

**The In-House and Public Sector Annual Conference 2022
Environmental, Social, and Governance (“ESG”) - Why it is important for
In-House Lawyers & Post Pandemic Employment Shift**

The In-house and Public Sector Committee in collaboration with Law Society Skillnet

Date	Wednesday 12 October 2022
Time	09.30am to 01.30pm
Venue	Live Zoom Webinar
CPD Hrs	2 General 1.5 Management & Professional Development Skills Total 3.5 Hours (by eLearning)

Chairman

Caroline Dee Brown, In-house and Public Sector Committee Chair. General Counsel and Director of Legal Services, Commission for Communications Regulation.

Speakers

Adam Woodhall, Chief Executive and Founder, Lawyers for Net Zero

Dr Sinead Brennan, Chief People Officer, NTMA

Abby Semple, Principal Consultant, Public Procurement Analysis, Senior Associate, Greenville Procurement Partners

Patrick Daly, Legal Director, Fidelity International

John Cronin, Manager Legal, Morgan McKinley

Michelle Noone, Head of Senior & Executive Recruitment, Public Appointment Services

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**Irish Institute of Training & Development – Multiple Award Winners
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Chairperson

Caroline Dee Brown, In-house and Public Sector Committee Chair. General Counsel and Director of Legal Services, Commission for Communications Regulation.

Caroline has been working in-house in the public sector for 18 years after previously working in private practice in Ireland, the US and UK. In her current role as General Counsel and Director of Legal Services for ComReg Caroline is responsible for the legal advice to the Commission particularly on all major legal matters, on the legal implications of communications policies in Ireland and the EU and for handling legal matters arising from ComReg's remit and activities. Caroline is a member of the ComReg Leadership Team and is responsible for the professional leadership of the legal advisors across the organisation ensuring continuing involvement of matured high standards of legal advice, professional excellence, effective and efficient communication of independent advice across the organisation. Caroline is also responsible for legal aspects of advocacy and stakeholder management.

Speakers/panelists

Adam Woodhall, Chief Executive and Founder, Lawyers for Net Zero

Adam Woodhall is the founder and Chief Executive of Lawyers for Net Zero, the fast growing non-profit supporting GCs and their teams to take climate and ESG leadership. He is an entrepreneur, a strategy and sustainability expert, and widely published author on energy and climate change. He is also an experienced chair, facilitator and conference presenter. The initiative now has over 100 in-house lawyers committed to net zero, with many high-profile Champions taking part in Lawyers for Net Zero's 'Impact Programme', including from organisations such as Standard Chartered Bank, GSK, E.ON, Nestle and Rolls Royce. For the 15 years before setting up Lawyers for Net Zero, Adam helped deliver climate action, both with cleantech start-ups and many household names, such as PwC, Network Rail and Allianz Insurance. His mission is to support influential individuals to become impact multipliers and in 2020 he recognised the legal sector, particularly in-house, was an unrealised driver for achieving net zero. Adam has built the initiative from an idea in 2020, piloting it in spring 2021, launching formally in summer 2021 and is now making a big impact on the legal sector.

Dr Sinead Brennan, Chief People Officer, NTMA

Sinead Brennan joined the NTMA in March 2014 as Head of Human Resources and was subsequently appointed Director, HR before becoming Chief People Officer. Prior to joining the NTMA, she was Head of Human Resources with KBC Bank Ireland and previously HR Director with BDO Ireland. Sinead has also worked in HR roles in the software sector and in HR consultancy services. Sinead is Chair of the Gender Matters initiative in the NTMA and is an advocate for Inclusion and Diversity across the Agency. Her professional passion is to create work cultures where people can thrive, develop and bring their authentic selves to work. She holds a PhD from Dublin City University (DCU) and her research topic was leadership development. She was announced as the 2019 Pearse Walsh Medal Award winner for her

research. Sinéad also holds an Masters in Business Studies from DCU. Sinéad is the Mum of two very active boys and spends quite a bit of time on the side-lines of (often soggy) GAA and Rugby pitches. Sinéad is also a Non-Executive Director with Aware (the mental health charity).

Abby Semple, Principal Consultant, Public Procurement Analysis, Senior Associate, Greenville Procurement Partners

Abby Semple, LL.B., Ph.D. has over 15 years of experience in advising public bodies on strategic and legal aspects of procurement. Her main focus is on the environmental and social impact of public contracts and how these can be meaningfully addressed through the contracting process. Abby has managed complex tenders on behalf of public sector clients in Ireland and the UK, and developed policy and guidance at the EU level and in Germany, the Netherlands, Poland, Romania, Spain, Switzerland, Ukraine and the United States. Recent projects include the development of Ireland's GPP guidance and criteria as well as delivery of training to over 150 public sector bodies in Ireland (2020-2022). Abby has recently delivered training on GPP to the European Commission's Joint Research Centre and Informatics Directorate. Abby also has extensive experience with socially responsible public procurement, including acting as legal advisor for the development of 71 good practice examples on SRPP, drafting the 2021 Buying Social guidance, and advising on gender responsive public procurement. She is an active member of the Procurement of Government Outcomes group at Oxford University's Government Outcomes Lab, focused on social outcomes contracting. She teaches the Tender Evaluation module of the postgraduate course on Public Procurement Regulation at King's College London. Abby is the author of one of the first books on the 2014 EU Procurement Directives A Practical Guide to Public Procurement, published by Oxford University Press in 2015. She recently authored chapters on award criteria and environmental management systems in the Commentary on Directive 2014/24/EU. Her academic writing on topics including living wages and citizen participation in public contracts can be accessed on SSRN.

Patrick Daly, Legal Director, Fidelity International

Patrick is a Legal Director in the Product Legal team at Fidelity International, having joined Fidelity in 2017. In this role, he provides legal advice and support in relation to all aspects of Fidelity's global fund ranges and investment products, with a specific focus on the Irish fund ranges and operations. Patrick sits on the Irish Funds ESG Policy, Legal & Reg Working Group. Prior to joining Fidelity, Patrick was a Senior Associate in the Asset Management and Investment Funds Group at Arthur Cox, advising on the structuring, establishment and authorisation of investment funds in Ireland. Patrick holds a Bachelor of Civil Law from National University of Ireland Galway, a Master of Laws from Trinity College Dublin, and a Diploma in International Financial Services Law from University College Dublin. He also holds Diplomas in Finance Law and Insolvency and Corporate Restructuring from the Law Society of Ireland and has acted as a lecturer and internal examiner for the Law Society.

John Cronin, Manager Legal, Morgan McKinley.

John heads up Morgan McKinley's legal recruitment desk in Ireland. John joined Morgan McKinley in February 2019, having previously worked as a business manager at Michael Page, Hudson Global and FRS. With 14 years of recruitment experience fully dedicated to the legal industry and covering talent identification and engagement in all legal specialisms, John has gained significant experience of the legal recruitment processes for private practice and in-house legal practitioners domestically and internationally. John holds degrees in Business and Law and a Masters' degree in HRM. He is admitted as a solicitor in Ireland and England and Wales, having trained at Mason Hayes & Curran. A CIPD chartered member, he has a strong understanding of the practical human resourcing needs in the recruitment process of both clients and legal practitioners.

