinster); and Garry Clarke (Ulster).

PC renewal stays online for 2023

Practitioners are reminded that the only way to make an application for a practising certificate (PC) for the practice year 2023 is by making the application online through the Law Society's website. This will include applications for PCs, qualifying certificates, memberships, and applications by solicitors in the full-time service of the State.

Solicitors seeking to make an application for a certificate of good standing or certificate of attestation should contact pc@lawsociety.ie for details of how to apply for these certificates.

No paper applications will be available, and payment methods are limited to debit/credit card or electronic funds transfer. Cheques, postal orders, cash and bank drafts will not be accepted.

Practitioners are reminded that, in order to have a practising certificate bearing the date of 1 January 2023, they must submit a fully completed application with full payment of fees to the Society on or before 1 February 2023. Any applications received after that date will bear the date when the fully completed application and fees are received by the Society. This is a statutory deadline, and the Society does not retain any discretion to backdate an application that is received after the deadline.

Profession mourns Richard Grogan's passing

Richard Grogan, the solicitor and well-known expert on employment law, has died after a short illness.

He was a member of the Council of the Law Society, which said that it was "deeply saddened" to learn of his passing.

Paying tribute, director general Mark Garrett said: "Richard was a tireless advocate, both in proceedings and in the public arena. We will miss his energy, humour, and deep commitment to the profession. Our thoughts are with his family at this difficult time. As a mark of respect, the flags here in Blackhall Place have been lowered to half-mast."

Tributes have also been paid by colleagues, with solicitor Stuart Gilhooly SC tweeting: "His work in making employment law accessible to the consumer, and in the most simple terms, will never be forgotten."

PIC: CIAN REDMOND

Richard gained thousands of TikTok followers

Lawyer of the Year

Only last month, he had been named 'Lawyer of the Year' at the 2022 Irish Law Awards.

He was principal and head of employment and dispute resolution at Richard Grogan & Associates, a firm he set up in 2009 to focus on employment law and personal-injury matters.

The solicitor had recently gained a substantial following on social media, posting videos on the TikTok and Instagram platforms, where he explained workplace issues in a straight-talking, jargon-free way. He often signed off with what became his catchphrase: "That's the law, and that's a fact."

Earlier this year, Grogan told *Breakingnews.ie* that he had initially believed he was too old for TikTok: "I was asked to do a course in the Law Society on the use of social media in the legal profession, and somebody put their hand up and told me I should use TikTok," he told the website.

After posting his first video in December 2021, he gained around 250,000 followers on the platform.

The employment lawyer had already become a familiar face and voice over the period of the pandemic, as media outlets sought expert views on the employment-law issues raised by remote working.

Solicitor 'fell into law'

In a piece for the Law Society's 'Career Spotlight' series, he wrote that he "fell into law", having studied the subject at UCD. "In my third year, I worked out the difference between a solicitor and a barrister," he joked.

Grogan qualified as a solicitor in 1979, and later qualified as an associate of the Taxation Institute of Ireland. He worked with PwC, O'Flynn Exhams, and PC Moore & Co before setting up his own firm. An accredited mediator, he was also a founding member of the Society of Trust and Estate Practitioners in Ireland.

Passing on his advice to future lawyers, he said: "Understand your strengths. Admit your weaknesses. Work to your strengths. Respect your colleagues. Help colleagues where you can. Find an area of law which suits you. Do the best you can. You cannot do any more."

Council honours past-president Michele O'Boyle

The Law Society Council recently hosted a dinner to honour Michele O'Boyle for her service to the profession over 18 years, and especially for her outstanding dedication and commitment to members and the Society during her term as president (2019/20).

During her presidency, Michele navigated the uncharted waters of the COVID-19 pandemic and steadied the ship during one of the most challenging periods in living memory for the legal profession.

Warm tributes were led by Maura Derivan, who served as O'Boyle's junior vice-president and who is now the sixth female president of the Law Society.

Unparalleled dedication

Maura said: "Michele led from the front, and with distinction, during the most difficult time during the pandemic. The Law Society and the profession were fortunate to have her at the helm as president, when she exhibited such extraordinary leadership skills, resilience, empathy, and unparalleled dedication during unprecedented times. She was the right person, in the right place, at the right time."

Immediate past-president Michelle Ní Longáin also paid tribute to O'Boyle for her "truly exceptional year". She conveyed warm congratulations and good wishes from members of the judiciary and colleagues.

In separate tributes, four of the Society's most senior past-presidents – Elma Lynch, Geraldine Clarke SC, Michael V O'Mahony, and Philip M Joyce – singled out Michele as an outstanding president. They praised her for her selfless determination in what had been a very difficult year, with very few of the face-to-face events or international opportunities afforded to her predecessors.

A series of firsts

During her term, as a response to the pandemic, Michele stated: "We can never insulate ourselves against all eventualities, and we must always be open to change".

She presided over the first virtual parchment ceremony, chaired the first virtual Council meeting, and subsequently chaired the first hybrid Council meeting.

At the end of her term, she was awarded 'Irish Woman Lawyer of the Year 2020', where she was described by colleagues as "a lawyer of exceptional ability and skill" who had given "a masterclass in leadership".

Michele also received a warm tribute from the office of President Michael D Higgins, who described her as "an inspirational role model for the legal professionals of the future".

The running man

Congratulations to the *Gazette*'s advertising manager Seán O hOisín *(pictured)*, print and design coordinator Eugenea Leddy, and Tom Blennerhassett (Law Society IT manager) who completed the Irish Life Dublin Marathon on 30 October – with nary a LUAS in sight!

Hats off, too, to our other Blackhall Place participants, Barry Smyth (catering manager) and Dave Moran (Fitzers Catering), who ran the Dublin Marathon for Focus Ireland in honour of Law Society staff member Graham Helps's son, Alex – a young man who treated everyone with love and respect, whatever their walk of life.

86% of top law firm websites 'abysmal'

The vast majority of the websites of the world's top 100 law firms are "ineffective", "slow", and "abysmal", new research has found. This is despite firms spending millions on online platforms and on "agencies with impressive credentials".

The *Digital Maturity Report for the Legal Sector*, by British digital build specialist Ultimedia, is scathing of the performance of most of the websites of the world's leading 100 law firms. Its report examined the effectiveness of their websites and social-media strategies, and listed "security flaws, ineffective messaging, slow load times, abysmal mobile experiences, and poorly executed digital marketing" among its criticisms.

Its analysis was broken down into ten different categories, spanning everything from audience size to web effectiveness, from social media to personalisation, to come up with a 'digital maturity' score for the top 100.

DLA Piper and Baker McKenzie scored highest (with a 66% rating), while Allbright Law Offices in China came last (61st position) with a rating of just 13.3%.

ENDANGERED LAWYERS

COLIN HARVEY, NORTHERN IRELAND

Prof Colin Harvey of Queen's University Belfast (QUB) is a board member of Ireland's Future, a civic nationalist Irish non-profit company formed in 2017 to campaign for new constitutional arrangements on the island of Ireland. The group organised a major event in Dublin in October and one in Belfast in November, as well as meetings in towns around the country over the past year.

Prof Harvey is also the co-author, with barrister Mark Bassett, of the research paper *Making the Case for Irish Unity in the EU*, published in November. It was commissioned by The Left in the European Parliament group, which includes MEPs from a number of countries, including Ireland.

The use of the QUB logo on the paper's cover was questioned by Unionist MP Jeffrey Donaldson. The university issued a statement confirming approval through official channels for use of the logo and that it fully supported academic freedom, adding that it had involved the PSNI earlier in the year because of concerns for Prof Harvey's safety.

Colin Harvey is professor of human rights law in the School of Law; director of the Human Rights Centre; a fellow of the Senator George J Mitchell Institute for Global Peace, Security and Justice; and an associate fellow of the Institute of Irish Studies. He has served as head of the law school, a member of the Senate, and as a director of research. He has been the subject of a smear campaign on social media and a sustained campaign of intimidation and harassment over several years. It escalated last January in the wake of remarks by former Labour MP Baroness Kate Hoey that the North's professions are "dominated by those of a nationalist persuasion" who were using their roles to "exert influence on those in power".

More recently, the PSNI has been investigating threats of violence, including beheading, issued against Prof Harvey from people unknown. The university has installed a panic button in his office and has removed his name from his office door.

As reported in *The Irish News*, Prof Harvey says: "My own thoughts remain with all those affected by the appalling climate being consciously manufactured, by a small minority, to promote division and instability. The best response is to keep doing the required work. Do not be distracted or derailed by those who thrive on perpetuating disharmony."

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

IWLA honours Dr Vicky Conway

PIC: SUSAN KENNEDY, LENSMEN

Dr Yvonne Daly accepts the IWLA 'Woman Lawyer of the Year' award on behalf of Dr Vicky Conway

The Irish Women Lawyers' Association (IWLA) has posthumously awarded its 'Woman Lawyer of the Year' to Dr Vicky Conway for her outstanding contribution to criminal justice research and development. The presentation was made at the annual IWLA gala in Blackhall Place on 22 October 2022.

The award was accepted on Dr Conway's behalf by her friend and colleague Dr Yvonne Daly, who gave a moving address, noting Dr Conway's many personal and professional achievements, including her leadership of the SUPRALAT project, which provides training to solicitors who attend garda stations.

IWLA chair Aoife McNicholl welcomed guests after a two-year COVID-imposed hiatus and highlighted other IWLA events in 2022. International Woman's Day was marked with a talk by Ruth Cannon BL, titled 'Fair, feared and finished at 40: women and the Four Courts, 1796-2000'; a lunchtime webinar on 'Exploring ecocide'; and 'Gender diversity in the judiciary'.

The IWLA theme for 2023 was also unveiled – 'Financial security for women lawyers'. Details of upcoming events will be announced in due course on www.iwla.ie.

New DSBA president elected

Solicitor Susan Martin has been elected president of the Dublin Solicitors' Bar Association.

Commenting on her election at the association's AGM, the sole practitioner, who is based in Clarehall, Dublin 5, said that she was delighted to serve as president. She takes over from outgoing president Diego Gallagher. She is a member of the Law Society's Council and also serves as an officer in the Army Reserve.

The DSBA's new address is Unit 206, The Capel Building, Mary's Abbey, Dublin 7; DX 200206.

Conference spotlights coroner's role

Members of the HSLAI committee: Ronan Kennedy SC, Maeve Mac Dermott Casement (McCann FitzGerald), Alison Fynes BL, Nuala Clayton (William Fry), and Stephen Barry (Eversheds)

The Health and Safety Lawyers Association of Ireland recently hosted its first in-person annual conference since 2019. The full-capacity gathering on 15 November followed a number of successful remote events held over the past two years.

The conference featured a 'fireside discussion' between Ms Justice Mary Ellen Ring (High Court) and Dr Myra Cullinane (senior coroner). Ms Justice Ring and Dr Cullinane discussed different facets of the role of the coroner and the holding of inquests. Alison Fynes BL then provided a legal update on developments in health-and-safety law and practice.

To find out more about the work of the association or to become a member, visit www.hslai.com, email hslai@rdj.com, or contact any member of the committee.

New online MIBI claim form

The Motor Insurers' Bureau of Ireland (MIBI) has launched a new online claims form.

Claimants can simply submit their claim under the 'making a claim' section at www.mibi.ie. The new platform is simple, secure, accessible and inclusive. The form supports and guides the claimant through their submission, potentially reducing the time involved from a matter of weeks to minutes. Solicitors and representatives can also submit claims through this mechanism, once they have received the relevant authority from the claimant.

The online form is dynamic, meaning that only the sections applicable to the type of claim need to be completed. For example, if 'personal injury' alone is selected, then only information relevant for assessment of personal-injury claims will need to be provided.

The new process will help to eliminate the need for paper claims to be submitted. Paper claims will still be available should any claimant require them, but MIBI will be encouraging the use of this new mechanism wherever possible. Customers can still contact MIBI for support if they experience difficulties in accessing or using the online claims service.

IRLI IN AFRICA

DUBLIN HOSTS PIL-NET GLOBAL FORUM

Diep N Vuong (Pacific Links Foundation), Rhian Lewis (Hogan Lovells), James Douglas (IRLI), Katie Campbell (Reprieve UK), and Olivia Loxley (Linklaters)

Dublin hosted the 25th Annual PIL-Net Global Forum from 17-19 October, where approximately 400 public-interest and corporate lawyers convened to develop strategies to advance social change. PIL-Net is a non-governmental organisation that connects organisations, such as IRLI, with high-quality legal services from around the world. Dublin was a fitting host for the forum, given that Ireland recently implemented its first *pro bono* pledge in November 2020.

As Ireland is still very much in the nascent stage of implementing this pledge, the forum served as an excellent opportunity for Irish civil society organisations (CSOs) and law firms to learn from other jurisdictions with more advanced *pro bono* traditions. The forum featured a two-day line-up of talks, where lawyers and CSOs spoke about the successes and challenges of *pro bono* partnerships in achieving social change across a wide array of social issues, from anti-racism work and asylum law, to children's rights and climate change.

In a round-table discussion on cross-border collaborative projects, IRLI showcased its access-to-justice programmes in Malawi, Zambia and Tanzania, and spoke of the invaluable support received from lawyers in Ireland in implementing these programmes. Most importantly, the discussion provided key insights from co-panellists Linklaters, Hogan Lovells, Reprieve, and Pacific Links Foundation on how IRLI could capitalise on this recently developed *pro bono* pledge to extend its reach.

A key focus during the forum was the topic of displacement – and how lawyers and civil society could rise to the biggest challenges facing us today as they grapple with unprecedented levels of people being displaced as a result of war and climate-related disasters. Recognising the significance of this issue, the International Association of Women Judges (IAWJ) and DLA Piper received the Global Partnership Award for their Afghan Women Judges Rescue Project. The Irish chapter of that project – of which IRLI forms a coalition alongside the IAWJ, the Association of Judges of Ireland, the Law Society and the Bar – was also given specific honourable mention for the huge success of its work.

In the new year, IRLI will seek to build on the networks formed during the forum through the work of its newly recruited *pro bono* development manager.

James Douglas is acting executive director of Irish Rule of Law International.

Finance scheme for 2022/2023

The Law Society has again partnered with Bank of Ireland as an exclusive provider of a facility for members and firms that wish to finance payment for their professional indemnity insurance, practising certificates, preliminary tax, or pension contributions.

Bank of Ireland has a range of short and long-term financial solutions. It can provide short-term finance for up to 11 months to members and firms. You must have a proven credit track record and meet standard lending criteria, so the cost of large annual payments can be spread over up to 11 months.

The scheme offers a highly competitive unsecured rate of 6.27%* and has a minimum loan amount of €5,000. Repayments vary depending on the amount borrowed. The table below shows some examples:

Apply online at www.bankofireland.com/businessloans. To complete the lending application form, you will need up-to-date financial information. As with all borrowing, normal lending criteria, terms and conditions apply. You can contact the dedicated Business Direct Line on 0818 210 614 (option 3) or email businesslending@boi.com. For general queries, you can contact the Law Society at financescheme@lawsociety.ie.

**This rate includes a discount of 0.73% on Bank of Ireland's unsecured variable rate. Please note: we are currently in a changing rate environment and rates can change almost weekly. Rates quoted are correct as at 5 October 2022 and are subject to change. The discount (0.73%) will always be maintained, but the 'all-in' rate may go up or down as rates change.*

Loan amount	Interest rate	Term in months	Monthly repayments	Total cost of credit
€5,000	6.27%	11	€468.84	€157.24
€10,000	6.27%	11	€937.69	€314.59
€15,000	6.27%	11	€1,406.53	€471.83
€20,000	6.27%	11	€1,875.38	€629.18

Clusters celebrate tenth in Kilkenny

Law Society Skillnet cluster events have celebrated their tenth anniversary.

The event was held at Hotel Kilkenny on 9 November and was organised by Law Society Skillnet in partnership with Carlow Bar Association, Kilkenny Bar Association, Waterford Law Society, and Wexford Bar Association. Topics included litigation, wills, an expert guide to good regulatory outcomes, assisted decision-making legislation, and practical techniques for communicating with difficult people.

Speakers included former director of regulation John Elliot, Laurie Grace (Grace Solicitors), Áine Hynes SC (a member of Law Society's Litigation Committee), Colette Reid (course manager and member of the Litigation Committee), TJ Reid (Kilkenny hurler), Anne Stephenson (a member of the Society's Probate, Administration and Trusts Committee), and Tony Watson (head of complaints at the Law Society).

