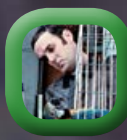




**Before you go-go**  
Brexit could have a huge impact on IP rights – to Ireland's gain?



**Pining for the fjords**  
There's a new dispute resolution framework in place for consumers in Europe



**Observe the sons of Erin**  
It wasn't just Ulstermen slaughtered at the Somme – solicitors were there too

# gazette

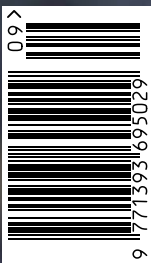
LAW SOCIETY

€4.00 AUG/SEPT 2016



## TRIAL BY COMBAT

New court rules aim to drive efficiencies

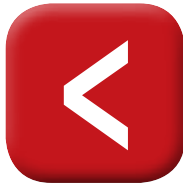




navigating your interactive  
**gazette**  
LAW SOCIETY



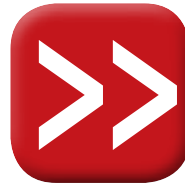
BACK TO  
CONTENTS  
PAGE



PREVIOUS  
PAGE



NEXT  
PAGE



NEXT SECTION/  
FEATURE

... enjoy

**IMPORTANT NOTICE FOR ONLINE READERS**

In order to enhance your enjoyment of the online, interactive version of the *Gazette*, readers are strongly advised to download the magazine first to their computer or device.

Prior to downloading the *Gazette*, make sure that you are using the most up-to-date versions of your favourite browser, for example, [Internet Explorer](#), [Safari](#), [Firefox](#) or [Chrome](#).



He's not doing his banking.

We are.



You free up time for what really matters when you let someone else take care of things – especially when you know they're experts. So why not do the same for your banking? From executing simple, day-to-day tasks to providing ongoing financial advice, we can help. Talk to AIB Private Banking today.

Call Michael Deegan, Client Director,  
on 086 835 2144 or visit [privatebanking.aib.ie](http://privatebanking.aib.ie)

 AIB PRIVATE BANKING

# A DATE WITH DESTINY

Just as I was beginning to think that my year would slip away without any part of the *Legal Services Regulation Act* being commenced, the Minister for Justice goes and spoils it all by designating 1 October next as the establishment date for the Legal Services Regulatory Authority!

She has commenced parts 1 and 2 of the act. But the remaining parts still remain to be commenced, so we will have to wait a further period before, for instance, the new cost provisions are brought into force.

I congratulate Dr Don Thornhill, the nominee of the Higher Education Authority, on being chosen by the Government as the first chair of the new authority. Indeed, I congratulate all the board members, whose appointments were approved by the resolutions of the Oireachtas in July.

Suffice to say at this stage that the Society's *Legal Services Regulation Act* Task Force is monitoring these developments very closely. There will, of course, be continuing communication with the profession in the days and months ahead.

## Brexit impact

In last month's message, I alluded to the increasing number of applications the Society has been receiving from our colleagues in England and Wales to be entered on the Roll of Solicitors here. To date, 104 applications have been received and processed from one

of the largest international law firms in the world, Freshfields Bruckhaus Deringer. When in London to attend functions at the Law Society of England and Wales towards the middle of July, the director general and I took the initiative of visiting this firm's headquarters. We met with the senior partner, the global managing partner, and several other leaders of the firm.

They explained that the solicitors transferring to the Roll in Ireland were members of the firm's anti-trust, competition and trade law team, based in their London and Brussels offices. They have decided to take out qualification in an additional jurisdiction as a precautionary measure in advance of Britain's exit from the EU, in case this might be necessary in the future to protect their status in dealing with EU institutions and their clients' right to legal privilege in the course of EU investigations. We were assured that the firm had no plans to set up an office in Dublin. The meeting was very positive and friendly. The firm was appreciative of the help and guidance it had received from Law Society personnel in matters of regulation, education, etc.

Speaking of Brexit, outgoing British Ambassador Dominick Chilcott delivered a fascinating address as guest speaker at the Law Society's annual dinner in Blackhall Place on 15 July. Ambassador Chilcott proved to be an outstanding representative in his time here in Ireland. We

wish him well in whatever role he may be assigned upon his return to London.

## Excellent relations

Another outstanding person whose term of office has come to an end is former chairman of the Bar of Ireland, David Barnville. I have been extremely fortunate to get to know David well in our overlapping tenures in office, and I wish him the very best for the future. As he leaves office, I am happy to report that relations between the two branches of the legal profession in Ireland continue to be nothing short of excellent. I wish his successor, Paul McGarry, an equally high level of success in the role.

## High-value links

Finally, I have been extremely fortunate to have represented the Law Society at the annual conferences of both the American Bar Association and the Canadian Bar Association in the past few weeks. It is very positive that the Law Society gets invited each year to these conferences. The high value of these links was never more aptly demonstrated than when we received the very public support of these organisations in difficult times, following the initial publication of the *Legal Services Regulation Bill* back in 2011.

The summer is now rapidly coming to an end and, as the bright evenings start to recede, just make sure you get out to enjoy some of what's left!



**“ The Minister for Justice has designated 1 October as the establishment date for the Legal Services Regulatory Authority ”**

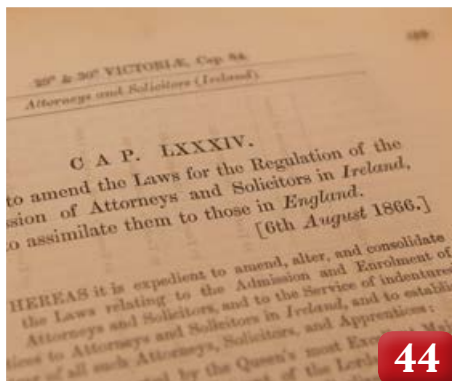
**Simon Murphy**  
President



30



40



44

# gazette

LAW SOCIETY

## cover story

### 26 Let the games begin!

Two new statutory instruments aim to drive court efficiencies – both pre-trial and during hearings. Elizabeth Mara wonders, however, whether they will come with a high price for both solicitors and their clients?

## features

### 30 Another fine mess!

The Brexit result continues to stun. In a two-part article, Helen Johnson and Jane Bourke consider the potential impact on intellectual property rights in both Britain and Ireland

### 36 The ultimate sacrifice

1916 is synonymous with the Easter Rising and its aftermath, but that year also saw the wanton slaughter of the Somme. Ciaran O'Mara remembers the solicitor dead



### 40 Raising the bar in information security

ByrneWallace has become the first large Irish law firm to be certified with an internationally recognised independent data security standard. Gordon Smith reports

### 44 New beginnings

An 1866 act laid the foundations for the development of the solicitors' profession and its present governance, and marked new beginnings for the Law Society. Daire Hogan opens the history books

## law society gazette

Blackhall Place, Dublin 7. Tel: 01 672 4828, fax: 01 672 4801, email: [gazette@lawsociety.ie](mailto:gazette@lawsociety.ie)

**PROFESSIONAL NOTICES:** send small advert details, with payment, to: *Gazette* Office, Blackhall Place, Dublin 7, tel: 01 672 4828, or email: [gazettestaff@lawsociety.ie](mailto:gazettestaff@lawsociety.ie).

**All cheques should be made payable to: Law Society of Ireland**

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

**HAVE YOU MOVED?** Members of the profession should send change-of-address details to: IT Section, Blackhall Place, Dublin 7, or to: [customerservice@lawsociety.ie](mailto:customerservice@lawsociety.ie)



**Law Society Gazette**

Volume 110, number 7

Subscriptions: €60 (€90 overseas)

**Editor:** Mark McDermott FIIC

**Deputy editor:** Dr Garrett O'Boyle

**Art director:** Nuala Redmond

**Editorial secretary:** Catherine Kearney

**Printing:** Turner's Printing Company Ltd, Longford

**Editorial board:** Michael Kealey (chairman), Mark McDermott (secretary), Patrick Ambrose, Aoife Byrne, Mairéad Cashman, Hilary Forde, Richard Hammond, Teri Kelly, Tracy Cruikshank, Patrick J McGonagle, Aisling Meehan, Heather Murphy, Ken Murphy, Andrew Sheridan



## regulars

### 4 Frontline

4 Nationwide

### 5 News

### 12 People

### 16 Comment

16 **Viewpoint:** Will the High Court's recent ruling on bulk copying of electronic data for off-site review stymie searches of electronic information after seizure?

18 **Viewpoint:** In Britain and the US, the use of external providers to carry out routine legal work has become the norm. Is it time for Ireland to catch up?

### 20 Analysis

20 **News in depth:** Where next for the in-house solicitor?

24 **News in depth:** New EU regulations for alternative and online dispute resolution for consumers

### 48 Books

48 *After the Rising: Soldiers, Lawyers and Trials of the Irish Revolution; Business Law in Ireland; and Electoral Law in Ireland*

### 51 Briefing

51 **Council report:** 15 July 2016

52 **Practice notes**

56 **Guidance notes**

59 **Legislation update**

61 **Regulation**

### 66 Professional notices

### 70 Final verdict

### 71 Recruitment



### Get more at

[www.lawsociety.ie](http://www.lawsociety.ie)

*Gazette* readers can access back issues of the magazine as far back as Jan/Feb 1997, right up to the current issue at [www.gazette.ie](http://www.gazette.ie).

You can also check out:

- Current news
- Forthcoming events, as well as the fully interactive version of the *Gazette* and the magazine's indices
- Employment opportunities
- The latest CPD courses
- ... as well as lots of other useful information

No material from the *Gazette* may be published or used without the permission of the copyright holder. The Law Society of Ireland can accept no responsibility for the accuracy of contributed articles or statements appearing in this magazine, and any views or opinions expressed are not necessarily those of the Law Society's Council, save where otherwise indicated. No responsibility for loss or distress occasioned to any person acting or refraining from acting as a result of the material in this publication can be accepted by the authors, contributors, editor or publishers. The editor reserves the right to make publishing decisions on any advertisement or article submitted to this magazine, and to refuse publication or to edit any editorial material as seems appropriate to him. Professional legal advice should always be sought in relation to any specific matter.



FSC independently certified wood and paper products used by the *Law Society Gazette* come from ecologically managed forests. Visit: [www.fsc.org](http://www.fsc.org)



PEFC certifies that wood and paper products used by the *Law Society Gazette* are sourced by suppliers from sustainable, managed forests. Visit: [www.pefc.org](http://www.pefc.org)



The *Law Society Gazette* is a full participating member of the Press Council of Ireland and supports the Office of the Press Ombudsman. This scheme, in addition to defending the freedom of the press, offers readers a quick, fair and free method of dealing with complaints that they may have in relation to articles that appear on our pages. To contact the Office of the Press Ombudsman go to: [www.pressombudsman.ie](http://www.pressombudsman.ie) or [www.presscouncil.ie](http://www.presscouncil.ie).



## nationwide

News from around the country



*Keith Walsh is principal of Keith Walsh Solicitors, where he works on civil litigation and family law cases*

### WEXFORD

## Summer riverside gathering in Wexford

**Damien Jordan of Redmond's Solicitors (Enniscorthy) and his colleagues in the Wexford Bar Association were recently joined by Judge Alice Doyle, Judge Barry Hickson and Judge Gerard Haughton, as well as the Wexford county registrar, Marie Geraghty, for their annual end-of-term dinner at the Riverside Park Hotel, Enniscorthy, on 21 July. It was a great success and well supported by Wexford solicitors.**

## Sligo's golf triumph over Mayo in Enniscrone



Sligo's Stanley Harte accepts the James P Gilvary Memorial Trophy from Bill Cashel on behalf of the team of Sligo solicitors who triumphed over Mayo at Enniscrone Golf Club recently

### MAYO

## Mayo solicitors stay afloat around Killala Bay



Among those taking part in the Moy expedition were Mary McGregor, Anne Clancy, Rosemarie Loftus, Brendan Donnelly (president, MSBA), Peter Loftus, Cathal Deacy, Alison Keane, Liam Sheridan and Marc Loftus

Secretary of the Mayo Solicitors Bar Association Alison Keane (Claremorris) brings 'Nationwide' news of a boating trip on the Moy Estuary and around Killala Bay on 22 July. The leisurely cruise was organised by Marc Loftus (Bourke, Carraig and Loftus, Ballina). Weather conditions

were not taxing, and the boats were stocked with plentiful supplies of food and refreshments, which made for a convivial afternoon. The solicitors' flotilla of three boats weighed anchor at Bessie's Bar in Kilcummin before finding sanctuary in Crockett's on the Quay in Ballina shortly before nightfall.

### SLIGO

## Callan Tansey welcomes summer interns

Callan Tansey (Sligo) welcomed Aileen Fitzmaurice and Rebecca McKittrick to its offices in June. The duo were participants in the Callan Tansey summer internship for 2016. Associate solicitor Caroline McLaughlin told 'Nationwide': "We decided to formalise our summer internship programme for 2016. As part of the process, we visited both the University of Limerick and NUI Galway meeting with graduates. We received a vast number of applications from universities within Ireland, and from as far away as Britain and the USA."

Aileen was the recipient of the Sichuan University Immersion Programme Scholarship 2016 and travelled to China in July.



Roger Murray (joint managing partner) welcomes Rebecca McKittrick (left) and Aileen Fitzmaurice to Callan Tansey

### CORK

## SLAGS on tour at Fota Resort Golf Club

David O'Mahony of the Southern Law Association Golf Society (SLAGS) has informed us of the society's summer outing to Fota Resort on 15 July. The captain reported good weather conditions that encouraged a great turnout of 30 golfers.

Sympathies were extended to the Clifford family on the passing of Judge John P Clifford, who was a very active member of the society and won many outings, including 'Golfer of the Year' on more than one occasion. *Ar dheis Dé go raibh a anam dílis.*

Congratulations were extended to SLAGS members John and Mary Jermyn, whose son John Jnr (also a SLAGS member) represented Ireland on the hockey team at the Rio Olympics.

The timesheet was booked nicely, with four of the more mature members starting off proceedings, including John Jermyn, Jim Brooks, Jim Sheridan and Niall Cronin. Four of their newer members brought the day's event to a close, including Eamon Shanahan BL, Ronan Barnes BL, Shane O Callaghan BL and David Fleming BL.

The eventual winner was Frank Buttimer, with an impressive score of 38 points. Frank Hannon came second (37 pts) while Stephen O'Donoghue finished third (36 pts).

'Nearest the pin' winner was Ken Hegarty, while the 'longest drive' award went to David Fleming.

**Winners:** (1st) Frank Buttimer, (2nd) Frank Hannon, (3rd) Stephen O'Donoghue BL, (4th) Eddie Cogan, (5th) David O'Mahony, (6th) Mike Shinnick and (7th) Kieran McCarthy.

The SLAGS's autumn outing will take place in Killarney Golf Club on Friday and Saturday 9 and 10 September.

## Annual Human Rights Conference 2016

The 14th Annual Human Rights Conference will take place on Saturday 8 October 2016 at Blackhall Place from 10am to 2pm.

Titled 'Human rights in health advocacy and domestic violence: time for a new Proclamation?', it is being presented by the Law Society's Human Rights Committee in partnership with Law Society Professional Training.

It is expected to attract a broad level of interest from legal practitioners, the public, academics, human rights



Mr Justice Gerard Hogan

organisations and civil society organisations. The aim is to bring these groups together to analyse the issues both legally and socially.

Speakers will include Mr Justice Gerard Hogan (Court of Appeal), Margaret Murphy (WHO Patients for Patient Safety), Prof Deirdre Madden (UCC), Rosemary Horgan (president of the District Court) and Dr Louise Crowley (UCC).

The event is free of charge, and four CPD points (by group study) are available. For more information, visit [www.lawsociety.ie](http://www.lawsociety.ie).

## Solicitors appointed to charity tribunal



Minister Frances Fitzgerald

Following the recent controversy in relation to charities, a number of lawyers have been appointed to the Charity Appeals Tribunal by the Minister for Justice, including solicitors Bill Holohan, Patrick O'Connor and Carol Fawsitt.

All members have been appointed to the tribunal for a five-year term, effective from 1 August 2016. The tribunal has five members, two of whom are required to be retired judges or lawyers with at least ten years' experience.

## Refugee sponsorship programmes conference



In advance of the UN high-level meeting on refugees and migrants in New York on 19 September, UNHCR Ireland is hosting a national conference on refugee sponsorship programmes in Dublin on Friday 9 September.

Speakers from Canada, Portugal and UNHCR's Bureau for Europe in Brussels will offer

their experience of organising and travelling on private sponsorship schemes that assist refugees and students who have fled war, conflict and persecution.

The conference will be held at Wood Quay Venue, Dublin City Council Civic Offices, Dublin 2. For information, visit [www.unhcr.ie](http://www.unhcr.ie) or tel: 01 631 4510.

## Managing partner survey 2017

The second financial and business structures survey of managing partners will be conducted in November. The survey seeks to examine the views of leaders within the sector as to the current year and the forthcoming year. The survey will repeat some core themes from last year's survey, in addition to tackling emerging

issues such as the implications of Brexit, succession planning, and the diversity of client base.

It is intended that the results of the survey will inform the Law Society and its members about the resilience and flexibility of the profession, and how the Society can further support firms.

## Judicial Studies conferences dates

The following are the dates for Committee for Judicial Studies conferences. Cases will not be listed for these dates, except on the instructions of the judiciary:

- The 2016 national conference will take place on Friday 18 November 2016. No cases should be listed for any court on Friday 18 November 2016, save on the instruction of the judiciary.

The following dates have also been booked provisionally:

- Friday 14 July 2017 for the Supreme Court, Court of Appeal and High Court conference,
- Friday 17 November 2017 for the national conference,
- Friday 16 November 2018 for the national conference,
- Friday 15 November 2019 for the national conference,
- Friday 20 November 2020 for the national conference,
- Friday 19 November 2021 for the national conference (please note that this date was originally given as 21 November 2021).

For firms with no nominated managing partner, you are urged to register a nominee for the purposes of the survey. For other firms, where your managing partner details are not registered or have changed over the past year, it is important to send your updates by emailing [mpsurvey@lawsociety.ie](mailto:mpsurvey@lawsociety.ie).





4 CPD Points -  
3 Management  
& 1 Regulatory

# Outsource

## ANNUAL CONFERENCE 2016



## Legal Practice Management Sustaining Profits, Improving Cashflow, and Protecting your Firm

- How the legal market has changed in terms of profitability, pricing and work areas in the past 12 months.
- How to make profits when fees are tight and overheads are rising.
- Cash flow management – how to fund your firm and avoid over-trading in the current economic phase.
- Right-sizing your firm – when to recruit, what work to take on, the hidden costs of growth.
- Recruiting, retaining and rewarding in the current employment markets.
- Employee development – the appropriate financial management roles and responsibilities for fee earners and support staff.
- Electronic banking – protecting your firm while banking efficiently.
- Solicitors PII renewal 2016 – what to expect and how to pitch your firm.
- Cyber liability – case studies – why Irish Law firms need to be covered.
- Partnership protection – the insurances and cover you need to have in place.
- Trends in buying, selling and merging practices.
- Where new business is coming from.
- How to market your firm? Step one, build your database.
- Developing your brand and telling your firm's story.
- Connecting through content; how to create thought-leadership and leads for your firm.
- How to use social media.

### Speakers:

David Rowe - Founder, Outsource

Bank of Ireland - Digital Security Specialist

O'Leary Insurances - Regional PII Director

John Hogg - Marketing Specialist, Enlighten IC (Dublin, Kilkenny only)

Susie Horgan - Marketing Specialist, Springboard PR & Marketing (Cork, Limerick, Galway only)

### Price

One delegate €110

2 delegates from the same firm €190

3 delegates from the same firm €250

Optional Extra – 2 hours online CPD re anti-money laundering/Solicitors Accounts Regulations €60 per person

### Venues & Dates

Dublin:	The Davenport Hotel	19th Oct 2016	9.00am to 1.00pm
Kilkenny:	Hotel Kilkenny	20th Oct 2016	9.00am to 1.00pm
Limerick:	The Savoy Hotel	26th Oct 2016	9.00am to 1.00pm
Cork:	The Imperial Hotel	27th Oct 2016	9:00am to 1:00pm
Galway:	The Courthouse	28th Oct 2016	2.00pm to 6.00pm
Dublin:	The Davenport Hotel	2nd Nov 2016	9.00am to 1.00pm

To book please email: [reception@outsource-finance.com](mailto:reception@outsource-finance.com)  
or telephone 01 6788490

Sponsored by

Bank of Ireland

For small steps, for big steps, for life



O'LEARY  
INSURANCE GROUP  
[www.olearyinsurances.ie](http://www.olearyinsurances.ie)

## Profession calls on EU to support legal-aid migrant crisis

The Irish legal profession has called on the EU to fund legal aid on the borders of the EU, describing the current situation as “acute”.

The Law Society and the Bar of Ireland have joined forces to support **European Lawyers in Lesbos** – a legal-aid initiative in support of refugees engulfed in Greece’s ongoing migrant crisis.

European Lawyers in Lesbos is a joint project of the Council of Bars and Law Societies of Europe (CCBE) and the German Bar Association. It has been developed to provide additional legal supports to the asylum process in Lesbos and to assist current and future asylum seekers arriving on the island.

David Conlan Smyth SC (chairman of the CCBE’s Migration Law Working Group) says: “Upholding the rule of law and access to justice are central tenets of the legal profession, which in this context should



Ken Murphy: ‘The legal help provided as part of this initiative will make all the difference for people seeking to start a new life in Europe’

mean access to a lawyer for all asylum seekers to receive individual advice about their legal options.

“The legal professions across Europe are cooperating to assist the Greek Bars to provide much-needed legal assistance during this unprecedented crisis.



David Conlan Smyth SC: ‘The legal professions across Europe are cooperating to assist the Greek Bars to provide much-needed legal assistances’

Lawyers from all over Europe will provide their services in Lesbos on a *pro bono* basis.”

Law Society director general Ken Murphy pointed out: “The Law Society and the council of the Bar of Ireland are acutely aware of the need for legal aid in places such as Lesbos, which

are ‘hotspots’ in the current migrant crisis. Access to justice, legal advice, and human-rights protection are crucial for those arriving at Europe’s borders in a particularly vulnerable position. The legal help provided as part of this initiative will make all the difference for people seeking to start a new life in Europe.”

However, Murphy stressed that the acute need for legal aid in Lesbos and elsewhere on the borders of the EU “cannot be met through funding from the legal profession. This need must be funded by the EU itself in the interest of justice and the rule of law.”

Solicitors and barristers in Ireland have come together to contribute €10,000 to the project, which will fund a number of international lawyers to travel to Lesbos to give legal assistance to asylum seekers. More information is available at [www.europeanlawyersinlesvos.eu](http://www.europeanlawyersinlesvos.eu).

## TY pilot programme attracts solicitors of the future



Pictured with the TY participants are PPC2 volunteers Aisling Woods, Fiona McNulty and Mary Cleare, John Lunney (programme coordinator) and Freda Grealy (head of the Diploma Centre)

This summer, the Law Society ran a pilot work-experience programme – ‘**Solicitors of the future**’ – for transition year students. In all, 27 students took part in the week-long initiative at Blackhall Place.

The aim of the programme is

to encourage students to consider a career in law and gain an insight into the role of solicitors. Participants were encouraged to recognise how the law can be relevant to their daily lives and to become aware of the legal processes, constitutional

principles, and values that underpin the rule of law.

Facilitated by Law Society staff, PPC2 trainees and a number of guest practitioners, the programme culminated with a mock trial and featured activities including a visit to the Criminal Courts of Justice, a

tour of commercial firms, a career seminar, workshops and expert panels.

Given its success, it is planned to run the programme annually. Full details will be available at [www.lawsociety.ie](http://www.lawsociety.ie) in the next school year.

## All in all, it's just another brick in the wall

New changes apply to certain construction contracts entered into after 25 July 2016, and a new statutory adjudication provision has been introduced under the *Construction Contracts Act 2013*, writes *Loughlin Quinn* (director of the Construction Contracts Adjudication Service).

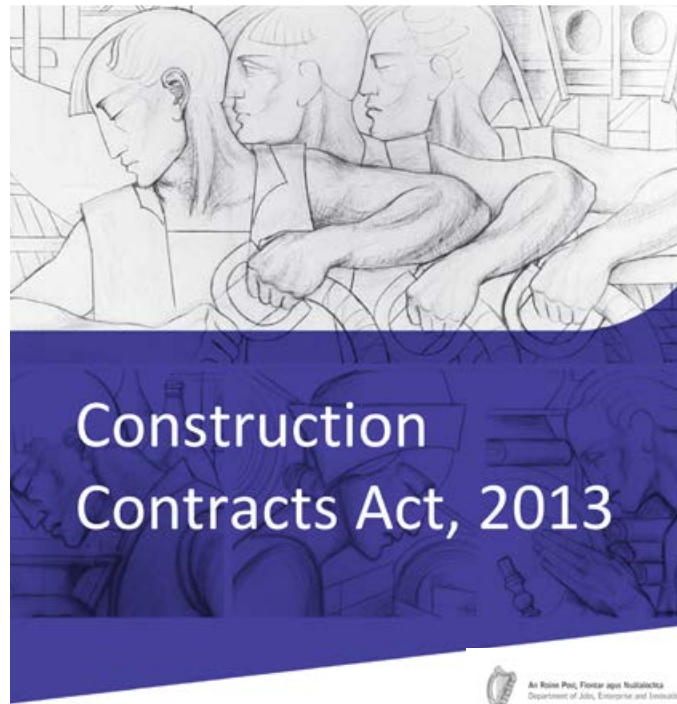
The long-awaited act came into effect in July, and the Minister for Employment and Small Business published a revised *Code of Practice Governing the Conduct of Adjudications* on 25 July. This was the last remaining function to be completed before the commencement of the legislation.

The purpose of the act is to regulate payments, particularly the timing of payments, in respect of construction contracts covered by the legislation. The act does not apply to all construction contracts. For example, it excludes contracts with a value of less than €10,000, as well as contracts relating to dwellings that are smaller than 200m<sup>2</sup>, where a party to that contract occupies or intends to occupy the dwelling as his/her residence.

Certain other types of contracts are excluded from the scope of the legislation, and the exclusions illustrate a pragmatic and flexible approach adopted during the passage of the legislation through the Oireachtas.

Construction contracts covered by the act must provide for:

- The amount of each interim and final payment or an



- adequate mechanism for determining those amounts,
- The payment claim date for each amount due or an adequate mechanism for determining it, and
- The period between the payment claim date and the date on which the amount is due.

A primary aim of the legislation is to provide statutory payment protections for subcontractors. Therefore, a subcontract must at least provide the following payment claim dates in accord-

ance with the schedule to the act:

- 30 days after the start date of the construction contract,
- Every 30 days up to the date of substantial completion, and
- 30 days after the date of final completion.

The date on which payment is due in relation to an amount claimed under a subcontract may not be later than 30 days after the payment claim date.