Michelle Noone, Head of Senior & Executive Recruitment, Public Appointment Services

Michelle is the Head of Senior & Executive Recruitment at the Public Appointments Service. She is responsible for the provision of recruitment services for senior executive and non-executive roles across the civil and public service. This includes the appointments process for Chairpersons and Non-Executive Directors to the boards of state agencies. Prior to joining the Public Appointments Service in 2014, Michelle worked for 20 years in executive search, as an Executive Search Manager in KPMG providing recruitment services to clients in PlCs, Irish indigenous and SMEs across a variety of industry sectors. She started her career in Human Resources with PriceWaterhouseCoopers in Paris. Michelle is the President of the Alliance Francaise Dublin, has a BA in Anthropology, a Diploma in Executive & Leadership Coaching and speaks fluent French.



Annual In-house and Public Sector Conference 2022
Environmental, Social, and Governance (“ESG”) - Why it is important for In-
House Lawyers & Post Pandemic Employment Shift
The Law Society In-house and Public Sector Committee in partnership with
Law Society Skillnet

Date: Wednesday, 12 October 2022

Time: 9.30am – 1.30pm

Venue Zoom Webinar

Today’s Programme

<i>Time</i>	<i>Topic</i>	<i>Speakers</i>
9.15am	Time to log into Zoom You Must Register in advance for this webinar: https://zoom.us/webinar/register/WN_pEXERoBNQV66Vsps9KGphQ	
9.30am – 9.35am (5 mins)	Opening welcome and introductions	Caroline Dee Brown
9.35am to 10.20am (45 mins)	Tackling climate change as lawyers	Adam Woodhall, Chief Executive and Founder, Lawyers for Net Zero
10.20 to 11.20pm (60 mins)	Panel discussion - ESG & sustainability	<i>incl. Adam Woodhall</i>
Presentations x 15 - 20 min x 2 plus discussion (30 -40 min/20-30 min)	What does ESG mean in public procurement	Abby Semple, Principal Consultant, Public Procurement Analysis, Senior Associate, Greenville Procurement Partners
	ESG - Implications for investment funds and fund service providers	Patrick Daly, Legal Director, Product Legal, Fidelity International
11.20 to 11.35pm (15 mins)	TEA/COFFEE BREAK	

K11.35 – 12.20pm (45 in)	The new workplace environment - diversity and how to attract and keep in-house talent	Dr Sinead Brennan, Chief People Officer, NTMA
12.20pm – 1.20pm (60 min) Presentations x 15-20 min x 2 plus discussion (30-40min/20-30 min)	Panel Discussion — Employment Shift: Diversity on Public Boards Recruitment consultancy perspectives – where are we now.	<i>Incl. Dr Sinead Brennan</i> Michelle Noone, Head of Senior & Executive Recruitment, Public Appointment Services. John Cronin, Legal Recruitment Manager, Morgan McKinley
1.20pm	Closing comments	
1.30pm	CONFERENCE CLOSE	

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Law Society Skillnet is co-funded by Skillnet Ireland and network companies. Skillnet Ireland is funded from the National Training Fund through the Department of Further and Higher Education, Research, Innovation and Science.



An Roinn Breisoideachais agus Ardoideachais,
Taighde, Nuálaochta agus Eolaíochta
Department of Further and Higher Education,
Research, Innovation and Science



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NB Note re CPD Scheme:

It is each solicitor's own responsibility to maintain a CPD record and to retain proof of the CPD he/she completes. The Scheme is regulated by the Law Society of Ireland and each year a random audit is conducted where a solicitor may be asked to produce a record and/or proof of the CPD they completed. For further queries on the Scheme please visit the members' area of the website www.lawsociety.ie.

In relation to Law Society Professional Training, Law Society Skillnet events – the Professional Training Unit will provide proof of attendance directly to the CPD Scheme Unit.

No Certificates of Attendance will be issued by the Law Society Professional Training for any of its events.



Tackling climate change as lawyers

Adam Woodhall

Tackling climate change as lawyers

Lawyers for Net Zero

Climate and ESG
leadership for GCs
and their teams

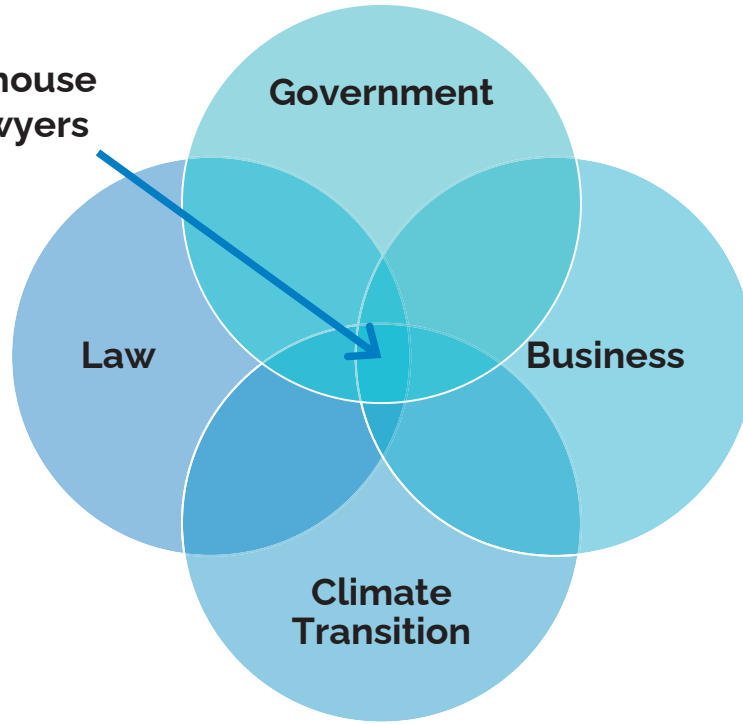
How Lawyers are Taking Climate Leadership

- **Facing the future**
- **Collaborating**
- **Start small & grow**
- **Leading**
- **Four Rs of ESG**
- **Edge of comfort zone**

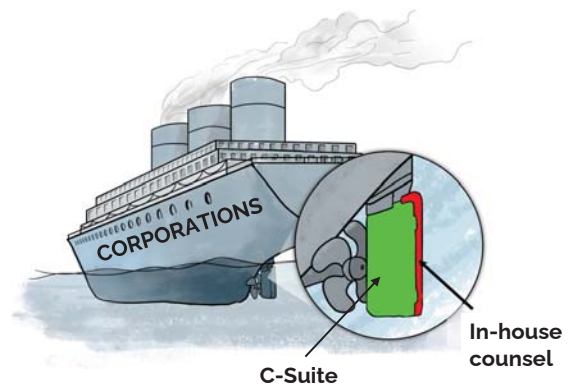
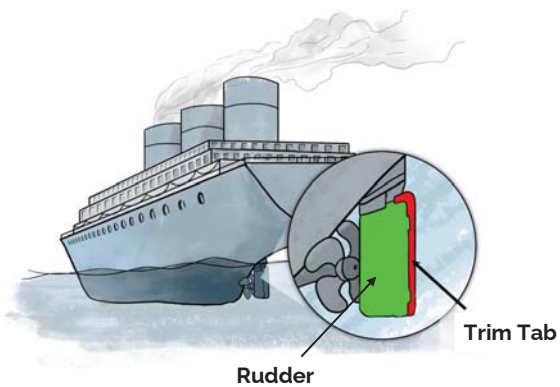
NOTE: we've only included those slides which had words on them.