PIC: VICKY'S PHOTOGRAPHY, KILKENNY

John Elliot and Tony Watson

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

Take good care of yourself

Q I work in a busy law firm. With everything that's going on, I find that I haven't been taking great care of myself. Some of my friends are the same. Any tips or advice?

A There's no doubt that current times are challenging for many. From the aftermath of the pandemic, to cost-of-living and climate issues, very few people are emerging unscathed. In addition, the clock has just gone back, meaning wintertime and its attendant risk of 'winter blues' for many. The architecture of your brain means that you are hardwired for fear and threat detection – for survival. Negative emotion is real and very much part of being human, but, just like Velcro, it sticks!

Research by Martin Seligman has described the occupational hazards of being a lawyer ('Why lawyers are unhappy'). He describes how legal professionals tend to cultivate a pessimistic explanatory style, whereby events are seen as being persistent, pervasive, and uncontrollable. While this supports prudence and protection of the client – identifying 'what if' scenarios, underpinned by the pressure of 'perfectionism' – this can easily spill over into everyday life. This pessimistic mindset is associated with a significantly increased risk of toxic stress, anxiety, depression, and unhappiness.

This is why taking good care of yourself as a legal professional has never been more important. Self-care really is the starting point for more sustainable levels of life success, whether you define that success by your career accomplishments, relationships, creativity, health, or everyday vitality. The good news is that small, positive changes or investments can pay real dividends in terms of your long-term health and wellbeing.

The foundations of feeling well today starts with a good night's sleep. It's fascinating just how detrimental poor sleep quality and/or quantity can be for your mood, memory, motivation, willpower, attention span, and metabolism. Keeping your phone downstairs, with 90 minutes of 'screen-free time' before bed might be one of the best things you can do to recharge more effectively from stress.

Exercise and regular movement are also terrific ways to break the hold that corrosive stress hormones have on your mood. Moving regularly throughout the day (I suggest standing every 30 minutes) can make all the difference. 'Walk-and-talk' meetings, anyone? Getting outdoors in nature (the minimal effective dose to enhance wellbeing is two hours over the entire week) can be

a tremendous way to recharge from stress, build resilience, and boost mood. Stanford research shows that walking in nature reduces activity in a part of the brain involved with your 'inner critic', with the result that you become nicer to yourself.

We thrive on the quality of our relationships. Kindness is prosocial – it has a threefold benefit to the giver, the recipient, and even the observer.

Over the years, I have met many people suffering from toxic stress who can be very harsh on themselves. If you are struggling with your mental health, reach out to someone for support. Self-compassion means treating yourself just as you would a good friend – with care, kindness and support.

The Stoic philosopher Hecato is quoted as asking rhetorically: "What progress have I made? I have begun to be a friend to myself." Self-care is not about being perfect: when it comes to your wellbeing, progress will do just fine. It's all about starting – never stop starting! Your future self will thank you for it. g

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

This question and response are hypothetical and were written by Dr Mark Rowe (drmarkrowe.com), author of The Vitality Mark *(Gill, 2022) and the weekly wellbeing podcast 'In the doctor's chair'. 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; tel: 1800 814 177. Visit the Law Society Psychological Services' page at lawsociety.ie for more information.

Takin' it to the streets

Solicitor Frank Murphy attended a recent Street Law orientation programme, marking the tenth anniversary of this annual event. He shares his insights with the *Gazette*

> THE SCHOOLBOY KNEW ABOUT LIFE. HE KNEW THAT FORMER STUDENTS FROM HIS SCHOOL SIMPLY DID NOT BECOME SOLICITORS. INDEED, THEIR CHANCES OF GOING ON TO THIRD-LEVEL EDUCATION WERE SIGNIFICANTLY LESS THAN THE NATIONAL AVERAGE

There I was in the classroom, desperately trying to sell the solicitor career path to the assembled school students, when a voice rings out loud and clear: "I couldn't be a solicitor."

Not wanting in any way to put down the young contributor, I mumbled that everybody could be a solicitor. But it was to no avail – the voice came back again with the same words: "I couldn't be a solicitor."

His certainty shook me. I wondered could this schoolboy know something about legal qualifications that I did not. Despite my protestations that everybody could be a solicitor, he was unmoved in his belief that the solicitors' profession was simply out of his reach.

Of course, he didn't know anything about the route to legal qualification – and that there was absolutely no bar to him becoming a solicitor. Perhaps more importantly, however, he knew about life. He knew that former students from his school simply did not become solicitors. Indeed, their chances of going on to third-level education were significantly less than the national average.

Cause for optimism

This happened some years ago and, while hopeful that in more recent times there might have been some small improvement, sadly I wasn't overly confident. However, a weekend at Blackhall Place has given me cause for optimism. With several solicitor colleagues, I was honoured to join the Street Law trainee orientation programme from 4- 6 November. Behind the black railings, I discovered some 30 to 40 trainees who, following a busy week engaged in their professional studies, appeared eager to sacrifice their entire weekend to learn the skills for teaching Street Law to second-level and disadvantaged students.

The learning environment created by the trainees under the leadership of Dr Sean Arthurs and John Lunney is truly inspirational. Instead of feeling jaded on Monday morning, I felt invigorated and

PPC1 trainees who took part in the inaugural Street Law programme in 2013

ALL PICS: CIAN REDMOND

Street Law organised the mock trial *Giant v Jack, re Beanstalk* at Blackhall Place on 26 October. Over 90 children from St Francis Xavier's National School in Blanchardstown took part in the interactive event. There was significant input from the Law Society's Regulation Department, with Simon Treanor acting as judge

FOCAL POINT

TEN YEARS OF STREET LAW

The recent orientation weekend, led by Dr Sean Arthurs, marked the tenth year that Street Law has run at the Law Society, *writes John Lunney (PPC course manager)*.

Back in 2013, we managed to coax 34 trainee solicitors into participating in our inaugural programme. Freda Grealy (then head of the Diploma Centre) had met Professor Rick Roe from Georgetown University (USA) where Street Law originated. Hearing about the initiative, she thought this was something that could work for trainee solicitors at the Law Society.

She was right – the programme has been so successful that, every year since, more than 100 PPC trainees have applied for the 40 available places.

The participating trainees lead a six-week programme in one of our 14 participating DEIS schools in the local community. Street Law taps into people's inherent interest in, and curiosity about, the law, during which they learn high cognitive, academic, social and other skills that enhance each participant's legal literacy.

The orientation training weekend has always been at the core of our Street Law Programme. Street Law is defined by its teaching philosophy, which promotes a learner-centred and interactive approach. We capture this idea in our programme's slogan of 'talk less, teach more'. Our training programme equips trainees with the belief and capacity to lead their own programmes in the community.

During the ten years, we have maintained our link with the Georgetown University Street Law Clinic. Our friend Prof Rick Roe and alumni from that clinic collaborate with us on our annual training event, which has become an internationally acclaimed model for preparing law students to teach Street Law programmes.

Over the ten years, Street Law has expanded. Solicitors have become involved through the Diploma Centre's Certificate in Public Legal Education, and we have facilitated Street Law courses in prisons, community settings and primary schools. We look forward to further developments during the next ten years.

inspired. Before arrival, Keith Kierans, course administrator, had sent me the action-packed schedule for the weekend, from 4pm on Friday to 4pm on Sunday.

Heart transplant

I was barely seated in the Green Hall when the organisers were looking for our favourite song and movie. What next?! We then discover that it's all related to narrowing down who of the six listed deserving 'patients' should be offered the one available heart for a lifesaving transplant – and the background information we've shared might sway the outcome.

'ET phone home' is next on the screen. It appears that the aliens have landed and taken over the country. With all of our human rights up for grabs, the trainees must negotiate which rights the country should be allowed to keep. At the




outset, it seems nonsensical, but as the clock ticks and various rights are shorn away, it all starts to become more real. In the end, two groups must pick just three rights each. Things are desperate. Then, as soon as we think it's all sorted, the 'taoiseach' phones Lunney on his mobile to tell him that the aliens are extremely tetchy – we now have only three rights up for grabs for the entire population.

It's all about taking decisions under pressure. Will they crack? Not a chance! From the back of the hall, two trainees march up to the front, unannounced, and put order on the chaos – even taking a vote to finalise the selection of the final third right. Great work!

Crime scenes

Saturday and Sunday witness us inspecting crime scenes, with some 28 exhibits scattered throughout the building. There are deliberations on some local schoolyard issues, and more detailed judgement on an infamous shipwreck case, known to jurisprudential scholars as *R v Dudley and Stephens* ([1884] 14 QBD 273 DC), at 8.30am on Sunday morning. (The case concerned survival cannibalism following a shipwreck and its purported justification on the basis of a custom of the sea.)

All legal matters are laid out before us, with the overall intent and purpose being to take the law to the streets. By the end of the weekend, the final test for our trainees is to head to the front of the class to start teaching what they've learned. This they did with aplomb. No aspect of the law was deemed too difficult to impart to the man or woman on the street.

'Reflection' was a word that Dr Arthurs put significant emphasis on during the programme. When I look back at that 'aliens' scenario, I realise that it's not so fanciful at all, given the reality that many countries in the world are now facing in terms of very direct attacks on the rule of law.

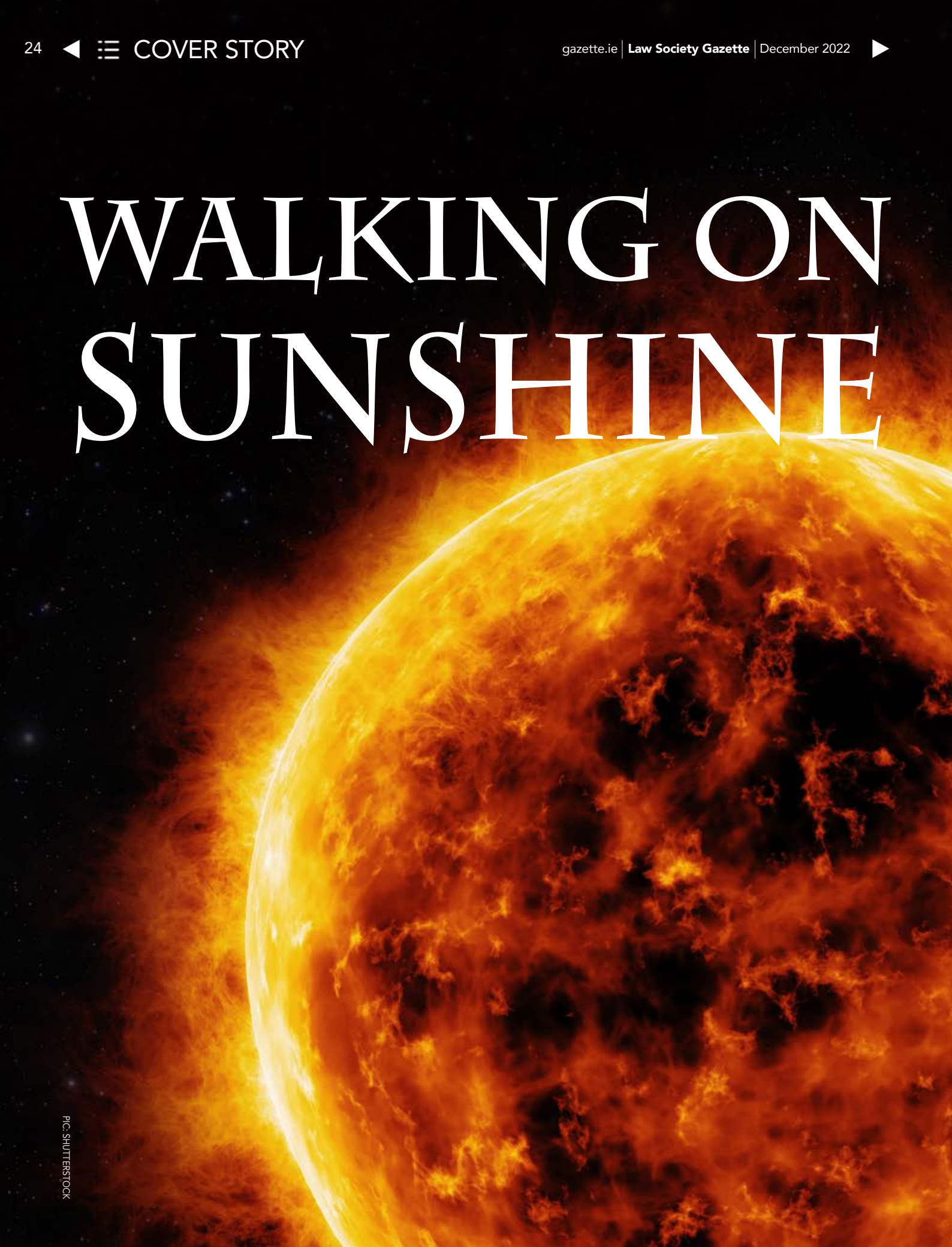
Our trainees were encouraged to argue and discuss the significance of some of the most fundamental elements of human rights, and are now empowered to bring their newfound teaching skills to their local communities. It is essential work.

Our sincere thanks to Sean, John, Keith and all the staff who helped to make this weekend happen. If any solicitor is lucky enough to receive an invitation to attend a Street Law orientation programme, be sure to take it. You won't regret it, and you won't forget it!

Frank Murphy is a solicitor with Ballymun Community Law Centre CLG.

ALL LEGAL MATTERS ARE LAID OUT BEFORE US, WITH THE OVERALL INTENT AND PURPOSE BEING TO TAKE THE LAW TO THE STREETS. BY THE END OF THE WEEKEND, THE FINAL TEST FOR OUR TRAINEES IS TO HEAD TO THE FRONT OF THE CLASS TO START TEACHING WHAT THEY'VE LEARNED

WALKING ON SUNSHINE



PIC: SHUTTERSTOCK

THERE ARE MANY TAX AND LEGAL CONSIDERATIONS TO BE AWARE OF WHEN NEGOTIATING A LEASE WITH A SOLAR-FARM DEVELOPER. LANDOWNERS SHOULD ENSURE THAT THEY SIGN UP TO A LEASE WITH THE MOST FAVOURABLE TERMS, WARNS AISLING MEEHAN

From a landowner's point of view, the development of a solar farm on part of their farm can be a highly profitable use of land. However, landowners are often unaware of the obligations imposed on them, and the implications that may arise.

The range of legal documents governing the relationship between the landowner and the solar-farm development company can vary, depending on the company involved, but generally involves some or all of the following:

Exclusivity agreement: this is usually a short document that gives exclusivity to a particular developer for a short period, typically 12 months. The purpose of the agreement is to enable the developer to conduct a feasibility study on the land to see if the project is feasible. The agreement typically covers such items as an exclusivity period, a right to access lands and authority to apply for permissions, obligations on each party during the exclusivity period, confidentiality, binding status, and governing law and jurisdiction. The developer would generally also request the landowner to sign a landowner consent form to enable the developer to apply to ESB networks to obtain the grid connection and secure capacity.

PIC: SHUTTERSTOCK

> THE PAYMENT TO THE LANDOWNER FOR GRANTING THE OPTION CAN VARY FROM BETWEEN €1,000 TO €10,000. THE TERMS OF THE OPTION AGREEMENT AND THE LEASE AGREEMENT ARE NORMALLY NEGOTIATED AT THE SAME TIME, WITH THE PROPOSED LEASE BEING ATTACHED TO THE OPTION AGREEMENT

Heads of terms agreement: the heads of terms may be incorporated into the exclusivity agreement or may be a stand-alone document. Heads of agreement are generally not legally binding – they only signify a moral commitment. The only terms that are normally binding are those relating to confidentiality, costs, exclusivity, and governing law and jurisdiction. Non-binding terms relate to the nature of the deal/transaction, price or payment or form of consideration, the timetable, details of any conditions, and due diligence.

Option agreement: the option agreement is legally binding and can tie in the landowner to a 35-year lease, so a landowner should ensure that they are fully appraised of all legal and tax aspects before signing up to such an agreement. It gives the developer the option to require the landowner to enter into a pre-agreed lease.

