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PRESIDENT'S MESSAGE

OPPORTUNITY KNOCKS

The world has, so far, invested over €10 trillion in keeping economies moving through the COVID-19 crisis. Navigating the economic recovery has brought into sharp focus that we must invest in our businesses to survive and to future-proof.

As employers, we have invested in our practices to comply with the health-and-safety guidelines, which we have done at a cost. However, we do so primarily to protect our staff, our families, the communities we serve, in solidarity with front-line workers, and to preserve our businesses.

Employees have invested by working collaboratively with employers, with the common goal of business survival and to protect their employment, where possible.

Clients, too, have invested in the economic recovery by seamlessly adapting and adjusting to a new way of doing business. We have demonstrated a collective response and a collective responsibility.

Learning experience

If I have learned anything over the last few months, it is this: opening up meaningful channels of communication, mindfully listening to colleagues, proactively identifying challenges, finding workarounds where possible, lobbying where necessary, implementing constructive collaborative solutions, and – critically – fast, accurate and effective communication, right across the board, remains key to the continuation of our practices and rebooting the economy.

We are very fortunate as a profession to have developed and maintained a good working relationship with the various stakeholders, not least the judiciary, who continue to work tirelessly to restore access to justice to those who most need it. As well as limited physical hearings, three technological courts continued to operate throughout August. Recent welcome legislation now places remote hearings on a statutory footing.

Hopefully, to further improve the administration of justice, the Courts Service will continue to consult and engage with the stakeholders to explore and find solutions to inevitable backlogs in the system at all jurisdictional levels. It is in the public interest to do so.

Challenges create opportunities, and it is likely that we may never return to some of the traditional pre-COVID practices, particularly on the technology front.

One milestone change in recent months has been the opportunity for solicitors to apply for a Patent of Precedence to use the designation 'senior counsel'. It is a significant moment in Ireland's legal history.

Solicitors possess all of the necessary skills, knowledge and experience to become senior counsel, having already been granted the 'rights of audience', allowing them to advocate in the courts since 1971. For those who meet the criteria, this recent change creates parity of esteem between both branches of the profession.

Another development has been my 'virtual' attendance at bar association meetings. Traditionally, the president, accompanied by the director general, has travelled throughout the country to meet and engage with colleagues on their home territory. This engagement is now taking place, very successfully, remotely. Who could ever have anticipated that?

> WE MUST REMAIN A COLLEGIAL PROFESSION – AND NOTHING TESTS COLLEGIALITY MORE THAN A CRISIS

Whether we meet our colleagues remotely or otherwise, we must always remain mindful of our physical and mental health, and be alert to that of our colleagues. We must remain a collegial profession – and nothing tests collegiality more than a crisis. That, too, must be future-proofed, and it is within our gift to do so. g

MICHELE O'BOYLE,
PRESIDENT

PIC: SHUTTERSTOCK

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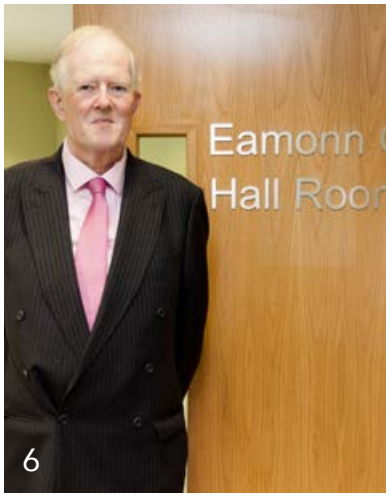

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THE BIG PICTURE

FLYING THE FLAG

An anti-government protester shelters behind an iron barrel during a demonstration outside the Lebanese Parliament in Beirut on 8 August. People gathered for the so-called 'Saturday of the Hanging Ropes' to protest against political leaders and to call for those responsible for the explosion that rocked the city on 4 August to be held accountable. At least 181 people were killed, more than 6,000 injured, and 300,000 were made homeless by the blast that devastated extensive parts of the city near the port. The explosion, caused by an estimated 2,750 tons of ammonium nitrate stored in a warehouse, was heard 240km away on the island of Cyprus

PIC: EPA-EFE/WAEL HAMZEH

'EAMONN HALL ROOM' OPENED

Dr Eamonn Hall makes a point to Richard Hammond and Ken Murphy at the event formally naming a room in his honour in the Law Society's Education premises

Mary Hall, solicitor, stands proudly beside her husband

ALL PICS: CIAN REDMOND

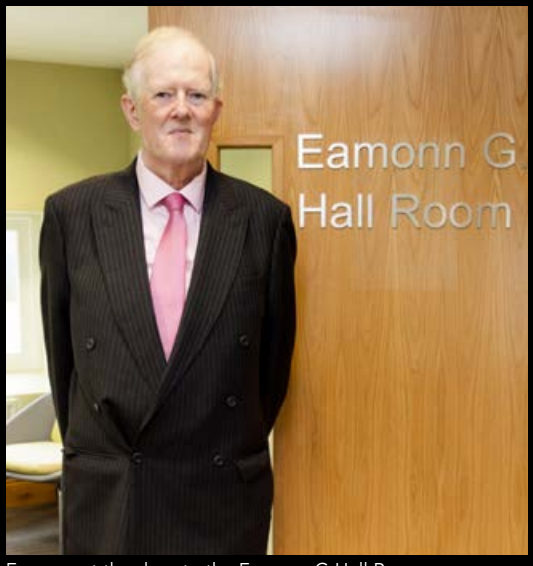
Masks removed only for speaking

Michael V O'Mahony listening carefully

The socially distanced audience

Eamonn's son Alan records the event for posterity

Ken Murphy adapts a line from a speech by the poet Philip Larkin: "To see Eamonn Hall, in the Eamonn Hall Room, is like walking into St Pancras' Station and meeting St Pancras"



Eamonn at the door to the Eamonn G Hall Room

Eamonn's grandchildren are suitably impressed

Daughter Irene, son-in-law Stephen and their children are maskless outdoors

Masks for all indoors

STUDENT SNAPPERS IN THE FRAME

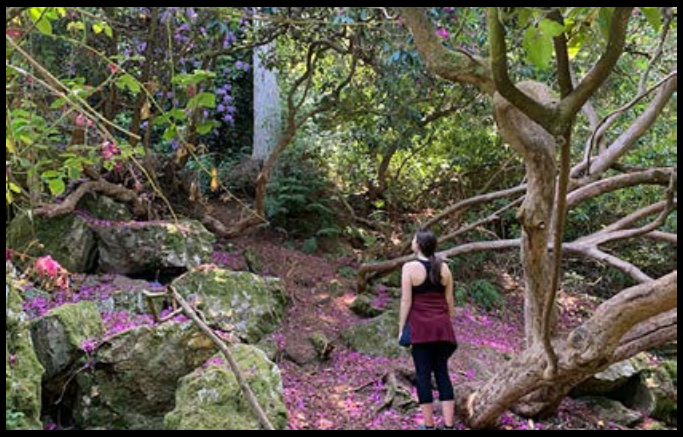
The winning photograph in the inaugural Law Society Student Photography Competition 2020, held during lockdown, was taken by Glen Byrne

Another quality image by Glen Byrne

This mountain view was by Aisling Casey

The runner-up Red Admiral image was by Kerry Ann Corbett

This cute duckling was snapped by Aisling Casey



In love with nature – image by Caoimhe Dunne

Aisling Casey captured this handsome chap

SOCIETY WELCOMES OATHS REFORM

The Law Society has welcomed the commencement of the *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020* – specifically section 21, which introduces a provision for 'statements of truth'. The provision changes the system whereby witnesses must indicate their religious faith when filing an affidavit.

Law Society President Michele O'Boyle said: "The current system of oaths and affirmations, which dates back to 1888, is contrary to the right to privacy and contrary to a person's dignity in legal proceedings. Requiring a person to either declare one's religious conviction or lack thereof is, by any standard, entirely inappropriate in a progressive, 21st century legal system."

PIC: CIAN REDMOND

O'Boyle: 'Statements of truth should apply, not just to litigation, but to all areas of law'

Procedural challenges

The Society has campaigned for many years on the need for modernising the system. President O'Boyle explained: "Among other issues, the Society argues that, not only does it represent significant procedural challenges for practitioners in an increasingly pluralist society, it also can give rise to unfair perceptions on the credibility of the evidence given where individuals decline to take a religious oath."

O'Boyle noted, however, that jurors and witnesses giving evidence *viva voce* in court are still required to swear a religious oath or make an affirmation.

"We believe the oath-based system should be replaced entirely, to reflect the diversity and inclusivity of Ireland today," she said. "We welcome these proposed changes when written and electronic affidavits are being filed. We also welcome this change in the context of COVID-related safety issues, allowing witnesses, for the first time, to make a statement of truth electronically."

Section 21 is an enabling one, in that *Rules of Court* will be required to bring it into effect. The Law Society is urging that this be done without delay, although the president says that, in all likelihood, it may take some months before the first statement of truth will be made.

Abolition of oaths

The act does not go as far as the Society had hoped. For several years, it has sought the abolition of all religious oaths, as originally recommended by the Law Reform Commission.

Another 'miscellaneous' legislative measure is planned on the matter in the near future. President O'Boyle says that she remains committed to lobbying for further measures to be included at that time: "I will be seeking to ensure that statements of truth will apply, not just to litigation, but to all areas of law, including conveyancing and probate, where affidavits and statutory declarations currently are required.

"While the act represents significant progress, I am keenly aware that further reform is needed, and I will continue to actively pursue it," she said.

A number of other important reforms have been made by this act, including:

- The introduction of a statutory basis for courts to conduct remote hearings in civil proceedings,
- The admissibility of business records as evidence in civil proceedings,
- The lodgement of documents with the courts by electronic means, or 'e-filing',
- Provision for the wider use of video-links between persons in custody and the courts,
- Enhancing and widening the existing provisions on giving evidence through video-link,
- Providing for appeals (to the Court of Appeal and the Supreme Court) in criminal proceedings to take place via remote hearing,
- Providing for the remote meetings of State bodies, and
- Provisions making it easier to alter the operating hours and sitting locations of the District Court.

Most of these provisions came into effect on 21 August.

STUDENTS CHECK THEIR VITAL SIGNS

The Law School recently provided trainee solicitors with funding to organise a six-week course of sign-language classes.

The classes, tailored to the legal profession, were created and taught by Prof Patrick Matthews (TCD) and Pauline McMahon (Irish Sign Language interpreter).

The classes were the first for the Law School and, in light of the COVID pandemic, took place via Zoom.

The Sign Language Society was set up by Siobhan Matthews, Tara O'Donoghue and Molly O'Regan with the aim of providing trainee solicitors with the skills to communicate with deaf clients and promoting an understanding of working with sign language interpreters in a legal setting.

The classes imparted language skills, but also improved communication skills between trainees and highlighted the importance of non-verbal signals to clients. They have also allowed the Law Society to expand its diversity and inclusivity services for its members and the general public.

PII 'HARD MARKET' EXPECTED FOR 2020/21 RENEWAL PERIOD

Last year saw a significant hardening of professional indemnity insurance (PII) markets worldwide, including solicitors' PII in Ireland, with significant increases in premiums. It is expected that similar increases will be seen for the 2020/2021 renewal due to a number of factors.

The increase in premiums last year was initiated by a Lloyd's of London review on international market-wide profitability. This identified PII in general as a high-risk, low-profitability area, due to increased claims and high defence costs of claims.

General factors such as the Grenfell Towers disaster, Brexit, global natural disasters, solvency requirements, and internal market changes resulted in insurers seeking to reduce their liabilities and capacity. This led to a decrease in the number of insurers interested in writing PII and an increase in base rates, resulting in increases in premiums across the board for PII.

COVID impact

The issue is compounded this year by COVID-19, which is expected to have a profound effect on insurers' investment return, claims and loss of business. Lloyd's of London's insurance market expects to pay out as much as US$4.3 billion to customers due to the pandemic, with estimated historic losses in the wider industry of more than $200 billion. Insurers are currently assessing their exposure, and regulators and rating agencies have signalled the requirement for insurers to address their solvency positions as a consequence of this event. It is anticipated that capital raising will be a feature of the 2021 market, as maintaining A-level credit ratings and regulatory solvency requirements are critical for an insurer's survival.

In addition, there is concern in the market that claims will increase in 2020/21 due to the COVID-19 lockdown and expected consequential recession. This makes solicitors' PII an unattractive market for insurers, with an increasing risk of claims.

As a result, it is expected that premiums will increase further for the 2020/21 renewal due to factors other than the performance of the solicitors' PII market in Ireland. The Law Society recommends that all firms factor in expected increases in premium into their financial planning for Q4 of 2020, including accessing the necessary funds for same.

Risk management

In order to minimise increases in premiums, firms are advised to take proactive steps now to sell the firm as a good risk to insurers, in particular in the area of risk management. Insurers are increasingly focused on firms' risk management policies and procedures as an indicator of the risk profile of the firm. Firms are advised to consider putting the following in place, and reporting same in their common proposal form to insurers when renewing:

- Carry out a full risk audit of your firm now, especially checking problem areas that can give rise to claims, such as registers of undertakings, letters of engagement, and problem files,
- Carry out training of your solicitor and non-solicitor staff in risk management, including cybersecurity,
- Put robust cybersecurity measures in place, especially in the area of multiple checks on receiving and providing bank-account details, including obtaining professional advices on same where appropriate.

In-depth risk-management guidance and cybersecurity guidance can be found on the Law Society's website.

Proposal form

Firms should start pulling together information now for completion of the common proposal form. The current common proposal form on the Society's website can be used as a guide for the information that will need to be provided. Insurers look for firms that properly complete the form first time, with in-depth detail and information, as this is seen as a mark of the firm's professionalism and risk profile.

Firms are advised to submit the common proposal form earlier this year, due to concerns that insurers may have decreased capacity, which may result in insurers not providing cover to firms that apply late in the renewal period.

Firms are also advised to send the common proposal form to as many insurers as possible during the renewal, in order to maximise the range of quotes obtained.

Law Society steps

The Law Society is in ongoing communications with insurers regarding the upcoming renewal, and are reviewing changes to make the solicitors' PII market more attractive to insurers, in order to minimise loss of insurers from the market, and consequent increases in premium levels.

In addition, the Society is in ongoing talks with potential new insurers who may be interested in joining the market.

The Society will be publishing additional guidance and information in the coming months to assist the profession during the upcoming renewal. Further information on PII can be found on the Society's website at www.lawsociety.ie/PII.

FIRST FEMALE HIGH COURT PRESIDENT

Ms Justice Mary Irvine was nominated by the Government on 12 June as the new President of the High Court on the retirement of her predecessor, Mr Justice Peter Kelly. She is the first woman to hold that office.

Law Society President Michele O'Boyle congratulated her, saying: "She will bring the qualities of independence, deep legal knowledge and insight that have characterised her distinguished career as a judge."

Ms O'Boyle hosted a small, socially distanced dinner in honour of President Irvine in Blackhall Place on 10 July, where the evening was greatly enhanced by the presence of another eminent guest, Chief Justice Frank Clarke.

ALL PICS: CIAN REDMOND

(Top, l to r): Mr Justice Frank Clarke (Chief Justice of Ireland), Michele O'Boyle (President of the Law Society) and Ms Justice Mary Irvine (President of the High Court)

(Bottom, l to r): Chief Justice Frank Clarke, Mary Keane (deputy director general, Law Society), Ms Justice Mary Irvine, Michele O'Boyle, and Ken Murphy (director general, Law Society)

NGI'S PICTURE-PERFECT BLACKHALL MEETING

PICS: CIAN REDMOND

Law Society deputy director general Mary Keane chairs a meeting of the board of the National Gallery of Ireland at Blackhall Place on 9 July 2020. Ms Keane is the new chair of the board

ENDANGERED LAWYERS

HEJAAZ HIZBULLAH, SRI LANKA

Hejaaz Hizbullah is a lawyer at the Supreme Court of Sri Lanka who previously worked as counsel at the attorney general's department. He earned his master's degree in UCL on a scholarship, and has expertise in constitutional, contract, employment, human rights and property law. He is also involved in interfaith and reconciliation work in the current atmosphere of rising Islamophobia in Sri Lanka.

The day before he was arrested on 14 April 2020, he and others had written to the Sri Lankan president in relation to a ban on Muslims burying their dead in accordance with their religion, despite the WHO's guidance that either burial or cremation is safe in the context of COVID-19.

The draconian *Prevention of Terrorism Act* allows detention without review for 90 days, renewable for up to 18 months. It has long been criticised as an abusive law used to crush dissent and forcibly disappear people. Promises of reform have not been implemented.

Hizbullah, who has only been able to see his lawyer and family a few times since April, and always in the presence of the authorities, could remain under arbitrary detention until October 2021. The reason given by the authorities is his professional relationship with Yusuf Mohamed Ibrahim, the father of two of the seven bombers who set off six explosions over Easter 2019, killing more than 250 people. However, Hizbullah's family believes he is being targeted for his professional work as a lawyer and his peaceful activism for the human rights of Sri Lanka's embattled Muslim minority.

No evidence has emerged linking Hizbullah with the bombings. His friends and family fear, however, that the authorities are trying to frame him, interviewing students in a charity for underprivileged children without their parents being present, showing his picture and suggesting he was a hate preacher, and alleging that a school it supports was responsible for preaching 'extremism' and providing the children with 'weapons training'. These allegations are being challenged in court by parents and guardians of the children, who are demanding to see recordings of interviews and statements the children "were made to sign".

Hizbullah is also the subject of character assassination by the authorities in social media. Various aspects of his case indicate a disregard for due process and the rule of law on the part of the authorities.

With thanks to Thyagi Ruwanpathirana (researcher at Amnesty International). Alma Clissmann is a member of the Law Society's Human Rights Committee.

SCHOOLS IN FOR SUMMER!

PIC: CIAN REDMOND

Over 1,500 transition and fifth-year students from across Ireland took part in the Law Society's inaugural online Legal Ambitions Summer School, which launched on 7 July 2020.

The outreach programme is designed to encourage students to consider a career in law, and offers an insight into the role of a solicitor in practice. The summer school was delivered entirely online and covered themes such as social justice, human rights, and climate change.

During the month of July, short video interviews and presentations were released in a play-on-demand basis and supported with interactive content, including online quizzes and additional educational resources, adding to the learning experience.

The participants heard from over 30 speakers, including Josepha Madigan TD and Mr Justice Max Barrett, who discussed their lives in law. Judge John O'Connor examined juvenile justice and the Children's Court, while Dr Ebun Joseph (UCD) and solicitor Sonia McEntee explored the legal issues around gender, power and authority.

The summer school has proved to be a valuable tool in providing students with insights to the law and its relevance in their daily lives, as well as promoting awareness of the constitutional principles, rights, and values that underpin the rule of law in Ireland.

DIPLOMA CENTRE'S AUTUMN SCHEDULE

A complimentary copy of this academic year's *Diploma Prospectus* is included with this *Gazette*. Copies can also be obtained from diplomateam@lawsociety.ie.

The full programme is available to view and book at lawsociety.ie/diplomacentre.

Discounts and supports are available for solicitors whose employment has been affected by COVID-19. Details are available on the website.

SPECIAL HONOUR FOR EAMONN HALL

PIC: CIAN REDMOND

Ken Murphy (director general), Dr Eamonn Hall, Richard Hammond (vice-chair, Education Committee), Carol Plunkett (chair, Education Committee), Dr Geoffrey Shannon (deputy director of education), Paul Egan (Education Committee member) and Michael V O'Mahony (past-president)

A special tribute was paid to a very special solicitor in Blackhall Place on 18 August. A room was named in honour of Dr Eamonn Hall, in recognition of a lifetime's contribution to education in the Law Society and to the solicitors' profession generally.

Education Committee chair Carol Plunkett informed the small, select, and socially distanced audience that, as soon as she and vice-chair Richard Hammond proposed that one of the rooms dedicated to education in Blackhall Place be named in honour of Eamonn, there was unanimous support on the committee and, subsequently, on the Council.

Adding to the tributes, director general Ken Murphy told the assembled guests that Eamonn was only the second individual ever to receive this honour in their lifetime – the other being former Law Society president (1993-94) Michael V O'Mahony, who he was delighted to see in the audience.

Two others whose contribution to education in the Law Society have been recognised in this way are the late James O'Sullivan and Dominic Dowling.

Dr Hall was the chief examiner in constitutional law for the FE-1s from 1981 to 2006. He was also a regular contributor to the professional practice courses and continues to lecture on the civil ligation module. In particular, his lectures on judicial review and his contributions to criminal litigation and advocacy have been very popular with generations of Law School students.

Astonishing range

Eamonn Hall never served as president of the Society, or even on Council. Yet his contributions across an astonishing range of activities of the solicitors' profession have had few equals. His contribution to law reporting in Ireland deserves special mention. He has served as a member of the Incorporated Council of Law Reporting for more than 30 years, working closely with leading members of the judiciary and the Bar in the production of the *Irish Reports* – both in print and, more recently, through his initiative, online. He is the only solicitor in its long history to have chaired the Council of Law Reporting.

'True north'

Many solicitors love legal practice but, in addition to that, Eamonn Hall truly loves the law – in particular the judge-made case law that is the lifeblood of the common law system. He is a deep thinker and writer on the subject. In a recently published book that contains many tributes to Eamonn, Chief Justice Frank Clarke expresses the view that "it would be impossible to overstate the contribution which Eamonn Hall has made to the important cause of law reporting in Ireland", adding: "he is also the person who has played the greatest role in its modern evolution and, perhaps, survival".

The current chairman of the council, Douglas Clarke SC, refers to Eamonn as "the true north of law reporting in Ireland".

As the chief solicitor for decades with Telecom Eireann/Eircom Group, Eamonn was one of the first practitioners in Ireland to achieve a PhD. His thesis was 'The electronic age'.

Eamonn has been an outstanding contributor for many years to the *Gazette* as a member of the editorial board, and served as its chair for seven years. Indeed, during that period, the magazine was referred to by some as '*Hall's Pictorial Monthly*'.

He has also been a central figure in the work of the Faculty of Notaries Public in Ireland. He co-chairs (with Michael V O'Mahony) the scrutineers of the Law Society's annual Council election. In addition he co-edited, with Dara Hogan, *Portrait of a Profession*, the leading book on the history of the solicitors' profession in Ireland. More recently, he has chaired the Irish Law Awards, and his colleagues there decided earlier this year to recognise him with their Lifetime Achievement Award.

Eamonn is now honoured by a room permanently in his name in the Education Department's Green Hall at Blackhall Place. Indeed, as Ken Murphy quipped in his tribute: "If we had only thought of it in time, we might have renamed the Green Hall 'The Eamonn Hall'!"

NEWLY APPOINTED JUSTICE MINISTER HITS THE GROUND RUNNING

Since her appointment on 27 June, Justice Minister Helen McEntee has signed the commencement orders for the *Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020*, which introduces reforms in response to pandemic challenges. The enabling provisions relating to criminal proceedings will help to support the courts' resumption of criminal trials. The changes will allow wider use of video-links between accused persons and the courts.

It also addresses a long-standing issue with the committal warrants for persons already in prison and removes the need to transport prisoners between one prison and another merely to execute these warrants.

In mid July, the minister announced €15.38 million funding to enable preparatory works on the long-awaited family-law complex at Hammond Lane in Smithfield, Dublin 7.