Want to find out more? Then please get in [touch](#).

In-house
Lawyers



Trim Tab alters course of huge ship:
so can in-house counsel



Support your organisation to:

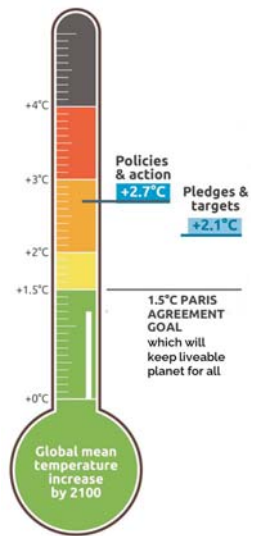


Avoid:
Greenwash



Achieve:
Legitimate net zero*

* As defined by SBTi's [Net Zero Standard](#)



Reduce:
Pledge/Action Gap

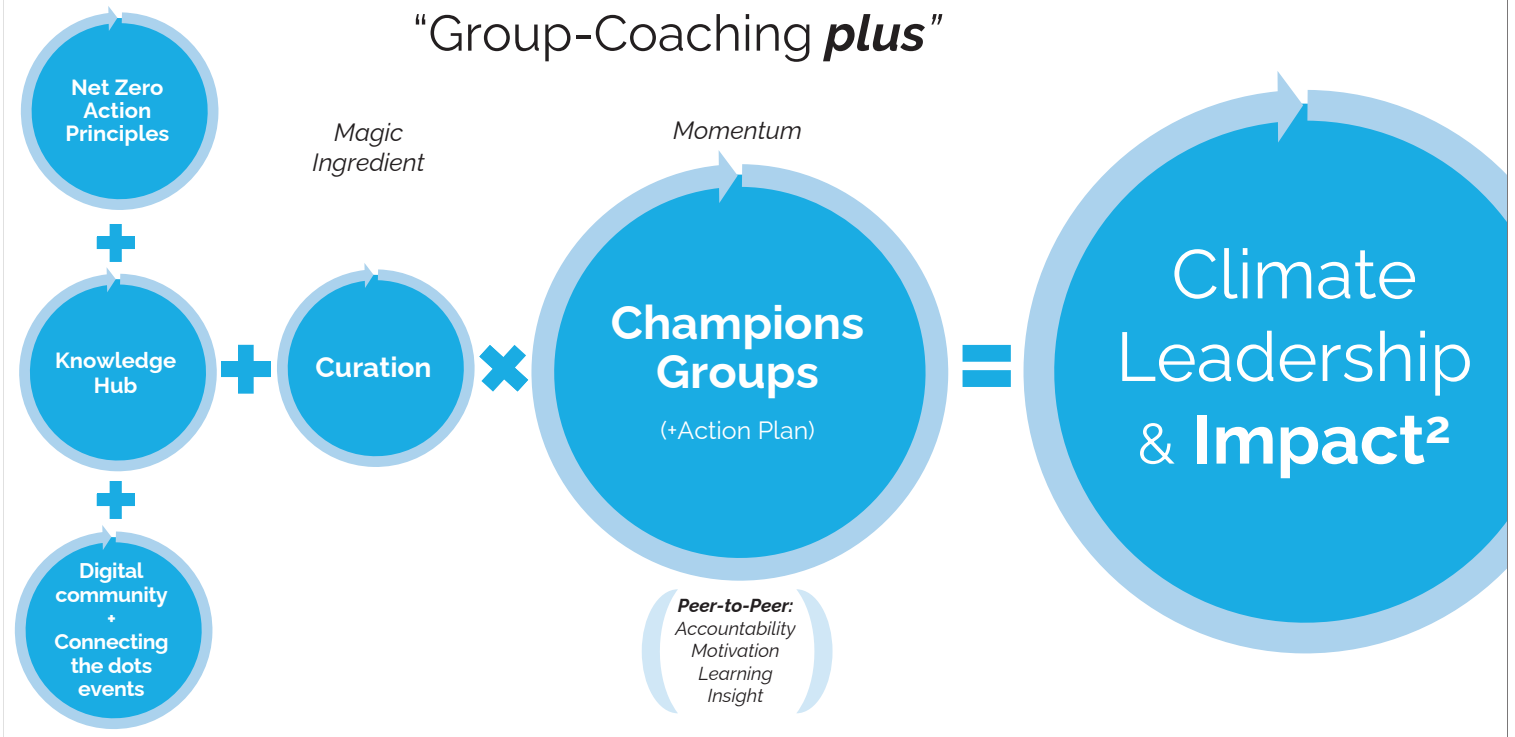
Infographic from
Climate Action Tracker
Released post COP26

Four Rs of ESG

- **Rules**
- **Risk**
- **Reputation**
- **Right thing**

Formula of **IMPACT** Programme

"Group-Coaching *plus*"



Net Zero Action Principles

Principle 1: **Champion legitimate net zero internally**

Principle 2: **Deliver rapid, practical action**

Principle 3: **Learn and share key knowledge**

Principle 4: **Influence supply chain, customers and shareholders**

Principle 5: **Champion net zero to your peers, industry and regulators**

NOTE:

Beneath each headline Principle sits more detailed business focused guidance on how to take action



Our Champions – all taking action



On a mission to save the climate with legal knowhow

Three lawyers took different career paths to work where environment and law intersect



ESG's legal showdown: 'There's nothing to suggest DWS is a one off'

The boom in ESG investing is drawing regulatory scrutiny on both sides of the Atlantic



Legal eye for detail will help battle sustainable finance 'greenwash'

From bonds to carbon credits, investors and regulators seek assurances that claims are not exaggerated



Calls to action on ESG boost demand for legal expertise

New targets and regulations led to unprecedented activity in the past year



UK COMPANIES TECH MARKETS CLIMATE OPINION WORK & CAREERS LIFE & ARTS HTI

Opinion ESG investing

Greenwashing is tempting for CEOs who tell stories

Meeting financial targets is tedious but promising to save the world sounds heroic

JOHN GAFFER [+ ADD TO MYPT](#)


FINANCIAL TIMES

Special Report Business Legal Leaders

Legal services + Add to myFT

How general counsel became the corporate 'voice of conscience'

Increased responsibility for drafting and operating ethical standards looks unstoppable



Extinction Rebellion protests at Cop 26 last year: accusations of greenwashing are increasingly regarded as a corporate risk. © Jane Croft YESTERDAY

Adam Woodhall, chief executive of Lawyers for Net Zero, a non-profit organisation that works with in-house lawyers to push for action on climate change, says colleagues increasingly expect general counsel to be the “moral compass” of the business and that the latter “can influence internally”.

“General counsel have a helicopter view of the business in a way only shared by the chief executive and chief financial officer,” he says. “Not everything is a legal issue, but it could be argued that everything is related to risk. General counsel have an opportunity to help guard against greenwashing and achieve legitimate net zero.”

Ultimately, however, the growing importance of ESG in the job of a general counsel seems unstoppable. Where once the legal department was a necessary cost centre for a business, Woodhall at Lawyers for Net Zero believes they now have the status and credibility to drive change on questions such as decarbonisation.

“People sit up and take notice of them,” he says.

Want to find out more?