The payment to the landowner for granting the option can vary from between €1,000 to €10,000. The terms of the option agreement and the lease agreement are normally negotiated at the same time, with the proposed lease being attached to the option agreement. The option agreement essentially confirms the landowner's acceptance in principle to having rows of photovoltaic (PV) modules erected on their land. It allows the developer to enter the landowner's property to carry out research, including environmental impact studies, which will be required for planning applications. The option is normally granted for a term of five to seven years, with a right of renewal, and the landowner should ensure that there is provision in the agreement for a further payment for extending the option agreement.

The option is generally triggered when the developer obtains planning permission for a minimum number of PV modules and obtains a connection to the national grid.

If the development cannot go ahead, the option is not exercised and the lease does not become operative. The benefit of the agreement is normally assigned by the initial developer to another development company once planning permission has been secured. This can usually occur without the consent of the landowner, provided that the new developer enters into a deed of covenant with the landowner to continue to observe and comply with the obligations of the initial developer.

Lease agreement: the lease agreement is typically for a term of 25 years, with a right to extend for a further five to ten years. It is important to identify precisely the area of land to be leased, as the developer will seek to include as much land as possible at the option-agreement stage and to drop land at a later point when the lease is triggered, depending on where they get the permission for the solar farm.

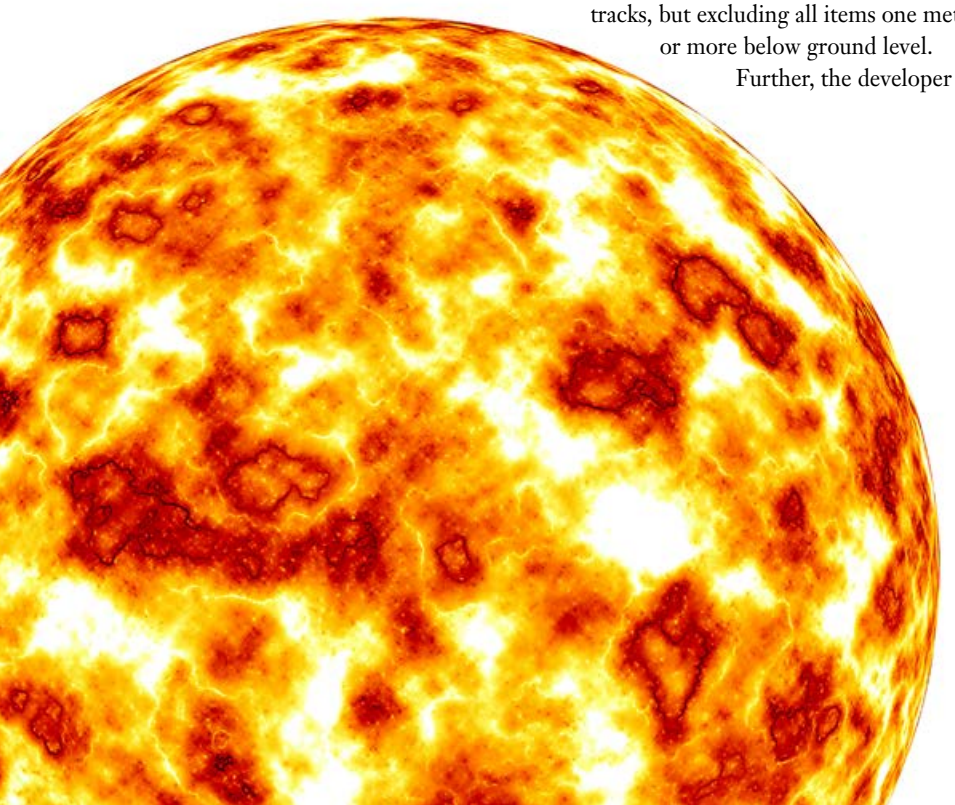
The developers will also seek to retain land for the purpose of creating wayleaves/rights-of-way in order to access other adjoining landowners' lands being used for the construction of PV modules, so landowners should be careful not to leave themselves open to being used as a gateway for the construction of a solar farm on an adjoining landowner's land.

The lease may also provide for a right for the developer to mortgage or charge the lease as security for monies owed by the developer without any consent from the landowner. However, the lease normally provides that notice be given to the landowner within a month of the transaction of every change in ownership of the lease or any mortgage or charge.

The lease should also include provisions if the developer is struck off the register of companies or goes into liquidation or has a receiver appointed, wherein the landowner should be entitled to terminate the lease but without prejudice to any rights or remedies he may have in respect of a breach of any of the developer's obligations contained in the lease. However, the landowner may be restricted in terminating the lease by having to consult with a charge, for example, a bank that may have a mortgage/charge affecting the developer's interest in the lands. The landowner may also be obliged, by the terms of the lease, to allow the receiver/liquidator a period of time (for example, 18 months) to sell the developer's interest in the lease.

The lease should also include a comprehensive clause dealing with how the property is to be reinstated at the end of the lease. The lease normally provides that the developer would, within 12 months of the end of the lease, remove such equipment as is above ground level, including the removal of foundations, hard standings, roadways or tracks, but excluding all items one metre or more below ground level.

Further, the developer should be obliged to reinstate the property to a reasonable soil depth to allow normal agricultural use, insofar as used for agricultural purposes, immediately prior to the first day of the lease.



Won't let the sun go down on me

The landowner (parent) can normally avail of retirement relief to avoid having to pay capital gains tax on a transfer of the farm to the next generation. To qualify for the relief, the owner has to be 55 years of age or over and have owned and farmed the land for ten years prior to the transfer.

The entitlement to retirement relief will not be affected by the fact that solar panels are installed on land that is suitable for farming, provided the area of the land on which the solar panels are installed does not exceed half the total area of the land concerned.

If it does exceed half of the area, the amount of land being transferred may have to be assessed to ensure that retirement relief does apply. Alternatively, the land could be left under a will as, generally, no CGT arises in circumstances where land is inherited under a will.

Capital acquisitions tax agricultural relief: land on which solar panels are installed is regarded as agricultural land for the purposes of the definition of agricultural property, provided that the area of land occupied by the solar panels and ancillary equipment does not exceed half of the land comprised in the gift or the inheritance. Thus, again, it could affect how the land is to be transferred to ensure that over half of it is not covered by solar panels.

Active farmer test: for gifts or inheritances taken on or after 1 January 2015, the beneficiary must also pass the 'Active farmer test' – that is, farm the land themselves for six years from the date of the gift/inheritance or lease to a 'farmer'.

The 'active-farmer' requirement will be met where a beneficiary leases land for the installation of solar panels, provided that:

- Not more than half of the land comprised in the gift or the inheritance is occupied by the solar panels and ancillary equipment, and
- The beneficiary actively farms the land not occupied by solar panels, or leases it to a lessee who will meet the active-farmer requirements.

THE LEASE SHOULD ALSO INCLUDE PROVISIONS IF THE DEVELOPER IS STRUCK OFF THE REGISTER OF COMPANIES OR GOES INTO LIQUIDATION OR HAS A RECEIVER APPOINTED, WHEREIN THE LANDOWNER SHOULD BE ENTITLED TO TERMINATE THE LEASE BUT WITHOUT PREJUDICE TO ANY RIGHTS OR REMEDIES HE MAY HAVE IN RESPECT OF A BREACH OF ANY OF THE DEVELOPER'S OBLIGATIONS CONTAINED IN THE LEASE

Where a beneficiary has leased land for the installation of solar panels and both of these conditions are met, the beneficiary will be treated as having leased the "whole or substantially the whole" of the agricultural land, even though a lesser amount has actually been leased, and the lessee will be regarded as having met the 'active-farmer' requirements in respect of the land occupied by the solar panels.

Brass in pocket

Income-tax relief for long-term leasing of land relieves the amount of income tax a landowner will have to pay, depending on how long they lease the land. For example, a lease of land for five years will exempt up to €18,000 in rent and Basic Payment Scheme (BPS) entitlements per annum. The longer you lease it, the more relief that applies.

To qualify for the relief, the person leasing the land (lessee) is required to use the farm land "for the purpose of a trade of farming". 'A trade of farming' means that the lessee is required to farm the land on a commercial basis and with a view to the realisation of profits. Therefore, unless the solar-energy company can demonstrate that they are carrying on two distinct commercial activities, that is, the solar-panel activity *and* a farming activity, and that the farmland is wholly or mainly occupied for the purpose of husbandry, a lessor who leases out his/her land to a solar-energy company would not be entitled to the income-tax relief in such circumstances.

Running up that hill

While cases involving solar panels will be examined on an individual basis, it is currently envisaged that the area covered by the solar panels will be deemed to be ineligible for the purposes of claiming BPS. Furthermore, in line with the Department of Agriculture, Food and the Marine's current approach on land eligibility, where the area of a parcel covered by solar panels is 70% or greater of the overall parcel, that parcel will be wholly ineligible.

If less than 70% is covered by solar panels, and the agricultural activity is not hampered by the presence of the solar panels, the area not covered by solar panels may be eligible. With regard to entitlements, it is important to remember that a farmer must use all the entitlements every two years. Therefore, if the land is deemed ineligible for the BPS, the farmer would lose the entitlements after two years, unless he/she (a) got more land, (b) leased out his/her entitlements, or (c) sold the entitlements.

It is clear from the foregoing that there are many taxation and legal considerations to be aware of in negotiating a lease with the solar-farm developer. There is a standard lease used by each solar-farm developer, and landowners should ensure that they sign up to the lease with the most favourable terms as a whole, rather than the developer paying the highest rent. g

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Aisling Meehan is solicitor, tax consultant, and farmer specialising in agricultural law and tax. Aisling Meehan Agricultural Solicitors is also a corporate member of the Irish Solar Energy Association. *This article is intended as a general guide only, and professional advice should be sought in all cases. This paper was compiled on the basis of information available on 8 November 2022. While every care has been taken to ensure the accuracy of information contained in this article, the author and/or Aisling Meehan Agricultural Solicitors does not accept responsibility for errors or omissions howsoever arising.*

the social network

For Lisa McKenna, social media plays a key role in connecting with clients and showcasing the people behind the often-unseen legal work. Gordon Smith also discovers that she's passionate about raising awareness on positive mental health

ALL PICS: CIAN REDMOND

For some, solicitors and social media might go together like peanut-butter and bubble gum, but Lisa McKenna believes that Instagram, LinkedIn and Twitter have the power to change the perception of the legal profession.

On the McKenna & Co Instagram grid, bright colours and upbeat photography abound – there's not a grey suit, boring boardroom, or stock photo in sight. The posts are a mix of pics of smiling employees holding gifts from grateful clients, positive Google reviews with heartfelt endorsements, and snapshots of the team's fundraising work for charity.

The firm Lisa founded in 2017 also has an active presence on Facebook, Twitter, and LinkedIn, which Lisa and her team curate with a clear goal in mind: to communicate the firm's values of positivity, friendliness, and authenticity: "We want to move away from the traditional image of solicitors," she says.

"For clients, they feel represented by seeing their gifts on our socials. It also enables followers to virtually 'meet' our team and see how much their gifts mean to us. It humanises the legal process for people, and also embodies McKenna and Co's ethos of being approachable, accessible and friendly."

The circle

Lisa recalls how one of the team was recently at a party and, on saying where she worked, the other person asked: "Is that the firm with the lovely Instagram account? I love it!"

Lisa points out that the person making the comment wasn't a client of the firm or an existing colleague –

just a casual Irish Instagram user. "It shows the creativity, innovation and clarity of our social media that someone recognises the company name from the social-media account," she says.

It's become a modern cliché that social media can present an image that rarely matches up to reality, but Lisa takes care to ensure that the firm's social accounts reflect an approach that was already in place. From day one, the firm took a supportive and empathetic outlook to its work. In practice, that might involve collecting house keys for clients when necessary, or helping to mind their children during meetings.

Recently, to help a client whose child has autism, Lisa scheduled the meeting for after working hours so the office would be less busy, and the lights were dimmed to help the child to feel more comfortable.

Last June, the firm painted its front door in the colours of the rainbow flag to celebrate Pride throughout the month: "We wanted to exhibit our allyship for Pride in an innovative way, especially as we have recently moved into a building that we are leasing, as opposed to sharing. We were able to immediately, wordlessly, convey the fact that we are an open, accepting, inclusive firm to work with and for," says Lisa.

The symbolic gesture got positive feedback from people in the LGBT community. "One client advised us that the reason for choosing us was due to the fact they had seen our Pride door and took comfort in that inclusivity," she adds.

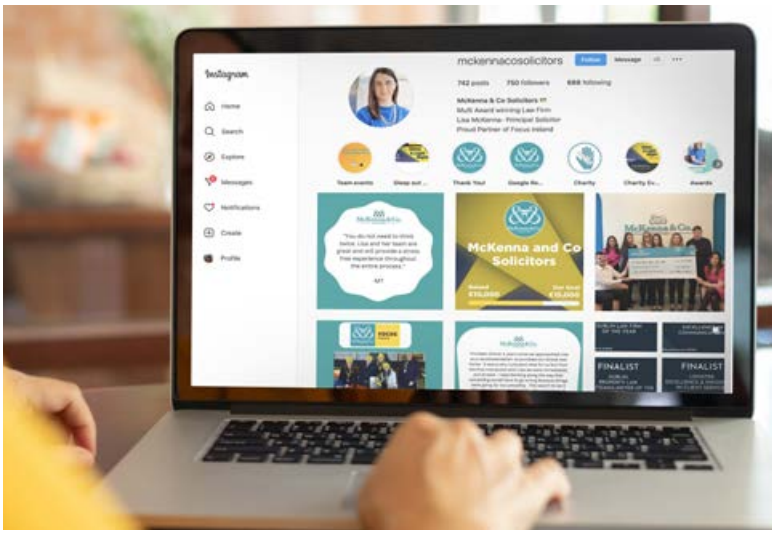
The net

This dedicated attention to detail explains why Lisa was a finalist in the Irish Law Awards for 'Excellence and innovation in client services'. It's the latest in a series of awards for her firm, which now employs ten people. Lisa was also a finalist for the Network Ireland Businesswoman of the Year Awards and in Ireland's Most Inspiring Women in Business Awards 2019.

In 2020, the firm won the 'Emerging new business award' at the Dublin Network Ireland Awards, and was highly commended in the new 'Power Within' category in the same year, which recognised the resilience of entrepreneurs during COVID-19. In Lisa's case, property work came to a standstill during the pandemic, so she put her time to productive use by supporting young professionals who had been let go from other firms.

She set up a service called 'Emplawyer' to help young solicitors build their CVs, and she carried out mock interviews to prepare them for their next roles. She employed two junior trainees who had lost their jobs, and took no wage during that time to ensure they were paid.

She also provided 100 free wills for elderly people and frontline workers during the pandemic. Lisa continues to give back in other ways, serving on the board of directors at Age Action and providing free legal advice to hospitals and GPs.



> THE SOCIAL-MEDIA FEED HAS A VALUE THAT GOES FAR BEYOND JUST BEING A SALES TOOL. IT HELPS TO BUILD EMPATHY BETWEEN THE PUBLIC AND THE PEOPLE DOING THE LEGAL WORK

You've got mail

When Lisa founded the firm, she took no clients from her previous role in a larger corporate firm. McKenna & Co specialises in property law and probate, but also practices in personal injury, company law, civil and commercial law. Business has grown steadily through referrals since then. In just five years, it has built up 1,500 clients, and Lisa estimates that close to 40% of the work comes via social media.

But to Lisa, the social-media feed has a value that goes far beyond just being a sales tool. Lisa emphasises how it helps to build empathy between the public and the people doing the legal work.

She believes this is especially important in the legal field, because the downside of today's always-on, ever-connected world is that client expectations can sometimes exceed what solicitors can realistically perform.

"I always think about that. Even when we're doing some type of video or a webinar, we show clients that we're only human. The late nights, the weekends – the blood, sweat and tears that you put into the transaction.

> YOU NEED TO TAKE TIME FOR YOURSELF AND YOUR OWN MINDSET. THE LEGAL PROFESSION HAS A HIGH RATE OF SITUATIONS WHERE PEOPLE HAVE MENTAL-HEALTH PROBLEMS AND MAYBE THAT'S NOT TALKED ABOUT ENOUGH, SO DEFINITELY FIND TIME FOR YOURSELF

It's not just a case of signing the contract. A solicitor isn't just a robot; we work so, so hard for clients," she says.

World on a wire

This leads Lisa to another subject she feels passionately about: mental-health challenges in the legal profession: "As a solicitor, you encounter stress, pressure, and demands on a daily basis. The profession is so demanding, all day every day. No one is willing to wait – certainly not in the property sphere. You realise, how has the legal profession got to this stage where it's so demanding and challenging in every regard?"