On 23 July, the Government unveiled a stimulus package that includes €24 million for the justice sector. The Courts Service will receive €5 million to help deal with the backlog of criminal trials that has built up due to the pandemic. Money will also be made available to renovate the Traffic Court building in Dublin to add additional capacity to court infrastructure. This Smithfield Square building has been vacant for around 20 years.

The Irish Prison Service will receive €8 million for refurbishment measures, while €11 million will go towards An Garda Síochána to modernise, lease and refurbish additional space for garda stations.

And on 21 July, justice ministers on both sides of the border held a detailed telephone conversation, and they met in person at the North South Ministerial Council on 31 July. The last meeting between the ministers under the Intergovernmental Agreement on Cooperation on Criminal Justice Matters took place in November 2016.

PIC: SAM BOAL/PHOTOCALL IRELAND

Minister for Justice Helen McEntee

Helen McEntee was first elected to the Dáil in March 2013 for the Meath East constituency, where she ran as a Fine Gael candidate following the death of her father Shane, who served as a TD from 2005 to 2012. She was re-elected in 2016 and was appointed a Junior Minister of State in the Department of Health. She was appointed as only the fourth female justice minister in the history of the State as part of the new coalition government.

She studied economics, politics and law at Dublin City University, where she helped to re-establish the Young Fine Gael branch. After graduating in 2007, she worked for a subsidiary of Citibank, returning to education in 2010 to complete a Master's in Journalism and Media Communications at Griffith College.

FIRST IRISH CABINET EVER WITH NO LAWYER MINISTER?

As the names of his Cabinet were announced to the Dáil by new Taoiseach Micheál Martin on 27 June, it struck me that, very unusually, not one of them is a solicitor or barrister, *writes Ken Murphy.*

Of course, the distinguished senior counsel Paul Gallagher was appointed attorney general. However, under the Constitution, the attorney general is not a member of the Cabinet.

There had been two solicitors who served with distinction in the outgoing Government – Charlie Flanagan (Justice and Equality) and Josepha Madigan (Arts, Culture and the Gaeltacht).

In Enda Kenny's first Government before that, solicitor Alan Shatter had served and, on the day he left office, Charlie Flanagan joined the Cabinet.

Murphy: 'Cabinet requires the analytical, insightful, problem-solving skills of a lawyer'

In the successive Fianna Fáil-led Governments from 1997 onwards, solicitors Brian Cowen, Dermot Ahern and John O'Donoghue served, as did barristers Michael McDowell, David Andrews and Brian Lenihan.

John Bruton's Cabinet contained barrister Dick Spring, as well as solicitor Mervyn Taylor, and Dick Spring also served in the previous Government under Albert Reynolds.

Both Garret FitzGerald and Charlie Haughey were themselves qualified as barristers (as was their fellow Taoiseach, Jack Lynch), and numerous ministers from the legal profession served in Cabinets throughout the 1970s and 1980s, including barrister Brian Lenihan senior and solicitors Des O'Malley and Paddy Cooney.

Jack Lynch served in the 1950s and 1960s. John A Costello, a barrister, led two Governments, the first elected in 1948. PJ Ruttledge, solicitor, served in de Valera's cabinets from 1932 onwards.

Is Micheál Martin's Cabinet the first in the history of the State to lack the analytical, insightful, problem-solving skills of a professional lawyer at the Cabinet table?

MICHAEL BOYLAN LITIGATION WELCOMES NEW PARTNER

Michael Boylan, Gillian O'Connor and Ciara McPhillips

Michael Boylan Litigation, the recognised specialist litigation law firm, has appointed Ciara McPhillips as a partner.

Ciara has worked with partners Michael Boylan and Gillian O'Connor since the firm's inception, and before that. Ciara's case load incorporates complex medical negligence actions, including vaginal mesh insertions, cervical oncology, and adverse events following the prescription of Epilim to women of childbearing age.

Managing partner Gillian O'Connor says: "We are delighted to welcome Ciara as partner. Her appointment reflects the strong growth of the firm and our commitment to continue providing a high-quality service to those who have suffered as a result of clinical negligence."

Originally from Co Monaghan, McPhillips has specialised in plaintiff litigation from the outset of her career.

"I am delighted to join Gillian and Michael as a partner in Michael Boylan Litigation," she says. "Michael and Gillian have acquired exceptional reputations in the field of clinical negligence and litigation. I look forward to continuing to work with them and with our clients to secure the best possible outcome for those affected by incidences of medical negligence."

RUNNING FROM IRELAND TO KOLKATA IS VIRTUALLY POSSIBLE

The Calcutta Run is going virtual – and we need your help to run the 10,000km from Ireland to Calcutta. You can do 5k to 10k in your own time between 10 October and 18 October, and we will get there together!

Our supported charities need your help now, more than ever. Although we cannot run together this year, those experiencing continued homelessness in Ireland – and the boys' and girls' homes we fund in Kolkata – need our continued support. Watch out for launch details at www.calcuttarun.com.

THE SECOND COMING

That the *Schrems II* ruling would seek to impose requirements on a foreign country while not holding EU member states to the same standard smacks of hypocrisy, argues **John Dermody**

JOHN DERMODY IS A COUNSEL IN WASHINGTON DC AND A FORMER ATTORNEY AT THE DEPARTMENT OF HOMELAND SECURITY, WHERE HE ADVISED ON INTELLIGENCE, DATA SECURITY, AND PRIVACY MATTERS

FOR THOSE COUNTRIES THAT DO NOT SHARE AS CLOSE A LEGAL FRAMEWORK OR ARE NOT AS COMMITTED TO THE RULE OF LAW, THERE MAY BE FAR LESS WILLINGNESS TO ACCEDE TO THE PRIVACY DEMANDS OF THE EU

The Court of Justice for the European Union's (CJEU) recent *Schrems II* decision has unsettled the landscape for transferring data outside the EU. The decision invalidated the EU-US Privacy Shield – a key mechanism by which companies transferred data from the EU to the United States in a manner compliant with the *General Data Protection Regulation* (GDPR) – and raised questions about whether standard contract clauses (SCCs) remain a viable alternative data-transfer mechanism.

The logic underlying the CJEU's decision was that, because of the surveillance activities permitted by US law, the legal system of the US does not afford an "essentially equivalent" level of protection to EU residents as that provided by European law.

While European privacy advocates are celebrating the decision and pushing for swift and significant enforcement, the decision does no favours for member-state data-protection authorities who are now on a collision course with the US and other nations whose laws do not mirror the strictures of the EU. This conflict may well result in the reckoning that privacy advocates have long sought, but because *Schrems II* offers little room to accommodate powerful economic and fundamental national security interests, it may ultimately be privacy that suffers in the end.

In determining that US law does not ensure an essentially equivalent level of protection, the CJEU went beyond concerns with specific data-privacy protections and challenged the entire US foreign-intelligence apparatus. The CJEU specifically pointed to two authorities for electronic surveillance: section 702 of the *Foreign Intelligence Surveillance Act* and Executive Order 12333. Section 702 authorises the US Government to compel an electronic communications service provider to disclose information regarding a foreign person located outside the US.

Executive Order 12333, in contrast, authorises foreign electronic surveillance, but does not provide any authority to compel a company to cooperate with the US Government. It authorises, in layman's terms, run-of-the-mill spying that every nation engages in, including EU member states.

And because Executive Order 12333 generally authorises electronic collection outside the US, it has little relevance to the specific data protections companies rely upon in SCCs, binding corporate rules, or the now defunct Privacy Shield, to protect data that has already been transferred to the US. This makes clear that the CJEU's concern is not limited to protecting data transferred to the US, but rather the mechanisms by which the US collects foreign intelligence around the world.

Leverage point

Privacy Shield was at least a leverage point for the EU to extract privacy concessions from the US. It led to the *Judicial Redress Act* (which afforded EU residents data-access rights on a par with Americans to information held by the US Government) and *Presidential Policy Directive-28* (which set rules for the bulk collection of signals intelligence).

These steps may have been incremental and insufficient for some, but the reasoning of the CJEU leaves only the wholesale restructuring of the US national security system and, indeed, the constitutional structure of the US Government as a means to comply with its edict. To believe that such an outcome is remotely possible is to indulge in fantasies.

This is not to suggest that scrutiny and criticism of US intelligence activities are unwarranted. An activity that must, by its nature, be conducted in secret demands thoughtful adherence to rules and diligence in its performance. There are plenty of examples, both in the US and in Europe, of governments failing to meet those standards.

Many American politicians, including President Trump, have

PIC: SHUTTERSTOCK

been extremely critical of US intelligence activities – but it would be a mistake to think those critical views are borne out of a commitment to universal privacy rights or an interest in changing the constitutional structure of the US Government. The US Constitution grants prime responsibility over foreign intelligence activities to the executive branch, and there are significant limits on what matters the judicial branch can review. Regardless of political affiliation, there is scant appetite in the US to revisit these fundamental constructs.

Difficult issues

These are difficult issues touching upon core sovereignty concerns, which is, in part, why the *Treaty on the European Union* and the GDPR afford member states significant deference in national security and defence matters.

Indeed, according to the European Union Agency for Fundamental Rights, only a small fraction of member states provide their own citizens the protections and procedures that the CJEU would require of the US in order to be considered to provide an "essentially equivalent level of protection".

That the *Schrems II* ruling would seek to impose requirements on a foreign country while not holding member states to the same standard smacks of hypocrisy and undermines the decision's invocation of fundamental rights and freedoms.

And this tension now exists on a global scale because of the sweeping reasoning of the CJEU. If US law provides insufficient protections, then what is the status of other countries? For all the legislative and bureaucratic gymnastics made to bridge the divide between the US and the EU, the gap is far more significant with China, India and other nations, where companies in member states have significant operations and transfer significant amounts of personal data.

Privacy Shield was a product of good-faith negotiations between parties seeking to find common ground. For those countries that do not share as close a legal framework or are not as committed to the rule of law, there may be far less willingness to accede to the privacy demands of the EU.

On the front line

All of this leaves data-protection authorities on the front lines of a global privacy battle, with few tools to craft reasonable solutions. The CJEU's passionate intensity in pursuing privacy protections without consideration of other concerns – which, to be fair, was their charge – now means that data-protection authorities are likely stuck between harsh universal enforcement, abdication of their obligations under *Schrems II*, and arbitrary enforcement against the largest and most powerful data exporters. This will place enormous pressure on companies, who will, in turn, place enormous pressure on politicians, both inside and outside the EU to develop solutions.

Data localisation may mitigate some concerns, but is not an adequate solution for a global-information economy predicated on the mobility of personal information. The far more likely outcome is coordinated international pressure from countries demanding that the EU amend fundamental aspects of the GDPR, or even more foundational documents.

The GDPR has been transformational in advancing privacy protections for EU residents and in laying the groundwork for other progressive privacy efforts, like the *California Consumer Privacy Act*, which provides GDPR-like protections to residents of California. But the unyielding approach of *Schrems II* removes the ability of data-protection authorities to navigate competing interests, creating tensions that may result in compromises being codified in underlying data-protection laws.

Privacy advocates may be celebrating the intractable conflict that *Schrems II* has set in motion, but the fate of fundamental privacy protections is far from assured. g

FAMILIARITY BREEDS CONTEMPT

In Ireland, contempt of court remains on a common law footing rather than being enshrined in legislation. **Matthew Holmes** argues that it needs a statutory basis

MATTHEW HOLMES IS A DUBLIN-BASED BARRISTER

IN IRELAND, CONTEMPT OF COURT IS A COMMON LAW DOCTRINE. UNFORTUNATELY, THE LAW HERE IS UNCLEAR, AS IT IS STILL ON A COMMON LAW FOOTING RATHER THAN BEING ENSHRINED IN LEGISLATION

Contempt of court is the way the justice system protects the work of the courts. One of our most important laws, it protects the administration of justice by ensuring that court orders are obeyed and that courts can run smoothly.

In Ireland, contempt of court is a common law doctrine. Some contempt powers can be found in the *Summary Jurisdiction (Ireland) Act 1871*, but these only apply in Dublin. The Supreme Court has recently brought some clarity to the law here, but there is a need for legislation to bring more.

In *Irish Bank Resolution Corp Ltd v Quinn and Ors* ([2012] IESC 51), the Supreme Court commented that the law of contempt of court was amorphous and extremely difficult for the lay-person to understand, and could be unclear even to judges and lawyers. More recently, in *Meath County Council v Hendy* ([2020] IEHC 142), it was noted that "contempt procedure is notoriously complex and stubbornly resistant to judicial clarification, despite repeated efforts".

The courts, however, gave some guidance recently on contempt in *Tracey v District Judge McCarthy* ([2019] IESC 14), *Walsh v Minister for Justice* ([2019] IESC 15) and Meath County Council (see below).

What is contempt of court?

There are two types of contempt of court.

Civil contempt is the means by which courts punish those who disobey court orders. There is no point in having a courts system if people are able to get away with not obeying the decisions of those courts.

Criminal contempt is used by the courts to protect their operation, for example, by punishing people who disrupt the court when it is sitting, or protecting the integrity of criminal trials by, for example, preventing people from interfering with them by unlawfully publishing information about them.

In *Keegan v de Burca* ([1973] IR 223), the Supreme Court explained that the object of criminal contempt is punitive. Civil contempt, on the other hand, is designed to be coercive – that is, its object is to compel the person to comply with the order of the court, and the period of committal is until such time as the order is complied with.

In *IBRC v Quinn*, Fennelly J found that there may sometimes be a punitive element in cases of civil contempt.

Need for contempt legislation

The Supreme Court has been calling for contempt-of-court legislation for some time. In *Kelly v O'Neill* ([2000] 1 IR 354), Keane J said that "our law in this area is, in many respects, uncertain and in need of clarification by legislation". See also *IBRC v Quinn* and *Walsh*.

In *IBRC v Quinn*, the Supreme Court pointed out: "It is 20 years now since the Law Reform Commission urged the need for statutory reform in this area, and some 31 years since such reform took place by statute in the neighbouring jurisdiction. It is most unfortunate that no positive steps have been taken here, with the result that this fraught matter has come on for resolution in an uncertain state of the law."

There was an attempt to put contempt of court on a statutory footing with the *Contempt of Court Bill 2017*. This was a private member's bill that had provisions, not only for contempt of court, but also for contemptuous online publications. Unfortunately, the bill lapsed with the dissolution of the last Government, but it may gain traction again as its sponsor Josepha Madigan was re-elected, and many of its proposals were in the Programme for Government.

Publications on social media of prohibited material are an issue of growing concern in this and other jurisdictions (for example, the New Zealand *Contempt of Court Act 2019*, which introduced similar provisions). The most sig-

PIC: SHUTTERSTOCK

nificant example of this in Ireland, recently, was the trial of Boy A and Boy B for the murder of Ana Kriegel. Contempt-of-court proceedings were brought against Facebook and Twitter due to the publication on those sites of the identities of those accused.

Dealing with contempt

The Supreme Court in *Tracey* and *Walsh* gave guidance on how to deal with criminal contempt. These cases were heard together.

Where a person behaves in a disruptive manner, this is known as contempt in the face of the court. A judge should warn them here that the court has power to remove them from the courtroom. If they persist, the judge should explain how they are being disruptive and give them a chance to explain themselves. If they apologise and undertake not to repeat the behaviour, it will normally be appropriate to take no further action. If they don't, the court should order them to leave. The court can order a court to be cleared. Where the person is a party to the proceedings, a court should be slow to remove them. If it does so, the ejected party should be given a copy of the digital audio recording (DAR).

If the conduct at issue is serious enough, then a court may proceed with a separate hearing of a charge of contempt, which, if proven, may result in a fine or imprisonment. Where a court does this, the person concerned should be warned, told in simple terms of the conduct considered capable of constituting contempt, and be given the option of obtaining legal representation, including legal aid, if necessary.

Although the hearing can proceed immediately where lawyers are available, in some cases it may be necessary for the hearing to be postponed for a short period to allow for the arrangement of legal representation.

The person should be informed of the time and date of the contempt hearing, which should proceed within a short period of the original incident. A court can detain the person during this time, but this power should be exercised with restraint, and the period of detention should not be for more than a day.

The hearing can be straightforward, but the accused person must be given a fair opportunity to defend themselves. The criminal standard of proof applies, and the same right of appeal applies as would normally be the case. If the contemptuous act is alleged to have occurred before a court of final appeal, or in respect of which appeal is limited, the court may proceed, but it has the option of directing that the matter be heard in the High Court, even if this is a lower court.

Due to the availability of the DAR, it will be unlikely that there will be any need to call the judge (or any other court officer) as a witness. In most cases, it will be inappropriate to do so. Production of the DAR extract is all that is required to establish the basic facts in most cases. It is then a matter for the accused to make a defence or apology.

When the alleged contempt consists of allegations against a judge personally, it will be necessary to have the issue heard by another judge, possibly via a referral to the attorney general, who may bring the matter before the High Court. The DAR should be used, and the original judge should not be called as a witness.

Guidance was given as to civil contempt in *Meath County Council*. The High Court held that the correct process for a coercive order in respect of civil contempt is as follows:

"*(i) If there is some added value to a separate preliminary finding in that regard, the court can first make a finding* simpliciter *as to whether the respondent is in contempt or not,*

(ii) If so, the question of whether and to what extent a respondent has the capacity to comply with the order may need to be decided on, if that is an issue, and

(iii) Finally, there is the question of the appropriate order, if any, on foot of any finding of contempt, which includes, but is not limited to the custodial orders referred to in [order] 44, but may include financial orders as well; and, in particular, if there is no capacity to comply or limited capacity, the court may have to confine itself to non-custodial options, such as orders addressed to assets."

New frontiers

While the law here has recently been clarified by the Supreme Court, it is time that contempt was put on a statutory footing. It has been on a statutory footing in Britain since 1981. Modern legislation will help the courts deal with modern problems, such as online publications. g

COVID-19 has prompted lawyers to rapidly familiarise themselves with the legal framework governing virtual closings and remote signings in a remote work environment. **Margaret Maguire** signs on the (virtual) dotted line

MARGARET MAGUIRE IS AN IN-HOUSE SOLICITOR IN FEXCO AND A MEMBER OF THE LAW SOCIETY'S IN-HOUSE AND PUBLIC SECTOR COMMITTEE

SIGN O' THE TIMES

PIC: SHUTTERSTOCK

PIC: ALAMY

AT A GLANCE

- **Implementing an e-signature technology solution**
- **The factors that influence the choice of technology**
- **Different types of signatures are more appropriate in different contexts**
- **The law governing e-signatures in Ireland**

There is no doubt that COVID-19 has dramatically changed the way that we all work. As a profession, it has prompted us to rapidly familiarise ourselves with the legal framework governing virtual closings and remote signings, so that we can assist our clients to complete transactions as efficiently as possible in a remote work environment.

COVID has also prompted organisations to focus attention on their businesses' wider digital strategy. As a result, those of us working in-house, for example, may now find ourselves also tasked with advising on the implementation of an electronic signature (e-signature) technology solution within our client organisation.

U got the look

The term 'e-signature' can describe a broad range of concepts: from a digital scan of a traditional wet-ink signature, or a typed name on an electronic document, to more sophisticated digital signature technologies that contain security and identification functionality designed to give the same legal standing as handwritten signatures. The type of e-signature methodology an organisation should introduce will depend on a range of factors, and it may be the case that different types of signatures are more appropriate in different contexts.

Nothing compares 2U

The law governing e-signatures in Ireland is contained in the *Electronic Commerce Act 2000* (ECA) and EU Regulation 910/2014 on electronic identification and trust services for electronic transactions in the internal market (eIDAS).

The ECA first established a legal basis in Ireland for e-signatures by confirming the validity of information existing solely in electronic form. In 2016, eIDAS became effective, with the aim of facilitating electronic transactions between EU citizens by, among other things, improving the accountability of 'trust service providers' that offer e-signature technology solutions.

Both the ECA and eIDAS distinguish

> THE HARD-COPY CONTRACTS REGISTRY TRADITIONALLY MAINTAINED AND STORED BY ORGANISATIONS IN, FOR INSTANCE, FIRE-PROOF SAFES, SHOULD BE REPLICATED IN ELECTRONIC FORMAT AND SECURELY STORED IN AN ELECTRONIC DEPOSITORY

between different types of e-signatures, and the types identified are similar in some instances, but not identical. There is a wealth of recent legal commentary describing in detail the characteristics and requirements of each type of signature.

In summary, the ECA makes a distinction between: (1) a simple 'electronic signature', (2) an 'advanced electronic signature', and (3) an 'advanced electronic signature, based on a qualified certificate' (AESQC). The ECA provides that, where a signature to a document is required to be witnessed or where a seal is required to be affixed to a document, using an AESQC in the manner prescribed in the ECA will satisfy those requirements.

eIDAS also recognises three levels of electronic signature, namely: (1) a simple 'electronic signature', (2) an 'advanced electronic signature', and (3) a 'qualified electronic signature' (QES).

In its recent practice note (*E-Signatures, Electronic Contracts and Certain Other Electronic Transactions*), the Law Society's Business Law Committee explains that an AESQC under the ECA goes beyond the definition of an 'advanced electronic signature' under the ECA, but not quite as far as a QES under eIDAS.

Having two key pieces of legislation with similar – but not identical – concepts and requirements means that the Irish legal framework is not clear-cut, and I believe there is a degree of ambiguity about the relationship between the two statutes and what standard of signature is required for certain types of documents in Ireland.

Diamonds and pearls

When asked to advise on what e-signature methodology should be implemented, there are a number of things that solicitors may need to consider.

What is the purpose of its introduction?

An organisation may implement e-signatures for a specific project (for example, where the organisation needs to implement a contract variation with a large volume of customers) or for use in the context of specific contracts (for example, where the organisation enters into repeated identical contracts, such as confidentiality agreements, and the organisation uses its own template for these). Its introduction may also have been prompted to address a short-term requirement (for example, limited on-site availability of authorised signatories due to COVID-19, or limited access to printing and scanning facilities when working remotely). Or it may be the case that the entire organisation has decided, for efficiency reasons, to move fully to the use of e-signatures for all signing requirements. The wider the potential use-case for the e-signature technology, the more important it is that appropriate procedures are put in place governing its use, and that the organisation is aware of its limitations.

Can e-signatures legally be used?

While international acceptance of e-signatures is growing, there are some jurisdictions where they are not accepted or

where acceptance is limited. When acting for an organisation that enters into cross-border contracts, local legal advice on the legality of e-signatures should be procured. Similarly, certain public bodies in Ireland have requirements or restrictions when it comes to using and accepting e-signatures. It is also important to ensure at the outset that any registry (for example, the Companies Registration Authority or the Property Registration Authority of Ireland) to which the document must be submitted does not contain a restriction on the use of e-signatures, or that the constitutional documents of the signing entity do not preclude or curtail their use.

Type of document?

There are few statutory restrictions governing most types of contracts in Ireland, and simple e-signatures will largely suffice. However, there are some exceptions. As mentioned above, certain Irish registries mandate wet-ink originals in documents that are to be filed. Similarly, certain documents creating, acquiring or disposing an interest in real property must be signed using a wet-ink signature. Additionally, under the *Companies Acts*, deeds must be executed by Irish companies under seal. While there is provision in the ECA and eIDAS for an 'electronic seal', it is unclear whether the electronic seal defined in those statutes would equate to, or meet the requirements of, a *Companies Acts* company seal. In any event there are few service providers in the market offering e-sealing technology. The alternative process commonly followed to enable electronic execution of deeds by a company is to have these signed under a power of attorney granted to a natural person. If using this process, the constitution of the relevant company should be consulted to check any conditionality on granting a power of attorney. Furthermore, in its practice note (referred to above), the Business Law Committee confirms that such attorney signatures would need to be witnessed, and that it remains best practice that such witnessing be conducted in people's physical presence. This requirement obviates the benefits of e-signatures to some extent, so if a company frequently engages in the execution of deeds, or has a large volume of property-related transactions, e-signatures may not be as advantageous to it.