We are a non-profit focused exclusively on supporting GCs and their teams to take practical action.

- Powerful leadership and agency building programme.
- Supports you to focus on the most impactful path for your ESG work.
- Strong testimonials from numerous influential GCs.
- High-quality network.
- Finalist: Sustainability Initiative, The Lawyer Awards 2022



Find out more?

Contact CEO, Adam Woodhall:

adam.woodhall@lawyersfornetzero.com

What does ESG mean in public procurement

Abby Semple



Law Society In-house and Public Sector Conference 12 October 2022

What does ESG mean in public procurement?

Abby Semple,
LL.B. Ph.D.



EU Context



- Some EU countries now have 25+ years of experience with GPP/SPP
- Nordic countries but also Belgium, Netherlands and Spain were early adopters – in particular at the local government level
- EU law has had to catch up with practice in some areas, e.g. LCC
- Legal challenges to SPP appear to be relatively rare, at least those which make it to the European courts
- ‘Fear factor’ still inhibits SPP in some cases: lack of product availability/cost increases/other unexpected side effects/legal challenge
- Move towards mandatory SPP at EU level heightens the need to learn from practice how to develop (and apply) robust SPP criteria



GPP measures in EU Legislation

Legislation	Categories Affected	Requirement
Clean Vehicles Directive (2009/33/EC amended by 2019/1161)	Light and heavy duty road transport vehicles – including service contracts	Sets minimum targets for percent of low and zero-emission light and heavy duty vehicles in contracts awarded by all public bodies
Batteries Regulation (forthcoming)	All types of batteries and accumulators	Life-cycle environmental impacts must be addressed in specifications and award criteria
Energy Efficiency Directive (currently under revision)	Wide range of energy-using products and service contracts	Public bodies must procure highly energy efficient products (generally top two classes of Energy Label)
Energy Performance of Buildings Directive (currently under revision)	New and renovated buildings	Requirements for nearly-zero energy and on site renewable power. A minimum percent of public sector buildings must be renovated to NZEB each year.

Irish Context

- Programme for Government/CAP 2021 commit to **all procurement using public funds including green criteria** by July 2023
- **OGP Circular 20/2019** set planning and reporting requirement on GPP for central government departments
- EPA published second edition of **Guidance for Public Sector** and Irish GPP Criteria (10 categories) in 2021
- Large scale training programme on GPP for public sector bodies – now being provided to all local authorities
- OGP focusing on greening frameworks and enabling users to find appropriate green criteria for procurement
- Sector specific initiatives, including obligation to **only purchase electric vehicles** and **no new fossil fuel heating systems** in public buildings

GPP measures in Irish Legislation/Policy

Legislation	Categories Affected	Requirement
S.I. 151/2011 Energy Efficient Public Procurement Regulations	Wide range of energy-using equipment (ICT, lighting, HVAC, vehicles and charging systems)	Public bodies must purchase equipment which, as a minimum, meets the criteria for inclusion on the Triple E Register for the relevant categories
S.I. 426/2014 Energy Efficiency Regulations, as amended by S.I. 646/2016	Buildings and wide range of energy-related products and services (ICT, tyres, appliances, windows)	Central government purchasers must only purchase equipment in the top two efficiency classes , unless justified by cost, competition, technical feasibility etc.
S.I. 339/2011 Clean and Energy-efficient Road Transport Vehicles Regulations as amended by S.I. 381/2021	Road transport vehicles and services (e.g. public transport, deliveries, waste collection etc)	Binding targets for the percentage of light and heavy-duty vehicles procured which are low or zero-emission . Stricter requirements apply from 1 January 2026.

The social side

- EU legislation sets minimum requirements: [Posted Workers Directive](#), [TUPE](#), [Web Accessibility Directive](#), [Work-life Balance Directive](#), etc.
- Many authorities also address supply chain human/labour rights
- Ireland: No concrete policy/guidance on socially responsible procurement
- Public Sector Equality and Human Rights Duty under Human Rights Act 2014 applies to procurement – [guidance produced by IHREC](#)
- [Employment Equality Acts](#) apply in public contracts – ban discrimination on 9 grounds and create specific obligations on employers regarding advertising, equal pay, access to employment, vocational training and work experience, terms and conditions etc. Also allow positive discrimination to ensure equal opportunities.
- Some examples of socially responsible procurement from Irish authorities have been published, e.g. [Dublin City Council](#)

How SPP is implemented



Key issues in practice

Issue 1: [Link to the subject-matter requirement](#) (Art 67.3 and Recital 97 of Directive 2014/24/EU) – procurement criteria must focus on the specific goods, services or works being purchased, not general corporate policies

Issue 2: [Verification](#) – to avoid greenwash, all criteria must be capable of verification by the authority and appropriate evidence requested in tenders

Issue 3: [Comparison and scoring](#) – where environmental award criteria are set, the authority must engage in a genuine comparison of bids and allocate marks which reflect the varying levels of environmental performance (Case T-331/06 [European Dynamics v European Environment Agency](#))

Issue 4: [Equivalence](#) - where bidders offer an alternative standard, certification, ecolabel, etc to those referred to in the tender documents, burden is on them to prove equivalence, however authority must act proportionately (Case C-14/17 [VAR Srl and ATM v Iveco Orrechia SpA](#))

Example: Offaly County Council

- National Waste Collection Permit Office moved to unfurnished premises in 2019 – need for 97 pieces of furniture
- Conducted market soundings to identify capacity to source reused furniture
- Specified that furniture must be reused/upcycled, encouraged formation of consortia and allowed for staggered delivery
- Contract awarded to consortium of social enterprises who offer employment to people facing disadvantage
- Carbon savings of 2.6 tonnes – equivalent to planting 180 evergreen trees



THANK YOU

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ESG - Implications for investment funds and fund service providers

Patrick Daly

Annual In-house and Public
Sector Conference 2022
ESG - Why it is important for In-
House Lawyers

ESG - Implications for investment
funds and fund service providers

Patrick Daly

12 October 2022

ESG - Implications for investment funds and fund service providers

Introduction

- Origins of environmental, social and governance (ESG) investing
- Societal shift of focus onto ESG issues
- Manager, investor and underlying investment demand
 - Adoption of ESG charters
 - Alignment with externally developed frameworks or sets of principles (e.g., UN Principles for Responsible Investment, UN Sustainable Development Goals, etc.)
 - Reporting on ESG issues
- EU policy and regulatory focus
 - EU Sustainable Finance Action Plan (March 2018)
 - Package of sustainable finance measures adopted (May 2018)
 - European Green Deal (December 2019)

ESG - Implications for investment funds and fund service providers

EU Sustainable Finance Disclosure Regulation (SFDR)

- SFDR applies to “**financial market participants**”, which includes MiFID firms providing the service of portfolio management, UCITS managers and alternative investment fund managers (AIFMs) in respect of “**financial products**” (in the investment funds context, these include UCITS and alternative investment funds (AIFs))
- SFDR aims to:
 - require in-scope entities to consider and disclose in a consistent and harmonised manner how ESG factors are adopted in their decision-making processes; and
 - harmonise disclosure standards among EU member states to facilitate comparability of different financial products and services
- SFDR applies different requirements and implementation timeframes in respect of disclosures on websites, in prospectuses and in periodic reports. Disclosure requirements have applied on a phased basis from 10 March 2021