Some of this is due to the nature of legal work, which invariably involves taking on other people's worries and solving problems for them. But this can quickly become amplified if a client is demanding, or if the colleague in the other law firm is feeling especially combative. Conflict and confrontation may be part of most lawyers' armoury, but the endless jousting can take a toll. Lisa believes that solicitors that have endured this over time could need "years of counselling" to recover.

"One of the hardest parts of the job is managing stress and burnout," she says. Lisa openly admits how, in the past, she often felt overwhelmed, and experienced an outpouring of emotion after work on a Friday at the end of an especially stressful week.

The Law Society has put in place mental-health supports for trainees (see panel), and Lisa urges solicitors who have been in practice to make time for mental-health support or coaching to deal with challenges they face.

"You need to take time for yourself and your own mindset. The legal profession has a high rate of situations where people have mental-health problems and maybe that's not talked about enough, so definitely find time for yourself. Work with someone to work through your challenges," she urges.

Lisa took proactive steps to address this in her own working life. In September 2021, she hired a development manager for the firm, whose remit is to contribute to the company's success in non-legal matters. Lisa says this made "a huge difference" to the firm – and to her.

Delete history

As the founder and principal of a small firm, Lisa has a seemingly endless list of tasks aside from the fee-earning aspect of being a solicitor. She acknowledges it wasn't easy to let go of these responsibilities, but she understood it was necessary.

FOCAL POINT
CHATROOM

Are stress and legal work inseparable? It might seem that way. A study by insurance provider Protectivity found that people working in the legal sector were the second most-stressed professionals, after those working in HR. LawCare, a charity that supports the legal community, found that 26% of callers to its helpline did so because of stress, while 11% did so because they were experiencing anxiety.

Against this backdrop, the Law Society recently launched its own Psychological Services section, complete with qualified counsellors. The service includes therapeutic support, peer support and mentoring, as well as a Professional Wellbeing Hub. It was rolled out earlier this year, having first been geared towards trainees. Since then, the Society's Council gave the go-ahead for the service to expand to encompass all solicitors.

For more information, see lawsociety.ie/solicitors/representation/psychological-services.

"At the stage we were at in our growth, I realised I needed to step back from the coalface. If I'm in a burned-out state or have had a very busy week, that's not adding value in terms of growing the office," she explains.

"It was the best thing I ever did, stepping away from 80% of the managerial part of the business. You need these experts to grow your business. We all have different strengths and weaknesses. You might be an expert in a certain thing – but not everything. You might think you're indispensable and take on everything, but you damage your business by trying to be a jack of all trades," she says.

It's a mindset Lisa recognises in many other principals and solicitors who have built up their practices and are often reluctant to cede control to someone else: "Most entrepreneurs are not willing and/or able to invest in their growth to this extent. However, this means that they have to take on that work themselves, which either takes away from the fee-earning work or means there is no sustainable, continuous commitment to growth," she warns.

She contends that investing in a non-fee-paying role doesn't put the firm at a loss. "In fact, it allows you to grow and provide a more effective service. You need to give away control," she believes.

In Lisa's experience, hiring a development manager has had multiple benefits: "It has enabled us to operate better within the office, have better working relationships, work in our own building, be more environmentally friendly, have an eye-catching social-media account, and ensured the office is always well supplied."

The second step Lisa took to change her way of thinking was to invest in a career coach. She undertook the Bob Proctor leadership coaching programme, which involves meeting the coach every Monday at 8am before the working week starts. The coach reviews progress with Lisa and sets new mentality challenges: "It's really helped me with my mindset, so if something does go wrong, I have ways to deal with it," she comments.

Lisa notices how this has helped her to develop better working relationships with her team. Her colleagues also appreciate being given more responsibility: "You can do a lot of harm to a team if you micromanage too much. The junior staff have reported that when I've let go control, they've grown more and become more confident themselves." g

Gordon Smith is a freelance journalist.

Is there any need or legal justification for infant rulings to be heard in public? asks Maria Lakes

PIC: ALAMY

CRUEL INTENTIONS

"Am I the only one in this country not suing everyone for minor inconvenience and being a whiney baby?"

"FFS." "Scandalous." "This is nuts."

"Very traumatic indeed. What a f***ing joke!"

"Absolute farce ... free money, why not?"

"Beyond ridiculous – what message does this send out!"

"Absolute joke of a court compo system."

These comments are a mere selection from those made in response to media coverage of one case involving the ruling of an infant's personal-injury settlement that appeared in one of our national broadsheet newspapers. The comments were made on Twitter.

Liability had been admitted in the case, and the settlement terms had been agreed between the parties and ruled by a Circuit Court judge. Despite this, the infant who was the subject matter of this case, along with their family, suffered a cruel injustice as their names and address were printed in the newspapers and the floodgates opened on social-media platforms for the world at large to comment at will. The comments that followed, as in other such rulings, were often offensive and extremely hurtful.

Criticism was also directed towards the legal representatives involved in the case: *"Name and shame the lawyers involved. They are the ones advising the claims culture, and making big fees from the settlements. Insurance companies shouldn't be allowed to roll over every time. A few big losses for plaintiffs will do a lot for claims culture in Ireland."*

The only parties fully informed of the true circumstances of this accident and injury were the parties to the case, their legal teams, and the judge in question. The legal teams agreed settlement terms after sight of the medical evidence, and the court ruled the settlement on the basis of same.

Not an easy decision

When a child suffers an injury, it is very traumatic for both themselves and their family. If the injury is alleged to be as a result of negligence or tort, the parents or next friend of the infant must decide if they wish to pursue legal action on their behalf. This is often not an easy decision. It is not a decision without risk, as the next friend will be liable for any costs order should the case be unsuccessful. This can be stressful for the parent or next friend who merely wishes to do their best for the child, and almost always takes a case out of principle.

The cruel injustice is that, even when a parent or next friend has been brave enough to take such a case and is successful in agreeing a settlement, this settlement will be ruled in a public court, subjecting the infant to public ridicule.

Public ruling

In accordance with section 63 of the *Civil Liability Act 1961*, all offers made in infant cases must be ruled before the judge of the court in which proceedings have issued, regardless of whether the next friend or legal advisors approve of the offer. The process of ruling ensures the protection of the infant's interests and also deals with any issues arising regarding the infant's lack of legal capacity to enter into the settlement on their own behalf.

Similarly, rulings are also required where the Personal Injuries Assessment Board makes an assessment in a case, and these proceed under section 35 of the *Personal Injuries Assessment Board Act 2003*.

These legislative mechanisms were intended to protect infant plaintiffs and to facilitate the settlement of claims involving such plaintiffs. These claims cannot be settled unless the court approves. If the court does approve the settlement, all parties are protected and can rely upon the order.

Unfortunately, the legislation did not provide for these applications to be heard *in camera*. Thus, the default position is that infant rulings are conducted in open court, as required by article 34.1 of the Constitution: "Justice shall be administered in courts established by law by judges appointed in the manner provided by this Constitution, and, save in such special and limited cases as may be prescribed by law, shall be administered in public."

The case for change

We live in an age of social media, where individuals can share their thoughts with the world within seconds of their creation. There is no filter.

The need to protect our infant plaintiffs from abuse after the settlement of their cases does not only arise in response to the freedom to comment on social media. The need arises purely from the fact that, if an adult plaintiff settles their case, they can do so privately, without a court hearing and without any details being available to the media or public.

Article 34.1 does not prohibit an adult plaintiff from settling a personal-injury claim privately and with full confidentiality. Therefore,

FOCAL POINT
THE *GILCHRIST* PRINCIPLES

The *Gilchrist v Sunday Newspapers* principles that apply, where exceptions to article 34.1 are sought:

1) The article 34.1 requirement of the administration of justice in public is a fundamental constitutional value of great importance.
2) Article 34.1 itself recognises, however, that there may be exceptions to that fundamental rule.
3) Any such exception to the general rule must be strictly construed, both as to the subject matter, and the manner in which the procedures depart from the standard of a full hearing in public.
4) Any such exception may be provided for by statute, but also under the common-law power of the court to regulate its own proceedings.
5) Where an exception from the principle of hearing in public is sought to be justified by reference only to the common-law power, and in the absence of legislation, then the interests involved must be very clear, and the circumstances pressing.
6) If it can be shown that justice cannot be done unless a hearing is conducted other than in public, that will plainly justify the exception from the rule established by article 34.1, but that is not the only criterion. Where constitutional interests and values of considerable weight may be damaged or destroyed by a hearing in public, it may be appropriate for the legislature to provide for the possibility of the hearing other than in public (as it has done), and for the court to exercise that power in a particular case if satisfied that it is a case that presents those features which justify a hearing other than in public.
7) The requirement of strict construction of any exception to the principle of trial in public means that a court must be satisfied that each departure from that general rule is no more than is required to protect the countervailing interest. It also means that the court must be resolutely sceptical of any claim to depart from any aspect of a full hearing in public. Litigation is a robust business. The presence of the public is not just unavoidable, but is necessary and welcome. In particular, this will mean that, even after concluding that a case warrants a departure from that constitutional standard, the court must consider if any lesser steps are possible, such as providing for witnesses not to be identified by name, or otherwise identified, or for the provision of a redacted transcript for any portion of the hearing conducted *in camera*.

THE CRUEL INJUSTICE IS THAT, EVEN WHEN A PARENT OR NEXT FRIEND HAS BEEN BRAVE ENOUGH TO TAKE SUCH A CASE, AND IS SUCCESSFUL IN AGREEING A SETTLEMENT, THIS SETTLEMENT WILL BE RULED IN A PUBLIC COURT, SUBJECTING THE INFANT TO PUBLIC RIDICULE

why does an infant ruling of a personal-injury claim require a public ruling?

Our Constitution requires justice to be administered in public. Infant-ruling applications would appear to have the characteristics of the 'administration of justice' if, for example, measured against the 1965 *McDonald v Bord na gCon* five-part test:

"1) A dispute or controversy as to the existence of legal rights or a violation of the law,
2) The determination or ascertainment of the rights of parties or the imposition of liabilities or the infliction of a penalty,
3) The final determination (subject to appeal) of legal rights or liabilities or the imposition of penalties,
4) The enforcement of those rights or liabilities or the imposition of a penalty by the court or by the executive power of the State which is called in by the court to enforce its judgment,
5) The making of an order by the court which, as a matter of history, is an order characteristic of courts in this country."

The very fact of the application results in the public hearing and it is long established – and recently confirmed by O'Donnell J in *Zalewski v An Adjudication Officer and WRC, Ireland and the Attorney General* – that "article 34.1 makes clear that public hearings are of the essence of the administration of justice".

However, the Supreme Court has confirmed in *Gilchrist v Sunday Newspapers* (see panel) that the courts have a common-law jurisdiction to order *in camera* hearings in civil matters – in this case, a defamation hearing. This jurisdiction is to be used in exceptional circumstances involving constitutional interests, but allows limitations to be placed on article 34.1, by statute or judicial decision, to protect other rights and interests. The court summarised the principles that apply where exceptions to article 34.1 are sought and made clear that any exceptions must be strictly construed, involve clear and pressing interests, and be not more than required to protect these interests.

Successful applications have been brought under the *Gilchrist* principles in the disciplinary context of the medical profession and of social workers, resulting in *in camera* hearing and reporting restrictions. While there is a high threshold to be met to achieve protection under the *Gilchrist* principles, it is indeed possible to apply for an *in camera* infant ruling or at least for reporting restrictions or anonymity in respect of same in suitable cases.

Further, there may be legislative basis for a hearing otherwise than in public under section 45 of the *Courts (Supplemental Provisions) Act 1961*: "(1) Justice may be administered otherwise than in public in any of the following cases: … (c) lunacy and minor matters".

There is no definition of 'minor matters' and no reported case law on the application of same to infant ruling. However, arguably, this provision provides the protection required to infant plaintiffs in personal injury claim settlement rulings.

Remote hearings

Due to the COVID-19 pandemic, remote hearings of civil proceedings were permitted under the *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020*. Infant rulings were conducted by way of remote hearing. The Pexip video-conferencing code for the remote hearing was available to the legal teams via the court registrar, court office, Bar Council and Law Society. A code was required to attend the ruling.

Despite the lifting of restrictions, many infant rulings continue to be conducted by remote hearing. The practice of many courts appears to be that all such rulings are conducted remotely unless scarring is required to be viewed or the next friend wishes to address the court directly. Remote infant rulings attract little publicity, preserve privacy for the infant,

THE NEED TO PROTECT OUR INFANT PLAINTIFFS FROM ABUSE AFTER THE SETTLEMENT OF THEIR CASES DOES NOT ONLY ARISE IN RESPONSE TO THE FREEDOM TO COMMENT ON SOCIAL MEDIA. THE NEED ARISES PURELY FROM THE FACT THAT, IF AN ADULT PLAINTIFF SETTLES THEIR CASE, THEY CAN DO SO PRIVATELY

and generally do not result in the cruel injustice identified above.

While remote rulings have alleviated much of the concerns expressed above for some infant plaintiffs, these changes may be temporary and have been retained for convenience, not for the protection of infant plaintiffs or the equalisation of infant and adult plaintiff rights. Many infant rulings continue to be ruled in public.

Moreover, the introduction of remote hearings and maintenance of same for convenience does not deal with the substantive matters involved and is not an adequate solution. Indeed, as O'Moore J noted, in *Irish Bank Resolution Corporation Limited (in Special Liquidation) v Brown*: "I do not think that the interests of justice are served by a hearing (which would ordinarily be in public) being one from which the public or the press are excluded because it is taking place remotely. This is just one example of a situation where the remote hearing may be contrary to the interests of justice even if it is not unfair to the participants."

Real change

Although the cruel injustice of subjecting an infant plaintiff to a public ruling appears to stem from unequal treatment based on age, it is much more complex. There does not appear to be a basis for constitutional challenge of the relevant legislation. In reality, even if there was a sound basis for such challenge, it is unlikely that any next friend of an infant plaintiff would risk the vast costs exposure such a case could bring.

Legislative change to allow *in camera* infant rulings is key and is warranted to protect the interests of the infant plaintiff. Alternatively, a lesser intervention to protect the interests of the infant plaintiff may be suitable, such as reporting restrictions. Legislative change was possible in this area when urgency required it due to the COVID-19 pandemic.

The need for change in the conduct of all infant rulings must gather momentum and become urgent, if legislative change is to occur.

Until such time, and in order to gather such momentum and urgency, applications should be made to the court for an *in camera* hearing on the basis section 45 of the *Courts (Supplemental Provisions) Act 1961* – and, indeed, on the basis of *Gilchrist v Sunday Newspapers* – in all suitable infant rulings where the interests are clear and the circumstances pressing.

Alternatively, lesser intervention, such as reporting restrictions or anonymised names in the listing and case can be applied for. As with other areas of our court rules, our judges have much discretion, and it is our duty to request the exercise of such discretion for the continued protection of our injured clients, in particular our youngest and most vulnerable. g

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Maria Lakes is a partner at Tracey Solicitors.

