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gazette
LAW SOCIETY

Editor: Mark McDermott FIIC ● **Deputy editor:** Dr Garrett O'Boyle ● **Art director:** Nuala Redmond
Editorial secretary: Catherine Kearney ● **Advertising manager:** Seán Ó hOisín

Volume 117, number 2

Subscriptions: €65 (€95 overseas)

Blackhall Place, Dublin 7
tel: 01 672 4828
fax: 01 672 4801
email: gazette@lawsociety.ie

PROFESSIONAL NOTICES:
See the 'Rates' panel in the professional notices section of this *Gazette*

COMMERCIAL ADVERTISING:
Contact Seán Ó hOisín, 10 Arran Road, Dublin 9
mobile: 086 811 7116, tel: 01 837 5018
email: sean@lawsociety.ie
See the *Gazette* rate card online at
www.lawsociety.ie/gazette-rates

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Members of the profession should send change-of-address details to:
IT Section, Blackhall Place, Dublin 7,
or to: customerservice@lawsociety.ie

Printing: Boylan Print Group, Drogheda

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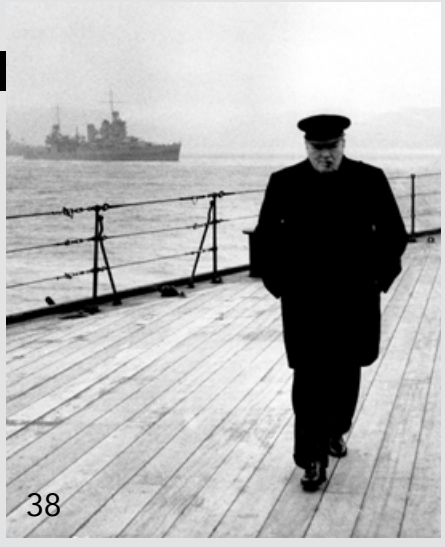
FEATURES

REGULARS



Plus ça change…

'*Plus ça change, plus c'est la même chose*' – 'the more things change, the more they stay the same' (or the fundamentals still remain). So, is this true in 2023? In the last five years, we have all seen significant change in the world – in politics, economics, and our own lives, both working and personal. We have seen and are witnessing the rise of autocracy and the rise of 'the right'. This rise always leads to a diminution of democracy and the rights of the individual.

War has broken out in Europe, and certain countries have become polarised. This development filters down through society, into our own lives, and can affect the way we do business and practise law unless we stand together and address the unfolding scenarios.

The instant response

According to the experts, the COVID crisis has fast-forwarded all of us, by at least ten years, in the development and use of technology. Virtual meetings are now part of everyday business life. Communication has changed from verbal, or from written letters, to shorter and often sharper emails and texts.

Stress and pressure have changed and increased. Solicitors have always worked long and arduous hours, but who would have considered 20 years ago that we would be at our PCs replying to numerous emails, often at 6am or in the hours and minutes approaching midnight? Technology has also raised society`s expectations, and the instant response is paramount.

The question is, are the fundamentals changing or does anything remain the same?

At each parchment ceremony, I have the honour of addressing our new solicitors. They are reminded that they are the guardians of the law, officers of the court, and that they operate to the highest standards of professional conduct and ethics. While it is easy to identify your values and principles and decide to adhere to them, it is only when pressure comes to bear on each individual solicitor that preserving those principles and values can prove challenging.

Rule of power v rule of law

In addition, there is a rise of the 'rule of power' versus the 'rule of law' and access to justice. The former centres on large corporations, the State, and substantial commercial entities.

We are professionals and abide by professional codes and conduct. Solicitors are not 'hired guns', nor do we bow to the pressure of clients whose instructions may lead us to stray away from good professional conduct or, indeed, to act in a manner that is, in fact, against the interests of the client.

In addition, technology has meant that there is less human interaction between colleagues, and professional discourtesy is on the rise. What you would put in an email is different to how you would discuss the issue on a face-to-face basis or on the phone with your colleague. These fundamentals may be changing.

The Law Society recognises the value of human interaction for the profession, which is essential to the wellbeing of solicitors. In this regard, it has introduced a five-hour, in-person CPD requirement to promote, develop, and maintain wellbeing among solicitors and to ensure that their core values and principles are maintained, and not fundamentally changed.

So we can say – providing we guard our values and principles – yes, indeed, '*plus ça change, plus c'est la même chose*'.

LAW SOCIETY OF IRELAND

> ARE THE FUNDAMENTALS CHANGING OR DOES ANYTHING REMAIN THE SAME?

Maura Derivan

MAURA DERIVAN,
PRESIDENT

THE BIG PICTURE

HIGH AND DRY

Gondoliers in Venice have been experiencing severe problems with navigating the city's canals this February due to a combination of environmental factors that have drained the city of its water. Weeks of dry winter weather have raised concerns that Italy could be facing another drought this summer. The Alps have received less than half of their normal snowfall, which is having a significant impact on rivers, while low tides of minus 60cm are making it impossible for gondolas, water taxis and ambulances in Venice to navigate many of its famous canals

PIC: SIMONE PADOVANI/ALAMY LIVE NEWS

First parchment ceremony of 2023

At the first parchment ceremony of the year at Blackhall Place on 19 January, special guests included Attorney General Rossa Fanning, Mr Justice David Barniville (president of High Court), Judge Paul Kelly (president of the District Court), and Judge Martina Baxter (Circuit Court). The Law Society was represented by President Maura Derivan, Richard Hammond SC (chair of the Education Committee), director general Mark Garrett, and director of education TP Kennedy. Pictured above are *(l to r)*: Kate Liddy-Cormican, Blanaid Callan, Molly Sheridan, Charlotte Machesney and Rachel Kennedy

Brian Cronin

ALL PICS: JASON CLARKE PHOTOGRAPHY

Bronagh McAuliffe, Aoife Noone and Peadar Flood

Paula Shine, Emma Quinn and Killian O'Sullivan

Amy Kelly and Kate Liddy-Cormican

Jack Keogh and Susan Barry

A Blackhall welcome for new Council members

ALL PICS: CIAN REDMOND

At a welcoming event for new Council members in Blackhall Place on 19 January were, front *(l to r)*: Joan Doran, Law Society President Maura Derivan, director general Mark Garrett and Kate McKenna; back *(l to r)*: Aidan Leahy, Sonya Lanigan and Brian McMullin

Susan Martin and Sonia McEntee

Joan Doran and Eamon Harrington

Michele O'Boyle

Sonia McEntee and Michelle Ní Longáin

President Maura Derivan

Blackhall victorious in *Irish Times* debate

Gavin Dowd and Ailbhe Noonan of SADSI

Ireland's longest running third-level debating competition has been won by Blackhall Place trainees Ailbhe Noonan and Gavin Dowd of the Solicitors' Apprentices Debating Society of Ireland (SADSI).

The 63rd *Irish Times* debate final was held on 17 February at St Ann's Church on Dublin's Dawson Street. The topic was that 'This house believes it is time for people of the EU to directly and democratically elect a president of the European Commission'.

The finalists were Owen O'Grady and Rob Fitzpatrick (UCD L&H), Laura Campion and Sara Rafter (UCD), and Ailbhe Noonan and Gavin Dowd (SADSI).

Irish Law Awards 2023

The Dye & Durham Irish Law Awards 2023 will take place on 9 June in the Clayton Hotel, Dublin. The entry deadline is 7 April, with a full list of 33 categories, including four new ones. Visit https://irishlawawards.ie.

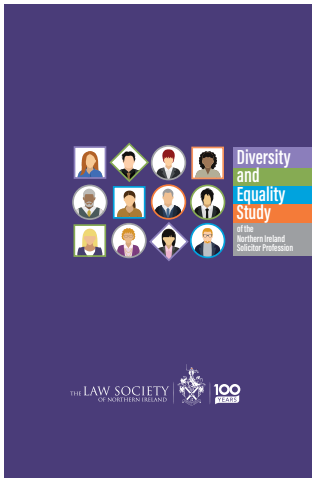
Research examines female exodus from NI legal profession

The Law Society of Northern Ireland has issued a call for participants for a research study into women's experiences of working in the solicitors' profession in the jurisdiction.

"Recent research has highlighted a significant mid-career migration of practising female solicitors from roles in private law firms to the public sector and other legal roles, and out of the profession entirely," the society said.

The organisation wants to gather evidence, and explore the reasons for these trends, in a bid to improve the experiences of women in the profession in Northern Ireland.

The Law Society of Northern Ireland published a diversity and equality study of the profession in that jurisdiction in 2022, which



contained findings of a late-2021 survey.

The survey showed that, despite women comprising the majority of working solicitors, men account for most of the senior roles in law firms. In all, 58% of partners and directors in private practice are male. The Roll of Solicitors indicates that men make up an even greater proportion of partners and senior consultants in private practice, while public sector and in-house legal roles have a significant female majority, the survey showed.

A series of workshops will be held across the North to gather information that will feed into the research.

The venues include:

- Newry – Canal Court (20 March, from 10am-12pm),
- Omagh – Silverbirch Hotel (27 March, from 10am-12pm),
- Derry – City Hotel (17 April, from 1pm-3pm), and
- Belfast – Law Society House (24 April, from 10am-12pm).

More information about the project can be found on the Law Society of Northern Ireland website or by contacting nuala.mcmahon@lawsoc-ni.org.

Judicial numbers to surge to 217

A dramatic increase in the number of judges – from 173 to 217 – has been approved by the Government, in order to clear court backlogs.

Minister Simon Harris will appoint an initial tranche of 24 new judges in the coming weeks, with a further 20 to follow the implementation of certain reforms and efficiencies.

The District Court will go from 64 to 78 judges, and the Circuit Court from 38 to 52. The High Court will go from 45 to 57 judges, and the Court of Appeal from 16 to 20. The Supreme Court remains at ten judges.

The proposed 25% expansion in judicial numbers will help to improve access to justice and will allow for the creation of a Planning and Environmental Court and dedicated Family Courts. It will also help to clear courts backlogs made worse by the COVID-19 pandemic.

Legislation will be required to increase the number of judges, which is currently capped in law for each court. A suitable legislative vehicle will need to be agreed by the Minister for Justice and the Attorney General in order to allow for the increase in judges.

Law Society President Maura Derivan said: "The appointment of additional judges in the Court of Appeal and the High, Circuit and District Courts will improve access to justice for all citizens. We have long called for increased investment in judicial resources and believe the minister's commitment to action this will be nothing short of transformative for the justice system in the public interest."

LSPT confirms 2023 events

● Law Society Professional Training has confirmed several key dates for this year.

Midlands: the Midland General Practice Update will take place on Thursday 4 May, in partnership with the Laois Solicitors' Association, Kildare Bar Association, Midland Bar Association and Carlow Bar Association. The venue is the Midland Park Hotel, Portlaoise.

Leitrim, *Longford*, *Roscommon*, *Sligo*: the date for the Essential Solicitors' Update 2023, in partnership with the Leitrim Bar Association, Longford Bar Association, Roscommon Bar Association, and Sligo Bar Association, has been changed to Thursday 25 May. The venue is the Landmark Hotel, Carrick-on-Shannon, in Co Leitrim.

Limerick and Clare: Thursday, 1 June will see the Essential Solicitors' Update 2023 in partnership with the Limerick Solicitors' Bar Association and Clare Bar Association. The venue is the Strand Hotel, Limerick City.

North-west: the North-west Practice Update will take place on Thursday 8 June, in partnership with the Donegal Bar Association and Inishowen Bar Association. The venue is Lough Eske Castle Hotel, Co Donegal.

Kerry: the Essential General Practice Update for Kerry is on Thursday 14 September, in partnership with Kerry Law Society. The venue is Ballygarry House Hotel, Tralee.

North-east: Friday 20 October is the date for the north-east CPD day, in partnership with Monaghan Bar Association, Cavan Bar Association, Louth Bar Association, and Drogheda Bar Association. The venue is the Glencarn Hotel, Castleblayney, Co Monaghan.

PIC: SHUTTERSTOCK

Connaught: Thursday 26 October will see the Connaught Solicitors' Symposium 2023, in partnership with Mayo Solicitors' Bar Association, at the Breaffy House Hotel, Castlebar, Co Mayo.

South-east: Kilkenny's General Practice Update Kilkenny, in partnership with Carlow Bar Association, Kilkenny Bar Association, Waterford Law Society and Wexford Bar Association, will be on Thursday 16 November. The venue is Hotel Kilkenny in Kilkenny.

Cork: Thursday 23 November is the date for the Cork Practitioners' Update, in partnership with the Southern Law Association, at the Kingsley Hotel, Cork.

Dublin: an early December date will be confirmed shortly for the Dublin Practice and Regulation Symposium, in partnership with the Dublin Solicitors' Bar Association.

The Law Society Business of Wellbeing Summit will take place on 3 October this year.

Pioneering US judge to address lecture

PIC: WIKIMEDIA COMMONS

Florida judge, Ginger Lerner-Wren

● The annual Law Society Human Rights Lecture this year will take place online on 7 June.

The Human Rights and Equality Committee, in partnership with Law Society Professional Training, will host Florida judge, Ginger Lerner-Wren, who will speak about her experience in presiding over the first US mental-health court. The court seeks to divert mentally-ill persons charged with misdemeanour and non-violent offences into community-based treatment as an alternative to incarceration.

Registration is now open, and attendance will offer one CPD point.

Sign up now for the 25th Calcutta Run!

● The Calcutta Run celebrates its silver jubilee this year. Taking place on 27 May, the 5k and 10k running and walking events will be followed by the bumper 'Finish-line Festival' at Blackhall Place, featuring a barbecue, DJ, kids' mini-athletics, and more.

The organisers have set a fundraising target of €300,000, with proceeds going to the projects run by the Peter McVerry Trust in Ireland and the Hope Foundation in Kolkata.

There are over 11,500 homeless people in Ireland, so the legal profession is being encouraged to pull out the stops to reach or exceed the €300k target.

Participants can register their firms' teams or as individuals at www.calcuttarun.com.

The Calcutta Run's second-round tag rugby fundraiser and golf tournament will also take place in May.

For further information, email hilary@calcuttarun.com.

ENDANGERED LAWYERS

JIYAN TOSUN AND EREN KESKIN, TURKEY


Jiyan Tosun


Eren Keskin

Jiyan Tosun provides legal support to women, LGBTI+, and others at the Legal Assistance Office Against Sexual Abuse and Rape in Detention. She also assists in cases of enforced disappearances together with members of Saturday Mothers/People. Her father disappeared in custody in 1995. She is of Kurdish origin, which, in itself, can be a cause of suspicion.

On 13 November 2022, she was sitting in a café in Istanbul with two foreign clients. She was taken with them by plainclothes police officers to a nearby police station for an identity check. She was asked about a bomb attack the same day that had left six dead and many injured. She and her clients were released shortly afterwards.

Adem Taskaya, the co-president of the Zafer Partisi (Victory Party), tweeted that Jiyan was responsible for the bombing, giving her name and profession. He removed the tweet within three minutes. Soon after, people posing as police officers posted photos and personal information about Jiyan and her family, including children, on a Telegram channel. As a result, she, members of her family, and her colleagues have been receiving threats, including death, rape, and sexual violence. Because she works with Jiyan, Eren Keskin was also targeted. Eren is a prominent human-rights lawyer, the vice-president of the Turkish Human Rights Association and a former president of its Istanbul branch.

After receiving threats, Jiyan went to the courthouse to file a complaint against Adem Taskaya and other unidentified persons, seeking that they be named and prosecuted. She waited until early the next morning. She was not able to find a prosecutor and went to the Avcilar police station and then back to the courthouse, where she succeeded in filing. She also requested official protection. On 16 November, the Ministry of Justice granted her protection measures. Adem Taskaya was charged with offences of 'insult' and illegally disseminating personal data. The trial is set for 30 May 2023.

At a press conference on 14 November, Eren Keskin played a recording of a threatening telephone message. She added that she had received hundreds of such calls, and queried how so many people could have got her telephone number. "This is a deliberate state operation," she said, noting that the number she uses was registered under Jiyan's name. "They were first calling me Jiyan. Then they started calling me Eren." Both believe that this information could only have been circulated by a public officer or official.

Alma Clissmann is a recent member of the Human Rights Committee.

DSBA 'outstanding contribution' awards


PIC: OWEN O'CONNOR

Ken Murphy and Mary Keane receiving their 'DSBA Lifetime Achievement Awards' at the Westin Hotel on 17 February *(l to r)*: Ken Murphy, Attorney General Rossa Fanning SC, Mary Keane, DSBA President Susan Martin, and Attracta O'Regan (Law Society)

Google searches throw up a few famous male and female duos. Top of the list is Bonnie and Clyde, and then there's Fred and Ginger. But comparisons were thin on the ground when the Dublin Solicitors' Bar Association awarded two 'Outstanding Contribution to the Legal Profession' awards to Ken Murphy and Mary Keane at its annual dinner on 17 February.

Murphy and Keane were the senior executives who ran the Law Society from 1995, until Ken's retirement in March 2021, when Mary took over for nine months pending the appointment of current director general Mark Garrett.

While Ken was the public face and very much 'front-of-house' in every sense, Mary was the oil that fuelled the engine. Both used their own individual skills and talents wisely. They led the profession through a period of huge transition and challenges. The legal landscape in 1995 had changed utterly in the 26 years they were together, and the awards reflected their contribution as leaders during that time.

A capacity crowd waited in anticipation of the surprise winners. None were so shocked as the recipients themselves, who had been lured to the dinner under false pretences! Both received their own unique prizes. In Ken's case, as an avowed Seamus Heaney 'superfan', a covered collection of his poetry – appropriately inscribed – was presented, while Mary (chair of the board of the National Gallery) received a covered collection of copies of some of the gallery's finest portraits.

‘Bystander intervention’ training at Blackhall Place

● A Law Society Psychological Services ‘bystander intervention’ session was attended by over 100 solicitor trainees at Blackhall Place on 2 February.

The interactive training session was delivered in partnership with University College Cork, and facilitated by Louise Crowley (UCC).

Prof Crowley spoke about understanding sexual harassment and violence and its impact, as well as possible employer and individual responses. The session examined what it meant to be an active bystander to bad behaviour, and the stages of when and how to intervene.

The trainees worked on intervention scenarios for various types of harassment, both verbal and physical.

The session heard that one in every two females, and one in every eight males, has reported some type of sexual harassment, with experiences ranging from sexist comments to inappropriate physical contact. The trainees heard that preventing workplace and sexual harassment required paying attention to the environments in which the behaviours occurred, as well as understanding community members, norms, values, and actions.

Prof Louise Crowley, UCC

The training coincided with the launch of the full-time Family and Child Law PPC course for trainees, and the trainees’ introduction to trauma-informed lawyering. That module is also run by Law Society Psychological Services, in collaboration with Dr Geoffrey Shannon.

CPD to benefit Capuchin centre

● The tenth Lawyers Against Homelessness Easter Conference will take place on Thursday 30 March from 3.30pm to 7.30pm. All proceeds will go to the Capuchin Day Centre for Homeless People at Bow Street in Dublin 7.

The speakers will include Mr Justice David Barniville (president of the High Court), Attorney General Rossa Fanning SC, and Mr Justice Garrett Simons, with more to be confirmed shortly.

The topics include commercial law and planning and environmental law. The cost of attendance is €120 per person (for those with more than five years’ PQE) or €60 per person (for those with less than five years’ PQE). Four CPD points are available for attendees, who can register at the door.

IRLI

IRLI LAUNCHES NEW *HORSEHAIR WIGS* PODCAST

● In January, Irish Rule of Law International was proud to launch the first episode of its new podcast series, *Horsehair Wigs*. Produced and presented by the award-winning Irish journalist Evelyn McClafferty, the series uses in-depth conversations with leading figures in international law to explore justice and human rights, as well as the complexities of working in this demanding field.

The first podcast featured an interview with the Irish barrister and international judge Fergal Gaynor, who has worked at the International Criminal Tribunal for the Former Yugoslavia, represented victims before the International Criminal Court, and investigated crimes in Syria and Myanmar. He is currently working as the reserve chief prosecutor at the Extraordinary Chambers of the Courts in Cambodia, commonly known as the Khmer Rouge Tribunal, and as a judge at the Kosovo Specialist Chambers.

An all-Ireland initiative, with rule-of-law programmes in Malawi, Zambia, Tanzania, and elsewhere, Irish Rule of Law International is committed to thinking and opening a conversation about the key issues informing its work. *Horsehair Wigs* will play a key part in this, highlighting contemporary ethical and moral questions surrounding the rule of law, as well as the valuable work of legal professionals from around the world.

The podcast series is being funded through the generous support of Irish Aid. With lots more exciting interviews to be released over the coming months, the first episode is available to stream on Spotify, Apple Podcasts, and Audible, as well as at the Irish Rule of Law International website, www.irishruleoflaw.ie.

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

TY students learn about law

The Law Society's Diploma Centre recently welcomed transition-year students from across Ireland for its 'Solicitors of the future' programme.

Offered annually as part of the Society's commitment to public legal education, the online programme is designed to give students the opportunity to learn about the law, and the route to becoming a solicitor, in a fun and collaborative way.

The four-day programme, which was held online during the recent mid-term break, provided participants with a solid grounding in a range of areas, including human rights, criminal and civil law, and the daily work of a solicitor. They also took part in client-interviewing workshops, a mini-mock court, and interactive sessions.

Organised by Diploma Centre course executive Suzanne Crilly, it was supported by a range of legal experts, including solicitors. barristers, and several trainee solicitors.

The programme concluded with an online certificate ceremony, hosted by the chair of the Society's Education Committee, Richard Hammond SC.