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ESG - Implications for investment funds and fund service providers

SFDR – manager level requirements

- Many provisions of SFDR apply to all asset managers, whether or not they have an express ESG or sustainability focus
- **Sustainability risk policy** - formulate policy on integration of sustainability risks into investment decision-making process
- **Principal adverse impact (PAI) statement** - implement due diligence policy with respect to PAIs of investment decisions on sustainability factors (mandatory for managers with > 500 employees), or provide explanation as to why such adverse PAIs are not considered
 - Managers implementing such policy must publish a PAI statement on their website, the format of which is prescribed and includes quantitative disclosure on 16 separate granular ESG metrics or indicators (14 mandatory and 2 optional)
- **Remuneration policy** - update remuneration policy to include information on how policy is consistent with integration of sustainability risks

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SFDR – fund classification



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ESG - Implications for investment funds and fund service providers

SFDR – disclosure obligations applicable to all funds

- **Integration of sustainability risks in investment decisions** - how likely impacts of sustainability risks on returns of fund are assessed, or explanation as to why such sustainability risks are not considered relevant to fund
 - Where sustainability risks are integrated in investment decisions, managers must publish description of manner of such integration and results of assessment of likely impact of sustainability risks on return of fund
- **Principal adverse impacts (PAI)** - how fund considers PAIs on sustainability factors, or explanation of reasons why fund does not consider such adverse impacts
- **Marketing communications** - review all marketing materials for funds to ensure those marketing materials do not contradict any information disclosed under SFDR
- **Disclaimer for non-Article 8/9 funds** - *“The investments underlying this financial product do not take into account the EU criteria for environmentally sustainable economic activities”*

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ESG - Implications for investment funds and fund service providers

SFDR – disclosure obligations applicable to Article 8 funds

- Article 8 funds promote environmental and/or social (E/S) characteristics, provided companies in which investments are made follow good governance practices
- **Prospectus**
 - Disclose information on how E/S characteristics are met, and if index has been designated, information on whether and how such index is consistent with those characteristics...
 - Include information on environmental objective(s) under Taxonomy Regulation to which underlying investment contributes and description of how and to what extent underlying investments qualify as “environmentally sustainable” for purposes of Taxonomy Regulation
- **Website** - publish information regarding promotion of E/S characteristics similar to that required in prospectus, but more detailed in certain respects
- **Periodic reports** - include description of extent to which E/S characteristics were met during period

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ESG - Implications for investment funds and fund service providers

SFDR – disclosure obligations applicable to “Article 9 funds”

- Article 9 funds have sustainable investment as their objective
- **Prospectus**
 - Where index has been designated, disclose information on how index is aligned with sustainable investment objective and explanation as to why and how index differs from a broad market index, and where no index has been designated, disclose explanation on how objective is to be attained
 - Include information on environmental objective(s) under Taxonomy Regulation to which underlying investment contributes and description of how and to what extent underlying investments qualify as “environmentally sustainable” for purposes of Taxonomy Regulation
- **Website** - publish information regarding attainment of sustainable investment objective similar to that required in prospectus, but more detailed in certain respects
- **Periodic reports** - disclose overall sustainability-related impact of fund by means of relevant sustainability indicators, or where index has been designated, a comparison against sustainability-related impacts of designated index and broad market index

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ESG - Implications for investment funds and fund service providers

SFDR - concept of “sustainable investments”

- Defined in SFDR as investments in economic activity:
 - that contributes to an environmental or social objective, or an investment in human capital or economically/socially disadvantaged communities;
 - that “does not significantly harm” any of those objectives; and
 - the investee companies follow good governance practices.
- Differs from definition of “**environmentally sustainable**” under Taxonomy Regulation
- Article 8 funds may commit to make a minimum proportion of sustainable investments but such is not mandatory
 - For Article 9 funds, all investments must be sustainable investments, except for investments *“for certain specific purposes such as hedging or liquidity, [which] in order to fit the overall... sustainable investments’ objective, have to meet minimum environmental or social safeguards”* (per Commission Q&A on SFDR, July 2021)

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ESG - Implications for investment funds and fund service providers

EU Taxonomy Regulation

- **Scope** - includes financial market participants that make available financial products (as defined in SFDR). Taxonomy Regulation supplements disclosure requirements in SFDR
- Sets out criteria for determining if activity is “**environmentally sustainable**”
 - contributes substantially to one or more of six specified environmental objectives:
 - i. climate change mitigation,
 - ii. climate change adaptation,
 - iii. sustainable use and protection of water and marine resources,
 - iv. transition to a circular economy,
 - v. pollution prevention and control, and
 - vi. protection and restoration of biodiversity and ecosystems
 - does not significantly harm any of certain, specified environmental objectives;
 - is carried out in compliance with certain minimum safeguards; and
 - complies with certain technical screening criteria.
- Intention is to broaden classification system to cover social objectives in due course

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ESG - Implications for investment funds and fund service providers

SFDR and Taxonomy Regulation - supplementary materials

- 'Level 2' Regulatory Technical Standards (RTS)
 - Specify exact content, methodology and presentation of information to be disclosed under SFDR
 - Include Annexes containing template PAI statement, and template pre-contractual and periodic disclosures for Article 8 and 9 funds
- European Supervisory Authorities (ESA) Clarifications on RTS
- Delegated Acts under Taxonomy Regulation specifying technical screening criteria for each specified environmental objective and information to be disclosed by undertakings under Article 8 of Taxonomy Regulation
- ESA questions to Commission
- Commission Q&As and Communications
- ESA Joint Supervisory Statements
- European Securities and Markets Authority (ESMA) supervisory briefing

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ESG - Implications for investment funds and fund service providers

ESG-related changes to UCITS, AIFMD and MiFID rules

- Series of Delegated Acts amending existing UCITS, AIFMD and MiFID frameworks, which aim to integrate sustainability considerations into firms' day-to-day operations
- Firms required to incorporate consideration of sustainability risks into their internal policies and procedures and ensure they have sufficient resources and expertise for effective integration of sustainability risks
- UCITS managers and AIFMs:
 - ESG investment due diligence
 - Sufficient resources and expertise
 - Conflicts
 - Risk management
 - Organisational systems and controls
 - Senior management responsibilities
- MiFID firms:
 - ESG investment due diligence
 - Organisational systems and controls
 - Pre-contractual disclosures
 - Suitability assessment
 - Product governance

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ESG - Implications for investment funds and fund service providers