LOOK IT UP

CASES:

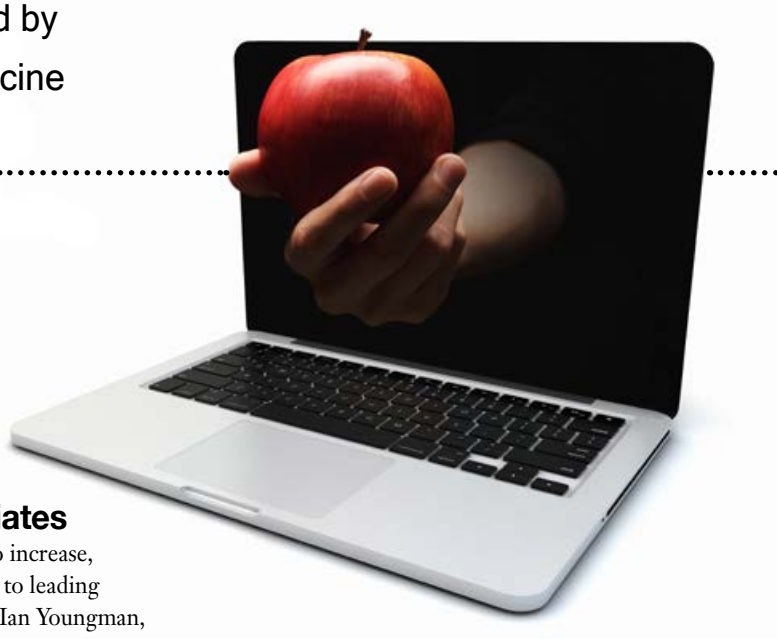
- *Irish Bank Resolution Corporation Limited (in Special Liquidation) v Brown* [2021] IEHC 83
- *McDonald v Bord na gCon* [1965] IR 217
- *Zalewski v An Adjudication Officer and WRC, Ireland and the Attorney General* [2021] IESC 24

LEGISLATION:

- *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020*
- *Civil Liability Act 1961*
- *Constitution of Ireland* (article 34.1)
- *Courts (Supplemental Provisions) Act 1961*
- *Personal Injuries Assessment Board Act 2003*

Just what the Doctor ordered

In a follow-up to her article in the August/ September *Gazette*, Áine McCarthy explores the practical challenges and opportunities faced by physicians regarding cross-border telemedicine



The number of expatriates around the globe is continuing to increase, despite the pandemic. According to leading insurance and healthcare analyst Ian Youngman, there are now 80 million expatriates, 5 million international students, 4 million temporary foreign students, and 18 million high-net-worth individuals, of whom 2.7 million are ultra-high net worth. A Legatum Institute report estimated that there were 258 million people living outside of their country of birth in 2017, showing an upward trend from 173 million in 2000.

One of the key priorities of most expatriates before making the move abroad is to have sufficient international health insurance and access to quality healthcare. Since the pandemic, in almost every country, the state healthcare network is under never-before experienced pressure, so access to private healthcare is increasingly vital. In some countries, expatriates are finding it increasingly difficult to access state healthcare, with access to private healthcare becoming more and more strained as some hospitals prioritise healthcare for larger companies over one-time private patients.

The pandemic also accelerated the move towards remote working across the world, forcing people to embrace technology in new ways. The increasing strain on the healthcare system, coupled with the move towards a more digitally focused way of living, has revolutionised access to healthcare, and there has been an accelerated use of transnational telemedicine, whereby more doctors are seeking to serve patients across borders.

In addition to the regulatory challenges of telemedicine, there are practical and legal challenges for physicians practising remote telemedicine from abroad.

Place your hands

Once upon a time, a physician's practice relied in large part on 'placing a healing hand' upon a patient, feeling the heart rate at the wrist, listening to the chest, and palpating the abdomen. In this digital age, physicians now have remote access to ECGs, X-rays, and ultrasound. The pandemic has proven how much of what doctors do in this current age can be done from a distance: it is no longer the case that the practice of medicine cannot be performed safely at a distance. Physicians can now review X-rays, vital signs, heart monitors, and blood tests remotely.

The border between one jurisdiction/country and another does not change the investigation and management of illness. By removing these barriers, physicians have access to larger populations of patients with similar conditions, which also massively increases the potential of recruiting candidates for clinical trials, and thus developing novel therapies or potential cures for rarer conditions.

For the individual patient, the removal of geographical barriers to accessing medical attention is incredibly beneficial. It democratises healthcare in a way that has been to date impossible as, historically, health outcomes have been closely tied to geographical location, with more remote populations being significantly affected. Where remote medicine can play a role is in the provision of specialist opinion – for example, a physician practising in a very specialised area could advise doctors in a remote part of the world on how to manage a rare condition or monitor progress.

As less and less of day-to-day medical practice requires the patient to be sitting physically across from the doctor, cross-border telemedicine has the potential to massively expand the reach of physicians and allow them to treat and manage patients with conditions within their fields of expertise, irrespective of their geographic proximity to the physician. The management of the patient and what is done with those results is where the difficulties lie.

Doctor alibi

Despite the lack of difficulties in the modern era with managing patients remotely, the realities of managing patients across borders continues, at times, to have its challenges, mainly in the more bureaucratic areas, such as the ordering of investigations or accessing results.

Over time, these issues should become less problematic, as new more streamlined systems are developed. In some locations more than others, there are many legal hurdles in place that limit the potential to practice cross-border telemedicine at present. The US is a prime example, where, by limiting medical indemnity cover and licensing physicians to practise in one state only, the role of cross-border telemedicine remains significantly affected.

> THE PANDEMIC HAS PROVEN HOW MUCH OF WHAT DOCTORS DO IN THIS CURRENT AGE CAN BE DONE FROM A DISTANCE

A major issue for physicians when conducting remote tele-consults is who implements that advice, and who is legally responsible for the outcomes if one doctor advises a course of action and another (local) doctor orders those investigations and follows through on the course of action?

Another issue is how their advice is followed by the patient, and the identification of who takes responsibility for following through on advice given (for example, who physically provides the prescription and/or organises referrals and ongoing tests?) In particular, how can the patient access the investigations being suggested, or fill a prescription for the medicine the doctor recommends? This would require a local presence to implement these recommendations and, in reality, there are very few doctors who are willing to blindly follow the advice of another doctor and prescribe or investigate based on this.

In addition, at what point does a doctor's advice become a legal 'medical opinion'? If asked in a corridor by a friend about their sister, does what is suggested by a doctor carry a legal responsibility? If advised against attending the emergency department, what then happens if the 'acquaintance/patient' then becomes very unwell? All these questions are highlighted by the new practice of telemedicine.

So, while remote telemedicine has a lot of appeal and has the potential to democratise healthcare globally in a way that has been, till now, an impossibility, the reality is that physicians are still stuck with as many questions as answers.

In order to maximise the potential of remote cross-border telemedicine, one needs to look outside the basic premise of 'reviewing a patient remotely' towards more exciting possibilities, such as in the clinical trial space – combining the remote capture of data, the global expertise and wealth of knowledge, and the power of the collective that can be achieved when working across borders.

Medicine man

Of those individuals with any condition of interest, only a fraction will meet the criteria required to enter into a clinical trial. Clinical trial-matching refers to the recruitment process, whereby a potential trial candidate's characteristics (condition, symptoms, results, comorbidities, etc) are assessed against the eligibility criteria of trials that are currently recruiting.

One way of increasing recruitment is to broaden the eligibility criteria to enable more patients to participate. However, in order for the trial to be successful in identifying its outcome of interest (for example, success of a new drug therapy or intervention, reduction in mortality, etc), patients must be carefully chosen. They must be homogeneous enough that the outcome can be identified, but diverse enough that these results can be extrapolated to the broader patient populations.

Obtaining regulatory/ethics approval to run any clinical trial is required. Generally, each centre involved in the trial must obtain this approval – thus, increasing the scope and size of a clinical trial increases the number of institutional review boards that must approve the trial before trial-matching can even begin. The challenges within clinical trial-matching across borders are difficult from a legal perspective, given that each country has its own set of regulations relating to ethics approval, which

FROM A PATIENT PERSPECTIVE, REMOTE TELEMEDICINE AGAIN OFFERS THE CHANCE TO DEMOCRATISE ACCESS TO TRIALS AND NOVEL THERAPEUTICS THAT HISTORICALLY HAVE ONLY BEEN AVAILABLE IN LARGE SELECT CENTRES, AGAIN DRASTICALLY ALTERING ACCESS TO FIRST-WORLD MEDICINE

do not easily facilitate multiple sites being involved. From a global perspective, the lack of common rules, procedures, and research ethics boards can add significant cost and inefficiency.

Differences between insurance and indemnity requirements across borders adds to the complexities of cross-border clinical trial-matching. Additionally, global/cross-border access to trial drugs must be considered before undertaking cross-border trial-matching. This may require substitutions in certain cases, as some drugs are not permitted to be imported from one country to another.

Other issues that may arise include language barriers and translation of regulatory materials.

Remedy

It is clear that much more work is required to streamline the process. Single authorisation sites that cover multiple countries would certainly have a huge impact. However, outside the EU, regulatory challenges are harder to address. Ideally, a central regulatory entity with global representation would exist, although this is not currently a reality.

Again, the more that indemnity and insurance requirements can be consolidated and standardised, the more the cross-border clinical trial-matching process can be streamlined, making it a legal reality. Centralisation of adverse report monitoring would equally subvert some of the current concerns with remote/cross-border clinical trials.

In order to overcome concerns about training and accreditation of researchers, the implementation of effective information technology and the use of online training systems is necessary.

Dr Feelgood

From a population perspective, the increasing capacity to practise remote telemedicine has huge implications for clinical trial recruitment and completion, with knock-on effects for the development of novel therapeutics and potential cures. At present, over 80% of clinical trials fail to reach recruitment targets. Trials are costly and time-consuming to run, limiting the drive to undertake them within research organisations and big pharma. Improving these processes with the use of telemedicine gives those running clinical trials potential access to a global cohort of patients, vastly improving chances of successful recruitment and trial completion.

One of the main goals of clinical trials is the generalisability of the results. By recruiting patients from multiple countries and ethnicities, this can vastly increase.

From a patient perspective, remote telemedicine again offers the chance to democratise access to trials and novel therapeutics that historically have only been available in large select centres, again drastically altering access to first-world medicine, irrespective of geography.

Doctor, doctor

A huge opportunity exists to move into the era of precision clinical trial-matching, where the data available on patients prior to their recruitment is significantly more granular (often at a genetic or DNA level). This, in turn, will revolutionise clinical trial-matching by vastly increasing the number of potential patients who are deemed eligible early on in the recruitment process.

Equally, by moving more into the global or cross-border space, where patients are able to be rapidly and effectively recruited and monitored, irrespective of geographic location, through the use of cross-border telemedicine, not only will recruitment and retention rates in clinical trials improve, but it will significantly improve the generalisability of trial results and global access to state-of-the-art therapeutics as they become available. g

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Áine McCarthy is head of legal (international health) at Allianz Partners and is a member of the Law Society's In-House and Public Sector Committee. *She wishes to thank Prof Oran Rigby and Prof Amy Hollingworth (Akkure Genomics) for their input and suggestions. All views expressed in this article are the author's own and do not represent the opinions of any entity whatsoever with which she has been, is now, or will be affiliated.*

LOOK IT UP

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After the deluge

Solicitors need to understand their role in mediation and how they can restructure their work practices to accommodate it. They also need to facilitate their clients in overcoming emotions that can block progress to resolution. Julie Sadlier shares her lessons from the debt crisis

My work with clients with mortgage arrears has highlighted a widening gap between institutional policy/procedure and ordinary individual needs – leading to much frustration and sometimes, unfortunately, mental-health issues for clients. This, I believe, is a consequence of many factors, including ever-expanding regulatory structures and the relentless drive by Government and corporate bodies to replace personal communication with arms-length, online communication.

My further (and perhaps unusual) observation is that perhaps the most powerful tool to help people deal with the many crises of our times, and the increasingly remote systems managing these crises, is their own mindset.

PIC: ALAMY

Often, those who survived debt and possibly even thrived during the recession and the pandemic, despite inadequate financial and legal resources, are those who knew or learned how to maintain a positive perspective and emotional wellbeing, despite the immense problems they faced.

Notwithstanding, it is unfortunate that, despite having a valuable stock of trained mediators in Ireland at the time, we could not have set up a true debt-mediation system when the crisis hit. Instead, 13 years on, thousands of mortgage arrears cases are still stuck in the courts, as the great financial machine sells the debts to itself at ever-greater discount. Many who could withstand the adversity they faced over the years are still in their homes, while others have long since left, usually for less suitable dwellings – mostly because they could not stand the stress, uncertainty, and illogicality of it all.

Missed opportunity

At the start of this crisis, I trained as a mediator and, in association with other concerned groups, addressed the Government and banks – encouraging the establishment of a mediated debt-resolution process. We drew attention to successful international examples during previous debt crises, including the Canadian Farm Debt Mediation Service. The best we got was the *Personal Insolvency Act 2012*, many years into the crisis.

This act was heralded as a mediation-type solution but – although it nods at mediation, and despite the best intentions of all involved – the legislation missed the opportunity to allow both parties to truly engage fully with each other through a mediator, so that they could each set out their issues, positions, and interests, and then create and own their mutually agreeable bespoke resolutions.

From the homeowners' perspective, the issue, position, and best interest of most homeowners in mortgage distress were both obvious and straightforward at all times.

- Issue – inability to pay, due to global recession,
- Position – strong need to keep their homes, as no alternatives were available, and
- Interest – to quickly restructure their mortgages to restore stability and peace of mind.

Sadly, there was also a strong emotional component for the debtor and, indeed, individual bank staff, who were forced to change their customer relationships from 'supporter' to 'enforcer'. This shock led to many mental-health issues and suicides on all sides that could have been reduced significantly by the early introduction of an empathic and mindful mediation process.

There was, however, no emotional component for the banks' policymakers, but we still believed that the bank's issue, positions, and interest were as follows:

- Issue – lack of repayments,
- Positions – to resolve this by either restructuring with customers or repossessing homes and selling them for market value, and
- Interest – as there was no housing market and a Government bailout, they would engage with, and find a solution for, each customer's circumstances.

From the Government's perspective, we believed that the issues, positions, and best interests were:

- Issues – potential bank collapse, mass repossessions, and homelessness,
- Positions – provide capital to save the banks and, in turn, assist banks to keep people in their homes, and
- Interests – recapitalising the banks and enabling them to engage with customers to restructure their loans; while at the same time avoiding 'moral hazard'.

Less obvious positions

However, a number of less-obvious positions and interests of the financial sector, and its influence over Government, became more obvious with the passage of time.

Firstly, banks had got too big, centralised, and technology-focused to even consider fairly mediated individual resolutions.

Secondly, the banks had so recklessly diminished their capital and control over their loan books in previous years that resolving these problems and protecting their relations with their international financial masters, were (and still are) the more important focus of Irish banks and the Central Bank – rather than customers.

So now, we are where we are, with the Government having spent large sums bailing out banks and then holding together the home-debt crisis through various unwieldy State and court processes that are still with us today.

How did we let it happen that people who could not afford their mortgages were faced with complex legal proceedings to defend, without real access to either legal aid or paid legal advice? Mediation and other methods of alternative dispute resolution (ADR) were the solutions that were not grasped. This failure has created many problems for the courts system – not least adding significantly to a growth in access-to-justice problems, which, generally, have been highlighted recently by former Chief Justice Frank Clarke and Chief Justice Donal O'Donnell respectively.

Mindfulness, mediation and the law

I have had a valuable introduction to mindfulness and its connection with the law from all of this failure. I have found that clients who learned or already knew how to live 'one day at a time', focusing on whatever positives they could muster (and dwelling on the debt issue as little as possible, and only when confronted with the bureaucracy surrounding it), fared much better than those who did not. Some of them have, after a long time, secured good workable resolutions; others are still in their homes, waiting – but importantly, living – to the best of their ability.

Throughout my career, I had observed that it always seemed easier to get a good outcome for a client who sought legal remedy from a balanced emotional position, rather than one of anger or revenge only. But it was not until I saw so many patterns emerging with distressed borrowers that I began to understand this phenomenon as 'mindfulness at work'.

Role of the solicitor

Traditionally, the role of the family solicitor involved dispensing legal advice, while being mindful of the emotional frailty of the client and softening any strict legal advice, depending on the client's needs. Now, however, the nature of the work we do gives little choice but to focus more on 'process', particularly in the area of dispute. This is one good reason to consider mediation more seriously, since mindful mediation can genuinely assist clients to process their emotions and, as a consequence, resolve disputes and issues sooner.

An interesting new model of solicitor/client consultation has been developing quietly in the area of repossession law, where much of the time, all we as practitioners could do was give general old-fashioned advice, encouraging the clients themselves to interface directly with their banks, creditors, State agencies, and even the courts.

They were also comforted to hear that, despite the confusing legal framework around their problems where, in theory, the banks were entitled to be granted orders for possession of their homes, in almost all

circumstances there were many process-based delays built into the system that did not override that right but, if correctly navigated, could keep the roof over their heads.

Staying sane

We were not representing clients or practising litigation as we knew it, but we helped a lot of people to stay sane and survive. Furthermore, the Government helped fund this approach with the Legal Aid Board-based 'Abhaile' scheme, which funds consultations and court support only, with no individual case handling.