For the first time, a party to a construction contract will have the right to refer a payment dispute for adjudication. The

parties may jointly agree to appoint an adjudicator of their own choice. However, if the parties cannot agree on whom to appoint, an application may be made to the chairman of the Construction Contracts Adjudication Panel to appoint an adjudicator to the dispute from the ministerial-appointed panel of adjudicators.

An adjudicator is required to reach a decision within 28 days of the day the dispute is referred to him/her. This period may be extended to 42 days with the consent of the party referring the dispute to the adjudicator, or such longer period as is agreed by all of the parties to the dispute.

The decision of an adjudicator is binding on the parties unless they reach a final settlement of their dispute, or a different decision is reached in the event that the payment dispute is referred to arbitration, or if proceedings are initiated in a court in relation to the adjudicator's decision.

The code of practice is binding on all adjudicators operating under the act and is the product of a collaborative effort by the many stakeholder organisations most affected by the act. As adjudication in payment disputes under the act is new in Ireland, the code will likely benefit from revision based on experience over time. It is intended that a consultative forum will be convened in order to assess the impact of the legislation on the construction sector, in consultation with stakeholder organisations.

Adjudication in construction contract disputes has worked well in certain other jurisdictions, providing reduced cost and early dispute resolution interventions, and we look forward to a similar positive experience in Ireland.

For information on the full provisions of the act, together with the code of practice, see [www.djei.ie](http://www.djei.ie).

## Lobbying Act: enforcement provisions

The Department of Public Expenditure and Reform will begin a review of the *Regulation of Lobbying Act* soon. Practitioners are invited to provide their views, experiences, and suggestions for reform to Cormac O Culain (public affairs executive) at [c.oculain@lawsociety.ie](mailto:c.oculain@lawsociety.ie), who will be drafting the Law Society's response to the consultation. Matters that might be

considered include administrative burden, client confidentiality, and the practicality of certain provisions.

Practitioners should be advised that the enforcement and penalties provisions of the act will commence on 1 January 2017. Importantly, the reporting period to which enforcement will apply runs from 1 September 2016 to

31 December 2016. Accordingly, firms and practitioners – and in certain cases their clients – must now comply with registration obligations starting from this September to avoid penalties and fines.

An overview of the act, links and other resources are available on the Society's website at [www.lawsociety.ie/publicaffairs](http://www.lawsociety.ie/publicaffairs).

## Companies Act deadlines fast approaching

Under the *Companies Act 2014*, private companies limited by shares – which account for 85% of all companies on the register – will have to opt to convert to one of two new company types by 30 November.

The new company types are:

- Limited (LTD) – simplified company structure that operates under a one-document constitution (no objects). It may have only one company director and convene through written AGMs.
- Designated activity company (DAC) – operates under a two-document constitution (with objects).

Companies wishing to be converted to a DAC must, under the act, pass an ordinary resolution to convert by **31 August 2016** and should follow up by filing a Form N2 and amended constitution with the CRO as soon as possible thereafter.

Companies wishing to convert to an LTD and adopt a new constitution should do so as soon as possible (using the Form N1), as the CRO cannot guarantee that applications received at the very end of the transition period will be processed before 30 November.

Directors of companies wishing to be converted to a new company type are requested to consider this matter at the earliest opportunity and to file your conversion applications with the CRO in good time.

Companies that have not applied to the CRO to be converted to either a DAC or an LTD by the end of the transition period will be automatically converted to an LTD by the CRO after 30 November 2016.

Please see Leaflet No 31,

which is available at [www.cro.ie](http://www.cro.ie).

During the transition period, ‘guarantee’ companies and ‘unlimited’ companies, whether private or public, and which were incorporated under the previous *Companies Acts*, are obliged to fulfil the requirement under the *Companies Act 2014* to specify their company type at the end of their name. Until the end of the transitional period, which ends on 30 November, these companies can continue not to include the company type at the end of their name.

### Name change

If the company does not change the name of the company and submit an amended constitution using Form N3, the Registrar of Companies will change the name of the company and issue a new certificate of incorporation after the end of the transition period (30 November 2016).

The requirement for these companies to alter their name is being facilitated by the free submission of Form N3 to enable the name-change required. This can be done once (and only once) by any company where there is a requirement for the name change under the act.

Changes to the company name will affect company letterheads, stationery, and signage. Any documentation submitted to the CRO after the end of the transition period that bears the incorrect name will be refused.

Companies incorporated under the previous *Companies Acts*, which were exempted under section 24 of the *Companies Act 1963* as amended, will continue to be allowed to apply the exemption.

Please see Leaflet no 33, which is available at [www.cro.ie](http://www.cro.ie), for FAQs and common reasons for applications being returned.

### FOCUS ON MEMBER SERVICES

## Planning for retirement



**With the full State pension (contributory) currently paying approximately €12,000 annually, investing in a private pension is essential for those who want to ensure a comfortable income in retirement. The Law Society Retirement Trust Scheme, designed specifically for the needs of solicitors, can help you plan and save for retirement in a way that suits you.**

Your savings in the scheme are invested in your choice from a fund range, using high-quality global investment managers and investment strategies. Many of the investment managers used are not otherwise available to investors in the Irish pension market. Members can monitor their pension account via 24-hour online access.

Advantages of the scheme over a private pension arrangement include:

- High quality governance – an independent trustee governs the scheme, with input from a committee of Law Society members.
- Best-in-class investment management – dependence on any one fund manager is avoided. Fund managers are selected, monitored and, when necessary, replaced by the scheme’s investment consultants.
- Simple and transparent charges – the only charge is the annual management charge applicable to each fund used. There are no charges on contributions or on exit.

### Making a contribution

You can contribute by regular standing order or through single lump-sum contributions, subject to Revenue limits. There are no restrictions or penalties for changing the amount you contribute, or for ceasing contributions.

### Tax relief

You will receive tax relief on your contributions at your marginal rate of income tax, subject to Revenue limits. For a higher-rate taxpayer, a pension contribution of €1,000 has a net cost of €600, as €400 would be due in income tax on the €1,000 if it were paid as salary.

### Joining the scheme

The scheme is open to all Law Society members under the age of 75 years who are self-employed or who do not have access to an occupational pension plan. You must have a source of earnings from your profession or from non-pensionable employment.

### More information

You can learn more about the scheme in the booklet available at [www.lawsociety.ie/memberbenefits](http://www.lawsociety.ie/memberbenefits). Alternatively, contact the scheme administrator, Mercer, by telephoning the JustASK helpline at 1890 275 275 or email [justASK@mercerc.com](mailto:justASK@mercerc.com).

For more information about Law Society member benefits, including the Retirement Trust Scheme, contact Sinéad Travers (member services executive) at [s.travers@lawsociety.ie](mailto:s.travers@lawsociety.ie).

## Courts Service report 'reflects issues of the day'

The Courts Service annual report offers a "very detailed insight into what Ireland and her people were experiencing in 2015, in their work, commerce and relationships", according to Chief Justice Susan Denham.

Launching the report in mid-July, the Chief Justice said it reflected issues of the day, including "the citizen facing peril by the decisions of others, the business person facing difficulties in progressing a plan, or the individual facing the consequences of the weaknesses of the human condition".

Courts Service public relations officer Gerry Curran concurred: "The courts really do reflect what is happening in society ... and we have witnessed extraordinary pain landing in the courts following the crash."

The fallout of the 'Celtic Tiger' years, where many individuals and businesses became over-extended, continues to be a feature in the Circuit Court. However, the debt resolution mechanism introduced under the *Personal Insolvency Act 2012* is proving to be an effective tool, with debt-settlement



Mrs Justice Susan Denham: Report gives very detailed insight into Irish life

provisions increasing by 84% on the previous year.

Curran suggested that this figure shows that the "Victorian shame" of bankruptcy is being eroded. He added that all parties, including banks, were assuming greater responsibility. In all, 471 individuals were adjudicated bankrupt – with just 14 on foot of applications by creditors, and 457 by debtors (that is, self-adjudications).

Employment dismissals appeals were up a distressing 95% (to 135), prompting commentators

to wonder whether people were increasingly being treated badly in work or if, perhaps, workers were becoming more confident about speaking up and were not prepared to rest until they got satisfaction?

There was a 38% decrease in new possession cases, indicating that, at the very least, communications between debtors and lending agencies were improving.

A notable 43% increase in small claims (2,339) suggests that there is more activity, in

particular in the retail sector.

There was a 9% increase in divorce and an 11% increase in separation, following several years of static behaviour. The vast majority of the 4,319 applications for judicial separations were made by wives (Circuit Court 71%; High Court 91%).

This was echoed in the majority of the 4,314 applications for divorce (Circuit Court 54%; High Court 58%).

### By the numbers

There were 78 applications to dissolve same-sex partnerships – the majority in both the Circuit Court (71%) and the High Court (66%) being made by women.

In all, 2,827 parties attended mediation at Dolphin House, and there were 549 agreements reached. Safety and protection orders increased during the past five years by almost 33%, while domestic violence orders increased by 7% over the previous year.

A total of 45% of offences in the Circuit Court related to fraud/theft/robbery, and there were 12,310 orders in respect of drug offences – a 4% rise on the previous year.

In all, there were 14,119 serious crimes. In the Special Criminal Court, 23 cases were heard, resulting in three guilty pleas, four convictions, and 16 acquittals. The State withdrew a further six offences. Five terms of imprisonment were ordered – four for possession of firearms or explosives and one for murder.

Interpretation costs are down 75% over the past seven years – from €3.75 million to €900,000 – indicating that non-English speakers are no longer as heavily represented in the courts system.

There was a 43% decrease in the number of orders made by the courts relating to drink-driving offences in the last three years. Dangerous driving orders remained largely the same, at 3,923.

## New partner for DWF

Legal business **DWF** has appointed corporate partner **Ross Little** as the firm's new executive partner of its Dublin office. Ross joined DWF in April 2016 from William Fry. As executive partner, he will take responsibility for driving growth and in raising the firm's profile.

DWF's Dublin office advises international and Irish insurer clients on claims and coverage issues, employment matters and commercial litigation disputes, and launched a corporate practice earlier this year. It is now looking to grow its commercial services offering in financial services, insurance and retail, as well as food and hospitality.



## LawCare is ready to lend a listening ear

LawCare – the charity that provides support to the legal community – held a helpline volunteer training day in Dublin in July. The helpline is at the heart of what LawCare does and provides an invaluable support service to those in the legal community who need a listening ear.

Trained staff are assisted in answering helpline calls by a valuable network of volunteers in Ireland and Britain with a background in the legal profession, and who provide their services for free.

LawCare provides helpline training to all volunteers, giving detailed background on the charity, its purpose, how the helpline works, and how volunteers can best support callers.

The volunteers also learn how to answer the phone appropriately, reassuring the caller that everything said is completely confidential, and then listening empathetically, asking open questions, and discussing the problem. Calls are normally limited to one hour and are



PIC: DAVID MURPHY

Gabrielle Wolfe (volunteer), John Garahy (volunteer), Sarah Hill (Helplines Partnership), Anna Buttimore (LawCare), Mary Jackson (LawCare), Christine Scott (volunteer) and Louise Campbell (Law Society)

summarised at the end of that time, with an invitation to the caller to call back at any time.

“The helpline training day was facilitated by the Law Society through Louise Campbell, one of our two Irish trustees,” explains Mary Jackson (LawCare coordinator for Ireland). “We had three volunteers on the day who asked

excellent questions and provided reflections and suggestions throughout.”

During training, LawCare gave an overview of its service and its method of working, while there was an opportunity for volunteers to try out their skills via four case studies.

Sarah Hill of the Helplines Partnership – the membership

body for organisations that provide helpline services in Britain and internationally – moderated the second part of the programme. This section focused on the practicalities of working on a helpline, with emphasis on the tone of voice, words used, active listening skills, questioning techniques, how to end calls, and how to cope with difficult ones.

Mary Jackson said: “There was a great sense of camaraderie, and we’re confident the Irish helpline is in safe hands.”

LawCare’s freephone helpline is 1800 991 801. It offers free, confidential and personal help with health issues like stress, depression, addiction, and related emotional problems. It is available 365 days a year, Monday to Friday, 9am to 7.30pm, and on weekends/British public holidays from 10am to 4pm.

LawCare can also be contacted by email at [help@lawcare.ie](mailto:help@lawcare.ie) (for pastoral support) and [admin@lawcare.ie](mailto:admin@lawcare.ie) (for administrative matters). For more information on LawCare, see [www.lawcare.ie](http://www.lawcare.ie).

## HLJ 2016 edition features diverse range of legal topics

The *Hibernian Law Journal* (HLJ) officially launched its latest edition on 26 July 2016 at Blackhall Place. Established in 1999, the HLJ is an academic publication produced by trainee and newly qualified solicitors, with a focus on current legal issues in Ireland.

This year’s articles deal with topics as diverse as the legal definition of ‘cyber use of force’ to the *Ashers Bakery* case. The journal was launched by the HLJ’s ‘judge-in-residence’ Mr Justice Garrett Sheehan.

Mr Justice Sheehan congratulated the authors for their contribution to contemporary legal debate in Ireland and for the high standard of scholarship in this year’s edition, and he



Christopher McCann (editor-in-chief), Mr Justice Garrett Sheehan (judge-in-residence) and TP Kennedy (director of education, Law Society)

noted the valuable work of the HLJ in providing a forum for the discussion of today’s legal issues.

The prize for best article was awarded to Aoife O’Reilly for ‘The European Convention on Human

*Rights* and socioeconomic rights claims: a case for the protection of basic socioeconomic rights through article 3’.

Before closing formalities, this year’s editor Christopher McCann passed on the mantle to Garret Sammon. The HLJ is currently recruiting editorial committee members. Interested candidates should contact Garret Sammon at [hibernianlawjournal@gmail.com](mailto:hibernianlawjournal@gmail.com).

The committee is now accepting submissions for the 2017 edition. Further details can be found at <http://hibernianlawjournal.com>.

Contact editor@hibernianlawjournal.com for subscription information. The journal is also available on HeinOnline and Westlaw.ie.

## Brian's golden moment marked by Drogheda solicitors



(Seated): Brian B McD Taylor with Colm Berkery (president, Drogheda Bar Association) and colleagues at an event to mark Brian's 50 years as a solicitor

The Drogheda Solicitors' Association held its AGM and CPD evening at Scholars Townhouse Hotel in Drogheda on 26 May – one of the best attended AGMs in recent years, writes *Dorothy Walsh*.

Before the formal business got underway, association president Colm Berkery delivered an

informative lecture on the *Legal Services Regulation Act 2015*, which was followed by strong member participation.

The president marked the long service of Brian G McD Taylor (McKeever Taylor) to the legal profession with a special presentation. Brian has 50 years of service on the clock, having

qualified in 1966.

He received his parchment scroll on enrolment from his father, Bertie Taylor, then president of the Incorporated Law Society of Ireland. (Bertie continued to practise until his death in 1990 at the age of 83, having been a solicitor for 60 years.)

The Taylor legal dynasty continues. Brian's son Robert is a partner in the firm, while daughter Lucinda is a non-practising solicitor.

The *Gazette* has been informed that the above photo will grace the walls of the Bar Room of Drogheda's new courthouse, which is due to open in 2017.

## New notaries public celebrate graduation



Photographed at the graduation ceremony of the postgraduate Diploma in Notarial Law and Practice of the Faculty of Notaries Public in Ireland/Institute of Notarial Studies, held on 1 July at the Law Society, were the Chief Justice Susan Denham, Michael V O'Mahony (dean of the faculty), Dr Eamonn G Hall (faculty director of education), David Walsh (registrar), members of the governing council of the faculty/institute and the graduands

# A successful day at the races in the City of the Tribes



The Galway Solicitors' Bar Association held its annual day at the races on 25 July 2016. At the meeting were Vincent Shields, Judge Brian O'Callaghan (Circuit Court) and James Seymour (president, GSBA)



James Seymour (president, GSBA) and Francis Treanor BL

ALL PICS: MARTINA REGA



Solicitors Louisa McKeon, Brendan O'Connor and Sinead Manning



Michael Clancy BL, Fiona O'Donnellan and Edward Molloy



James Seymour, Elaine McCormack, and District Court Judge Aeneas McCarthy



Grainne Quinn BL, Aileen Feely and Donna Naughton





EISNERAMPER

IRELAND



AUDIT | TAX | ADVISORY | OUTSOURCING



# Specialist Accountants

**When you need specialist insight into Financial Services, International Trade and Government, our knowledge is deep and our partner led approach is personal.**

Our niche focus in these three areas is what makes us unique. When it matters, choose an expert.

---

*EisnerAmper Ireland is the Irish owned member of EisnerAmper Global, a specialist network of independent member firms operating via global financial trading hubs.*

*“Our niche market focus ideally positions us to assist you and your clients with the challenges and opportunities presented by Brexit.”*

**Frank Keane**  
*Head of International Trade*

[www.eisneramper.ie](http://www.eisneramper.ie)

FINANCIAL SERVICES – INTERNATIONAL TRADE – GOVERNMENT

© 2016 EISNERAMPER IRELAND. ALL RIGHTS RESERVED.

## Southern Law Association honours golden servers



PICT: TONY O'CONNELL

The Southern Law Association held a lunch in honour of members in practice for 50 years or more on 27 May 2016. The event was hosted by SLA president Don Murphy at the Hayfield Manor Hotel

## Service provider to the legal profession award



The Law Society's Diploma Centre recently received the Service Provider to the Legal Profession Award at the Irish Law Awards. (Front, l to r): Aedin Twamley, Siobhan Phelan, TP Kennedy, Freda Greal, Caroline Foley and Rebecca Raftery. (Back, l to r): Keith Kierans, Sharon Hanson, John Lunney, Rory O'Boyle, Deirdre Flynn, Claire O'Mahony, Hazel Bradley and Steve Collender

## viewpoint

## DEATH KNELL FOR DAWN RAIDS?

The High Court's recent ruling in *CRH v CCPC* that bulk copying of electronic data for off-site review violates privacy rights will stymie searches of electronic information after seizure, argues **Philip Andrews**



Philip Andrews heads the competition, EU and regulated markets group at McCann FitzGerald and recently co-authored *Modern Irish Competition Law* (Wolters Kluwer)

When exercising a search warrant, Irish law enforcement agencies are not allowed to bulk copy electronic data (including entire email accounts) for later off-site review by investigators, according to a recent ruling of the High Court.

Bulk copying of electronic files “will almost certainly, perhaps inevitably” capture material outside the scope of any investigation, the court found. Accordingly, searching that material would be “an entirely unwarranted – not to mention egregious – transgression of the right to privacy” in breach of the *European Convention on Human Rights* (and, for that matter, the Irish Constitution).

What does this mean for corporate investigations? One possibility may be longer searches, to allow on-site sifting of digital files. But the court's clear and repeat identification of the searching of emails as an unlawful privacy intrusion (rather than seizure or copying, oddly considered lawful by the court) suggests that even on-site e-searching may be circumspect. As if to emphasise the point, the court proposes “an entirely reasonable and workable solution” that is “perfectly sensible and practically operable” – independent third-party assessment of e-documents for relevance to the investigation.

One thing's for sure: the verdict won't make investigations easier for Irish investigators. If a law-enforcement agency can't ultimately decide what's relevant to its investigation – at least, not without reference to a third party (any determination of which will likely be

subject to challenge) – won't this stymie investigations?

As the law enforcement agency involved, the Competition and Consumer Protection Commission (CCPC) argued at trial that “it would be absurd to allow the subject of a criminal investigation to decide what material is relevant, instead of the body that is given a statutory function to investigate”.

The CCPC is to appeal the [5 April 2016 judgment](#) and seems alive to the judgment's implications. In a statement the same day as the High Court ruling, the agency said: “In light of the significance of the judgment, and having regard to our statutory functions and remit, the CCPC is considering carefully the implications of the judgment and the next steps that it will take.”

**The court's clear and repeat identification of the search of emails as an unlawful privacy intrusion suggests that even on-site e-searching may be circumspect**

#### Search warrants

In Ireland, breach of EU and national competition law (including abuse of dominance) is a criminal offence. So CCPC officers need a search warrant to conduct a dawn raid, whether investigating EU or Irish competition law. (In the dawn raid giving rise to these proceedings, *CRH v CCPC*, the CCPC investigation concerned possible breaches of both EU and Irish competition law.)

With a valid search warrant, CCPC officials can lawfully enter and search a business premises. In addition, a valid search warrant allows CCPC officials to take copies of business ‘records’ – broadly defined (as affirmed by the Competition Court) to include “an electronic file, including an email box or a network file”.

To get a search warrant, CCPC officials must persuade a district judge that there are reasonable grounds to suspect that evidence of a competition law

violation may be found there. Typically, CCPC officials do this in what is called a ‘sworn information’: as the name suggests, this is a sworn statement by a CCPC officer of reasonable grounds to suspect that there's evidence at the premises.

Importantly, even though *ex parte*, grant of a search warrant is a judicial act in Irish law – Irish superior courts have repeatedly affirmed this: it is not a rubber-stamp exercise. The district judge must reasonably form an opinion that a warrant should issue.

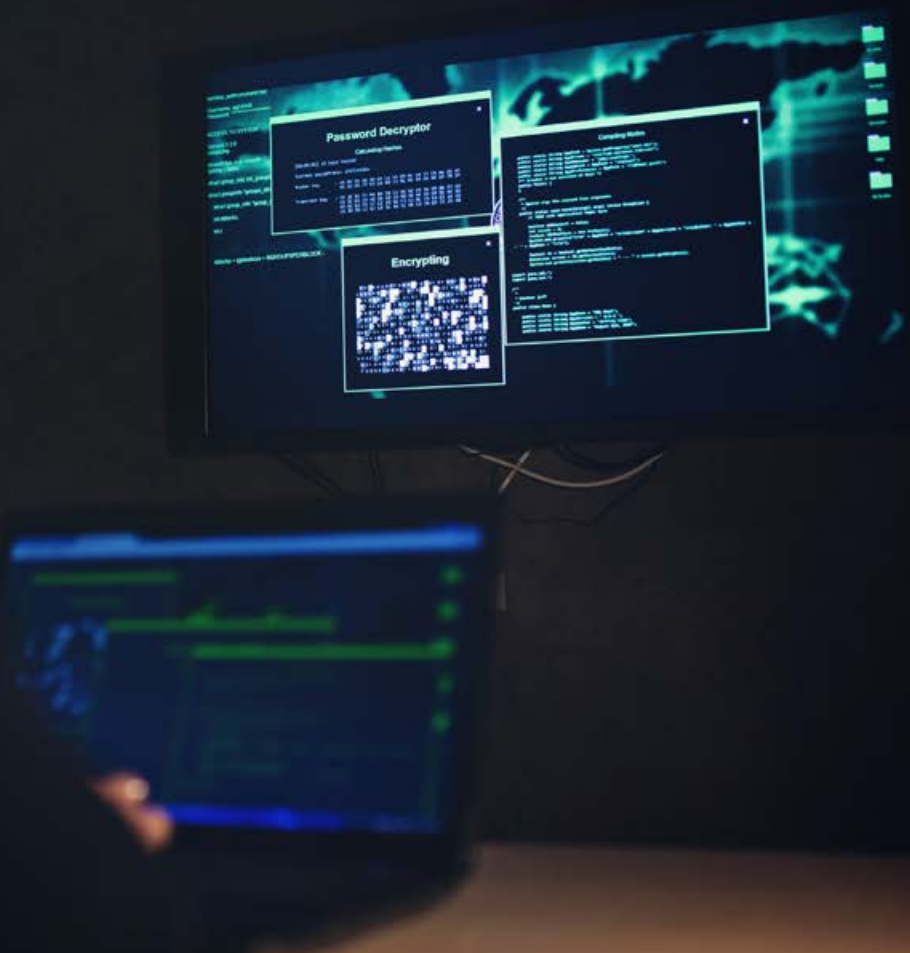
#### CCPC practice on dawn raids

During Irish dawn raids, CCPC practice is to copy digital files – including, frequently, entire email accounts (both in and outboxes) of executives – for off-site sifting at a later date. Thus, the CCPC's senior IT officer for digital forensics testified at trial that agency practice is “where possible, to remove electronic material from a premises for review off-site”.

In line with this practice, in the dawn raid giving rise to the Competition Court proceedings, CCPC-authorized officers copied “the entirety of the email box” of an executive. According to the court, “some of the emails and attachments in that email box almost certainly were not caught by the terms of the warrant”. At trial, the CCPC conceded as much, accepting as “a matter of high probability” that some electronic material seized would not relate to the investigation.

The CRH executive whose emails were copied had worked in a number of CRH subsidiaries (other than the legal entity named on the search warrant (Irish Concrete Limited) over the period for which emails were copied by the CCPC. There was some dispute as to whether, after resigning as managing director of ICL, the executive maintained a role in ICL during the relevant period.

It should follow that bulk seizure of emails is unlawful and, in practice, could be resisted by defence lawyers at a dawn raid



PIC: GETTY IMAGES

The court nevertheless found that “it is nearly, if not actually, inevitable that even the best-run ‘dawn raids’ will see a seizure of some materials that ought not to have been taken”. Hence, whether or not the executive did have some further involvement in ICL, the ruling would seem to apply generally to Irish search-and-seizure operations – at least insofar as a search involves bulk copying of electronic documents.

In sworn testimony, the CCPC’s data forensics officer explained the reasons for the CCPC practice as follows. First, it minimised disruption to the business under investigation. According to the data forensics officer, the CCPC “does not want to impact a target business to the extent to which it cannot carry out daily business activities during the course of a search”.

Second, the CCPC officer

explained that forensic examination of emails “must be conducted in a controlled environment”. In addition, the CCPC argued that the practice avoided delays that might arise due to encryption of documents and, further, that the practice was in line with international best practice (citing Britain’s Association of Chief Police Officers *ACPO Good Practice Guide for Digital Evidence*, as well as the US Department of Justice *Forensic Examination of Digital Evidence: A Guide for Law Enforcement*).

While the court accepted the CCPC’s *bona fides* in seeking to conduct a lawful and proportionate search, the court nevertheless granted an injunction restraining the CCPC from accessing, reviewing, or making any use whatsoever of any such material pending agreement, to both parties’ mutual satisfaction, on a

process to sift out material that ought to have been taken from that which ought not.

### Squaring the circle

One challenge with the judgment is how to reconcile some key conclusions. One such conclusion is that “certain materials seized by the [CCPC] ... were not covered by the terms of the applicable search warrant and were done without authorisation”. On that basis, the court declared that the CCPC acted *ultra vires* in copying that material. The court went so far as to state that “an unwarranted intrusion of privacy at the office seems to this court to be every bit as bad as the unwarranted search of a personal or home computer”.

It should follow that bulk seizure of emails is unlawful and, in practice, could be resisted by defence lawyers at a dawn raid.