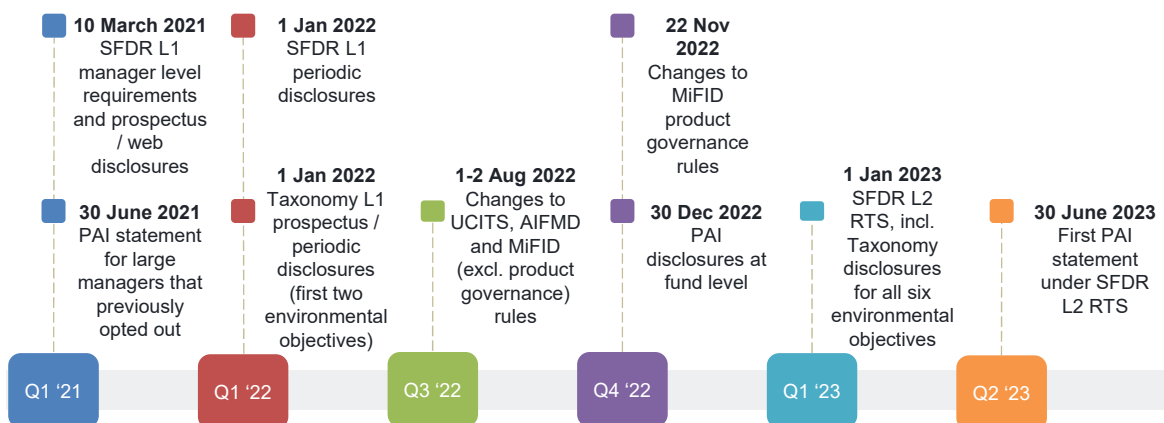
ESG-related changes to MiFID suitability and product governance rules

- Firms must now obtain information and assess investment suitability on a client's "sustainability preferences".
- Three categories of sustainability for financial products considered integral to client's sustainability preferences, financial instruments that:
 1. pursue minimum proportion of sustainable investments in economic activities qualifying as "environmentally sustainable" under Taxonomy Regulation;
 2. pursue minimum proportion of "sustainable investments" as defined in SFDR; and
 3. consider principal adverse impacts on sustainability factors
- Distributors must ask investors if they want their investment to have one or more of these features and if so, how much of each, and make investment recommendations based on this
- Firms within scope of product manufacturer obligations need to consider sustainability related objectives of clients when identifying a target market for a financial product

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ESG - Implications for investment funds and fund service providers

Implementation due dates



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ESG - Implications for investment funds and fund service providers

Further ESG policy/regulatory initiatives

- **Amendments to Benchmarks Regulation** - introduced two new benchmark classifications, namely EU Climate Transition Benchmarks and EU Paris-aligned Benchmarks
- **FinDatEx European ESG Template (EET)** - facilitates exchange of data between product manufacturer and distributors for purpose of fulfilling ESG-related regulatory requirements
- **Proposal for EU Financial Products Ecolabel** - proposal that EU ecolabel may be awarded to retail financial products such as UCITS and AIFs targeted at retail investors
- **Proposals relating to sustainability reporting and due diligence requirements** - amendments to Non-Financial Reporting Directive (NFRD) and adoption of new Corporate Sustainability Reporting Directive (CSRD)
- **Proposal to establish EU Green Bond Standard** - proposal for extensive and uniform regulatory framework based on EU Taxonomy for European green bond standard

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ESG - Implications for investment funds and fund service providers

Take-up of Article 8 and 9 funds

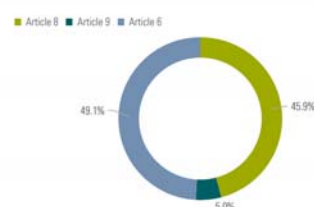
- Sustained growth in Article 8 and 9 funds as percentage of EU fund universe comprising both upgraded strategies and new fund launches
- Rate of inflows highest in Article 9 funds, and outflows highest in Article 6 funds
- Possibility of increased rate of re-classifications from Article 9 to Article 8, and from Article 8 to Article 6, as criteria are tightened up

SFDR Fund Type Breakdown (By Number of Funds)



Source: Morningstar Direct. Data as of 30 June 2022. Based on SFDR data collected from prospectuses on 97% of funds available for sale in the EU, including money market funds, funds of funds, and feeder funds.

SFDR Fund Type Breakdown (By Assets)



Source: Morningstar Direct. Data as of 30 June 2022. Based on SFDR data collected from prospectuses on 97% of funds available for sale in the EU, including money market funds, funds of funds, and feeder funds.

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ESG - Implications for investment funds and fund service providers

Successes and challenges

- Creation of comprehensive EU regulatory framework for sustainable finance
- Catalyst for sustainable investment globally and progression of goal of financing transition to a sustainable European economy
- Transparency and greenwashing risks
- Issues with implementation of regulatory framework
 - Data gaps
 - Implementation time and sequencing
 - Certainty, clarity and coherence
- Low Taxonomy-alignment figures
- Scope of environmentally sustainable activities under Taxonomy Regulation

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ESG - Implications for investment funds and fund service providers

Conclusion and future developments

- Commission's Renewed Sustainable Finance Strategy, including proposal for minimum sustainability criteria for Article 8 funds
- Phasing in of obligation to produce taxonomy-alignment disclosures from 1 January 2023 (companies currently covered by NFRD) and, pursuant to CSRD, 1 January 2024 (financial institutions) and 1 January 2025 (other in-scope companies)
- EU Social Taxonomy
- Differing global approaches to regulating ESG funds, sustainability disclosures and creation of green taxonomies

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The new workplace environment - diversity and how to attract and keep in- house talent

Dr Sinead Brennan



In-house and Public Sector

The Employment Shift - post pandemic

Sinéad Brennan
Chief People Officer, NTMA

12th October 2022

Post Pandemic Shift

Half of younger workforce plan to leave their jobs as part of the global 'great resignation'

Deloitte report shows 55% of millennials believe their greatest problem is the cost of living

THE GREAT RESIGNATION: 3/4 OF WORKERS WOULD CONSIDER LEAVING JOBS WITH DIFFICULT BOSS

HENRY FOX • JULY 19, 2022

Unemployment rate rises marginally as labour market remains tight

Education key to successful inclusion strategy

Companies are increasingly turning to specialists to ensure they are following best practice

Jobseekers in the driving seat as labour market tightens

Updated / Sunday, 20 Feb 2022 11:30



Recruitment market for professionals at its most buoyant 'in 20 years'

The Great Resignation is far from over

BY CHLOE BERGER
September 25, 2022 at 2:00 PM GMT+1

Quiet quitting - The work trend taking over TikTok

Updated / Saturday, 27 Aug 2022 14:34

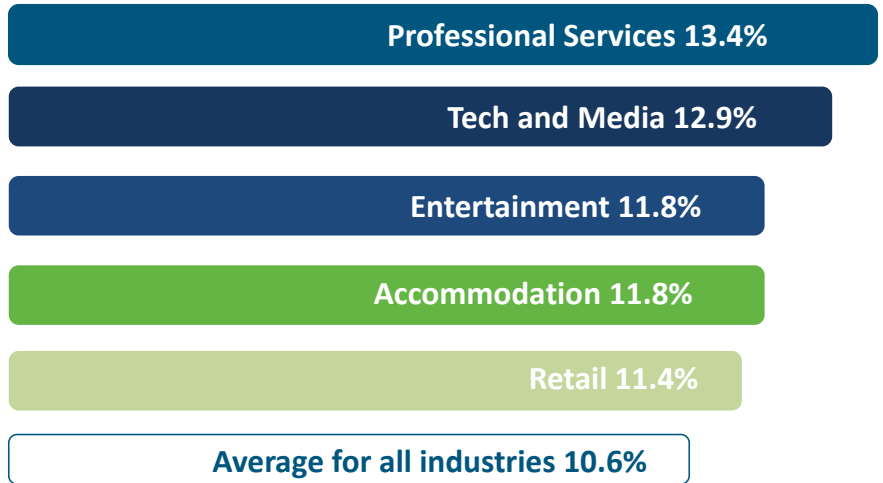


Ireland is enjoying a 'brain gain', Tánaiste Leo Varadkar tells business leaders

Turnover by Industry

Industries with above-average turnover rates

Average turnover rate across industries on LinkedIn globally
(July 2021 – June 2022)