The lesson for me from all this is that we, as a profession, should take a more holistic approach when engaging with those seeking our services – embracing not only our intellectual intelligence, but also our emotional intelligence, as part of our professional contribution toward helping to reduce stress for both our clients and ourselves. To that end, it is very important that we all begin to look more closely at the client's emotional state, advise accordingly and, depending on the nature of the issue, truly understand the benefits of recommending counselling – and certainly mediation or other forms of ADR – as extending far beyond merely ticking regulatory boxes.

We are not psychologists or counsellors, but we do encounter people at very stressful times in their lives. This has been acknowledged and studied in a developing area of academic review, focusing on the underdeveloped relationship between law and emotion in many areas, including contract, property, and debt issues.

Interestingly, this underdevelopment has been shown to have a strong bias in favour of the emotionless corporate body, which was all too obvious in the recent debt crisis. Mediation is far ahead of the law in recognising the power of positive emotion and mindfulness, and is a key to solving many of the recurring access-to-justice issues of our time.

Embracing legal mediation

Bill Holohan SC recently highlighted his quest to understand why solicitors are so slow to embrace mediation. I, too, have been considering this matter, and see two significant stumbling blocks.

> AN INTERESTING NEW MODEL OF SOLICITOR/CLIENT CONSULTATION HAS BEEN DEVELOPING QUIETLY IN THE AREA OF REPOSSESSION LAW, WHERE MUCH OF THE TIME, ALL WE AS PRACTITIONERS COULD DO WAS GIVE GENERAL OLD-FASHIONED ADVICE, ENCOURAGING THE CLIENTS THEMSELVES TO INTERFACE DIRECTLY WITH THEIR BANKS, CREDITORS, STATE AGENCIES, AND EVEN THE COURTS

First, it can be difficult for solicitors to understand our role in mediation, and how we can restructure our work and fee-charging practices to accommodate this. In my experience, mediations are far more successful when each side's solicitor attends the mediation and work on finalising the mediated agreements as part of the process. This work involves a significant amount of chargeable time, and can often mean that cases (particularly difficult and time-consuming ones) can be resolved much more efficiently and to the satisfaction of the parties involved.

The second big stumbling block in many unsuccessful mediated disputes is the mediator's inability to help the parties overcome emotions that are blocking progress to resolution. Those who are most angry and feel most victimised often have the least satisfactory experiences in the mediation process – just as with litigation.

Mediation models

Studies in mediation introduce us to many mediation models – and different models are required, depending on the nature of the dispute and the mindsets of the parties involved. Often, particularly in commercial disputes, straightforward, fact-based, solo-mediation models prove effective.

In other highly emotionally charged disputes, co-mediated, mindful mediation models (using a mix of therapeutic and practical issue-resolving skills) help lead from emotional distress to emotional relief, which, in turn, creates an environment for mediating a practical resolution.

Gwyneth Paltrow drew world attention to 'conscious uncoupling' as a mindful way to resolve family-law disputes, which is an effective mix of therapeutic and practical legal mediation.

These models can assist the most distressed clients find an early resolution, rather than stalemate and long frustrating delays. Recent statutory and judicial encouragement, and now COVID-based delays, have given rise to even more reasons for solicitors and clients to seek the benefits of mediated early resolutions, instead of further clogging the continually overburdened courts system.

Mindfulness and mediation are much used words, but it is now time to embrace their underlying principles in practice. g

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Caught in the act

The *Assisted Decision-Making (Capacity) (Amendment) Bill 2022* is set to introduce important amendments to the 2015 act. Eimear Burke, Hannah Unger and Ciara Dowd BL spotlight some of the more significant changes

> EMPOWERING THE DECISION SUPPORT SERVICE TO RESOLVE DISPUTES AND MAKE DETERMINATIONS WHERE APPROPRIATE, WITH APPEALS TO THE CIRCUIT COURT, ALIGNS POWER WITH EXPERTISE, WHILE MAINTAINING OBJECTIVE OVERSIGHT

The full commencement of the *Assisted Decision-Making (Capacity) Act 2015* has been delayed until early 2023. In part, this is due to delays in progressing the *Assisted Decision-Making (Capacity) (Amendment) Bill 2022*, which makes many important changes to the 2015 act.

Some of the more important amendments in the 2022 bill relate to the powers of the director of the Decision Support Service (DSS) and how practitioners might interact with those. In advance of the expected 2023 commencement of the 2015 act's regime, it will be important for solicitors to understand its regulatory framework, as they will no doubt be coming into contact with persons with capacity issues who may require an intervention under the 2015 act framework.

Generally, the amendments in the 2022 bill appear aimed at empowering the director of the DSS. These amendments have the dual advantage of (a) preserving authority with the expert body, and (b) reducing court applications on an already overburdened courts system.

Decision supports

The Decision Support Service was established by the 2015 act to, among other things, regulate and register decision support arrangements, supervise the actions of decision supporters, and investigate complaints made against them under the 2015 act.

Decision supporters include decision-making assistants (part 3 of the 2015 act), co-decision-makers (part 4), decision-making representatives (part 5), attorneys (part 7), and healthcare representatives (part 8). Decision supports under the act may be availed of by 'relevant persons' – that is, a person whose capacity is in question or may shortly be in question in respect of one or more matters, or a person who lacks capacity in respect of one or more matters.

Reporting requirements

Certain decision supporters under the 2015 act will be required to report to the DSS on their activities. Where there is a failure to report or the reporting is incomplete, or gives rise to concerns, the director may take action against the decision supporter.

Similarly, an interested party may complain to the director about a decision supporter, and the director may then investigate the complaint. The director may also choose to investigate a decision supporter at her own initiative.

Complaints may arise on the basis that, among other things, a decision supporter is acting outside of the scope of the agreement or court order, or that a decision supporter is unsuitable, or that the decision support is not appropriate to the capacity needs of the relevant person, or that the decision supporter is not acting in line with the guiding principles of the act.

As part of her investigation, the director may commission a visitor or meet with the person being supported in their decision-making, summon witnesses, and may take evidence under oath.

Under the 2015 act, where the director deems a complaint to be well founded, she may apply to the Circuit Court for a determination in respect of the decision supporter, which may, in turn, order that decision supporter to no longer act in that capacity in relation to the relevant person.

While readers familiar with the 2015 act may be aware of the relevant investigations and complaints processes, the 2022 bill will make important amendments that practitioners in the area should have regard to ahead of the commencement of the regime.

Director determinations

A number of the amendments in the bill will give the director the power to make determinations, in respect of which the director has to apply to court under the 2015 act, as enacted.

For example, the amendment to section 24(3)(ii) would mean that the director can make the determination to refuse to register a co-decision-making agreement if she has concerns.


PIC: SHUTTERSTOCK

Similarly, the amendments to sections 27(4)(4A) and 75(7) would empower to the director to remove co-decision-makers and attorneys due to incomplete reporting.

Practitioners should be aware that interested parties will be entitled to appeal these director determinations. Nevertheless, increasing the director's power in this respect represents good regulatory practice. The DSS will have expertise to deal with these matters. This will reduce the burden on the courts, but the courts will retain their oversight through appeals.

A further series of amendments in the bill empowering the director are those relating to the informal resolution of disputes where complaints against decision supporters are deemed well-founded. This process involves the provision of clarification on the role of the decision supporter by the director to the supporter, presumably in a scenario where, for example, the director believes a family members who is a supporter has been acting in good faith, but may not understand the limits of their role.

In many cases, this should avoid disruption and enable the already established decision-support arrangement to continue, as well as help avoid recourse to the courts for determinations. This, again, represents good regulatory practice by encouraging an exhaustion of remedies before entering adversarial litigation and burdening the courts.

Temporary prohibition orders

A further proposed amendment to be aware of would be the addition of section 96A. This would give the director power to seek orders from the Circuit Court to temporarily prohibit a decision supporter from acting in that capacity, while the DSS investigation is ongoing. The court will have to be satisfied that there is an immediate risk of harm to the relevant person, or the property of the relevant person, before making such an order.

This would provide the director with an important and necessary power to act to protect the relevant person and/or their assets.

New registration system

Practitioners should also be aware of the proposed new two-stage system for registration and notification of enduring powers of attorney (EPA) contained in the 2022 bill. This proposal will give more oversight to the DSS in respect of EPAs.

The new system will have donors register the document containing the EPA with the DSS on execution. The DSS will then review the EPA and identify any issues of compliance. This will give more certainty to donors that the EPA they have executed is fit for purpose. This will also remove the risk that the EPA will be lost, and should ensure that issues are resolved when the donor has capacity and, therefore, reduce subsequent litigation.

The 2022 bill contains many practical proposed amendments that accord with common sense and good regulatory practice. Empowering the DSS to resolve disputes and make determinations where appropriate, with appeals to the Circuit Court, aligns power with expertise, while maintaining objective oversight. g

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Take me to your e-leader!

What should leadership look like in the era of remote working? Dr Melrona Kirrane examines 'e-leadership' in the context of corporate democracy, and how to establish a satisfying social climate where team spirit and a sense of unity prevail

E-LEADERS NEED TO CARVE OUT EXTRA TIME TO CONNECT IN A MORE PERSONAL MANNER WITH THEIR TEAM. THIS WILL HELP TO ADDRESS AND OVERCOME FEELINGS OF ISOLATION AND DISCONNECTION

As remote working appears to be here for the long haul, the pressure is on for leaders to rise to the challenges of this new world order. While the essence of leadership is the capacity to influence others towards achieving organisational goals, these days, that influence process is made a little more difficult due to the hybrid nature of many work environments. Additional skills are required of leaders to remain influential and maintain a sense of unity in their now often-dispersed teams. What is needed is called 'e-leadership'.

While the behaviours of leaders across contexts have been identified to include influencing, inspiring, and engaging others in a manner that considers both the wellbeing of others and task accomplishment, e-leadership embodies all these features, and just a little more. E-leadership emphasises democracy and rests on the establishment of a satisfying social climate, where team spirit and a sense of unity prevails. In practice, this means that e-leaders demonstrate a number of key behaviours.

Getting the work done

At the operational level, e-leaders need to ensure that team members have access to all the information and training they need to get their work done. For example, support staff may benefit from paralegal training, while your junior team members might benefit from case intake and management training.

Time should be allocated to provide team members with clarification and explanations where necessary. As an e-leader, it's important to review work procedures and think about how work tasks could be made easier to complete. So try to eliminate unnecessary procedures that complicate or impede goal accomplishment.

Resist the temptation to over-manage team members and, instead, provide staff with a little more autonomy. Focus on output rather than working hours – and clearly articulate your belief in the integrity of staff members to perform at high standards, regardless of their location.

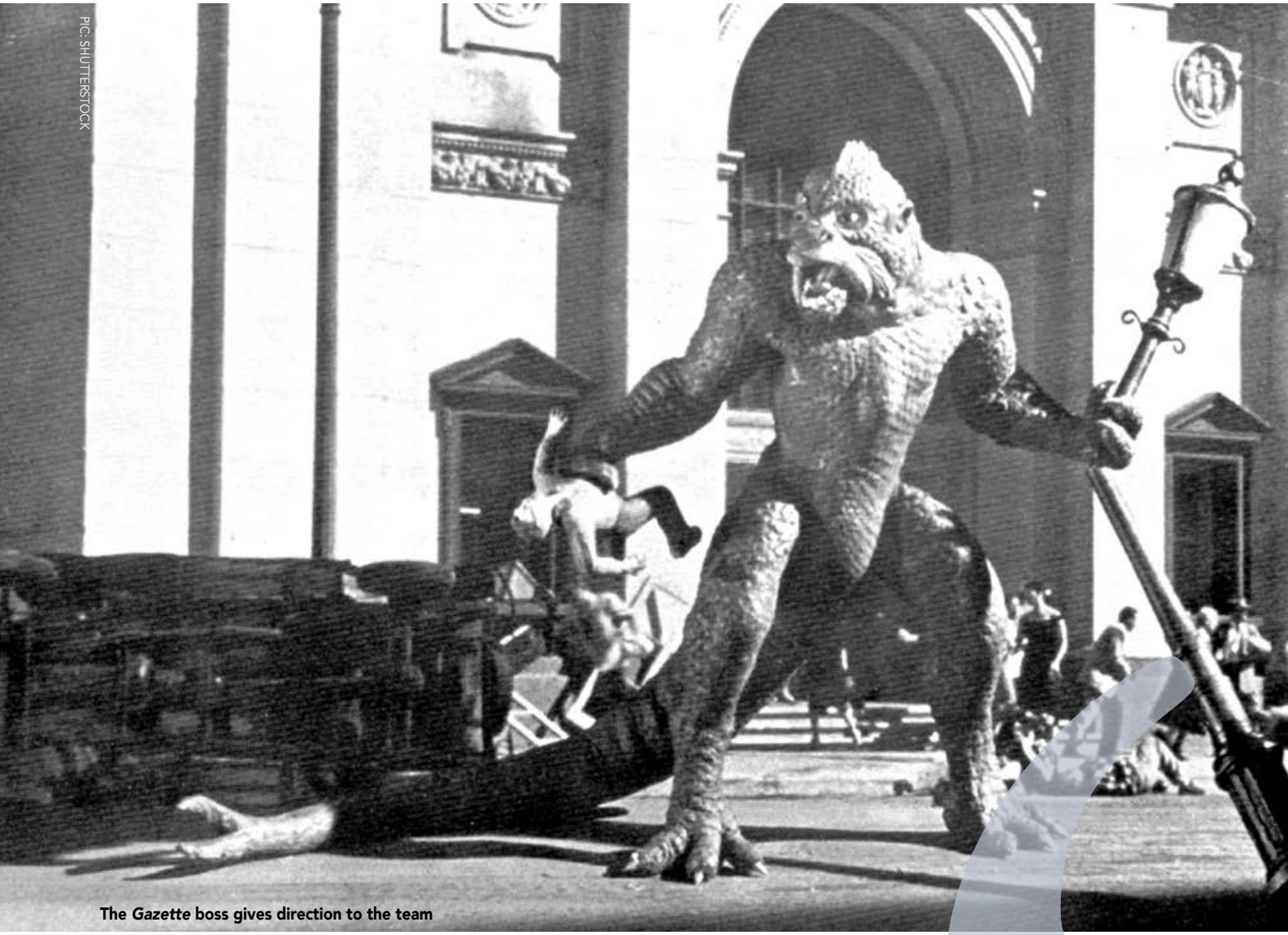
Team spirit

Ensuring work is done to the highest professional standards does not only rely on efficient operations management. In this hybrid environment, e-leaders are called upon to demonstrate excellence in communication, along with a solid set of sophisticated personal and interpersonal skills to help bridge a divide that may open up between people working in the office and people working at home.

Thus, e-leaders need to carve out extra time to connect in a more personal manner with their team. This will help to address and overcome feelings of isolation and disconnection that are common among those who do not work in the office – who can feel left out, unimportant, and even lonely.

To counteract this, e-leaders should schedule social check-ins with staff where the topics for discussion are not necessarily about work tasks, but are more informal casual chats where each can share some personal exchanges. This is a great opportunity to hear what individual staff members have to say, and for e-leaders to demonstrate their openness to new ideas. It also helps to keep the social bond between staff members alive and well, and connects people together in a meaningful sense.

These occasions of more informal chat can be used to encourage and praise all firm members, and to communicate belief in the capacity of members to deliver on their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The *Gazette* boss gives direction to the team

objectives. Investing in these activities will serve to enrich the bond between leaders and team members, and create a positive work atmosphere that promotes a sense of connectedness, community, and belonging among all concerned.

Psychologically safe

Engaging in this type of casual interaction helps you build what is called a psychologically safe work environment. It is one where people will speak up about mistakes they made, gaps in their knowledge, and even disagreements with you.

This is highly desirable, as it means that errors can be addressed rather than brushed under the carpet, and people can freely speak their mind rather than self-censor. In this way, the collective body of knowledge is enhanced, which not only drives performance excellence, but also cements meaningful relations between team members.

One important skill that supports e-leadership is emotional intelligence, as it acts as a stabilising force within the uncertain environment of hybrid working. Emotional intelligence (or 'EQ') concerns developing a high level of self and social awareness and applying that insight to building relationships with others. Self-awareness really means 'knowing thyself'. In practice, this translates as having a clear grasp of one's own personal preferences and idiosyncrasies, and using this insight to deliver one's best self in all situations.