Throughout the judgment,

however, the court seems to consider that the dawn raid (and the copying of the executive’s email inbox) was conducted lawfully. Thus, the court saw no difficulty “in the conduct of the ‘dawn raid’ *per se*, nor even in the inadvertent taking away of information that is not covered by the warrant”. Copying of material outside the scope of the search is “almost, if not entirely, inevitable in the course of such a ‘raid’” and “all but, if not entirely, inevitable”. “But such is life,” the court states.

Also of possible interest is the court’s *obiter* view, when considering whether the CCPC’s copying of disputed material was consistent with data protection rules, that “it was, of course, open to the persons present at [the business] premises ... to refuse to release to the commission some or all of the personal data that was being sought by the authorised officers of the [CCPC]”.

## viewpoint

## THE GUY IN MUMBAI?

In Britain and the US, the use of external providers to carry out routine legal work has become the norm. It's time for Ireland to catch up, argues **Dan Fox**



Dan Fox is CEO of Johnson Hana International

As the legal sector looks to the future, the identification and delivery of innovative legal services is becoming increasingly important. However, the provision of such legal services has yet to be embraced in Ireland in the same manner as in Britain and the United States, where the use of external legal providers to carry out routine legal work has become the norm. The outsourcing of process-driven legal work – such as the review of documentation relating to the discovery process – is often referred to as ‘legal process outsourcing’ (LPO).

The idea of outsourcing legal work gained significant ground in the early 2000s, when Hogan Lovells and British American Tobacco used the model to manage their discovery obligations during ‘big tobacco’ litigation. After this, and the corresponding emergence of LPO providers, the drive to find alternative ways to reduce legal spend for process-driven work accelerated rapidly.

LPO includes both on-shore and off-shore outsourcing. Onshore LPO involves the outsourcing of legal work to providers based within the same country, and provides for lawyers being seconded to organisations and law firms to carry out process-related review work.

Off-shore outsourcing involves the

outsourcing of legal work to providers based in other jurisdictions. While the latter is used by some firms in the US and Britain as a highly cost-effective alternative, some may be reticent to engage with off-shore LPO, having regard to the loss of full supervisory control, and language and time-zone barriers.

LPO may be further broken down to include:

- Direct contact – where firms requiring legal services directly approach the provider of outsourcing services,
- Managed outsourcing – where the firm engages a legal process outsourcing vendor and retains a traditional law firm to coordinate the vendor's activities and ensure quality control,
- Required outsourcing – where the firm mandates a certain level of outsourcing in the legal process, either to reduce costs or to fulfill statutory requirements, and
- Multi-sourcing – which involves segregating the work assigned to LPO providers in order to reduce risk and

take advantage of different providers' strengths, having regard to their jurisdiction and capability/capacity.

The LPO off-shore market is well established in India (largely because of its common law system) and is growing in Argentina, Australia, China, France, the Philippines, Singapore, South Korea and Ireland.

#### Uncharted territory

While Ireland has yet to embrace LPO in the same way as other jurisdictions, clients and firms find themselves faced

with the same challenges as their international counterparts. Lending institutions, law firms, and large corporates are seeking ways of tackling the headaches associated with due-diligence related work, discovery review and data-related compliance obligations.

Ireland is still recovering from the property crash in 2008, with banks and NAMA selling off Irish property portfolios to foreign investors. Loan portfolio sales are process driven and labour intensive and can cover a wide spectrum of work, from having lawyers sifting through deeds and security documents, to tracking and locating deeds held by various borrowers. Loan portfolio sales can vary in size and magnitude, and law firms and organisations can find themselves under-resourced to deal with the more extensive sales processes.

#### Data protection

The need to safeguard data has taken centre stage in light of the *Schrems* decision (Case C-362/154, 6 October 2015), where the CJEU held that the ‘safe harbour’ mechanism that facilitated the transfer of data between the EU and the US was invalid.

Off-shore outsourcing involves the outsourcing of legal work to providers based in other jurisdictions

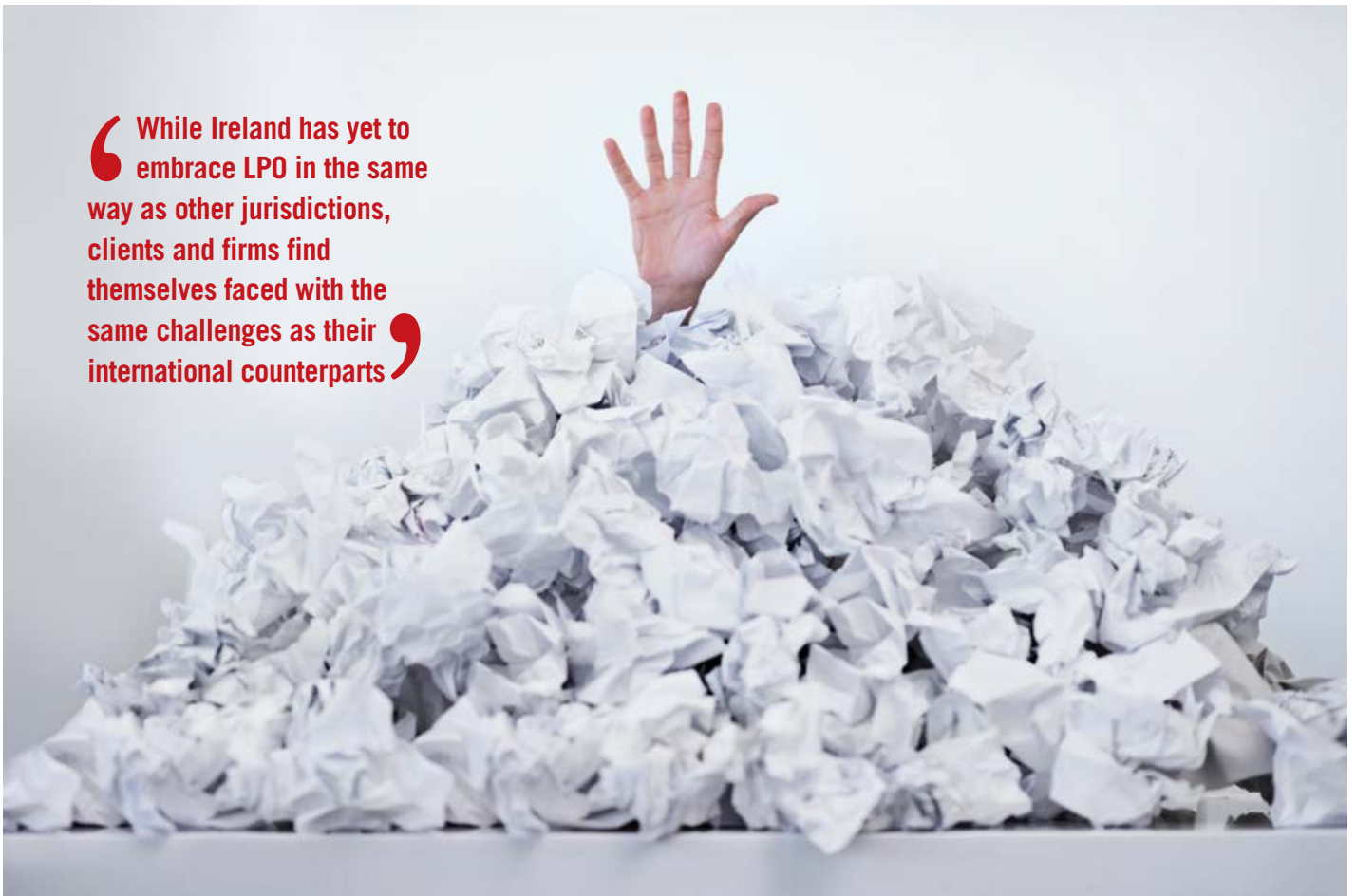
#### FOCAL POINT

### what is lpo?

In its simplest terms, LPO is the practice whereby a law firm obtains support services from designated legal outsourcing providers. By shifting routine legal work to LPO providers who can process documentation in a more cost-effective and efficient way, clients can allocate their own internal resources to high value tasks. Typically, LPO is used to combat costly, time-consuming, process-driven legal work such as discovery, due diligence, compliance, and large-scale document reviews.

The growth of LPO has coincided with the advancement of the digital age. The industry is mainly driven by a rise in the need to process data for the purposes of civil litigation and as a result of increased regulatory scrutiny. Managing process-driven legal work can be onerous, complex and expensive. The existence of an alternative that allows firms and organisations to outsource certain legal work, as and when the need arises, enables a more effective allocation of resources.

While Ireland has yet to embrace LPO in the same way as other jurisdictions, clients and firms find themselves faced with the same challenges as their international counterparts



The Office of the Data Protection Commissioner (ODPC) has seen a 50% increase in resources allocated to its office in the 2016 budget, which indicates that companies, and in particular global companies with offices based in Ireland, will come under further scrutiny in the form of data protection audits. Organisations must ensure that there are appropriate safeguards in place so that data is handled in accordance with the *Data Protection Acts 1988-2003* and *Directive 95/46/EC*.

#### Restoring balance

Access to LPO providers is a helping to restore competitive balance to the litigation process. In the past, larger firms have been accused of using discovery as a tool to beat smaller players into submission. Traditionally, smaller firms simply

did not have access to the human resources that would allow them to deal with large-scale discovery orders. LPO now means that discovery and document review are more manageable. In any event, the courts are increasingly viewing discovery orders through the prism of proportionality.


#### Relocation of British firms?

With many big law firms in Britain enjoying extensive competition law practices, it is likely that the onset of Brexit could adversely affect growth in this area. If Britain does leave the EU, Ireland would be the last remaining common law jurisdiction in Europe and could therefore be viewed as an attractive base for relocation in order to ensure that these global firms can maintain a presence within the EU.

There has been a trend for international law firms and organisations based in Britain to outsource their routine legal work to data centres in Belfast. Invest Northern Ireland has provided circa £6.9 million to a number of major international law firms to support their decision to set up these specialist data review facilities in Belfast. Cost savings, in tandem with access to highly qualified legal personnel, is the driving force behind the relocation of this routine work product. In turn, Belfast has benefited greatly from the growth in the legal industry. As the implications of Brexit unfold over the coming weeks and months, it remains to be seen whether LPO within the Republic of Ireland might experience growth. With the prospective arrival of large international law

firms and multinationals that have experienced the benefits of such services, it seems likely that alternative ways of carrying out legal services might be required.

#### Big challenges

Big data means big challenges. LPO is likely to be attractive to law firms and organisations that may find it preferable to outsource or delegate process-driven legal work. While LPO is still a relatively new concept within Ireland, many firms and organisations here have started to see the benefits of outsourcing certain legal work, particularly work relating to discovery and loan sales processes. Innovation is the driving force behind today's global economy, and the adoption of legal outsourcing will help to streamline legal efficiencies while helping to reduce costs. 

## news in depth

# WHERE NEXT FOR THE IN-HOUSE SOLICITOR?

With 20% of solicitors now working in the in-house sector, the Law Society conducted a survey to gather views in the sector on the unique opportunities and challenges facing its members. **Brian Connolly** reports



Brian Connolly is chairman of the Law Society's In-house and Public Sector Committee

## FOCAL POINT

## one in five

Nearly one solicitor in five now works in the corporate or public 'in-house' sector in Ireland. This reflects the rapid evolution and diversification of the Irish economy, with an increasing number of commercial and public sector organisations of all types and sizes choosing to establish or expand an internal legal function to help support their legal needs. In recognition of this, the Law Society worked with its In-house and Public Sector Committee to engage RED C, the independent market research firm, to conduct an independent and confidential survey of the sector in February 2016.

The survey provided relevant and actionable data about the unique characteristics of the sector and gathered the views of in-house solicitors on the most important opportunities and challenges facing them.

Drawing on the survey results, as well as input from members of the sector and the Law Society, the committee has created an action plan for the sector, which it will now support the Law Society in implementing in the coming years.

This article takes a look at the evolving nature of the sector, summarises the most interesting data revealed by the survey, and highlights the main aspects of the action plan.

Whether they work in the private or public sector, in a large multinational or a small start-up organisation, the reach and range of work done by in-house solicitors has

broadened significantly in recent years, and has also expanded into areas not traditionally covered by solicitors. So, along with the 'traditional' areas of law, such as contracts, litigation, and

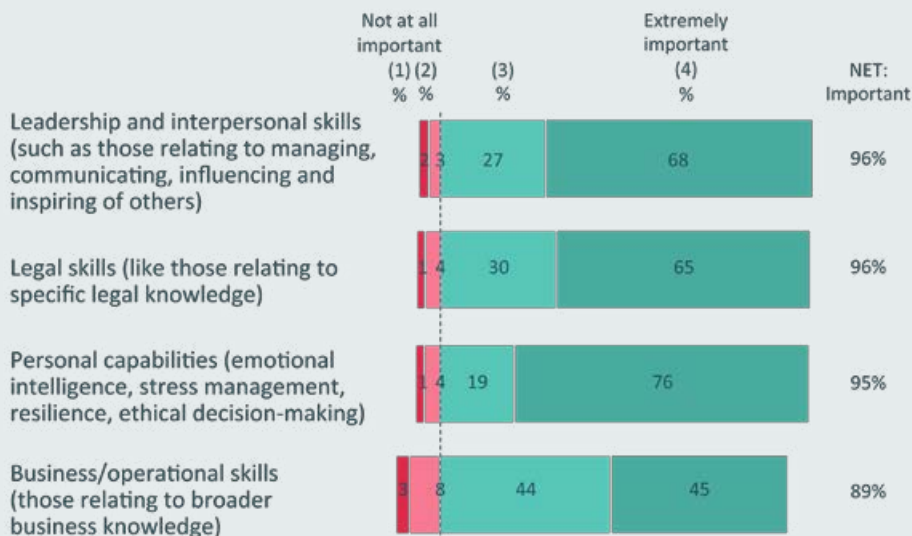
company law, their roles now also cover newer or developing areas such as cyber-security, social media, data privacy, intellectual property, and regulatory and compliance work.

Their roles also include areas that are as much commercial, financial, strategic or people-related as legal. The in-house solicitor now acts as a board member or company secretary, a function head or manager, a pension trustee or a compliance officer, as well as a legal adviser to his or her organisation.

The profession as a whole has, of course, also changed and evolved, but it seems clear that the pace of change and evolution in the in-house sector has accelerated even more dramatically in recent years. The number of solicitors opting to work in-house has also increased significantly in recent years, with the sector now approaching one-fifth of the total number of members in the profession in Ireland. This far exceeds the growth in the private practice sector and is in line with international trends, particularly in comparable jurisdictions. In Britain,

## Which skills are important in helping in-house solicitor success

(Base: all in-house solicitors; n=500)





for example, almost one in three solicitors now works in the in-house sector.

#### Private practice relationship

It is important to acknowledge that the in-house sector shares many of the same characteristics, opportunities, and challenges of our private practice colleagues – in particular, anticipating and responding to the often bewildering proliferation of legislation and regulation in existing and new areas of law, and applying our technical legal skills in the ever-changing environment in which our clients operate.

In addition, the relationship between the two sectors of the profession continues to develop and deepen in a positive and constructive way. Private practice solicitors continue to work closely with their in-house colleagues/clients to identify and serve the needs of organisations. Advice given to the in-house solicitor by private practice solicitors is increasingly practical, easy to apply, grounded

in an understanding of the in-house solicitor's organisation, and can easily be understood and applied by the in-house solicitor's own 'internal clients'.

External counsel now provide tailored seminars, precedent materials, and updates that address the specific needs of in-house solicitors and their organisations. And the more varied and flexible fee arrangements increasingly offered by external counsel reflect and address the realities faced by the in-house solicitor in trying to manage tight budgets and demanding internal clients (in particular, the financial controller).

External counsel also benefit from this interaction with their in-house colleagues/clients, as it exposes them to new ways of

working, gives them greater insights into industry sectors, and allows them improve their specialisation and business development.

#### Opportunities

With this rapid change and expansion in the in-house sector comes a variety of opportunities for all in-house solicitors. The most important of these is the ability to add real value to the organisations we work for and, in that way, to influence for the better the fortunes of those organisations – and, at the same time, enhance our own profile and reputation

and that of the entire profession. Where in-house solicitors are members of the leadership or management team of an organisation, they can contribute to and help shape in a unique way the activities, decisions and direction of that organisation.

In an increasingly complex and

regulated world, in-house solicitors will also be in a position to offer practical legal, commercial and strategic advice to internal clients at all levels in the organisation. And, uniquely, they will be able (and expected) to follow up the advice given, by collaborating closely with the business and other support functions (finance, marketing, HR, etc) to execute the actions needed to implement that advice.

This is quoted by many in the sector as being the most satisfying part of their roles, and it is backed up by feedback received from representatives of the employing organisations when asked about the value added by their in-house solicitor.

#### Unique challenges

However, while in-house solicitors share many of the challenges faced by private practice colleagues, there are also some unique issues that we have to contend with every day. These include pressure on the independence of the role from internal clients, the potential for

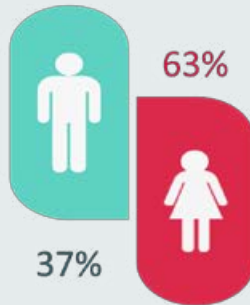
**“ This is an ambitious and long-term plan that looks at all the important aspects of the in-house experience ”**



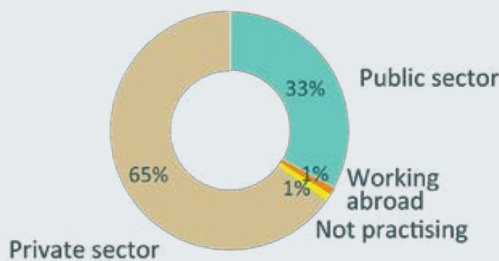
## Sample profile

(Base: all in-house solicitors; n=500)

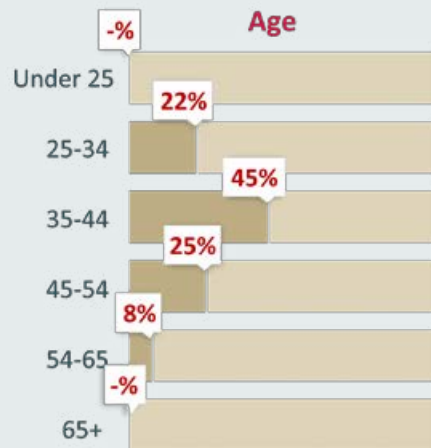
### Gender



### Working status



### Age

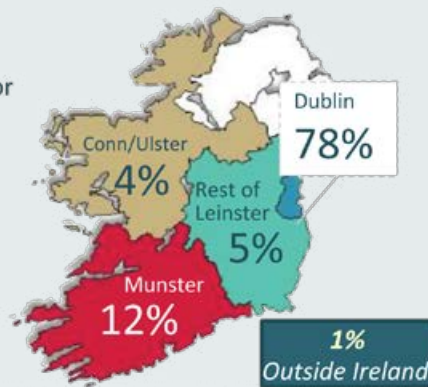


Average 42 years

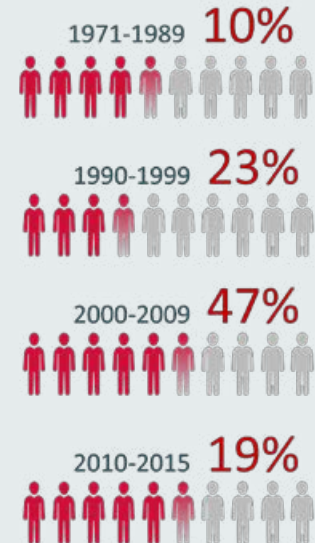
Private sector 40 years

Public sector 45 years

### Firm region



### Year qualified



Average years practising as in-house solicitor

9 Years

Private sector 7 years  
Public sector 12 years

REDC

a conflict between the 'trusted advisor' role we all strive for and our duties as solicitors and 'officers of the court', and a sense of isolation from the broader profession and the rest of the in-house sector (particularly where there is only one or a small number of in-house solicitors in an organisation).

Another issue is a perception that more could be done to address the unique professional development and training needs of the sector.

It is also important to acknowledge that the Law Society recognises the unique and positive contribution that the in-house sector brings to the organisations where in-house solicitors work, to the profile and reputation of the entire profession, and to the broader economy.

The committee has worked closely with the Law Society in recent times to help develop its appreciation of the growing importance of the sector and the unique opportunities and challenges we face, and we have seen, first-hand, its genuine interest in supporting us and helping address these.

### In-house survey

One important example of this was the commissioning of an online survey of all in-house solicitors in February 2016 to gather information about

the important aspects of our organisations and our work, the

issues we face, and the types of supports we would like the Law Society to provide.

The survey was run independently of the Law Society, all respondents remained anonymous, and all answers given were confidential and aggregated. The committee worked closely with RED C to ensure that the questions covered the most relevant topics for

the in-house sector and focused on obtaining data that was relevant

**‘The committee has worked closely with the Law Society in recent times to help develop its appreciation of the growing importance of the sector and the unique opportunities and challenges we face’**

and that could be acted upon. The graphics produced by RED C illustrate some interesting data gathered from the survey.

### Analysis

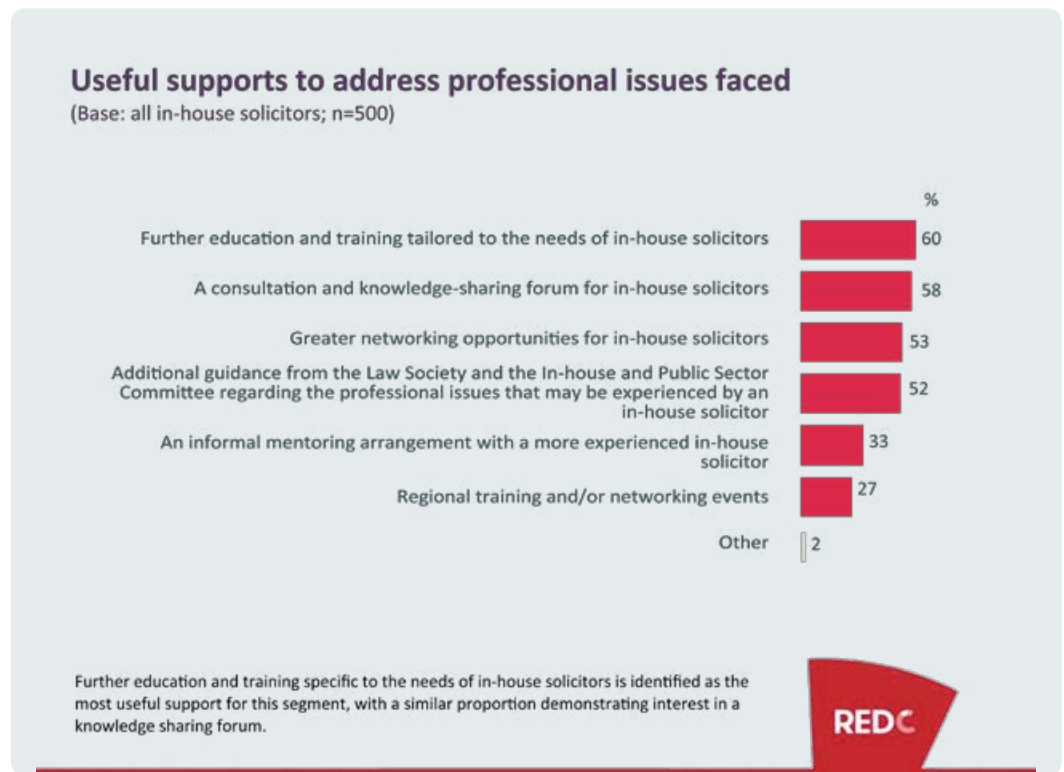
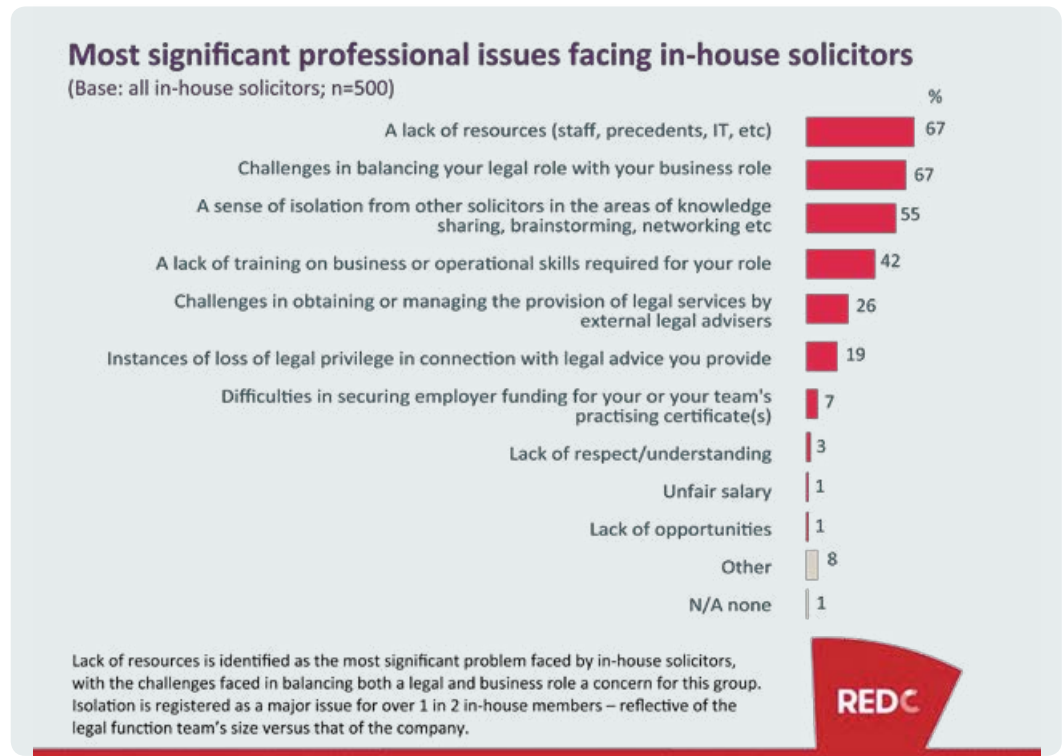
Following an analysis of the survey results, the committee has worked to create an action plan to provide a 'road map' for the Law Society to help enhance its support of in-house solicitors for many years ahead. The actions comprise a combination of tactical 'quick wins' and longer-term structural or strategic steps, organised into four areas:

- *Skills and value* – to identify the particular skillset required of in-house solicitors, to formulate a skills and benefits competency framework, and to identify how the Law Society can help market the value and

status of in-house solicitors to employers and the profession. Actions include creating a framework and working to promote it, as well as obtaining employers' perspectives on the skills and value that in-house solicitors can bring to their organisations.