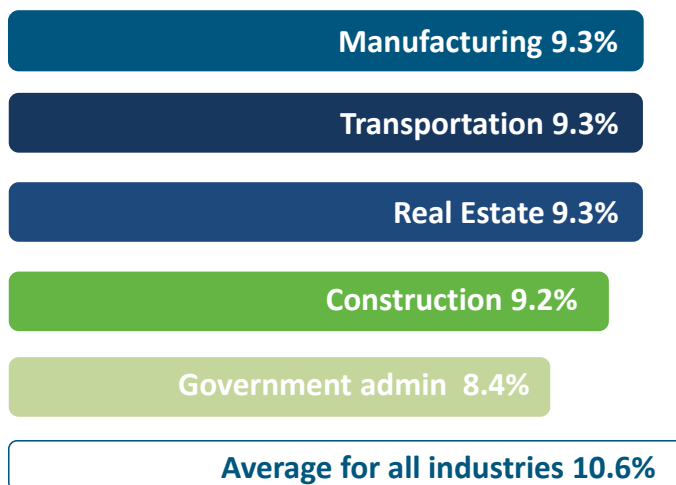


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Turnover by Industry

Industries with below-average turnover rates

Average turnover rate across industries on LinkedIn globally
(July 2021 – June 2022)



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Post Pandemic Shift

From the Great Resignation... to the Great Reimagination



Reshuffling

Reinventing

Reassessing

Post Pandemic Shift

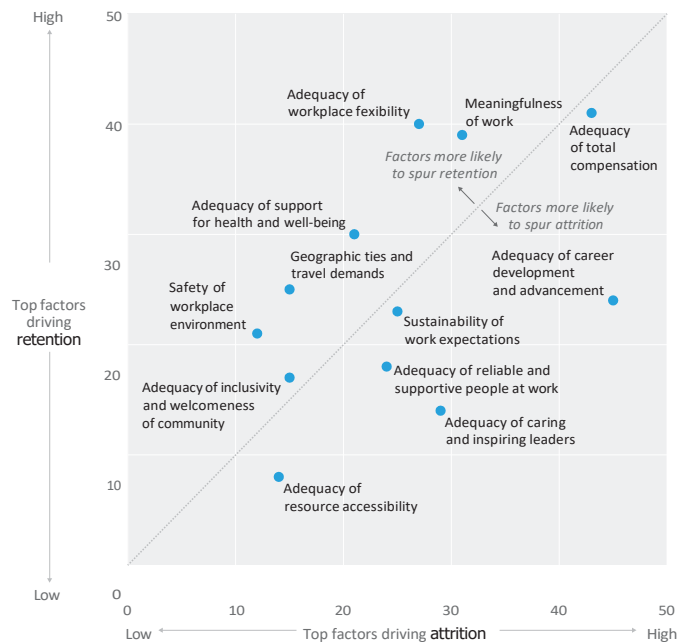


The Great Attrition is making hiring harder.

McKinsey & Company
July 2022



Employee experience factors driving attrition and retention,¹ % of respondents



ABC of Engagement



A

Autonomy



B

Belonging



C

Competence

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What can you do?

Autonomy

- Offer flexibility i.e. hybrid
- Workload management
- Manage based on employee skill level



A



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What can you do?

Belonging

- Connectivity is key – human contact is essential
- Psychological safety – encourage speaking up
- Focus on Inclusion and Diversity/ESG



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What can you do?

Competence

- Play to people's strengths
- Invest in learning and development
- Digital competence and development is critical



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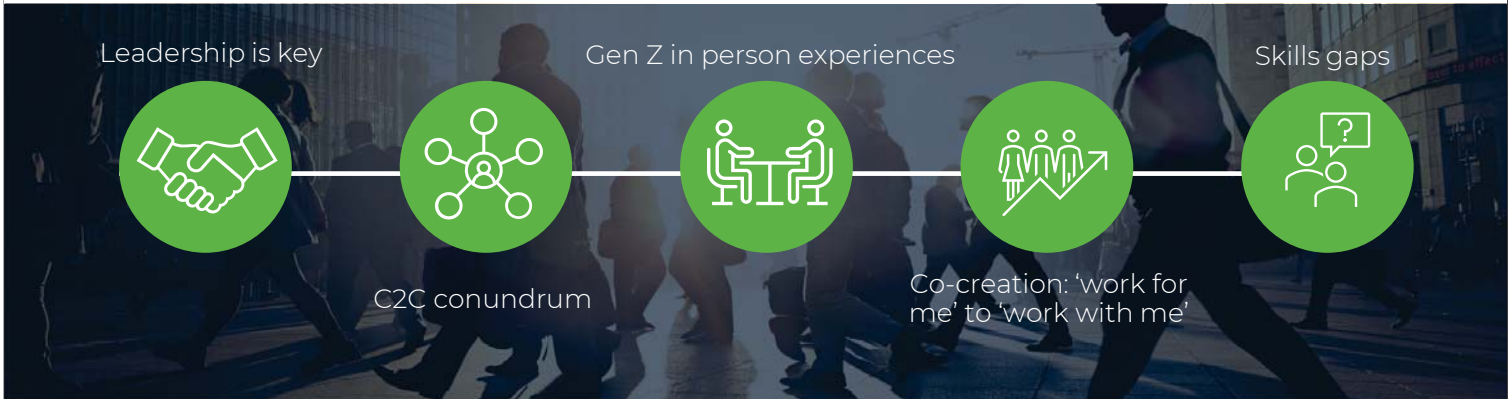
ESG – Inclusion and Diversity

Governance/ Gender

- Outcomes could worsen
- Proximity bias
- Gender Pay Gap – UK evolution...
- Transparency on pay



Hybrid – Here to stay?



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Hybrid – Here to stay?



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Talent Attraction

**Broaden
the talent
pool...**



Employee Value Proposition (EVP)



Inclusion & Diversity



Digital footprint – What are your employees saying about you?



Referral programmes



Returner programmes

Summary

**ABC of
engagement**

**Hybrid
lessons**

**Inclusion and
diversity**

**Attraction and
retention**





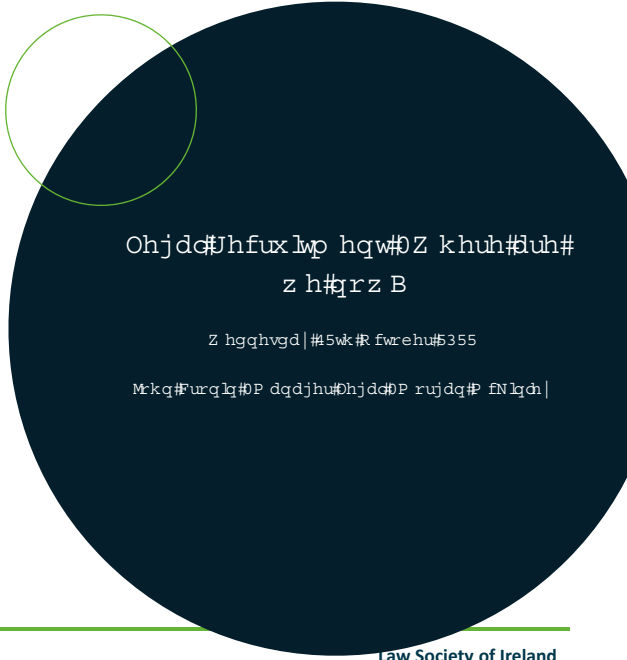
Diversity on Public Boards

Michelle Noone

Materials emailed post event

Recruitment consultancy perspectives – where are we now

John Cronin



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Agenda

- Who are Morgan McKinley?
- Overview of Market Trends
- ESG in legal recruitment
- What's next in my Career?
- Tips for your Future Planning
- Summary
- Q&A