What type of signature is required?

As mentioned above, e-signatures range from the very rudimentary to the 'gold standard' provided by the QES under eIDAS. While the ECA indicates that an AESQC may be required for signatures required to be witnessed, or where a seal is required to be affixed to a document, eIDAS does not mandate the use of a QES for any given type of document. Rather, organisations may opt for a QES to provide added security where it engages in high-value contracts, or to reduce the requirement for additional validation where its signing authority is likely to be the subject of a 'due execution' legal opinion, as a QES removes the requirement to produce additional evidence to verify the authenticity of the signature if this were disputed. In practical terms, the cost of obtaining a QES may prove prohibitive for many organisations and, to date, its use has been limited.

Ensuring consent of the contracting parties?

Under the ECA, counterparty acceptance of e-signatures is required. There is no prescribed format for this, so consent may be evidenced by exchange of emails, or even by course of dealing. However, best practice would be to ensure that consent is formally documented by including an express clause in the relevant contract acknowledging all parties' consent to the use of electronic signatures and, where necessary, to virtual exchange and completion. If the consent or the exchange/delivery process is agreed more informally (for example, by email exchange), appropriate records should be retained as evidence.

Where will the electronic contracts be stored?

The ECA clarifies that an electronic original must be retained and stored securely and be capable of production during the period for which it is required. This means that the hard-copy contracts registry traditionally maintained and stored by organisations in, for instance, fire-proof safes, should be replicated in electronic format, so that electronic originals are centrally and securely stored in an electronic depository. Ideally, this depository would be maintained by the organisation's legal department. Processes should be in place to ensure that those working in the business pass on all electronic contracts to the legal department

> IT IS IMPORTANT THAT THERE IS CLARITY WITHIN THE ORGANISATION AS TO WHO CAN LEGALLY BIND THE COMPANY, AND THAT AUTHORITY HAS BEEN APPROPRIATELY DELEGATED TO SUCH AUTHORISED SIGNATORIES IN THE MANNER PRESCRIBED BY THE COMPANY'S CONSTITUTION

> HAVING TWO KEY PIECES OF LEGISLATION WITH SIMILAR, BUT NOT IDENTICAL CONCEPTS AND REQUIREMENTS, MEANS THAT THE IRISH LEGAL FRAMEWORK IS NOT CLEAR-CUT

for safekeeping, and that they do not rely on less secure retention methods (for example, having the electronic copy saved as an attachment to an email).

Who will the e-signatures be used by?

E-signatures will typically be produced for those with corporate signing authority, for instance the directors of the company. However, often authority is delegated to other authorised signatories for certain categories of contracts for logistical reasons (for instance, allowing HR managers to sign employment contracts on behalf of the company). It is important that there is clarity within the organisation as to who can legally bind the company, and that authority has been appropriately delegated to such authorised signatories in the manner prescribed by the company's constitution.

Cost and choice of provider?

The last – but by no means least – factor to consider is what e-signature provider to select? Given the broad legal definition of 'electronic signature', it is not strictly necessary to introduce dedicated software in order to sign electronically, and simply typing one's name or applying an image of a signature to an execution version of a document would suffice in many circumstances. However, many e-signature products contain security features that are appealing, for instance, time stamping and multi-factor authentication of signatories. There are a range of commercial off-the-shelf (COTS) packages on the market, readily found from an online search, that are easy to implement and use. With COTS, there is little flexibility to implement bespoke requirements or to negotiate a different pricing model, but the types of e-signature available will suit most cases. Many providers operate an economies-of-scale type model, so if one area of an organisation is looking at employing this software, the use-case in other areas should be considered, to leverage off reduced costs from higher volumes. It may also be the case that some of the organisation's existing technology service providers (for email, case management, etc) may offer their own e-signature add-ons, so it would be worth speaking to these first, as these may prove more competitive, and their product may align better with the organisation's technical framework. It is vital that the organisation's IT department is involved in discussions with the potential provider from the outset to ensure the proposed product meets the organisation's security standards and can be integrated into existing systems without causing technical difficulties.

PIC: SHUTTERSTOCK

Little red corvette

There is no doubt that, when managed correctly, implementing e-signatures within an organisation can result in many benefits. Their use can improve efficiencies, facilitate prompt turnaround, and reduce the logistical burden on the legal department. If an organisation has not yet taken steps to implement such measures, it would be a worthwhile exercise for its in-house counsel to develop an e-signature business case.

As well as helping the business to advance its digital strategy, it will also enhance the in-house counsel's ability to continue to provide effective and efficient legal support in the new and different working world in which we find ourselves. g

LOOK IT UP

LEGISLATION:

- *Electronic Commerce Act 2000*
- Regulation No 910/2014 on electronic identification and trust services for electronic transactions in the internal market

LITERATURE:

- *E-Signatures, Electronic Contracts and certain other Electronic Transactions*, Business Law Committee, Law Society of Ireland (2 April 2020)

ALL PICS: CIAN REDMOND

I'M AN IMPATIENT PERSON. WHEN I WAS YOUNGER, I WANTED THINGS FAST – AND THAT CAN BE BOTH A POSITIVE AND NEGATIVE. BUT I WOULDN'T RECOMMEND IT TO ANYONE TO DO SO MANY HOURS OF STUDY. IT WAS JUST FIERCE, AND IT'S NOT HEALTHY

ELIZAVETA *the* FIRST

Elizaveta Donnery is a Dublin-based sole practitioner with a niche Russian-language practice, and is the first Russian-educated solicitor in Ireland. **Mary Hallissey** rolls out the red carpet

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

A high achiever all her life, 43-year-old Russian native Elizaveta Donnery is a sole practitioner with a busy and successful legal practice in Clontarf on Dublin's north side. Behind that singular achievement though, lies a story of extremely hard work, rigorous discipline and 16-hour days, far away from family and motherland.

Elizaveta has been living in Ireland since 2000, a decision she made "on instinct". "My friend went to Ireland, and she had a great time and said it was a lovely country. This was all by chance, so I started to do some research."

An adventurous spirit led her to Ireland on a visitor visa after she finished university. Despite having no lawyers in her family, Elizaveta had decided on a legal degree at the age of 14.

At 16, she began a demanding five-year degree and emerged, aged 21, top of her class at Krasnodar University, qualifying as both a solicitor and barrister under the Russian civil law system.

Through Russia

She had an attractive job offer with an international firm in Moscow, but gradually realised she didn't feel passionate about that idea. She acknowledges her mother's selflessness in encouraging her to follow her dream of travelling and working abroad.

Culturally, Elizaveta wanted to remain in Europe, and to be a short flight away from her parents, now in their 70s, whom she reveres. Her father is a renowned scientist and her mother was

> IRISH PEOPLE ARE MORE APPROACHABLE, BUT RUSSIAN PEOPLE MORE DIRECT. IRISH PEOPLE ARE BAD AT COMPLAINING UP FRONT, BUT THEY WILL TELL TEN DIFFERENT PEOPLE IF THEY ARE DISSATISFIED WITH YOUR SERVICE

a university lecturer. She now realises that her mother protected her children from the realities of food shortages and empty shelves in Boris Yeltsin's post-Soviet Russia. The middle class is not a large spectrum of society in Russia, Elizaveta observes, but her family was part of it. Most people in Russia continue to be either poor or very rich. When she arrived first in Ireland, she travelled around the country and spoke to a lot of Irish people, determined to mix with everyone, and not just Russian speakers. She attended English classes and generally enjoyed herself.

"I was in Dublin on a bus tour and, back then, you could go inside the Four Courts, with no security. I really liked the architecture and the building."

Though she was young and carefree, and enjoying her early 20s, that visit to the Four Courts sparked an ambition.

Crime and punishment

Elizaveta felt drawn by what she described as the "happy buzz" inside the beautiful building and began to wonder if she, too, could have a legal career in Ireland.

"People are so approachable in Ireland, and I thought I would really like to do what they are doing – work in the law. I spoke to some of the people working in the Four Courts.

"Then I went to the Law Society and told them I was a Russian-qualified lawyer and asked what I could do with my credentials. Though they were very kind, they told me I could not do a transfer, and I had to start the whole process again."

Elizaveta got encouragement and support but, despite her Russian law degree, there was nothing for it but to sit all the FE-1 entrance exams. In addition, she had to pass written and spoken exams in the Irish language – from scratch – despite not yet being fully fluent in English.

In her early 20s, she was undaunted and took on the massive workload, with 16-hour days of study, stopping only to eat and go for a half-hour run.

"I'm an impatient person. When I was younger, I wanted things fast – and that can be both a positive and negative. But I wouldn't recommend it to anyone to do so many hours of study. It was just fierce, and it's not healthy," she reflects now. "I was very determined, and I believed that it would work in the end, because I wanted it to work. I was idealistic."

The master and Margarita

Elizaveta believes she is the only Russian-educated lawyer in practice in this country. She pays tribute to the Amiens Street, Dublin 1-based solicitor David Walley, who gave her a start in his office: "He was very good to me and I learned a lot. I did court work and things I never thought I would

SLICE OF LIFE

■ *Favourite walk in Dublin or Ireland?*
Salthill prom in Galway.

■ *A sight worth seeing in Russia?*
In my view, Saint Petersburg has it all!

■ *Favourite work of art?*
I don't have one favourite painting, but top of the list would be Dali, Monet and Van Gogh. I also like JM Turner and Leonid Afremov.

■ *Apple TV, Netflix or terrestrial TV?*
Netflix! Currently watching *Wanted* and *McMafia* – not brilliant cinematography, but very entertaining

■ *Pet hates of your job?*
We have to wait sometimes years before getting to the finish line in litigation. I find this very difficult, especially when dealing with clients in really tough situations in life.

■ *What you most love about it?*
I love my job! The fact that, when you are at your best, it's possible to achieve things that can actually change lives for the better, is brilliant.

■ *Advice to fellow lawyers?*
Follow your intuition, follow your dreams, and do what you really enjoy and what you are really good at. Don't be afraid to be different.

■ *What do you do to chill?*
I enjoy long walks or running, but I have a small child, so evenings and weekends are normally hectic and full of fun!

■ *Favourite sports man or woman?*
I really like Roger Federer. Also, a number of figure skaters from Russia (in USSR times), who I admired as a kid.

■ *Favourite music?*
Snow Patrol and Arcade Fire.

■ *Your 'turn-to person'?*
Definitely my mother.

■ *Something surprising about you?*
I was selected for a professional gymnastics career in Russia when I was very young, but I didn't pursue it. I'm ambidextrous (which can be useful when you have lots of files in court and are taking notes).

have the responsibility to do."

After she passed her FE-1s, sitting them over a couple of years, she applied to Matheson, not even realising she could have applied before taking the exams: "They never had anyone from Russia before. The interview was intimidating, of course, with no connections and not knowing many people in Ireland."

Elizaveta recalls a Matheson partner saying: "We don't really know much about you, but we understand you've done a huge amount of work to be here and we appreciate that."

She praises the quality of training she received at the firm. After completing her PPC courses in Blackhall, Elizaveta was offered a job in commercial property with Matheson.

"While it sounded good, the timing was all wrong," says Elizaveta. She received her parchment in 2008, just as Ireland was entering recession. "I always wanted to have my own practice, and the collapse in commercial property made me speed up the process of getting it," she explains.

What is to be done?

In 2010, she set up in business, about five years ahead of her planned schedule, with a web page flagging her dual-language service. She always wanted to use her native language as a lawyer, and was anxious to attract Russian-speaking clients, including Ukrainians, Moldovans and Latvians.

"The recession happened, but I started getting the clients straight away. I didn't have a huge marketing plan."

Clontarf in Dublin 3 was chosen for its proximity to the south side, the city centre, and the courts.

"I learned a lot about immigration and became quite good in that area. I did a lot of family law with mixed marriages, as well as work on immigration investment schemes," she says. "I never wanted to have a big practice and, at a certain stage, I only took cases I wanted to take and could handle."

Elizaveta's service on Russian community committees also brought work to her office. She had clients travelling from all over Ireland to access her dual-language services – even from as far away as Kerry.

She realised that location was not as important as she had perceived. "Clients will travel if they want your service," she notes.

War and peace

She finds Irish people more approachable, but Russian people more direct. "Irish people are bad at complaining up front, but they will tell ten different people if they are dissatisfied with your service," she says.

"I just wish there was more business

between Ireland and Russia – but we are trying to develop links. There is a strong market there for Irish dairy produce and potatoes. Irish farmers also travel to rural Russia, and they lease land for stock and crops. The margin they get over there for their produce is much higher."

Ireland has a more practical legal education system, Elizaveta observes. "In Russia, you do the theory of law, jurisprudence, Latin, philosophy – which is extremely interesting, but you are maybe not well prepared for real clients," she says.

"If you come out of Blackhall, you are equipped to meet the client," she says, adding that a combination of Russian and Irish systems would make for a very strong legal education.

Looking back, she realises she was very young leaving university in Russia, and too young to begin practising law.

She finds the Irish common law system offers more interesting work and places more responsibility with the solicitor. "The precedent law recognises the solicitor and barrister as much more important, where in Russia, even though you do all the work both as a barrister and a solicitor, you are relying only on certain sections of the law, so it's less creative.

"I liked everything about Blackhall, and I made friends for life. I also tutored there in business law."

And quiet flows the Don

Elizaveta says that she has always maintained a positive attitude towards Ireland, principally because she made the decision to live here. "My position when I came here was, I will not be criticising things.

"It's very easy to notice negatives, such as the medical system, but if you want to stay in the country, you have to concentrate on the positives."

She also observes that, as a lawyer in Ireland, she feels more needed: "It's easier to access the law and justice in Ireland, though in Russia there is quicker access to the courts, but you are not as protected as a human. In Russia, there is theory ... and there is practice.

"Even during coronavirus, we were protected here in Ireland, in a certain way. In Russia, in theory, they were protected, but it was very difficult to access state funds; and if you are an employer, you still have to cover wages. Here, we got it straight away – maybe there is a little less bureaucracy.

> I ALWAYS WANTED TO HAVE MY OWN PRACTICE, AND THE COLLAPSE IN COMMERCIAL PROPERTY MADE ME SPEED UP THE PROCESS OF GETTING IT

"Both countries have a lot of soul – and both are poetic," she says.

Before COVID, Elizaveta travelled frequently to Russia. She has clients there and often stayed for a month, keeping in touch by email with the Dublin office.

"But would I go back for good? Probably not. I'm very happy with my decision. When you like something, you feel like you are at home, even though you are missing what is your home. I just feel very good here." g

Since 2006, the Criminal Injuries Compensation Tribunal has been designated as the appropriate body in Ireland for the transmission and receipt of applications for compensation for victims of crime in cross-border cases. **William Aylmer** explains

WILLIAM AYLMER IS CHAIR OF THE CRIMINAL INJURIES COMPENSATION TRIBUNAL, CHAIR OF THE LAW SOCIETY'S ADR COMMITTEE AND VICE-CHAIR OF THE COMPLAINTS AND CLIENT RELATIONS COMMITTEE

CRIMINAL DAMAGES

AT A GLANCE

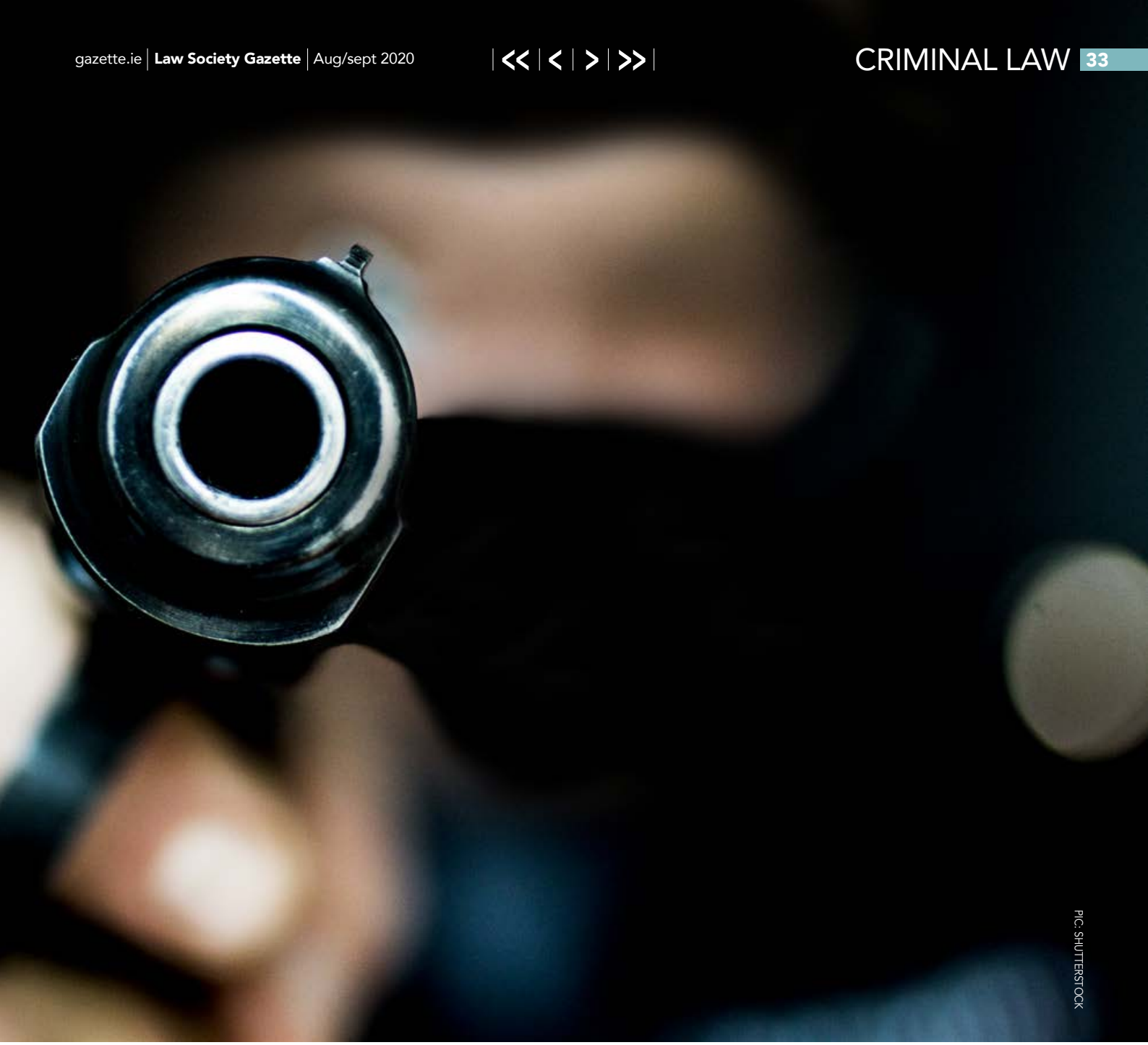
- Compensation for victims of crime in EU member states is governed by EU Council Directive 2004/80/EC
- The directive requires member states to ensure that their national rules provide for the existence of a scheme of compensation to victims of violent intentional crimes committed in their respective territories, which guarantees "fair and appropriate compensation to victims"

Compensation for victims of crime in EU member states is governed by EU Council Directive 2004/80/EC of 29 April 2004.

The directive is founded on the following principles:

- Crime victims in the EU should be entitled to compensation for the injuries they have suffered, regardless of where in the EU the crime was committed,
- Crime victims will often not be able to obtain compensation from the offender, since the offender may lack the necessary means to satisfy a judgment on damages, or because the offender cannot be identified or prosecuted,
- All member states need to operate a scheme of compensation to victims of violent intentional crimes committed in their respective territories that guarantees fair and appropriate compensation to victims, and
- Member states are required to facilitate access to compensation in cases where the crime was committed in a member state other than that of the victim's residence.

Notwithstanding the obligation that the directive places on member states to have a victims' compensation scheme in operation, the thrust of the directive is primarily to ensure that there is an EU-wide system in place to facilitate access to compensation in



PIC: SHUTTERSTOCK

cases where the crime was committed in a member state other than that of the victim's residence (that is, cross-border situations – the compensation to be paid by the competent authority of the member state on whose territory the crime was committed).

Standardised system

To facilitate this, the directive provides for a standardised system and administrative process for cooperation between national authorities for the transmission of applications for compensation in cross-border situations. This includes the designation of assisting authorities and deciding authorities (article 3) in each member state to assist applicants in claiming compensation abroad, and in a way that looks to keep to a minimum the administrative formalities required.

The directive also provides for the setting up of a network of central national contact points, to act as a national point of contact in the application of the directive, but also in promoting information sharing and in aiding cooperation between assisting and deciding authorities (article 16). Standardised forms for use by member states in the transmission of applications and decisions under the directive were subsequently introduced in 2006.

As a result of these provisions, victims of a crime committed outside their member state of habitual residence should be able to turn to an authority in their own member state to submit the application and get help with practical and administrative formalities in claiming compensation from abroad. In this way, the directive facilitates access to victims of crime across the union to compensation, regardless of the location of the crime within the union.

Since 1 June 2006, our Criminal Injuries Compensation Tribunal has been designated under the directive as the appropriate body in Ireland for the transmission and receipt of applications for compensation in cross-border cases and, in effect, acts as the Irish

assisting and deciding authority, as well as being the national contact point.

To date, Ireland has been deemed to meet its international obligations arising on foot of the directive by virtue of the operation of the Criminal Injuries Compensation Scheme. National information on each member state's compensation schemes, details of national contact points, and online forms concerning the directive are available on the European e-Justice Portal site.

The scheme is included in the *Fifth Programme of Law Reform* of the Law Reform Commission, published on 5 June 2019.

Paragraph 19 of the scheme allows the tribunal to publish such information concerning the scheme and decisions of the tribunal that it considers may assist intending applicants for compensation.

The tribunal and scheme

The Criminal Injuries Compensation Tribunal administers the *Criminal Injuries Compensation Scheme*. It is an *ex gratia* scheme (that is, without a statutory framework) of the Minister for Justice, established in 1974 to compensate members of the public and prison officers for losses arising directly from injuries criminally inflicted. The word 'injury' as used in the scheme is expressed to include a fatal injury. Since 1 April 1986, the scheme does not provide for compensation for pain and suffering.

The scheme is only one piece in a much wider array of State supports for victims of crime generally, and section 13 of the *Victims Charter* provides a comprehensive overview of the scheme (www.victimscharter.ie).

Subject to the limitations and restrictions of the scheme, compensation is assessed on the same basis as by the courts under the *Civil Liability Acts*. Information regarding an intended application to the scheme, including application forms, can also be found on www.justice.ie.

The stated general intention is that the administration of the scheme and, in particular, proceedings before the tribunal should be informal, and the scheme also sets out that there is no award or reimbursement of legal costs, and that claims shall be established to the tribunal on the balance of probabilities.

There is no prohibition on legal representation. The scheme states that an applicant may be accompanied by his legal adviser or other person, but the tribunal will not pay the costs of legal representation.