'Great power, great responsibility'

The authors of the article 'Great power, great responsibility' (*Gazette*, Jan/Feb, p32) wish to amend certain statements made in the article.

In the section entitled 'Formalities required', the fourth sentence, which read *"once the EPA is executed, notice must be given to various individuals set out in the act as soon as is practicable thereafter, and an application to register the instrument must be made to the Director of the Decision Support Service (DSS) in the form required by the act by the donor, or by the attorney with the donor's written consent, no later than three months after the date of execution or the date of receipt of all supporting documentation, whichever is the later"*, should read as follows:

"Once the EPA is executed, an application to register the instrument must be made to the Director of the Decision Support Service in the form required by the act by the donor or by the attorney with the donor's written consent, no later than three months after the date of execution or the date of receipt of all supporting documentation, whichever is the later."

Sentence six of the paragraph entitled 'Formalities required', which read: *"Once the EPA is registered, it cannot be revoked by the donor unless the court confirms the revocation. This applies for so long as the EPA is registered and whether or not the donor has capacity"*, should read:

"Once the EPA is registered, it may be varied or revoked by the donor where the instrument creating the EPA has not been notified to, and accepted by, the director under sections 71A and 71C."

The first sentence in the section entitled 'Restrictions and ineligibility' should be disregarded in its entirety, namely: *"It is important to note that, although a power may be given in relation to personal welfare, the act specifically precludes the attorney from doing any act that is intended to restrain the donor unless there are exceptional emergency circumstances (which are set out within the act)."*

Anthony Gerard Moylan (1933-2023)

It is with sadness that we mark the death of our colleague, Anthony Gerard (Gerry) Moylan, of A Gerard Moylan & Co, Solicitors, Loughrea, Co Galway. Gerry died peacefully at home on 18 January 2023 at the age of 89 years, of which 67 were spent in legal practice.

Gerry was an inspirational friend and colleague, an outstanding Galway solicitor, and a wonderful family man. His journey began in Castledaly, near Loughrea, before attending boarding school in Castlemartyr, Co Cork. From there, he continued his studies in Dublin where, at the age of 20, he sat his solicitor exams. He achieved first place in Ireland, with merit, and was awarded the Law Society's Centenary Prize. Gerry apprenticed with his brother Tommy in what was then TA Moylan Solicitors in Loughrea and subsequently bought his brother's practice on qualifying in 1955, at the young age of 22.

Having acquired a house, a car, and a practice, he then met Mary, a nurse, in Dublin. They married in 1957 and went on to have four children – Edel, Killian, Olivia and Kevin. As in every marriage, they had their joys and tribulations, the saddest being the death of Killian (aged just three) from TB meningitis.

However, raising a family and having his own solicitor's practice wasn't enough for the hardworking Gerry. The entrepreneur within, allied with the significant support of his wife Mary, led to them opening Loughrea's first supermarket, followed by a restaurant in the heart of Galway City, and Oranmore Dairies.

Retirement was never an option for Gerry, who, after 67 years in practice, was still taking meetings in his office only a month prior to his death. He specialised in litigation and personal injuries, but if there was ever a dispute about a right of way or boundaries and trespass, Gerry, being a farmer's son, had no difficulty in heading out in his pinstripe suit to ascertain the issue for himself.

His colleagues remember him fondly. Paul McGettigan BL commented that Gerry, as patriarch of the Moylan family, was "a true gentleman, a larger-than-life character and a wonderful solicitor. He had a great presence and I was impressed with his humanity, collegiality, generosity, common touch and loyalty to his clients, his life experience, tales of business successes and failures and, of course, his love of sport and thoroughbred horses. He was a great supporter of Galway hurling and football. He had an appreciation and fondness for the uniqueness and tranquillity of Connemara, where he spent many happy days and nights with his family and friends. One was certainly always the better after meeting him. He will be greatly missed by the profession and all who knew him."

Retired solicitor Paul Horan added: "Gerry was an extremely competent and worthy adversary who would always advance his client's cause to the best of his ability – and always in a manner that was entirely proper and professional. He was an elegant and eloquent gentleman, with a commanding presence, who used all of these attributes to great effect when advancing cogent and persuasive legal argument. A colossus of the solicitors' profession has gone. We shall all miss him dearly, but none more so than his wife Mary, son Kevin and daughters Edel and colleague Olivia, who continues in the practice founded by Gerry – now, unfortunately, deprived of his sage advice. *Ar dheis Dé go raibh a anam dílís.*"

Loughrea solicitor Sheenagh MacCarthy commented: "He was of a time that held and expected the highest moral and professional standards, and will be sadly missed by us all. He was a fantastic orator who always took great care to consider what should be said to reflect the tone of any occasion. When he addressed an audience, they hung on his every word."

Solicitor Oliver Foley concluded: "*Ní bheidh a leitheid arís ann.*"

GSBA

PROFESSIONAL LIVES

Sharing personal and professional stories has long been a powerful way to create a sense of connection and belonging. It creates a space for vulnerability that can provide the listener with inspiration and hope, or newfound insight to a challenge or difficulty they too might be facing. We welcome you to get in touch with ps@lawsociety.ie to share a story for this 'Professional Lives' column.

Self-advocacy is self-care

As solicitors, we get paid to talk. We are advocates for our clients when we speak for them in court, or when we write a letter on their behalf to voice their issues and concerns. We listen carefully to their stories, take detailed instructions, and we then express their feelings and needs on their behalf.

However, when we are dealing with our clients and staff, it is often the case that we are inconsiderate – if not dismissive – of our own feelings and needs. In fact, we may not even be aware of what our feelings and needs are. What would it be like if we were to listen to and advocate for ourselves? Just as it is with our clients, before we can do so, we need to know our own story.

As a sole practitioner solicitor and mother of two daughters, I suffered greatly with stress and anxiety. The juggle of putting my clients first in the office and my children first at home left me exhausted and depleted. At the height of the 'Celtic Tiger', in search of some self-help, I found a mindfulness course where I learned the power of taking a pause rather than launching into my usual pattern of reactions. When I started to practice mindfulness and subsequently took a course in interpersonal communication, I came to realise where I was in all of this, why I communicated like I did, and how I needed to be an advocate for me. I can honestly say that it changed my life completely.

Inner critic

When I examined my own story, I got to know my inner critic and how harshly she speaks to me. I also came to understand my triggers. I saw that a lot of the stress and anxiety I suffered came from my story. The fact is that stress is not only brought about by the situation in which we find ourselves – it is caused by our response to that situation. And the good news is that, by becoming aware of our own patterns of behaviour and communication and how they affect us and others, we can begin to change how we respond.

For me, I liked to be liked by my clients and employees. I felt that I needed to mind them, and I found it difficult to say 'no'. I was passive in my communication, and I did not like conflict. Imagine: here I was, working successfully in an adversarial profession, and I did not do conflict when it came to having my own needs met.

This all made perfect sense to me in the context of my story. In my family, I was the only girl, my father worked all the hours, my mother was an anxious perfectionist, and my older brother and she constantly clashed. I quickly learned that my mother had enough on her plate with my older brother.

Love and attention

So, in order to get my share of her love and attention, I found ways of minding her, being the good girl, and pleasing her by doing everything perfectly. I would fix things after the mess of their altercations – uttering the word 'no' was simply not an option for me. I learned quite wisely to be passive and to avoid conflict at all costs. I brought this *modus operandi* right through my life and into my professional life. We all do our own version of this.

As individuals, we all have very different stories to examine. We have all adapted our true selves in our own particular ways in order to fit in and be seen. By becoming aware of how it was we did this, by getting to know our inner critic and how we are triggered, we can learn how to relate differently with ourselves, our clients, and staff. This is what self-care and self-advocacy looks like. g

Maggie Mulpeter is a practising solicitor, relationship and parent mentor and group facilitator. For full details on the services she provides, visit www.maggiemulpeter.com or follow her on LinkedIn.

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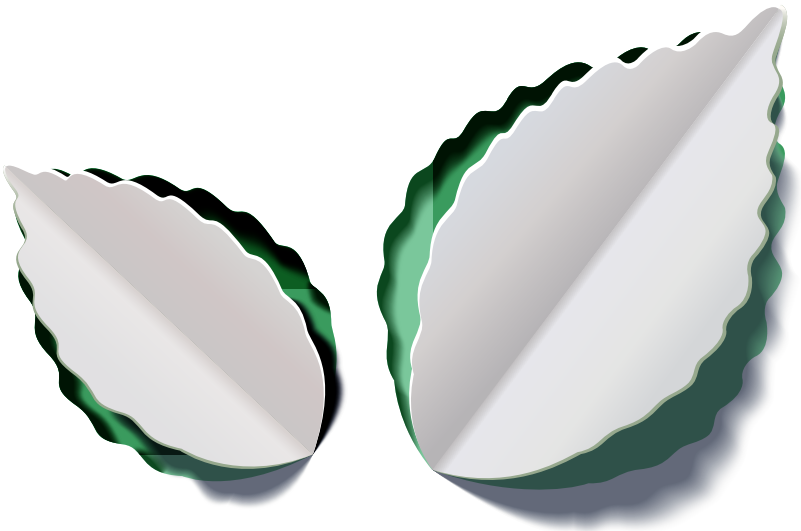

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100 YEARS OF WOMEN IN THE PROFESSION

The *Gazette* continues its series marking the centenary of the first women in Ireland to qualify as solicitors. Helena Mary Early was the second woman solicitor to be entered on the Roll of Solicitors – but the first woman to be admitted in the new Free State.

An Early entrance

The first woman to be entered on the Roll of Solicitors in the Irish Free State, Helena Mary Early, was born in Dublin and completed her apprenticeship in the office of her brother, Thomas Early. She was admitted to the Roll on 23 June 1923.

Known as Lena, she was born on 1 April 1888, the second-youngest of 13 children, to Peter and Margaret Early. Her father was a well-known innkeeper in Swords, Co Dublin.

Sadly, Lena was orphaned at an early age. As was the custom at the time, she went to live with her brother Tom, earning her keep as a nursemaid to his children. Tom was a solicitor in Dublin City Council, and she regularly visited his office to run errands for him, often to the bank. On one occasion, the bank manager suggested that she might consider qualifying as a solicitor. She had no funds, so the bank manager provided her with a loan.

Several firsts

Despite being educated only to primary level, she managed to secure first place in 1920 at the modified preliminary examination for solicitors' apprentices. She had the honour of becoming the first woman in Britain and Ireland to obtain liberty (under section 16 of the *Solicitors (Ireland) Act 1898*) to participate in the short-term, three-year apprenticeship. She was apprenticed in June 1920 to her brother.

Helena became the first woman auditor of the Solicitors' Apprentices' Debating Society in 1921-22, and her inaugural address on 'The influence of the Irish abroad' was well received. She was awarded the Gold Medal and Certificate for Oratory, the Gold Medal and Certificate for Legal Debate, and the Silver Medal and Certificate for Impromptu Debate.

She was admitted to the Roll in 1923 – the first woman to secure the distinction in the new Saorstát Éireann. Around that time, she was appointed a commissioner for oaths, and is believed to be the first woman in the world to have secured that distinction. She joined Tom in his practice in O'Connell Street, Dublin, while her younger brother John practised with a firm in Henry Street.

One day, when appearing in court, and before proceeding with his case against a man accused of rape, a young male solicitor sent up a note to the judge requesting to have the only woman present removed from the body of the court. The judge sent back a note saying that the lady in question – Helena – was appearing for the accused. She continued in practice until the mid-1970s.

Irish Soviet Society

Around the 1930s, she became interested in Russia and made a visit there. In the early '40s, she became president of the Irish Soviet Society, although she did not consider herself a communist and was a practising Catholic. She had been a friend of Countess Markievicz and, during the mid-1940s, was actively involved in the Woman's Social and Progressive League.

Helena smoked incessantly – said to be 60 a day shortly before she died in 1977, at the age of 89. How many she actually smoked herself is unclear, as she was known to be extremely generous in sharing them with others.

According to her niece, Nuala O'Brien, Helena always believed in the equality of the sexes and commented that she could do anything as well as any man. g

With thanks to Nuala O'Brien (née Early), solicitor, and Brian O'Brien, solicitor, who provided much of the above information for the book Celebrating a Century of Equal Opportunities Legislation – the First 100 Women Solicitors, *published by the Law Society of Ireland.*

Going for broke

Through the ages, societies have made provision to deal with personal debt in various ways. John Phelan looks back at ten years of personal insolvency law in Ireland

> BANKRUPTCY UNDER THE *BANKRUPTCY ACT 1988* WAS STILL QUITE SEVERE AND, SAVE FOR SOME TECHNICAL MECHANISMS SUCH AS COMING TO A COMPOSITION WITH CREDITORS, A PERSON ADJUDICATED BANKRUPT COULD ORDINARILY EXPECT TO DIE A BANKRUPT

In ancient Babylonia, the *Code of Hammurabi* permitted an insolvent debtor to be sold into slavery until his debts were cleared.

Roman law, as found in the *Twelve Tables*, decreed that a creditor could personally imprison a debtor for 60 days, after which time, failing to reach an arrangement, the debtor would suffer capital punishment or be sold abroad.

Closer to home, Brehon Law (in the form of the *troscead*, or 'fasting upon') provided for the person who was owed money to spend a period of time without food outside the house of the shamed debtor, until the debt was paid or the debtor gave a pledge to pay.

Up until 2011, Ireland had only one mechanism in contemporary law to resolve personal insolvency. That was bankruptcy under the *Bankruptcy Act 1988*. That form of bankruptcy was still quite severe and, save for some technical mechanisms, such as coming to a composition with creditors, a person adjudicated bankrupt could ordinarily expect to die a bankrupt.

Crash, bang, wallop

In 2008, the year of the global financial crisis (epitomised in Ireland by a liquidity and solvency crisis in credit institutions and a severe crash in the property market), there were just eight adjudications for bankruptcy. Against the backdrop of huge increases in the levels of personal debt in Ireland, the Law Reform Commission published a report on *Personal Debt Management and Debt Enforcement* in 2010. The report contained proposals for a draft *Personal Insolvency Bill* and an outline scheme of amendments to judicial bankruptcy legislation.

It formed the basis of the *Personal Insolvency Act 2012*, signed into law at the end of 2012. With the goal of providing a fresh start for people in debt, this groundbreaking legislation introduced three new statutory solutions as alternatives to bankruptcy. Each solution is available to a person only once, and the appropriate solution will depend on a person's circumstances.

The first solution is a 'debt-relief notice'. This solution is for people who have a low income, few assets, and debts of less than €35,000 that they cannot repay. A debt-relief notice lasts for up to three years, after which time the debts named in the notice are completely written-off. The debtor is not required to make any payments unless their financial situation improves during the term.

The second is a 'debt-settlement arrangement'. This can last for up to five years and addresses unsecured debt, such as credit cards, loans, and overdrafts. Under the debt-settlement arrangement, a person agrees to repay a percentage of his or her overall debt that he or she can afford, normally in monthly payments over the term of the arrangement. At the end of the arrangement, the remaining unsecured debt is written off.

The third is a 'personal-insolvency arrangement'. A personal insolvency arrangement is an agreement between the debtor and his or her creditors to enable the agreed settlement of secured debt up to €3 million – although this cap may be increased with the consent of all the creditors who have security. It can last up to six years, though the average term in reality is less than two years. Designed to address the issue of long-term mortgage arrears, it is an unusual solution, in that it enables the inclusion of secured debts, a feature not commonly seen in the insolvency frameworks of other jurisdictions.

Applications for debt-relief notices are taken by approved intermediaries, such as the Money Advice and Budgeting Service (MABS). For the other two arrangements, the intermediary is a personal-insolvency practitioner.

Under new management

The *Personal Insolvency Act 2012* provided for the establishment of a new independent statutory body – the Insolvency Service of Ireland – to administer the arrangements and to oversee the operation of the legislation. The

PIC: ALAMY

service was established ten years ago, on 1 March 2013.

Once established, the service moved quickly to authorise a network of personal-insolvency practitioners around the country. These practitioners are key to the operation of the system. They meet with the person in financial difficulty, collect all the factual information on their debts and their overall situation, propose an arrangement to creditors, and hold a meeting where creditors vote on whether to accept the arrangement. Many practitioners are also accountants or solicitors – both desirable skill-sets to have in this role.

The Insolvency Service worked with all stakeholders to establish standard protocols for the debt-settlement arrangement and the personal-insolvency arrangement. These protocols comprise a standard form for presenting a proposal for an arrangement. They also contain standard terms for an arrangement, covering matters such as what happens where the debtor holds assets that are to be sold, or where the debtor needs to take a break in their payments?

Another element of the framework is the publication by the Insolvency Service of guidelines on a reasonable standard of living and reasonable living expenses. Following weeks of speculation and controversy on what they might contain, the first set of guidelines was published on 18 April 2013. Ten years on, the guidelines are a well-established and universally accepted part of personal insolvency. They help a personal-insolvency practitioner to propose a sustainable arrangement, and they provide assurance to the person entering the arrangement that he or she will be protected and enjoy a reasonable standard of living over the term of the arrangement.

Communication breakdown

One of the biggest challenges for any new or relatively new agency is coming to the attention of the people who need to know about you. This is especially true in the information age, where 'narrowcast' has replaced broadcast, and we have so many things competing for our attention.

EU & INTERNATIONAL AFFAIRS COMMITTEE

STAGE INTERNATIONAL A PARIS 2023

OCTOBER – NOVEMBER 2023

LAW SOCIETY OF IRELAND

ORDRE DES AVOCATS DE PARIS

Every year the Paris Bar organises an International *Stage* in Paris and invites a limited number of lawyers from each jurisdiction to participate. The *Stage* is a fantastic opportunity for lawyers to discover and practise French law in the heart of Paris.

The stage takes place during the months of October and November and entails: one month attending classes at the *l'Ecole de Formation du Barreau*; and one month of work experience in a law firm in Paris. The programme also includes a visit to Brussels to the European institutions.

The Irish participant will be selected by the EU & International Affairs Committee of the Law Society of Ireland.

Candidates must:

- Be qualified in Ireland and registered in the Law Society,
- Have a good knowledge of French,
- Be under 40 years of age,
- Have insurance cover (for accidents and damages).

Tuition is fully covered by the Paris Bar; candidates must be willing to cover other expenses (travel, accommodation, meals).[1]

Interested?

To apply, please send your CV and a letter explaining your interest in the *Stage* (in both English and French) to: Megan Murphy Byrne (M.MurphyByrne@LawSociety.ie).

Application deadline: Friday, 28 April 2023

[1] The EU & IA Committee will sponsor the participant with €3,500.

The Insolvency Service runs a communications campaign over the course of each year, with a mix of TV, radio, digital, video-on-demand, out-of-home, print and social-media. In addition to advertising, it also has a debtor-focused website (backontrack.ie) that was revamped last year to make it as simple and user-friendly as possible. It has 'decision trees' to guide people to the options most appropriate for them, based on their circumstances, as well as stories and experiences of people who have availed of the different insolvency solutions. There is a handy calculator to let people see what their reasonable living expenses would be if they entered an arrangement.

Bankruptcy was mentioned at the beginning, so it is only right to note that, within the last decade, the administration of the functions of the official assignee in bankruptcy was brought within the Insolvency Service – and the term of bankruptcy was reduced initially to three years, and then to just one year. Unlike the old days, where bankruptcies were almost always on the back of a creditor petition, nearly nine out of every ten bankruptcies now are self-petitioned. Bankruptcy is the fourth personal-insolvency solution – there for cases where one of the other arrangements is not suitable or cannot be made to work.

Apart from the significant reforms to bankruptcy, the single biggest change to the personal-insolvency framework over the last ten years occurred in 2015, when amendments to the legislation permitted a debtor to seek a court review in certain circumstances where creditors turn down a proposal for a personal-insolvency arrangement. Intended to bring an end to the so-called 'bank veto', these 'section 115A' reviews have seen a large number of cases come before the courts, creating a new field of personal-insolvency jurisprudence. Court judgments have brought clarity to the operation of the legislation, and the most significant judgments are on the corporate website of the Insolvency Service. Personal insolvency has become an expanding and exciting field of law.

Behind the scenes

On the corporate tenth birthday of the Insolvency Service of Ireland, some things look quite familiar, but the appearance of familiarity hides significant changes behind the scenes. Family-home mortgages in arrears over 90 days have come down from a peak of 12.9% in September 2013 to 4.3% now. Fewer accounts are in arrears, but the arrears on many of the residual accounts are long term. As time passes and people get older, the options available narrow. These cases are accepted to be hard to reach and hard to treat.

A number of credit institutions have exited the Irish market, selling their loan books as they went. The credit institutions that continue to operate here have significantly divested themselves also of loan books. The change in ownership of many mortgages has been dramatic. Three in four mortgages in arrears are now held by funds rather than banks. The Insolvency Service conducts regular engagement with creditors and has, for years now, engaged with funds as their holdings grow and their importance to the personal-insolvency framework increases.

After the threat of the pandemic to national health, and the economic supports introduced to counteract its effects, it seemed that things might have gone back to normal. Instead, the Russian invasion of Ukraine, inflation, global supply-line difficulties, and resulting cost-of-living increases see clouds continue to darken the skies. Unlike when the global financial crises hit, this time around Ireland has a modern system of personal insolvency fit for whatever challenges lie ahead.

If you come across a client – or indeed anyone – who might benefit from the solutions we offer, please encourage them not to ignore it. Help is available, and there is a way out of financial difficulty, no matter how bad the situation may seem. What we see, time and time again, is the sense of relief a person feels once they ask for help and begin to take control of their situation.