Overview of Morgan McKinley

Our Global Business

- Irish owned staffing solutions group
 - 750+ people
 - 3,000 clients from global corporations to SMEs
 - 3,000 contract staff onsite globally
 - Industry leading client and candidate management
 - A consistent innovator in talent sourcing
 - Focus on service excellence and continuous improvement
- 5 locations providing coverage across all of Ireland
 - 100+ consultants with extensive local networks, each specialising in a specific professional sector
 - Within each of our specialist disciplines of law, we service a wide range of legal recruitment briefs at law firms and commercial organisations from indigenous start-ups to multinationals and global companies



Overview of Morgan McKinley - Global



16 Offices | 9 Countries

Canada
Ireland
United Kingdom
India
Singapore
Hong Kong
Mainland China
Japan
Australia



R y h u y l h z # r i # d u n h w # W u h q g v

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General Market Observations



- It is very much a candidate driven market at present, particularly at the mid career level
- The greatest number of instructions for in-house lawyers that we have received this year has been for lawyers with experience in Investment Funds/Asset Management, Privacy, Data Protection, Commercial Contracts and Commercial Banking.
- The increased legal hiring has been most evident in Financial Services, pre- and post-pandemic primarily as a consequence of Brexit.
- Technology, FinTech, Payments, Regulatory, Risk & Compliance are showing the most growth potential
- Still waiting to see if the current inflation & energy crisis will have an impact on hiring

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ESG - Our observations



- ESG credentials of companies are coming under more scrutiny than before from governments, regulators, investors, customers and employees.
- While we are not directly seeing the impact of ESG as a skills requirement for legal hires, we are seeing ESG emerge in hires with our professional services and financial services clients.
 - Professional Services - Increased advisory requests for ESG advices from their clients
 - Financial Services - Investors looking for underlying ESG policies before investments
 - The “S” and “G” are the two pillars of ESG that Legal mostly see but in an indirect way:
 - S - Gender diversity, H&S, Work disputes, Employee relations, GDPR, Right to request work from home
 - G - Board diversity, Political lobbying, Corruption/Bribery, AML/Fraud
- Issues relating to sustainability – whether linked to the environment, employment practices or broader society are being flagged intermittently to us as challenges for organisations
- Legal departments are being brought on as a business partner to other departments to help.

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ESG - Observations from the US



- A recent EY/Harvard Law Study in the US revealed that 99% of General Counsel expect their workloads to increase over the next three years due to environmental and social concerns.
- The report found that this expected rise in work is due in part to the proliferation of new laws, increased regulatory enforcement and increased reporting work often linked to investor concerns. It is also due to the growing volume of internal advisory work on complex matters linked to reputational risks.
- Environmental and employee safety-related work is expected to increase by 10% or more per year over the next three years. Similarly, 24% of GCs expect diversity, equity and inclusion work to increase by 10% or more.

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Gender breakdown of Legal Counsels according to industry sectors in Ireland



According to the latest Law Society figures, 53 percent of practising solicitors in Ireland are women

Industry Sector	Talent sample	Male %	Female %
All sectors	731	35%	65%
Legal ¹	83	53%	48%
Technology ²	111	35%	65%
Financial Services ³	219	33%	67%
Life Sciences ⁴	67	23%	77%

¹Subsectors included: Law Practice, Legal Services

²Subsectors included: Computer Software, Information Technology Services, Telecommunications

³Subsectors included: Financial Services, Banking, Investment Banking, Investment Management, Capital Markets, Venture Capital & Private Equity, Insurance

⁴Subsectors included: Pharmaceuticals, Medical Devices, Biotechnology

Source: LinkedIn study from the 04/10/2022

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ESG - The need and challenge of hiring lawyers



According to the Harvard/EY Study, legal departments are taking three distinct approaches to addressing the ESG challenge:

- ❖ 20% plan to insource most of the sustainability work though hiring or re-allocating existing talent. External providers will be used on a tactical basis.
- ❖ 46% plan to insource most of the sustainability work and increase the use of technology and process management to optimise internal operations. External providers will be used on a tactical basis.
- ❖ 34% percent plan to implement a mixed sourcing strategy that deploys internal resources, external legal advisory and alternative legal service providers based on the requirements of the task and the capabilities and cost of the resource.

However, 96% of General Counsel report that their in-house legal department do not have the expertise or skills needed in sustainability, environmental and social topics to meet the challenge.

Additionally, 94% don't believe they have the required funds to support their organisation's sustainability initiatives.

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What does this all mean for you?



- As it's a jobseekers' market, it very much depends whether you are an employer looking to hire or a lawyer looking to move.
- If you are an employer looking to hire lawyers with in-demand skills - Be prepared for counter-offers, multiple offers, flexibility on working arrangement requests.
- Growth outpacing "supply"
- Company culture/ESG becoming very important to younger candidates
- Remote/Hybrid policies and work life balance at the core of every process
- Salaries have increased in or around 10% for similar jobs since the pandemic restrictions lifted.

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What next if I am an In-House Lawyer looking to move?



- Good time to be looking for a move - if you possess the in-demand skills and experience.
- Private practice is extremely busy recruiting which is always a good indicator of the demand for legal expertise from companies.
- We are seeing in-house opportunities across all industry sectors but particularly in Technology, Banking, Pharmaceutical, FMCG and Aviation.
- There are still international companies making enquiries to our MMK FDI dept about setting up in Ireland post-pandemic and as a result of Brexit.
- MMK FDI division has seen enquiries in the payments/fintech space really ramp up over the last 12 months. This is very much a growth market.

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Tips for your Future Planning



- Think “Outside the Box”...don’t presume!
- CV is key!
- Interview preparation and practice
- Engage recruiters and connect with future employers?
- Do you know the market you want to work in?
- Have you engaged your network?
- Don’t rush to make a decision!

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Summary



- The market is in a good place
- Areas of growth everywhere, including remote options for those in previously less regarded locations for lawyers to work in
- Privacy, Funds, Risk, Compliance and Technology the hot areas
- Impact of Regulatory Environment & Brexit
- Everyone has options, but you have to be ready to take them!

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Useful Links



- **Ireland Salary Calculator** - <https://www.morganmckinley.com/ie/ireland-salary-guide-calculator>
- **UK Salary Calculator** - <https://www.morganmckinley.com/uk/uk-salary-guide-calculator>
- **Career Guidance Articles** - <https://www.morganmckinley.com/ie/resources/jobseeker-articles>
- **Explore Vacancies** - <https://www.morganmckinley.com/ie/jobseekers>
- **Email:**
jcronin@morganmckinley.com

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