- **Education and training** – to identify the professional training needs of the in-house sector and how the Law Society can support them. Actions include reviewing and implementing improvements to existing training support and identifying focused additional training for the sector, from trainee stage right through the in-house solicitor's career.
- **Professional issues** – to identify the most significant issues facing the in-house sector and to identify how the Law Society can provide targeted support to address those issues. Actions include reviewing communications to the sector, providing targeted guidance on challenges, and facilitating networking opportunities among in-house solicitors.
- **Trainees** – to identify and promote the value of trainees to legal functions in the corporate and public sector and to review the Law Society Professional Training programme to ensure suitability for the in-house sector and encourage uptake. Actions include producing promotional material and using Law Society channels to promote the value of in-house trainees, arranging a focus group with trainees, and reviewing – and, if necessary, modifying – the current trainee structure to make it more suitable and attractive for the in-house sector.

The Law Society has already begun work on some of the identified actions, which will be rolled out on a phased basis, and the committee is confident that the sector will see improvements in a number of areas as these are implemented. We also welcome any feedback or suggestions as to how we can help strengthen and develop the



supports for in-house solicitors.

This is an ambitious and long-term plan that looks at all the important aspects of the in-house experience. It draws directly from

what the sector has told us, it is practical and achievable, and it has the full support of the Law Society and the committee. We believe that it provides an

excellent framework within which the Law Society will continue and deepen its support for this important and growing sector of the profession in Ireland.

## news in depth

# I WISH TO REGISTER A COMPLAINT!

Traders who contravene the relevant EU regulations that apply to alternative and online dispute resolution for consumers may face fines of €4,000 or imprisonment of up to 12 months, or both. **Juan Bueso** reports



Juan Bueso is a Spanish lawyer and member of the Law Society of Zaragoza. Since 2007, he has served as legal adviser to the European Consumer Centre in Ireland (part of ECC-Net), host of Ireland's ODR contact point

This time last year, [Directive 2013/11/EU](#) on alternative dispute resolution for consumer disputes was transposed into Irish legislation by [SI 343/2015](#) and [368/2015](#). These instruments were followed by [SI 500/2015](#) and [32/2016](#) to give effect to [Regulation \(EU\) 524/2013](#) on online dispute resolution. The latter establishes an EU-wide, web-based platform developed by the European Commission to facilitate – as a single portal – the settlement of consumer disputes online. This may involve assistance from ADR entities notified by the member states.

The new regulatory framework is complementary: while the alternative dispute resolution (ADR) legislation operates in its own right, the online dispute resolution (ODR) platform relies on the functioning of ADR entities on which ODR is anchored. The availability of quality ADR entities is thus a precondition for the proper operation of the ODR platform.

It is still too early to gauge the effectiveness of the new legislation, but it might be a good time to take stock of what has changed over the past year.

### Out-of-court resolution

The ADR/ODR legislation covers procedures for out-of-court resolution of both domestic and cross-border transactions between consumers and traders based in the EU. It only applies to complaints submitted by a consumer

against a trader. It imposes specific information obligations on traders that commit to using or are obliged to use ADR (for example, information on their website and general terms and conditions). It also imposes certain information obligations on all traders when attempts to settle the dispute between consumer and trader fail.

Online traders are also required now to provide information on the ODR

platform – for example, a link on their websites to the ODR platform (<http://ec.europa.eu/odr> or clickable [web-banners](#)).

A trader who contravenes the relevant regulations may face a fine of €4,000, or imprisonment of up to 12 months, or both. These are issues where businesses may require specific advice in order to comply with their new obligations and avoid enforcement action.

While the ADR legislation covers all

consumer disputes stemming from sales or services contracts – both online and offline – the ODR platform has not been designed to cater for offline transactions. It covers disputes related to from sales or services contracts where the trader has offered goods or services on a website or by other electronic means, and the consumer has ordered such goods or services on that website or by other electronic means. Accordingly, there may be instances where, even if no offer is made on a website, the ODR legislation would still apply if other electronic means, such as email, were used to transact. This is another

aspect that traders engaging in business-to-consumer transactions should not overlook, given the information obligations that the ODR legislation imposes.

### Practical assistance

As regards the provision of practical assistance to users of the ODR platform, each member state is required to designate a national ODR contact point. The European Consumer Centre Ireland has been designated, pursuant to [SI 500/2015](#), as the ODR contact point in the State. The list of all the [national ODR contact points](#) is available on the ODR platform.

The new legislation also sets out the framework within which the use of ADR can be further developed, including quality requirements such as:

- Expertise,
- Independence,
- Impartiality,
- Transparency,
- Effectiveness,
- Fairness,
- Liberty and legality, as well as
- Accessibility.

Member states are mandated to designate a competent authority for the purposes of the [ADR Directive](#). Ireland has fulfilled its obligation, pursuant to [SI 343/2015](#), by designating the Competition and Consumer Protection Commission (CCPC) as the competent authority in the State for the purposes of the directive and enforcement of the regulations. Its functions include assessing, monitoring, and listing ADR entities meeting the relevant criteria.

A dispute resolution entity established in the State wishing to be listed as an ADR entity under the new legislation must notify the CCPC using the notification form available on its website. Submission and receipt of a notification should not

**The Competition and Consumer Protection Commission is the competent authority in the State for the purposes of the directive and enforcement of the regulations**



'This is an ex-parrot'

be construed as meaning that the notifying entity will be automatically listed as an ADR entity or satisfies the quality requirements set out by the legislation, as these are aspects to be assessed by the CCPC on an entity-by-entity basis.

Due to the delay in notifying ADR entities (six member states have yet to do so), the ODR platform was not made available to the general public until 15 February 2016, instead of 9 January, the date set in the ODR regulation. Member states have notified 162 ADR entities to the European Commission to date. Ireland has notified one ADR entity: NetNeutrals EU Ltd.

#### State leadership required

Since the commitment to ADR is not deeply ingrained in Ireland's attitudes towards consumer protection, and the framework introduced by the ADR/ODR legislation (including the ODR platform) banks on buy-in from all relevant parties, State leadership

may be required to promote the use of ADR by traders and consumers in Ireland and to ensure that there are no gaps in access to quality ADR.

Other than the specific functions and powers conferred on the CCPC in this respect, significant progress could be made by putting in place, in regulated sectors, ADR procedures that meet the relevant criteria, fostering the use of ADR in codes of practice, and encouraging applications from State-sponsored bodies and ADR entities notified under the previous regime of recommendations 98/257/EC and 2001/310/EC.

At national level, it is worth echoing the Central Bank's recent research on consumer attitudes towards complaint handling. It is reported that respondents who were offered to have their complaints handled formally felt treated more fairly (66%) than those who were not (38%). Crucially, more of those respondents who said that they were treated fairly during the complaint

process were satisfied with how their complaint was handled (84%), compared with those who felt they were treated unfairly (8%). Further, 51% of respondents indicated that they would be less likely to purchase another product from the same firm, and 18% would switch provider if dissatisfied with the handling of a complaint.

Although these figures relate to internal complaint handling of regulated financial firms (only 3% of the respondents who were dissatisfied with the handling of a complaint contacted the Financial Services Ombudsman), it follows that consumers attach great importance to fair, formal complaint-handling procedures.

Even where consumers choose not to escalate their complaints to an external ADR entity, the existence of a formal complaint procedure may have a positive impact on consumers' attitudes and experiences in the event of complaint.

The same could be said of other retail sectors where the effective use of ADR may be pivotal to stay competitive and grow in today's dynamic and technology-driven markets.

## look it up

#### Legislation:

- Directive 2013/11/EU on alternative dispute resolution for consumer disputes
- European Commission recommendations 98/257/EC and 2001/310/EC
- European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015 (SI 343/2015)
- European Union (Alternative Dispute Resolution for Consumer Disputes) (No 2) Regulations 2015 (SI 368/2015)
- European Union (Online Dispute Resolution for Consumer Disputes) Regulations 2015 (SI 500/2015)
- European Union (Online Dispute Resolution for Consumer Disputes) Regulations 2016 (SI 32/2016)
- Regulation (EU) 524/2013 on online dispute resolution for consumer disputes

**A trader who contravenes the relevant regulations may face a fine of €4,000, or imprisonment of up to 12 months, or both**

# Let the GAMES begin!



Elizabeth Mara is an associate solicitor in the litigation and dispute resolution department of LK Shields Solicitors

Two new statutory instruments aim to drive court efficiencies – both pre-trial and during hearings. Elizabeth Mara wonders, however, whether they will come with a high price for both solicitors and their clients?

A shake-up of High Court procedures will begin on 1 October when two statutory instruments – the *Rules of the Superior Courts (Conduct of Trials) 2016* (SI 254 of 2016) and the *Rules of the Superior Courts (Chancery and Non-Jury actions and Other Designated Proceedings: Pre-Trial Procedures) 2016* (SI 255 of 2016) – come into operation.

Their aim is to drive court efficiencies, both pre-trial and during hearings. They introduce changes to a range of areas, including case management, pre-trial conferences, certification of readiness for trial, witness statements, expert evidence, modular trials, the use of assessors, and time management at trial.

The new rules are likely to have an impact on the pre-trial workload of solicitors and may have implications for the ability of parties to fund litigation.

#### Pre-trial procedures

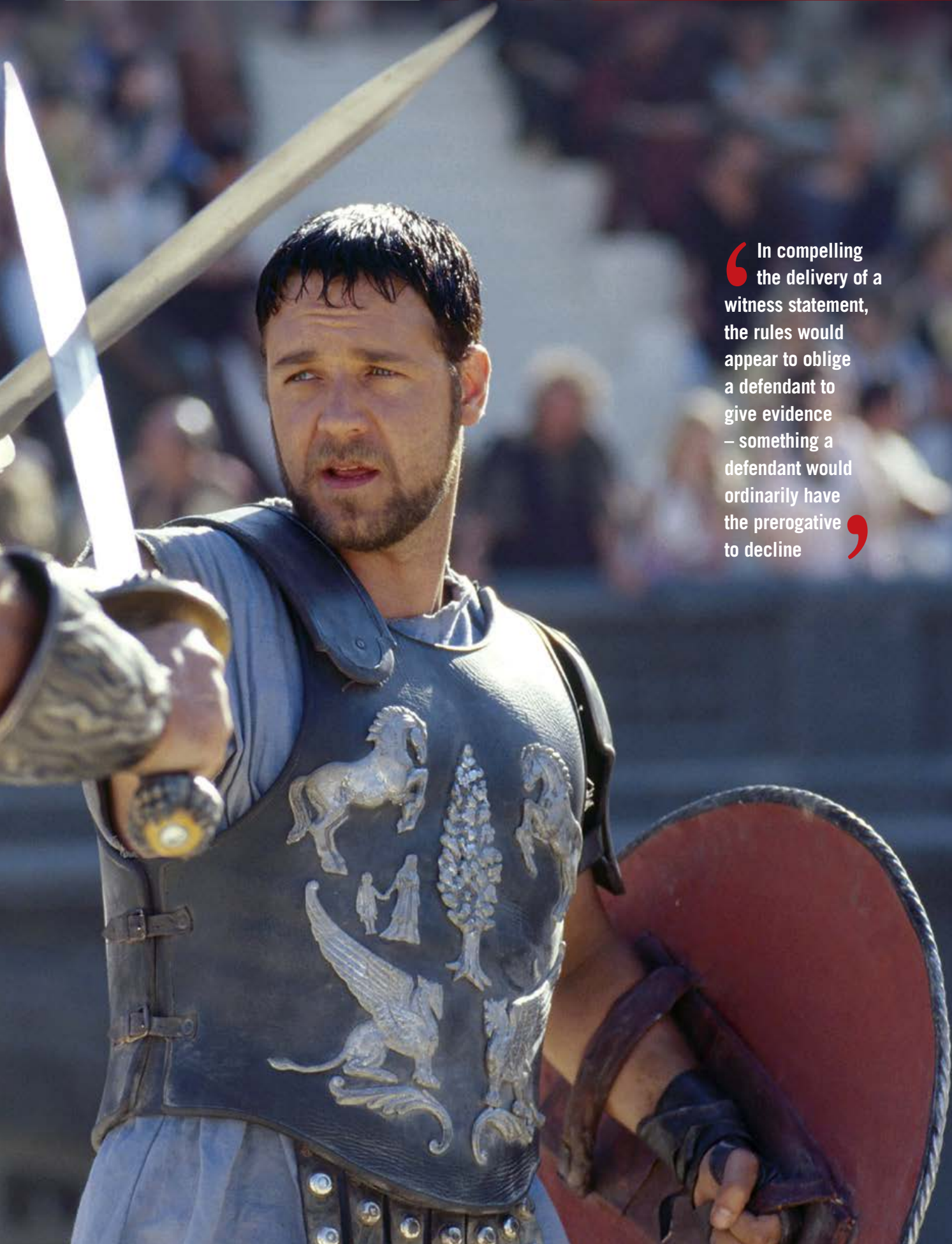
SI 255 introduces a new order 63C, which applies to actions in the chancery and non-jury list and any other list designated by the President of the High Court, with the exception of the commercial, competition, personal injury, and jury lists.

The president will designate a list judge. The list judge will have the power to make case-management orders, direct pre-trial conferences or assign another judge to do so, issue certificates of readiness, and fix dates for trial.

#### at a glance

- New *Rules of the Superior Courts* are set to shake up High Court procedures from 1 October
- Their aim is to drive court efficiencies, both pre-trial and during hearings
- Two SIs introduce changes to case management, pre-trial conferences, certification of readiness for trial, witness statements, expert evidence, modular trials, the use of assessors and time management at trial
- The new rules are likely to have an impact on the pre-trial workload of solicitors, and may have implications for the ability of parties to fund litigation





‘ In compelling the delivery of a witness statement, the rules would appear to oblige a defendant to give evidence – something a defendant would ordinarily have the prerogative to decline ’

At any time, a judge may, upon motion of the parties or upon his or her own motion, give directions and make such orders as appear convenient for the determination of the proceedings in a just, expeditious, and cost-effective manner.

Order 63C envisages a broad range of orders being made, including:

- The format of proceedings (with pleadings, oral evidence, on affidavit),
- Fixing timetables for exchange of pleadings,
- Consolidating proceedings,
- Delivering interrogatories,
- Defining issues between parties, and
- Requiring the exchange or filing of documentation.

### Case management

The rules provide for more onerous case management where a list judge is satisfied, due to the complexity, number of issues or parties, volume of evidence, or some other special reason, that an action should be the subject of case-management orders.

The purpose of case management is to ensure that the proceedings are prepared for trial efficiently and in a just manner. A case-management application can be made either by motion of one of the parties or by a judge's own motion. The rules do not prescribe a time limit on when such an application can be made.

The list judge will convene a case-management conference, at which the solicitor and counsel for each of the parties must attend. The attending parties must be sufficiently familiar with the case and have authority to deal with any matters that are likely to be raised at the conference. A case-management booklet must be filed with the registrar four days before the conference, which must contain an agreed outline and chronology of the case, a list of the issues, and pre-trial documentation.

At the conference, the judge may fix a timetable for the preparation and completion of the case for trial.

The judge may require a party or solicitor or counsel to attend before the court where the judge perceives there to be undue delay, or where there may be a cause for concern regarding the conduct of the proceedings. The judge may also make costs orders.

### Pre-trial conferences

Where no case-management order has been made, on being set down for trial, proceedings shall now be automatically listed before the list judge for a pre-trial conference. The list judge may dispense with the requirement for a pre-trial conference where the significant

issues relating to the case are sufficiently clear and the proceedings are otherwise ready for trial.

The parties must complete and lodge with the registrar a pre-trial questionnaire, and the prosecuting party must prepare trial materials, in consultation with the other parties, and lodge them four clear days in advance of the hearing. The trial materials should include:

- A list of persons involved,
- A case summary,
- Copy pleadings,
- Expert reports,
- Exhibits,
- Submissions, and
- Authorities.

The pre-trial conference will be conducted largely along the lines of the provisions for Commercial Court proceedings. The judge chairing the pre-trial conference will establish what steps remain to be taken to prepare the case for trial, the likely length of the trial, arrangements for witnesses, IT facilities (including video-conferencing), and any other provisions that are required for the trial.

Where the parties intend to rely on expert evidence, the judge may make orders for experts to meet to prepare a joint report, and may also make orders in respect of arrangements for the trial, or for modular trials.

### Certificate of readiness for trial

Certification for trial will no longer be the preserve of a party's legal team. Order 63C prescribes that it will be the role of the judge chairing the pre-trial conference or the list judge to issue a certificate of readiness where the judge considers the proceedings are ready for trial.

To make this assessment, the judge will have to review the trial materials, which may be quite an onerous administrative task. In circumstances where judges' time may already be somewhat constrained, this particular rule may stretch their already limited resources.

Upon issuing of a certificate of readiness, the list judge may fix a date for trial, which will be notified to the parties by the registrar. The registrar will deliver the trial materials to the trial judge.

The trial judge may, at any time following delivery of the trial materials, cause the case to be listed before him or her for mention,

in order to make a direction that the parties prepare and deliver an agreed list of concise questions to be decided by the court in order to enable it to determine the proceedings, or any other direction that will facilitate the efficient conduct of the trial.

### Witness statements

The rules introduce some fundamental changes regarding evidence in chancery and non-jury cases. Order 63C, rule 17 provides that a party intending to rely on oral evidence of a witness as to fact, or of an expert at trial, shall serve and file a witness statement and – in the case of an expert – a written report at least 30 days before the trial, summarising the essential elements of the evidence to be given. In certain circumstances, a trial judge can direct that a witness statement be treated as evidence in chief.

In compelling the delivery of a witness statement, the rules would appear to oblige a defendant to give evidence – something a defendant would ordinarily have the prerogative to decline.

Commercial Court practitioners will be familiar with the practice of preparing witness statements and will be accustomed to the level of work that they involve. It is arguable that, in smaller value cases, the costs associated with the preparation of these now mandatory statements may not be justified.

**“The trial judge may require any opposing experts to be examined and cross-examined, one after another, as the trial judge shall direct, or apply the ‘debate among experts’ procedure”**

### Expert evidence

The rules introduce some major changes regarding expert evidence. In all cases, with the exception of personal injury actions, where a party proposes to offer expert evidence on any matter at the trial, the statement of claim or defence must disclose this fact and state succinctly the field of expertise concerned and the matters on which expert evidence is intended or proposed to be offered. Any report of an expert must contain a statement acknowledging that his or her duty is to the court – and not to the party retaining him or her – and must disclose any financial or economic interest an expert may have in the party retaining him or her (other than the expert witness fee).

### Restriction on expert evidence

In an effort to reduce the duplication of evidence from expert witnesses and to narrow the matters in dispute between

expert witnesses, the new rules provide that, in commercial, competition, chancery or non-jury cases, expert evidence shall be restricted to that which is “reasonably required to enable the court to determine the proceedings”.

A judge has broad powers to require the parties to identify the field of expertise or the expert who may give evidence at hearing, to order when expert reports are exchanged, to order that evidence be given by a single joint expert, to decide the terms of retention of an expert, and to select the joint expert where the parties cannot agree. Unless permitted for a special reason, each party may offer evidence from one expert only, in a particular field of expertise, on a particular issue.

The new rules enable a party to put concise written questions to an expert retained by another party, or a single joint expert, within 28 days of receipt of an expert report. An expert’s answers will be treated as part of his or her report. If an expert does not answer the question, the court may order that the party may not rely on any, or a specified part, of the evidence of that expert, or that the party may not recover fees and expenses of that expert.

#### ‘Hot-tubbing’

The new rules introduce the concept of debate among experts, which has been referred to as ‘hot-tubbing’.

Where two or more parties intend to call experts who, according to their reports, or statements, may contradict each other, the court may require that the experts meet privately, without the presence of any party or any legal representative, to discuss their proposed evidence. Those experts will be required to draw up a joint report identifying the evidence that is agreed and disputed between them, to be furnished to the trial judge and the parties.

The trial judge may require any opposing experts to be examined and cross-examined, one after another, as the trial judge shall direct, or apply the ‘debate among experts’ procedure. This procedure essentially involves a debate between the experts being carried out before the trial judge and represents a radical departure from the standard practice of giving evidence.

#### Use of assessors

The new rules provide that a court can appoint a person with requisite skill to assist it in understanding and clarifying an issue or



Trial by wombat

evidence in relation to a matter (referred to as an ‘assessor’).

An assessor may be directed to prepare a report for the court on a matter at issue in the proceedings, attend the trial to advise the court, and assist the court after the trial. Where a report is prepared, a copy will be provided to the parties. Where advice is given, the parties shall be informed and given an opportunity to comment.

The fees paid to an assessor shall be determined by the court and shall form part of the costs of the proceedings. The court may order a party to pay the fees of the assessor.

#### Modular trials

The *Rules on Conduct of Trials* empower judges, in matters pursuant to the competition, commercial, chancery, non-jury and any other list designated by the President of the High Court, to direct

that proceedings can be heard in modules. The rules permit a judge to specify the nature of the evidence or the witnesses required, to enable the court to determine the issues in any module.

The rules also introduce express powers for the trial judge to actively manage and direct the hearing. Order 36 provides that a judge can fix or limit the time allowed for a party for examination, cross-examination, and re-examination of a witness. Where a judge determines that the evidence called by a party was unnecessary or duplicative, he or she may make a costs order against that party.

Order 36 also empowers a judge to give directions as to the issues that the court requires evidence on, the nature of the

evidence to be put before the court, and whether the judge will require written submissions on points of law.

This order would appear to give judges very far-reaching powers to direct proceedings and would appear to involve the judge in the question of evidence to be adduced by the parties. Arguably, these powers may interfere with a legal team’s ability to present the case as it sees fit and may potentially infringe on a party’s entitlement to fair procedures.

#### Implications

From a practitioner’s perspective, the new rules would appear to front-load the work of solicitors, which may bring litigation funding considerations into play early in proceedings and perhaps may restrict the access of some parties to court. The new rules may increase pressure on the resources of smaller firms, where attendance at pre-trial hearings by the leading solicitor is required and where the preparation of witness statements is now mandatory. The rules will certainly require an increased level of cooperation between practitioners, particularly in the area of agreeing trial materials.

At a [Commercial Litigation Association of Ireland](#) seminar on the new rules in July of this year, Mr Justice Brian McGovern commented that he thought the application of the new rules might be incremental in practice, with judges initially “dipping toes” in the new procedures. He highlighted the fact that the rules would require additional resources but, on the whole, welcomed them in assisting parties moving away from trial by ambush.

It remains to be seen whether the new rules are applied with vigour and whether resources will be afforded to the judiciary to enable them to carry out the additional administrative burden they will bring.

**Arguably, these powers may interfere with a legal team’s ability to present the case as it sees fit and may potentially infringe on a party’s entitlement to fair procedures**



# Another fine MESS!



*Helen Johnson is a Sligo-based barrister who specialises in intellectual property law*



*Jane Susan Bourke is a solicitor, trademark attorney and member of the Law Society's Technology Committee*

The Brexit result continues to stun. In a two-part article, **Helen Johnson** and **Jane Bourke** consider the potential impact on intellectual property rights in both Britain and Ireland – and ask whether Britain's setback is Ireland's gain

**B**ritain joined the European Economic Community in January 1973, incorporating EU law into its domestic law. At the time, 'knowledge-based' economies did not exist and intellectual property (IP) laws were underdeveloped in many member states. Now, in the digital era, businesses are either generating or availing of IP, and intangible assets

## at a glance

- On Britain's exit from the EU, treaties and regulations will cease to have any effect there – possibly leaving certain intellectual property rights in peril
- The British fashion and music industries face real threats with the loss of EU copyright law and the digital single market
- The value of the British courts' expertise in IP matters is evident in the wealth of copyright judgments emanating from its courts





‘Brexit could now impede the start of a system that has been 40 years in the making’

have replaced tangibles on balance sheets – proving that IP can be a company's best asset.

Collectively, IP rights refer to copyright, patents, trademarks and design, as well as trade secrets or confidentiality. IP laws are greatly harmonised across the EU and, in both Ireland and Britain, our trademark, copyright and design laws are mainly derived from EU law.

Article 50 of the *Treaty on European Union* states: "Any member state may decide to withdraw from the Union in accordance with its own constitutional requirements." Britain must now notify the European Council of its intention to withdraw, thus triggering article 50, which will herald the start of a two-year period of British 'exit-package' negotiations (extendable by unanimous agreement of the member states). On exit, EU treaties and regulations will cease to have any effect there, possibly leaving certain IP rights in peril.

### Copyright

In the lead up to the Brexit vote, many in the fashion and music industries vehemently campaigned on behalf of the Remain Campaign. Not only will a potential barrier to the free movement of goods and people impact on businesses throughout Britain, these industries face a real issue with the loss of EU copyright law and the [digital single market](#).

Copyright protects original literary, dramatic, musical or artistic works, sound recordings, films, broadcasts, typographical arrangements and original databases. Copyright arises automatically, from the date a copyright work is created. There is no mechanism to register a pan-European copyright; accordingly, registration is not necessary for protection and enforcement.

Several legislative provisions govern copyright law in Europe. Some key provisions are [Directive 93/98/EEC](#), which harmonised the term of copyright and related rights, and [Directive 2001/29/EC](#), which pertains to the harmonisation of certain aspects of copyright and related rights in the information society. Moreover, the EU member states are party to international treaties, such as [Trade-Related Aspects of Intellectual Property Rights \(TRIPS\)](#), plus the [Berne Convention on the Protection of Literary and Artistic Works](#), which provide minimum standards for copyright protection.

Currently, the commission is developing the digital single market (DSM), creating copyright "fit for the digital age" by removing digital barriers and by ensuring access to digital services in the member states. The purpose behind the DSM is to tap into the success of the digital economy (the commission estimates that it could be worth €415 billion to the EU economy). One of the proposals – 'cross border



portability' – seeks to allow EU citizens access to streaming services available at home while abroad. Moreover, the commission has been urged to deal with illegal streaming issues, so that musicians can receive appropriate remuneration for their work. While the 27 remaining member states will benefit from these innovations, Britain may not have the same access to the DSM.

Copyright law in the EU has been developed through the European Courts of Justice. Indeed, the value of the British courts' expertise in relation to IP matters can certainly be seen in the wealth of copyright judgments coming from its courts.

As it is nationally regulated, with little harmonisation, it is not clear how Britain will deal with copyright, post-Brexit. Britain's membership of international treaties could mean that its laws will stay closely aligned with ours. With regard to Irish copyright, the Government recently approved a general scheme of a [Copyright Bill](#), which proposes, among other things, to extend copyright exemptions, create additional ones and, most importantly, facilitate lower-value IP infringement claims being brought in the District and Circuit Courts. Brexit, as well as these reforms, may result an increase in IP litigation in Ireland.