Over the decade we have been in existence, our objective in everything we have done is to help people who are in genuine distress, to restore them to solvency, and to allow them their dignity as they move out from under the financial burdens they bear. That is what we will continue to do. g

John Phelan is head of regulation, policy, and corporate affairs at the Insolvency Service of Ireland. This article has been reviewed by Liza Doyle, solicitor and legal advisor to the Insolvency Service since 2013.

> THE ISI's OBJECTIVE IS TO HELP PEOPLE WHO ARE IN GENUINE DISTRESS, TO RESTORE THEM TO SOLVENCY, AND TO ALLOW THEM THEIR DIGNITY AS THEY MOVE OUT FROM UNDER THE FINANCIAL BURDENS THEY BEAR

LOOK IT UP

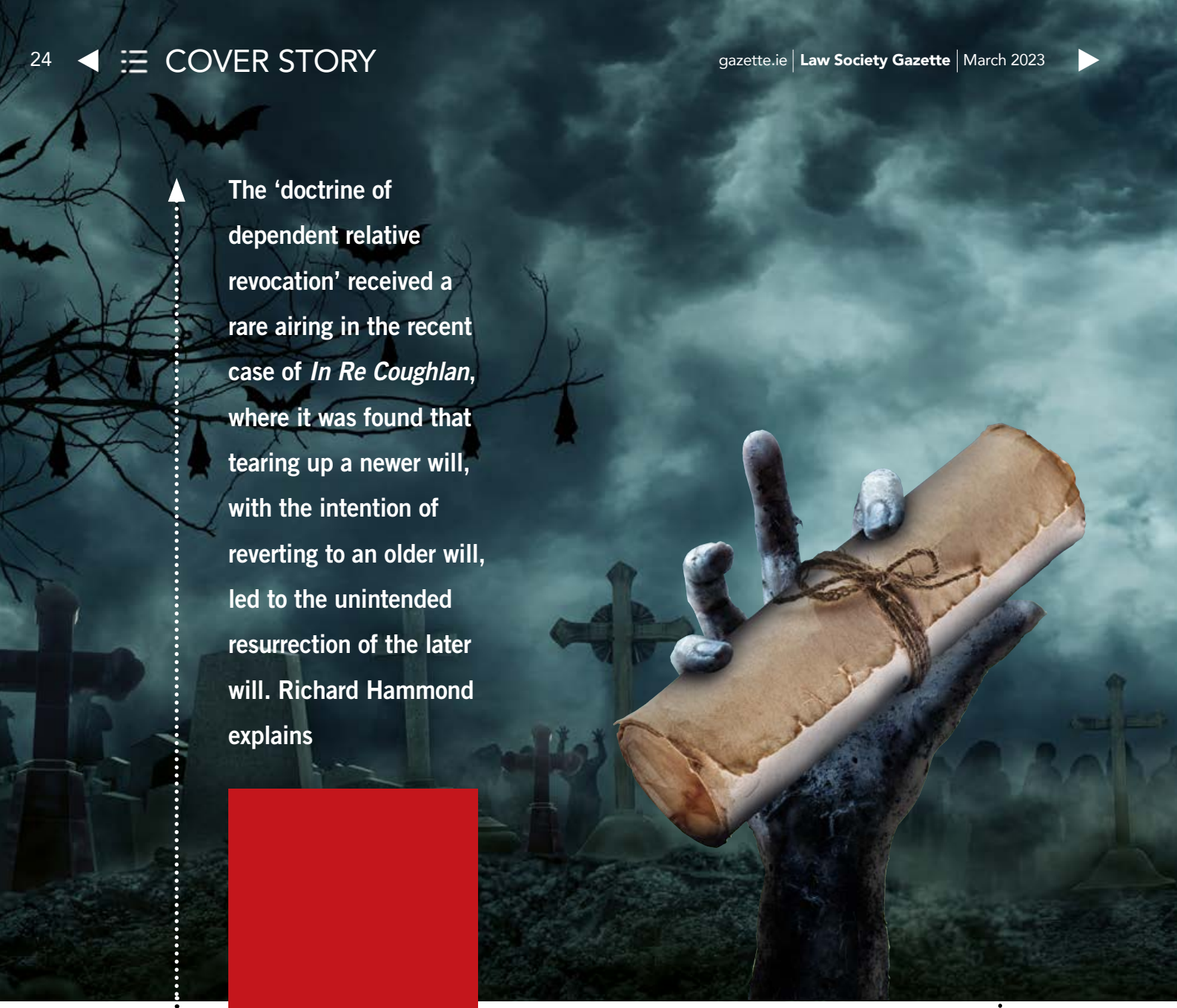
CASES:
- Significant judgments at 'Stakeholder information' on isi.gov.ie

LEGISLATION:
- *Bankruptcy Act 1988* (LRC administrative consolidation)
- *Personal Insolvency Act 2012* (LRC administrative consolidation)

LITERATURE:
- *Personal Debt Management and Debt Enforcement* (Law Reform Commission, 2010)
- *Reasonable living expenses* (Insolvency Service)

WEBSITES:
- Insolvency Service's debtor-focused website: www.backontrack.ie (main site: www.gov.ie/isi)
- Reasonable living expenses calculator

PIC: ALAMY/GAZETTE STUDIO

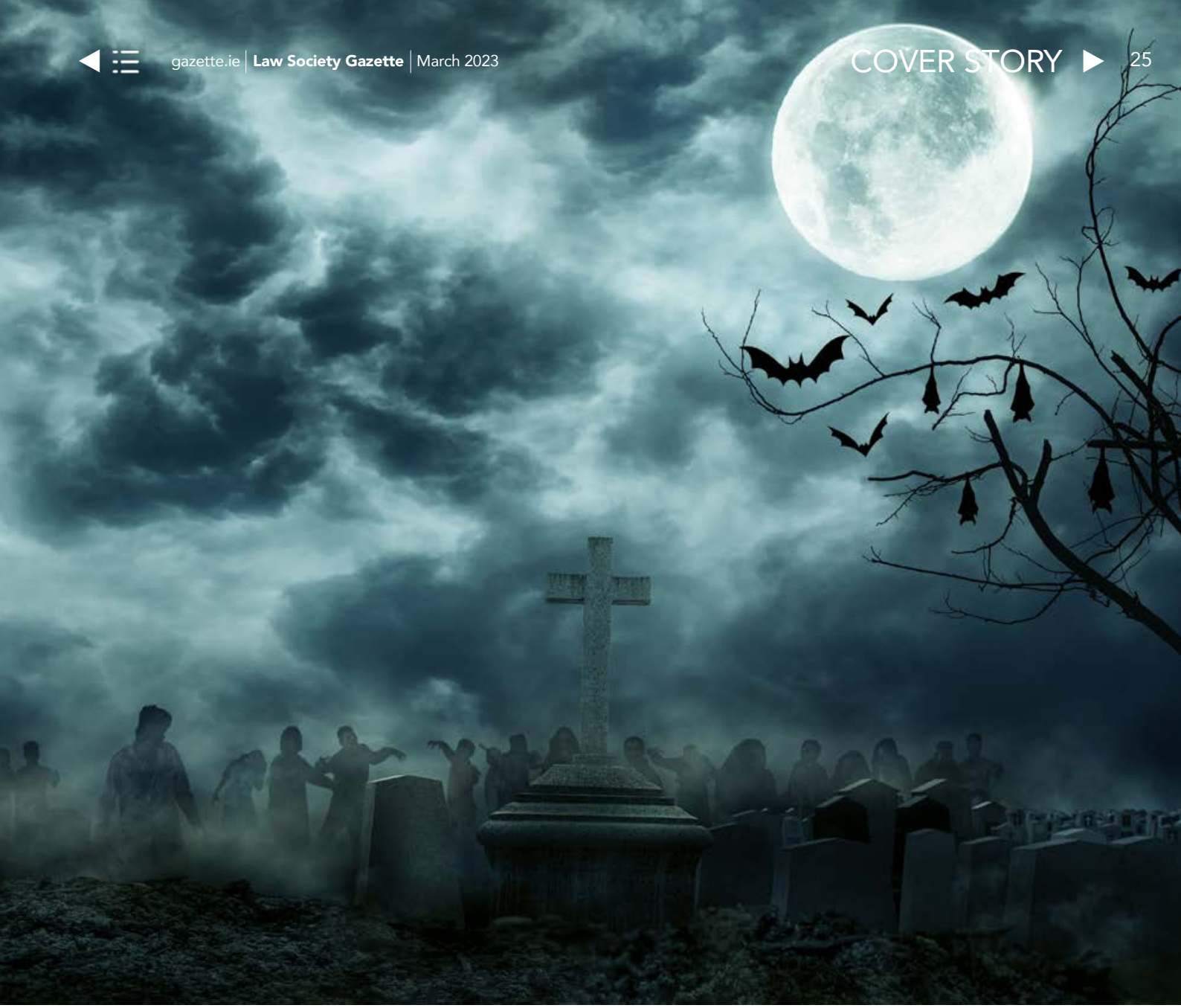


The 'doctrine of dependent relative revocation' received a rare airing in the recent case of *In Re Coughlan*, where it was found that tearing up a newer will, with the intention of reverting to an older will, led to the unintended resurrection of the later will. Richard Hammond explains

t is not unusual for solicitors to read a judgment from a court, give a weary sigh, and internally reflect that "there, but for the vagaries of chance, go I". The November 2022 judgment of Ms Justice Butler in the case of *In Re Coughlan* is the latest instance of this phenomenon. The case concerned the somewhat musty and rarely ventilated 'doctrine of dependent relative revocation'.

The factual background of the case was seemingly uncontested. The deceased, a single person without children, attended his solicitor in 2012 to make a will. Enjoying the testamentary freedom of this jurisdiction, he did not benefit immediate family and, after making a minor bequest, he bequeathed the residue of his estate to four named beneficiaries, who would under this will receive a one-quarter interest each.

In July 2015, the deceased again attended his solicitor and created a new will. The purpose of making this new will was to include a new fifth residuary beneficiary. As would be expected for a new will, it began by expressly revoking any predecessors, with the deceased noting that he was "hereby revoking all



former wills and other testamentary dispositions heretofore made by me". So far, there is nothing to trouble the High Court.

Seeds of destruction

Approximately four months later, in November 2015, the deceased again attended his solicitor, motivated by a desire to undo the July 2015 changes, remove the new fifth residuary beneficiary, and restore the distribution of the residue of his estate as being between the four beneficiaries instituted in the 2012 will.

It is at this point of the story that things went awry. The deceased's solicitor advised that revoking the 2015 will by destruction would, on its own, revive the 2012 will. The deceased proceeded to tear up the 2015 will in his solicitor's presence and departed with two copies of the 2012 will. Following the death of the deceased, a grant of probate issued to his executors (common appointees in both wills).

The unfortunate solicitor had erred in the advice given and had overlooked or conflated the distinct provisions of sections 85 and 87 of the *Succession Act 1965*.

Revocation

In section 85, we find provisions relating to the revocation of a will. Subsection (1) provides that a will is revoked by a subsequent marriage, unless the will was in contemplation of that marriage, whether or not expressed as so being (together with apposite provisions relating to civil partnerships). While most practitioners will be familiar with this provision, it is worth refreshing that, though marriage revokes a will, subsequent separation or divorce does not so do. Clients in family-law proceedings should be reminded of this state of affairs.

Then subsection (2) provides for the revocation of wills:

- By another will, or codicil, or
- By declaring in writing the intent to revoke executed in like manner to a will, or

- By the burning, tearing, or destruction of it by the testator with the intention of revoking it, or
- By the burning, tearing, or destruction of it by some other person in the testator's presence, with the testator having the intention of revoking it.

It would appear that the deceased tore up his will with the intention of revoking it.

The second leg of the exercise of revoking the 2015 will was the matter of the intended revival of the 2012 will. Section 87 of the *Succession Act 1965* provides that a previously revoked will may only be revived:

- By the re-execution of that will, or
- By the execution of a codicil demonstrating an intention to revive the previously revoked will.

Consequently, the putative revival of the 2012 will would require an active step on the part of the deceased, above and beyond the tearing-up of the 2015 will.

Rare doctrine

Had the deceased taken home the 2015 will, revoked it by destruction, and failed to revive the 2012 will through non-compliance with section 87 of the *Succession Act*, then (having lawfully revoked his then last will and having not revived any prior will or replaced the revoked will with a new will) he would have died intestate. However, the deceased in this case revoked the 2015 will under the advice of his solicitor as the necessary action to revive the 2012 will, which is where doctrine of dependent relative revocation arises (see panel).

This doctrine arises rarely, and serves to save a will from revocation where such revocation occurs where the testator is operating under a mistaken understanding, or where the revocation is contingent on some occurrence that ultimately does not happen.

The application of the doctrine was straightforwardly summarised in the 1873 case of *Dancer v Crabb*: "If the testator's act can be interpreted 'Whatever else I may do, I intend to cancel this as my will from this time forth', the will is revoked; but if his meaning is 'As I have made a fresh will, my old will may now be destroyed', the old will is not revoked if the new one be not, in fact, made."

There was no dispute that the deceased's intent was to remove the fifth beneficiary added to his 2015 will. Nonetheless, as set out by the court in *Goods of Hogan* and as cited in Ms Justice Butler's judgment, it is not the function of the court to give effect to the intentions of the deceased, even if ascertainable, but instead to determine whether the steps taken by the deceased accord with the manner prescribed by the *Succession Act 1965*.

Exhumed

Ultimately, while the purpose was to remove the fifth beneficiary, the revocation of the 2015 will was contingent on the revival of the 2012 will. The requisite steps in accordance with section 87 of the *Succession Act 1965* were not taken to revive the 2012 will. Therefore, as the 2012 will was not validly revived, the 2015 will, whose revocation was held to be contingent on such revival, was not in fact revoked. The court ordered that the grant of probate in respect of the 2012 will be revoked, cancelled, and recalled pursuant to section 26(2) of the *Succession Act 1965*. The original 2015 will had been torn-up and was not available to admit to proof. Consequently, the court ordered that the 2012 will be admitted to proof in the terms of a photocopy that had been laid before the court.

As a result of the missed revival step to comply with section 87 of the *Succession Act 1965*, the deceased ultimately gave one-fifth of the residue of his estate to a beneficiary whom he had intended to exclude. The will he thought he had revoked and destroyed actually survived to be the document upon which his estate was distributed. Without the doctrine of dependent relative revocation, matters would have been no better because, in the continuing absence of an active formal revival of the 2012 will and in compliance with section 87 of the *Succession Act 1965*, he would then have died intestate, with beneficiaries other than the four beneficiaries common to both wills, which clearly was not his intention.

Condemnation

One might speculate that focus on the concept of a prior will being restored to efficacy through the condemnation in court of a later will could, perhaps, have been the genesis of the difficulties in this case. If a will is condemned by the court – for example, where it can be demonstrated that the testator lacked testamentary capacity when the will was executed – then this condemnation or striking down of the will also includes the revocation clause in the condemned will. The revocation clause being non-effective means that the earlier will was not, in fact, revoked, as distinct from it being revived and, *ceteris paribus*, the earlier will shall be deployed to administer the estate.

The provision relating to revival of prior

> THE REQUISITE STEPS IN ACCORDANCE WITH SECTION 87 OF THE *SUCCESSION ACT 1965* WERE NOT TAKEN TO REVIVE THE 2012 WILL. THEREFORE, AS THE 2012 WILL WAS NOT VALIDLY REVIVED, THE 2015 WILL, WHOSE REVOCATION WAS HELD TO BE CONTINGENT ON SUCH REVIVAL, WAS NOT IN FACT REVOKED

FOCAL POINT

DOCTRINE OF DEPENDENT RELATIVE REVOCATION

"A conditional revocation of a will where revocation is relative to another will and intended to be dependent on the validity of that will; the revocation is ineffective unless the other will takes effect. (See Brady, 'A case of dependent relative revocation' (1981) 75 *Law Society Gazette* 5)" – (*Murdoch and Hunt's Dictionary of Irish Law*, sixth edition, Bloomsbury).

IT IS WORTH REFRESHING THAT, THOUGH MARRIAGE REVOKES A WILL, SUBSEQUENT SEPARATION OR DIVORCE DOES NOT SO DO. CLIENTS IN FAMILY-LAW PROCEEDINGS SHOULD BE REMINDED OF THIS STATE OF AFFAIRS

wills, as set out in section 87 of the *Succession Act 1965*, was enacted at a time before computer hard drives or cloud storage. Indeed, that section can trace its contents back to the *Wills Act 1837*, when literacy levels were much lower, and the task of creating a will in manuscript form was onerous. Hence the reference to "re-execution thereof". Given the conveniences available to solicitors in this century, it is likely that the prospect of re-executing a previously made and revoked will should never arise.

Execution

It is always a new will that is created, even if its contents mirror that of a previous will, save for the date of execution, and having a prior will available for structure and guidance should assist. Moreover, creating the will afresh allows the solicitor to ensure that:

- Any new instructions are captured and expressed,
- Out-of-date names and/or addresses are updated,
- Newer statutory references or drafting improvements are incorporated, and
- The question of current testamentary capacity is given proper consideration.

When a new will is executed, most firms are equipped to make a scan of that will to be saved to the client's electronic file, and should so do (this can be undertaken through smartphone apps if, for any reason, office equipment is unavailable). A certified copy of the will should also be placed on the client's file. These are safeguards to assist the solicitor, should the need to prove the will in terms of a copy ever arise.

Physical destruction

Having made a new will, my opinion is that, where available, and unless the solicitor has some concern about potential challenge to the new will, the old will should be handed to the client for them to then destroy it in the presence of the solicitor. There will be practitioners who baulk at this suggestion due to the instinct to have the will available if the subsequent will is ever struck down. Once copies of the previous will are available, as they should be, then such eliminates this concern.

There are a number of advantages to reinforcing the revocation clause in the new will by physical destruction of the prior will:

- It reinforces for the client that a new will has been put in place and, indeed, that a distinct professional service has been availed of by the client,
- It viscerally emphasises for the client that the old will is defunct, and precludes any contact from the client suggesting that the old will be restored without the creation of a new will, and
- It reminds the solicitor that any wish to reinstate the now destroyed former will requires active steps, legal advice, and drafting.

The error made by the solicitor that led to the *In Re Coughlan* case may appear obvious and avoidable in the sedate remove of reading this article. Though it cannot be condoned, it is far more understandable when set in the context of the relentless pressure of private practice. Nonetheless, being attuned to the relevant statutory provisions and always putting in place a new will, having taken complete and updated instructions, will militate against the vagaries of chance taking a solicitor into a discussion about the doctrine of dependent relative revocation.

Richard Hammond SC is a solicitor and partner at Hammond Good LLP in Mallow, Co Cork, and is a Council member of the Law Society of Ireland.

LOOK IT UP

CASES:

- *Dancer v Crabb* [1873] LR 3 P&D 98
- *Goods of Hogan* [1980] ILRM 24
- *In Re Coughlan* [2022] IEHC 604

LEGISLATION:

- *Succession Act 1965*
- *Wills Act 1837*

BOILING POINT

THE *CORPORATE SUSTAINABILITY REPORTING DIRECTIVE* CAME INTO FORCE ON 5 JANUARY. IT IS EXPECTED TO TRANSFORM HOW LARGE COMPANIES MANAGE SUSTAINABILITY MATTERS. RICHARD LEE LOWERS THE TEMPERATURE

As governments, lawmakers, and international organisations move to tackle climate change and biodiversity loss, significant legal requirements are being introduced that will affect multinational and large companies operating in the EU and Ireland, with a knock-on effect on SMEs.

The *Corporate Sustainability Reporting Directive* (CSRD) came into force on 5 January 2023 and is expected to be transformative in relation to the way large companies manage sustainability matters. These include climate change, biodiversity loss, social inclusion and equality, stakeholder relations, green finance, energy consumption, greenhouse gas emissions, pollution control and much more.

The CSRD is not a one-off – there are a number of other significant sustainability initiatives in the pipeline, including the *Corporate Sustainability Due Diligence Directive* (CSDDD).

PIC: ALAMY

Given Ireland's position as a favourable platform for large companies trading in Europe, it is expected that, in the transposition of the CSRD, Ireland will embrace emerging opportunities.

ESG and legal practice

Now that the CSRD is in force, it is expected that ESG (environmental, social, and governance) will further assert itself from a legal viewpoint:

- In supply chains, contract clauses are increasingly being incorporated to require suppliers to furnish ESG policies, reports, and relevant data,
- In tendering and procurement, parties are being asked to set out their ESG policies and transition planning,
- In mergers and acquisitions, ESG due diligence is now becoming a specific focus in larger transactions (no buyer wants to take on what may become a 'stranded asset' or burden),
- In construction law, new commercial buildings are expected to comply with sustainability requirements, and many existing commercial buildings will need to be upgraded,
- In commercial leases, clauses are now being inserted that put ESG obligations on commercial tenants,
- In company law, leading companies are including ESG clauses in their company constitution as evidence that corporate sustainability is at their core,
- In employment and human resources, the 'S factor' is now becoming more pronounced, with greater focus on social sustainability,
- For accounting and finance, the CSRD is a major development in relation to reporting requirements for large companies, and brings in mandatory sustainability auditing.

PIC: SHUTTERSTOCK

The proposed CSDDD is expected later this year, and will introduce legal sustainability due diligence and directors' duties for large companies.

Focused language

The terms 'environmental, social, and governance' and 'corporate sustainability' have no single defined meaning. ESG is understood to refer to the factors that affect a company's sustainability and its effect on society and the environment. With the arrival of the CSRD, the language and terminology used in relation to ESG and corporate sustainability will become more focused.