Paragraph 28 of the scheme gives the tribunal discretion to pay the necessary and reasonable expenses of witnesses, and it is the practice of the tribunal to refund experts' report fees as part of an award. It is unlikely that a substantial future-loss-of-earnings claim, for example, could be established to the tribunal's satisfaction or properly vouched without at least a medical and/or psychiatric report, a vocational consultant's report, and an actuary's report.

Applications are considered in the first instance by a single member of the tribunal. On appeal, they are considered by a panel of three members, not including the member who decided the application at first instance. The tribunal consists of a chairman and six ordinary members appointed by the minister. Members are practising barristers or solicitors acting on a part-time basis.

Decisions at first instance or on appeal may be interim or final pursuant to paragraph 8 of the scheme. The attraction for applicants of an interim award when a final prognosis is delayed is that they can return to the tribunal for further compensation – for example when a final prognosis or medical or dental expense becomes known or clear – while still retaining the right of appeal to a three-member panel. It also has the attraction that an applicant may receive compensation earlier than might otherwise apply.

Appeals are heard at the offices of the tribunal but, with the consent of the applicant, may be conducted by teleconference if necessary, for example during the COVID pandemic. An appeals panel may be chaired by an ordinary member of the tribunal. There is no appeal to the courts from decisions of the tribunal, save that in *State (Hayes) v CICT* (1982), Finlay P held that the court would review a decision of the tribunal in appropriate cases, such as where the principles of constitutional justice had been violated or where the scheme had been misinterpreted.

Limitations

Paragraph 5 of the General Scheme provides that a person who has suffered criminally inflicted injury who is entitled to claim compensation otherwise than under the scheme – for example, an employee criminally injured while performing the duties of their employment – is not prohibited from also applying under the scheme, provided that no payment under the scheme should result in double compensation, and any compensation otherwise received will be taken into account

> VICTIMS OF A CRIME COMMITTED OUTSIDE THEIR MEMBER STATE OF HABITUAL RESIDENCE SHOULD BE ABLE TO TURN TO AN AUTHORITY IN THEIR OWN MEMBER STATE TO SUBMIT THE APPLICATION AND GET HELP WITH PRACTICAL AND ADMINISTRATIVE FORMALITIES IN CLAIMING COMPENSATION FROM ABROAD

> THE SCHEME PROHIBITS COMPENSATION WHERE THE TRIBUNAL IS SATISFIED THAT THE CONDUCT OF THE VICTIM, HIS CHARACTER, OR WAY OF LIFE MAKE IT INAPPROPRIATE THAT HE SHOULD BE COMPENSATED

and deducted from any award of the tribunal. The tribunal may also recoup an award or part thereof where an applicant receives compensation subsequently from another source, and social protection payments are also deductible.

Paragraph 23 requires that, to qualify for compensation, the tribunal must be satisfied that an applicant has shown that the offence causing injury has been the subject of criminal proceedings or has been reported to An Garda Síochána without delay but, if not, that an applicant has made all reasonable efforts to notify the gardaí and to cooperate with them in the investigation and prosecution of the offences.

Another key limitation of the scheme is that applications should be made as soon as possible, but not later than three months from the date of the injuries, as provided by paragraph 21 of the scheme. This provision allows the tribunal to treat late applications as exceptional, if satisfied that the circumstances of a late application justify its exceptional treatment. The application form asks applicants who apply outside the three-month limitation period to explain those circumstances of their late application, which they are asking the tribunal to consider as justifying its exceptional treatment. The scheme makes no provision for the tribunal to extend the time for making applications.

The practice of the tribunal has been to treat notification of an injury and intended application within the three months as sufficient to 'stop the clock', even where a completed application is subsequently late. However, every effort should be made to submit a completed application within three months of injury. Medical reports and other vouching documents may follow when

available, but an incomplete application will not generally be sent forward to a tribunal member for decision at first instance, unless an applicant has requested that his application be considered on an interim basis for a stated reason.

Most applications are notified or made to the tribunal within three months of injury, and a relatively small number are refused as late. Applicants should be aware that only a tribunal member can decide to treat a late application as exceptional, so that some weeks or even months may pass between receipt of a late application and its acceptance or refusal by the tribunal. Paragraph 10 of the scheme provides that no compensation will be payable where victim and offender shared the same household.

Paragraph 13 of the scheme prohibits compensation where an applicant has provoked an assault or otherwise contributed to his injuries, or an award may be reduced accordingly, and paragraph 14 prohibits compensation where the tribunal is satisfied that the conduct of the victim, his character, or way of life make it inappropriate that he should be compensated. g

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William Aylmer has recently retired from full-time private practice to focus on practice as a mediator, solicitor-expert witness and notary.

LOOK IT UP

LEGISLATION:

- EU Council Directive 2004/80/EC

LITERATURE:

- *Criminal Injuries Compensation Scheme*
- Law Reform Commission, *Fifth Programme of Law Reform* (5 June 2019)
- *Victims Charter* (www.victimscharter.ie)

AT A GLANCE

- The *Government of Ireland Act*'s legacy is far reaching, leaving an indelible mark on the politics and history of Ireland
- The act was undermined by the terms of the *Anglo-Irish Treaty*, which created a separate Irish Free State that would be a dominion and member of the Commonwealth
- The act has left an indelible mark on the island of Ireland over successive generations

A NATION ONCE AGAIN?

The *Government of Ireland Act 1920* is 100 years old this year and is arguably one of the most significant statutes enacted by the British in the context of Ireland. It – not the *Anglo-Irish Treaty* – partitioned the island. **James Meighan** takes it down from the mast

JAMES MEIGHAN IS AN ASSOCIATE SOLICITOR WITH EUGENE F COLLINS AND IS CURRENTLY UNDERTAKING A PHD IN LAW

Working with the Liberals in Westminster in the late 19th and early 20th centuries, the Irish Parliamentary Party advanced the cause of Home Rule. After two failed attempts, and in an effort to finally put Home Rule on the statute books, the Liberal government introduced the *Parliament Act 1911*, which removed the veto exercisable by the House of Lords over legislation passed by the House of Commons.

With the aid of that act, the 1914 *Government of Ireland Act* finally put Home Rule on the statute books. However, due to

PHOTO: AFP VIA GETTY IMAGES

Irish people demonstrate in Downing Street, London, in 1921

the outbreak of World War I, Home Rule was suspended. The political landscape between the outbreak of the war in August 1914 and the Armistice in November 1918 was unrecognisable, with the Easter Rising occurring in the interim.

Irish demands also changed. While the Irish Parliamentary Party and the majority of the population would have warmly welcomed Home Rule had it been introduced in 1914, by 1918 the Parliamentary Party had become redundant and the meteoric rise of Sinn Féin, in the December 1918 general election, brought about a new demand – the full separation of Ireland from the United Kingdom. The Irish War of Independence commenced with the Soloheadbeg ambush on 21 January 1919, and ended with the truce on 11 July 1921. In the interval, the *Government of Ireland Act 1920* was introduced and enacted.

Cabinet committee

Prior to the ending of the war, the British Government anticipated that there would be no respite on the Irish question following the war and, in April 1918, the Cabinet Committee on Ireland was established. Walter Long was appointed its chairman. On 4 November 1918 (one week before the ending of the war), Long presented a report to the cabinet on a potential mechanism to deal with the Irish question.

While in the final stages of the *Government of Ireland Bill 1912*, there had been discussion on the possible partition of Ireland. However, the *Government of Ireland Act 1914* was passed without any such partition. Section 76(2) of the 1920 act repealed the *Government of Ireland Act* 1914.

The *Long Report* proposed that all nine counties in Ulster be included in a new Northern Irish state on the grounds of administrative convenience, and the maintenance of what was believed to be an even balance of Catholics and Protestants within the combined nine counties. The Southern Irish state would consist of the remaining 23 counties.

Commenting on the increasing pressure for partition, political scientist John Coakley has said that "determined political pressure and threatened paramilitary resistance in Ulster, together with support from within the British Conservative Party, was sufficient to ensure that the terms of the *Home Rule Act* (*Government of Ireland Act 1914*) would have to be changed".

PIC: SHUTTERSTOCK

THE KINDEST CUT OF ALL.

WELSH WIZARD. "I NOW PROCEED TO CUT THIS MAP INTO TWO PARTS AND PLACE THEM IN THE HAT. AFTER A SUITABLE INTERVAL THEY WILL BE FOUND TO HAVE COME TOGETHER OF THEIR OWN ACCORD—(*ASIDE*)—AT LEAST LET'S HOPE SO; I'VE NEVER DONE THIS TRICK BEFORE."

The cabinet was concerned with the attitude of Ulster Unionist leaders, who sought only a sub-state that included the six north-eastern counties, so as to avoid governing three counties with large nationalist majorities. There was a belief within the British Cabinet that there was a greater chance of acceptance of the concept of partition if the Unionists got the smaller six-county state and, by the Nationalists, the larger 26-county state – despite the recommendations of the *Long Report*.

The 1920 act

The *Government of Ireland Act 1920* (colloquially known as the *Fourth Home Rule Bill*) was made up of 76 sections that addressed quite diverse issues, including: the establishment of two parliaments (north and south), the Council of Ireland, power to establish a single parliament for the island of Ireland, legislative powers, executive authority, Irish representation in the House of Commons, financial provisions, provisions as to courts of law and judges, and certain transfer provisions with regard to the administration of justice and the police authorities.

Section 5 of the act prohibited the introduction of any laws that "give a preference, privilege, or advantage, or impose any disability or disadvantage, on account of religious belief".

Two Irish parliaments

Two Home Rule parliaments were established – one for northern Ireland, to be seated in Belfast, and the second for southern Ireland, to be seated in Dublin. The parliamentary systems were

> THE CABINET WAS CONCERNED WITH THE ATTITUDE OF ULSTER UNIONIST LEADERS, WHO SOUGHT ONLY A SUB-STATE THAT INCLUDED THE SIX NORTH-EASTERN COUNTIES, SO AS TO AVOID GOVERNING THREE COUNTIES WITH LARGE NATIONALIST MAJORITIES

loosely based upon the Westminster bicameral system, despite the *Long Report* recommending unicameral parliaments.

The lower house (to be known as the House of Commons) in Belfast consisted of 52 members, and the lower house in Dublin consisted of 128. The system of election to the House of Commons in both jurisdictions was proportional representation in multi-member constituencies.

The upper house in Northern Ireland, except for two seats reserved for the lord mayors of Belfast and Derry, were filled by an election of the House of Commons in Belfast using proportional representation.

The upper house in Dublin was a nominated house, representing a variety of interests. There were limited legislative powers assigned to both parliaments to make laws – but only as those laws would affect the geographical area of their particular parliament.

There were numerous restrictions on this legislative power, reserving certain matters only to Westminster. These restrictions included succession and property of the Crown, and the making of war and peace. The Crown's representative, the Lord Lieutenant, had the power to withhold the assent of the Crown to legislation passed by either parliament.

Council of Ireland

Section 2 of the act provided for the establishment of a Council of Ireland, which created a mechanism for the unification of Ireland. The council comprised 20 members each from northern Ireland and southern Ireland. The council was empowered to recommend legislation for the island of Ireland by order in council.

The two parliaments could, by identical acts, delegate powers to the council to administer matters concerning railways, fisheries, and contagious diseases for the whole island of Ireland. The most significant power of the council was its ability for both parliaments to vote to create a single home-rule parliament, which would replace the council.

Powers under the act

Executive power in both northern and southern Ireland continued to be vested in the Crown. The Lord Lieutenant exercised prerogative or other executive powers that would be delegated by the Crown, similar to the executive structure in place in the dominions, such as Canada and Australia. The Lord Lieutenant would appoint a cabinet, and he or his cabinet would not be answerable to either parliament in Ireland. Certain executive matters were reserved to the Crown in council, including policing and the appointment of magistrates.

Section 20 of the act created a separate exchequer and consolidated fund for both northern and southern Ireland. Both parliaments were given powers to make laws that imposed and charged levies, and for the collection of taxes within their respective jurisdiction. These powers did not extend to customs duties, excise duties, corporation tax or income tax.

Section 23 provided that Ireland must make a contribution towards the imperial liabilities and expenditure of the UK. These liabilities included the funded and unfunded debt of the UK and money borrowed for the purpose of land purchase in Ireland.

Section 32 made provision for the appointment of a Joint Exchequer Board, to be made up of five members, two members appointed by the British Treasury, one member each appointed by the Treasury in northern and southern Ireland, and the board to be chaired by an appointee of the Crown. The role of the board was set out in the act, and included resolving any issues or questions on Irish revenue or expenditure, and whether there was any overlap on taxation by the British and Irish parliaments.

Courts and judges

Section 38 of the act established two separate Supreme Courts of Judicature in both northern and southern Ireland. Each Supreme Court was given two divisions – the High Court of Justice and the Court of Appeal. Each was to have the same jurisdiction as its namesake before the commencement of the act.

The High Court in southern Ireland consisted of seven judges. The Lord Chief Justice to be president, together with the Master of the Rolls and five puisne judges. The High Court in northern Ireland was to consist of three judges: the Lord Chief Justice together and two puisne judges.

The Court of Appeal in northern and southern Ireland consisted of the Lord Chief Justice and two ordinary judges, to be known as Lords Justices of Appeal. There was provision for a further appeal to the High Court of Appeal for Ireland under section 43 of the act.

The High Court of Appeal for Ireland was constituted by the *ex officio* judges, the Lord Chancellor of Ireland, president of the court, the Lord Chief Justice of southern Ireland and the Lord Chief Justice of northern Ireland,

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> EXECUTIVE POWER IN BOTH NORTHERN AND SOUTHERN IRELAND CONTINUED TO BE VESTED IN THE CROWN. THE LORD LIEUTENANT EXERCISED PREROGATIVE OR OTHER EXECUTIVE POWERS THAT WOULD BE DELEGATED BY THE CROWN

and other judges as may, from time to time, be nominated as members.

The jurisdiction of the High Court of Appeal for Ireland were any decisions of the Court of Appeal in southern Ireland or northern Ireland, and all questions that came under the *Crown Cases Act 1848*. (Under the 1848 act, after a conviction, the trial judge in a criminal case could refer the case by way of case stated to the court. A case that was reserved would then be heard by at least five judges, including at least one chief justice).

Section 49 of the act made provision for an appeal of a decision of the High Court of Appeal for Ireland to the House of Lords, where a person was aggrieved by any decision of the High Court of Appeal for Ireland in proceedings taken by way of *certiorari*, *mandamus*, *quo warranto* or prohibition.

Appeals also lay from decisions concerning the validity of any law made by either parliament, and the decision was not otherwise subject to appeal. Section 48 of the act made provision of county court judges by order of the Lord Lieutenant.

Transfer provisions

The act commenced on 3 May 1921. Under its provisions, an election was called by the Lord Lieutenant and held on 24 May 1921. The Dáil used the opportunity of the election and declared that the elections, north and south, should constitute the election of members to the second Dáil. Under the provisions of the act, the southern parliament was adjourned on 13 July 1921, two days after the truce that ended the War of Independence.

The *Anglo-Irish Treaty* of 1921 established an independent dominion in Ireland. The treaty envisaged that the new independent dominion in Ireland would apply to the entire island of Ireland; however, under section 12 of the treaty, the North was given the option to opt out of the new state, which they duly did.

The *Irish Free State (Consequential Provisions) Act 1922* amended the act and provided that the provisions of the act would only be applied to the North, and the northern state operated under the amended terms of the act from 1921 to 1972. The final provisions of the act were repealed in the North under the *Northern Ireland Act 1998* and in the South under the *Statute Law Revision Act 2007*, following the *Good Friday Agreement* in 1998.

'Condemned in every corner'

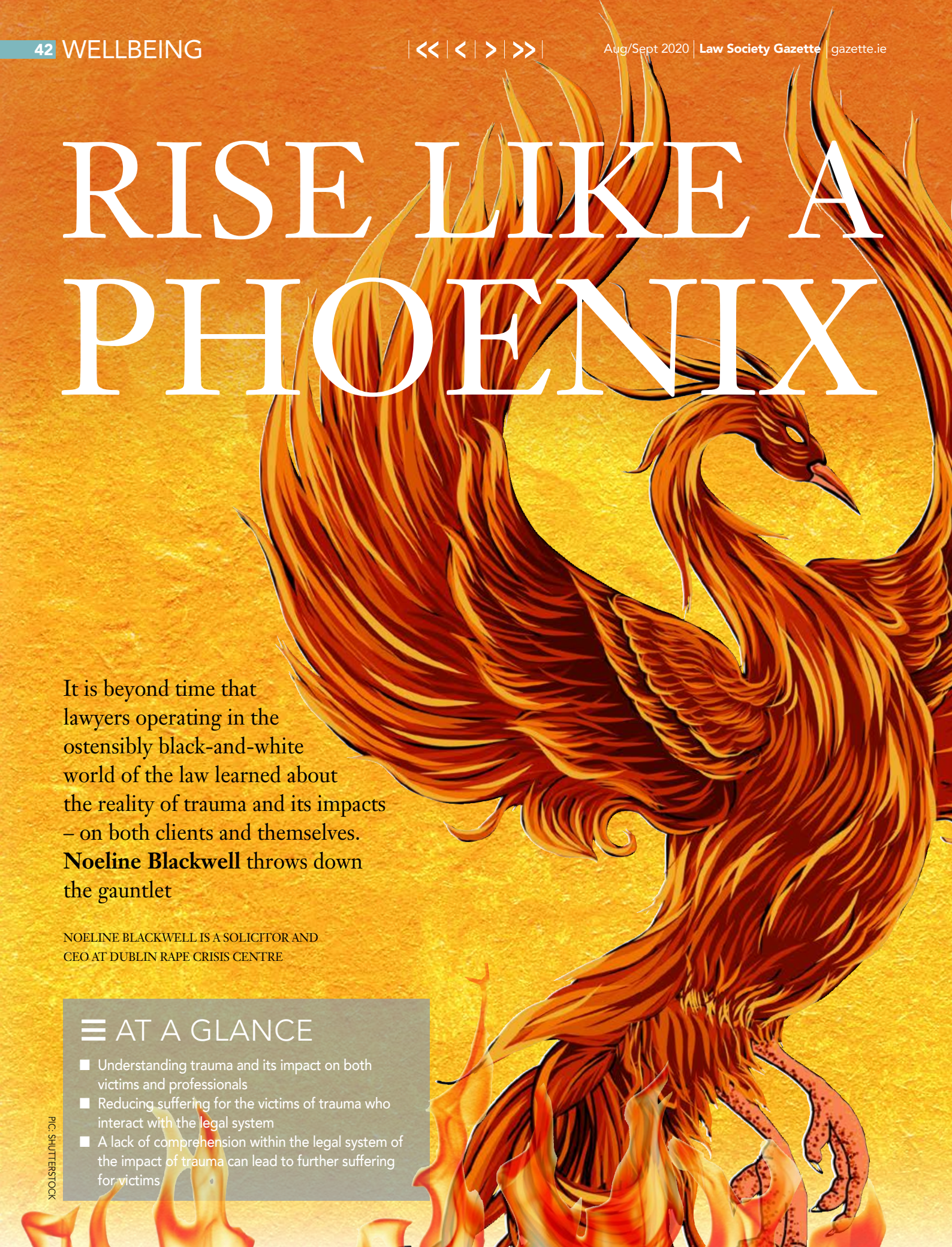
William Redmond, MP for Waterford in the House of Commons, remarked that the act "was condemned in every corner of Ireland, and it had not even the support of a single Irish member, whether he came from north or south".

The act was undermined by the terms of the *Anglo-Irish Treaty* (signed seven months after the commencement of the act), as it created a separate Irish Free State that would be a dominion and member of the Commonwealth.

The treaty and subsequent constitution introduced a completely separate apparatus of state, which gave the Free State more autonomy over its affairs than was provided for under the act. The act, however, continued in operation in Northern Ireland for a further 50 years.

The legacy of the act is far reaching and has left an indelible mark on the island of Ireland over successive generations. g

RISE LIKE A PHOENIX



It is beyond time that lawyers operating in the ostensibly black-and-white world of the law learned about the reality of trauma and its impacts – on both clients and themselves. **Noeline Blackwell** throws down the gauntlet

NOELINE BLACKWELL IS A SOLICITOR AND CEO AT DUBLIN RAPE CRISIS CENTRE

AT A GLANCE

- Understanding trauma and its impact on both victims and professionals
- Reducing suffering for the victims of trauma who interact with the legal system
- A lack of comprehension within the legal system of the impact of trauma can lead to further suffering for victims

PIC: SHUTTERSTOCK

When I joined Dublin Rape Crisis Centre (DRCC) four years ago, I was coming from a background of private practice and leadership of the legal rights group, Free Legal Advice Centres (FLAC). I had always used a legal framework to analyse and solve problems and to advance solutions.

Shortly after I took up my new role, a solicitor who had previously been a FLAC volunteer contacted me, urging me to spread more widely what she had learned in her training about the impact of trauma – not just on clients, but also on solicitors themselves. At the time, I didn't fully understand the significance of her message. Now, through my work, and through the impact of COVID-19 on our whole society, I understand better her very valid message.

In the course of their work, solicitors need to hear graphic and disturbing accounts of coercion and abuse within families, relationships or workplaces – from those who are victims of crime, and those who commit it; or from those fleeing desperate situations in their home countries and seeking refuge here. What they are listening to are accounts of trauma, from traumatised people.

In the last few years, some legal professionals have begun to appreciate how important it is to understand trauma. An internal study in the DPP's office in 2019 was reported as finding that some 60% of legal staff suffered medium to high levels of trauma due to the distressing nature of their work. The Law Society has had a wellbeing programme in place for its solicitors for some years now to help people understand the importance of mental health and wellbeing.

Profound effect

Nonetheless, it has been hard for people who present as successful professionals – particularly those who operate by rigorous, objective legal analysis – to admit that exposure to traumatic incidents, whether singular, multiple or chronic, have had a profound effect on their lives. That is, until COVID-19 struck. The pandemic brought not just disease, but also fear into our lives in a dramatic and definite way.

As restrictions ease and we become used to living with COVID, it is important that we do not forget the level of fear that was prevalent at the outset, and that may come again. For many, that fear brought sleepless nights, a sense of paralysis, a need to find safe spaces, a fear of strangers, a sense of losing control and, above all, anxiety.

In a COVID-19 Mental Health Study of 1,000 adults in Ireland carried out by psychologists in Maynooth University and Trinity College Dublin in mid-April 2020, it was found that:

- More than 40% felt lonely,
- Nearly 25% were experiencing clinically meaningful levels of depression, and 20% were experiencing anxiety and post-traumatic stress problems,
- More women than men were experiencing clinically meaningful levels of loneliness, depression and anxiety, and
- More men than women were experiencing clinically meaningful levels of post-traumatic stress problems.

This was a reflection of our world a few months ago. Those were normal reactions to fear. Yet frameworks to measure anxiety, depression and post-traumatic stress disorder are not the normal frameworks for lawyers. But they are real. If we fail to acknowledge their reality, we fail to understand many of our clients. We fail to understand our colleagues. And we fail to understand ourselves.