### Patents

A patent is a State-granted monopoly, enforceable for 20 years, for an invention that is novel, comprises an inventive step, and is

capable of industrial application. Patents are the most time-consuming and expensive IP rights to obtain and, once granted, can also be highly valuable assets. Parties seeking patents in Europe have traditionally been able to take three different routes. Domestic patents are available throughout the member states of the EU (through the respective national patent offices). Secondly, the [European Patent Office \(EPO\)](#) receives applications made under the [European Patent Convention \(EPC\)](#), and patent applications can also be filed under the [Patent Cooperation Treaty \(PCT\)](#), an international treaty comprising 150 contracting states.

Patents differ to the pan-European unitary protection available for trademarks and designs, as they are national rights. Notwithstanding the fact that the EPC has been in place since 1973, it is not an instrument of EU law – rather a multinational treaty – with contracting states such as Switzerland, Norway and Turkey. As the EPC and PCT are independent of the EU system, Britain will remain a member of both; therefore, at that level, Brexit makes no difference for holders of British patents (be they domestic, under the EPC or PCT).

These patents, or future patents obtained in this way, will not be affected by the referendum outcome.

**As long as Britain remains a member state, it must ratify the unitary patent for the system to commence – yet, if it does not, where does this leave the UP?**

### The UPC

After decades of discussions, the EU is finally on the cusp of introducing the [unitary patent \(UP\)](#). The package, which comprises a UP and a [Unified Patent Court \(UPC\)](#), was approved in 2012 and is due to be operational by mid-2017. It will result in pan-European patent protection being achieved through one filing at the EPO, bringing patents in line with the unitary protection already available for trademarks and designs as best it can, given that some countries have opted-out.

The agreement creates a specialised court that, under article 1, is a "court common to the contracting member states". A single action before the UPC will be effective in all participating member states, in contrast to the current EPC regime, whereby enforcement is on a national basis only. The UPC will comprise a court of first instance, a court of appeal, and a registry. The court of first instance will have central, local and regional divisions. The central divisions are due to be located in Munich (mechanical engineering cases), Paris (the main seat, hearing software,

## FOCAL POINT

## a rose by any other name

Plant variety rights (PVRs) protect new varieties of plants. Applications are examined as to distinctness, uniformity and stability. A PVR is renewable annually and can last for 25 years, with an extended period (up to 30 years) in respect of vines, potatoes and trees. The [International Union for the Protection of New Varieties of Plants](#) is an intergovernmental organisation that currently has 67 contracting states, including the other EU states, Ireland and Britain. Domestic and pan-European PVRs stem from this convention.

Britain, famed for its annual Chelsea Flower Show, is a leader in ornamentals, yet domestic applications for PVRs are on the wane, with little or none having been filed for ornamentals in the last four years – save for roses. Breeders have instead opted to file for pan-European protection at the [Community Plant Variety Office](#) (CPVO), which is the EU institution responsible for the grant of [community plant variety rights](#) (CPVRs). However, given their unitary nature, these will cease to have effect in Britain when it exits. Added to the woe is the fact that, when a CPVR is granted, the plant in question cannot be the subject of a national PVR. Therefore, unlike the systems in place for trademarks and

designs, it is not possible to hold both a British PVR and a CPVR. As of the end of 2015, there were 24,500 CPVRs in force in Britain – but what happens when Britain eventually leaves the EU? The international trade magazine *Flora Culture* notes that plant breeders fear that, post-Brexit, protection will become more expensive. Breeders estimate that if a conversion-type right is introduced for existing CPVRs, the cost of protecting each variety in Britain could exceed Stg £750 and, depending on the length of time remaining until the right expires, this may not be cost-effective. Were it even possible to have both national and pan-European PVR protection in due course, renewal fees would have to be discharged annually in the EU and Britain, and breeders might simply decide not to avail of plant protection at all, which could see a knock-on effect in terms of jobs, royalties and the emergence of new varieties.

The [British Society of Plant Breeders](#), in a report on a [study](#) commissioned by the [European Technology Platform for Plants for the Future](#), noted that improved plant varieties are the most important factor in raising EU crop output. According to the society's chairman, the innovative future of EU plant breeding is



'Alan Titchmarsh' – an English rose named after the famous English gardener, bred by David Austin

dependent on an effective IP framework and regulation.

Apart from IP, the agricultural and horticultural sectors rely heavily on an EU labour force. The restriction on the free movement of persons will surely result in labour supply issues in Northern Ireland and Britain. The impact of Brexit on these sectors is unknown. One thing is clear – everything PVR-related is far from rosy following the Brexit vote.

electronics and physics-related cases), and London (chemical, pharmaceutical and biotech patents). Member states can opt to establish a local division of the UPC, or countries can come together to form a regional division. For example, Sweden, Estonia, Latvia and Lithuania have formed a 'Nordic-Baltic' regional division, with its seat in Stockholm. It was thought that Ireland might join a regional division with Britain and possibly Portugal, but, in November 2014, the Irish Government announced that it would host a local division of the court.

To be enforced, the UP must be ratified by 13 member states, three of which must be those countries with the greatest number of patents. In the year prior to the signing of the agreement, those countries were France, Germany and Britain. If it is to recognise the court, Ireland requires a referendum to amend the Constitution, and this has been pencilled into the Programme for Government. Only EU member states can ratify. Currently, 11 countries have done so, and Germany is due to ratify this year. But what of Britain after the referendum?

That the entry into force of the system will

be delayed is now a given, and it is unlikely that Britain will ratify before the year is out, if at all. As long as Britain remains a member state, it must ratify for the system to commence – yet, if it does not, where does this leave the UP? If Britain does ratify, this may affect its sovereignty and fly in the face of plans to exit the EU.

If Britain chooses ratification, this may give it more leverage to negotiate a package to remain in the UP in due course. But what are the consequences should it refuse to ratify unless its continued participation in the UP is guaranteed after exit? Remember, the agreement is not bound by EU law, although the regulations underpinning the system naturally are – and EU law would have to be applied by any UPC. Were such an amendment even possible, member states might then be required to re-ratify, such that implementation could be delayed even further. Given the size of its market and the calibre of

its IP judiciary, the remaining UP system may not be at all attractive to the others if Britain leaves.

It seems highly unlikely that the UPC could be situated outside a member state – that is, in London post-Brexit – yet be obliged to enforce EU law. In terms of the patent cases assigned to the London seat, especially biotechnology, Ireland is punching above its weight. The recent [annual report](#) from the Irish Patents Office noted that Ireland is one of the European 'hotspots' in terms of the medical-devices sector and that we are "recognised as a centre of global excellence". Although Milan and the Hague are seen as

possible alternatives for the London seat, given that they have the requisite court infrastructure in place, could Ireland hope to host this court? Could Dublin be a serious contender, given that we will be only English-speaking country in the EU, aside from Malta?

**If Britain does ratify the unitary patent, this may affect its sovereignty and fly in the face of plans to exit the EU**



# Lotus Investment Group

**OVER 70 SUCCESSFUL DEALS FUNDED SINCE 2014**

**COMMERCIAL, RESIDENTIAL, DEVELOPMENT AND DEBT REFINANCE**

**No Personal Guarantees Required**

Our Dublin office provides a fast response to enquiries and approved facilities are typically drawn-down within 2-4 weeks from signed term sheet

Facilities Range €0.5M - €10M

**CONTACT US ON**

**01 6917500 or email [funding@lotusig.com](mailto:funding@lotusig.com)**

14 Fitzwilliam Square, Dublin 2, Ireland | [www.lotusig.com](http://www.lotusig.com)



## **GROUND RENT MANAGEMENT SERVICES**

Kenny Estates is Ireland's leading ground rent collection company. We fully understand the importance of debt recovery in today's business environment and together with our trained staff and computerised management systems provide a cost effective method of maximising recoveries from your portfolio. As each ground rent portfolio is unique, we strive to formulate a bespoke strategy that will deliver exceptional results.

**Should you wish to discuss the sale or management of your portfolio call us today on**

**01- 9053728**

**Unlike most management companies we charge no fees and incur all expenses for the management of your portfolio.**

**If we do not make you a profit we simply do not charge.**

**56 Fitzwilliam Square, Dublin 2 | E: [gavin@kennyestates.ie](mailto:gavin@kennyestates.ie)**

Dubitable is the future of the UP, and Brexit could now impede the start of a system that has been 40 years in the making.

#### Central division relocation?

Until such time as it exits the EU, Britain is bound by EU law and EU law is enforceable there. As such, the systems and laws currently in place for copyright and the application, registration, and enforcement of patents, trademarks and designs remain unaffected.

On the impact for Irish firms, leading intellectual property firm PurdyLucey told us that they envisage that “patent filings will probably remain stable insofar as the status quo remains. A difference could be if the central division of the UPC moves one of the three seats to Dublin. At that time, it will be interesting to see what effect that will have on European patent filings being filed by Irish-based European patent attorneys. In addition, there could be an increase in British patent and trademark firms setting up operations in Ireland and employing local attorneys and solicitors.”

Timing is everything. Given the recently proposed legislative amendments here – and as

the fate of the UP is now unknown and a fight may be brewing for relocation of the London seat – Ireland could consider establishing itself as an EU patent-litigation forum. And, if it does, could similar Irish-based EU court

systems for trademarks, designs and copyright be far behind?

It is indisputable that the topography of the Irish IP landscape is changing and, evidently, all is to play for.

#### GLOSSARY

#### what's in an acronym?

- CPVO – Community Plant Variety Office
- CPVR – community plant variety right
- DSM – digital single market
- EPC – *European Patent Convention*
- EPO – European Patent Office
- PCT – *Patent Cooperation Treaty*
- PVR – plant variety right
- TRIPS – *Trade-Related Aspects of Intellectual Property Rights*
- UP – unitary patent
- UPC – Unified Patent Court
- UPOV – International Union for the Protection of New Varieties of Plants
- WIPO – World Intellectual Property Organisation

#### look it up

- Directive 93/98/EEC
- Directive 2001/29/EC
- *European Patent Convention*
- *Patent Cooperation Treaty*
- *Treaty on European Union*

#### in part 2

- Trademarks and designs pan-EU rights – soon to be so ‘last season’,
- Let them eat cheese – protected food and drinks,
- Exhaustion/parallel imports
- The fate of trade secrets – who can tell?
- Litigation



# INFORMED

## Your partner in delivering financial success

We believe giving clients direct access to our most experienced partners is key when it comes to helping them make the optimal business decisions. Isn't it time you leveraged our experience to make better financial decisions?

Talk to us about how we could help you by calling us on: +353 1 6142500 or email us at [info@smith.williamson.ie](mailto:info@smith.williamson.ie)



Smith & Williamson Freaney Limited  
Authorised to carry on investment business  
by the Institute of Chartered Accountants  
in Ireland A member of Nexia International

[www.smith.williamson.ie](http://www.smith.williamson.ie)

# The ultimate SACRIFICE



Ciaran O'Mara  
is a partner at  
O'Mara Geraghty  
McCourt

1916 is synonymous with the Easter Rising and its aftermath, which became the seminal event leading to independence and the present Republic. But that year also saw the wanton slaughter at the Somme. **Ciaran O'Mara** remembers the solicitor dead

**T**he Rising was not the only foundation event of the year 1916. For Ulster Unionists, the blood sacrifice of the former UVF – in its guise as the Ulster 36<sup>th</sup> Division – at the Battle of the Somme on 1 July 1916 is central to their

identity. It has been commemorated by Unionists ever since as Northern Ireland's foundation moment, running in juxtaposition to the Nationalist version of Irish history.

1916 is, therefore, the starting point of the two apparently separate and mutually exclusive narratives that have dominated the politics and culture of Republicans and Loyalists ever since. The two ideologies suppressed, for their own reasons, the reality of what actually happened at the Somme: there was not only an Ulster Division, but also a predominantly Catholic Nationalist division that fought only a few miles away.

Looking at the specific involvement of solicitors at the Somme provides an insight into the much more complicated reality of Irish life than the stereotypical history of past years. It may surprise many of us today.

Next to the disaster at Gallipoli in the summer of 1915, which cost the lives of 11 solicitors and apprentices, the death of four solicitors and two apprentices at the Battle of the Somme in 1916 had the most severe impact on our profession in the First World War.

Unlike Gallipoli, which shattered mostly the Dublin middle and professional classes of the time, the Somme's legal victims straddled the Border and remind us of the largely forgotten but shared heritage of the solicitors' profession in the 32 counties – then a single profession with a single Law Society.

A total of 38 Irish solicitors and apprentices lost their lives in the war. Pro rata, the same number lost at least one limb or were severely mutilated. The same number

again had lesser injuries. Another group had 'shell shock' and suffered on for years. The profession must have been deeply affected in the 1920s and 1930s.

Ulster Unionists joined their own 36<sup>th</sup> Division. Southern Nationalists joined the 16<sup>th</sup> Division, but solicitors turned up at the Somme from other sources, as we shall see. Nearly all lawyers became officers. The class system was such at the time that completion of secondary education almost inevitably meant that the recruit was offered a commission as an officer. *The Irish Independent* and *The Irish Times* wrote detailed obituaries of officers, but scarcely anything of the other ranks.

In this and in the next issue of the *Gazette*, the following biographies give an insight into lawyers' experiences.

#### Thomas Joyce Atkinson

Major Thomas Joyce Atkinson was killed in action on 1 July 1916. He was the highest-ranking Irish solicitor to take part in the war, and his story is the very epitome of a typical Ulster Unionist of the time.

#### at a glance

- A total of 38 Irish solicitors and apprentices lost their lives in the First World War
- Next to the disaster at Gallipoli in the summer of 1915, which cost the lives of 11 solicitors and apprentices, the death of four solicitors and two apprentices at the Battle of the Somme in 1916 had the most severe impact on the solicitors' profession
- At the Somme, there was not only an Ulster Division, but also a predominantly Catholic Nationalist division that fought only a few miles away



Born in 1878 at Aughnacloy, Tyrone, his father was the manager of the Ulster Bank there, but the family moved back to Portadown when his father retired. The family were Church of Ireland, and Thomas had three sisters and a brother who died from septicaemia in 1899 following a shooting accident. Thomas was sent to Scarborough School in Rathmines. He graduated from Trinity College Dublin in 1898. He was called to the Bar in 1901, but then switched and was admitted as a solicitor in 1906. He was a partner in the firm of Messrs Carleton, Atkinson and Sloan, Solicitors, Church Place, Portadown. This firm is listed today as continuing in practice, but merged with TD Gibson & Co.

Thomas organised the signing of the Ulster Covenant in Seagoe Parish Church

**“ The Irish soldiers had gone on too fast and a group of Germans, hiding in a trench they had just captured, sprang up and attacked them from behind ”**

on ‘Ulster Day’ (28 September 1912). He also played a prominent and enthusiastic role in the Ulster Volunteer Force and was a company commander for 18 months. The UVF joined the 36<sup>th</sup> (Ulster) Division en bloc, unit by unit, parish by parish, on the outbreak of war. Atkinson volunteered for service and gained a commission in the 9<sup>th</sup> Battalion, Royal Irish Fusiliers, on 16 September 1914, first as captain and rising to the rank of major.

In the attack of the 36<sup>th</sup> (Ulster) Division on 1 July 1916, Atkinson’s company was the most successful unit. It penetrated three German lines, and a small body of men reached their target but were unable to hold the position due to a lack of support. He was reported missing, believed killed, on 1 July. Of the 600

men in the ranks, 56 were killed, 303 were wounded and 159 were missing. Atkinson’s body was found on 19 August and temporarily buried by the Durham Light Infantry. He is now interred in Ancre British Cemetery, Beaumont-Hamel, Somme, France.

#### **James Kenneth McGregor Greer**

Lieutenant Kenneth Greer, born in January 1885, was the only son of the county solicitor for Antrim. He had two sisters, all of them born in Ballymoney, and was educated at Highgate School in London and at Trinity College Dublin. He was apprenticed to his father in August 1912. On 13 August 1914, he enlisted as a trooper in the North Irish Horse, a cavalry regiment, and embarked for France a week later. He was commissioned to the 3<sup>rd</sup> (Prince of Wales) Dragoon Guards on 6 December 1914, and then succeeded in transferring to the 1<sup>st</sup> Battalion, Irish Guards. Unlike Thomas Atkinson, Greer’s background was not UVF.





**Irish Tax Institute**

Leaders in Tax

# Professional tax qualifications designed to meet your needs

## Chartered Tax Adviser (CTA)

The international gold standard in tax. A three part qualification for those seeking deep tax technical knowledge and legislative expertise.

**Solicitors are exempt from Law Fundamentals at Part 1.**

- Weekend lectures - Dublin, Cork, Athlone
- Online self-study option
- 2 exam sittings each year

## Tax Technician

A flexible, modular qualification for those seeking a solid foundation in the practicalities of tax. Qualify at a pace that suits you.

**Ideal for developing or refreshing tax knowledge.**

- Online self-study option
- 2 exam sittings each year



**Courses start October 2016**



Call Michaela on **+353 1 6631748** or email [mhone@taxinstitute.ie](mailto:mhone@taxinstitute.ie) Register at [careerintax.ie](http://careerintax.ie)



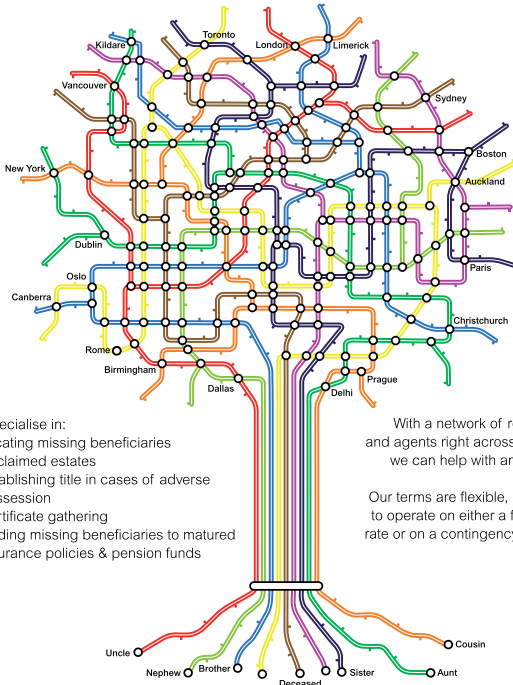
[www.facebook.com/ITISudents](http://www.facebook.com/ITISudents)



[@CareerInTax](https://twitter.com/CareerInTax)

## Problems locating missing heirs?

We can unravel even the most complex family trees.



We specialise in:

- Locating missing beneficiaries
- Unclaimed estates
- Establishing title in cases of adverse possession
- Certificate gathering
- Finding missing beneficiaries to matured insurance policies & pension funds

With a network of researchers and agents right across the globe, we can help with any situation.

Our terms are flexible, allowing us to operate on either a fixed hourly rate or on a contingency fee basis.

**MASSEY & KING LTD.**

Specialist Legal Genealogists & Probate Researchers

[www.masseyandking.com](http://www.masseyandking.com) tel: (01) 492 8644 email: [info@masseyandking.com](mailto:info@masseyandking.com)



A member of the Hannover group

## STRATEGIC TITLE INDEMNITIES

### TACTICAL RISK SOLUTIONS

Carmel Nielsen  
**+353 (01) 633 8872**  
**+353 (0) 87 299 8088**  
[cnielsen@titlesolv.com](mailto:cnielsen@titlesolv.com)  
[www.titlesolv.com](http://www.titlesolv.com)

Titlesolv,  
 C/O Hannover Re,  
 4 Custom House Plaza,  
 IFSC,  
 Dublin 1

Titlesolv is the trading name of London & European Title Insurance Services Ltd authorised and regulated by the Financial Conduct Authority



On 18 May 1915, at the battle of Festubert, Greer sustained a number of bullet wounds, the worst being damage to his right hand, for which he was transferred to a London hospital. This soon healed and, in a short time, he was back with the troops. The following January, he was awarded the Military Cross for gallant and distinguished service rendered in conjunction with military operations in the field. In June 1916, he was home on leave, taking a break before the start of the Battle of the Somme.

During the early weeks of the battle, he had a number of near misses but was eventually very seriously injured on 15 September in the attack on the small village of Flers. The Coldstream Guards led the attack, and the Irish Guards were supporting them. After the attack on the first line of enemy trenches, the Irish stopped for a few minutes to regroup. Then Greer led them on towards the second line of German trenches. In spite of fierce enemy fire, they had almost reached the second line of trenches when Greer fell, having been shot in the head. The Irish soldiers had gone on too fast and a group of Germans, hiding in a trench they had just captured, sprang up and attacked them from behind. While still conscious, Greer gave his revolver to another Ballymoney man, Sgt Hugh Carton, who had stopped to try to help. He ordered Carton to take command of the men and to go on with the attack. A short time later, during this same attack, Carton was killed. Greer was later picked up by stretcher bearers and taken to the nearest dressing station but, owing to the seriousness of his wounds, was taken immediately to hospital. He eventually arrived at Rouen but he died there on 3 October. He was aged 31. Lieutenant Greer is buried in *St Sever Cemetery*, Rouen, Seine-Maritime, France.

### Louis Barron

Louis Barron was an uncle of Mr Justice Henry Barron, late of the Supreme Court.

Louis was born in Limerick on Christmas Eve 1888 and was the eldest of six children in a family of immigrants from Lithuania. His father established the Munster Furniture Company in Camden Street, Dublin, and moved the family to the South Circular Road, at the time the centre of Jewish life in Dublin. Louis attended the High School in Harcourt Street from 1899 to 1905. He appears to have become apprenticed to solicitor Michael Noyk, also of the Jewish faith, and a close friend of, and solicitor to, Sinn Fein founder Arthur Griffith. Barron signed the Roll of Solicitors in February 1910 and seems to have practised at Wicklow Street.

He appears to have joined the 10<sup>th</sup> Battalion of the Border Regiment soon after the war started, which was a training battalion, and then, once commissioned, was assigned to the 2<sup>nd</sup> and 6<sup>th</sup> Royal Warwickshire Regiment, which was largely a Birmingham unit.

Barron was based in Dublin during the Easter Rising in 1916. He appears to have been left in charge of Richmond Barracks in Inchicore, the largest military barracks in Dublin, on Easter Monday as a second lieutenant.

From witness statements left in the Irish Bureau of Military History (BMH) in 1949 and in 1956, especially a remarkably detailed statement given by Volunteer Gerald Doyle, we have evidence of the encounter at Richmond Barracks between Barron and William Corrigan, the only practising solicitor known to have taken part in the Rising (see the *April 2016 Gazette*, p30)

BMH statements were not released to the public until recent years so the families of the two solicitors were not aware of their existence. A statement of Gerald Doyle recounts that, on the Tuesday of Easter Week, 25 April 1916:

“At about 9 o’clock on this morning, we were brought out of the guardroom and lined up. A number of British officers stood around us, and one of them stepped forward and spoke to Willie Corrigan. He recognised Corrigan. It later turned out that this officer was Lieutenant Barron, who had served his time as a solicitor’s apprentice in the same solicitor’s office as Corrigan. Barron said he was very sorry to see Willie in his present position and asked him if he was in need of money. Corrigan replied and said that he need not feel sorry for him (Corrigan), as he was very proud of his comrades and, as regards money, he informed him that he had quite enough to carry him through. Barron again said he was sorry and then stepped back. The officers then questioned Barron and they all moved off.

“Lieutenant Barron later returned to the guardroom, and three of us were brought under escort to the cookhouse, where we were handed a flat tin of stew with hard biscuits in it. We were also given a large can of tea and tin mugs and again brought back to the guardroom. This was very welcome, as we had nothing to eat or drink from the previous evening. As we were not allowed to have knives, forks, or even plates, we all had to sit around and eat out of the tins with

our fingers. The tea was the best we had ever tasted. On the changing of the guard, Lieutenant Barron again spoke to Willie Corrigan and gave him a pass, which he could show to whatever sergeant was in charge. The pass enabled Corrigan to buy directly from the army canteen and was used right up to the day of the trial.”

This was an extraordinary act of friendship and collegiality on the part of Barron. His fellow officers, along with most of the general population in Dublin, would have despised the captured rebels. Barron effectively stuck his own neck out for Corrigan.


In the following week, the insurgents surrendered, and Richmond Barracks was flooded with prisoners, as the British Army conducted a massive round-up under the imposition of martial law. Barron turns up again in Doyle’s BMH statement. The British had hardly any officers available with legal skills or training. Reading between the lines, Barron’s profession must have resulted in his being assigned to the trials, and he turns up again in Doyle’s witness statement on 3 May, when he calls out names from a sheet of paper and informs Doyle and others of their courts martial trials

being held in nearby buildings.

We can only surmise, but Barron must have been engaged in the detention and trial of prisoners through May. He turns up in another witness statement, that of Seamus Kavanagh made in 1957, in which Barron informs a group of rebels in Richmond Barracks of their immediate deportation to England.

Shortly after this, Barron must have learned of his move to the Western Front.

He landed in France on 28 June – 21 days later, his regiment was involved in the disaster that was the Battle of Fromelles, a subsidiary action to the much larger battle taking place further south on the Somme. The 61<sup>st</sup> Division, of which the 2<sup>nd</sup>/6<sup>th</sup> Warwicks were a part, suffered very heavy casualties for no significant gain, and no enemy reserves were diverted from the Somme. As we now know, hundreds of the casualties of the battle were buried in mass graves by the Germans. While 250, mostly Australians, were found in 2008 and identified by DNA, it is possible that there are more remains still to be located, including Barron’s.

The regiment lost a total of 97 men, of which 75, including Louis Barron, have no known grave and are remembered on the Loos Memorial to the Missing. 