ESG and corporate sustainability are not defined in the CSRD but, in the future, it is likely that corporate sustainability will have a broader meaning than ESG. In particular, the CSRD focuses on the expression 'sustainability matters', which means "environmental, social and human rights, and governance factors, including sustainability factors" (with sustainability factors defined in Regulation 2019/2088 as environmental, social, and employee matters, respect for human rights, and anti-corruption and anti-bribery matters). This is an important definition, as it brings some clarity to what is meant by corporate sustainability.

> THE CSRD IS AN IMPORTANT BUILDING BLOCK IN TERMS OF DEVELOPING THE LEGAL UNDERSTANDING OF WHAT CORPORATE SUSTAINABILITY MEANS FROM A LEGAL VIEWPOINT, AND ALSO IN TERMS OF SETTING OUT WHAT IS EXPECTED OF LARGE COMPANIES AND LISTED SMEs IN EUROPE AND IRELAND

The CSRD defines 'sustainability reporting' as the reporting of information related to sustainability matters. Large companies and listed SMEs will be obliged to report on (a) the company's impact on sustainability matters, and (b) how sustainability matters affect the development, performance and position of the company.

The CSRD is an important building block in terms of developing the legal understanding of what corporate sustainability means from a legal viewpoint, and also in terms of setting out what is expected of large companies and listed SMEs in Europe and Ireland.

Reporting standards

The CSRD also introduces the *European Sustainability Reporting Standards*, which set out the disclosure requirements to be included in the mandatory sustainability reporting. After intensive consultations, the European Financial Reporting Advisory Group (EFRAG) furnished a final draft of these new detailed standards to the European Commission in November 2022, and these are expected to form the basis of a delegated act in June this year.

Large companies will be expected to put corporate sustainability strategies, policies, metrics, and targets in place in accordance with these new standards. To date, there are 12 standards setting out what sustainability reporting will need to address, which include disclosure requirements and information relating to:

- Climate change – mitigation and adaptation,
- Pollution prevention and control,
- Water and marine conservation,
- Biodiversity preservation,
- Circular resource management,
- Company workforce,
- Workers in the value chain,
- Affected communities,
- Consumers and end users, and
- Business conduct.

Detailed information can be found in the resources set out in the 'Look it up' panel.

Planning and preparation

Substantial planning and preparation will be required to be in a position to comply with the timelines set out in the CSRD. Some

larger companies are already well advanced in their arrangements, but many will be required to put in place additional sustainability strategies, policies, metrics, and targets.

Under the CSRD, corporate sustainability should be a matter for the board and senior management of a company and should be at the core of its strategy, with specific sustainability policies and transition planning.

Sustainability matters are likely to land on many different desks within a large company, including (for example) finance, HR, legal, and company secretarial. As part of their planning, some large companies are putting together a designated ESG corporate sustainability team, with members from different sections contributing in order to deal with the various sustainability matters – with one senior person or director in control.

A number of challenges are emerging for large companies, in that the European standards include aspects of corporate sustainability not included in existing international sustainability reporting standards. Teams from various international standard-setting organisations are currently engaged in active dialogue to achieve interoperability between the various international sustainability reporting standards.

A significant difference is emerging internationally, in that, for some countries, corporate sustainability is primarily a matter of risk management, whereas the EU is going further by requiring that corporate sustainability should address sustainable and resilient economies.

The CSRD will apply to companies already subject to the *Non-Financial Reporting Directive* (NFRD) in respect of their financial year commencing in 2024, to be reported in 2025. For large companies not subject to the NFRD, the CSRD will apply in respect of their financial year commencing in 2025, to be reported in 2026.

Sustainability and suppliers

What is already emerging is that large companies are asking suppliers to provide relevant ESG and corporate-sustainability information and data to them so that they will be in a position to meet their reporting obligations. SMEs supplying large companies are already being asked for relevant sustainability data, which in some cases is not available.

The general view of large companies appears to be that companies are in a transition period and that they are happy to work with suppliers. The CSRD will bring about a need for far greater sustainability information and data, and it is recognised that this will be one of the primary difficulties encountered in the implementation of the CSRD. EFRAG is working on voluntary standards for SMEs not in the scope of the CSRD, and these are likely to bring clarity and guidance as to what a large company should be asking of an SME. Solutions may also have to be found in relation to sustainability data from non-EU suppliers.

Report and be judged

The CSRD is expected to have a significant input on the way companies organise and manage their operations and their relations with stakeholders. Central to the CSRD is the requirement on large companies to report and disclose how their activities affect climate change, biodiversity loss, social inclusion, and equality. In making audited standardised disclosures, they will then be judged by their shareholders, investors, customers, employees, and stakeholders.

The CSRD standardised data is likely to be used for company comparison purposes by ESG rating agencies and by NGOs. Concerned investors, consumers, and business partners may make unwelcome judgements.

Awareness and upskilling

It is generally accepted that there is an insufficient level of understanding of ESG and corporate sustainability within business – the arrival of the CSRD will no doubt raise awareness. If companies hope to benefit from the opportunities and avoid the pitfalls that are likely to come with the CSRD and the proposed CSDDD (and other proposed sustainability mandatory measures), it makes sense to upskill and build sustainability knowledge within their organisations in a planned and targeted manner.

One of the goals of the CSRD is to bring transparency and eliminate 'greenwashing' (unfounded claims to have made beneficial contributions to sustainability matters). What may previously not have been questioned as greenwashing may now fall into difficulties, with the greater clarity coming from the CSRD and European standards. Marketing and PR may also need to be included in the ESG team.

Richard Lee is principal of Lee Solicitors and is currently completing a doctorate on ESG/corporate sustainability, impact and planning.

LOOK IT UP

LEGISLATION:

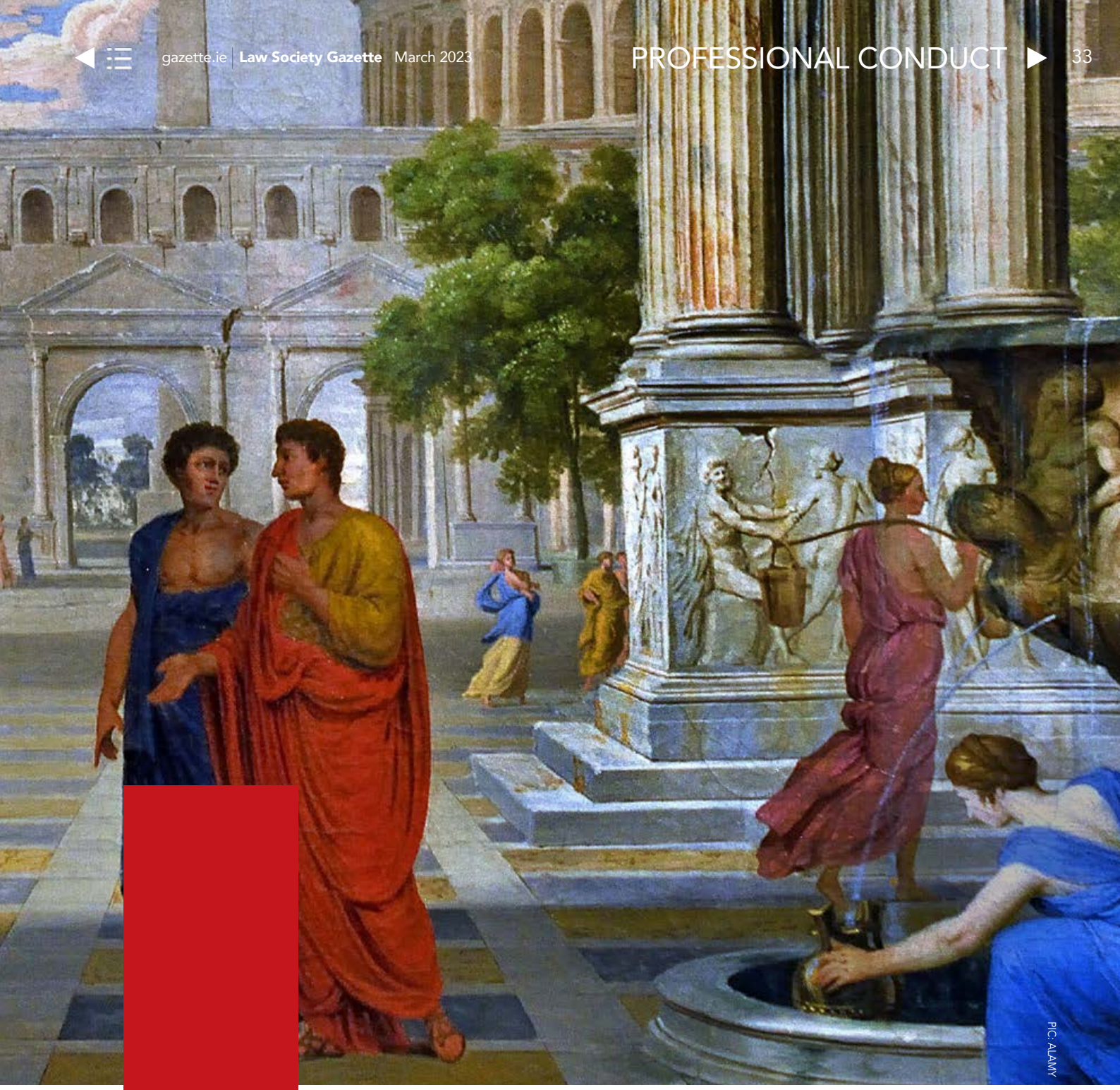
- *Corporate Sustainability Reporting Directive* (Directive (EU) 22/2464)
- *Corporate Sustainability Due Diligence Directive* (proposed)
- *Non-Financial Reporting Directive* (2014/95/EU)

LITERATURE:

- *Climate Action Plan 2023*
- *Climate Change 2022: Impacts, Adaptation and Vulnerability* (Intergovernmental Panel on Climate Change)
- European Council summary of the *Corporate Sustainability Reporting Directive*
- *European Sustainability Reporting Standards* (EFRAG final draft, Nov 2022)

The *Solicitor's Guide to Professional Conduct* represents Law Society policy and recommendations on professional conduct and ethics for all solicitors. Justine Carty and Peter White consider some of the obligations that arise for solicitors in the full-time service of the State

DONE THE STATE SOME SERVICE



PIC: ALAMY

n *Bolton v Law Society* (1994), Sir Thomas Bingham said that "a profession's most valuable asset is its collective reputation and the confidence which that inspires". Currently, there are over 12,000 practising solicitors in Ireland, and the rules of professional conduct apply to all solicitors, whether working in the private sector, in-house, or as a solicitor in the full-time service of the State. The rules governing solicitors in the provision of legal services are set out in the *Solicitors Acts 1954-2015*, statutory instruments, and the rules or principles of professional conduct contained in the guide.

The rules exist to ensure that the legal profession maintains high ethical standards and that solicitors act with integrity, honesty, and independence. High standards of professional conduct are required at all times to maintain the reputation of the solicitors' profession and to sustain public

confidence in its integrity. However, solicitors in the full-time service of the State should be cognisant of further legislation and policy documents that are relevant to their particular circumstances.

Service of the State

Section 54(3) of the *Solicitors Act 1954* (as substituted by section 62 of the *Solicitors (Amendment) Act 1994*) provides that "a solicitor shall be regarded as a solicitor in the full-time service of the State if and while he is required to devote the whole of his time to the service of the State as solicitor, and is remunerated in respect of such service wholly out of moneys provided by the Oireachtas."

Under section 2 of the *Legal Services Regulation Act 2015*, a solicitor in the full-time service of the State is a practising solicitor, but is exempted from the requirement to hold a practising certificate (PC). Although exempt from holding a PC, solicitors in the full-time service of the State should update their practising status each year with the Law Society as part of the annual PC renewal process for solicitors.

Civil Service Code

The *Civil Service Code of Standards and Behaviour*, published by the Standards in Public Office Commission in September 2008, forms part of the terms of employment of all civil servants and, therefore, applies to solicitors in the full-time service of the State.

The code identifies the traditional core values of the public service as honesty, impartiality, and integrity. These core values underpin the work of all civil servants in providing services. Similar to solicitors working in the private sector, solicitors in the full-time service of the State provide legal services, and those services are provided to the Government and the other institutions of the State.

Typically, solicitors in the full-time service of the State have one client who is also their employer, so it is critical that the solicitor is cognisant of the overall standards of behaviour and values to support the standards required for the delivery of services. The code outlines the standards underpinning service delivery, behaviour at work, and the standards of integrity necessary for all civil servants.

Conflicts of interest

Avoidance of conflict of interest is a core value of conduct for solicitors. There is an ethical obligation on all solicitors not to act in a situation where there is a conflict of interest. The code also imposes certain obligations regarding conflicts of interest. There is a general duty imposed on civil servants not to:

- Engage in, or be connected with, any outside business or activity that would conflict with the interests of their departments or office, or
- Be inconsistent with their official positions, or
- Tend to impair their ability to carry out their duties as civil servants.

For solicitors who are whole-time civil servants, the code makes it clear that they "must not engage in private practice in their professions".

An example of how a conflict-of-interest situation could arise is from a solicitor's previous employment. Where a solicitor in the full-time service of the State is directed to act or advise in a matter in which a former client of that solicitor may have a material interest in its outcome, the solicitor should immediately make that fact known to their line manager and advise them of the nature and circumstances of the conflict or potential conflict. The solicitor should then exercise their professional skill and judgement in deciding whether to act or not or deal with the matter. In deciding not to act, the solicitor should not discuss the matter or be a party to discussion on the matter, and should excuse themselves from such discussions.

Gifts and hospitality

As set out in the code, civil servants should not receive or accept benefits of any kind from a third party that might reasonably be seen to compromise their judgement or integrity. In the code, the term 'gift' includes any benefit given to a civil servant free of charge or at less than its commercial price. However, gifts of a modest value, such as stationery, can be accepted, subject to any internal rules of the organisation. Any gift of more significant value should be refused or, if such refusal would offend, the solicitor should hand it over to their department.

Hospitality may include refreshments as part of attendance at a meeting or CPD event. In certain circumstances, modest offers of hospitality can be accepted, which would be considered a courtesy in business relationships. However, in their contacts with outside organisations or persons, the solicitor

GUIDANCE

If you are faced with an ethical dilemma in your role as a solicitor in the full-time service of the State, help is available via:

- The Guidance and Ethics Committee (tel: 01 672 4800 – ask for the committee secretary Pamela Connolly or email her at p.connolly@lawsociety.ie),
- The Guidance and Ethics Committee practice and guidance notes,
- The Solicitors' Helpline, run by the Dublin Solicitors' Bar Association (tel: 01 284 8484), and
- The various committees of the Law Society or the DSBA. More information about the Law Society's committees can be found at www.lawsociety.ie/about-us/committees. A full list of the Society's committees and members can be found under the 'Who we are' link at the bottom of the home page.

must take care to ensure that their acceptance of hospitality does not influence them, and could not reasonably be seen to influence them, in discharging their official functions.

Under the *Criminal Justice (Corruption Offences) Act 2018*, the corrupt giving of gifts to, or receipt of gifts by, an official is a criminal offence. Where a civil servant receives money, gifts, or other consideration from a person holding or seeking to obtain a contract from a Government department/office, it is deemed to have been received corruptly unless the contrary is proved.

Official secrets

While the *Solicitor's Guide* identifies the professional duty of confidentiality as a core value of the legal profession, the *Official Secrets Act 1963* makes it a criminal offence for persons who hold public office to disclose secret official information, with the definitions as to who the law applies to, and what information the law applies to, being contained in the act. The act applies to *all* civil servants, including those who are retired or on a career break.

'Public office' is defined in the 1963 act as meaning "an office or employment which is wholly remunerated out of the Central Fund or out of moneys provided by the Oireachtas" and, therefore, applies to solicitors in the full-time service of the State.

Likewise, 'official information' is defined in the 1963 act as "any secret official code word or password, and any sketch, plan, model, article, note, document or information which is secret or confidential or is expressed to be either, and which is or has been in the possession, custody or control of a holder of a public office, or to which he has or had access, by virtue of his office, and includes information recorded by film or magnetic tape or by any other recording medium".

Part II of the 1963 act sets out five offences relating to official information:

- Disclosure of official information (section 4),
- Disclosure of confidential information in official contracts (section 5),
- Retention of documents and articles (section 6),
- Offences relating to official dies, seals and stamps (section 7), and
- Forgery, etc, of official documents (section 8).

> WHERE A SOLICITOR IN THE FULL-TIME SERVICE OF THE STATE IS DIRECTED TO ACT OR ADVISE IN A MATTER IN WHICH A FORMER CLIENT OF THAT SOLICITOR MAY HAVE A MATERIAL INTEREST IN ITS OUTCOME, THE SOLICITOR SHOULD IMMEDIATELY MAKE THAT FACT KNOWN TO THEIR LINE MANAGER

Section 4 of the act says that a "person shall not communicate any official information to any other person unless he is duly authorised to do so, or does so in the course of and in accordance with his duties as the holder of a public office, or when it is his duty in the interest of the State to communicate it". 'Duly authorised' is defined as meaning that permission has been given by a minister or a State authority or person that has been authorised by a minister or a State authority. The type of information protected under the 1963 act is broad, and includes information that is secret or confidential, or expressed to be so, or certified by a minister to be secret or confidential.

There have been few prosecutions under the 1963 act. The most recent case, in 2019, involved an employee of the DPP's office (non-solicitor) who was given an 11-month sentence concerning a number of charges of disclosing information. In addition to the 1963 act, the *Criminal Justice (Corruption Offences) Act 2018* makes it an offence for an official to "use confidential information" for corrupt reasons.

Ethics acts

The *Ethics in Public Office Act 1995* and the *Standards in Public Office Act 2001* provide for, among other things, the disclosure of interests by civil servants occupying 'designated positions' and any interests held, to their actual knowledge, by their spouse or civil partner, a child of theirs, or a child of their spouse, that could materially influence them in relation to the performance of their official functions.

'Designated positions' vary between each Government department, so solicitors in the full-time service of the State should check the *Ethics in Public Office (Designated Positions in Public Bodies) (Amendment) Regulations 2018* to see if they hold a 'designated position' within their work. *Guidelines on Compliance with the Provisions of the Ethics in Public Office Acts 1995 and 2001: Public Servants* are available on the Standards in Public Office Commission website.

Further, the code imposes a restriction on civil servants who hold 'designated positions', for a period of 12 months from the date of resigning or retiring, accepting an offer of appointment from an employer outside the Civil Service, or accepting an engagement in a particular consultancy project, where the nature and terms of such appointment or engagement could lead to a conflict of interest, without first obtaining approval from the appropriate authority. There are further restrictions on civil servants, even where the 12-month period has lapsed, to observe the restrictions imposed by the 1963 act.

Similar rules apply to civil servants (not occupying designated positions) intending to engage with outside business with which they had official dealings, or outside business that might gain an advantage over competitors by employing them, and they require prior approval. However, the legality of these provisions have not been analysed by the courts to date.

Administering oaths

Solicitors in the full-time service of the State cannot administer oaths.

Section 72(1) of the *Solicitors (Amendment) Act 1994* states that only solicitors who hold a practising certificate that is in force shall have all the powers conferred upon a commissioner. The key point here is that, in order for these powers to be conferred pursuant to section 72, the solicitor must be the holder of a current practising certificate. The subsection also makes it clear that the conferral of the power is subject to any

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DATE	EVENT		FEE	DISCOUNTED FEE
	IN-PERSON CPD CLUSTERS 2023			
4 May	**Midlands General Practice Update,** Midland Park Hotel, Portlaoise			€150
25 May	**Essential Solicitors' Update,** Carrick-on-Shannon, Leitrim			€150
1 June	**Essential Solicitors' Update,** The Strand Hotel, Limerick			€150
8 June	**North West General Practice Update,** Lough Eske Castle Hotel, Donegal			€150
	IN-PERSON AND LIVE ONLINE			
28 February	**Microsoft Excel Refresher** Via Zoom meetings	3 Management & Professional Development Skills (by eLearning)	€135	€160
9 March	**EU Law Relating to Immigration and Asylum (TRALIM)** Law Society of Ireland	5.5 General (by Group Study)	Complimentary	
14, 21 & 28 March	**Planning & Environmental Law masterclass** Via Zoom meetings	8 General plus 2 Management & Professional Development Skills (by eLearning)	€350	€425
15 March	**Legal Writing Skills masterclass** Law Society of Ireland	5.5 Management & Professional Development Skills (by Group Study)	€350	€395
23 March	**Probate Update 2023** Online via Zoom Webinars	3 General (by eLearning)	€175	€198
28 March	**Microsoft Word Refresher** Via Zoom meetings	3 Management & Professional Development Skills (by eLearning)	€135	€160
21 & 26 April	**Creating Engaging PowerPoint Presentations**	10 Management and Professional Development (by Group Study)	€315	€350
3 May	**IMRO and Law Society Annual Copyright Lecture** Law Society of Ireland	1.5 General (by Group Study)	Complimentary	
10 May	**Assertiveness & Dealing with Difficult Work Situations** Law Society of Ireland	3 Management & Professional Development Skills	€150	€176
10 May	**In-house Panel Annual Conference** Law Society of Ireland	See website for details		
	ONLINE, ON-DEMAND			
Available now	**Suite of Social Media and Website courses**	1 Management & Professional Development Skills (by eLearning) per course	€150	
Available now	**Legislative Drafting masterclass**	3 General (by eLearning)	€230	€280
Available now	**New Laws Applicable to Technology Use and Creation Conference.**	2.5 General (by eLearning)	€175	€198
Available now	**Property Law Annual Updates 2022**	3.5 General (by eLearning)	€175	€198
Available now	**Employment Law Masterclass – New Developments 2022**	6 Hours General (by eLearning)	€230	€280
Available now	**International Arbitration in Ireland Hub – suite of courses**	See website for details	€110	€125

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

conditions to which that practising certificate is subject under the *Solicitors Acts 1954-1994*.