Client trauma

Let us look at clients first (referring to Kessler et al, *Trauma and PTSD in the WHO World Mental Health Surveys*). If it is true – and it is – that most people will suffer traumatic events in their life, it is also true that the impact of that trauma may vary widely. Studies suggest that a person's age, their support structures,

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Law Society Finuas Skillnet

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DATE & TIME:	30 September 2020 - 9.30am to 2.30pm
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- **Vicarious trauma, secondary trauma, stress and burnout**

Michele O'Boyle, *President, Law Society of Ireland* will open the Summit

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- **Nick Bloy,** *Wellbeing Republic*
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- **Katie da Gama,** *Lawyer/Executive Coach, Dublin*
- **Tara Doyle,** *Partner, Matheson, Dublin*
- **Jeanne Kelly,** *Senior Partner, LK Shields, Dublin*
- **Teri Kelly,** *Director of Representation and Member Services, Law Society of Ireland*
- **Richard Martin,** *Director, Byrne Dean, England*
- **Antoinette Moriarty,** *Law School Psychological Services Manager, Law Society of Ireland*
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Contact a member of the Law Society Finuas Skillnet team on: **ph 01 8815727** or email **FinuasSkillnet@lawsociety.ie**

the number and variety of incidents, and the level of violence may all affect the impact.

What I now know – and what I had not learned before I joined DRCC – is that a person's behaviour in the immediate aftermath of a very traumatic incident, such as sexual violence, can range from frozen to panicked, numb to angry, or laughter to tears.

Some people can appear calm and rational. Others may feel hyper-alert, be unable to eat or sleep, they may blame themselves for the event, have flashbacks to it, and experience confusion or helplessness.

In the longer-term, trauma may lead to physical, mental and emotional effects across several categories. Physical effects may include self-neglect, eating disorders, digestive problems, sleep disruption, and stress-related ill health.

Emotional impacts include over-reactions to any stimulus or a need to tightly control their environment, mood swings, anxiety, depression, substance abuse, or suicidal thinking.

Cognitive impacts may mean they find it difficult to handle everyday tasks or have impaired memory or concentration. They may feel constantly exhausted. They may lose the ability to trust or sustain a relationship.

'Irrational' behaviour

The problem is that, very often, these behaviours are not correctly recognised as arising from trauma. Even if we do make the association, we may still dismiss the behaviour as 'irrational'. While An Garda Síochána have come a long way – indeed probably further than most in the justice system – their 2013 policy on sexual crime shows a common attitude to those presenting with the symptoms of trauma.

While they note the particular vulnerability of victims of such crime, they explain that the person may not be able to make the kind of 'rational' decisions that might be in their best interest. It is common and very frustrating for clients in the criminal justice system, the asylum system, the family law courts – and wherever people in the aftermath of traumatic events intersect with the law – that legal rules and legal thinking will often regard their behaviour and responses as aberrant.

In fact, the deficit lies in the lack of comprehension within the legal system and among its officers, when they cannot take account of trauma. Legal training and legal practice need to quickly increase their comprehension of the impact of trauma. In failing to do so, many people already made vulnerable by their trauma are suffering further by being denied access to justice.

> WHEREVER PEOPLE IN THE AFTERMATH OF TRAUMATIC EVENTS INTERSECT WITH THE LAW, LEGAL RULES AND LEGAL THINKING WILL OFTEN REGARD THEIR BEHAVIOUR AND RESPONSES AS ABERRANT

Vicarious trauma

And what about solicitors who see the clients who have suffered trauma? Whose job it is to listen to and meticulously note and clarify details of horrifying events and incidents?

In the same way that we can fail to associate the client's behaviour with their trauma, we can also fail to identify the negative effects on the professionals who support them of reliving these traumatic accounts. This so-called 'secondary' or 'vicarious' trauma can be, in many ways, similar to the trauma experienced by the client, and can often be cumulative. It can manifest in all the symptoms listed above for clients.

It is entirely possible to address both primary and secondary trauma, but first we need to accept that it can happen, so that we can recognise the signs and take appropriate steps. Some compassion and understanding goes a long way, especially when complemented by the many expert services that provide hope and healing.

It may be that COVID-19 will bring a wider comprehension of trauma, as so many of us will have seen the effects in our families, in our social circles, among our colleagues or on ourselves. Indeed, many people continue to suffer anxiety, depression and exhaustion, because that is what illness does to you – it causes you to suffer.

Suffering that is unseen or unacknowledged is not any less real, and may just need someone who knows where to look and what to look out for. We make suitable allowances for a client or colleague with a physical injury. So, it is beyond time that lawyers operating in the ostensibly black-and-white world of the law learned about the reality of trauma and its impacts. Failing to do so leaves a gap in our knowledge of how to manage ourselves and our work – and it goes against the interests of those accessing justice, our own interests, and the interests of our families, colleagues and friends. g

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The Dublin Rape Crisis Centre is there for anyone affected by sexual violence, including those supporting others. You can call the national 24-hour helpline (1800 77 8888) for confidential, non-judgemental information and support. DRCC offers professional training to those working with victims of sexual violence, including on secondary trauma. More details and information, including resources, are available on the DRCC website, www.drcc.ie.

LOOK IT UP

- Conor Gallagher, 'Nearly 60% of DPP legal staff are suffering from trauma' (*The Irish Times*, 28 September 2019)
- Hyland, Vallières et al (2020), 'COVID-19 Mental Health Survey by Maynooth University and Trinity College finds high rates of anxiety' (COVID-19 Mental Health Study)
- Kessler et al (2017), *Trauma and PTSD in the WHO World Mental Health Surveys*

THE IN-HOUSE QUEST FOR THE HOLY GRAIL

A recent panel discussion organised by the Law Society's In-House and Public Sector Committee discussed how in-house lawyers can achieve the 'holy grail' for the service professional – the role of trusted legal advisor. **Mary Hallissey** reports

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

PEOPLE LIKE TO DEAL WITH PEOPLE THEY LIKE. GET TO KNOW THE CLIENTS, GET TO KNOW THE BUSINESS, AND ALWAYS KEEP MARKETING THE VALUE OF THE IN-HOUSE LEGAL TEAM AND THE SERVICES THAT IT PROVIDES

Understanding your business clients and what they want is the first step towards enhancing the delivery of in-house legal services. That's the advice of ESB group head of legal, Alan Daly, in a webinar recorded for the Law Society's In-House and Public Sector Committee's panel discussion in May.

Addressing the theme of 'How to enhance the effectiveness of the in-house legal team in the current climate', Alan suggests a framework for approaching this issue by asking 'who', 'why', 'what' and 'how':

- For *whom* are we enhancing the effectiveness of our in-house legal team?
- *Why* does that matter?
- *What* do our clients want (and how do we know that)?
- *How* can we best manage the delivery of our services, bearing in mind the first three questions – and how do we, and the client, know if we are delivering or not?

Daly says that in-house legal teams are no more or less important than any other function working to drive the business's objectives forward, and everything a legal team does must be aligned with, and have as its aim, the achievement of those objectives.

Therefore, he says, the value of the in-house legal team is not measured in how effective it believes its legal services are, but by the client's perception of the extent to which the legal function is helping to deliver those business objectives (or not).

Business rules

In-house legal teams must compete for resources with other parts of the business and will, most likely, have to answer to a non-lawyer. "In short, we are not masters of our own destinies," he says.

This is important because, in considering requests for legal resources – as for any other request for resources – business people make decisions based on business rules, including consideration of what they believe they will get back for their investment.

In the context of resourcing and delivering efficient in-house legal services, therefore, the client's perception of the value of the services that the legal team provides is critical to winning more resources to provide and enhance those legal services.

It is imperative, then, that general counsel take the time to understand exactly what it is that the business expects from its in-house legal function – whether comprised of a large team with many practice-area specialists, or a single in-house lawyer working alone – and to understand what the business expects the legal function to deliver, and how it will do so.

This feedback can be obtained in a variety of ways, such as through training seminars and client workshops, issuing client satisfaction surveys, and working with the business to develop a mission statement for the legal function.

"These are crucial issues," says Alan, "because if your legal team is not doing the right things from the client's perspective – or not doing them in the way the client would like you to do them – then it's pretty unlikely that your clients will think you're doing a great job."

Sector growth

While in-house teams undoubtedly save money on external legal costs, that factor alone doesn't explain the growth of the in-house market in recent years, Daly comments.

In-house legal teams have a significant advantage over external advisors because they know their business – and its people

PIC: SHUTTERSTOCK

– inside out. This gives in-house teams a great opportunity to ensure that the delivery of their services is based on a strong, trust-based relationship, rather than needs-based or service-based.

This, in turn, enables in-house lawyers to truly operate as trusted (and valued) legal advisors in a trust-based relationship with clients – the 'holy grail' for any service professional.

General counsel and their teams must proactively work to build that trust through long-term relationships, with a constant focus on the client's interests.

"People like to deal with people they like. Get to know the clients, get to know the business, and always keep marketing the value of the in-house legal team and the services that it provides," he advises.

Putting time and effort into developing these relationships is just as important as time spent training, or developing the legal product, Daly believes.

Building a successful team

This year's In-House and Public Sector Committee chair is Anna-Marie Curry, company secretary and general counsel in Bord na Móna, who introduced the online panel discussion.

Curry has been in-house for 13 years, building a legal team during that time, and has recently moved from running a centralised to a decentralised model. A critical factor in creating a successful team is in getting the right people, she says, because working in-house is not for every solicitor.

"You need to be a team player and be willing to work with the business in that multidisciplinary

> LAWYERS CAN AND SHOULD BE PART OF THE DECISION-MAKING ON GIVING EMPLOYEES FLEXIBILITY IN THEIR WORKING LIVES

environment," she observes. "In-house work is not for those who want to concentrate on pure legal issues."

She points out that there is just one in-house member on the 51-seat Law Society Council, yet the sector comprises one-fifth of the profession. This can lead to a feeling of disconnection from the Law Society. Anna-Marie is urging in-house lawyers to consider running for Council – something that the Society itself strongly encourages.

> IN-HOUSE LEGAL TEAMS HAVE A SIGNIFICANT ADVANTAGE OVER EXTERNAL ADVISORS BECAUSE THEY KNOW THEIR BUSINESS – AND ITS PEOPLE – INSIDE OUT. THIS GIVES IN-HOUSE TEAMS A GREAT OPPORTUNITY TO ENSURE THAT THE DELIVERY OF THEIR SERVICES IS BASED ON A STRONG, TRUST-BASED RELATIONSHIP

Critical support

Brian Connolly (director of legal services, Accenture) says that legal business support is critical during the challenges presented by the COVID-19 pandemic. However, he urges in-house and public-sector lawyers to reposition themselves by being enablers and facilitators, rather than blockers or merely watchdogs for their businesses.

Legal staff should be right in the middle of risk assessments of working environments, he suggests. "Many people have seen that working from home can, and does, work," he says.

Working from home may have been rushed in some cases as the coronavirus crisis developed, and this could have both security and health-and-safety implications, Connolly warns. Working in a sub-optimal, out-of-office situation, without tech support, requires steps to lock down security, through encryption and the use of a secure virtual repository for documents.

He predicts that the workforce of the future will change as a result of the pandemic – and lawyers will have a role in advising on this. Outsourced contractors and suppliers will also be affected, he says. "As lawyers and as advisors to our organisations, we need to be getting ahead on that, thinking about it, and understanding the law and helping the business to apply it in an appropriate way," he advises.

Connolly envisages that managing the return to work will also be a long and complex process. There will a lot of legal, operational, commercial and employee-relations issues to navigate, including invasive measures, such as temperature checks and facemask wearing, he warns. There will be an increased focus on workplace inspections, he predicts, in line with health-and-safety protocols.

He is hopeful that institutions will adopt a more technology-positive approach to their interactions with solicitors and the general public, because this will speed up decision-making and task completion.

Lawyers must develop and communicate clear policies and processes in relation to tech use, and practise it themselves, he says, and make sure that their organisations are doing the same. This is particularly the case in relation to information security and confidentiality, data protection, use of social media, and record management and retention protocols.

Be flexible

On increased flexible working, Connolly says that a better balance in work and personal life can be one positive benefit of working from home, with reduced commuting time and costs. And there will be organisational impacts too, with lower fixed costs for office space, equipment, car parking, catering, office cleaning, maintenance, and so on.

Lawyers can and should be part of the decision-making on giving employees flexibility in their working lives, he believes.

In-house lawyers are a cost-centre in organisations and do not generate revenue, he points out, so they must continue to add value to the business and demonstrate how they do that. "Be busy and be useful," he advises.

Legal staff also have a role in communications and public relations, and in increasingly communicating with Government agencies, as regulatory and compliance requirements increase: "There may be big policy decisions to be made, and strategic decisions combining legal and commercial perspectives."

But less physical interaction with the rest of the business means that legal teams will have to work harder to show their worth, and to stay coordinated, collaborative and committed, he warns.

He predicts an increased role for in-house staff in communications, public relations, government relations, health-and-safety and facilities management, technology, policy matters, and membership of the leadership team.

Staff engagement

Assistant chief state solicitor Dr Des Hogan explained that his office provides legal services to

the attorney general and Government, with two-thirds of the 300-odd staff being women.

The Chief State Solicitor's Office benefits from civil-service policies of a shorter working year and work-sharing – both available to staff.

Hogan says that good staff engagement helps in managing a legal team – he leads this area at the Chief State Solicitor's Office. Early intervention and good communication are key to resolving difficulties, he points out.

New entrants to any organisation bring energy and will have an impact on culture, particularly in the first 18 months, he believes. Staff are key to the success of the office, and senior management should always seek feedback from them. Junior staff tend to be very focused on their role, salary and career, he says.

On the issue of dealing with client pressure, his sage advice is to "have a plan – respond; don't react".

Lawyers neither have the tools to create policy, nor should they be doing so, and this is the approach taken by the Chief State Solicitor's Office. Matters of operation and policy must be sorted out by the client, he advises. After that, the legal advice comes into play.

"Serving our clients means serving the people of Ireland."

Unified approach

Carol Drury (head of retail legal at AIB) says that, since the economic crash, all legal teams have been centralised at the bank, which has ensured that legal services are provided in an efficient, unified manner across the group.

Proving the worth of her legal teams has meant selling legal wares through 'dotted-line accountability' to business areas, delivering strategic monthly reports, training and workshops, developing an intranet presence, and creating a trusted-advisor relationship with the business.

Drury cautions that legal views should not be confused with any other strategic views proffered, and should be distinguished particularly in written legal advices.

Lawyers should learn to speak the language of business and never hide behind complex emails.

"Don't hesitate in giving on-the-spot opinions – but be clear if something needs to be taken away for further review," Drury advises. Legal staff need to show that they can 'run with the business', and this adds to the creation of a strong strategic partnership, she concludes. g

To view the panel discussion, visit www.lawsociety.ie, search for 'Legal Ed Talks', and register to view.

IN-HOUSE AND PUBLIC-SECTOR LAWYERS SHOULD BE ENABLERS AND FACILITATORS, RATHER THAN BLOCKERS OR MERELY WATCHDOGS FOR THEIR BUSINESSES

MAYBE SHE'S BORN WITH IT

You're doing just fine in professional terms – but what about your personal brand? What do people think of when they go beyond your qualifications, or when they compare you with a colleague? Every little helps, says **Keith O'Malley**

KEITH O'MALLEY IS HEAD OF SUPPORT SERVICES AT THE LAW SOCIETY

> AS EMPLOYEES MOVE AWAY FROM HAVING A JOB FOR LIFE AND MOVE TOWARDS A CAREER MADE UP OF DIFFERENT PARTS, THEIR PERSONAL BRAND ALSO BECOMES MORE AND MORE CRITICAL

Each of us shares something with Coca Cola, Apple Computers, and other well-known consumer products. We each have a brand, and that brand can tremendously affect how we get on in life, the opportunities we are afforded, and how we are regarded.

As solicitors, you are fortunate in that you generally share a good professional brand. Solicitors are viewed as belonging to a learned and responsible profession; solicitors are thought of as professionals who others go to at a time of personal crisis or when they are faced with a complicated challenge. You solve complex matters and are considered to make a valuable contribution within society.

Because you're worth it

Your personal brand reflects what others say about you (beyond just being a solicitor). Your personal brand involves a whole mix of matters – such as specific expertise you have, how you get on with others, your effectiveness, etc. However, particular characteristics are often pivotal in how a person is described, and these descriptions often take centre place in a person's reputation and brand.

So, at a personal level, a solicitor may be acknowledged as being 'a great criminal lawyer', 'generous to a fault', 'a real dynamo' – or any combination of all three and/or other descriptions. Your brand is not what you say it is. It is what others say about you. A good explanation is that your brand is 'what others say about you when you leave the room'. These descriptions are often short, pointed – and deadly accurate.

How many times have you heard someone written off in a few words? Or damned with faint praise? People will always have opinions and be happy to share them. It is this human condition that underlies personal branding.

Think of memorable descriptions that you have heard. Reflect on how a simple comment can attach itself to someone. Admiration is often expressed in a few words such as 'rising star', 'one to watch' or 'straight as a die'.

Think different

What has been happening over the last few decades – and is expected to accelerate – is that professional branding is losing influence and personal branding is taking on a whole new level of importance for solicitors and other professionals.

It is no longer enough to be a solicitor (or other professional) established within a geographic region in order to attract business and make a good living there. Lucrative business is increasingly lost to competitors located elsewhere with a reputation for being especially effective at particular types of work.

Personal branding is not just increasingly important for legal firms and self-employed solicitors. It is also hugely relevant among employed solicitors, as we all become more and more responsible for managing our careers and navigating through job and career changes. Solicitors no longer expect to stay with the same firm throughout their career, and this makes personal branding a critical matter for employees too – not just the self-employed.

It is worthwhile gaining a good understanding of personal branding, given how it is increasingly having an impact on both self-employed and employed solicitors.

Just do it

Everyone has a personal brand. It is not something you can opt out of. However, it is up to you whether your brand is purposeful or accidental.

PIC: SHUTTERSTOCK

You can take control of all aspects of your personal brand, and you can craft a purposeful one that is authentic and aligned with your career plan. You can then go out and build awareness around how you would like to be known. Networking is a commonly used method to do this.

There are myriad other ways to promote your brand – many subtle but effective over time. Tone of voice communicated by you – and everyone in your firm – in all forms of interactions with other parties significantly affects how you are thought of, and ultimately your brand, too.

Developments over the last few decades help us to do more and more in promoting our personal brand. Social media has been particularly revolutionary. Solicitors can now publicise matters about themselves and their firms using resources such as LinkedIn, YouTube and Twitter.

Branding may reflect what others say about you, but you are at the centre of your personal brand. It is built on your values and is played out by your behaviour. For your brand to complement you and serve you well, it needs to be authentic.

You create your brand by how you behave every day. Every action you take further defines it. It is often shaped by how you treat people who might not be seen as powerful or influential. Your brand is a vibrant, ever-changing part of

PERSONAL BRANDING IS TAKING ON A WHOLE NEW LEVEL OF IMPORTANCE FOR SOLICITORS AND OTHER PROFESSIONALS

you. The core 'you' will remain unchanged but, hopefully, you will always be seeking to improve how you behave and communicate. Over time, these adjustments will positively affect your reputation and your brand.

I'm lovin' it

Listen to how people talk about consumer brands. There is often a large dollop of emotion expressed, 'I love my iPhone' or 'I'm dying for Starbucks'. Brands depend on and exploit emotional engagement.

Personal branding works in the same emotional way as consumer branding, albeit in a more subtle way. People regularly choose to do business with professional service firms and with professionals such as solicitors because they personally like and identify with them – often in a very visceral way. When people identify with you in this kind of way, they also often refer a lot of business to you through recommendations.

The best a man can get

The most lucrative work a solicitor can do is repeat work. If that work is involved in matters that are especially complex or esoteric, so much the better. Without question, promoting your brand is the best strategy for attracting work like this into your firm. So, brand building should be a key strategy for all self-employed solicitors.

But it does not stop there. As employees move away from having a job for life and move towards a career made up of different parts, their personal brand also becomes more and more critical. In an increasingly fluid workplace, solicitors are likely to have a portfolio career, particularly as you advance in age. In these circumstances, your brand is likely to be fundamental to your employability. g

> HOW MANY TIMES HAVE YOU HEARD SOMEONE WRITTEN OFF IN A FEW WORDS? OR DAMNED WITH FAINT PRAISE? PEOPLE WILL ALWAYS HAVE OPINIONS AND BE HAPPY TO SHARE THEM. IT IS THIS HUMAN CONDITION THAT UNDERLIES PERSONAL BRANDING

CRY FREEDOM!

IRLI's work continues apace in South Africa, Malawi and Tanzania – and further afield – supported by the Law Society of Ireland. **Aonghus Kelly** reports

AONGHUS KELLY IS EXECUTIVE DIRECTOR AT IRISH RULE OF LAW INTERNATIONAL

Obtaining bail for accused persons, advocating for potentially life-saving prisoner releases in the time of a pandemic, working to free those wrongly accused of murder, working with lawyers around the island of Ireland, planning future projects, and engaging with similar organisations around the world are part of daily life at Irish Rule of Law International (IRLI).

IRLI has been training commercial lawyers from underprivileged communities over the last 13 years in South Africa, and we have been working in Malawi on access-to-justice issues for ten years. We have just started a new project on cases of child sexual abuse in Tanzania, and have previously worked in Bosnia-Herzegovina, Kosovo, Ethiopia, Uganda, Zambia, Kenya, Myanmar and Vietnam. We are also examining a number of potential exciting new projects.

Our work in Malawi is focused on the central region of the country, chiefly around the capital of Lilongwe. We have a permanent in-country presence in Malawi, and the programme has gone from strength to strength and is making a real impact on people's lives.

Child diversion programme

We have programme lawyers embedded with the Legal Aid Bureau, the Office of the Director of Public Prosecutions, the judiciary, and the Malawian Police Service. We also work in the child-diversion field, seeking to take children out of the criminal justice system.

Working in conjunction with our local partners, our work is especially life-changing for women. In the last 18 months, we have assisted 14 women and adolescent girls who experienced miscarriages, stillbirths, or severe mental-health issues, and were subsequently charged with infanticide and remanded in custody. Working with our local partners, we ensured that each woman was released on bail from prison. All had been held for periods between six months and four years without trial. While each infanticide case is different, there tend to be common themes: abandonment, poverty, social stigma, loneliness, and fear of authority. In addition, each woman is dependent on overstretched legal-aid lawyers, with little possibility of a trial in the near future.

Camp courts

In the last few months, given the COVID-19 pandemic, we have been putting copious energy into advocating for the decongestion of Malawi's hugely overcrowded prisons, which are running at an occupancy level of over 260%. We have been advocating for prison decongestion with other civil society organisations, while at the same time increasing our focus on individual cases. Since the beginning of pandemic restrictions in Malawi, our work has led to 116 people being freed on bail at several 'camp courts'.

'Camp courts' are held in prisons where cases are reviewed by criminal judges and bail can be granted. During the same time

> WE HAVE BEEN PUTTING COPIOUS ENERGY INTO ADVOCATING FOR THE DECONGESTION OF MALAWI'S HUGELY OVERCROWDED PRISONS, WHICH ARE RUNNING AT AN OCCUPANCY LEVEL OF OVER 260%

A camp court held in Maula Prison in Malawi's capital, Lilongwe. IRLI personnel and local partners prepare case files for review, while judges visit the prison to examine bail applications

The IRLI has provided training at Nkhotakota Police Station for police and other agencies on the proper treatment of child suspects, and diversion programmes

period, IRLI has also worked on 28 successful bail applications before the High Court.