For example, maybe you know that your general response to stress is dysfunctional – maybe you panic, put on blindfolds, or get unnecessarily aggravated by it. By developing emot-

SELF-AWARENESS REALLY MEANS 'KNOWING THYSELF'. IN PRACTICE, THIS TRANSLATES AS HAVING A CLEAR GRASP OF ONE'S OWN PERSONAL PREFERENCES AND IDIOSYNCRASIES

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ional intelligence, you can acknowledge these are default reactions, but refuse to allow them dominate your response to the matter at hand.

Constructive response

EQ helps you identify a more functional and constructive response. Such responses include calming down, taking a moment to breathe – even counting to ten. Recalling your track record of competence is particularly helpful here, as it acts as a means of self-reassurance. Taken together, these tactics allow the issue in question to be tackled constructively and productively, rather than having destructive stress-endowed responses dominate.

The second aspect of emotional intelligence is social awareness. This means being able to pick up social cues and use them to enhance your interactions with others. In practice, this translates as a strong capacity to 'read the room' and identify intangible yet informative signals about what is going on underneath the surface. It means listening and observing rather than always talking, and noting the emotional states of others.

For example, noticing a team member showing changes in their usual behaviours (such as missing regular video-call check-ins) may suggest that they are struggling and may appreciate you reaching out to offer support. It may be helpful to know that – unlike cognitive ability, or IQ – evidence suggests that emotional intelligence can be enhanced by undertaking a personal-leadership development programme.

Building unity

One important contextual feature of effective e-leadership is trust between each member of the team. Leaders have to be perceived as trustworthy by staff members, while staff members have to be trusted by leaders to perform according to work standards. There are four things leaders can do to enhance their trustworthiness:

- *Demonstrating competence*: in practice, this means being on top of their game with respect to professional standards and practice. It means getting quality results, resolving problems, developing professional expertise, using their skills to help others, and being the best at what they do. It means being able to give full and open answers to questions, as well as comprehensive and clear explanations of complex matters. But staff have to see all this in practice, so leaders need to find ways to exhibit their competence on an ongoing basis.
- *Acting with integrity*: to build trustworthiness is to act with integrity. In practice, this means keeping confidences, admitting when you're wrong, honesty and sincerity in communication, and respectful non-judgemental engagement with others. We expect that professionals embody these values, but leaders need to be explicit in how they demonstrate them. So, speak up when you've made a mistake, don't divulge secrets, and apologise if offence has been caused.
- *Openness to sharing*: being open to sharing more of yourself than just your professional self is the third ingredient of trustworthiness. Rather than centring law and the legal sector in all conversations, how about telling people about your hobbies and interests? What about recounting an event like a recent hike up a mountain, or a family birthday celebration, or your thoughts on a film you watched? These activities help you to come across as more than just a 'legal eagle' to your staff, but a 'real live human being' that people can really relate to. When people realise that, of course, you are just another human being, exchanges are more authentic. The fabulous consequence to this is that people reciprocate with similar personal disclosures, and thus the trust bond is strengthened.
- *Being dependable*: finally, leaders have to demonstrate clearly that they can be depended upon. In practice, this means showing up on time, doing what you say you will do, being consistent rather than unpredictable, and following up on all matters raised rather than leaving things hanging. People then have faith in you as someone they can rely on, and someone they can trust to be as good as their word.

When leaders commit to these behaviours on a day-to-day basis, it strengthens the trust bond between themselves and their team members. Taken together, while research in the field of e-leadership is still in its infancy, the ideas shared here should support leaders' transitions to the e-leadership space.

As leaders commit to building skills in the competencies outlined and become more proficient in demonstrating them in their behaviour, the wellbeing of their teams and organisations can be enhanced. g

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> A PSYCHOLOGICALLY SAFE WORK ENVIRONMENT IS ONE WHERE PEOPLE WILL SPEAK UP ABOUT MISTAKES THEY MADE, GAPS IN THEIR KNOWLEDGE, AND EVEN DISAGREEMENTS WITH YOU. THIS IS HIGHLY DESIRABLE, AS IT MEANS THAT ERRORS CAN BE ADDRESSED RATHER THAN BRUSHED UNDER THE CARPET, AND PEOPLE CAN FREELY SPEAK THEIR MIND RATHER THAN SELF-CENSOR

Dominating the field

A recent opinion provides useful guidance on the correlation between the roles of data-protection supervisory authorities and national competition authorities, and the meaning of 'consent'. Dr James Kinch explains

THE AG OBSERVED THAT, IN EXERCISING ITS POWERS, A COMPETITION AUTHORITY MUST ASSESS WHETHER THE CONDUCT IN QUESTION ENTAILS RESORTING TO METHODS OTHER THAN THOSE PREVAILING UNDER MERIT-BASED COMPETITION

News from the EU and International Affairs Committee. Edited by TP Kennedy, Director of Education

The recent opinion of Advocate General Rantos in Case C-252/21, concerning a prohibition imposed by the German Federal Cartel Office on Meta Platforms Ireland (formerly Facebook Ireland), provides instructive guidance on the correlation between the roles of data-protection supervisory authorities and national competition authorities, and the meaning of 'consent' and other lawful processing grounds within the system of the GDPR.

The issues raised stem from the practice of collecting data from other group services, as well as from third-party websites and apps, via integrated interfaces or via cookies placed on the user's computer or mobile device, linking that with the user's Facebook account and then using it.

To collect and process user data, Meta Platforms relies on the contract for the use of the services entered into with its users when they click on the 'sign-up' button, thereby accepting Facebook's terms of service. Acceptance of those terms of service is an essential requirement for using the Facebook social network ('the practice at issue').

Processing data prohibition

The request for a preliminary ruling was made by the Oberlandesgericht Düsseldorf (Higher Regional Court, Düsseldorf, Germany) in proceedings between companies in the Meta group and the Bundeskartellamt – the Federal Cartel Office (FCO) – concerning the decision by which the FCO prohibited the applicant in the main proceedings from processing data as provided for in the terms of service of its Facebook social network and from implementing those terms of service, and imposed measures to stop it from doing so.

The FCO based its decision, among other things, on the fact that, under the relevant German law against restrictions on competition, the processing in question constituted an abuse of the company's dominant position in the social-media market for private users in Germany. Meta brought an action against the decision at issue, which resulted in the request for a preliminary ruling.

As to the competence of the FCO, the advocate general observed that, subject to verification by the referring court, it appeared that the FCO, in the decision at issue, did not in fact penalise a breach of the GDPR by Meta, but proceeded, for the sole purpose of applying competition rules, to review an alleged abuse of its dominant position while taking account, among other things, of that undertaking's non-compliance with the provisions of the GDPR. He accordingly considered that the question as to a competition authority's ability to decide, as the main issue, on a breach of the GDPR, and to issue an order to end that breach within the meaning of the GDPR, was irrelevant.

Compatibility of conduct

Although a competition authority is not competent to establish a breach of the GDPR, he considered that that regulation did not, in principle, preclude authorities other than the supervisory authorities, when exercising their own powers, from being able to take account, as an incidental question, of the compatibility of conduct with the provisions of the GDPR. He considered that especially the case where a competition authority exercises the powers conferred on it by article 102 TFEU and by the first paragraph of article 5 of Regulation (EC) No 1/2003, or by any other equivalent national provision.

In support of that view, he observed that, in exercising its powers, a competition authority must assess, among other things, whether the conduct in question entails resorting to methods other than those prevailing under merit-based competition, considering the legal and economic context in which that conduct takes place (C-413/14 P *Intel v Commission*, at paragraph 136).

In that respect, he considered that the compliance or non-


PIC: ALAMY

compliance of that conduct with the provisions of the GDPR – not taken in isolation, but considering all the circumstances of the case – may be a vital clue as to whether that conduct entails resorting to methods prevailing under merit-based competition, it being stated that the lawful or unlawful nature of conduct under article 102 is not apparent from its compliance or lack of compliance with the GDPR or other legal rules.

Sincere cooperation

As to what obligations a competition authority has in the context of the application of the principle of sincere cooperation enshrined in article 4(3) TFEU, he observed that the investigation, albeit incidental, by a competition authority of an undertaking's conduct in the light of the GDPR carries the risk of differing interpretations of that regulation by the competition authority and the supervisory authorities, which could in principle undermine the uniform interpretation of the GDPR.

Even without a decision by the competent supervisory authority, he considered it is still the competition authority's duty to inform and cooperate with the competent supervisory authority where that authority has begun an investigation of the same practice or has indicated its intention to do so, and possibly to await the outcome of that authority's investigation before commencing its own assessment, insofar as that is appropriate and is without prejudice to the competition authority abiding by a reasonable investigation period, and the rights of defence of the data subjects.

Sensitive data

As to whether article 9(1) of the GDPR must be interpreted as meaning that the practice at issue, when it concerns visits to third-party websites and apps, involves processing the types of sensitive personal data mentioned, which is prohibited, and if so, whether article 9(2)(e) of that regulation must be interpreted as meaning that a user manifestly makes public (within the meaning of that provision) the data revealed by visiting those websites and apps, or entered into those websites or apps, or resulting from clicking on buttons integrated into those websites or apps, he observed that the practice at issue entails the processing of personal data, which is, in principle, liable to fall within the scope of that provision and to be prohibited where the data processed 'reveal' one of the sensitive situations referred to therein.

He considered it necessary, therefore, to establish whether and to what extent visiting websites and apps or entering data into them may be 'indicative' of one of the sensitive situations listed in the provision in question. In that context, he doubted whether it is relevant (or always possible) to distinguish between the data subject *merely being interested in* certain information and the data subject *belonging to* one of the categories covered by the provision in question.

Although the parties to the main proceedings have opposing views in that regard, he considered that the answer to that question must be sought on a case-by-case basis and regarding each of the activities comprising the practice at issue.

However, he noted that it should be clarified that the existence of categorisation within the meaning of that provision is independent of whether that categorisation is accurate or correct (see *EDPB*

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Guidelines, paragraph 125). What counts is the possibility that such categorisation could create a significant risk to the fundamental rights and freedoms of the data subject, as stated in recital 51 of the GDPR, regardless of whether that possibility materialises. Further, the aim of the provision in question is, in essence, objectively to prevent significant risks to the fundamental rights and freedoms of data subjects arising from the processing of sensitive personal data, irrespective of any subjective element, such as the controller's intention.

Manifestly made public

With regard to the inclusion in the wording of article 9(2)(e) of the GDPR of the adverb 'manifestly', and the fact that the provision constitutes an exemption to the prohibition on processing sensitive personal data, he observed that it requires a particularly stringent application of that exemption, on account of the significant risks to the fundamental rights and freedoms of data subjects. For that exemption to apply, the user must, in his opinion, be *fully aware* that, by an *explicit act*, he or she is making personal data public.

He found that, in the case under consideration, conduct consisting in visiting websites and apps, entering data into those websites and apps, and clicking on buttons integrated into them cannot in principle be regarded in the same way as conduct that manifestly makes public the user's sensitive personal data within the meaning of article 9(2)(e) of the GDPR.

Further, in relation to the relevance of any consent given by the user within the meaning of article 5(3) of Directive 2002/58, so that personal data may be collected by cookies or similar technologies, as described by the referring court, he did not consider such consent, in view of its specific purpose, to be sufficient to justify the processing of sensitive personal data collected by such methods.

Indeed, such consent, which is necessary to install the technical means to capture certain user activities, does not involve the processing of sensitive personal data and cannot be regarded as a wish to make such data manifestly public within the meaning of article 9(2)(e) of the GDPR.

Necessity and legitimate interest

As to the question whether an undertaking, such as Facebook Ireland, which operates the practice at issue, justifies collecting data for these purposes from other group services and third-party websites and apps via integrated interfaces (such as Facebook Business Tools) or via cookies or similar storage technologies placed on the internet user's computer or mobile device, linking those data with the user's Facebook account and using them on the ground of necessity for the performance of the contract under article 6(1)(b) of the GDPR or on the ground of the pursuit of legitimate interests under article 6(1)(f) of the GDPR, he found that the GDPR must be interpreted as meaning that the practice at issue, or some of the activities that comprise it, may be covered by the exemptions laid down in those provisions, as long as each data-processing method examined fulfils the conditions provided for by the justification specifically put forward by the controller, and that therefore:

- The processing is objectively necessary for the provision of the services relating to the Facebook account,
- The processing is necessary for the purposes of the legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, and does not have a disproportionate effect on the fundamental rights and freedoms of the data subject,
- The processing is necessary to respond to a legitimate request for certain data, to combat harmful behaviour and promote security, to conduct research in the public interest, and to promote safety, integrity, and security.

Consent and dominant undertakings

As to whether articles 6(1)(a) and 9(2)(a) of the GDPR are to be interpreted as meaning that consent within the meaning of article 4(11) of that regulation may be given effectively and freely to an undertaking having a dominant position in the national market for online social networks for private users, he considered that any dominant position on the market held by a personal-data controller operating a social network is a factor when assessing whether users of that network have given their consent freely.

The market power of the controller could lead to a clear imbalance, such as where the provision of a service is conditional on consent to the processing of personal data that is not necessary for the performance of that contract. Freedom of consent does not arise if the data subject has no genuine or free choice, or is unable to refuse or withdraw consent without detriment.

However, it should be clarified that, for such a market power to be relevant from the point of view of enforcing the GDPR, it need not necessarily be regarded as a dominant position within the meaning of article 102 TFEU. Besides, that circumstance alone cannot, in principle, render the consent invalid.

He accordingly found that the validity of consent should be examined on a case-by-case basis, in the light of the other factors mentioned, considering all the circumstances of the case, and the controller's responsibility to demonstrate that the data subject has given his or her consent to the processing of personal data relating to him or her. g

Dr James Kinch is a solicitor in the Chief State Solicitor's Office.

LOOK IT UP

CASES:

- *Intel v Commission* (Case C-413/14 P)
- *Meta Platforms and Others* (Case C-252/21, opinion of Advocate General Rantos, 20 September 2022)

LEGISLATION:

- Council Regulation (EC) No 1/2003 (16 December 2002)
- *Directive on Privacy and Electronic Communications* (2002/58/EC), article 5(3)
- European Data Protection Board, *Guidelines 8/2020*, paragraph 125
- *General Data Protection Regulation* – see recital 51; article 4(11); article 6(1)(a); 6(1)(b); article 6(1)(f); article 9(1); article 9(2)(a); and article 9(2)(e)
- *Treaty on the Functioning of the European Union* (TFEU) (article 102; article 4(3))

NOTICE: THE HIGH COURT

In the matter of Eugene Kearns, a solicitor practising as Eugene P Kearns Solicitors at 10 Lower Abbey Street, Dublin 1, and in the matter of the *Solicitors Acts 1954-2015* [2022 no 177 SA]

Take notice that, by order of the President of the High Court made on 28 October 2022, it is ordered that Eugene Kearns, solicitor, practising as Eugene P Kearns Solicitors at 10 Lower Abbey Street, Dublin 1, be suspended from practice from 14 November 2022 and be prohibited from holding himself out as a solicitor entitled to practise until further order of the court.

Niall Connors,
Registrar of Solicitors,
Law Society of Ireland,
November 2022

SOLICITORS DISCIPLINARY TRIBUNAL

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

In the matter of Maureen Lane, a solicitor previously practising as Lane & Co Solicitors at Ducart Suite, Castletroy Park Commercial Campus, Limerick, and in the matter of the *Solicitors Acts 1954-2015* [2019 DT71]

Law Society of Ireland (applicant)
Maureen Lane (respondent solicitor)

On 19 July 2022, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct, in that she failed to ensure that there was furnished to the Society a closing accountant's report, as required by regulation 33(2) of the *Solicitors Accounts Regulations 2014* (SI 516 of 2014) in a timely manner or at all, having ceased practice on 8 August 2018.

The tribunal ordered that the respondent solicitor:

1) Stand advised and admonished,
2) Pay a sum of €300 to the compensation fund,
3) Pay the sum of €1,212 as a contribution towards the whole of the costs of the Society.