While solicitors in the full-time service of the State hold a practising status, they do not hold a practising certificate and, therefore, do not fall within the provisions of section 72 and are not permitted to administer an oath.

Certifying documents

Solicitors in the full-time service of the State can certify documents to be true and certified copies.

However, certificates and the power to certify a document is not contained in one specific document or piece of legislation. It is contained in a variety of acts of the Oireachtas, and statutory instruments and regulations made under those acts. Therefore, in order to be absolutely sure as to whether a solicitor in the full-time service of the State can 'certify' a document by virtue of them simply being a solicitor on the Roll of Solicitors, this cannot be easily answered with a 'yes' or 'no' answer.

To be certain whether a solicitor in the full-time service of the State can certify a particular document, the solicitor should check the section of the act or the regulations under any particular act (such as agricultural acts, environmental acts, road-traffic acts, etc) to see whether or not the word 'solicitor' appears and, if so, whether it is defined with the same particularity as is set out in section 54 of the *Solicitors Act 1954* (as substituted by section 62 of the *Solicitors (Amendment) Act 1994*), which states that "a solicitor who has the qualifications specified in subsection (2) of this section may act as a solicitor, and is referred to in this act as a solicitor qualified to practice".

Subsection (2) then refers to the qualifications:

a) That the name of the solicitor is on the Roll,
b) That he does not stand suspended from practice,
c) That either he is a solicitor in the full-time service of the State, or a practising certificate in respect of him is in force, and
d) That the solicitor concerned has not given an undertaking to the High Court that he will not act as a solicitor or, if he has given such an undertaking, that it has been discharged by the court.

Therefore, it can be seen that there are various references to 'solicitors' in the *Solicitors Acts* and under the *Legal Services Regulation Act 2015*, including:

- Solicitors on the Roll,
- Solicitors on the Roll with a current practising certificate (qualified to practise), and
- Solicitors in the full-time service of the State, as defined above.

Thus, in a very general way, in the event that an act of the Oireachtas or any subsidiary legislation or regulations by way of statutory instrument confers upon a 'solicitor' *simpliciter* a power to certify a particular form within that particular piece of legislation, it can be said that a solicitor in the full-time service of the State meets that definition. Whereas, the contrary applies in the event that the definition as contained in the relevant legislation and/or subsidiary legislation refers to a solicitor 'qualified to practise'.

> 'PUBLIC OFFICE' IS DEFINED IN THE 1963 ACT AS MEANING "AN OFFICE OR EMPLOYMENT WHICH IS WHOLLY REMUNERATED OUT OF THE CENTRAL FUND OR OUT OF MONEYS PROVIDED BY THE OIREACHTAS", AND THEREFORE APPLIES TO SOLICITORS IN THE FULL-TIME SERVICE OF THE STATE

However, the meaning given to 'legal services' in section 2 of the 2015 *Legal Services Regulation Act* is simply "legal services provided by a person, whether as a solicitor or as a barrister". It appears, therefore, that the certification of a document in a capacity as a (practising) solicitor (as also defined in that section and in the 1994 act) could constitute the provision of legal services. Therefore, it would appear to follow that any solicitor entitled to practise, but limited only to providing legal services to their employer, could only provide this certification 'service' to their employer, and not to a third party, so solicitors in the full-time service of the State should be cognisant of this.

Justine Carty is a solicitor with the Property Registration Authority, and Peter White is a solicitor with the Department of Justice.

LOOK IT UP

CASES:

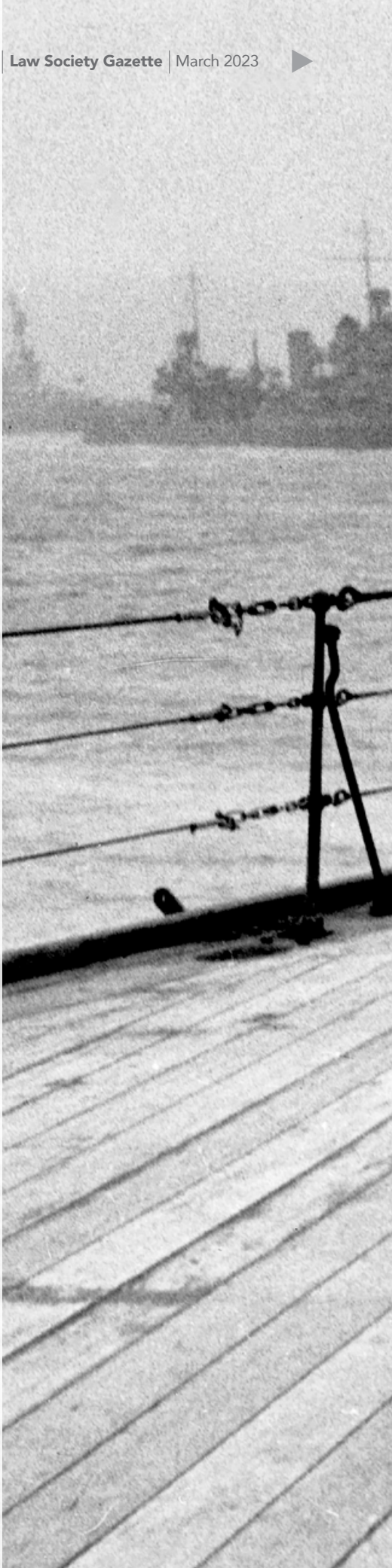
- *Bolton v Law Society* [1994] 2 All ER 486

LEGISLATION AND CODES:

- *Criminal Justice (Corruption Offences) Act 2018*
- *Ethics in Public Office (Designated Positions in Public Bodies) (Amendment) Regulations 2018* (SI 483/2018)
- *Ethics in Public Office Act 1995*
- *Guidelines on Compliance with the Provisions of the Ethics in Public Office Acts 1995 and 2001: Public Servants*
- *Official Secrets Act 1963*
- *Solicitor's Guide to Professional Conduct*
- *Solicitors Acts 1954-2015* (e-compendium)
- *Standards in Public Office Act 2001*

Britain continues to surf a whirlpool of criticism, legal complaints, and financial penalties due to an ever-rising tide of Brexit breaches. A precedent opinion from Advocate General Collins sheds significant light on the penalties being faced, writes Duncan Grehan

We shall fight them on the breaches



PIC: ALAMY

This is a follow-up to the 'Protocoligorically correct' article (*Gazette*, Aug/Sept 2022, p24) on aspects of EU law and the Brexit-breach consequences for Britain. These arise mainly from some of Britain's breaches of its duty under international law to implement the *Withdrawal Agreement* and its protocols in good faith, in an orderly manner, in cooperation and consultation with the EU. It has not done so and faces national and international criticism, the absence of new international trade agreements – particularly with the USA and India – and litigation before the Court of Justice of the European Union (CJEU).

Britain has taken significant unilateral measures in breach of the law, and it has been agreed that it would face consequential penalties, once determined by the CJEU. In one now precedent case of a breach of EU law by Britain, the quantification of what lump or penalty sum should be paid by it for the breach has now been the subject of an opinion by Advocate General Anthony Collins, delivered on 8 December.

Rule of international law

Article 26 of the *Vienna Convention on the Law of Treaties 1969* (headed '*Pacta sunt servanda*') provides that "every treaty in force is binding upon the parties to it and must be performed by them in good faith". Article 27 states that "a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty". Non-compliance with treaty duties is a breach of the rule of international law.

The *Treaty on the Functioning of the EU* (TFEU) provides for what happens when disrespect for EU-law obligations surface and are held by the CJEU to have been breached by a member state. It identifies the commission as the regulator and the CJEU as the exclusive forum to determine the breach and the "lump sum" or a "payment penalty" for it, as specified in article 260.

Unfortunately, article 260(1) does not indicate within what period the offender state must comply with the CJEU judgment. In his opinion, Advocate General Collins says: "Settled case law is to the effect that the importance of immediate and uniform application of EU law requires the process of compliance to be initiated at once and to be completed as soon as possible" (see paragraph 17).

Importantly, article 259 TFEU provides: "A member state which considers that another member state has failed to fulfil an obligation under the treaties may bring the matter before the Court of Justice of the European Union." So the UK is facing litigation from many sides.

The protocol

In the 2016 referendum, England and Wales voted for (and Scotland and Northern Ireland voted against), the Conservative government's Brexit proposal, which was only implemented into domestic law three-and-a-half years later. However, the UK's legal duties under EU law 'remain' until whenever the terms

‘A PARTY MAY NOT INVOKE THE PROVISIONS OF ITS INTERNAL LAW AS JUSTIFICATION FOR ITS FAILURE TO PERFORM A TREATY’. NON-COMPLIANCE WITH TREATY DUTIES IS A BREACH OF THE RULE OF INTERNATIONAL LAW

to which it agreed, and which apply to Northern Ireland, validly expire “within the next 12 months”, that is, 2024, according to the British Government's press release on 9 February, and after the Assembly has reassembled following elections in NI. Britain’s duties under international law will always continue.

The *Withdrawal Agreement and Northern Ireland Protocol*, after the tight referendum result on 26 June 2016, was contracted on 19 October 2019 and then transposed into UK domestic law on 23 January 2020, subject to an agreed transition period to end on 31 December 2020. Brexit provides that Northern Ireland remains in the EU single market until the protocol expires as planned on 1 January 2025. However, its life can be extended for a further four or eight years – but only by a majority of the members “present and voting” in a Northern Ireland Assembly.

Prof Christopher McCrudden (Queens University Belfast and University of Michigan) addressed concerns to the Irish Centre for European Law conference on 11 November 2022 that the “take-back-control attitude” of the British Government pushes aside respect for, and adherence to, the rule of international law: “Last year, yet another attempt to breach the protocol, in the *Internal Markets Bill*, was only narrowly averted by concerted EU and US pressure. The *Retained EU Law Bill* will repeal a swathe of previous EU law without replacing it, a significant proportion of which is necessary for the UK to comply with the protocol. The recently enacted *Elections Act* breaches the protocol in its provisions on the voting rights of EU citizens residing in Northern Ireland. But it is not just that these measures undermine the protocol – in doing so, they also undermine the *Belfast/Good Friday Agreement*.”

Apart from Britain’s indefinite extension of the Brexit transition period, its failure to apply EU laws to protect the integrity of the EU, to respect its harmonised goods standards, and to facilitate the free movement of goods and people within the EU internal market, the most significant illegal unilateral measures are the *Northern Ireland Protocol Bill* and the *Retained EU Law Bill*.

In relation to the latter (sometimes also called the ‘*EU Freedom Bill*’), the *Law Society Gazette* of England and Wales reported on 19 January: “As the *Retained EU Law Bill* enters its final stage in the House of Commons today [18 January 2023], the Law Society said the bill ‘would rock legal certainty in the UK and undermine the country’s status as an internationally competitive business environment’.”

Lubna Shuja (president of the Law Society of England and Wales) commented that the speed at which the government proposed to review retained EU law was “a recipe for bad law-making”.

This involves some 1,400 pieces of legislation to be scrapped and then possibly reinstated in redrafted forms. The Law Society has urged the government to extend the timeline for reform and remove the deadline of 31 December 2023 for reviewing retained law. The president added that its clause 7 takes the “highly unusual step” of giving powers to the law officers – the attorney general, the solicitor general, and the advocate general – to interfere in civil litigation after a case has concluded, which, she said, was “contrary to the interests of justice and the rule of law”.

Widespread criticism

Also open to widespread criticism, the *Northern Ireland Protocol Bill* was introduced to the House of Commons on 13 June 2022 and awaits royal consent before enactment. In the meantime, the highest court in the UK has already confirmed the *Withdrawal Agreement* as binding, legal, enforceable, and not unconstitutional. The UK must observe it and not breach it (and article 27 of the *Vienna Convention*) by promulgating the *Northern Ireland Protocol Bill* as domestic law. The judgment of the UK Supreme Court in *Re Allister*, delivered on 8 February 2023, has upheld the Northern Ireland Court of Appeal judgment and concluded that “it would dismiss all the grounds of appeal and answer in the negative all the questions in relation to which the Court of Appeal gave leave”. It upheld the Court of Appeal decision of March 2022 that the Brexit laws “prevail over any previous historic UK primary constitutional legislation, especially the *Act of Union 1800*”.

If it becomes part of UK law, it scraps many of the UK’s duties under

the protocol, which, per its article 16(1) and subject to deeply complex conditions, does actually foresee and provide for the taking of unilateral 'safeguard measures' by either the UK or the EU. The protocol, for its uncertain lifetime and by which there is now a customs border between Great Britain and Northern Ireland, is legal, binding, and not in breach of UK constitutional law.

This unilaterally drafted bill may be held by the exclusively competent CJEU to be a breach of the *Withdrawal Agreement* and, therefore, of international law.

UK parliamentary sovereignty, however, will not pre-empt or limit the jurisdiction of the CJEU under the *Withdrawal Agreement* to decide upon the legality of such unilateral measures and its power to measure the financial penalties to be borne by the UK for doing so.

Advocate general's opinion

Mr Collins, in his opinion (arising from a UK breach of the EU-wide regulation of the use of fuel types for pleasure crafts) states: "It is settled case law that infringement proceedings are based on an objective finding that a member state has failed to fulfil its obligations under EU law. A member state may thus not rely on provisions, practices, or situations prevailing in its domestic legal order to justify a failure to observe those obligations. Moreover, the court's case law provides no support for the distinction that the United Kingdom seeks to draw between legal and political difficulties, which it recognises cannot justify undue delay in complying with a court judgment, and practical problems or obstacles, which it considers may do so."

The publicised legal opinion of Advocate General Collins, prepared for the CJEU, explains the laws and regulations on how it should quantify and determine the sum to be paid for a particular breach of EU law by the UK while still an EU member – and also by it during the transitory phase under the *Withdrawal Agreement* and pending the expiry of the *Northern Ireland Protocol*. Much of what is set out below is inspired by Mr Collin's written opinion.

In its 2018 judgment in *Commission v United Kingdom*, the CJEU held that, by allowing the use of marked fuel for the purpose of propelling private pleasure craft, even where that fuel is not subject to any exemption from or reduction in excise duty, the UK had failed

PIC: AI/SHUTTERSTOCK

Brexit breeches on beaches

to fulfil its obligations under Council Directive 95/60/EC of 27 November 1995 on fiscal marking of gas oils and kerosene.

On 21 December 2020, the commission brought the present action under article 260 TFEU against the UK, seeking a declaration that it had failed to comply with the judgment in Case C503/17 and requesting that the court impose a financial penalty.

Incoming tide of claims

Mr Collins delivered his opinion on what sum the court should impose and how it should be assessed. This opinion will be a guideline for the incoming tide of claims against Britain for its breaches of its Brexit duties and TFEU duty under article 260 "to take the necessary measures to comply with the judgment of the court". It is liable, therefore, to pay.

UK secondary legislation made on 28 June 2021 gave effect to the provisions of its *Finance Act 2020* and prohibited the use of marked fuel to propel private pleasure craft in Northern Ireland with effect from 1 October 2021. By letter of 11 February 2022 to the court, the commission indicated that, for that reason, it withdrew the head of claim in the application to impose a daily penalty. It nevertheless maintained the head of claim to impose a lump-sum payment for non-compliance between 17 October 2018 (the date of the judgment in Case C503/17) and 30 September 2021 (the date when the UK first complied).

GDP issue

Mr Collins (at paragraph 3) points out that, at the expiry of the agreed Brexit transition period on 31 December 2020, the UK was obliged to comply with the judgment in Case C503/17 in respect of Northern Ireland only. In ruling upon this action, in his opinion, the court is thus required to determine whether this mitigates the seriousness of the infringement and/or has the consequence that the gross domestic product (GDP) of Northern Ireland, as distinct from that of the entire UK, is to be used to calculate the lump-sum payment.

Mr Collins (at paragraph 58) opines: "The United Kingdom's argument that this merits a lower lump-sum payment suffers from a core deficiency that it could be interpreted to mean that an infringement by a 'small' member state is inherently less serious than an infringement by a 'large' member state." In footnote 49, he writes: "Applying those ('small')

THE UK'S LEGAL DUTIES UNDER EU LAW 'REMAIN' UNTIL WHENEVER THE TERMS, TO WHICH IT AGREED, AND WHICH APPLY TO NORTHERN IRELAND, VALIDLY EXPIRE. ITS DUTIES UNDER INTERNATIONAL LAW WILL ALWAYS CONTINUE

adjectives to the population of the member states, five have a population approximately the same as, or smaller than, Northern Ireland: Estonia, Cyprus, Latvia, Luxembourg and Malta."

He continues that, therefore, "the court's case law does not support that proposition." At paragraph 52 he writes that "it should be borne in mind that the court has held that the internal allocation of central and regional powers has no bearing on the application of article 260 TFEU, since the member state concerned is always answerable to the European Union for compliance with its EU-law obligations". Thus, domestic devolution of national responsibilities is no escape route or excuse.

He further explains (paragraph 72): "The objective of imposing a lump-sum payment is to punish past failure to comply and to deter future non-compliance. The United Kingdom did not comply with the judgment by the assessment date, and it is the United Kingdom – not Northern Ireland – that is, in principle, responsible for ensuring that that will not recur [protocol, article 12(1)]. It would, therefore, be inappropriate to take into account the GDP of Northern Ireland, instead of that of the entirety of the United Kingdom, with respect to any non-compliance after the expiry of the transition period."

The advocate general further comments: "The United Kingdom's contention that the lump-sum payment should be reduced to reflect the reduced scope of the United Kingdom's EU-law obligations following its withdrawal from the European Union is illogical. It would be persuasive only if the United Kingdom no longer had any obligations with respect to the European Union, which is not the case ... if anything, the lump-sum payment ought to be increased, rather than decreased, in order to achieve a sufficient deterrent effect."

The UK, in this first once-off Case C-503/17, where it failed to comply with the CJEU judgment against it, in flagrant breach of article 260 TFEU, agreed to pay "a lump sum" – not a penalty payment.

In the opinion of Mr Collins, taking account of the facts and law as presented by both sides at the CJEU hearing on 28 September 2022, the UK should now be ordered to pay €17 million. The commission seeks the CJEU's order for a lump-sum payment by the UK of €38,743,056. The UK has offered to pay €250,000.

The order is expected in the coming months. It will hopefully be effective as a red notice to the UK and to all EU member states of the consequences for any ignored duty to take the necessary measures to fulfil obligations under the treaties, as article 260 expressly requires.

Costs of CJEU litigation

It is a plain term of EU law, as simply presented by Mr Collins, that "under article 138(1) of the *Rules of Procedure*, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings".

The UK continues to surf the wave crest of a whirlpool of criticism, unrest, legal complaints, and financial penalties consequent on an ever-rising tide of Brexit breaches.

The advocate general's opinion helps all to anticipate how costly each and every proven breach is. The next staged commentary could be about the mechanics of debt collection and enforcement of proven breaches of international law. g

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

LOOK IT UP

CASES:

- Case C-503/17, *European Commission v United Kingdom of Great Britain and Northern Ireland*, 17 October 2018
- Case C692/20, *European Commission v United Kingdom of Great Britain and Northern Ireland*, opinion of Advocate General Collins, 8 December 2022
- *In the matter of an application by James Hugh Allister and others for judicial review (appellants) (Northern Ireland)* [2023] UKSC 5

LEGISLATION:

- *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*
- *Belfast Agreement* (1998)
- *Elections Act 2022* (UK)
- *Finance Act 2020* (UK)
- *Northern Ireland Protocol Bill*
- *Retained EU Law (Revocation and Reform) Bill*
- *Rules of Procedure of the Court of Justice of the European Union*
- *Treaty on the Functioning of the European Union*
- *United Kingdom Internal Market Act 2020* (UK bill)
- *Vienna Convention on the Law of Treaties 1969*

The concept of 'plain' or clear English is gaining support. Edward Donelan argues that using plain English develops a sensitivity in writers towards the needs of readers, and he examines how clarity can be reconciled with complexity

MIND YOUR LANGUAGE

Justice Clarence Thomas argued at a conference in Harvard in 2013 that the law ought to be accessible to the average person. He captured this idea in a neat aphorism about plain English: "The beauty is not to write a five-cent idea in a ten-dollar sentence, but to put a ten-dollar idea in a five-cent sentence."

Arguments in support of plain English may be greeted with scepticism by some lawyers. Their arguments would be that 'plain English' could result in vagueness and imprecision. Another argument is that the use of technical legal terms is necessary for accuracy. These arguments suggest that complex topics can't be drafted in plain English without losing some of their meaning – and that the use of legal terminology is necessary because it has established meanings.

Nevertheless, legal documents should be as clear as possible – and lawyers should draft as clearly as possible. A complex right can be defined or explained in a way that makes it understandable. Legal concepts and rights do not arise from complex language.

Acceptance of the need for plain English may be seen in many parts of the English-speaking world, including in Ireland.

PIC: ALAMY/GAZETTE STUDIO

A number of publications here support this development and, with this in mind, the Law Society is organising a Legal Writing Skills Masterclass on 15 March as part of its continuing professional development programme (see panel).

Clarity

The international plain-language organisation Clarity was founded in 1983. Focused on legal writing, its board consists of directors from 30 countries, with members from many more. Clarity advises four steps when drafting in plain English:

1) Understand your readers' needs and adopt their point of view in the drafting process,
2) Define the purpose of your content,
3) Rethink the structure, wording, and graphic design to make content more easily scannable and understandable, and
4) Choose the most relevant and useful information for your users.