IRLI also works to ensure that children held in police custody or prison are brought to appear before the Child Justice Court rather than remaining in police cells or brought to adult prisons. In the past year, 186 children have appeared before the court in Lilongwe, and IRLI provided support in all of those bail applications. In total, 167 children were granted bail.

Mwai Wosinthika

IRLI also runs a child-diversion programme called *Mwai Wosinthika* ('Chance for a Change' in the Chichewa language) in collaboration with the Ministry of Gender, diverting children who come into conflict with the law away from the formal criminal justice system and into the community instead. In the past year, 46 children have passed through this programme.

Another challenge in Malawi is that it is common for mentally-ill accused persons to be held in prolonged police detention, sometimes for up to two years without trial. However, legally accused persons can remain in pre-charge detention in police cells for a maximum period of 48 hours.

IRLI was recently made aware of two men who had been held in the police cells for over five months. Our lawyers seconded to the Legal Aid Bureau, the Director of Public Prosecutions, and the Malawi Police Service worked closely together to ensure the men's cases were listed before the court. In court, the judge ordered that one of the accused's charges be dismissed, while the other accused was sent for a fitness assessment and was later discharged.

Day by day, IRLI works to build the capacity of the criminal justice institutions in Malawi and to increase respect for the rights of accused people experiencing mental illness.

Upcoming events

Due to COVID-19 restrictions, IRLI has rescheduled its commercial law seminar to Thursday 8 October. This will be closely followed by our ever-popular criminal law seminar, to be held in late November. These events help the organisation to raise badly needed funds for its work.

Both events will be held in the Distillery Building in Dublin. We also hope to have further events via webinar in the upcoming months, and will be giving regular updates in the *Gazette*.

We would actively encourage those interested in the work of IRLI to join us on our LinkedIn, Facebook, and Instagram pages. If you would like to donate to IRLI, you can obtain details on doing so at www.irishruleoflaw.ie. Furthermore, opportunities to work for or volunteer with IRLI will be advertised on those platforms. If you require any information on IRLI or its work, please contact us on info@irishruleoflaw.ie or via our social media platforms. g

FOCAL POINT

IRLI – WHAT IS IT?

Irish Rule of Law International is a project-orientated, non-profit rule of law initiative established and overseen by the four legal professional organisations from the island of Ireland.

Originally founded in 2007 by the Law Society and the Bar of Ireland, and joined by the Law Society of Northern Ireland and the Bar of Northern Ireland in 2015, the organisation has collaborated with academics, judges, legal practitioners, policymakers, and civil society around the world to advance collective knowledge of the relationship between the rule of law, democracy, sustained economic development, and human rights.

We believe that members of the Irish and Northern Irish legal professions have a significant role to play in enhancing the rule of law and shaping the progress of fragile societies.

IRLI seeks to harness the skills of lawyers to use the law as a means of tackling global injustice and empowering all people to live in a society free from inequality, corruption, and conflict.

CJEU UPHOLDS 'GUN-JUMPING' FINE

A recent case shows that companies contemplating acquisitions (even of minority shareholdings) should confirm whether the proposed transaction triggers a merger-control filing before proceeding with the transaction, says Cormac Little

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THE CJEU'S JUDGMENT SENDS A STRONG SIGNAL THAT COMPANIES MUST BE CAREFUL TO MAKE SURE THAT ANY ACQUISITION OF A MINORITY SHAREHOLDING DOES NOT TRIGGER AN OBLIGATION TO NOTIFY

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

Earlier this year, the Court of Justice of the European Union (CJEU) rejected an appeal by Marine Harvest ASA against a 2017 judgment of the General Court upholding an infringement decision of the European Commission regarding its acquisition of business rival, Morpol ASA.

Marine Harvest failed to notify the acquisition of Morpol, under the *EU Merger Regulation* (EUMR), on time. In addition, the purchaser/appellant completed this transaction prior to receiving clearance from the commission.

Marine Harvest is the largest salmon-farming company in the European Economic Area, whereas Morpol is the leading salmon processor in the same region – both companies were, at the relevant time, listed on the Oslo Stock Exchange. The CJEU's judgment in Case C-10/18 P *Mowi ASA (formerly Marine Harvest ASA) v Commission* (4 March 2020) contains some interesting lessons for the application of merger control rules to the acquisition of minority stakes in listed companies.

Merger control

EU and Irish merger control rules apply in Ireland. Both regimes apply to changes in control, provided the relevant jurisdictional thresholds are met. Under both sets of rules, 'control' is defined as the capability of exercising decisive influence over the strategic business affairs of the relevant target company or business. Control may be either *de jure* (for example, by contract) or *de facto* (such as through voting patterns at shareholder meetings). The EUMR – like its Irish equivalent, part 3 of the *Competition Act 2002* (as amended) – operates an *ex ante* suspensory regime. In other words, if a particular transaction triggers a mandatory notification to the commission, article 4(1) of the EUMR provides that it must be notified prior to completion. In addition, article 7(1) of the EUMR stipulates that any transaction that is notifiable to the commission must not be implemented until it is cleared (or deemed) cleared. Article 7(1) is often referred to as the standstill provision – a breach of this provision is usually referred to as 'gun-jumping'. Article 7(2) provides for a derogation from the standstill provision where the transaction involves either a bid for a listed company or a series of share transactions on a stock exchange where control is acquired from various vendors. Article 14 of the EUMR allows the commission to impose fines both for failure to notify and also for completing a transaction in advance of clearance.

Transaction timetable

In December 2012, Marine Harvest completed a share purchase agreement (SPA) with two Cypriot companies controlled by the founder and former CEO of Morpol. Through the SPA, Marine Harvest acquired an interest in Morpol amounting to approximately 48.5% of Morpol's issued share capital. The same month, Marine Harvest opened pre-notification engagement with DG Competition of the commission in respect of the Morpol acquisition. At the same time, Marine Harvest informed DG Competition that the December 2012 acquisition had been closed and that it would not exercise its voting rights in Morpol, pending the commission's review of the substance.

According to the provisions of Norwegian law, an acquirer of more than one-third of the shares in a listed company is obliged to make a mandatory public bid for the rest of the shares in that company. Therefore, in January 2013, Marine Harvest made an offer for the remaining 51.5% of Morpol's issued share capital. Meanwhile, the parties' pre-notification engagement was

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continuing – with DG Competition focusing on whether the December 2012 acquisition gave Marine Harvest *de facto* sole control over Morpol. As part of the completion of the public bid in March 2013, Marine Harvest purchased an additional 38.5% of Morpol's shares. In August 2013, Marine Harvest formally notified the commission of its proposed acquisition of Morpol. In early September, DG Competition expressed concern that the acquisition of Morpol would give rise to serious competition concerns in the market for the farming and primary processing of Scottish salmon. With the enlarged Marine Harvest's combined high market share, the commission was worried that the merger would lead to price increases in the sale of Scottish salmon. Indeed, DG Competition's market investigation showed that a significant number of customers do not consider salmon farmed in other countries (such as Norway) as a substitute for Scottish salmon. In September 2013, Marine Harvest committed to divest a significant part of Morpol's Scottish salmon farming operations in order to secure EUMR approval. The transaction was duly cleared, subject to the relevant remedies, later that month. The acquisition of the remaining shares in Morpol was completed in November 2013.

In its September 2013 clearance decision, the commission also signalled that it could not exclude that Marine Harvest had already acquired *de facto* sole control over Morpol in December 2012 and, therefore, the purchaser should have made the notification under the EUMR (and, of course, received clearance) prior to completing this acquisition. After a six-month investigation, the commission (in a July 2014 decision) found Marine Harvest to be in breach of both article 4(1) and article 7(1). DG Competition stated that Marine Harvest was, subsequent to the December 2012 acquisition, highly likely to achieve a majority at shareholder meetings given its 48.5% stake and based on the turnout of other shareholders at such meetings in recent years. Separately, the commission also found that the article 7(2) derogation did not apply because Marine Harvest's shares in Morpol were acquired from a single vendor. The commission accordingly imposed a fine of €10 million for each infringement.

In early October 2014, Marine Harvest brought an action for annulment of the July 2014 decision before the General Court. This action was dismissed in its entirety by the General Court in October 2017. In January of the following year, Marine Harvest appealed to the CJEU on two grounds. The first related to whether the General Court misinterpreted the concept of a 'single concentration' in recital 20 of the EUMR. The second addressed whether the General Court erred in law by upholding the commission's decision to fine Marine Harvest for both failure to notify and 'gun-jumping'.

Single concentration

Recital 20 states that the EUMR should apply to 'single concentrations' – that is, transactions that result in a lasting change to the market and that are either

> DG COMPETITION'S MARKET INVESTIGATION SHOWED THAT A SIGNIFICANT NUMBER OF CUSTOMERS DO NOT CONSIDER SALMON FARMED IN OTHER COUNTRIES (SUCH AS NORWAY) AS A SUBSTITUTE FOR SCOTTISH SALMON

THE JUDGMENT IS INTERESTING IN THAT IT CONFIRMS THAT RECITALS TO AN EU REGULATION OR DIRECTIVE HAVE NO BINDING LEGAL FORCE AND, THEREFORE, CANNOT BE RELIED UPON EITHER AS A GROUND FOR DEROGATION FROM THE ACTUAL PROVISIONS OF EU LAW OR FOR INTERPRETING THOSE PROVISIONS IN A MANNER CONTRARY TO THE RELEVANT WORDING

linked by condition or take the form of a series of transactions in securities taking place within a reasonably short period of time.

Marine Harvest argued that the General Court erred in law by failing to consider that recital 20 has been reflected in a legally binding provision, namely article 7(2), which refers to public bids and to a series of transactions in securities. The appellant claimed that, as the acquisition in December 2012 and the subsequent public bid were linked *de jure* by mutual conditionality (the requirement under Norwegian takeover rules to make an offer for the remaining shares in Morpol), they were, therefore, steps in a 'single concentration'. As such, the standstill obligation was only triggered once the mandatory public bid for the remainder of Morpol's shares was announced in January 2013.

The CJEU rejected this argument. It found the derogation in article 7(2) (and recital 20) to apply only to a series of transactions where all of them are necessary before a change of control occurs. Article 7(2) is irrelevant in a situation in which control is conferred in the context of an initial private transaction (for example, the December 2012 acquisition), even if that transaction is followed by a public bid, since the latter is not necessary to achieve a change of control of an undertaking concerned by the relevant transaction.

Double jeopardy

Marine Harvest also argued that the General Court had erred in determining that the principle *ne bis in idem* (that is, the prevention of double jeopardy) does not apply to a situation in which the commission imposes two fines in a single decision for the same conduct. Marine Harvest argued that, irrespective of whether it is imposed in the same or separate proceedings, this principle covers any double punishment. The CJEU reasoned that *ne bis in idem* protects undertakings from being found liable or proceedings being brought against them afresh on the grounds of anti-competitive conduct for which it has already been penalised or declared not liable by an earlier decision that cannot be challenged. However, the CJEU held that this principle does not apply to a situation where a company has been fined for both failing to notify and for 'gun-jumping'.

Marine Harvest also appealed on the basis of the principle governing concurrent offences. This general principle of EU law provides that, where conduct is governed by two or more legal provisions, the primary applicable provision excludes the application of all other provisions. The appellant argued that failure to notify to the commission under article 4(1) is a more specific breach and, therefore, should be subsumed into the more general 'gun-jumping' infringement contained in article 7(1).

The CJEU noted that there are no specific rules governing concurrent offences in EU competition/merger control law. The court also upheld the General Court decision that the EU legislature has not defined one offence as being more serious than the other since, under article 14(2), the maximum penalty for both is the same. The CJEU also found that, while an infringement of article 4(1) will automatically result in an infringement of article 7(1), the converse is not true. In other words, if a company implements a notified transaction prior to clearance, it infringes article 7(1) only, whereas if it completes a notifiable concentration in advance of approval, it breaches both article 4(1) and article 7(1). Therefore, given the separate objectives of both provisions, the CJEU found that the General Court correctly held that the commission is entitled to issue a separate fine for each infringement. The court also held that, since a breach of article 4(1) is instantaneous, whereas an infringement of Article 7(1) is continuous, the latter does not subsume the former. Accordingly, the CJEU dismissed Marine Harvest's appeal and upheld the judgment of the General Court in its entirety.

Wider issues

From a statutory interpretation perspective, the CJEU's judgment in *Marine Harvest* is interesting in that it confirms that recitals to an EU regulation or directive have no binding legal force and, therefore, cannot be relied upon either as a ground for derogation from the actual provisions of EU law or for interpreting those provisions in a manner clearly contrary to the relevant wording. The role of a recital is solely to cast light on the interpretation of a legal provision.

On the substantive issue, the CJEU's judgment sends a strong signal that companies must be careful to make sure that any acquisition of a minority shareholding does not trigger an obligation to notify. In a similar case in 2009, the commission fined Belgian electricity producer Electrabel €20 million for failing to notify its December 2003 acquisition of a minority (controlling) stake in Compagnie Nationale du Rhône until August 2007.

Completing a notifiable transaction in advance of regulatory clearance is also a breach of Irish law. In 2019, after an investigation by the Competition and Consumer Protection Commission, Armalou Holdings Limited trading as Spirit Motor Group pleaded guilty before Dublin District Court to completing the acquisition of its fellow Dublin motor retailer, Lillis-O'Donnell Motor Company Limited, without obtaining the necessary mergers clearance. This was the first time a prosecution for alleged 'gun-jumping' came before the Irish courts. g

REPORT OF LAW SOCIETY COUNCIL MEETING

12 JUNE 2020

COVID-19

On the historic occasion of the Council's first hybrid, socially distanced meeting, a minute's silence was observed in respect of the passing of those members of the profession, their family members, and the family members of Law Society staff who had died during the COVID-19 crisis.

The president outlined the measures that had been taken throughout the crisis to support members, to represent their interests and those of their clients, and to regularly communicate those actions to the profession.

Council election dates

As required by the bye-laws, the Council approved Monday 28 September 2020 as the final date for the receipt of nominations for the Council election, and Thursday 5 November 2020 the close-of-poll date.

Submission on professions

The Council approved a submission to the Legal Services Regulatory Authority that informed a report that the authority was required to provide to the minister, under section 34 of the *Legal Services Regulation Act 2015*.

LSRA 2015

The meeting noted that the Legal Practitioners Disciplinary Tribunal would not be active until later in the year, that a website had been created to receive indications of interest in the title of senior counsel, and that a legislative amendment would be required in order to address difficulties that had arisen in relation to the introduction of legal partnerships. In relation to LLPs, a substantial number of firms had applied to the authority for registration, and an issue had arisen in relation to a pillar bank's approach to the re-designation of client accounts within firms that had become LLPs.

Professional wellbeing

Past-president Michael Quinlan reported that the Professional Wellbeing Project had gathered more momentum over the preceding months than anyone could have predicted. The project will continue to work towards creating and maintaining a wellbeing infrastructure for Law Society members, which provides education, information and practical supports.

Education Committee

The chair of the Education Committee, Carol Plunkett, reported that, since COVID-19 restrictions had begun, the Society's Education Department had reinvented itself, with staff and faculty quickly embracing new technologies so that no trainee or solicitor was disadvantaged or delayed in completing courses and receiving qualifications or CPD hours. More than 4,000 students were taking courses in the Law School, and that number was increasing daily.

The PPC2 had been redesigned as an entirely online course. Over 400 staff and associate faculty members had been trained in the use of the technology required to participate effectively in the move online, where participation rates had ranged between 96% and 100%.

Finance Committee

The chair of the Finance Committee Chris Callan reported to the meeting on the substantial work that was underway to ensure that the Society responded to the COVID-19 crisis in a considered and financially prudent manner.

PII Committee

The chair of the Professional Indemnity Insurance Committee, Barry MacCarthy, reported that the PII review continued to be the top priority project for the committee. Believing that the best way to minimise premiums was to keep as many of the existing insurers in the market as possible, while encouraging new entrants to join, the committee had agreed a business plan to guide its work towards achieving that end.

Committee thanks

The president thanked the members of the Guidance and Ethics Committee and the In-house and Public Sector Committee, who had worked for many months to produce comprehensive practice notes on legal professional privilege.

SOLICITORS ACTING AS EXECUTORS: ENTITLEMENT TO FEES, CHARGING CLAUSE AND SECTION 82 OF THE *SUCCESSION ACT 1965*

The profession is reminded of the importance of:

- Including an appropriate charging clause if the testator/testatrix appoints a solicitor as an executor/executrix, **and**
- Ensuring that neither the solicitor, their spouse, civil partner, or a partner in their firm witness the will.

A testator/testatrix may provide by will that an executor/executrix can be paid professional fees. The necessity for a charging clause arises from the general rule in trust law that a trustee cannot profit from their office and, therefore, is not entitled to profit costs unless the will creates an entitlement. If the will does not contain a charging clause, a solicitor/executor who instructs their own firm is not entitled to charge a professional fee.

It is equally important to remember that the charging clause will be invalidated if the solicitor/executor (their spouse, civil partner, or a partner in their firm) is a witness to the will. This is because, under section 82 of the *Succession Act 1965*, gifts (which are defined to include any benefit) under a will to an attesting witness or spouse of a witness are utterly null and void.

For further information, see Spierin's *Succession Act 1965 and Related Legislation: A Commentary* (fifth ed, 2017) p290 [para 595].

John Elliot, Registrar of Solicitors and Director of Regulation

GUIDANCE AND ETHICS COMMITTEE

TEN STEPS FOR THE TRANSFER OF FILES

1) A courteous request for the files and a prompt response are keys to a smooth handover.
2) Solicitors have a right to exercise a lien on files and documents until fees are paid, but a lien can be set aside by order of the court or by direction of the Law Society.
3) In considering the validity of a lien, the court can take into account who has terminated the retainer and, where the retainer has been terminated by the solicitor, may direct a solicitor to hand over the file on terms. (*Ahern v Minister for Agriculture and Food*, Laffoy J, 11 July 2008, unreported).
4) A solicitor who is exercising a lien must issue a bill of costs as soon as reasonably possible.
5) To protect the client's interests and to facilitate payment, the first solicitor should consider transferring the file on receipt of a suitably worded undertaking.
6) If an undertaking is offered and accepted, it is the recommended practice that all outlays paid by the first solicitor are discharged on the transfer of the file.
7) The file cannot be handed over until satisfactory arrangements have been made in relation to any undertakings given by the first solicitor.
8) A solicitor should not cooperate with a client who seeks to leave a solicitor with an outstanding undertaking.
9) If instructions are accepted on a 'no-foal, no-fee' basis and the client terminates the retainer, the no-foal, no-fee arrangement is also terminated, and the solicitor is entitled to be paid for work done to the date of termination.
10) Proceeding without the file is not recommended.

For further information, please see the practice note ('Transferring files between solicitors', second edition) recently published by the Guidance and Ethics Committee on lawsociety.ie.

CONVEYANCING COMMITTEE

SPEED UP YOUR HOUSE SALE

Early contact between a vendor and their solicitor is key to an efficient house sale.

The Conveyancing Committee has published a note for clients on how they can help to speed up their house sale. It encourages vendors to contact their solicitor as soon as possible, and it contains a checklist of essential documents that they can start putting together to provide to their solicitor.

This note for clients can be downloaded from the public area of the Law Society's website. See the 'Selling a home' page (via legal guides/links, property).

It is also available in the precedents page of the members' area of the website for solicitors who want to provide it to a vendor client, at or in advance of a consultation, or to use as a marketing tool.

TECHNOLOGY COMMITTEE

REMOTE WORKING

The guidance note below is a revised version of the Technology Committee's remote working note, issued by the Law Society President on 19 March 2020.

We understand that many practitioners and firm employees continue to work remotely. We recommend that you continue to review your key processes involving technology, particularly with respect to security.

Any supplier listed is provided for information purposes only, does not constitute approval or endorsement by the Law Society, and the list is not exhaustive. As always, we recommend that practitioners carry out due diligence in relation to any of the suppliers listed. For example, try to establish whether any other Irish firms are using the relevant IT product, and see if you can get some feedback from other practitioners.

Remote access

Ensure that you have up-to-date out-of-office contact details for all your staff, and confirmation about whether they can work from home (for example, do they have broadband and/or a computer at home, and/or a room to work in).

If you have an IT supplier who looks after your computer network or specialist software, then they should be your first port of call for remote access. You should emphasise that you require access to be as secure as possible, to include a robust VPN and/or two-factor authentication for remote users.

Remote desktop – if possible, your IT provider should set your local PC/laptop up as a 'dumb' terminal. Effectively, this means that you should have all the protections set up on your office system. Consider remote access (see below) as a more cost-effective alternative.

If you can manage remote working, this should be trialled as soon as possible, for as many staff members as possible. It is proving very difficult to acquire laptops. Therefore, you should enquire of your supplier if they can guarantee delivery of laptops and, if not, whether their proposed solution can be implemented safely and securely using staff's own devices.

Remote access services – if you do not have an IT supplier who looks after these matters, or your IT supplier does not have capacity to address your needs at this point in time, then you should consider subscribing to one of the secure remote-access services that allow you to control a PC in your office remotely. Such services include Logmein Pro (www.logmein.com), Gotomypc Pro (get.gotomypc.com), Teamviewer (www.teamviewer.com) and Splashtop (www.splashtop.com). MS Office 365 Online allows you to have Word, Excel and Outlook on your PC/laptop/iPad, synchronised against a personal account. By using one of these services, you are using an encrypted channel as a link, and then using internal office security.

Security

Practitioners need to be realistic about what can be achieved with technology, given their existing capabilities/skills. They should plan their home offices anticipating restriction on movement, including the bringing of physical files and paperwork home.

Storage – do not create and store client documents locally on your local PC/laptop. Rather, connect to your office PC remotely, and use the office security as outlined above.

Software – there should be little need to use local software on your local PC/laptop.

Fraud/phishing – attempts are unfortunately on the increase, and the committee draws your attention to its publication in relation to not sending bank details by email in the Jan/Feb 2017 *Gazette* (p28).

Password security (PCs/laptops) – consider installing two-step password protection or password-based authentication, such as a password and a PIN sent to your mobile phone. Your IT supplier may be able to set Microsoft Authenticator as part of your Microsoft package.

Physical security – IT devices and paper files should be held securely in a locked cabinet, in a locked room.

Email – to avoid data breaches, extra security precautions need to be taken in relation to the content of emails. See our page in relation to encryption in this regard. External correspondence with attachments should have 'highly confidential' in the subject line.

Online file sharing – online file-sharing services may not be secure enough for sensitive and confidential communications. All large files or data sets should be sent using applications that provide a number of security features, including:

- Encryption,
- Link-expiry settings,
- Number of allowed downloads, and
- Password protection.

Local administration access – within firms, users should be required to use IT assistance to install new software on their devices. This is necessary, as it prevents unauthorised or malicious software being installed on computers, and will stop any potential malware from running with administrator rights. If you are the IT administrator for your practice, you should remind your co-workers of this requirement. Practitioners need to satisfy themselves on their GDPR obligations in the use of all products, in the normal manner. We would caution against the use of apps that haven't been assessed as 'GDPR compliant'.

Sharing of IT devices – while we do not recommend sharing IT devices, we understand that the reality is that families may have to share PCs/laptops. Consider installing a remote server sandbox – for example, Splashtop Remote Desktop (www.splashtop.com) or Windows Sandbox.