In the matter of Oliver Tighe, a solicitor formerly practising as a solicitor in the firm of Gibson & Associates, LK House, Port Road, Letterkenny, Co Donegal, and in the matter of the *Solicitors Acts 1954-2015* [2018/DT82]

Law Society of Ireland (applicant)
Oliver Tighe (respondent solicitor)

On 25 July 2022, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct, in that he:

1) Between September and October 2013, improperly facilitated the conveyancing of property from a named client to a named former client in circumstances where he ought to have known that the transaction was not a *bona fide* transaction, in all the circumstances of the case, including but not limited to (i) the history of transactions between the named client and named former client, of which he knew; (ii) the history of the valuation of the land being conveyed, of which he knew; and (iii) communications had between the named former client and the respondent solicitor,
2) Between September and October 2013, improperly misled the complainant (a solicitor acting for his named former client), in all the circumstances of the case, into believing that the property being conveyed from his named client to his named former client included a house on the land in question, insofar as he (i) failed to take any steps in relation to documents provided by his named former client (including planning permissions, certificates of identity, and certificates of planning compliance), when those documents clearly related to a house not part of the land being conveyed (a fact of which the respondent ought to have known); and (ii) engaged in correspondence with the complainant with the effect of misleading the complainant into believing that the property being conveyed by his named client to his named former client included a house on the land in question,
3) In the alternative, misled the complainant, by reason of carelessness, into believing that the property being conveyed from his named client to his named former client included a house on the land in question,
4) Failed to take any appropriate steps to clarify, when it would have been appropriate in all the circumstances to do so, that a house did not form part of the lands being sold.

The tribunal ordered that the respondent solicitor:

1) Stand advised and admonished,
2) Pay a sum of €5,000 to the compensation fund,
3) Pay a sum of €3,000 as a contribution towards the whole of the costs of the Society.

WILLS

Coffey, Teresa (deceased), late of Clongiffen, Longwood, Enfield, Co Meath, who died on 10 December 2021. Would any person with knowledge of any will made by the above-named deceased please contact Brian Callaghan of Regan McEntee & Partners, Solicitors, High Street, Trim, Co Meath; DX 92002 Trim; tel: 046 943 1202

Coughlan, Jeremiah (deceased), late of Cooradarrigan, Schull, Co Cork, and also with addresses at 6 Dale View Road, Stanford, London; 28 Oakfield House, Perry Court, Albert Road South, Tottenham, London N15; 67A Park Road, Crouch End, London N8JN; Flat 18 Priory House, 98 Priory Road, London; and Fern View Care Home, 163 Bounds Green Road, London. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Denis O'Sullivan, Collins, Brooks & Associates, Solicitors, 6/7 Rossa Street, Clonakilty, Co Cork; tel: 023 883 332, email: dosullivan@collinsbrooks.ie

Foran, Margaret (otherwise Peggy) (deceased), late of 83 Hibernian Buildings, Albert Road, Cork, who died on 7 September 2021. Would any person having knowledge of any will made by the above-named deceased please contact Aidan O'Driscoll, Foley Turnbull Solicitors LLP, Joyce House, Barrack Square, Ballincollig, Cork; DX 2131 Cork; tel: 021 487 7170, email: aidanodriscoll@foleyturnbull.ie

Lyons, Annie (deceased), late of 40 Cardiffsbridge Road, Finglas, Dublin 11, who died on 16 August 2004. Would any solicitor or person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased please contact Thorpe & Taaffe Solicitors, 1 Main Street, Finglas, Dublin 11; DX 8005; tel: 01 834 4959, email: david@thorpetaaffe.ie

RATES

PROFESSIONAL NOTICE RATES

RATES IN THE PROFESSIONAL NOTICES SECTION ARE AS FOLLOWS:

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

HIGHLIGHT YOUR NOTICE BY PUTTING A BOX AROUND IT – €30 EXTRA

ALL NOTICES MUST BE PAID FOR PRIOR TO PUBLICATION. ALL NOTICES MUST BE EMAILED TO catherine.kearney@lawsociety.ie and PAYMENT MADE BY ELECTRONIC FUNDS TRANSFER (EFT). The Law Society's EFT details will be supplied following receipt of your email. **Deadline for Jan/Feb 2023 *Gazette*: 16 January 2023.**

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

Martin, Robert (otherwise Bob) (deceased), late of 25 Lambeecher, Balbriggan, Co Dublin. Would any person having knowledge of any will executed by the above-named deceased, who died on 31 May 2019, please contact Kelly & Ryan LLP, Solicitors, Manorhamilton, Co Leitrim; tel: 071 985 5034, email: matthew@kellyryanmanor.com

McAvoy, Jacqueline (deceased), late of 27 Manorlands, Trim, Co Meath, who died on 31 January 2021. Would any person with knowledge of any will made by the above-named deceased please contact Brian Callaghan of Regan McEntee & Partners, Solicitors, High Street, Trim, Co Meath; DX 92002 Trim; tel: 046 943 1202

McCarthy, Francis (otherwise Frank, otherwise Carthy) (deceased), late of Apartment 10, St Lawrence Apartments, Harbour Road, Howth, Co Dublin. Would any person having knowledge of a will executed by the above-named deceased, who died on 9 July 2022, please contact Cooke & Kinsella Solicitors, Wexford Road, Arklow, Co Wicklow; tel: 0402 32928/40012, fax: 0402 32272, email: fergus@cookekinsella.ie

McDonagh, Patrick (deceased), late of 8 Fursey Road, Shantalla, Galway, who died on 30 August 2022. Would any solicitor or person having knowledge and details of a will made by the above-named deceased please contact Anna McLoughlin & Co, Solicitors, Bridge Street, Headford, Co Galway; tel: 093 34522, email: info@mcloughlinco.com

O'Shea, Niall (deceased) (late solicitor), of 23 Forster Close, Lucan, Co Dublin, and 25 Rathbawn Drive, Castlebar, Co Mayo, who died on 5 October 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Thomas Barry of Thomas Barry & Co, Solicitors, 11 St Stephen's Green, Dublin 2; tel: 01 677 3434, email: tom@thomasbarry.ie

Richardson, James (deceased), late of 2 Ballycoolen Cottages, Ballycoolen Road, Dublin 1, who died on 20 August 2021. Would any person having any knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact Cosgrave Solicitors, Market House, 15 Market Square, Navan, Co Meath; DX 36015 Navan; tel: 046 909 3577, email: neil@cosgravesolicitors.ie

Roche, Nora (deceased), late of Clahane, Liscannor, Co Clare, who died on 3 January 2022. Would any person having knowl-

edge of the whereabouts of any will made by the above-named deceased please contact Rory Casey, John Casey & Company, Solicitors, Bindon House, Bindon Street, Ennis, Co Clare; tel: 065 682 8159, fax: 065 682 0519, email: rory.casey@caseylaw.biz

Smith, Ann (deceased), late of The Gate Lodge, 69 Terenure Road East, Dublin 6, who died on 27 February 2022. Would any person having knowledge of the whereabouts of the original will, executed by the above-named deceased on 13 August 1997, please contact Mullany Walsh Maxwells Solicitors, 19 Herbert Place, Dublin 2; tel: 01 676 5473, email: vmarkey@mwmlegal.ie

Sutcliffe, Bernadette Mary (otherwise Maura) (deceased), late of 4 Elm Court, Kiltalawn, Tallaght, Dublin 24. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact O'Brien Ronayne Solicitors, 5A Main Road, Tallaght, Dublin 24; tel: 01 424 6200, email: geraldine@obr.ie

TITLE DEEDS

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 premises known as Credit Union House, Lower Road, Shankill, Dublin 18, D18 DY84: an application by Core Credit Union Limited

Any person having a freehold interest or any intermediate interest in all that and those the property known as Credit Union House, Lower Road, Shankill, Dublin 18, D18 DY84 ('the property'), held by the applicant under a lease dated 27 April 1870 and made between Mary Woods Tilly of the one part and James Whelan of the other part: take note that Core Credit Union Limited of Clara House, 37 Glenageary Park, Glenageary, Co Dublin, being the party now entitled to the lessee's interest in the property, intends to submit an application to the county registrar for the county of Dublin for the acquisition of the freehold interest in the property, and any party asserting that they have a superior interest in the property are called upon to furnish evidence of the title to the property to the below named within 21 days from the date of this notice.

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

Date: 2 December 2022
Signed: O'Callaghan Legal (solicitors for the applicant), F15 The Pottery, Baker's Point, Pottery Road, Dún Laoghaire, Co Dublin

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 an application by Gabriel Claffey and Enda Claffey in respect of 84 South Circular Road, Dublin 8

Take notice any person having any interest in the freehold estate of the following property: 84 South Circular Road, Dublin 8, held under a lease dated 8 September 1871 between Joseph Kelly of the one part and John Duggan of the other part for a term of 143 years, subject to the yearly rent of £8.

Take notice that Gabriel Claffey and Enda Claffey intend to submit an application to the county registrar for the city of Dublin for 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 with 21 days from the date of this notice.

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

Date: 2 December 2022
Signed: Thomas Barry & Co (solicitors for the applicant), 11 St Stephen's Green, Dublin 2

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 certain premises situate in Cooper's Cross Office, Dublin 1: an application by KWCI GP Limited in its capacity as general partner of KWCI Limited Partnership

Take notice any person having a freehold interest or any intermediate interest in all that and those such portion of the lands, hereditaments, and premises comprised in and demised by a lease dated 1 March 1867 between (1) William Harte and Newton Williams, (2) Edward Arthur Carolin, (3) Charles Henry Carolin and others, and (4) Richard Martin, held for the term of 999 years from 1 March 1867, subject to the yearly rent of £187.50

per annum and the covenants and conditions therein contained ('the lease'), being the first premises, the third premises, and the fourth premises assigned by a deed of conveyance, assignment, and transfer dated 28 September 2018 between (1) Danninger Unlimited Company (in statutory receivership), (2) Jarmar Properties Limited (now dissolved), (3) National Asset Property Management Designated Activity Company, (4) David Carson, and (5) KWCI GP Ireland, in its capacity as general partner of KWCI Limited Partnership, and which are respectively more particularly described and outlined in red on maps 4, 11 and 12 attached thereto, and which hereditaments and premises comprised in and demised by the lease are therein in their entirety described as "all that and those the aforesaid six Backfoot Lots marked on the original map of the North Strand made in the year 1718 (a tracing of which is annexed hereto) as numbers 93, 94, 95, 96, 97 and 98, all situate lying and being on the North Strand aforesaid in the parish of Saint Thomas and county of the city of Dublin, said lots 93, 94, 95 and 96 being bound on the north by Sheriff Street, on the south by Mayor Street, and on the east by lot number 92, and on the west by Fish Street, and containing in front to Sheriff Street 500 feet, and in front to Mayor Street 500 feet, and in depth from front to rear 500 feet, and said lots 97 and 98 being bounded on the north by Sheriff Street, on the south by Mayor Street, on the east by Fish Street, and on the west by lot number 99. containing in front to Sheriff St 244 feet, and in front to Mayor Street 244 feet, and in depth from front to rear 500 feet, be the said several admeasurements, or any of them more or less together with the messuages or tenements and all other erections and buildings which may be now or shall be hereafter erected or built on the same lots pieces or parcels of ground, hereditaments and premises, and all ways, paths, passages, easements, water courses, and appurtenances whatsoever to the hereby demises premises or any part thereof belonging or in anywise appertaining".

Take notice that KWCI GP Limited, in its capacity as general partner of KWCI Limited Partnership, intends to submit an application to the county registrar for the county of Dublin for the acquisition of the freehold interest and any intermediate interest in the aforesaid property, and any party asserting that they hold a superior interest(s) in the aforesaid property are called upon to furnish evidence of the title to the aforementioned property to the below named within 21 days from the date of this notice.

In default of any such notice being received, KWCI GP Limited, in its capacity as general partner of KWCI Limited Partnership, intends to proceed with the application before the county registrar for the county of Dublin 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 directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown or ascertained.

Date: 2 December 2022

Signed: A&L Goodbody (solicitors for the applicant), 3 Dublin Landings, North Wall Quay, Dublin 1

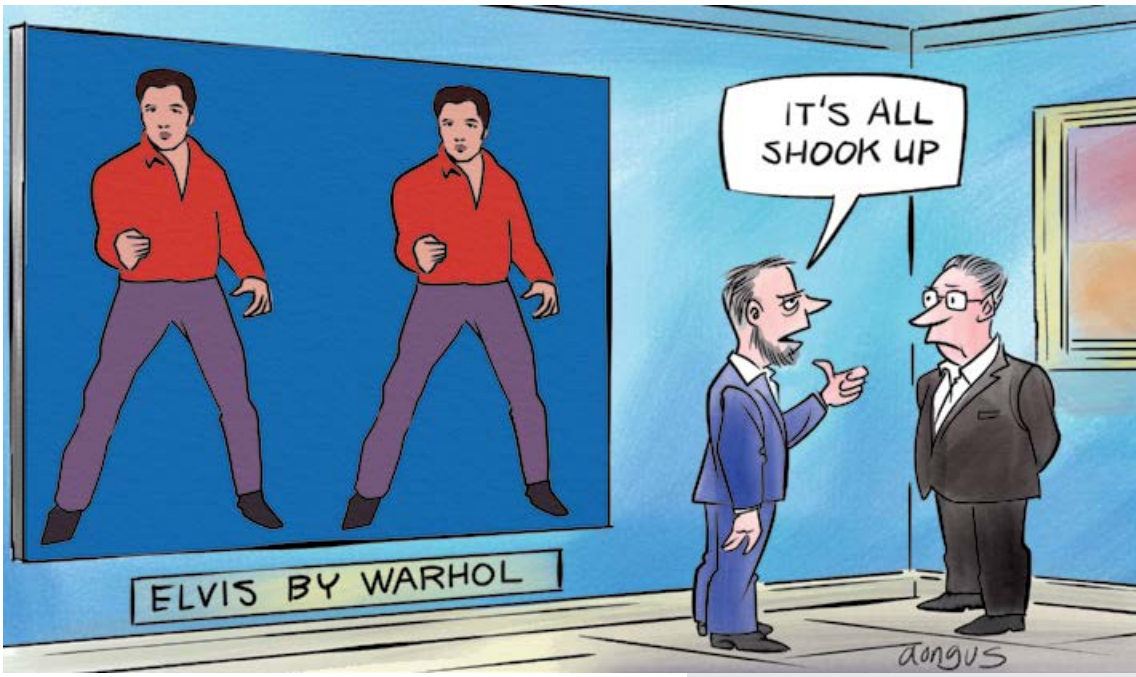
PRO BONOBO

Toasted pop art

● In 2018, a fire at billionaire Ronald Perelman's estate left most of his multimillion-dollar art collection unharmed, according to the *New York Post*. Now, however, it's a case of 'Burning Love', as various holding companies affiliated with Perelman are engaged in a $410-million battle with a consortium of insurers over five high-value paintings they claim were damaged during the fire.

According to artnet.com, the insurers have already paid out around $141 million, but are challenging the latest claims.

Perelman acknowledges that no fire or water touched the paintings, which were protected with museum-grade protective cases, but said about Andy Warhol's *Elvis* that the colours had lost their "depth and character. It doesn't pop like it used to be. You know, I go back, that's why they called it pop art."



Breaking toad

● Kissing a toad is unlikely to find you a prince – but that doesn't stop people trying.

The US National Park Service (NPS) has had to warn the public against licking the Colorado River Toad, according to NPR. The toad secretes a toxin that contains a powerful hallucinogen, and smoking the secretions has grown in popularity so much so that the species is now considered under threat in New Mexico due to "collectors that want to use the animal for drug use".

"As we say with most things you come across in a national park, whether it be a banana slug, unfamiliar mushroom, or a large toad with glowing eyes in the dead of night, please refrain from licking," the NPS warned on social media.

"Actually I'm not a handsome prince – I'm an hallucination."

Now the pen is in my hand

● A law lecturer claims one of her students once tried to cheat on an exam by finely etching notes on multiple plastic pens.

Legal Cheek reports that the Malaga University lecturer shared images of 11 pens that were confiscated from an unnamed former student. "Tidying up my office, I found this relic that we confiscated from a student a few years ago," Yolanda de Lucchi wrote in a tweet: "Criminal procedural law in Bic pens. What art!"

Responding, one person wrote: "The level of being able to write like this on pens and such quantity. That's hours, and surely it helped him to study without wanting to."

Spare a talent for an old ex-leper?

● Leprosy could hold the secret to repairing and regenerating body cells safely, according to researchers at the University of Edinburgh. The leprosy bacterium apparently has the ability to perform 'biological alchemy', converting one type of body tissue into another. Research with armadillos (the only other animal that can host leprosy) showed that the infection headed to the animals' livers, where it effectively hijacked the organ and reprogrammed it for its own purpose. While the livers nearly doubled in size, analysis showed them to be healthy and functional. g

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