International standards

The International Standards Organisation (ISO) is expected to publish a standard for plain language in 2023. The standard will deal with process and issues, but each country's committee will develop specific language standards for its own language.

The ISO suggests that plain language (not just English) is needed, because all industries and sectors benefit from improved communication. Readers benefit when they can understand and use information. And organisations gain improved branding, efficiency, and effectiveness in their communications products. A plain language standard provides all sectors, in nearly all languages, with a set of guidelines and strategies to make information more accessible and effective.

USA

In 2010, the US Congress enacted the *Plain Writing Act*. Its purpose was "to improve the effectiveness and accountability of federal agencies to the public by promoting clear government communication that the public can understand and use".

Following the enactment of the legislation, plain-language advocates in the USA were initially unimpressed by its impact. But the Center for Plain Language (a non-governmental organisation that publishes 'report cards' on writing quality in government agency documents) noted significant improvements between 2013 and 2021.

One example worth considering is the US Department of Labour's annual compliance reports and annual grades for 'organisational compliance' and 'writing quality'. They are accessible on the internet.

New Zealand

In 2022, the New Zealand parliament enacted a *Plain Language Act*. Its objective is to jettison jargon. Officials will need to communicate clearly with the public as part

of a bid to improve accessibility for all parts of society. The government says that the act will make for a more inclusive democracy – particularly for people who speak English as a second language, people with disabilities, and those with lower levels of education.

The act will come into operation on 21 April 2023, but it has already drawn adverse comments from one NZ lawyer, who points out the complexity of one section: "If a document contains a part that meets the requirements in subsection (1) and a part that does not, section 6 applies only to the part that meets those requirements."

That subsection seems clear to me, but having drafted legislation for 24 years, I am used to grasping the meaning of this type of provision. The lay reader may have to read it, at least twice, to understand it.

Canada

By the 1990s, plain language had entered the legal mainstream. The Canadian Law Information Centre offered the workshop 'Making your message clear'. The Canadian Bankers' Association and the Canadian Bar Association jointly produced *The Decline and Fall of Gobbledygook: Report on Plain Language Documentation*.

In 1991, the Canadian government produced a handbook, *Plain Language, Clear and Simple*, which suggests that the use of plain language is a requirement of its *Directive on the Management of Communications*.

Writing in plain language doesn't mean oversimplifying or leaving out critical information. Using plain language actually makes critical information accessible and readable for everyone. (Note the idea that plain language doesn't mean oversimplifying.)

Ireland

In November 2022, the Law Society of Ireland organised a 'Legal writing skills masterclass' for lawyers, which is being repeated on 15 March 2023. The Society has also published a *Solicitors' Guide to Clear Writing*, which suggests that: "As solicitors, we know the power of language to convey information, to persuade and to effect change. We know that using words precisely, in accordance with their legal meaning, is important in the practice of law."

In 2000, the Law Reform Commission published its *Report on Statutory Drafting and Interpretation*. It was based on research and a discussion process that included two well-attended seminars, during which the views of judges, academics, parliamentary counsel, law officers, members of the Oireachtas, and other experts in this field were obtained.

The report recommended to the Government:

- In the drafting of legislation, omitting archaic words such as 'herein', 'heretofore' or 'whereof',
- Using positive rather than negative statements,
- Using examples, maps, diagrams, and mathematical formulae,
- Adopting attractive modern methods of presentation, such as highlighting in bold font terms that have been defined earlier in an act, and
- Providing explanatory memoranda, where appropriate.

Regarding the interpretation of legislation by judges, the commission recommended that a court should be able to depart from the strict and literal interpretation, and to choose instead a construction based on the intention of the Oireachtas when a provision of an act was ambiguous or obscure, or when a literal interpretation would be absurd or would fail to reflect the intention of the Oireachtas (to the extent that the intention is plain).

A Roscommon-based service specialises in teaching plain English. Called 'Plain English Ireland', it provides courses and workshops online. Its business-writing courses provide plain-English training. It also provides editing and proofreading services that claim to support corporate communications that are strong, clear, polished, and free of grammatical errors.

Public Affairs Ireland organises workshops on plain English, claiming (without any reasoned arguments) that "the days of writing in 'business-speak', 'Civil Service-ese' and 'posh' English are gone".

> LEGAL DOCUMENTS SHOULD BE AS CLEAR AS POSSIBLE – AND LAWYERS SHOULD DRAFT AS CLEARLY AS POSSIBLE. A COMPLEX RIGHT CAN BE DEFINED OR EXPLAINED IN A WAY THAT MAKES IT UNDERSTANDABLE. LEGAL CONCEPTS AND RIGHTS DO NOT ARISE FROM COMPLEX LANGUAGE

LEGAL WRITING SKILLS MASTERCLASS

The Law Society is holding a Legal Writing Skills Masterclass on 15 March from 9.30am to 4.30pm at Blackhall Place. To register, visit www.lawsociety.ie. (From the 'Education and CPD' dropdown menu, select 'courses', followed by 'professional training courses'.) The price is €350.

The Association of Freelance Editors, Proofreaders and Indexers of Ireland (AFEPI) has published a *Simple Guide to Plain English*. Its guide defines plain English and presents arguments in support of using it. It also refers to the 2019 *Plain Language Bill*. This was Fine Gael TD Noel Rock's response to international developments in this field. However, it has not been enacted.

The bill – entitled "an act to ensure that all information for the public from Government and State bodies is written and presented in plain language" – lapsed on the dissolution of the Dáil and Seanad in January 2020 and does not appear to have been reintroduced, despite it having all-party support.

Plain English and the law

In 2017, Mason, Hayes & Curran cooperated with the National Adult Literacy Agency to publish *Plain English and the Law: the Legal Consequences of Clear and Unclear Communication*. It contains three case studies, which it puts forward as evidence for the need for plain English. It argues why plain English is important, as well as providing examples from international experiences in English-speaking countries. Finally, it provides some 'know-how' and gives tips on document design and words to avoid – such as 'aforementioned', 'duress', 'heretofore' – and suggests simpler alternatives, such as 'already mentioned', 'pressure', and 'before now'.

The publication also puts forward five plain-English writing tips:

1) Think of the person you are writing to and why you are writing,
2) Be personal and direct,
3) Keep it simple,
4) Define or spell out any unavoidable jargon and abbreviations, and
5) Keep sentences to an average of 15 to 20 words.

Challenges

There are, of course, challenges and risks of using plain English in legal documents (especially legislation). The Law Reform Commission points out how, "in a complicated area where certainty is vital, simplification can only go so far".

The report emphasises that "a statute is never going to read like a song". For instance, "certain words or grammatical constructions, though not in common usage, have been stamped with a well-established legal meaning, and they should continue to be used, for the sake of clarity and brevity".

Technical language

Some technical terms cannot be translated into plain language – and the same goes for language used in the context of legislation and legal documents, such as conveyances, contracts of a specialised nature, judicial decisions, and wills.

Clearly, there are limits to the extent language can be simplified without loss of meaning. The purpose of the Law Society's legal writing skills masterclass is not to advocate the uncritical adoption of plain English, but to make lawyers aware of the way in which they use language, and to help them improve their skills in written English. g

Dr Edward Donelan is adjunct professor of regulatory governance, University College Dublin. He is a barrister and consultant and has published four books, including Regulatory Governance: Policy Making, Legislative Drafting, and Law Reform *(Springer, 2022).*

LOOK IT UP

LEGISLATION:

- *Directive on the Management of Communications* (Government of Canada, 2017; amended 19 November 2021)
- *Plain Language Act 2022* (New Zealand)
- *Plain Language Bill 2019*
- *Plain Writing Act of 2010* (111th Congress of the USA, Public Law 111-274, 13 October 2010)

LITERATURE:

- Pierre-C Gagnon *et al*, *The Decline and Fall of Gobbledygook: a Report on Plain Language Documentation* (Joint Committee on Plain Language: Canadian Bankers' Association and The Canadian Bar Association, 1990)
- Mary McCauley, 'Simple guide to plain English' (Association of Freelance Editors, Proofreaders and Indexers of Ireland, 24 February 2020)
- *Plain English and the Law: the Legal Consequences of Clear and Unclear Communication* (National Adult Literacy Agency and Mason, Hayes & Curran, 2017)
- *Plain Language, Clear and Simple* (Minister of Supply and Services, Canada 1991)
- 'Plain language writing' (Public Legal Education, Canada)
- Lisa Rein, 'Advocates of the *Plain Writing Act* prod federal agencies to keep it simple' (*Washington Post*, 8 April 2012)
- Lisa Rein, 'Plain writing in government: agencies, plainly speaking, aren't there yet' (*Washington Post*, 19 November 2013)
- *Report on Statutory Drafting and Interpretation: Plain English and the Law* (Law Reform Commission, LRC 61 – 2000)
- *Solicitors' Guide to Clear Writing* (Law Society of Ireland)
- Cheryl M Stephens, 'Plain language legal writing: part 1 – writing as a process' (Canadian Bar Association, 4 March 2014)

ORGANISATIONS:

- Association of Freelance Editors, Proofreaders and Indexers of Ireland
- Clarity
- National Adult Literacy Agency
- Plain English Ireland
- Public Affairs Ireland

You are what you eat

As Nutritional Awareness Week approaches, Jenny White highlights the importance of prioritising our diet and lifestyle habits for optimum health and performance

ULTRA-PROCESSED FOODS TYPICALLY CONTAIN NO NUTRIENTS AND ARE HIGH IN SUGARS AND FATS THAT ARE BAD FOR OUR HEALTH, SUCH AS TRANS OR HYDROGENATED FATS. THESE FOODSTUFFS ARE NOT WELL TOLERATED BY THE BODY

Our bodies rely on a steady supply of nutrients – vitamins, minerals, proteins, healthy fats, and complex carbohydrates – to keep us healthy. What we eat can have a profound effect on our body and mind, and should not be underestimated.

Healthy eating and active living can lead to:

- Elevated mood, energy levels and self-esteem,
- Reduced anxiety and stress,
- Reduced risk of heart disease and some forms of cancer, and
- Healthy hormone levels.

Despite the constant changes in the world around us, one aspect of our lives that remains a constant is the need to nourish our bodies with real, wholesome food.

This can often seem beyond our control when we're busy running between meetings and trying to stay on top of our workload. Having worked in the legal field for over ten years, I'm all too aware of the challenges that busy lawyers face.

However, small changes, done consistently, can make a really big difference. I've set out below some practical diet and lifestyle tips that you can try to build into your daily routine. I'm not suggesting you try everything all at once (unless you want to, of course), but I would encourage you to pick one or two goals and focus on those until they become part of your new routine. Then, in a few weeks' time, add in another goal or two. By continuing to do this over a period of time, you'll have created healthier habits without being too overwhelmed.

Little red courgette

Let's start with some basic lifestyle tips that can really make a difference to how we function and feel.

Go for a brisk 15-minute walk after eating. A 2022 study in the *Journal of Sports Medicine* found that a brisk postprandial walk can help manage our blood sugar. This is important for our energy levels, concentration, balanced mood – but it can also help prevent developing type-2 diabetes. So, even if you're eating your lunch 'al desko', try to work this in daily after you've eaten.

Avoid becoming 'hangry'. In 2015, 'hangry' was added to the Oxford Dictionary. It means "bad-tempered or irritable as a result of hunger". Filling our bodies with real food in a timely fashion will provide us with stable energy, increased focus, and improved mood. Aim to have three balanced meals per day and one or two snacks (if needed). It's a good idea to have a couple of items in your desk drawer, such as a tub of nuts and seeds, fruit, nut bars, oat cakes, or even a jar of peanut or almond butter.

Get adequate sleep. Aim to get seven to eight hours of sleep each night. Sleep deprivation leads to poor memory, lower motivation, and impaired cognitive performance. Studies have also shown that lack of sleep can alter our appetite hormones, leaving us craving sugary junk foods the next day. Sound familiar?

If you're struggling to sleep at night, consider your caffeine intake during the day. Caffeine has a half-life of approximately six hours, so this means that six hours after you've had a cup of coffee, half that caffeine is still circulating in your blood stream. Typically, one or two coffees early in the day won't cause a difficulty for most people, but if you're drinking more than that and not sleeping well, consider reducing your intake or swapping out some coffees for herbal tea or a glass of water. Some people are genetically more sensitive to caffeine than others, so it's important to listen to your body.

Just beet it

Now let's consider how we are actually fuelling our bodies. All too often, people are grabbing a coffee and a scone on the run for breakfast, wolfing down a sandwich at lunch, followed by maybe another coffee and chocolate in the afternoon – just to get them through that final stretch. This can leave us in a vicious cycle of sugar highs followed by sugar crashes – this is often referred to as the 'blood-sugar rollercoaster'.

PIC: ALAMY/GAZETTE STUDIO

Our bodies really dislike this and, over time it can lead to type-2 diabetes, poor cardiovascular health, low mood, and hormone imbalances.

Speaking of hormones, March is Endometriosis Awareness Month, and these tips are especially important for women trying to balance their hormones. This inflammatory condition is estimated to effect one in ten women in Ireland, and diet and lifestyle changes can provide great symptom relief for some women.

Peas be with you

Try to avoid consuming too much sugar – sweets, chocolate, ice-cream, sweets, refined carbohydrates (such as scones, buns, cakes, pastries, donuts, biscuits, etc). These foods are going to have a negative impact on your physical and mental health. It's not that you can't have them at all, but they shouldn't be replacing meals or proper snacks. They are treats, and should be consumed in moderation and only on occasion.

Ditch the fizzy drinks – these are literally just liquid sugar, and can play havoc with your metabolism, hormones, and weight. Did you know that a can of cola contains about nine teaspoons of sugar? Not many people would add that amount to their tea or coffee, so think twice about drinking it in the form of a fizzy drink. For an average adult, the World Health Organisation recommends a maximum of ten teaspoons of sugar per day, so one can of cola is almost your maximum sugar

NEVER FORGET THAT ONE OF THE MOST POWERFUL TOOLS TO IMPROVE YOUR HEALTH AND PERFORMANCE IS LOCATED AT THE END OF YOUR FORK

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intake limit for the entire day. Now, I can already hear some of you proudly saying that you choose sugar-free or 'zero' drinks. They don't contain sugar, but they are still very sweet – so why is that? They contain a chemical called aspartame, which is an artificial sweetener, and this isn't good news for our bodies either, as it has been linked to symptoms such as headaches, migraines, anxiety, and digestive upset.

Reduce processed food – this means food products that have a long list of ingredients you probably can't pronounce and have never heard of. Ultra-processed foods typically contain no nutrients, and are high in sugars and fats that are bad for our health, such as trans or hydrogenated fats. These foodstuffs are not well tolerated by the body and, if consumed in large amounts over time, can lead to feeling sluggish, metabolic issues, and cognitive decline. Instead, choose wholefoods in their natural state that don't have an ingredients list, like fruit, vegetables, nuts, oats, eggs, fish, etc.

Be mindful of how much alcohol you are consuming – alcohol has been shown to negatively affect our immune system and hormones, increase inflammation, and lead to weight gain – not exactly what we want. If you find yourself needing a drink to help de-stress, then it might be worth exploring other ways to help you relax.

And now that I've killed your buzz, here are some easily actionable tips for success in your daily food routine. These foods are packed with powerful nutrients and beneficial compounds to help our bodies fight disease and function at their best.

How do you like them apples?

'Eat the rainbow' in fruit and vegetables – each colour will provide different nutrients. By always including a variety of colour on your plate at each meal, you get a wide range of vitamins, minerals, fibre and phytonutrients (which help protect against disease). A wide range of plant-based foods will also help support a healthy microbiome, which is the collection of microbes that live in our digestive system. These microbes help support our bodies in terms of mood, cholesterol, immune health, and digestive health, and are not to be overlooked. Try stir-fries, curries, soups, partially warm salads, or snack on vegetable sticks with some hummus.

Include essential fatty acids in your diet – as the name suggests, these fats are essential to our health because our bodies cannot make them, and they must be consumed through our diet or by supplementation. These fats will help reduce inflammation and support our cardiovascular system, memory, and cognition. Our brain is made of about 60% fat, our nerve coverings are made from fat, and so is the wall of every cell in our body – we're talking trillions of cells here, so there is a high demand for it. The richest source of essential fatty acids is oily fish, such as salmon, mackerel, anchovies, and sardines, which may not be everyone's cup of tea. They can also be found to a lesser degree in avocados, olives, flax seeds, chia seeds, pumpkin seeds, walnuts, almonds, pecans, cashews, and extra virgin olive oil (in dressings). Try buying a selection of nuts and seeds (unroasted and unsalted) and grab a handful for a snack with a piece of fruit.

Choose complex carbohydrates – this means swapping any white rice, pasta, or bread for brown. This will give you a higher amount of fibre and, generally, less sugar. Fibre is important for hormone balance, cholesterol levels, and digestive health. Complex carbohydrates help give us a steadier, more long-lasting supply of energy compared with their refined (white) counterparts.

Hydration should not be underestimated – dehydration can promote inflammation, fatigue, and a sluggish digestive system. Get a refillable water bottle and keep it on your desk so that you can monitor how much you've had. Aim for one-and-a-half to two litres each day. Add fresh lemon, lime, cucumber or mint leaves to jazz it up if you're struggling. Herbal teas will count towards this amount, which can be nice during the colder months, and these are available in a wide range of flavours, so find something that tickles your taste buds.

Celerybrate

I've only just scratched the surface of some of the ways that diet and lifestyle can help, but never forget that one of the most powerful tools to improve your health and performance is located at the end of your fork.

It doesn't have to be all or nothing – as mentioned above, small changes done consistently can make a big difference. For now, maybe it's eating more vegetables, or simply having an extra glass of water each day, but I would encourage you to start by making just one change, and that might make all the difference.

Jenny White MSc is the co-founder of Beoga Nutrition. She specialises in helping people feel better through diet and lifestyle changes, and regularly works with people with irritable bowel syndrome, low mood, high cholesterol, and hormone imbalances. She creates bespoke programmes to suit each client's needs, and also offers group and corporate packages.

> ALL TOO OFTEN, PEOPLE ARE GRABBING A COFFEE AND A SCONE ON THE RUN FOR BREAKFAST, WOLFING DOWN A SANDWICH AT LUNCH, FOLLOWED BY MAYBE ANOTHER COFFEE AND CHOCOLATE IN THE AFTERNOON – JUST TO GET THEM THROUGH THAT FINAL STRETCH. THIS CAN LEAVE US IN A VICIOUS CYCLE OF SUGAR HIGHS FOLLOWED BY SUGAR CRASHES

Screen time for FDI

A new bill aims to give the minister the power to review foreign direct investment into the State from outside the European Economic Area and Switzerland. Cormac Little powers up the tricorder

THE OVERALL PURPOSE OF THE *SCREENING OF THIRD COUNTRY TRANSACTIONS BILL* IS TO PROTECT KEY INFRASTRUCTURE IN THE STATE FROM THE INFLUENCE OF THIRD-COUNTRY ENTITIES WITH MALIGN POLITICAL OR OTHER OBJECTIVES

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

Unlike many of its key trading partners, Ireland does not currently have a regime for screening foreign investment (FDI) into key infrastructure. However, this is set to change. With the long-awaited publication of the *Screening of Third Country Transactions Bill* last year, the Government outlined its plans for the introduction of rules giving the Minister for Enterprise, Trade and Employment the power to review foreign direct investment into the State from outside the European Economic Area and Switzerland. If and when the bill is adopted by the Oireachtas, Irish law will contain, in common with many other EU member states (and in addition to the UK and the US), a regime allowing for, on the grounds of security or public order, the prohibition or modification of FDI into key infrastructure and industries from hostile actors seeking to use ownership of, or influence over, strategic businesses and assets to harm the State. While the bill has not been mandated by the EU, its adoption has, nonetheless, been strongly encouraged by the European Commission.

Relevant EU legislation

The publication of the bill was preceded by EU Regulation 2019/452 establishing a framework for the screening of FDI in the EU. The *FDI Screening Regulation* came into effect in October 2020 and seeks to encourage cooperation and information exchange between EU member states and the European Commission regarding FDI from third countries.

While the *Screening Regulation* neither gives the commission the power to block or suspend FDI, nor requires member states to introduce such rules, it does promote intra-EU cooperation, while also suggesting some potential harmonisation measures. To the extent member states decide to adopt or, indeed, amend their national rules on the review of foreign investment, the regulation contains a non-exhaustive list of factors that may be taken into consideration in determining whether a proposed investment is likely to undermine national security or public order.

The regulation also requires member states to inform their fellow member states of any ongoing screening. If a particular FDI elsewhere affects its security or public order, an EU member state may issue comments to the screening member state, which it will be obliged to take into account in its relevant review. Member states are also required to inform the commission of any ongoing screening. The latter institution may issue a non-binding opinion if the relevant FDI affects security or public order in more than one member state and/or projects receiving significant EU funding.

Key elements

The bill is relatively lengthy, comprising four parts and 42 sections. Its key focus is the creation of a mandatory notification obligation for parties to third-country transactions, acquisitions, agreements, or other activities with a value of €2 million or more in designated sectors, or involving sensitive or strategic activities that result in a change of control of an asset or undertaking in the State.