Telecon and videocon

Keeping in touch with staff/clients – we recommend that, at a minimum, teleconferencing facilities are set up and tested initially with staff. Feedback is that videoconferencing facilities are preferred and can be accessed via smartphones. Planning and good manners are especially important in online meetings. Service providers known to the committee are Zoom, Blue Jeans, MS Teams, and Google Hangouts. However, the committee is not in a position to endorse specific products.

Dictation

Practitioners who rely on in-house transcription of dictation will need to ensure that their digital-dictation systems function for remote workers. They should liaise with their digital-dictation software supplier to ascertain if this can be done and, if not, what solutions they recommend. We are not aware of shortages of hardware for remote transcription. However, if you need to buy additional hardware, such as foot-pedals or headsets, then you should not delay in ordering them. Products known to the committee are Dragon, Winscribe, Speechwite and Bighand.

If dictation cannot be operated on your remote-access system, then you might need to consider a cloud-based dictation system, such as Philips Speechlive (www.speechlive.com) or Olympus Dictation Delivery Service (www.olympus.co.uk). Other established digital-dictation software companies, such as Winscribe or Bighand, may also have suitable solutions. If you cannot get

a supplier to implement a suitable solution, then you may need to look for a stopgap solution. There are various stand-alone dictation apps that allow you to create and email dictations directly from your phone – for example, the Dictate+Connect app.

On the transcription side, typists can download the stand-alone Express Scribe application (*www.nch.com.au/scribe*), which will work with most foot-pedals and standard dictation file formats. Obviously, this approach may give rise to security concerns. Audio files can be dictated in such a way as to be anonymised, with party details and other identifying information omitted (to be filled in later). Audio files can also be enclosed in password-protected zip files using compression software, such as WinZip (www.winzip.com).

Remote transcription/outsourcing dictation – some products allow the encrypted digital dictation to be either allocated to a staff member or outsourced to a third party for typing. You might even consider outsourcing your transcription typing for a period. Companies such as Quill/Documents Direct, TPro.io and Speechwrite provide these types of services.

Communications

Website – you should consider putting a note on your website as to how your firm will be functioning during the public-health crisis and how your firm should be contacted.

Email footers/disclaimers can be a useful place to put information as to how your office will operate during the public-health crisis.

Phones – most modern phone systems allow calls to be redirected to another phone number, such as a solicitor's mobile. You should make enquiries of your phone-system supplier in this regard. VOIP systems provide the most flexibility, but ISDN systems also have significant features. Beyond that, your phone-line supplier may be able to provide the service for you externally. Again, it may be difficult to get your supplier to do this immediately, as suppliers are under severe pressure. Alternatively, and additionally, your phone system may also allow you to set up a phone message for unanswered calls. This can be used to provide details of alternative phone numbers, and to provide other useful information. Phone-line suppliers also generally provide business customers with a hosted conference calls facility, which will not require you to make any changes to your office phone system.

Post/scanning – you might also consider redirecting your post and/or DX to an alternative address, such as a partner's home address. You might further consider buying a desktop scanner (such as the FuijitsuScanSnap ix1500) to allow you to scan post and other documentation at home and email it on to other practitioners.

Messaging apps – these may be helpful, but need close supervision. These include Telegram and WhatsApp.

PDF software

You will need PDF software that will allow you to manipulate PDF documents, including reducing PDFs in size to make them small enough to email. Kofax Power PDF (formerly Nuance Power PDF) (www.kofax.com/products/power-pdf) is a reasonably priced alternative to the market leader, Adobe Acrobat Pro. If you are buying a desktop scanner, then you may receive PDF-editing software.

TECHNOLOGY COMMITTEE

LAWTECH 2020 – WHAT YOU NEED TO KNOW

Technology is reforming the way we work today, from online software-as-a-service tools (SaaS, such as Google Apps, Dropbox, MailChimp, GoToMeeting) to cloud service providers and file-management systems.

We are also seeing a steady rise in the use of algorithms and artificial intelligence aimed at supporting, supplementing, or replacing traditional methods for delivering legal services or transactions. These newer technologies are delivering improvements in the way the justice system works, for lawyers as well as their clients.

Finding ways to improve efficiencies in a law firm – no matter the size – is a constant battle, but never has it been so important to address than in a COVID world.

Narrow AI/machine learning

Fortunately, this is where 'lawtech', or legal tech, can help. Recent developments in 'narrow artificial intelligence' or 'machine-learning technologies' aim to promote greater efficiency, transparency, and better outcomes for those working in and accessing the justice system.

These developments have been made possible by 'big data'. Business-intelligence data or (BI) derived from big data and predictive data analysis, together with advanced search technologies that handle natural language queries, are a natural jumping-off point for legal AI, because they are capable of interrogating large data sets quickly and presenting the results in ways that support the decision-making process.

These new technologies very much belong to the 'narrow AI' sphere. They are intelligent systems that have been taught, not programmed, to carry out tasks – otherwise known as machine-learning technology. It is an application of AI where systems are provided with the ability to automatically learn and improve from experience, without being explicitly programmed – a far cry from the adaptable intelligence found in humans, which safely remains within the realms of sci-fi culture, for now!

Augmenting legal services

Lawtech should be considered as a means of augmenting legal services as opposed to replacing them. (No signs of a HAL9000 robo-lawyer just yet.)

From a solicitor's perspective, positive examples of lawtech in action can:

- Increase efficiency, productivity and growth,
- Reduce workloads and carry out more mundane tasks,
- Liberate more junior lawyers to do more interesting and value-added work,
- Reduce costs, and
- Institutionalise know-how.

From a client perspective it:

- Delivers results faster,
- Increases transparency both from a billing and case-management perspective, and
- Increases satisfaction.

Uptake of lawtech

The uptake in the legal industry appears to have been lower than fintech, martech or medtech. There may be institutional barriers (for example, *eCommerce Act* prohibitions on digital signatures for certain types of transactions) or some innate conservatism. From an access-to-justice perspective, it is not always easy for those coming from lower socio-economic backgrounds to get access to the right information on what legal services they need.

In a post-COVID world and, indeed, one that is more technologically driven, lawtech presents a way forward for lawyers to embrace a more agile, client-driven approach to work. With around US$1 billion having been invested in lawtech since 2018,

it is an industry that is growing rapidly, and one we need to better explore, and assess what value it can bring to our legal practices.

Health warning

Lawtech should never be seen to be the 'silver bullet'. Technology in isolation is never the answer.

You should consider assessing the processes already in use within your practice. Then see if there are any lawtech products that could assist or take over some of those processes, from a cost/benefit analysis that makes sense for your practice.

To that end, let us take a look at what lawtech products are out there and what, if any, could be of use to you in your sole-practitioner, small-to-medium, or large-scale law firm.

As a committee, we do not endorse or recommend products, but simply hope to raise awareness of products that we know are being used in this space right now. We would always recommend that you try and speak to another lawyer who is already using the technology, and the software provider should be able to assist in this. You still need to read and understand the T&Cs. In particular, 'trial periods' and 'jurisdiction of stored data' are recurring themes for us all.

Chatbots

DoNotPay (donotpay.com) is a simple chat-based interface to guide users through a range of basic questions to establish if an appeal on their parking ticket is possible. It was launched in 2015 and created by then 20-year-old Joshua Browder. He created the site by scanning thousands of documents released under freedom of information legislation, under the guidance of a traffic lawyer. By mid-2018, the site estimated that it had saved 375,000 people around $9 million on parking tickets.

Expert systems

Neota Logic (www.neotalogic.com) is a coded AI automation platform, providing professionals with a range of easy-to-use tools to rapidly build applications that automate any aspect of their services:

- Client onboarding,
- New business intake and analysis,
- Triage and routing,
- Expert decisioning,
- Self-service legal and policy advice,
- Business-process automation,
- Document drafting, and
- Data analytics and reporting.

Practice-management

Apperio (www.apperio.com) is a cloud-based software-as-a service analytics solution. It is a legal-spend smart dashboard that gives in-house lawyers better insights into their external legal spend across the business.

Brightflag (brightflag.com) is an Irish-based AI-powered e-billing, matter-management, and analytics platform used by innovative corporate legal departments across the globe to manage their legal spend. The main technologies used are 'natural language processing' and 'machine learning'. Brightflag's machine learning technology is reading and understanding legal-spend data, which gives in-house legal teams the ability to drive substantial savings, automate large portions of workflow, and generate powerful data for resourcing decisions and reporting.

Predictive AI

Premonition (premonition.ai) is an AI system that mines the information in big data to determine the effectiveness of individual lawyers, and possesses the largest litigation database in the world. The analysis conducted by Premonition provides information relative to litigators' winning percentages before specific judges, including case type, case value, and duration. This provides information about which lawyers win in front of which judges on which matter types, but also who is 'running the clock' on cases in terms of duration (and who resolves quickly). Premonition's function is to spot trends and outliers, which it does well, as data is 'smoothed out' over thousands of cases.

Lex Machina (lexmachina.com) mines litigation data, revealing insights available about judges, lawyers, parties, and the subjects of the cases themselves, culled from millions of pages of litigation information. It:

- Analyses judges and courts,
- Sizes up opposing counsel,
- Evaluates parties in your matter,
- Crafts winning case-strategy, and
- Analyses litigation across different venues.

Legal research

ROSS (www.rossintelligence.com) is built on the IBM Watson cognitive computing platform. It is a legal-research tool that will enable law firms to cut the time spent on research, while improving results. It can understand questions in natural language and respond with a hypothesis, backed by references and citations. It provides only the most highly relevant answers, rather than thousands of results.

Vizlegal (www.vizlegal.com) is an Irish-based, subscription-based platform that helps with searching, tracking and saving judgments, filings and more. Via an API (application programming interface) integration, you can get access to more than 400,000 judgments and decisions (IE, UK, CJEU and SCOTUS). You can search and track Irish High Court cases, fully consolidated Irish High Court rules and practice directions, and it is mobile and tablet (Android and iOS) accessible.

Contract automation

Juro (www.juro.com) is a next-generation contract workflow platform, headquartered in London. It offers contract authoring, negotiation, and e-signing tools, while delivering AI-level analytics and data-extraction capabilities. Founded by an ex-Magic Circle lawyer, the platform covers the end-to-end contract process, whether through the Juro interface or via API. A key selling-point is combining the power of AI with a design-first approach – powerful technology that anyone, whether in a legal, sales or HR role, can use.

Due diligence

Kira Systems (kirasystems.com/solutions/due-diligence) undertakes M&A due diligence by identifying and analysing clauses in company documents. It uses machine-learning technology to automatically identify and extract information from contracts, and it is constantly increasing speed, accuracy and competency as a consequence of its experience and user feedback. It speeds up deals and give firms a competitive edge over others, especially in the bid process.

LONald is a robotic contract lawyer from Berwin Leighton Paisner (BLP) that supports the firm's real-estate practice, handling due diligence on property transactions. It's a software application that automates an aspect of legal work that was previously handled by junior associates or paralegals. Powered by RAVN's 'applied cognitive engine' (ACE), it automatically reads documents and unstructured data and extracts and summarises key information. It connects with the British Land Registry website and verifies the property details for large portfolio transactions, collating its findings in Excel spreadsheets. In just seconds, it completes work that would take an associate or paralegal days or weeks. It runs in the cloud, so lawyers interact with it directly without involving the firm's IT department. It learns and evolves with interactions and feedback from the user. g

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 Anthony O'Gorman, solicitor, formerly practising as Anthony F O'Gorman and Co, Solicitors, at St Michael's Road, Gorey, Co Wexford, and in the matter of an application by the Law Society of Ireland to the Solicitors Disciplinary Tribunal [3163/DT160/15 and High Court record 2017/11SA]

Law Society of Ireland (applicant)

Anthony O'Gorman (respondent solicitor)

On 18 May 2016, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in the following matters:

1) The respondent solicitor failed, in the course of and arising from his practice as a solicitor, to maintain (as part of his accounting records) proper books of account and such relevant supporting documents as to enable clients' moneys, handled and dealt with by the solicitor, to be duly recorded and the entries relevant thereto in the books of account to be appropriately vouched, and thereby failed to comply with regulation 12 of the *Solicitors Accounts Regulations 2001-2013*,
2) Between January 2013 and June 2014, the respondent solicitor transferred moneys by way of round-sum transfers in cash from the client account to the office account, and thereby created a deficit in the client account of €321,386 as of 30 June 2014, and thereby failed to comply with regulation 7(1) of the *Solicitors Accounts Regulations*,
3) Between January 2013 and June 2014, the respondent solicitor withdrew moneys totalling €321,386 by way of round-sum transfers from the client account to the office account, in breach of regulations 8(1) and/or 8(2) of the *Solicitors Accounts Regulations*,
4) Between January 2013 and June 2014, the respondent solicitor 'cashed' cheques totalling €154,876.46, some of which may have been used for costs but which were not properly recorded, in breach of regulation 12 and/or regulation 8(1) and/or 8(2) of the *Solicitors Accounts Regulations*,
5) In respect of a named matter, the respondent solicitor deducted costs from the client account prior to receipt of costs in the matter, thereby creating a debit balance of €31,376, in breach of regulation 7(2)(a) of the *Solicitors Accounts Regulations*,
6) As of 30 September 2014, the respondent solicitor allowed debit balances to arise in respect of a client ledger account, in breach of regulation 7(2)(a) of the *Solicitors Accounts Regulations*,
7) The respondent solicitor failed to complete balancing statements not later than two months after the balancing date to which they relate, and thereby failed to comply with regulation 12(7)(b) of the *Solicitors Accounts Regulations*,
8) In respect of the period 1 January 2013 and 30 June 2014, the respondent solicitor failed to have a formal written anti-money-laundering policy document in place, in breach of section 54 of the *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010*,
9) During the period between 1 January 2013 and 30 June 2014, the respondent solicitor failed to comply with the provisions of section 68(6) of the *Solicitors Amendment Act 1994*, in that clients were not informed of the costs recovered on a party-and-party basis and that the respondent solicitor had failed to provide a full account to clients.

The Solicitors Disciplinary Tribunal referred the matter to the High Court and, in record number 2017/11SA, the High Court made the following order on 23 March 2018:

1) The respondent solicitor pay to the applicant the sum of €14,500 then owing, arising from costs of the Solicitors Disciplinary Tribunal,
2) The matter stand adjourned to 3 April 2020, the court noting the undertakings given by the respondent solicitor not to apply for a practising certificate again and never to practise nor seek to practice as a solicitor, nor hold himself out as a solicitor entitled to practise.

The matter came back before the High Court on 8 June 2020. The High Court noted the renewed undertakings given by the respondent solicitor not to apply for a practising certificate again and never to practise nor seek to practise as a solicitor, nor hold himself out as a solicitor entitled to practise, and made the following order: that the applicant do recover against the respondent solicitor the sum of €31,766.55 in costs.

In the matter of Raphael M Gilmore, a solicitor previously practising as Gilmore Solicitors, 22 Bridge Street, Ringsend, Dublin 4, and in the matter of the *Solicitors Acts 1954-2015* [2019/DT29 and High Court record 2020 32 SA]

Law Society of Ireland (applicant)

Raphael Gilmore (respondent solicitor)

On 16 January 2020, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

1) Failed to keep proper books of accounts, in breach of regulations 13 and 25 of the *Solicitors Accounts Regulations*,
2) Allowed a deficit of €213,309 in client funds as of 11 November 2018,
3) Failed to stamp and register ten deeds, despite being in funds to do so,
4) Misled the Society and the Regulation of Practice Committee by producing a false closing accountant's report,
5) Misled the Regulation of Practice Committee and the Society at the meeting of 27 June 2018 by denying that the closing accountant's report that was produced was false,
6) Misled the Regulation of Practice Committee and the Society by producing false payment logs to indicate that the deficit in relation to a named client had been cleared, when this was not the case,
7) Misled the Regulation of Practice Committee by stating that the deficit in relation to another named client was cleared, when this was not the case,
8) Misled the Regulation of Practice Committee and the Society at its meeting of 6 December 2017 by indicating that the deficit was cleared,
9) Misled the Regulation of Practice Committee and the Society by indicating that nine

out of the ten deeds had been stamped, when this was not the case,
10) Allowed an undated letter from his reporting accountant to be submitted to the Regulation of Practice Committee and the Society in January 2018, which was later shown to be falsified,
11) Failed to abide by his commitment to the Regulation of Practice Committee to have cheques co-signed by his reporting accountant and instead falsified his reporting accountant's signature on client account cheques to circumvent this requirement,
12) Submitted a falsified office bank-account statement to his reporting accountant.

The disciplinary tribunal ordered that the Law Society bring its findings and report before the High Court.

On 27 July 2020, the High Court made orders that:
1) The respondent solicitor's name be struck off the Roll of Solicitors,
2) The respondent solicitor pay a sum in measured costs to the Law Society.

In the matter of Joanne Kangley, a solicitor previously practising as Joanne Kangley Solicitors at Anne Street, Baileborough, Co Cavan, and in the matter of the *Solicitors Acts 1954-2015* [2018/DT90 and High Court record 2020 33 SA]
Law Society of Ireland (applicant)
Joanne Kangley (respondent solicitor)
On 23 January 2020, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in her practice as a solicitor in that she:
1) Failed to maintain adequate records to vouch a payment to a named person of €30,000 from the client ledger, out of settlement moneys of a named client,
2) Made or allowed a misleading entry to be placed in the books of account and client ledger of that named client, indicating that a payment of €30,000 made to a named individual was a survey fee, when this was not true,
3) Produced an authority from her client dated 7 January 2016 purporting to authorise the payment of €30,000 to the named individual,
4) Described the deduction of €30,000 as the repayment of a loan or loans to a named individual, in circumstances where her client denied any knowledge of the named individual.

The tribunal ordered the Law Society to bring these findings and report before the High Court, with its recommendations as to sanction as follows:
1) The respondent solicitor be censured,
2) The respondent solicitor pay the sum of €5,000 to the compensation fund,
3) The respondent solicitor pay the sum of €30,000 as restitution or part restitution to the respondent solicitor's former client without prejudice to any legal right of such party,
4) The respondent solicitor to pay measured costs to the Law Society.

On 27 July 2020, the High Court, on consent, made orders as to sanction being those recommended by the tribunal, together with the measured costs of the tribunal and the High Court. g

LAW SOCIETY PROFESSIONAL TRAINING

Centre of Excellence for Professional Education and Lifelong Learning

To adhere to the latest government guidelines as well as keep our delegates, staff & colleagues as safe as possible, all cluster events due to take place in person will now exclusively be held online. In order to you provide you with the best possible experience, Law Society Finuas Skillnet and the local bar associations have decided that certain events, will now run in collaboration with others. **For the full list of 2020 Online Cluster events, please see below.**

DATE	TITLE & ASSOCIATION	LOCATION
9 October	**North East CPD Day 2020** with Cavan Bar Association, Drogheda Bar Association, Louth Bar Association & Monaghan Bar Association	Online
28 October	**North West General Practice Update 2020** with Donegal Bar Association, Inishowen Bar Association, Leitrim Bar Association, Longford Bar Association, Roscommon Bar Association & Sligo Bar Association	Online
6 November	**Essential Solicitor Update 2020** with Clare Bar Association , Limerick Bar Association & Mayo Solicitors' Bar Association	Online
13 November	**Practice Update 2020** with Carlow Bar Association, Kilkenny Bar Association, Wexford Bar Association & Waterford Law Society	Online
20 November	**Practitioner Update 2020** with Kerry Law Society & Southern Law Association	Online

CONFERENCES & MASTERCLASSES

DATE	EVENT	CPD HOURS	DISCOUNTED FEE*	FULL FEE
10 Sept – 8 October	**Planning & Environmental Law Masterclass 2020** Live Online & via Zoom	8 General plus 2 Management & Professional Development Skills (by eLearning)	€350	€425
17 & 24 September	**Personal Injuries Litigation Masterclass 2020** Online	7 General (by eLearning)	€350	€425
30 September	**The Business of Wellbeing Summit 2020** Streamed Live Online	3.5 Management & Professional Development Skills (by eLearning)	Complimentary	
22 October	**Property Law Update 2020** Lecture Theatre, Law Society of Ireland, Blackhall Place, Dublin 7 & Streamed Live Online	3.5 General (by eLearning)	€160	€186
29 October	**Litigation Annual Conference 2020** Lecture Theatre, Law Society of Ireland, Blackhall Place, Dublin 7 & Streamed Live Online	3 General (by eLearning)	€160	€186

OTHER COURSES

Available Now	**GDPR in Action: Data Security and Data Breaches** Online	1 Hour Regulatory Matters (by eLearning)	€95	
Available Now	**Covid-19 Safety, Health & Welfare at Work Masterclass (ReBound)** Online	CPD hours are dependent on the particular sessions completed	Complimentary	

For a complete listing of upcoming CPD courses , please visit www.lawsociety.ie/CPD or contact a member of the Law Society Professional Training team on:

P 01 672 4802 **E** Lspt@lawsociety.ie **F** 01 672 4890

WILLS

Atkinson, Walter (deceased), late of 8 Richmond Hill, Rathmines, Dublin 6, and 169 Windmill Park, Crumlin, Dublin 12, who died on 14 June 2018. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Drumgoole Solicitors, 102 Upper Drumcondra Road, Dublin 9; tel: 01 837 4464, email: info@drumgooles.ie

Buckley, Anne (deceased), late of Apt 7, Shelmartin House, Shelmartin Tce, Philipsburg Avenue, Dublin 3. Would any person having knowledge of a will made by the above-named deceased, who died on 13 June 2019, please contact Joseph P Kelly, James J Kelly & Son, Solicitors, Patrick Street, Templemore, Co Tipperary; tel: 0504 31278, fax 0504 31983, email: info@jjkellylaw.ie

Butler, Michael (deceased), late of Sonas Nursing Home, Tullow, Co Carlow, and formerly of 60 Maudlin Street, Kilkenny, who died on 1 May 2019. Would any person having knowledge of a will executed by the above-named deceased please contact Philip Comyn, of O'Connor Dudley & Comyn Solicitors, West End, Mallow, Co Cork, tel: 022 21467, email: oconnoranddudley@gmail.com

Coleman, William (deceased), late of Tinnock, Ballingarry, Thurles, Co Tipperary, who died on 23 March 2012. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Kelly & Ryan, Solicitors, Manorhamilton, Co Leitrim, email: jpfeeley@kellyryanmanor.com

County, Colm (deceased), late of 45 Ventry Park, Cabra, Dublin 7. 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

Cronin Hugh (deceased), late of 3 Glassheen, Glendale Road, Cork, Co Cork, and formerly of Carrick-on-Suir, Co Tipperary (retired teacher), who died on 16 May 2020. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact JG Skinner & Co, Solicitors, 3 Dr Croke Place, Clonmel, Co Tipperary; DX 22017 Clonmel; tel: 052 612 1123, email: info@jgskinner.ie

Flynn, Pauline (otherwise Eileen) (deceased), late of 5 Marian Grove, Mountmellick, Co Laois, who died on 13 April 2020. Would any person holding or having knowledge of a will made by the above-named deceased please contact Elaine Dunne & Co, Solicitors, 28 Church Street, Portlaoise, Co Laois; tel: 057 868 0603, email: info@elainedunnesolicitor.ie

Gilligan, Patrick Thomas (otherwise PT) (deceased), late of 60 The Cloisters, Terenure, Dublin 6W, who died on 7 April 2020. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Mullaneys, Solicitors, 1-2 Teeling Street, Sligo; tel: 071 914 2529, email: mullaneys@mullaneys.ie