**‘Hundreds of the casualties of the battle were buried in mass graves by the Germans’**

# Raising THE BAR in information security



Gordon Smith is a freelance technology journalist

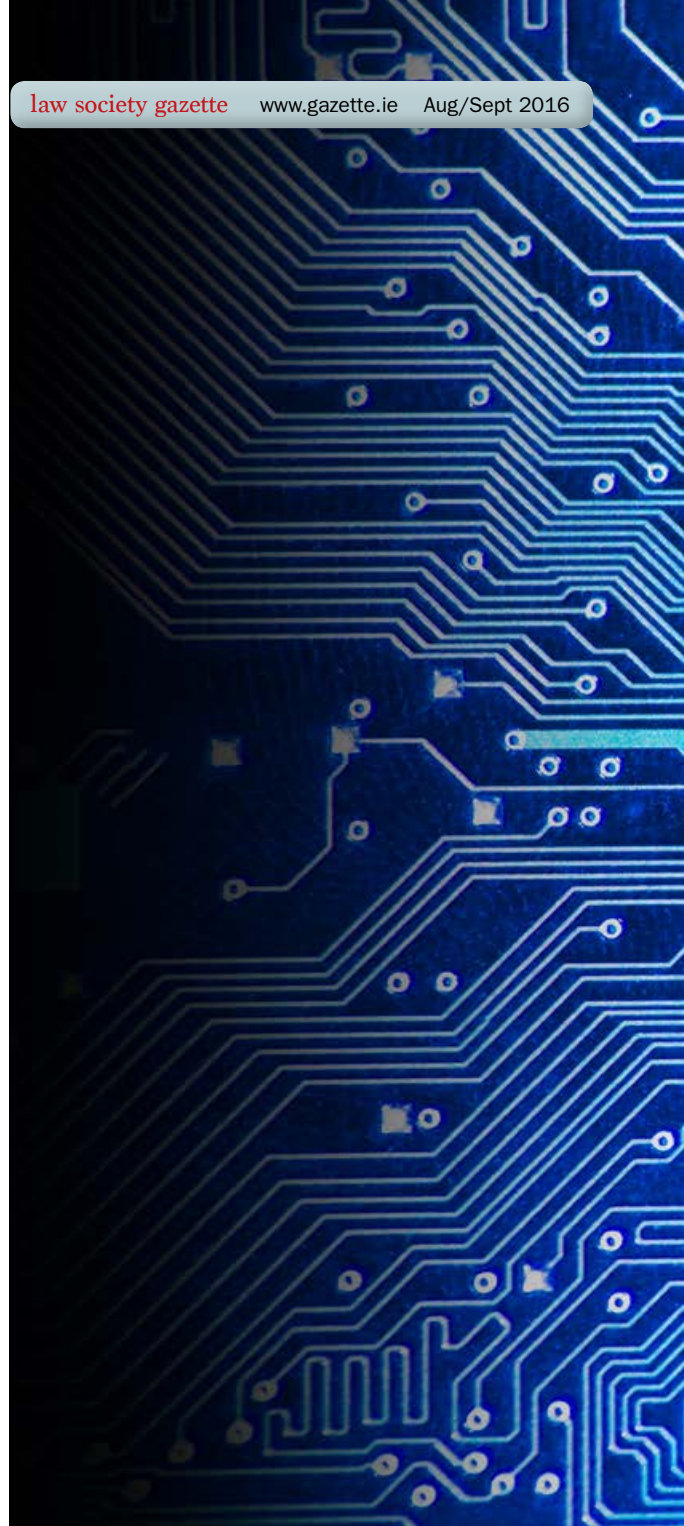
ByrneWallace has become the first large Irish law firm to be certified with an internationally recognised independent data security standard. **Gordon Smith** reports

Information security has steadily made its way from the server room to the boardroom, and what was once seen as purely a technology issue is now firmly on the business agenda. The latest [Irish economic crime survey](#) from PriceWaterhouse Coopers found that cyber-attacks against Irish businesses have almost doubled since 2012. Then, 25% of companies that suffered economic crime said they had experienced some form of cybersecurity incident. Now, that figure is 44%.

ByrneWallace had seen trends like this first-hand, having advised many of its clients about cybercrime and related issues like data protection, and having worked with others who had been

## at a glance

- Cyber-attacks against Irish businesses have almost doubled since 2012
- ISO 27001 provides a set of standardised requirements for an information security management system that ensures that the highest standard of controls are in place to address several critical areas
- Achieving ISO 27001 certification helps keep confidential information secure, provides customers and stakeholders with confidence, and allows for the secure exchange of information





affected by security breaches in their own businesses. “Cybercrime is increasing exponentially, and the associated risk to law firms is very material,” says Catherine Guy, managing partner of the Dublin-based firm.

Some 14 law firms in Ireland have reported cyber-attacks in recent months, reflecting a growing global trend. They’re a favoured target of cybercriminals because of their data, explains Brian Honan, CEO of BH Consulting, an independent IT security company. “Many law firms have very sensitive information about high-value

individuals or corporate firms – that could be mergers and acquisitions data, contracts and other valuable information,” he says.

#### **Business risk**

ByrneWallace had identified cybersecurity as a business risk. One of the larger law firms by Irish standards, with 200 employees and 37 partners, it has a quality and risk committee whose remit includes assessing all business risks to the firm. After raising the cybersecurity issue, ByrneWallace’s management committee decided to become certified for ISO 27001.

**“ The biggest challenge in obtaining the certification is because the standard is so extensive in scope ”**

## FOCAL POINT

## steps to security

ByrneWallace took 13 months to complete the ISO 27001 project, starting in May 2015 with the research and planning, and culminating in the award in June 2016.

The project began with an assessment stage to research and plan what would be involved. Once the decision was made to proceed, the firm set up an Information Security Management Systems Committee to deliver the project. Director of finance and operations David Dinn led the group, which included IT head John Kelly, supported by the firm's HR manager, facilities manager, compliance manager and an associate lawyer with data protection expertise.

### August-September 2015

Stage 2 was the 'gap analysis', which involved examining the firm's physical and non-physical security processes and controls and related documentation, in order to compare them to best practice as outlined in the standard. Here, ByrneWallace had an advantage in its favour, having been accredited for the Lexcel (an international quality standard for legal practices) in 2012. "This meant that roughly 50% of the processes and controls required by

ISO 27001 had, in fact, been already implemented," Dinn explains.

### October 2015-May 2016

Stage 3 was the risk-assessment process. Dinn emphasises that this process is never actually complete, but is a continuous loop between assessing, resolving, and reassessing.

### December 2015-March 2016

Stage 4 was one of the biggest segments in the project: document preparation. "All processes and protocols must be fully documented to ensure compliance. Given the scope of the standard, this meant that we had to complete a detailed workflow for hundreds of processes," says Dinn.

### January-March 2016

Stage 5 covered process implementation: rolling out the new processes and ensuring that all 200 staff received extensive and exhaustive security training. Dinn: "We constantly monitor that our processes are adhered to and we complete internal quarterly audits, with exception reports provided to the quality and risk committee for action."

### January 2016 and ongoing

Stage 6 is the awareness campaign – actually a series of campaigns across the firm that included posters, intranet bulletins and questionnaires, 'lunch and learn' sessions, and publishing a handbook for each member of staff for FAQs and protocols applicable. "Cybercrime targets individuals in a business constantly, including via direct email contact such as ransomware," Dinn points out. "We understand very well that the system is only as good as the resilience and awareness of every individual staff member, and creating and maintaining awareness is a continuous and never-ending process."

The certification process itself involves two phases. The first involves careful external scrutiny of the applicant's documentation – which outlines processes, controls and responsibilities – to ensure they comply with the scope of the standard. The second-phase audit took place eight weeks after passing the first. "This is designed to ensure that you are 'living' the standard and that you actually do what is set out in your procedural manuals. There are then bi-annual audits to confirm continuous compliance and retention of the certification," says Kelly.

"ISO 27001 is an internationally recognised independent security standard that shows companies follow recognised best practices

for treating the data their clients and customers entrust to them," says Honan.

ISO 27001 provides a set of standardised

requirements for an information security management system that ensures that the highest standard of controls are in place to address several critical areas: confidentiality, integrity and availability of information about customers, continual protection of assets, IT governance and legal compliance.

In successfully obtaining the certification, ByrneWallace became the first large law firm in Ireland to be certified by Certification Europe, the ISO-accredited body. Certification Europe sales manager Rob Lyons says there has been growing interest in ISO 27001 among many businesses in Ireland, largely driven by the recently ratified EU *General Data Protection Regulation*, which comes into force on 25 May 2018.

Going for the certification wasn't a box-ticking exercise for compliance in ByrneWallace's case, according to David Dinn, finance and operations director. "We chose to do this, not because of any specific client demand or regulatory requirement, but because we understood the significance



David Dinn (director of finance and operations, ByrneWallace), Catherine Guy (managing partner, ByrneWallace), Rob Lyons (sales manager, Certification Europe), and John Kelly (head of IT, ByrneWallace)

of cybersecurity threats, the potential impact on our clients and their businesses, and the need to address the risk and threat that cybercrime poses. It is our view that protecting clients' data is one of our top priorities, given the material consequences of a breach," he says.

"The reality of the environment in which we operate is that just one significant cyber-hit could cause significant damage, including reputational damage. We have recognised that this is a real and significant risk and have moved to address and mitigate it. From our perspective, this certification was a 'must have' as opposed to an optional extra," adds Guy.

### Strategic initiative

There are several benefits to achieving ISO 27001 certification, says Lyons: "It keeps confidential information secure, it provides customers and stakeholders with confidence in how you manage risk, and it allows for secure exchange of information." In addition, it helps organisations to meet their legal obligations and helps them to comply with other industry-specific regulations. "ISO 27001 certification manages and minimises your risk exposure, builds a culture of security, and it protects the company, assets, shareholders and directors," he says.

Catherine Guy describes the decision to obtain ISO 27001 as a "strategic initiative" for ByrneWallace, given the importance of ensuring the security of data belonging to both the firm and its clients. "The cybercrime environment is now so sophisticated and evolves so quickly, that in order to continuously combat the threats posed by cybercrime, we had to adopt a firm-wide

standard that has the continuing buy-in and commitment from the entire ByrneWallace team," she says.

Once upon a time, information security was seen as a cost of doing business – but having a proven and certified method for managing cyber-risk can be a competitive differentiator in the market, Lyons adds.

Dinn says that this point was one of the key pillars in the firm's strategic rationale for doing the project. "ByrneWallace is the first Irish law firm to achieve this certification, and we are in a unique position to provide assurances to our clients about the security of their data," he claims.

Initial research and planning for ISO 27001 began in May 2015, with the formal decision to allocate the resources needed to pursue the certification made in August of that year (see panel).


Catherine Guy says the biggest challenge in obtaining the certification is because the standard is so extensive in scope. "It spans across many areas of the business and ultimately impacts how we all operate, day to day. With so many stakeholders involved in the coordination, buy-in and implementation of the appropriate controls, it took significant effort from all involved to undertake the project while also performing their normal day-to-day duties," she says.

Dinn estimates that the project took more than 2,500 hours, spread across teams including HR, finance, compliance, IT and facilities, along with specific legal input from its corporate department on data protection regulations. "From a money perspective, suffice to say that it is a material investment," he says.

Guy doesn't see the project in terms of a return on that investment, however. "Frankly, we do not expect that the cost will or should be repaid in a tangible way," she says. "Knowing what we know about the environment we work in and the constant threats posed from external sources, it gives us great comfort to know that we are applying internationally recognised best practices to ensure we have robust controls and processes for data security. It also allows us to give that assurance to our clients.

"Achieving this certification has enhanced our own understanding of the extent of the threats and the potentially very serious impact of cybercrime activity and has also given us a very pragmatic perspective on the issues," she reflects.

Dinn describes the project as intense, requiring "significant sustained commitment" from all involved to ensure a successful outcome. He points out that ByrneWallace worked with an external consultant with extensive experience in security certification at various points throughout the project, whose assistance was very significant.

Certification is one stage of a journey rather than a destination, because the standards required call for continuous compliance rather than hitting a one-off target. "That requires vigilance and a continuous improvement philosophy to ensure that our controls remain effective. Like any successful project of significance, this requires strong leadership and commitment to achieve that level of sustained buy-in from all of the team," says Guy. 

## Are Ground Rent issues slowing down your conveyancing?

Having trouble with determining your rights to acquire the fee simple?

Need advice on what to pay to purchase the fee simple on behalf of your client?

Did you know that over the past 30 years more than 82,000 people have availed of the Ground Rent Purchase scheme?

Make life a lot easier for you and your client. Contact Pat Stephenson or Donal Fitzpatrick, who between them have over 80 years' of experience in the property industry.



For help with any ground rent issues call 01 433 2222 or email [groundrents@norths.ie](mailto:groundrents@norths.ie)

DX: 109038 | Norths Property, 7a Fitzwilliam Place, Dublin 2

**Norths**  
Property

# New BEGINNINGS



Daire Hogan is the editor (with Eamonn G Hall) of *The Law Society of Ireland 1852-2002: Portrait of a Profession (2002)*; and the author of *Vacancies for their Friends – Judicial Appointments in Ireland 1866-1867 (Irish Legal History Society, 1990)*

An 1866 act laid the foundations for the development of the solicitors' profession and its present governance, and marked new beginnings for the Law Society. Daire Hogan opens the history books

Parliament in 1866 had a character that might seem strangely familiar to a time traveller from Leinster House in 2016. Then also, no party had an overall majority, governments were unstable and might change without an election being held, and significant legislation might be introduced by opposition politicians. One such statute was the *Attorneys and Solicitors (Ireland) Act 1866*, which became law 150 years ago, on 5 August 1866.

It followed years of campaigning by the Law Society of Ireland, in conjunction with the Northern Law Club. A general meeting of the Society in 1864 had called for the laws regulating the profession to be modernised and assimilated to those of England, as enacted in 1843 and 1860.

The Society had set to work in promoting this project, enlisting the support of Lord Chelmsford, a former Lord Chancellor of England, who introduced the bill in the House of Lords. The details of the legislation then adopted have, of course, been changed and updated over time, and there has been regular successive modification of the regime of governance of the profession – principally in 1898, 1954/60, 1994 and 2015 – but what took place in 1866 was the most seminal reform of all. The act was the first legislative landmark in the history of the Society, the first statute to refer to the Society by name, and the first statutory acknowledgement of its representative and regulatory capacity.

#### Dramatic reform

There are two features of the 1866 legislation that are still recognisable now as key elements of the Society's functions. One is that the responsibility for the education

of apprentices was transferred from the King's Inns to the Society, acting then with the consent of the judges, and the other was the provision for the appointment of the Society as registrar of attorneys and solicitors.

The most dramatic reform introduced by the act in the eyes of contemporary observers was the termination of the control that, for generations, the Benchers of King's Inns had exercised over the solicitors' profession – a connection that the Law Society had long considered to be restrictive and unwarranted. The act provided that fees would no longer be payable except to the Society by any person seeking to be bound as an apprentice or admitted as a solicitor, so membership of and payment of fees to the King's Inns would no longer be a condition for entry to the profession.

In addition to this reform, two other aspects of legal life

#### at a glance

- The *Attorneys and Solicitors (Ireland) Act 1866* became law 150 years ago
- A seminal moment for the Law Society of Ireland, the act was the first statute to refer to the Society by name
- It was also the first statutory acknowledgement of the Society's representative and regulatory capacity
- The responsibility for the education of apprentices transferred from the King's Inns to the Law Society
- The act made provision for the appointment of the Society as the registrar of attorneys and solicitors
- The legislation was enacted during a period of significant upheaval in the senior ranks of the judiciary







**TIERNEY IP**  
EUROPEAN INTELLECTUAL PROPERTY CONSULTANCY

## Need 'On Call' Intellectual Property advice and assistance?

Niall Tierney is an Intellectual Property Attorney with over 20 years' multi-jurisdictional and cross-industry experience gained both in private practice and in-house.

Qualified to act in Ireland and the United Kingdom as well as before the European Union Intellectual Property Office and the World Intellectual Property Office.

**Flexible solutions and rates offered.**

For immediate assistance, contact Niall on 01-2544116 or email [niall@tierneyip.com](mailto:niall@tierneyip.com)

**[www.tierneyip.com](http://www.tierneyip.com)**

## ORMOND MEETING ROOMS



Specialised for those with accessibility requirements, OMR is Irelands only 24/7, 5 star meeting room centre specialising in:

- Mediations
- Arbitrations
- Trial Office
- Disciplinary hearings
- Legal Seminars
- Legal consultation
- Virtual Office
- Training rooms

**Our friendly staff are on hand at all times to provide a comprehensive range of services, including:**

- Video Conferencing
- Audio Conferencing
- Free Wifi
- Administration Services
- Hot/Cold Catering
- Stenography

Located approximately 50 steps from the Four Courts, OMR is the ideal location for all your pre-trial needs and our modern and bright facility is the perfect place to meet your clients.



**CONTACT ORLA CARABINI, CENTRE MANAGER**

Tel: 01 871 7550. Email: [orla@omr.ie](mailto:orla@omr.ie)

**[www.omr.ie](http://www.omr.ie)**



## LAW SOCIETY LIBRARY AND INFORMATION SERVICES – WE DELIVER!

Judgments database – extensive collection of unreported judgments from 1952 to date, available in PDF format to print or download. Self-service access for members and trainees via the online catalogue.

Contact the library: tel: 01 672 4843/4; email: [libraryenquire@lawsociety.ie](mailto:libraryenquire@lawsociety.ie)



**LAW SOCIETY OF IRELAND**

that we now take for granted date from 1866 and 1867, namely 'official' law reporting and professional legal journalism. In those years, the Law Reporting Council of Ireland was set up, and *The Irish Law Times and Solicitors' Journal*, which for decades would be the primary legal periodical in Ireland, began publication.

### Concerns over judiciary

Solicitors, very properly and soberly, had focused their attention in the summer of 1866 on significant institutional reform. However, the attention of others in the legal profession was seized by an extraordinary series of senior judicial resignations and appointments in the months of July and August. No age limit was then applicable to the retirement of judges and, in May, questions had been asked in parliament about whether the government believed that the constitution of the Irish bench, considering the advanced age of some of the judges, "was satisfactory and conducive to the due administration of justice in Ireland".

The questions had a wider context of looking to bring about the retirement of some of the older judges, so that the party then in office could make new appointments. But the immediate issue was a macabre incident that had occurred in court in Tullamore some months previously, when Chief Justice Thomas Lefroy of the Queen's Bench had mispronounced a sentence of death at the end of a murder trial. For good order, it had been thought best that he would then pronounce the sentence for a second time, following the dictation of the attorney general.

Lefroy was then aged 90, and had been a judge for 25 years, having been appointed to his present office 14

years previously at the age of 76. The main defender of his capacity to discharge the functions of his office was James Whiteside QC, a leader of the Bar and one of the members of parliament for Dublin University (Lefroy's son was the other MP, and Lefroy himself had represented the university in parliament for 11 years between 1830 and 1841, before being appointed a judge). Whiteside said that the difficulty had arisen only because the courtroom was dark, drawing a remark from another MP that he was attempting to "cast the veil of his eloquence over the receding shadows of a past generation".

The parliamentary questions were batted

### FOCAL POINT

## also in 1866

- 13 March – the US Congress overwhelmingly passes the *Civil Rights Act of 1866*, the first federal legislation to protect the rights of African-Americans. President Andrew Johnson vetoes the bill on 27 March, but Congress overrides the veto on April 9.
- 13 April – Butch Cassidy was born (died 1908).
- 7 May – student Ferdinand Cohen-Blind makes a failed attempt to assassinate Otto von Bismarck in Unter den Linden in Berlin.
- 10 May – London bank Overend, Gurney and Company collapses, precipitating the Panic of 1866.
- 2 June – Fenian forces skirmish with Canadian militia at the battles of Ridgeway and Fort Erie.
- 8 June – the Canadian Parliament meets for the first time in Ottawa.
- 14 June – the Austro-Prussian War begins when Austria and most of the medium German states declare war on Prussia.
- 22 June 1866 – Archbishop Paul Cullen of Dublin was created the first Irish cardinal.
- 26 June 1866 – the first Irish Derby was run at the Curragh.
- 27 July – the *SS Great Eastern* successfully completes laying the transatlantic telegraph cable between Valentia Island, Ireland, and Heart's Content, Newfoundland.
- 23 August – the *Treaty of Prague* ends the Austro-Prussian War.
- 21 December 1866 – Maud Gonne was born.

away, the fuss died down, and nobody resigned, but new vistas for change in the judiciary were opened up when the Liberal government led by John Russell fell at the start of July, losing support for its proposals for reform of the electoral laws. The attorneys and solicitors legislation was in its final stages of parliamentary approval, and the change of government did not affect its passage into

law, but the replacement of Russell as prime minister by Lord Derby (a Conservative who had made the appointment of chief justice in 1852) made it safe for Lefroy to retire, in terms of who would be in a position to nominate his successor. His son immediately communicated to Derby his intention to stand down and, to nobody's surprise, Whiteside was appointed to succeed him.

Whiteside was appointed to succeed him.


### Personal jealousies

The filling of other judicial positions proved more difficult, however, owing to what Derby described to Queen Victoria as mutual personal jealousies among the members of the Bar looking for promotion, and his initial intention to appoint a non-partisan lawyer as Lord Chancellor. MPs then did not receive any salary, and it was accepted that the inconvenience and loss of income associated with at least occasional attendance by a barrister MP at Westminster rather than at the Four Courts ought to be borne in mind when judicial appointments were

being made. One disappointed aspirant to office remonstrated bitterly with Derby the following year, after a new controversy over further appointments had broken out, about his parliamentary services to the party for five years, "in the shade and gloom of opposition", having been overlooked.

Derby was not able to square the circle of competing claims in July 1866 so, as an interim or stop-gap measure, Francis Blackburne, a Lord Justice of Appeal, was appointed as Lord Chancellor. Unfriendly critics observed that he was aged 83 and had been deemed too old to be appointed to that position when Derby had last been prime minister seven years before.

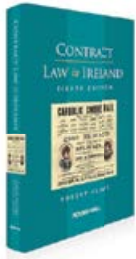
The appointment as Blackburne's successor of Joseph Napier, a comparatively younger man, then triggered a fresh and more damaging controversy as to whether the degree of his acknowledged deafness rendered him unsuitable for judicial office. Napier's senior colleagues eventually persuaded him a few weeks later to step down, overcoming his private view as expressed to Derby that, while he might not always have picked up all that was said in court, this would not be of significance in the Court of Chancery Appeal.

The controversies over those judicial appointments a century and a half ago have faded away. However, the enactment at the same time of the *Attorneys and Solicitors Act*, and the breaking of the link with the King's Inns through that reforming legislation, was a truly significant achievement for the Law Society, and laid the foundations for the development of the solicitors' profession and its present governance. 

**The breaking of the link with the King's Inns through that reforming legislation was a truly significant achievement for the Law Society**

THOMSON REUTERS

## ROUND HALL™

**CONTRACT LAW IN IRELAND,  
8TH EDITION****Robert Clark**

The eight edition of Clark's bestselling Irish Contract Law text includes a number of important, and landmark, legislative changes that have taken place since the last edition, for example the Assisted Decision-Making (Capacity) Act from late 2015 and many more.

ISBN: 9780414056367 | Price: €125  
Publication: September 2016

**EQUITY AND THE LAW OF TRUSTS  
IN IRELAND, 6TH EDITION****Hilary Biehler**

Equity and the Law of Trusts in Ireland provides a comprehensive treatment and analysis of this area of the law. This updated and expanded new edition gives you an insight into recent developments in relation to both trusts and equitable remedies.

ISBN: 9780414056060 | Price: €125  
Publication: January 2016

**PLACE YOUR ORDER TODAY**

roundhall.ie

TRLUKI.orders@thomsonreuters.com

1800 937 982 (IRE) | 0345 600 9355 (UK)



THOMSON REUTERS®

## After the Rising: Soldiers, Lawyers and Trials of the Irish Revolution

**Sean Enright.** Irish Academic Press (2016), [irishacademicpress.ie](http://irishacademicpress.ie). ISBN: 978-1-78537-051-9. Price: €17.50 (paperback).

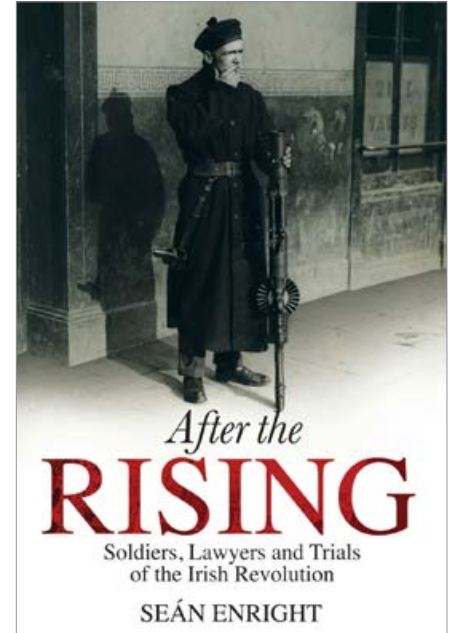
Analysis and commentary on the long revolution tends to focus on the political and military aspects of the period 1916-21. Here, Sean Enright looks at this period through the prism of the law.

The aftermath of the Rising led to the War of Independence, which concluded with the truce in July 1921. The legal system that sustained the old order subsisted in theory, but collapsed in practice on the ground.

In response to the crisis in the criminal justice system, the government turned to the exercise of new and existing special powers. Thousands were to be tried by court martial. Such was the crisis that, by 1920, there were four separate legal regimes in operation simultaneously: criminal justice under British rule, courts martial under the *Restoration of Order in Ireland Act 1920*, Dáil courts, and martial law in the south-west.

The perspective of the experienced lawyer is brought to bear in imposing a legal overlay on the political and military landscape of the time. The scene is then set for a brief narrative of a number of significant trials of the era. These range from Captain John Bowen Colthurst, Roger Casement and Eoin MacNeill in 1916, to the Bloody Sunday trials and the trial of Captain William Lorraine King of the Auxiliaries by court martial at City Hall in Dublin in April 1921.

Pen-pictures of the *dramatis personae* – military, political, and legal – add an extra dimension. Written with a perspective gained in the practice of the law as a barrister and



a judge, and with a keen eye for historical detail, this book provides insight into events of the time in the context of the time. The implications for modern society of the selective application of the rule of law are drawn into relief.

This is a well-researched and eminently readable account of the law and lawyers during a pivotal time in the emergence of modern Ireland.

*Colonel Michael Campion is military judge for the Defence Forces.*

## Business Law in Ireland

**Anthony Thuillier and Catherine MacDaid.** Clarus Press (2015), [www.claruspress.ie](http://www.claruspress.ie). ISBN: 978-1-90553-677-1. Price: €39 (paperback).

*Business Law in Ireland* is an engaging textbook designed to provide college students, business managers, and entrepreneurs with the principal information they need on traditional legal topics that relate to a business's affairs. The authors are to be commended for the succinct fashion in which they explain complex topics relevant to the commercial world, ranging from company law principles, to tort and contract law queries, to the employment contract.

Beginning with a broad introduction to the



Irish legal system, the authors guide the reader through a wide range of subjects while providing concise distillations of core ideas alongside relevant case law and legislation. The facts of cases are explained thoroughly, but with admirable brevity. Written in a concise style, free from legal jargon, the authors explain key concepts in a thorough and clear fashion for non-lawyers.

This book will undoubtedly be a useful aid for its intended audience. The authors have

done an excellent job in demystifying many legal concepts that business people and non-law students often find intimidating. As the authors point out in the preface, "this is not a book for lawyers; it is a book for non-lawyers who need to know the law as it affects business life in Ireland". The authors have certainly succeeded in this aim.