Under section 9 of the bill, transactions that satisfy each of the following criteria trigger a mandatory notification to the minister:

- A party to the transaction is a third-country undertaking or a person connected with a third-country undertaking,
- The value of the transaction is equal to, or greater than, €2 million (or such other amount as may be prescribed by the minister),
- The transaction directly or indirectly relates to, or impacts upon, one or more areas likely to affect security or public order, including critical infrastructure (whether physical or virtual, including energy, transport, water, health,

communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure, and sensitive facilities, as well as land and real estate crucial for the use of such infrastructure), critical technologies (including artificial intelligence, robotics, cybersecurity, defence, and energy storage), or the supply of critical inputs (including energy or raw materials, as well as food security),

- The transaction relates, directly or indirectly, to an asset or undertaking in the State, and
- Having satisfied the above criteria, the transaction results in a change in control, in terms of the percentage of shares or voting rights, over an asset or undertaking from 25% or less to greater than 25%, or from 50% or less to greater than 50%.

Submitting the notification

Under section 10, parties to a notifiable transaction must generally file a notification with the minister at least ten calendar days prior to the planned date of completion. Key

IRISH LAW WILL CONTAIN A REGIME ALLOWING FOR THE PROHIBITION OR MODIFICATION OF FDI INTO KEY INFRASTRUCTURE

THE BILL WAS FIRST PRESENTED TO THE DÁIL IN AUGUST 2022

details regarding the relevant investment must be included in the notification, including:

- The identities of the parties involved,
- The ownership structure of the parties to the transaction,
- The approximate value of the transaction,
- Information on the products, services, and business operations of the parties to the transaction,
- The nature of the economic activities carried out in the State by the parties,
- The funding of the transaction and its source, and
- Details of any sanctions imposed on the parties to the transaction by the EU.

While all parties to a particular investment have a notification obligation, section 11 of the bill establishes a procedure for one party, upon agreement with the remaining party(ies), to make the necessary notification to the minister, resulting in deemed compliance by the remaining party(ies) with their respective statutory obligation(s).

'Call-in' provisions

Section 12 of the bill allows the minister to 'call-in' for review non-notified transactions that affect the security or public order of the State, either for up to five years after the date on which the transaction is completed, or for up to six months after he/she becomes aware of the transaction (whichever is the later). Under the same section, non-notifiable transactions may be 'called in' for up to 15 months post-completion for similar reasons. The relevant provisions are likely to apply retrospectively. Transactions completed in the 15 months before section 12 comes into operation may be reviewed, again based on the security or public order of the State.

Prohibited transactions?

Under section 13, the minister's screening of a transaction for any threat it poses to security or public order will take account of several specific factors, including:

- Whether an investor is controlled by a third-country government, where such control is inconsistent with the policies and objectives of the State,
- The extent to which the relevant parties are/have been involved in activities related to security or public order of the State,
- Any evidence of illegality/criminality among the parties to the investment,
- The likelihood of the transaction resulting in actions that are disruptive or destructive to people, assets, or undertakings in the State, and/or
- Involve espionage affecting the interests of the State.

Having screened a transaction, the minister has, under section 16 of the bill, up to 90 days (extendable by 45 days) from when the transaction was notified to decide whether to

RECENT DEVELOPMENTS IN EUROPEAN LAW

EMPLOYMENT LAW

Case C-356/21, TP *(audiovisual editor for public television)*, 8 September 2022, Advocate General's opinion

A worker provided editing services to a Polish public-television station for seven years, based on consecutive short-term contracts. In December 2017, he and his partner published a Christmas video on YouTube, aimed at promoting tolerance towards same-sex couples. Shortly after the video was released, the television station informed him that his contract was terminated and that no new one would be concluded with him. He lodged an action for compensation with the Warsaw District Court. The court asked the CJEU whether the *Framework Directive for Equal Treatment in Employment and Occupation* (2000/78/EC) is applicable to such a case.

Advocate General Tamara Capeta took the view that the directive covers a situation of a refusal to sign a contract with a self-employed worker because of the sexual orientation of that person. The freedom to choose a contracting party cannot be relied on to justify discrimination based on sexual orientation. The directive refers to conditions for access to both employment and self-employment.

What is important, in terms of the directive, is that a person engages in personal work, irrespective of the legal form under which that work is provided. The notion of self-employment does not exclude the provision of goods and services if the provider offers their personal work to earn their living. The conditions for access to self-employment cover circumstances or facts that must be established in order that a person is able to secure a particular job as a self-employed worker.

Secondly, the advocate general found that "the conditions for access to self-employment" cover circumstances or facts that must be established in order that a person is able to secure a particular job as a self-employed worker. If the potential recipient of the services of a self-employed worker makes access to a job dependent on that person not being homosexual, a person of such sexual orientation cannot secure that work.

The directive precludes Polish legislation that allows economic operators to take account of sexual orientation for the selection of a contracting party. That legislation is not covered by possible exceptions to that directive. The freedom to choose a contracting party can legitimately be restricted with a view to protecting other important values of a democratic society, such as equal treatment in employment and occupation. The directive specifically guarantees that value.

allow the transaction to proceed (with or without conditions) or not. The substantive test is whether the relevant FDI is manifestly contrary to the security or public order of the State. If no screening decision is issued within the 90-day period, the transaction is deemed approved.

The 90-day period, however, may stand suspended where a notice requesting additional information is issued. Specific timelines for such information requests to one or more parties are contained in section 19 of the bill.

Section 18 stipulates the types of conditions the minister may impose following the screening of a transaction, including requiring parties:

- Not to complete the transaction or specific parts of the transaction, whether before a specified date or at all,
- To sell or divest itself of any business, assets, shares or property,
- To prevent the flow of competitively sensitive information between undertakings or within an undertaking,
- To report on compliance with conditions imposed by the minister, and
- To pay the reasonable costs of the minister in monitoring compliance with any conditions imposed.

Appeals

A party to a transaction may, under section 27, appeal a screening decision made by the minister and/or a decision by the minister not to divulge the reasons for the decision in full. Appeals will be heard by an adjudicator appointed under section 22. The adjudicator has, under section 29, the power either to allow the appeal while remitting the matter to the minister for reconsideration within a defined period, or to affirm the minister's decision. The findings of an adjudicator may, under section 34, be appealed to the High Court on a point of law, not later than 30 calendar days from the date on which the party was notified of the relevant decision.

Key considerations

The overall purpose of the bill is to protect key infrastructure in the State from the influence of third-country entities with malign political or other objectives.

For any practitioner advising on mergers and acquisitions, the possibility of an FDI notification should be added to any transaction checklist. While such solicitors are well familiar with the need to confirm whether the relevant transaction requires merger clearance under either EU or Irish (or other national) merger control rules, they will, when the bill is adopted, also need to consider whether clearance from the minister under FDI screening rules is necessary. If clearance is required, the parties would be well-advised, given the relevant review timelines, to submit a notification a number of weeks before they wish to complete the relevant transaction. Indeed, solicitors who regularly advise on international transactions will already be familiar with the need to consider whether the relevant deal might require approval under other national screening regimes (such as the UK's *National Security and Investment Act 2021* and/or the US Committee on Foreign Investment in the US (CFIUS) rules.

As mentioned above, both the US and the UK are third countries for the purposes of the bill. Indeed, given that entities based in either country are regularly involved in transactions with an Irish nexus, allied to the low transaction value of €2 million, it is likely that the bill, if adopted in its current form, will trigger a significant number of notifications to the minister each year.

Those practitioners already conversant with the preparation of merger notifications will notice some familiar features in the bill. However, there are certain key differences. For example, it is unclear whether a notification to the minister may be made based on a letter of intent, or whether an actual agreement is required.

The bill was first presented to the Dáil in August 2022 but, since then, progress has been slow. Surprisingly, the bill is not listed in this spring's legislation programme. That said, given recent international developments, most notably Russia's ongoing invasion of Ukraine, there is certainly recognition, allied to encouragement from the EU, for the need to adopt an Irish FDI screening regime. We can thus expect the bill to continue making its way through the Oireachtas over the coming months. g

Cormac Little SC is head of the competition and regulation unit of William Fry LLP and a member of the Law Society's EU and International Affairs Committee.

LOOK IT UP

LEGISLATION:

- *CFIUS Rules* (US)
- *FDI Screening Regulation* (EU Regulation 2019/452)
- *National Security and Investment Act 2021* (Britain)
- *Screening of Third Country Transactions Bill 2022*

SOLICITORS WHO REGULARLY ADVISE ON INTERNATIONAL TRANSACTIONS WILL ALREADY BE FAMILIAR WITH THE NEED TO CONSIDER WHETHER THE RELEVANT DEAL MIGHT REQUIRE APPROVAL UNDER OTHER NATIONAL SCREENING REGIMES

PRACTICE NOTE

PRACTICE NOTES ARE INTENDED AS GUIDES ONLY AND ARE NOT A SUBSTITUTE FOR PROFESSIONAL ADVICE.
NO RESPONSIBILITY IS ACCEPTED FOR ANY ERRORS OR OMISSIONS, HOWSOEVER ARISING

CONVEYANCING COMMITTEE

STAGE PAYMENTS AND CERTIFICATE OF TITLE

The Conveyancing Committee has been reviewing the certificate of title system in relation to residential properties and, in particular, the area of stage payments. On the issuing of the stage payment by the lender to the solicitor's client account, the security documentation is put in place and the application is made to have the title (where relevant) registered in the client's name and the charge on the property registered with the Property Registration Authority (PRA).

The certificate of title is dated the date of the first drawdown and, at this juncture, subject only to registration of the title and the charge with the PRA, the solicitor lodges their certificate of title with the lending institution, together with the title deeds. It is at the point of the initial drawdown that searches are carried out and, subject only to the registration and the delivery of the certificate of title and title deeds to the lender, the solicitor's engagement comes to an end.

In keeping with the current certificate of title system agreed between the Law Society of Ireland and the Banking & Payments Federation Ireland, after first drawdown, all further stage payments should be paid by the lender directly to their customer and not to the solicitor's client account. Where the first drawdown has occurred and the security has been put into place, the committee considers there should be no need for the solicitor's client account to be used to process subsequent stage payments.

The committee considers that, where the lender requests stage payments to be processed through a client account of a solicitor, this increases the work and costs involved, as well as the timeline for funds transfer, and it increases risks – particularly around cybercrime.

Each solicitor who, in their discretion, agrees to process these additional payments should first agree with their client the terms of their service in this regard, including in relation to costs. Where the lender transfers the stage payments directly to its customer, the potential for increased works, costs, and delay is reduced, and transfer risks are also reduced, as there is only one payment by the lender to a verified customer's account.

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 Helen Jeffords, a solicitor previously practising as Helen Jeffords and Co at Plunkett Chambers Business Centre, 21/23 Oliver Plunkett Street, Cork, and in the matter of the *Solicitors Acts 1954-2015* [2020/DT09, 2020/DT10, and High Court record 2022 no 158 SA]**
Law Society of Ireland (applicant)
Helen Jeffords (respondent solicitor)

2020/DT09

On 4 May 2022, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct, in that she:

1) Failed to comply with a section 10 notice, served on her on 15 November 2019, requiring her to transmit the original file in relation to the complaint to the Law Society,
2) Failed to comply with the direction made by the Complaints and Client Relations Committee at its meeting on 11 February 2020 that she transmit the original file to the complainant's new solicitor within seven days of the date of notification of the decision, which was on 17 February 2020,
3) Failed to respond to the Society's letters in a timely manner, adequately, or at all and, in particular, to letters dated 21 June 2019, 27 August 2019, 12 September 2019, 8 October 2019, 4 November 2019, 28 January 2020, 5 February 2020, and 17 February 2020.

2020/DT10

On 4 May 2022, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct, in that she:

1) Failed to comply with her client's instruction and authorisation dated 25 February 2019 to pass her original personal-injuries file to her new solicitor, the complainant,
2) Failed to comply with the direction of the Complaints and Client Relations Committee made at their meeting on 11 June 2019 that she provide a full and detailed response to the complaint within 14 days,
3) Failed to respond in a timely matter or at all to the letters from Society dated: 23 May 2019, 11 July 2019, 9 October 2019, 30 July 2019, 9 October 2019, and 11 December 2019,
4) Failed to attend the meetings of the Complaints and Client Relations Committee on 22 October 2019 and 21 January 2020, despite being required to do so.

The tribunal referred the two matters to the High Court and, on 28 October 2022, in High Court record 2022 no 158 SA, the High Court ordered:

1) That the respondent solicitor not be permitted to practise as a sole practitioner or in partnership, that she be permitted only to practise as an assistant solicitor in the employment and under the direct control and supervision of a solicitor of at least ten years' standing, to be approved in advance by the Law Society of Ireland,
2) That the respondent solicitor pay the sum of €5,024 as a contribution towards the costs of the applicant in the disciplinary proceedings,
3) That the respondent solicitor pay the measured sum of €2,472 to the applicant for its measured costs and outlay for the High Court application.

In the matter of Barry G O'Meara, a solicitor practising as Barry G O'Meara & Co, Solicitors, at Pembroke House, Pembroke Street, Cork, and in the matter of the *Solicitors Acts 1954-2015* [2021/DT14]
Law Society of Ireland (applicant)
Barry G O'Meara (respondent solicitor)

On 13 September 2022, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor, in that he:

1) Failed to comply with an undertaking furnished to the complainant bank on 4 May 2017 in respect of his named clients and borrowers and a named property in Youghal, Co Cork, in a timely manner or at all,
2) Failed to respond to letters from the applicant in a timely manner or at all, dated 29 August 2019, 8 January 2020, 18 February 2020, 18 March 2020, 25 September 2020, 27 November 2020, 12 July 2021, 4 August 2021,
3) Failed to comply with the direction made by the Complaints and Client Relations Committee at its meeting of 30 July 2020 that he confirm to the applicant by 10 September 2020 that, on completion of the dealing, he would be in a position to certify title and return the title documents to the complainant, which direction was communicated to the solicitor by letter dated 30 July 2020.

The tribunal ordered that the respondent solicitor:

- Stand censured,
- Pay a sum of €8,000 to the compensation fund,
- Pay the sum a €1,512 as a contribution towards the whole of the costs of the applicant.

In the matter of Philip Meagher, a solicitor practising as Midland Legal Solicitors, Fitzmaurice House, Bank Place, Portlaoise, Co Laois, and in the matter of the *Solicitors Acts 1954-2015* [2021/DT03]
Law Society of Ireland (applicant)
Philip Meagher (respondent solicitor)

On 3 November 2022, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of professional misconduct, in that he:

1) Failed to comply with an undertaking furnished to a named bank on 2 July 2007 in respect his named clients and borrowers and property at Mounthrath, Co Laois, in a timely or at all,
2) Failed to respond to letters from the Society in a timely manner, within the time provided, or at all, dated 30 August 2013, 24 January 2014, 2 April 2014, 28 July 2014, 20 August 2014, 2 October 2014, 5 February 2015, 9 March 2015, 21 August 2015, 22 October 2015, 22 June 2016, 21 July 2016, 23 January 2017, 13 July 2017, 9 January 2018, 10 April 2018, 17 July 2018, and 1 November 2019.

The tribunal ordered that the respondent solicitor:

- Stand advised and admonished,
- Pay a sum of €4,000 to the compensation fund,
- Pay the sum a €2,512 as a contribution towards the whole of the costs of the applicant.

In the matter of Barry G O'Meara, a solicitor practising as Barry G O'Meara & Co, Solicitors, at Pembroke House, Pembroke

Street, Cork, and in the matter of the *Solicitors Acts 1954-2015* [2020/DT07]
Law Society of Ireland (applicant)
Barry G O'Meara (respondent solicitor)

On 3 November 2022, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor, in that he:

1) Failed to comply with an undertaking furnished to a named financial institution on 5 March 2010 in respect of his named clients and borrowers and property at Churchfield, Cork, in a timely manner or at all,
2) Failed to respond to correspondence from the Society within a timely manner, within the time, provided or at all, dated 15 January 2014, 14 March 2014, 29 April 2014, 28 September 2017, 19 October 2017, 12 January 2018, 30 January 2018, 22 August 2018, 26 September 2018, 4 December 2018, 17 December 2018, and 30 January 2019,
3) Failed to attend a meeting of the Complaints and Client Relations Committee on 22 January 2019, despite being required to attend that meeting by letter dated 14 January 2019.

The tribunal ordered that the respondent solicitor:

- Stand censured,
- Pay a sum of €15,000 to the compensation fund,
- Pay the sum a €2,362 as a contribution towards the whole of the costs of the applicant.

In the matter of Donal Chambers, a solicitor formerly practising as Chambers Law, 'The Lamp', No 1 Bridge Street, Kilcock, Co Kildare, and in the matter of the *Solicitors Acts 1954-2015* [2019/DT65]
Law Society of Ireland (applicant)
Donal Chambers respondent solicitor)

On 29 November 2022, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of professional misconduct, in that he:

1) Continued to practise as a solicitor after 31 May 2018, being the date of the cessation of his practice as notified by his accountants and subsequently confirmed by him to the Society,
2) As principal of a firm, did not provide to the Society evidence that the firm had established and was maintaining qualifying insurance for the indemnity period starting on 1 December 2018, as required by regulation 4(k) of the regulations,
3) As principal of a firm, carried on a practice from 1 January 2019 without a valid practising certificate in place, as required by regulation 3(a) of the regulations.

The tribunal ordered that the respondent solicitor:

- Stand censured,
- Pay a sum €3,000 to the compensation fund,
- Pay the sum of €3,024 as a contribution towards the whole of the costs of the applicant.

WILLS

Bain, Marie Louise (deceased), late of 14 The Maples, Bird Avenue, Clonskeagh, Dublin 6, who died on 21 February 1997. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact O'Mara Geraghty McCourt, Solicitors, 51 Northumberland Road, Ballsbridge, Dublin 4; tel: 01 660 6543, email: lgrady@omgm.ie

Carberry, Emily (deceased), late of 326 Crumlin Road, Dublin 12, who died on 20 October 2022. Would any person having knowledge of any will made by the above-named deceased please contact Coonan Cawley, Solicitors, Wolfe Tone House, Naas Town Centre, Naas, Co Kildare; tel: 045 899 571, email: office@coonancawley.ie

Dunne, Peter (deceased), late of Croghan Hill, Tullamore, Co Offaly; and Croghan Hill, Rhode, Co Offaly; and 114 Deerpark House, Friar's Walk, Cork T12 C952; and St Vincent's Hostel, Anglesea Road, Cork City; and Waterford, who died on 10 April 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Bernadette McArdle, Conway & Kearney, Solicitors, High Street, Tullamore, Co Offaly; DX 43009 Tullamore; tel: 057 932 1201, email: bernie.mcardle@conwaykearney.com

Fallon, Declan (deceased), late of 5 Fairview Avenue Lower, Fairview, Dublin 3 (formerly of 7 Fairview Avenue Lower, Fairview, Dublin 3). Would any person having knowledge of the whereabouts of any will executed by the above-named deceased, who died on 7 November 2022, please contact Patricia Drumgoole at Drumgoole Solicitors, 102 Upper Drumcondra Road, Dublin 9; tel: 01 837 4464, fax 01 837 4652, email: info@drumgooles.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 April 2023 *Gazette*: 22 March 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*.