Glienke, Maureen (deceased), late of 43 Salthill Apartments, Monkstown, Co Dublin, and formerly of 7 Burdett Avenue, Sandycove, Co Dublin, who died on 19 April 2020. Would any person having knowledge of a will executed by the above-named deceased or purported to have been made by the above-named deceased, or if any firm is holding same, please contact Barror & Company, 45 Lower Baggot Street, Dublin 2; tel: 01 661 0677, email: info@barrorandco.ie

Kenrick, John (deceased), late of Lower Abbey Street, Cahir, Co Tipperary, who died on 2 March 2020. Would any person who having knowledge of the whereabouts of any will made by the above-named deceased please contact Padraig Mullins of Gaffney Halligan & Co Solicitors, Artane Roundabout, Malahide Road, Artane, Dublin 5; tel: 01 851 2264, fax: 01 831 5726, email: pmullins@gaffneyhalligan.com

Kiernan, Margaret (deceased), late of Rostrevor Nursing Home, 66 Orwell Road, Rathgar, Dublin 6, and formerly of 62 South Circular Road, Dublin 8, who died on 10 December 2001. Would any person having knowledge of any will made by the above-named deceased please contact Eugene P Kearns, solicitor, 10 Lower Abbey Street, Dublin 1; DX 112011 Tal-

RATES

PROFESSIONAL NOTICE RATES

RATES IN THE PROFESSIONAL NOTICES SECTION ARE AS FOLLOWS:

- **Wills** – €155 (incl VAT at 23%)
- **Title deeds** – €310 per deed (incl VAT at 23%)
- **Employment/miscellaneous** – €155 (incl VAT at 23%)

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 October 2020 *Gazette*: 14 September 2020.**

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*.

bot St; tel: 01 874 2023, email: eugenekearns@yahoo.ie

Lang, Noel (deceased), late of Bardstown, Balrath Road, Kells, Co Meath, who died on 6 April 2020. Would any person having knowledge of the whereabouts of any will executed by the said deceased please contact Johanna Lacy Solicitors, Mespil House, Sussex Road, Dublin 4, within a period of one month from the date hereto; DX 117 004 Morehampton; tel: 01 231 4600, email: johanna@jlacy.ie

Lynch, Marie (deceased), late of 4 Rosebank Hall, 9th Lock Road, Clondalkin, Dublin 22, who died on 7 May 2020. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Marian Lynch; tel: 086 359 4151, email: lynchmarian59@gmail.com

McGuinness, Helen (deceased), late of 'Yalumba', Skerries Road, Lusk, Co Dublin, who died on 19 June 2020. Would any person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased please contact Christopher Horrigan, solicitor, Blake Horrigan Solicitors, McKeever House, 4/5 Usher's Court, Usher's Quay, Dublin 8; tel: 01 897 2130, email: law@blakehorrigan.com

Madden, Anastasia, ('Ansty') (deceased), late of Boulaling, Riverstick, Cork. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Flynn Solicitors, The Old Mill, Old Waterpark, Carrigaline, Co Cork; tel: 021 437 4666, email: info@flynnsolicitors.ie

Martin, Herbert (deceased), late of Killyfuddy, Newbliss, Co Monaghan, who died on 29 August 2018. Would any person having knowledge of the whereabouts of a will made by the above-named deceased on or around 10 April 1996, or any other will made by him, please contact Wright Solicitors, Mill Street, Monaghan, Co Monaghan (ref: MB/CM/M558); tel: 047 82132, fax: 047 84338, email: info@wrightsolicitors.ie

Moore, Philomena (deceased), late of 46 Mount Prospect Avenue, Clontarf, Dublin 3, who died on 2 June 2020. Would any person having knowledge of any will made by the above-named deceased please contact Dixon Quinlan Solicitors, 8 Parnell Square, Dublin 1; tel: 01 878 8600, email: michael@dixonquinlan.ie

Nee, Thomas Anthony (otherwise Tom) (deceased), late of 'Eireann Hollow', Newtowncashel, Co Longford, who died on 14 June 2020. Would any person having knowledge of a will executed by the above-named deceased, or if any firm is holding same, please contact Michael O'Dwyer, O'Hare O'Dwyer Solicitors LLP, Greenfield Road, Sutton, Dublin 13; tel: 01 839 6455, email: michael@ohareodwyer.ie

O'Brien, Anne Elizabeth (deceased), late of 98 Barton Drive, Rathfarnham, Dublin 16, who died on 7 May 2005, and who resided at Our Lady's Hospice, Harold's Cross, Dublin at the date of her death: Would any person holding or having any knowledge of a will made by the above-named deceased please contact Paula McHugh, solicitor, 14A Farrenboley Cottages, Milltown, Dublin 14; tel: 01 216 4488, email: paula@paulamchugh.ie

O'Brien, Sean (deceased), late of Tivelaney, Shantonagh, Castleblayney, Co Monaghan, who died on 13 June 2020. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Peter Coyle, Coyle Kennedy Smyth, Solicitors, Thomas Street, Castleblayney, Co Monaghan; tel: 0942 974 0010, email: pcoyle@ckslaw.ie

Phillips, Anthony (deceased), late of 30 Cedar Road, Archerstown Wood, Ashbourne, Co Meath, and formerly of 28 Glenayle Road, Cameron Park, Raheny, Dublin 5. Would any person having knowledge of a will executed by the above-named deceased, who died on 27 December 2016, please contact Mairead O'Reilly of Tallans Solicitors, New Town Centre, Ashbourne, Co Meath; DX 135001; tel: 01 835 2027, fax: 01 835 2029, email: mairead@tallans.ie

Smyth, Paul (deceased), late of 69 Dunsink Drive, Finglas West, Dublin 11, who died on 12 June 2009. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact HG Carpendale & Co, Solicitors, Suite 313, The Capel Building, St Mary's Abbey, Dublin 7; tel: 01 874 8455, email: info@hgcarpendalesolicitors.ie

Vystartiene, Daiva, (deceased), late of 11 Woodview, Cahir, Co Tipperary, who died on 29 December 2019. Would any person having knowledge of the whereabouts of any will executed by the said deceased please contact Johanna Lacy

Solicitors, Mespil House, Sussex Road, Dublin 4, within a period of one month from the date hereto; DX 117 004 Morehampton; tel: 01 231 4600, email: johanna@jlacy.ie

Wright, Catherine (deceased), late of either 26 Ashgrove Drive, Naas, Co Kildare, or 36 Ashgrove Avenue, Naas, Co Kildare, who died on 27 May 2020. 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

TITLE DEEDS

In the matter of the *Landlord and Tenant Acts 1967-1994* and in the matter of the *Landlord and Tenants (Ground Rents) (No 2) Acts 1978-2005* and in the matter of an application by Larkfield Limited, and in the matter of 26 Willow Road, Dundrum, Dublin 16

Take notice any person having an interest in the freehold estate or any intermediate interests of 26 Willow Road, Dundrum, Dublin 16, otherwise that plot of ground being a portion of the estate of the 'Trustees of the Hospital founded by George Simpson Esquire' known as 'Wyckham', situate in the barony of Rathdown and county of Dublin, which said plot of ground with dimensions and abuttals and boundaries is more particularly described and delineated on the map or plan endorsed upon indenture of lease dated 24 June 1957 and made between John Kiernan Barry of the one part and Patrick Jackson of the other part, and thereon surrounded by a red verge line and bounded by the north by site no 115, on the south by site no 117, on the west by site no 21, on the east by road known as Willow Road, and known as site no 116 Wyckham Park, Dundrum, in the county of Dublin, held under indenture of lease dated 24 June 1957 and made between John Kiernan Barry of the one part and Patrick Jackson of the other part for a term of 98 years from 1 January 1953, subject to the yearly rent of £25 and subject to the covenants and conditions therein.

Take notice that Larkfield Limited intends to submit an application to the county registrar for the county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and that any party asserting that they hold the fee simple or any intermediate interest in the aforesaid property are called upon to furnish evidence of title to the said property to the below-named solicitors within 21 days from the date of this notice.

In default of any such notice being received, Larkfield 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 the city of Dublin for directions as may be appropriate that the person or persons beneficially entitled to the intermediate interests including the fee simple in the aforesaid property are unknown or unascertained.

Date: 4 September 2020

Signed: Gleeson McGrath Baldwin (solicitors for the applicant), 29 Anglesea Street, Dublin 2

In the matter of the *Landlord and Tenant Acts 1967-1994* and in the matter of the *Landlord and Tenants (Ground Rents) (No 2) Acts 1978-2005* and in the matter of an application by Larkfield Limited and in the matter of 28 Willow Road, Dundrum, Dublin 16

Take notice any person having an interest in the freehold estate or any intermediate interests of 28 Willow Road, Dundrum, Dublin 16, otherwise that plot of ground being portion of the estate of 'the Trustees of the Hospital founded by George Simpson Esquire' known as 'Wyckham', situate in the barony of Rathdown and county of Dublin, which said plot of ground with dimensions and abuttals and boundaries is more particularly described and delineated on the map or plan endorsed upon indenture of lease dated 24 June1957 and made between John Kiernan Barry of the one part and Patrick Jackson of the other part and thereon surrounded by a red verge line and bounded on the north by a laneway, bounded on the south by site no 116, on the west by site no 23, on the east by Willow Road, and known as site no 115, Wyckham Park, Dundrum, in the county of Dublin, held under indenture of lease dated 24 June 1957 and made between John Kiernan Barry of the one part and Patrick Jackson of the other part for a term of 98 years from 1 January 1953, subject to the yearly rent of £25 and subject to the covenants and conditions therein.

Take notice that Larkfield Limited intends to submit an application to the county registrar for the county of Dublin at Áras Uí Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and that any party asserting that they hold the fee simple or any intermediate interest in the aforesaid property are called upon to furnish evidence of title to the said property to the below-named solicitors within 21 days from the date of this notice.

In default of any such notice being received, Larkfield 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 the city of Dublin for directions as may be appropriate that the person or persons beneficially entitled to the intermediate interests including the fee simple in the aforesaid property are unknown or unascertained.

Date: 4 September 2020

Signed: Gleeson McGrath Baldwin (solicitors for the applicant), 29 Anglesea Street, Dublin 2

In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenants (Ground Rents) (No 2) Act 1978* and in the matter of the workshop and yard at 408 Clonard Road, Kimmage, Dublin 12: an application by John Dunning and Declan Dunning

Take notice any person having any interest in the freehold estate or any intermediate interest in the property known as the workshop and yard at 408 Clonard Road, Kimmage, Dublin 12, which property forms part of a larger property known as 408 Clonard Road, Kimmage, Dublin 12, which was demised by an indenture of lease dated 30 July 1936 made between John Thomas Wilkinson of 44 Brian Avenue, Marino, of the first part and Patrick Brennan of no 120 Sundrive Road, Kimmage, of the second part, for the term of 299 years from 1 August 1936 and subject to a yearly rent of £10 thereby reserved, and therein described as a plot or parcel of ground situate at the corner of Poddle Park Road and a new road, in the parish of Crumlin, barony of Uppercross and county of the city of Dublin, and measuring on the north and south sides 36 feet, and on the east and west sides 120 feet, together with a premises erected thereon known as Brennan's Shop, Poddle Park Road, which property also forms part of a larger property demised by an indenture of lease dated 31 December 1935 made between Francis Leo Perry of the one part and John Thomas

Wilkinson of the other part.

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

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

Date: 4 September 2020.

Signed: Nelson & Co (solicitors for the applicants), Templeogue Village, Dublin 6W

In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenants (Ground Rents) (No 2) Act 1978* and in the matter of the property known as 39 Lower Clanbrassil Street Dublin 8: an application by Raymond Kavanagh to acquire the fee simple in the above named property

Take notice that Raymond Kavanagh intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest in the aforesaid property at 39 Lower Clanbrassil Street, Dublin 8, and any party asserting that they hold a superior interest in the aforesaid premises is called upon to furnish evidence of title to the aforementioned premises to the below-named solicitor for the applicant within a period of 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 for the county of the city of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the said premises is unknown or unascertained.

Date: 4 September 2020

Signed: Becker Tansey & Co (solicitors for the applicant), Jubilee House, New Road, Clondalkin, Dublin 22

In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenants (Ground Rents) (No 2) Act 1978* and in the matter of certain premises forming part of the TU Dublin lands at Kevin Street, Dublin 2: an application by GA Development Dublin ICAV

Any person having a freehold estate or any intermediate interest in the property identified in folio DN169055L of the register of leaseholders, being part of the Technological University Dublin (formerly Dublin Institute of Technology) lands at Kevin Street, St Peter's, Dublin 2, and being currently held by GA Development Dublin ICAV under an indenture of lease dated 20 May 1944 between Reginald Dashwood Tandy of the one part and Philip Rubenstein of the other part.

Take notice that GA Development Dublin ICAV, as lessee under the said lease, intends to apply to the county registrar for the county of Dublin for the acquisition of the freehold interest and all intermediate interests 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 same to the below-named within 21 days from the date of this notice.

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

Date: 4 September 2020

Signed: William Fry (solicitors for the applicant), 2 Grand Canal Square, Dublin 2; D02 A342

In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenants (Ground Rents) (No 2) Act 1978* and in the matter of certain premises forming part of the TU Dublin lands at Kevin Street, Dublin 2: an application by GA Development Dublin ICAV

Any person having a freehold estate or any intermediate interest in the property identified in

folio DN149392L of the register of leaseholders, being part of the Technological University Dublin (formerly Dublin Institute of Technology) lands at Kevin Street, St Peter's, Dublin 2, and being currently held by GA Development Dublin ICAV under an indenture of lease dated 20 May 1944 between Reginald Dashwood Tandy of the one part and Philip Rubenstein of the other part.

Take notice that GA Development Dublin ICAV, as lessee under the said lease, intends to apply to the county registrar for the county of Dublin for the acquisition of the freehold interest and all intermediate interests 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 same to the below-named within 21 days from the date of this notice.

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

Date: 4 September 2020

Signed: William Fry (solicitors for the applicant), 2 Grand Canal Square, Dublin 2; D02 A342

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* (as amended) and in the matter of lands at City Square, Watercourse Road, Cork, adjacent to Hillgrove Lane and Watercourse Road, and in the matter of an application by Lascara Limited.

Take notice that any person having an interest in the freehold estate or any intermediate interests in part of the property at City Square, Watercourse Road, Cork, adjacent to Hillgrove Lane and Watercourse Road, being a portion of the premises that is the subject of an indenture of ease dated 22 May 1855 between Sarah G Forbes and Betsy Harris of the one part and William Daly of the other part, described therein as "all that and those one piece or plot of ground containing to the Watercourse, 36 feet, and in depth to the rear 186 feet, be the same more or less, situate, lying and being in the North Liberties of the city of Cork, nearing and bounding on the north with concerns belonging to and now in the possession of John Delaney, on the south by Hillgrove Lane, on the west by concerns belonging to Mrs Byrns, and on the east by the Watercourse" for a term of 200 years from 29 September 1854 at a yearly rent of £9 (sterling) and subject to the covenants and conditions contained therein.

Take notice that Lascara Limited, which holds the property under the said lease of 22 May 1855, intends to submit an application to the county registrar for the county and city of Cork for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and that any party asserting that they hold the fee simple or any intermediate interest in the aforesaid property are called upon to furnish evidence of title to the said property to the below named solicitors within 21 days from the date of this notice.

In default of any such notice being received, Lascara Limited intends to proceed with the application before the county registrar for the county and city of Cork at the end of 21 days from the date of this notice and will apply to the county registrar for directions as may be appropriate on the basis that the person or persons beneficially entitled to the intermediate interests including the fee simple in the aforesaid property are unknown or unascertained.

Date: 4 September 2020

Signed: ByrneWallace (solicitors for the applicant), 88 Harcourt Street, Dublin 2

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2019* and in the matter of an application by R&G Administration Limited in respect of the premises known as 190 Upper Drumcondra Road, Dublin 9, county of the city of Dublin

Take notice that any person having a freehold interest or any intermediate interest in all that and those the property known as 190 Upper Drumcondra Road, Dublin 9, county of the city of Dublin (hereinafter known as 'the property'), being the land demised and held by a lease dated 22 October 1929 made between Dublin Commercial Public Utility Society Limited of the first part, Robert J Carolan of the second part, and the Right Honourable Lord Mayor, Aldermen and Burgesses of Dublin of the third part, for a term of 150 years from 25 March 1928, subject to the annual rent of eight pounds, 15 shillings, and subject to the covenants and conditions therein, should give notice of their interest to the undersigned solicitors.

Take notice that R&G Administration Limited, having its registered office at Marine House, Malahide Marina, Malahide, Co Dublin, being the person now entitled to the lessee's interest in the property, intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest in the property, and any party asserting that they hold a superior interest in the property is called upon to furnish evidence of their title to the property to the undersigned solicitors 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 the city of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interests including the freehold reversion in the property are unknown and unascertained.

Date: 4 September 2020

Signed: Shannons Solicitors (solicitors for the applicant), 29 Main Street, Swords, Co Dublin; 18592

In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of the property situated at River Street, Killenaule, Thurles, barony of Slieveardagh, county of Tipperary

Take notice any person having any interest in the freehold estate or any superior interest in the following property: the premises known as River Street, Killenaule, Thurles, Co Tipperary, held under indenture of lease dated 29 January 1914 and made between Thomas Albert Quin of the one part and Esther Quin of the second part, and Thomas William Noel Quin of the third part and Charles A Ryan of the fourth part, and Arnold Power of the fifth part and Denis J Kiely of the sixth part, and the Munster and Leinster Bank Limited, for a term of 200 years from 1 November 1913.

Take notice that Bridget M Farrell (otherwise Breda Farrell) intends to submit an application to the county registrar for the county of Tipperary 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 are called upon to furnish evidence of the title to the aforesaid property to the below named within 21 days from the date of this notice.

In default of any such notice being received, Bridget M Farrell (otherwise Breda Farrell) intends to proceed with the application before the county registrar at the end of the 21 days from the date of this notice and will apply to the county registrar for the county of Tipperary 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 each of the aforesaid properties are unknown or unascertained.

Date: 4 September 2020

Signed: Philip M Joyce & Co (solicitors for the applicant), Killenaule, Thurles, Co Tipperary

PRO BONOBO

THE DEVIL MAKES WORK FOR IDLE HANS

A German university is offering 'idleness grants' to participants willing to do nothing, as part of research for an exhibition on sustainability, *The Guardian* reports.

The University of Fine Arts in Hamburg said that three people would receive over €1,600 to engage in a specific form of 'active inactivity'. Applicants will be free to choose their own form of idleness – an activity that they must abstain from – and a panel of college officials will choose the three best pitches.

"Doing nothing isn't very easy," said the architect and design theorist behind the project. "We want to focus on 'active inactivity'. If you say you are not going to move for a week, then that's impressive. If you propose you are not going to move or think, that might be even better. This project is not a joke, but an experiment with serious intentions – how can you turn a society that is structured around achievements and accomplishments on its head?"

WAX ON, WAX OFF

Sneaky sneak-thieves snuck into a Japanese museum of ninja sneakiness and stole the equivalent of €8,028 within three minutes, news18.com reports.

Police say the thieves forced the entrance of the Iga-ryu Ninja Museum and made off with a 150kg safe containing admission fees from more than 1,000 visitors. The museum is dedicated to the history and practices of ninjas, who were known for their skills in espionage, assassination, and sabotage. 'Ninjutsu' – the art of stealth – is believed to date back to at least the 14th century.

ESPRIT DE CORPSE

Renovation work on a recently purchased mansion in an opulent area of Paris was halted after a dead body was discovered in the basement.

Papers led authorities to identify the man, who it's thought died 30 years ago. "He was someone of no fixed abode, with a drink problem," a police source told *Le Monde*. The mansion – once home to playwright and poet François Coppée – sold for €35.1 million last January at an auction that lasted just 15 minutes.

FLYING DUTCHMEN

Police in the Netherlands have found the biggest cocaine lab they've ever uncovered, at a former riding school in the northern village of Nivejeen.

Police made 17 arrests following the raid, the *Guardian* reports. Reporters heard that the facility could have produced up to 440 pounds of cocaine a day, based on the number of workers, its layout, and the equipment used.

Of the 17 people detained, 13 were Colombians, three were Dutch, and one was Turkish.

HIGH-CAPACITY MAGS BACK ON TABLE

Nothing to do with your glorious *Gazette*, but the Ninth US Circuit Court of Appeals has thrown out California's ban on large-capacity ammunition magazines, saying that the law violates the US Constitution's protection of the right to bear arms – that's guns, not the arms of actual bears.

The court said that the ban on magazines holding more than ten bullets "strikes at the core of the Second Amendment", the *New York Times* reports. One appellate judge noted that California passed the law "in the wake of heart-wrenching and highly publicised mass shootings," but said that isn't enough to justify a ban whose scope "is so sweeping that half of all magazines in America are now unlawful to own in California". g

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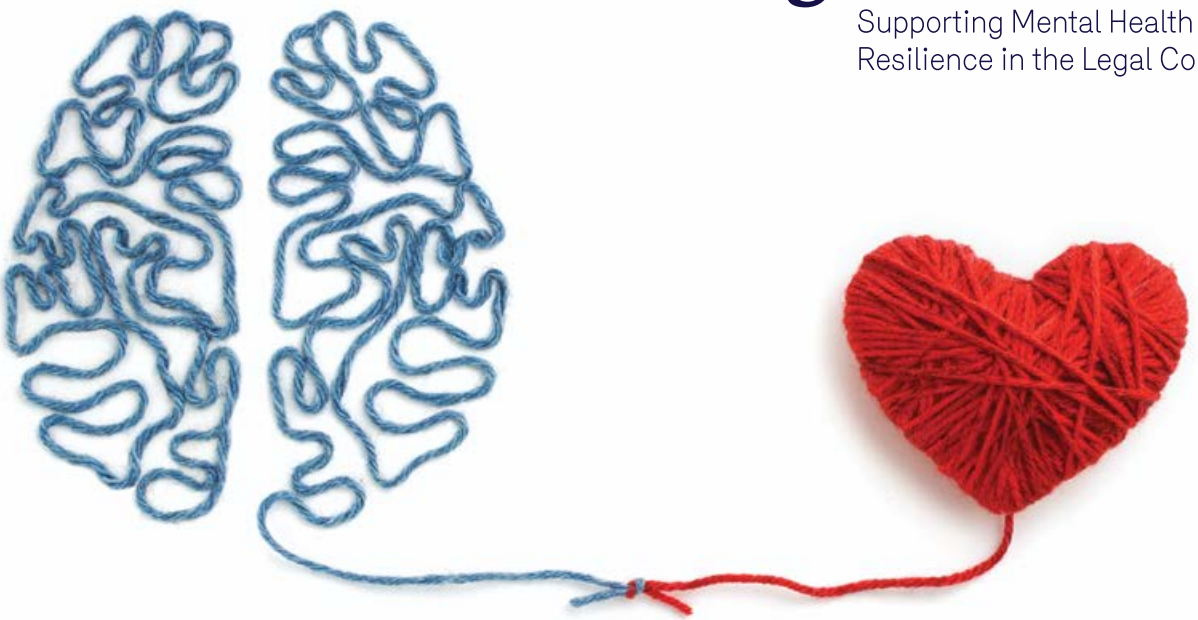

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After this initial conversation, solicitors may then avail of further low-cost supports – counselling, psychotherapy or psychological supports within a 30 kilometre radius of their home.

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