*Philip Andrews is a partner in McCann FitzGerald, Dublin 2.*

## Electoral Law in Ireland

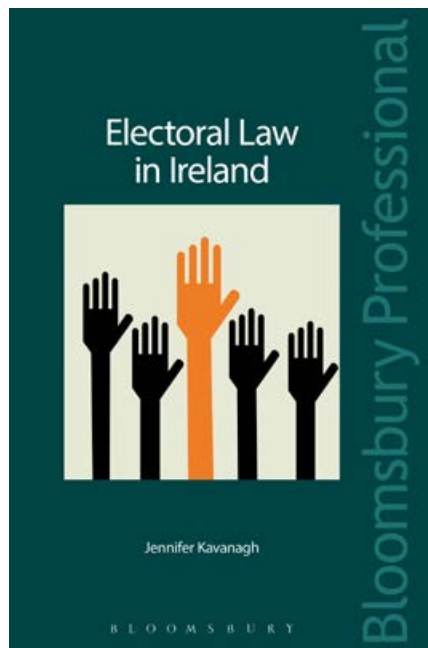
Jennifer Kavanagh. Bloomsbury professional (2015), [www.bloomsburyprofessional.com](http://www.bloomsburyprofessional.com). ISBN: 978-1-78043-813-9. Price: €150 (paperback).

The current political climate, with some election or another never seeming too far away, makes this a very timely publication. For many firms, the book will have little relevance. However, for any firm advising a political party (a growth area, with the emergence of new parties), a politician, a candidate, or even a returning officer, Dr Kavanagh's *Electoral Law in Ireland* is an invaluable resource.

The book covers all the significant areas of legal and regulatory impact on political life in Ireland in a logical, coherent and informative fashion. The first two chapters, providing an introduction and overview, are quite academic yet interesting nonetheless. The author then starts the more practical chapters with a review of the administration of a political party, covering registration, fundraising, donations and accounting, before concluding with offences and penalties.

Chapters 4 and 5 deal with running a campaign and nominating procedures, considering, among other things, broadcasting regulations, balance in communications, gender quota regulations, distinguishing between the assenter and deposit system of nominations, electoral agents, and national agents.


A number of subsequent chapters focus on voting, ranging from voter registration and special voters to the minutiae of polling arrangements, the voting procedure, and voting arrangements. Then Chapter 10 covers the thorny issue of offences relating to the electoral register, voting (personation, secrecy of the ballot, etc), the mechanics of the election, candidates and polling stations. The



statutory basis for each of the offences is set out, and the chapter concludes with details of the applicable penalties.

The next chapter considers the organisation and operation of the election count, explaining with clarity oft-confusing issues such as spoiled votes, the calculation of the quota, and the transfer of votes from elected or eliminated candidates.

Chapters concerning challenging an election result and the reimbursement of expenses follow, before the book concludes with a chapter discussing ethics in public office, including a brief summary of the *Regulation of Lobbying Act 2015*.

While potentially a somewhat niche or boutique topic, for any solicitor actively advising political clients, this book will be of tremendous assistance. 

*Richard Hammond is partner in Mallow law firm Hammond Good.*

**Bloomsbury Professional announces new seminar**

## THE EU GENERAL DATA PROTECTION REGULATION: A practical analysis of its Irish application

Presented by Denis Kelleher, author of *Privacy and Data Protection Law in Ireland*

**Data Protection Law in Ireland; how will the EU General Data Protection Regulation affect you?**

### Seminar programme:

- The new roles of data controller, processor and how they process data.
- New rights for data subjects
- A new role for the DPC
- New internal compliance structures

**Venue:** Institute of Banking, 1 North Wall Quay, Dublin 1

**Date:** 13th October 2016

**Time:** 9am – 1pm



**Bloomsbury Professional invites you to register your interest in attending this seminar. Contact details:**

Jennifer Simpson, Sales & Marketing Manager, Fitzwilliam Business Centre, 26 Upper Pembroke Street, Dublin 2.

**T:** +353 (0)1 6373920

**F:** +353 (0)1 6620365

**E:** [seminars@bloomsbury.com](mailto:seminars@bloomsbury.com)

 **Bloomsbury Professional**



# Dublin Dispute Resolution Centre

Ireland's Premier Dispute Resolution Venue

- Arbitrations
- Mediations
- Conciliations
- Consultations
- Seminars
- Training



Dublin Dispute Resolution Centre

CONTACT US

Distillery Building, 145-151 Church Street, Dublin 7, Ireland  
Tel: +353 (1) 817 5277 Email: info@dublinarbitration.com

## ADOPTION AUTHORITY OF IRELAND

### SOLICITOR REQUIRED

Solicitor with broad experience in family law is required to manage routine legal operations and to advise the Board of the Adoption Authority of Ireland on legal matters arising from the processing of various applications placed before it for consideration. Familiarity with family law, regulatory law, the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption and international best practice in adoption matters would be desirable but not essential.

The role of the Legal Advisor / Solicitor includes, but is not confined to, the following-

- The case management of all litigation and routine legal operations referred to the High Court under Sections 18, 26, 30, 53, 54 and 92 of the Adoption Act 2010;
- Liaison with the Authority's external legal advisors and / or any other party appointed by the Authority to represent it;
- Preparations and presentation of relevant legal matters to the Board of the Authority;
- Work within multi-disciplinary team consisting of administrative and social work staff.

#### Competencies:

- Ability to communicate accurately and effectively (written and verbal);
- Ability to analyse information and to compile briefs;
- Ability to plan and prioritise work and to deliver results;
- Accuracy and attention to details'
- Have the knowledge and ability to discharge the duties of the post concerned.

Full details are available on the Authority's website:

[www.aai.gov.ie](http://www.aai.gov.ie)



THE BAR OF IRELAND  
*The Law Library*

## NEED EXPERIENCED DISCOVERY COUNSEL?

Expertise at your fingertips - log on to [www.lawlibrary.ie/discovery](http://www.lawlibrary.ie/discovery)

*Instant access to database of 200 expert barristers skilled in discovery, e-discovery and title review*

*A service provided by*  
The Bar of Ireland  
Distillery Building  
145/151 Church Street  
Dublin D07 WDX8  
T: +353 1 817 5000  
W: [www.lawlibrary.ie](http://www.lawlibrary.ie)  
E: [thebarofireland@lawlibrary.ie](mailto:thebarofireland@lawlibrary.ie)

[www.worthingtonslaw.co.uk](http://www.worthingtonslaw.co.uk)

Lexcel  
Practice Management Standard  
Law Society Accredited

## FOR ALL THOSE LEGAL HURDLES



**NORTHERN IRELAND SOLICITORS**



**BELFAST**  
Cathedral Quarter 24-38 Gordon Street  
T: 028 9043 4015 F: 028 9043 4016

**NEWTOWNARDS**  
2 Court Street  
T: 028 9181 1538 F: 028 9181 0532

**email** [info@worthingtonslaw.co.uk](mailto:info@worthingtonslaw.co.uk)

  
**Worthingtons**  
Solicitors

15 July 2016

**Motion: Law Reform  
Commission Report on Oaths  
and Affirmations**

*“That the Society use its best endeavours to secure the early implementation of the recommendations of the Law Reform Commission’s Report on Oaths and Affirmations first published in December 1990, the summary recommendations of which are appended hereto.”*

**Proposed:** Patrick Dorgan

**Seconded:** Michael Quinlan

The Council approved the motion unanimously, noting that the Law Reform Commission recommendations envisaged that the oath would be abolished for witnesses and jurors and for deponents submitting affidavits in all proceedings, civil or criminal, and would be replaced by a solemn statutory affirmation in a speci-

fied form, and that any relevant statute or rules of court would be amended accordingly.

**Legal Services Regulation Act**

Paul Keane reported that parts 1 and 2 of the act, establishing the Legal Services Regulatory Authority, were expected to be commenced with effect from 1 October 2016, but that the provisions transferring the handling of new complaints to the authority were not expected to be commenced until 2017.

**In-house and public sector survey**

Aoife Marren (RED C) and Deirdre O’Sullivan (vice-chair, In-house and Public Sector Committee) presented the results of a survey conducted by RED C on behalf of the Society and an action plan subsequently devised by

the committee covering four distinct areas: (a) skills and value, (b) education and training, (c) professional issues, and (d) trainees. The action plan was approved by the Council with acclaim, and the committee was congratulated on its ambitious and long-term plan, which would be implemented with the support of the Society over the coming years.

**Delays in the taxation of costs**

The Council discussed the consequences of the Court of Appeal judgment in *Sheehan v Corr* and the need for revised rules of court. Increasing delays in the taxation of costs were also discussed. It was agreed that the profession should be advised about the possibility of using mechanisms outside the taxation-of-costs system to resolve the issue of costs, either by

agreement or by the use of ADR (see *eZine*, issue 75, August 2016).

**Meeting of four Law Societies**

The Council were briefed on a recent meeting of the presidents, vice-presidents, and CEOs of the law societies of Ireland, Northern Ireland, Scotland, and England and Wales, held at Blackhall Place. The Brexit referendum and its implications for lawyers and law societies were discussed, as was the proposed British *Bill of Rights* and threats to legal professional privilege, regulation, AML issues, and the forthcoming FATF evaluations (see *July Gazette*, p8). The increase in the number of applications from solicitors in Britain and Northern Ireland for admission to the Roll of Solicitors in Ireland following the Brexit result was also noted  (see *July Gazette*, p9).



**MEDLAW**

MedicoLegal Service Providers

- MedLaw is Ireland’s biggest medicolegal reporting provider.
- We have the largest panel of Medical Experts nationwide.
- Web-based appointment system with excellent support to ensure timely and efficient delivery of medicolegal reporting.

For immediate assistance with MedicoLegal Reports, contact us  
Tel: +353 1 2135621, DX: 211005, email: [info@medlaw.ie](mailto:info@medlaw.ie)

[www.medlaw.ie](http://www.medlaw.ie)



## REGULATION OF PRACTICE COMMITTEE

## Misappropriation by employees in solicitors' practices

The Regulation of Practice Committee has noted an increase in cases involving misappropriation of client and office moneys by employees of solicitors' practices. While misappropriation by employees is not widespread, the number of cases that have come to the attention of the committee has increased recently. This practice note describes common methods of misappropriation and details the steps you can take to protect your practice.

### Who is at risk?

Misappropriation by employees has occurred in large and small practices, in firms in Dublin and all over the country. Employees who have misappropriated moneys include assistant solicitors, legal executives, office managers, bookkeepers and secretarial staff. Long-serving employees as well as recent appointments have been involved in misappropriation. Employees with no direct access to the finances of the practice have misappropriated moneys, as well as employees with direct access to practice moneys.

### The cost

Many solicitors have had to dig deep into their own resources in order to make good deficits on the client account caused by misappropriation of clients' moneys by their employees. Employees have also misappropriated practice moneys. Not just money is at risk: electronic data, including client details, matter and file information, can be easily extracted by USB key and taken by a departing employee or passed on to third parties, the loss of which may be costly, not least in reputational damage.

### Some methods used

One of the most common methods by which employees have misappropriated moneys

from solicitors' practices is the withdrawal of moneys by way of cheques made payable to financial institutions. An employee has either drawn or requisitioned a cheque made payable to a financial institution, usually to redeem a mortgage with that financial institution or to acquire a bank draft to complete a transaction or for payment of a beneficiary. Having obtained the signed cheque, the employee has lodged that cheque to their own bank account, very often held in a branch of the financial institution to which the cheque has been made payable, or purchased a bank draft for their own benefit.

Other methods of misappropriating clients' moneys have included the drawing or the requisition of a cheque made payable to the client, where the name of the client has been endorsed on the reverse of the cheque and that cheque has been cashed or lodged to the bank account of the employee. Third-party cheques made payable to the firm or to clients have been intercepted by employees, endorsed, and lodged to the employee's own bank account. Employees have obtained cash directly from clients and have not disclosed the receipt of these moneys to their employer.

Another way is to pay personal or family expenses disguised as an expense of the client – for example, hospital bills from an estate – or to pay personal utility bills from the office account, particularly if the provider is the same utility as supplies the firm.

In order to avoid detection, employees have misappropriated further moneys from the client account, using any of the methods described above, and lodged those moneys back into the client account in order to make a payment to the original client. False documentation has been placed

on file to make it appear that moneys were received from, or paid to, a client on a particular date. Having managed to conceal the initial misappropriation, further misappropriation has occurred by the employee who, having found a method of misappropriating clients' moneys and concealing it from his or her employer, continued to do so for a number of years.

However, it is not just cheques that are susceptible to misappropriation. Misappropriation has occurred where employees have had access to the firm's online banking facilities. Employees have been able to transfer moneys from the bank accounts of the practice to their own personal accounts, often held in the same financial institution as the practice bank accounts.

### The risk of unauthorised undertakings

Solicitors have also discovered that employees have issued undertakings to financial institutions in the name of the firm, without the knowledge or consent of their employers, in order to draw down loans for their own benefit. The signature of their employer has been forged on the undertakings and, on foot of those undertakings, financial institutions have released moneys to the employees. The employees have intercepted the post from the financial institutions enclosing the cheques, with the employer unaware of the transaction. In some cases, the undertaking included an obligation to redeem an existing mortgage from another financial institution, but the employee did not do so. Employees have also obtained loans on property that the employee did not own on foot of a solicitor's undertaking. In other cases, loans have been obtained from credit unions on

the basis of undertakings from the firm that the proceeds of a loan from another financial institution would be used to redeem the loan to the credit union. These letters were issued without the knowledge or consent of the solicitors of the firm.

### Vigilance

It is important that solicitors are permanently aware that misappropriation can occur in any office, at any time, and be perpetrated by any employee. Solicitors should constantly review the procedures in their offices to prevent and detect misappropriation. It is an ongoing process, and it is not sufficient to rely on the reporting accountants to detect misappropriation, although the reporting accountants can advise the solicitor on methods of prevention and detection.

Some warning signs include an employee rarely taking leave, or only taking very short holidays; always working long hours, both morning and evening; reluctance to pass over work or files to a colleague; and constant computer crashes for no apparent reason.

### Prevention strategies

Attention is drawn to regulation 9(3)(b) of the *Solicitors Accounts Regulations 2014*, which provides: "Where a solicitor withdraws moneys from a client account by means of a cheque drawn on that client account which is made payable to a bank in order to purchase a draft or other negotiable or non-negotiable instrument, the payee details, to be recorded on the client account cheque and the cheque stub or lodgement docket or other document of record in respect thereof maintained and kept by the solicitor, shall include the name of the person shown as payee on such draft or other negotiable or non-negotiable instrument."

The Regulation of Practice Committee considers that, if this regulation is complied with fully, the opportunity for employees to lodge client account cheques made payable to financial institutions to their own bank accounts is reduced.

### Sample internal controls

Solicitors should install internal controls appropriate to the size of the practice. It is not practicable in a practice note addressed to the whole profession to set out in detail all the controls a practice should have. The precise controls appropriate to each practice should be designed to meet the needs of the practice concerned. However, in general, measures that will assist solicitors in reducing the risk of misappropriation of clients' moneys and office moneys by employees include:

- Ensuring that cheques made payable to banks and other financial institutions to purchase bank drafts disclose the name of the intended beneficiary of the transaction,
- Ensuring cheques made payable to banks and financial institutions to redeem mortgages clearly identify the person and the account number of the person or entity whose mortgage is to be redeemed,
- Having procedures in place to ensure that a principal solicitor or a partner in the firm opens the post and, where possible, the person in charge of the post should be rotated,
- Obtaining confirmation of receipt from clients and other third parties to whom payments have been made – though be aware of the possibility of forged documents,
- Issuing pre-numbered receipts for cash and cheques received directly from clients, and recording the receipt of those moneys in the books of accounts without delay,
- Keeping a register of undertakings and diligently managing the operation of the register, including periodic review,
- Regularly reviewing listings of client and office balances – in particular, dormant balances that may be targeted,
- Restricting access to the firm's online banking facilities, as much as possible, to the authorised cheque signatories,
- Restricting physical access to all cheque books,
- Refusing to sign blank cheques under any circumstances,
- Only signing cheques/authorising electronic payment when backing documentation to explain the reason for the payment is attached – look for original documents as much as possible, since photocopies can easily be altered and recopied,
- Where possible, there should be division of duties – whoever requisitions or signs a cheque should not be responsible for sending out the cheque in the post,
- Prohibiting employees from signing client and office cheques without a second signatory – be alert to the possibility of collusion,
- Checking out the references of new employees and the circumstances under which they left their previous employer,
- Individuals recently promoted to a more senior financial position, who may not be as experienced as their predecessor, may be exploited or may not be as aware of the importance of various controls,
- Regular periodic review of files, picked at random, in conjunction with the client ledger account to compare transaction details to documents.

*John Elliot,  
Registrar of Solicitors and Director  
of Regulation*

## GUIDANCE AND ETHICS COMMITTEE

# Solicitors as officers of the court

Solicitors' rights and obligations as officers of the courts are derived from section 78 of the *Judicature (Ireland) Act 1877* – which states: “any solicitors, attorneys or proctors to whom this section applies shall be deemed to be officers of the Court of Judicature: and that that court and the High Courts of Justice and the Court of Appeal respectively or any division or judge thereof, may exercise the same jurisdiction in respect of such solicitors or attorneys as any one of Her Majesty's superior courts of law or equity might previously to the passing of this act have exercised in respect of any solicitor or attorney to practise therein” – and section 61 of the *Courts (Supplemental Provisions) Act 1961*.

There is no legislative definition of the duties of solicitors as

officers of the court, and case law provides guidance. Rights and duties accrue to solicitors by virtue of their relationship with the court. The latest edition of the *Guide to Good Professional Conduct for Solicitors* (2013) states that “a solicitor not only acts for his client and owes a duty to do his best for that client but he also owes a duty to the court”.

The superior courts have an inherent supervisory role over solicitors who are officers of the court due to the nature of solicitors' positions, which gives certain rights and privileges. This is to ensure that solicitors comply with their ethical obligations and act with the highest standards of conduct. The purpose of the court's jurisdiction is to enforce honourable conduct by an officer of the court. The su-

perisory role of the court is separate to that of the Law Society or the Legal Services Regulator, and allows the court to discipline or penalise solicitors who have failed in their duty to the court.

The supervisory jurisdiction of the court over solicitors applies in the following areas:

- Enforcing solicitors' undertakings or compensating for loss,
- Penalising solicitors for neglect,
- Imposing liability for costs on solicitors,
- Ensuring proper accounting for clients' money by solicitors,
- Ordering former solicitors to deliver up client files,
- Imposing sanctions on solicitors in contempt of court, and
- Orders to tax legal costs.

Every solicitor should obtain a clear and unambiguous written authority from his client that authorises an undertaking to be given by the solicitor on the client's behalf and that sets out the nature and extent of the action to be performed. A solicitor must be able to comply with his undertaking without reliance on any other party.

When the court's inherent jurisdiction is invoked to seek sanction against a solicitor for failure to comply with an undertaking, the court will investigate whether an undertaking has been given by the solicitor, the terms of it, if the terms are clear, and whether it is capable of implementation.

If the undertaking can be complied with, the court will generally direct compliance



## practice notes

with the undertaking given by the solicitor and/or, alternatively, will consider whether a party has suffered loss and may direct compensation to be paid to the party suffering loss.

An undertaking can be given by a solicitor verbally. In the case of *Fox v Bannister, King and Rigbeys CA* ([1988] QB 925), a solicitor said he would not part with moneys from a sale by a client. The court found this statement was an undertaking to another firm of solicitors and directed an inquiry into the loss of the firm of solicitors due to breach of this

undertaking, to allow compensation to be given.

In *Bank of Ireland v Coleman & Company* ([2009] IESC 38), the bank sought to recover its entire debt plus interest from the solicitor due to the solicitor's failure to obtain a priority charge over the property. The Supreme Court allowed an appeal by the bank and said that the court, in exercising its discretion, must have regard to the integrity of the lending system, but as the bank, through its own negligence, provided a loan on an overvaluation of a property, pay-

ment of the entire debt plus interest due was not directed, and the High Court was directed to assess the compensation due to the bank. The Supreme Court said that the court's jurisdiction must not be exercised in a manner that would be oppressive to the solicitor.

In *ACC Loan Management Ltd v Barry & Ors* ([2015] IECA 224), the Court of Appeal said that the court cannot make a formal declaration of misconduct against a solicitor as it is not a cause of action in law. It is a matter for the Law Society

Solicitors Disciplinary Tribunal to determine whether failure to comply with an undertaking is professional misconduct.

The court relies on solicitors to comply with their duties to take careful instructions from their clients, to prepare their pleadings carefully, and to represent their client as best they can, but also to comply with their duties to the court of candour and disclosure. Solicitors cannot avoid this duty by relying on counsel or legal executives to carry out work that is the solicitor's responsibility.



### CONVEYANCING COMMITTEE

## Directors dealing with companies – substantial transactions in respect of non-cash assets – section 238 of the Companies Act 2014

### Summary of the prohibition contained in section 238

1. Unless otherwise stated, references to sections are to sections of the *Companies Act 2014*.
2. Section 238 substantially re-enacts the provisions of section 29 of the *Companies Act 1990*. Under section 238, a company may not enter into an 'arrangement' with:
  - a) A director of the company, or
  - b) A director of its holding company, or
  - c) A person connected with such director, without the arrangement having been first approved by an ordinary resolution of:
    - i) The members of the company, and
    - ii) If the director or connected person is a director of its holding company or is connected with such a director, an ordinary resolution of the members of the holding company.
3. An arrangement, for the purpose of the section, is one whereby one or more non-cash assets (that is, any asset other than cash whether in euro or a foreign cur-

rency) of the requisite value are acquired:

- a) By the company from a director of the company or of its holding company or a person connected with such a director, or
  - b) By a director of the company or of its holding company or a person connected with such a director from the company.
4. The connected persons of a director are defined in section 220 as:
    - a) That director's spouse, civil partner, parent, brother, sister or child,
    - b) A person acting in his capacity as the trustee of a trust of which are that director, the spouse, civil partner or any children of that director or any body corporate which that director controls, or
    - c) A partner (within the meaning of the *Partnership Act 1890*) of that director, or
    - d) Any body corporate controlled by that director.
  5. The child of a director's civil partner who ordinarily resides

with that director and his or her civil partner is deemed to be a child of that director.

6. A body corporate is controlled by a director of a company if, but only if, that director alone or together with any other director(s) of the company or any person connected with such director or with any of the other directors is:
 

- a) Interested in one-half or more of the equity share capital of that body, or
- b) Entitled to exercise, or control the exercise of, one-half or more of the voting power at any general meeting of that body.

Further particulars of what constitutes 'control' are given in section 220.

7. Any shadow director (section 221) or *de facto* director (section 222) of a company is treated as if he or she is a director of that company.

8. A non-cash asset is of the requisite value if it is worth at least €5,000 and it either exceeds €65,000 or 10% of the net assets of the company in question.

9. An ordinary resolution of

the members of an LTD may be passed by any of the following means: (i) at a duly convened general meeting of the member, (ii) by a unanimous written resolution (section 193), or (iii) by a majority written resolution (section 194). Other types of company may also be able to avail of unanimous or, to a lesser extent, majority written resolutions subject to the provisions of the 2014 act and their constitutions.

### Summary of exemptions from section 238

10. An 'arrangement' is not prohibited by the section if:

- a) It is approved by an ordinary resolution of the shareholders of the company and/or any holding company (as appropriate),
- b) The value of the non-cash asset is less than the threshold amount (see paragraph 8 above),
- c) The non-cash asset is being acquired by one member of a group from another member of that group where the group comprises a holding company

and its wholly owned subsidiaries,

- d) It is entered into in the course of the winding-up of a company unless it is a members' voluntary winding-up,
- e) It is a disposal by the receiver of a company, or
- f) It is an acquisition by a person who is a shareholder in the company in that person's character as shareholder (for example, a distribution in specie).

11. Furthermore, no approval is required under section 238 from the shareholders of a company that is (a) a wholly owned subsidiary, or (b) not incorporated under the Irish *Companies Acts* (2014 or previous).

As well as excluding companies incorporated outside Ireland, this latter category also excludes other types of body corporate incorporated under Irish law, such as ICAVs and industrial and provident societies.

12. For the definitions of 'subsidiary', 'wholly owned subsidiary' and 'holding company', see sections 7 and 8 of the 2014 act.

13. It is worthwhile bearing in mind that a company may have more than one holding company. To take a simple example: if company A owns company B, and company B owns company C, companies A and B will be holding companies of company C. If the director or connected person in question is also a director of any holding company or is con-

nected with such a director, resolutions will be required from all such holding companies except any that are incorporated in Ireland but not under the *Companies Act 2014*, incorporated outside Ireland, or are themselves wholly owned subsidiaries.

#### Conveyancing Committee recommendations

14. The Conveyancing Committee has considered the implications of section 238 for conveyancing practice and has concluded that – as was the case under section 29 of the *Companies Act 1990* – in transactions between natural persons and companies and in transactions between companies, a certificate should be included in the relevant assur-

ance to show either that no approving resolution is required or that all requisite resolutions have been passed. (See panel below.)

15. The committee considers that the detail of the matter should not be one of title and that the certificates should do no more than certify the position. Accordingly, it is not sought to produce either the formal resolution of the company or other detail in the certificates that would put an investigator on notice of additional facts.

16. No such certificate is required in a transaction between natural persons.

17. It is not necessary to state in the certificates the mode of passing of the relevant resolution(s); the fact of passing is sufficient.

## specimen certificates

These certificates do not exhaust the situations that may arise and should be varied as appropriate.

### Certificate where a resolution is required

- 1) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that:
  - a) The transaction hereby effected has been approved by [an] ordinary resolution[s] duly passed by the members of the [Vendor/Purchaser/holdco of Vendor/holdco of Purchaser],<sup>1</sup> and
  - b) There is no other company whose approval by way of resolution is required.

1 Include some or all of these as appropriate to the circumstances.

### Certificates where no resolution is required

- 2) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that the [Vendor/Purchaser] is not a director of, or a person connected with a director of, the [Vendor/Purchaser] or of any holding company of the [Vendor/Purchaser].
- 3) It is hereby certified for the pur-

poses of section 238 of the *Companies Act 2014* that the Vendor and the Purchaser are not bodies corporate connected with one another in a manner that would require the transaction hereby effected to be approved by resolutions of the members of either or of the members of any holding company of either.

- 4) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that [the Vendor is a wholly owned subsidiary of the Purchaser]/[the Purchaser is a wholly owned subsidiary of the Vendor]/[the Vendor and the Purchaser are both wholly owned subsidiaries of the same holding company].
- 5) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that the transaction hereby effected does not require to be approved by [a] resolution[s] of the members of [either] the Vendor [or the Purchaser] or any holding company of [either] the Vendor [or the Purchaser] as the Vendor is being wound up and such winding up is not a members'

voluntary winding up.

- 6) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that the transaction hereby effected does not require to be approved by [a] resolution[s] of the members of [either] the Vendor [or the Purchaser] or any holding company of [either] the Vendor [or the Purchaser] as it is the disposal of an asset of the Vendor by its receiver.
- 7) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that the transaction hereby effected does not require to be approved by [a] resolution[s] of the members of [either] the Transferor [or the Transferee] or any holding company of [either] the Transferor [or the Transferee] as the Transferee is a member of the Transferor and it is an acquisition by the Transferee of an asset of the Transferor in the Transferee's character as such member.
- 8) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that the transaction hereby effected does

not require to be approved by a resolution of the members of the [Vendor/Purchaser] or any other company as value of the [property] is less than the requisite value.