Fitzgerald, Paul (deceased), late of 89 Cremona Road, Ballyfermot, Dublin 10, who died on 5 November 2012. Would any person having knowledge of any will made by the above-named deceased please contact Johnston Solicitors, 179 Crumlin Road, Crumlin, Dublin 12; email: info@johnstonsolicitors.ie

Fitzsimons, Patrick (otherwise Paddy) (deceased), late of Glynn, Poulshone, Courtown Harbour, Gorey, Co Wexford, who died on 15 February 2022. Would any solicitor or person having knowledge and details of a will made by the above-named deceased please contact Lombard Cullen & Fitzpatrick, Solicitors, McDermott Street, Gorey, Co Wexford, tel: 053 942 1324, email: bohara@lcaf.ie

Kealy, Sarah T (also known as Sally Kealy) (deceased), late of 8 Elm Road, Donnycarney, Dublin 9, who died on 28 September 2021. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Audrey G Kennedy of Black & Kennedy, Solicitors, The Diamond, Malahide, Co Dublin; tel: 01 845 0538, email: audrey@bksolicitors.ie

Kelly, Christopher (deceased), late of 2 Church Lane, Trim, Co Meath, who died on 10 September 2022. Would any person having knowledge of any will made by the above-named deceased please contact Brian Callaghan, Regan McEntee & Partners Solicitors, High Street, Trim, Co Meath; DX 92002 Trim; tel: 046 943 1202

Kiely, Patrick (otherwise Paddy) (deceased), late of Apartment 95, Block 10, Greenville Place, Clanbrassil Street Lower, Dublin 8. Would any person having knowledge of a will executed by the above-named deceased, who died on 30 September 2022, please contact Donal Fingleton, Fingleton & Co, Solicitors, 2a Landscape Road, Churchtown, Dublin 14; tel: 01 296 0073, email: df@fingletonsolicitors.ie

Lawton, Michael (deceased), late of 11 Forest Dale, Rivervalley, Swords, Co Dublin, who died on 21 February 2022. Would any person having knowledge of the whereabouts of a will made by the above-named deceased on 18 February 2021, or any other will made by him, please contact Hennessy & Perrozzi, Solicitors, Town Centre Mall, Swords, Co Dublin; ref: PRO44885; tel: 01 890 1888, email: info@hpsol.ie

Linnane, Christopher (Christy) (deceased), late of Inishrue, Kinvara, Co Galway. Would any per-

son with any knowledge of a will executed by the above-named deceased, who died on 17 January 2023, please contact Colman Sherry Solicitors, The Square, Gort, Co Galway; tel: 091 631 383, email: info@colmansherry.ie

Lynch, Denis John Anthony (also known as Denis John Lynch) (deceased), late of Flat 8 Hornsey Lane, London N6 5LE, and also of 37 Ashfield Park, Ennis, Co Clare, who died on 9 May 2022. Would any person having knowledge of any will executed by the above-named deceased please contact Paula Fallon, solicitor, 'Welbeck', Barnhill Road, Dalkey, Co Dublin; tel: 01 236 9678, email: paula.fallon@paulafallon.ie

Lyons, Anthony (otherwise Tony) (deceased), late of 8 Kilgobbin Heights, Kilgobbin Road, Stepaside, Dublin 18, and formerly of 77 Beaumont Avenue, Churchtown, Dublin 14, who died on 10 May 2019. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Hughes & Liddy, Solicitors, 22 Lower Leeson Street, Dublin 2; tel: 01 676 6763, email: brendan@solicitorsireland.com

McCormack, Hubert (deceased), late of Apartment 7H, Hanover Quarter, Hanover Quay, Dublin 2, and formerly of Lisawarriff, Carrickboy, Co Longford, who died on 28 February 2022. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Beirne Gannon & Co, Solicitors, 1 New Street, Longford; tel: 043 334 9000, email: mbeirne@beirnegannon.ie

McCormick, Pauline (deceased), late of St Ursula's Nursing Home, Bettystown, Co Meath, and formerly of 6 St Anne's Terrace, Bettystown, Co Meath, who died on 25 December 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in recent contact with the deceased regarding her will, please contact Fiach McHugh of McKeever Taylor, Solicitors, 31 Laurence Street, Drogheda, Co Louth A92 KFH3; DX 177009 Drogheda 2; tel: 041 983 8639, email: info@mckeevertaylor.ie

McGovern, Thomas (deceased), late of Corratillian, Corlough, Belturbet, Co Cavan, and formerly of 13 Knocklyon Close, Templeogue, Dublin 16, who died on 25 July 2022. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Messrs Walter P Toolan & Sons, The Law Office, High Street, Ballinamore, Co Leitrim; tel: 071 964 4004, fax 071 964 4788, email: law@wptoolan.com

Mullan, James Gerard (deceased), late of 'Lissadell', Avenue Beauvais, Ville au Roi, St Peter Port, Guernsey GY1 1PQ, Channel Islands, and formerly of Strandhill Road, Sligo, who died on 5 December 2022. Would any person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact Barror & Company, Solicitors, 45 Lower Baggot Street, Dublin 2; tel: 01 661 0677, email: info@barrorandco.ie

Mullen, Stephen (deceased), late of 1166 Drogheda Street, Monasterevin, Co Kildare, who died on 12 September 2020. Would any person holding or having knowledge of a will made by the above-named deceased please contact Thomasina Connell & Co, Solicitors, Office 1, First Floor, Mill Street Shopping Centre, Monasterevin, Co Kildare; tel: 045 525 125, email: office@thomasinaconnell.ie

Murray, Thomas Joseph (also known as Tom Murray) (deceased), late of 7 Oaklawn Drive, Roscommon, Co Roscommon, and Apt 2, The Avenue, Abbeylands, Clane, Co Kildare, who died on 9 October 2022. Would any person with knowledge of any will made by the above-named deceased please contact Sinéad Neilan, solicitor, Liddy Neilan LLP Solicitors, Abbey Street, Roscommon, Co Roscommon; tel: 090 662 7498, email: sinead@liddyneilan.ie

Murphy, James (deceased), late of 19 Rowan Terrace, Newbridge, Co Kildare, who died on 13 July 2021. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Myles C Murphy & Co, Sol-icitors, Goulds-bury House, Newbridge, Co Kildare; tel: 045 431 334, email: info@mylescmurphy.ie

O'Connell, Finian (deceased), late of 192 Collins Avenue, Beaumont, Dublin 9, and 37 Celtic Park Road, Beaumont, Dublin 9, who died on 29 October 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in recent contact with the deceased regarding his will, please contact Devaney & Partnerships LLP Solicitors, Main Street, Malahide, Co Dublin; DX 107003 Malahide; tel: 01 845 1212, email: info@devaney.ie

O'Donoghue, Commandant Diarmuid (deceased), late of 66 Ashbrook, Oranmore, Co Galway, who died on 26 September 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Mark Cooney, Solicitors, 5 Garden Vale, Athlone, Co Westmeath; DX 12018 Athlone; tel: 090 647 7718, email: admin@markcooney.ie

Roche, Moses (deceased), late of Kilminnick, Callan, Co Kilkenny, and formerly of Knockatoumpane, Tullylease, Co Cork, and Lawlor's Hotel, Naas, Co Kildare, who died on 24 August 2022. Would any person holding or having the knowledge of a will made by the above-named deceased please contact William O'Donnell, Solicitors, 6 The Crescent, Limerick; tel 061 529 529, email: bill@williamodonnell.ie

Rowland, Noel (deceased), late of 1C Bride Road, Dublin 8, who died on 16 February 2021. Would any person having knowledge of a will made by the above-named deceased please contact MacGuill & Co, Solicitors, 5 Seatown, Dundalk, Co Louth; tel: 042 933 4026, email: info@macguill.ie

Ryan, Maureen (otherwise Mary Patricia) (deceased), late of Moyhill, Maurices Mills, Ennistymon, Co Clare, and Rathkeevan Nursing Home, Clonmel, Co Tipperary, who died on 6 December, 2022. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Ruth Casey, John Casey & Company, Solicitors, Bindon House, Bindon Street, Ennis, Co Clare; tel: 065 682 8159, fax: 065 682 0519, email: ruth.casey@caseylaw.biz

Sinclair, Joseph (deceased), late of 149 Templeville Drive, Templeogue, Dublin 6W. Would any person having knowledge of a will made by the above-named deceased please contact Rochford Gibbons, Solicitors, 16/17 Upper Ormond Quay, Dublin 7; DX 1015; tel: 01 872 1499, email: info@johnrochford.ie

Tierney, Bernadette (née Redmond) (deceased), who died on 23 September 2020 **and Tierney, Colette (deceased),** who died on 4 June 2020, both late of 60 Kilnamanagh Road, Walkinstown, Dublin 12. Would any person having knowledge of the whereabouts of any will made by the above-named, or if any firm is holding same, or anyone having details of the administration of my mother's or my sister's estates, please contact Brendan Tierney; tel: 089 408 9643, email: brendantierney07@gmail.com

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TITLE DEEDS

Would any person having knowledge of the whereabouts of the title deeds to the property at 106 Ennafort Park, Raheny, Dublin 5, or if any firm is holding same, please contact Brian O'Regan, Cadogan O'Regan LLP Solicitors, 22 Denny Street, Tralee, Co Kerry; tel: 066 711 8307, email: info@cador.ie

In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of an application by Charlemont Regeneration Limited in respect of the premises known as 18 South Richmond Street, Dublin 2

Take notice any person having any superior interest (whether by way of freehold estate or otherwise) in all that and those the lands and premises known as 18 South Richmond Street, Dublin 2, the subject of a lease dated 27 May 1966 between Sheila Gilligan of the one part and Thomas Ronald Isherwood and Norman Spicer of the other part, for a term of 500 years from 25 March 1966, subject to a yearly rent of £50 thereby reserved, the premises being therein described as "all that and those the house and premises known as no 18 South Richmond Street South, with yard at the rear thereof, bounded on the north by no 17 South Richmond Street, on the south partly by 19 South Richmond Street and partly by Gordon's Place, and on the west by South Richmond Street, in the parish of St Peter and city of Dublin".

Take notice that Charlemont Regeneration Limited, as tenant of the said property under the lease, intends to submit an application to the county registrar for the county of Dublin for acquisition of the freehold and any intermediate interests in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of their title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, the 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 all superior interests including the freehold reversion in the premises are unknown or unascertained.

Date: 3 March 2023
Signed: Eversheds Sutherland Solicitors (solicitors for the applicant), One Earlsfort Centre, Earlsfort Terrace, Dublin 2

In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of an application by Charlemont Regeneration Limited in respect of the premises known as 19 South Richmond Street, Dublin 2

Take notice any person having any superior interest (whether by way of freehold estate or otherwise) in all that and those the lands and premises known as 19 South Richmond Street, Dublin 2, the subject of a lease dated 4 March 1966 between Sheila Gilligan of the one part and Thomas Ronald Isherwood and Norman Spicer of the other part, for a term of 500 years from 29 September 1965 at a yearly rent of £15, and therein described as "all that and those the house and premises known as no 19 South Richmond Street South, with the yard at the rear, bounded on the north by no 18 South Richmond Street, on the south by Gordon's Lane, on the east by a passage leading to the rear of no 18 South Richmond Street, and on the west by South Richmond Street, in the parish of St Peter and the city of Dublin".

Take notice that Charlemont Regeneration Limited, as tenant of the said property under the lease, intends to submit an application to the county registrar for the county of Dublin for acquisition of the freehold and any intermediate interests in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of their title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, the 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 all superior interests including the freehold reversion in the premises are unknown or unascertained.

Date: 3 March 2023
Signed: Eversheds Sutherland Solicitors (solicitors for the applicant), One Earlsfort Centre, Earlsfort Terrace, Dublin 2

In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of an application by Bhal De Bhath (otherwise known as Val Bates) in the matter of the land, hereditaments, and premises known as 69 Cabra Road, Dublin 7

Take notice that any person having an interest in the freehold estate or any lessor, superior, or intermediate interest in the premises known as 69 Cabra Road, Dublin 7, should give notice of their interest to the undersigned solicitor. The said premises is demised by a certain indenture of lease dated 15 May 1959 and made between Gerard Coffey of the one part and Annie McGovern of the other part for a term of 99 years commencing on 29 September 1963, subject to a yearly rent of £16 and therein described as "all that and those that piece or plot of ground on the north side of the Cabra Road, containing in breadth in the front to said road 30 feet, 7 inches in breadth, in the rear 30 feet, 8 inches, and in depth from front to rear on the west side 144 feet, 1 inch, and in depth from front to rear on the east side 144 feet, 3 inches, be all or any of the said admeasurements more or less bounded on the south by Cabra Road, on the north by a laneway, on the east by the house and premises known as 67 Cabra Road, and on the west by the house and premises known as 71 Cabra Road, all of which said premises are more particularly delineated and described on the map thereof set forth on these presents together with the dwellinghouse and premises erected thereon and now known as 69 Cabra Road and are situate and lying and being in the barony of Coolock, parish of Grangegorman, formerly county of the city of Dublin and now city of Dublin.

Further take notice that the applicant, Bhal De Bhath (otherwise known as Val Bates), being the person entitled to the lessee's interest under the said lease, intends to apply to the Circuit Court for the county of the city of Dublin for the acquisition of the fee simple and all intermediate interest in the said property, and any party asserting that they hold any interest in the said property superior to that of the said applicant are called upon to furnish evidence of their title to the undersigned solicitor within 21 days from the date of this notice.

In default of any such notice of interest being received, the applicant, Bhal De Bhath (otherwise known as Val Bates), intends to proceed with the application before the Circuit Court for the county of the city of Dublin for such directions as may be appropriate on the grounds that the person or persons beneficially entitled to all or any of the superior interests in the said property, up to and including the

fee simple estate, if appropriate, are unknown or unascertained.
Date: 3 March 2023
Signed: Denis I Finn (solicitors for the applicant), 5 Lower Hatch Street, Dublin 2

In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* (as amended) and in the matter of the hereditaments and premises known as 130 O'Connell Street, situated in the parish of St Michael and city of Limerick: an application by Newreed Taverns Limited
Take notice any person having any interest in the freehold estate or intermediate interest(s) of the hereditaments and premises known as 130 O'Connell Street, situated in the parish of St Michael and city of Limerick, being all of the property demised by an indenture of lease dated 6 August 1953 and made between Grace Olivia Jones and Eleanor MJ O'Connell (as lessors) of the one part and Delia Hartigan (as lessee) of the other part for a term of 99 years from 29 September 1952, reserving a yearly rent of £200 and subject to the covenants and agreements therein contained.

Take notice that the applicant, Newreed Taverns Limited, being the person entitled to the lessee's interest under the said lease, intends to apply to the county registrar for the county of Limerick for the acquisition of the freehold and any intermediate interest(s) in the said premises, and any party or parties asserting that they hold a superior interest in the premises are called upon to furnish evidence of title to the premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Newreed Taverns Limited 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 such orders or directions as may be appropriate on the basis that persons entitled to superior interest(s) in the premises are unknown or unascertained.
Date: 3 March 2023
Signed: McMahon O'Brien Tynan (solicitors for the applicant), Mill House, Henry Street, Limerick (ref: POB/HC/E15/217)

In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* (as amended) and in the matter of the hereditaments and premises known as 45 Roches Street, situated in the parish of St Michael and City of Limerick: an application by Mullanes Taverns Limited
Take notice any person having any interest in the freehold estate or intermediate interest(s) of the hereditaments and premises known as 45 Roches Street, situated in the parish of St Michael and city of Limerick, being all of the property demised by an indenture of lease dated 1 November 1941 and made between Esther S King, Mary E King and Sarah A Sheb (as lessors) of the one part and John Byrne and Patrick Byrne (as lessees) of the other part for a term of 99 years from 1 November 1940, reserving a yearly rent of £42 and subject to the covenants therein contained.

Take notice that the applicant, Mullanes Taverns Limited, being the person entitled to the lessee's interest under the said lease, intends to apply to the county registrar for the county of Limerick for the acquisition of the freehold and any intermediate interest(s) in the said premises, and any party or parties asserting that they hold a superior interest in the premises are called upon to furnish evidence of title to the premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Mullanes Taverns Limited 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 such orders or directions as may be appropriate on the basis that persons entitled to superior interest(s) in the premises are unknown or unascertained.
Date: 3 March 2023
Signed: Sellors LLP (solicitors for the applicant), 6/7 Glentworth Street, Limerick

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*: an application by Rabbitte Group Properties Limited, having its registered office at Mabestown, The Ward, Co Dublin
Take notice any person having an interest in the freehold or any superior interest in the property known as all that and those the premises known as 140, 141, 142, 143 and 144 North King Street, in the city of Dublin, more particularly described in indenture of lease dated 4 June 1921 and made between (1) Euphemia Falkiner and Kinian Falkiner acting on behalf of Richard Falkiner, and (2) James Crean and Son Limited, for a term of 200 years from 25 March 1920, subject to the yearly rent of £55 and further subject to the covenants and conditions therein contained and on the lessee's part to be performed and observed.

Take notice that the applicant, Rabbitte Group Properties Limited, intends to submit an application to the county registrar for the county of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to the aforesaid property to the below named within 21 days from the date of this notice.

In default of such notice being received, the applicant, Rabbitte Group Properties Limited, intends to proceed with the application before the county registrar for the county of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown and unascertained.
Date: 3 March 2023
Signed: Ogier Leman (Ireland) LLP (solicitors for the applicant), Percy Exchange, 8-34 Percy Place, Dublin 4

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*: an application by Rabbitte Group Properties Limited, having its registered office at Mabestown, The Ward, Co Dublin
Take notice any person having an interest in the freehold or any superior interest in the property known as all that and those the premises known as 38 Bow Street in the city of Dublin, more particularly described in indenture of lease dated 20 March 1897 and made between (1) Anne Curtis, Ester Curtis and Teresa Curtis and (2) James Crean for the term of 200 years from 1 May 1896, subject to the yearly rent of £14 and further subject to the covenants and conditions therein contained and on the lessee's part to be performed and observed.

Take notice that the applicant, Rabbitte Group Properties Limited, intends to submit an application to the county registrar for the county of Dublin for

the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to the aforesaid property to the below named within 21 days from the date of this notice.

In default of such notice being received, the applicant, Rabbitte Group Properties Limited, intends to proceed with the application before the county registrar for the county of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown and unascertained.

Date: 3 March 2023

Signed: Ogier Leman (Ireland) LLP (solicitors for the applicant), Percy Exchange, 8-34 Percy Place, Dublin 4

In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of part of the premises known as 'The Bleeding Horse', 24-25 Upper Camden St, Dublin 2

Take notice any person having an interest in the freehold estate or any intermediate interest in the following property: that portion of the property known as the 'Bleeding Horse', 24-25 Upper Camden St, Dublin 2, being the lands, hereditaments and premises comprised in a lease dated 24 August 1900 and made between Andrew Wrenn of the one part and John Ryan of the other part, whereby the said premises were demised unto the said John Ryan for the term of 200 years from 29 September 1900, subject to the yearly rent of £80, which premises are therein described as "all that and those the house and premises known by the name 'The Bleeding Horse' situate in Charlotte Street, distinguished by the number 34 in said street and by the numbers 24 and 25 Camden Street Upper, all said premises being in the parish of St Peter and city of Dublin".

Take notice that Attestor Capital ICAV, as successor in title to the lessee under the said lease of 1900, 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 in the aforesaid property is called upon to furnish evidence of title to the aforesaid property to the below named solicitors within 21 days of this notice.

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

Date: 3 March 2023

Signed: A&L Goodbody LLP (solicitors for the applicant), 3 Dublin Landings, North Wall Quay, Dublin 1, D01 C4E0

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*, sections 9 and 10, and in the matter of 37B Pearse Street and 1 and 2 Shaw Street, Dublin 2, and in the matter of an application by GHM Taverns Limited

To any person having an interest in the freehold or any superior estate in 37B Pearse Street and 1 and 2 Shaw Street, Dublin 2 ('the premises'), take notice that GHM Taverns Limited, as holder of the premises pursuant to the following leases: a lease dated 19 March 1827 between the Right Honourable Sir William McMahon of the first part, Sir Robert Shaw of the second part, and Richard Charles of the third part for a term of 999 years from 19 March 1827; a lease dated 30 June 1892 between the Dublin Wicklow and Wexford Railway Company of the one part and James Kelly of the other part for a term of150 years from 25 March 1892; a lease dated 7 September 1898 between the Dublin Wicklow and Wexford Railway Company of the one part and James Kelly of the other part for a term of 150 years from 25 March 1892, intends to submit an application to the county registrar for the county and city of Dublin for acquisition of the freehold interest in the premises, and any party asserting that they hold a superior interest in the premises is called upon to furnish evidence of their title to the premises to the below-named within 21 days hereof.

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

Date: 3 March 2023

Signed: Donal T McAuliffe & Co (solicitors for the applicant), 57 Merrion Square, Dublin 2

In the matter of the *Landlord and Tenant (Amendment) Act 1980* and in the matter of an application of Clonvara Developments Limited in respect of the premises known as 47/48 Chelmsford Road, Ranelagh, Dublin 6

Take notice that Clonvara Developments Limited ('the applicant'), having its registered offices at 95 Millennium Business Park, Cappagh Road, Ballycoolin, Dublin 11, intends to submit an application to the Dublin Circuit Court for an order pursuant to section 69 of the *Landlord and Tenant (Amendment) Act 1980*, authorising the applicant to erect and complete the construction of a building consisting of a small apartment block with six apartments at 47 and 48 Chelmsford Road, Ranelagh, Dublin 6 (the 'premises') without the licence or consent of the lessor of the premises, held under a lease dated 12 February 1935 between Victor W Scales of the one part and Virginia Kathleen Scales of the other part for the term of 470 years from 29 September 1934 (the 1935 lease), and any party asserting that they are entitled to the interest of the lessor under the 1935 lease in the premises are called upon to contact 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 Dublin Circuit Court at the end of the 21 days from the date of this notice and will apply to the Dublin Circuit Court for directions as may be appropriate on the basis that the person or persons entitled to the interest of the lessor under the 1935 lease are unknown or unascertained.

Date: 3 March 2023

Signed: Reidy Associates (solicitors for the applicant), 13 Warrington Place, Dublin 2

RECRUITMENT

PRO BONOBO

How much wood would a woodpecker peck…

● It's a jolly good thing that the *Gazette* office installed a patented woodpecker deterrent back in the day, after several pecker-related incursions into our workplace (see *Gazette*, October 2006).

Why? Because a Californian exterminator recently found over 300 kilos of nuts stashed in a house's wall by those pesky peckers. That's enough to keep our subeditor busy for at least a week.

NPR.org reports that Nick Castro was inspecting the house for mealworms when he found the acorn cache, which he estimates was 20-25 feet high in the house's chimney. He suggested that a pair of peckers had been stockpiling their haul for at least two years.

'Let's just be friends'

● A Singapore man is seeking more than €2.1 million in damages from a woman who said she regarded him only as a friend – claiming that she had caused him trauma and damaged his "stellar reputation".

The *Guardian.com* reports that the man is bringing a defamation case, claiming damages to cover loss in earnings and investments, as well as "rehabilitation and therapy programmes to overcome the sustained trauma". The lawsuit accuses the woman of "allegedly defamatory remarks and negligent conduct".

All in one basket

● A chocolate burglar is facing jail after he admitted to stealing almost 200,000 Cadbury Creme Eggs in a heist worth more than €34,900.

Joby Pool – dubbed the 'Easter bunny' by police – used a stolen lorry to make off with the chocolate eggs after breaking into a Telford industrial unit with a metal grinder, according to *dailymail.co.uk*. He faces a sentence of two years.

A robot walks into a court…

● Joshua Browder, CEO of the New York-based start-up DoNotPay, had planned to have a 'robot lawyer' help a defendant fight a traffic ticket in court, but has scrapped the idea after getting threats of possible prosecution and jail time.

According to NPR.org, the plan was to use artificial intelligence to help people defend themselves in court. The person defending themselves would wear smart glasses that would record court proceedings and dictate responses into the defendant's ear from a small earpiece. The system relies on AI text generators, including ChatGPT and DaVinci.

"Multiple state bars have threatened us," Browder said, adding that one state bar official informed him that the unauthorised practice of law was a misdemeanour in some states, punishable by up to six months in a county jail. g

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