- 9) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that the transaction hereby effected does not require to be approved by a resolution of the members of the [Vendor/Purchaser/holdco] as [Vendor/Purchaser/holdco] is a wholly owned subsidiary.<sup>2</sup>
- 10) It is hereby certified for the purposes of section 238 of the *Companies Act 2014* that the transaction hereby effected does not require to be approved by a resolution of the members of the [Vendor/Purchaser] as the [Vendor/Purchaser] is neither a company formed and registered under the *Companies Act 2014* nor an existing company within the meaning of that act.<sup>2</sup>

2 Include, as appropriate, either "There is no other company whose approval by way of resolution is required" or another certificate to deal with any party not dealt with by this wording.



## Free public file-sharing sites – not recommended

The Technology Committee does not recommend the use of free services provided to the public by file-sharing sites for the sharing or distribution of client information.

If clients insist on the use of such sites, they should be made aware that such free services generally do not provide sufficient contractual assurances to enable practitioners to discharge their obligations to clients and that they are not recommended by the Law Society's Technology Committee.

A number of such file-sharing sites also offer paid versions for use by businesses. These versions may offer better contractual conditions, but they should be used with caution and only after solid evaluation and a robust examination of their capabilities prior to professional use.

### Sample questions for file-sharing

- 1) Is the electronic storage medium capable of storing the documentation in a durable, accessible, secure manner for as long as the statutory or regulatory periods require? See Technology Committee guidance: [www.lawsociety.ie/Documents/committees/retention.pdf](http://www.lawsociety.ie/Documents/committees/retention.pdf).
- 2) What are the back-up and archiving arrangements? Back-up services often put data into the hands of end users.
- 3) What are the provisions for delete and restore?
- 4) What is the termination policy of file-sharing sites?
- 5) Do the terms of service provide for permanent deletion?
- 6) Is the data permanently deleted or transferred completely to you? What does 'permanently deleted' even mean? Unless there is a clause stating that the file is permanently deleted and that the permanent deletion of a file will not allow you or the file-sharing provider to restore these files at a later date, then there are still risks that the file can be subsequently recovered and used. Sites offer the recovery of deleted files with periods of recovery ranging from six months to one year. However, this does not mean that, after one year, the data has completely been wiped out. This just means that the file-sharing provider is no longer obliged to provide you with a restore service.
- 7) Will it be possible to export or reproduce onto paper the content of any electronically stored material? What is the format of the material for future availability and accessibility?
- 8) Have you consulted with your insurer on the acceptability of electronic storage of client files and documents in the event of a claim against the solicitor?
- 9) Who is in control of the data? Is it the client or solicitor or the file-sharing service provider?
- 10) Do the terms of service allow for disclosure of data to third parties? Does disclosure to third parties, if reasonably necessary:
  - a) Comply with the law?
  - b) Protect any person from death or serious bodily injury, with permissible exceptions under Irish data protection (section 8)?
  - c) Others might be to prevent fraud or abuse of service or its users, or to protect a service's property rights.
- 11) Do the terms of service allow collection of information, as follows:
  - a) From and about the devices you use to access their services?
  - b) IP addresses, the type of browser and device you use, the web page you visited before coming to sites, and identifiers associated with your devices?
  - c) Your devices (depending on their settings) may also transmit location information to the services.
- 12) Do the terms of service allow the service to use third parties to "improve, protect, and promote our services"? Who are these third parties?
- 13) How reliable is the company providing the service? Have you considered a locally based file-sharing service provider cloud provider? The New Zealand Law Society, in its practice briefing, *Cloud Computing Guidelines for Lawyers*, recommends using a local provider, as they are easier to negotiate a policy with, and secure terms of service that meet your needs and requirements.
- 14) What is the stability of the file-sharing service provider?
  - a) Are they contractually obliged to inform in advance of structural changes in the business?
  - b) Are you able to terminate your contract due to ownership changes?
  - c) What happens if your data cannot be held in the event of the winding-up of the company?
  - d) Can the provider suspend service without prior notice?
- 15) Where is the data stored? Where are the storage servers and data centres? Obviously, there are different data protection laws, standards and regulations depending on the jurisdiction.
- 16) Does the service allow for shareable links? When a user creates a shareable link in some services, anyone with that link can access the data. They don't have to be a registered user of the service to access a shared link. If you're using the business version of a file-sharing service, then there is usually a security setting available to restrict access to shared links.
- 17) How is the data secured/encrypted?
- 18) What is the agreement with the client around authentication and authorisation policies?
- 19) Who can access what, and in what scenarios?
- 20) Can you control:
  - a) Who is allowed to access a document?
  - b) How a file can be viewed or duplicated, including the ability to allow or block printing, editing, copying and forwarding?
  - c) The setting of expiration dates or revoking permission to view a document at will?
  - d) Can you create an audit trail of where documents were viewed, on which devices, and at what times?
  - e) Can you embed security into the documents, so that documents downloaded to a device that is later lost or stolen will be unreadable to anyone except authorised users?



### CONSULT A COLLEAGUE

The Consult a Colleague helpline is available to assist every member of the profession with any problem, whether personal or professional.

Call the helpline  
**01 284 8484**

[consultacolleague.ie](http://consultacolleague.ie)

This service is completely confidential and totally independent of the Law Society



## Spear phishing – the latest threat

'Spear phishing' is a criminal hacking enterprise that sends an email or emails that appear to be from individuals or businesses that you know, in an attempt to obtain your credit card or bank account numbers or passwords and, ultimately, your money or your clients' money.


It is a more sophisticated scam than regular 'phishing', and law firms are particularly targeted due to the potential high-value funds held. In addition, the scam is tailored to each targeted firm. Firms that practice in conveyancing are at particular risk.

Everyone should be particularly wary when bank account details change.

Frighteningly, there have been instances in Ireland where the criminals intercept an email, change the IBAN and BIC details to very similar IBANs and BICs for fraudulent accounts (in some instances, in the same bank branch), and then send onward the email to the originally intended recipient.

The person in receipt of the email sees the fraudulent IBAN and BIC, but otherwise the email may appear unchanged. In addition, criminals may forge an internal email within the company or firm to say that a bank account has changed (for example, an email instruction from a partner to his or her secretary to change payment details).

Accordingly, the top ten tips for dealing with spear phishing are, as follows:

- 1) Only send IBANs and BICs for your accounts or other accounts by letter or fax.
- 2) Clients should be asked for their bank details by way of a copy statement at the start of a transaction.
- 3) If a client does not give you copy bank documentation, then you should ask the client to write out the IBAN and BIC in full for you in their own handwriting and sign it.
- 4) If another solicitor is sending you their account details, then they should do it by fax or letter, and you should still verify same with them. It is common for the fraud to involve only changing one digit or letter.
- 5) If you have to write down bank account details yourself (for example, because you are getting them over the phone), then you must read the details back to the client for verification and you must memo this on your file. This is important, because if the other person gives you an incorrect number by accident, it may cause the money to go astray.
- 6) If you get an IBAN and BIC by email, including in an attachment, then you must ring the person to verify the details, and you also should memo that on your file.
- 7) If somebody tells you that their account details have changed, this is an instant red flag. You should immediately raise a query and verify the account details through an alternative medium, such as by phone, fax or letter. In addition, let your clients know that your firm does not change its bank account details (if this is the case). Clients should be advised not to send any money to new account details without confirming the change by talking to someone in the firm.
- 8) We cannot rely on the banks to verify the account name against the account number. If you put in a wrong number, then the money will go astray and may not be recoverable. Typographical errors must be avoided.
- 9) Any internal mail asking you to request or effect the transfer of moneys must be verified by a phone call to the sender of the mail.
- 10) The obligation on the client to provide accurate bank details and the risk of fraud should be mentioned in the section 68 letter and letter of engagement. 



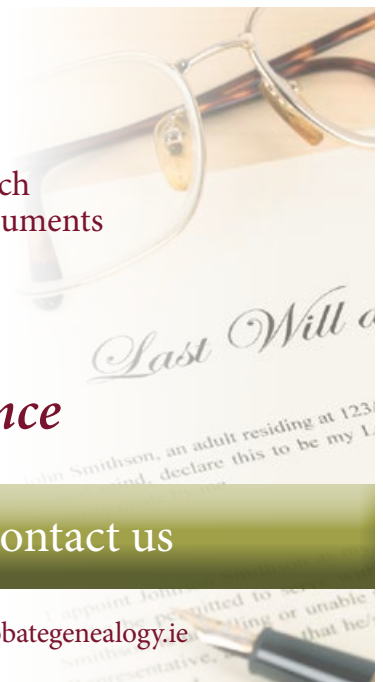
**IRISH  
PROBATE  
GENEALOGY  
PARTNERS**

- ✓ Identifying rightful heirs
- ✓ Providing detailed research reports supported by documents
- ✓ Title research

*Over 60 years combined experience*

For assistance with probate and title cases, contact us

Web: [www.probategenealogy.ie](http://www.probategenealogy.ie) Tel: +353 1 6710338 Email: [info@probategenealogy.ie](mailto:info@probategenealogy.ie)



# LAW SOCIETY PROFESSIONAL TRAINING



Centre of Excellence for  
Professional Education and Training

To view our full programme visit [www.lawsociety.ie/Lspt](http://www.lawsociety.ie/Lspt)

## Law Society Skillnet CPD Clusters

DATE	EVENT	FEE	CPD HOURS
8 Sept	ESSENTIAL GENERAL PRACTICE UPDATE 2016 – Ballygarry House Hotel, Tralee	€105 – Hot lunch and networking drinks reception included in price	1 Regulatory Matters, 4 General & 1 M & PD Skills (by Group Study)
29 & 30 Sept	CONNAUGHT SOLICITORS' SYMPOSIUM 2016 PART I & II – Breaffy House Hotel, Castlebar, Mayo – in partnership with Mayo Solicitors' Bar Association	DAY 1: €75 DAY 2: €105 - Hot lunch and networking drinks reception included in price ATTENDANCE ON DAY 1 & 2: €160	DAY 1: 1 Regulatory Matters, 2 General & 1 M & PD Skills (by Group Study) DAY 2: 1.5 Regulatory Matters, 3.5 General & 1 M & PD Skills (by Group Study)
14 Oct	NORTH EAST CPD DAY 2016 – The Glencarn Hotel, Castleblayney, Co Monaghan - in partnership with Cavan, Drogheda, Louth and Monaghan Solicitors' Bar Associations	€105 – Hot lunch and networking drinks reception included in price	2 Regulatory Matters (including anti-money laundering & financial compliance) & 5 General (by Group Study)

DATE	EVENT	DISCOUNTED FEE*	FULL FEE	CPD HOURS
2 Sept	FINTECH SYMPOSIUM – LAW & REGULATION IN IRELAND	€195	€225	7 General (by Group Study)
15 Sept	PROFESSIONAL WELLBEING FOR A SUCCESSFUL PRACTICE – Cork	€150	€176	5 M & PD Skills (by Group Study)
22 Sept	TACTICAL NEGOTIATION SKILLS	€150	€176	3 M & PD Skills (by Group Study)
28 Sept	CRIMINAL LAW UPDATE – in partnership with the Criminal Law Committee	€150	€176	1 Regulatory Matters plus 2 General (by Group Study)
29 Sept	EMPLOYMENT LAW UPDATE – in partnership with the Employment & Equality Law Committee	€150	€176	3 General (by Group Study)
6 Oct	LITIGATION UPDATE – in partnership with the Litigation Committee	€150	€176	3.5 General (by Group Study)
8 Oct	HUMAN RIGHTS IN HEALTH ADVOCACY AND DOMESTIC VIOLENCE: TIME FOR A NEW PROCLAMATION? – in collaboration with the Human Rights Committee	Complimentary		4 General (by Group Study)
12 Oct	YOUNGER MEMBERS' COMMITTEE SEMINAR - HOW TO MANAGE TIME, STRESS AND CLIENTS – in collaboration with Law Society Skillnet	n/a	€105	3 M & PD Skills (by Group Study)
13 Oct	INTERNATIONAL RESPONSE TO TERRORISM – LOCAL EFFECTS – in collaboration with the EU & International Affairs Committee	Complimentary		2 General (by Group Study)
20 Oct	ANNUAL PROPERTY LAW CONFERENCE – in collaboration with the Conveyancing Committee	€150	€176	3.5 General (by Group Study)

### THE FUNDAMENTALS OF COMMERCIAL CONTRACTS

Course fee includes: iPad Mini & Interactive eBook on Commercial Contracts  
CPD Hours per Module: 10 Hours including 3 M & PD Skills (by Group Study)

Fee: €1,100/€1,000\*

Attendance on both modules is required

Please note: Access to an iPad is essential for participation in this programme

Dates:

16 & 17 September 2016 - Module 1: Negotiating and Drafting Commercial Contracts

7 & 8 October 2016 - Module 2: Analysis of Key Commercial Contracts

THE FUNDAMENTALS OF DISTRICT COURT CIVIL PROCEDURE, DRAFTING & ADVOCACY SKILLS (Focus on General Tort & Personal Injuries Litigation)  
CPD Hours Per Module: 10 CPD hours including 3 M & PD Skills (by Group Study)

Fee: €850/€750\*

Attendance on both modules is required

Dates:

30 September & 1 October - Module 1: The Fundamentals of PI Litigation; District Court Civil Procedure and Drafting Skills

14 & 15 October – Module 2 - Preparing for Trial and Court Room Advocacy

### CPD CERTIFICATE IN PROFESSIONAL EDUCATION

CPD Hours: Full General and M & PD Skills CPD requirement for 2016 (by Group Study) including 5 hours M & PD Skills (by eLearning)

Fee: €1,450/€1,250\* (iPad mini included in fee)\*

Delegates are required to attend all Modules.

Please note: Access to an iPad is essential for participation in this programme.

Dates:

30 Sept and 1 October and 14 October 2016

Modules:

Theory and knowledge; Educational technology; Skills and Practice; Professional Self.

For full details on all of these events visit webpage [www.lawsociety.ie/Lspt](http://www.lawsociety.ie/Lspt) or contact a member of the Law Society Professional Training team on

P: 01 881 5727 E: [Lspt@lawsociety.ie](mailto:Lspt@lawsociety.ie) F: 01 672 4890

\*Applicable to Law Society Skillnet members

## 10 May – 19 August 2016

## legislation update

For details on all bills, acts, and statutory instruments, see the library catalogue on [lawsociety.ie](http://lawsociety.ie) as well as [irishstatutebook.ie](http://irishstatutebook.ie) and [oireachtas.ie](http://oireachtas.ie). Weekly legislation updates are included in *LawWatch*, which is emailed to all members

**ACTS***Energy Act 2016***Number:** 12/2016

Changes the name of the Commissioner for Energy Regulation; confers on the commission powers to carry out investigations and impose administrative sanction; gives further effect to Directive 2003/54/EC of 26 June 2003 concerning common rules for the internal market in electricity and repeals Directive 96/92; gives further effect to Regulation 714/2009 of 13/7/2009 on conditions for access to network for cross-border exchanges in electricity and, for that purpose, makes provision in respect of certain revised arrangements in the State and Northern Ireland relating to the single electricity market; provides for related matters.

**Commencement:** Other than section 7, comes into operation on days as the minister may appoint

*Paternity Leave and Benefit Act 2016***Number:** 11/2016

Entitles certain employees, who are relevant parents in relation to a child, to employment leave for the purposes of enabling the employee to provide, or assist in the

provision of, care to the child or to provide support to the relevant adopting parent or mother of the child, as the case may be, or both; entitles a surviving parent to employment leave on the death of a relevant parent; extends the protection against unfair dismissals conferred by the *Unfair Dismissals Act 1977*; provides for the payment of paternity benefit to certain persons and, for that purpose, amends the *Social Welfare Consolidation Act 2005*; provides for related matters.

**Commencement:** 1/8/2016 for sections 1, 2 (other than para b(iii) of the definition of relevant parent in subsection 1 of that section), 3-5, parts 2-4 and part 6 as per SI 435/2016; 3/8/2016 for section 30 and 31 (insofar as it relates to the insertion in part 2 of the *Social Welfare Consolidation Act 2005* of chapter 11A other than para B(ii)(III) of the definition of 'relevant parent' in section 61 A(1) of that chapter, as per SI 434/2016; 1/9/2016 for part 5 as per SI 442/2016

*Commission of Investigation (Irish Bank Resolution Corporation) Act 2016***Number:** 10/2016

Makes additional provision in rela-

tion to the commission of investigation established by the *Commission of Investigation (Irish Bank Resolution Corporation) Order 2015* (SI 253/2015); amends the *Commissions of Investigation Act 2004* and the *Irish Bank Resolution Corporation Act 2013*; provides for related matters.

**Commencement:** 1/8/2016*Misuse of Drugs (Amendment) Act 2016***Number:** 9/2016

Amends and extends the law relating to the prevention of the misuse of certain dangerous or otherwise harmful drugs; amends the *Misuse of Drugs Act 1977* to provide for the control of additional substances; makes further provision for the transfer of functions relating to the grant of licences under that act from the minister to the Health Products Regulatory Authority; provides for related matters.

**Commencement:** requires commencement order as per s8(3) of the act

*Proceeds of Crime (Amendment) Act 2016***Number:** 8/2016

Amends the *Proceeds of Crime Act 1996* and provides for related matters.

**Commencement:** 12/8/2016*Water Services (Amendment) Act 2016***Number:** 7/2016

Suspends charging for water services, amends the *Water Services Act 2014*, and provides for related matters.

**Commencement:** 26/7/2016*Health (Amendment) Act 2016***Number:** 6/2016

Amends section 69 of the *Health Act 2007* and provides for related matters.

**Commencement:** 26/7/2016*Electoral (Amendment) Act 2016***Number:** 5/2016

Amends the *Electoral Act 1992* and provides for related matters.

**Commencement:** 25/7/2016**SELECTED STATUTORY INSTRUMENTS***Residential Tenancies (Amendment) Act 2015**(Commencement of Certain Provisions) (No 3) Order 2016***Number:** SI 216/106

Appoints 9 May 2016 as the date on which specified provisions of the *Residential Tenancies (Amendment) Act 2015* come into effect.

**Commencement:** 9/5/2016 for various sections*Residential Tenancies Act 2004**(Prescribed Form) (No 2) Regulations 2016***Number:** SI 217/2016

Prescribes the forms to be used (a) by the landlord when notifying a



## We're pleading guilty to swearing and stamping

### Preparation of Books of Pleadings and Books of Authorities

30 seconds from the Four Courts (next door to the Legal Eagle).

Also tabbing, pagination, comb binding, lever arch files, ring binders, indexing, heat binding and copying.

Fast turnaround, local delivery, consultation room.



Tel: 01 8044509. Email: [info@orcacprint.ie](mailto:info@orcacprint.ie). 3 Inns Quay, Chancery Place, Dublin 7. Opening hours: 9-5 Monday to Friday, or by special arrangement.

# legislation update

tenant of the setting of a new rent under section 22 of the *Residential Tenancies Act 2004* and (b) by the Residential Tenancies Board when acknowledging the receipt of an application for registration of a tenancy under section 134 of the act.

**Commencement:** 9/5/2016

*Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007 (Duration of Part 2) Order 2016*

**Number:** SI 224/2016

Extends by a further three years (until 7 May 2019) the period for which part 2 of the *Protection of Employment (Exceptional Collective Redundancies and Related Matters) Act 2007* shall have effect.

**Commencement:** 7 May 2016

*Personal Insolvency Act 2012 (Renewal of Authorisation of Personal Insolvency Practitioners) Regulations 2016*

**Number:** SI 226/2016

**Commencement date:** 5 May 2016

*Rules of the Superior Courts (Bankruptcy) 2016*

**Number:** SI 232/2016

Amend order 76 of the *Rules of the Superior Courts* and amend, add and delete certain forms in appendix O to those rules to facilitate the operation of the *Bankruptcy (Amendment) Act 2015*.

**Commencement date:** 1/6/2016

*District Court (Criminal Justice) (Miscellaneous Provisions) Act 1997 Rules 2016*

**Number:** SI 252/2016

Amend the *District Court Rules 1997* by substituting Forms 34.27 and 34.38 (search warrants) in schedule B.

**Commencement:** 18/5/2016

*Rules of the Superior Courts (Conduct of Trials) 2016*

**Number:** SI 254/2016

Amend orders 20, 21, 31, 36 and 39 of the *Rules of the Superior Courts* to regulate, in respect of proceedings types specified therein, the procedure for the conduct of trials and adducing of expert evidence.

**Commencement:** 5/4/2016

*Rules of the Superior Courts (Chancery and Non-Jury Actions: Pre-trial Procedures) 2016*

**Number:** SI 255/2016

Amend order 22, rule 1(1) of the *Rules of the Superior Courts* and insert a new order 63C and new appendix JJ in those rules to regulate the preparation pre-trial of, and the adducing of evidence in, chancery and non-jury actions and other proceedings designated by the President of the High Court.

**Commencement:** 5/4/2016

*Civil Legal Aid Regulations 2016*

**Number:** SI 272/2016

Amend the *Civil Legal Aid Regulations 1996-2016* by providing for legal advice and legal aid to be granted without reference to an applicant's financial resources in certain circumstances. These regulations should be taken together with the *Civil Legal Aid Regulations 1996-2016*.

**Commencement:** 23/5/2016

*European Communities (Late Payment in Commercial Transactions) (Amendment) Regulations 2016*

**Number:** SI 281/2016

Amends the principal regulations (SI 580/2012) by substituting definitions for 'contractual or statutory period of payment' and 'relevant payment date'.

**Commencement:** 25/5/2016

*European Union (Award of Contracts by Utility Undertakings) Regulations 2016*

**Number:** SI 286/2016

Give effect to Directive 2014/25/EU on procurement by entities operating in the water, energy, transport and postal services sectors.

**Commencement:** deemed to have come into operation on 18/4/2016

*Courts (Supplemental Provisions) Act 1961 (Judicial Remuneration) (Section 46(9)) Order 2016*

**Number:** SI 400/2016

**Commencement:** 1/1/2017

*Courts (Supplemental Provisions) Act 1961 (Judicial Remuneration) (Section 46 (9A)) Order 2016*

**Number:** SI 401/2016

**Commencement:** 1/1/2017

*Charities Act 2009 (Commencement) (No 2) Order 2016*

**Number:** SI 424/2016

Appoints 15/8/2016 as the commencement date for sections 91 and 92 of the act.

*Criminal Justice Act 1994 (Section 44) Order 2016*

**Number:** SI 436/2016

Prescribes the sum of €1,000 for the purposes of section 38 of the act.

**Commencement:** 3/8/2016

*Rules of the Superior Courts (Construction Contracts Act 2013)*

**Number:** SI 450/2016

Insert a new order 56B in the *Rules of the Superior Courts* to provide for the procedure to be followed in the case of applications under section 6(11) of the *Construction Contracts Act 2013* for leave of the High Court to enforce or enter in respect of a decision of an adjudicator appointed under that section.

**Commencement:** 22/8/2016



## AUTUMN 2016 - PROGRAMME OF CPD EVENTS

[www.cltireland.ie](http://www.cltireland.ie) | [cpd@cltireland.ie](mailto:cpd@cltireland.ie) | 01 8788 258

16 September

**Key Developments in Employment Law**

29 September

**Conflict Management (3 Mgmt. Hours)**

6 October

**CORK – The New Superior Court Rules**

21 October

**Probate Practice: A Practical Guide to Recent Developments**

18 November

**Regulation Seminar: What Every Practitioner Needs to Know**

22 November

**Litigation: A Review of Recent Developments**

9 & 10 December

**All your CPD in 2 days (incl. 4 online hours)**

**Online CPD seminars [www.cltireland.ie](http://www.cltireland.ie)**



## 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 Michael J Butler, a solicitor formerly practising as Michael J Butler Solicitors, 42/43 Main Street, Tipperary, and in the matter of the *Solicitors Acts 1954-2011* [2150/DT35/15]**

*Law Society of Ireland (applicant)*  
*Michael J Butler (respondent solicitor)*

On 21 April 2016, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- 1) Failed to ensure there was furnished to the Society an accountant's report for the year ended 31 December 2013 within six months of that date, in breach of regulation 21(1) of the *Solicitors Accounts Regulations 2001* (SI 421 of 2001),
- 2) Through his conduct, showed disregard for his statutory obligation to comply with the *Solicitors Accounts Regulations* and showed disregard for the Society's statutory obligation to monitor compliance with the regulations for the protection of clients and the public.

The tribunal ordered that the respondent solicitor do stand censured.

**In the matter of Michael J Butler, a solicitor formerly practising as Michael J Butler Solicitors, 42/43 Main Street, Tipperary, and in the matter of the *Solicitors Acts 1954-2011* [2150/DT114/15]**

*Law Society of Ireland (applicant)*  
*Michael J Butler (respondent solicitor)*

On 21 April 2016, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor

in that he failed to respond to the Society's correspondence of 28 January 2015 in a timely manner, within the time provided, or at all.

The tribunal ordered that the respondent solicitor do stand advised and admonished.

**In the matter of Cormac M Lohan, a solicitor practising under the style and title of Lohan & Co, Solicitors, 7 Garden Vale, Athlone, Co Westmeath, and in the matter of the *Solicitors Acts 1954-2011* [8247/DT144/14]**

*Law Society of Ireland (applicant)*  
*Cormac Lohan (respondent solicitor)*

On 28 April 2016, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- 1) Misleadingly and/or incorrectly informed the complainant in a letter dated 25 April 2013 that he could not deal himself with his PIAB application nor engage any other firm of solicitors in the matter until the respondent solicitor's fee note was discharged and, in so doing, engaged in conduct bringing and/or tending to bring the profession into disrepute,
- 2) Misleadingly and/or incorrectly informed the complainant in a letter dated 10 June 2013 that it was open to the respondent solicitor to seek an injunction preventing the Personal Injuries Board from dealing with him and, in so doing, engaged in conduct bringing and/or tending to bring the profession into disrepute,
- 3) Informed the complainant in a letter dated 10 June 2013 threatening to issue separate legal proceedings against the complainant if his fee note was

not discharged within 14 days, at a time when the Society had already written two letters to the respondent solicitor in connection with a complaint of excessive fees that the complainant had made to the Society, thereby obstructing and/or seeking to obstruct the investigation of the complaint and, in so doing, engaged in conduct bringing and/or tending to bring the profession into disrepute,

- 4) Failed to comply with a notice pursuant to section 10 of the *Solicitors (Amendment) Act 1994*, dated 4 July 2013, requiring him to deliver to the Society all documents in his possession or under his control or within the procurement of him or his firm in connection with the matters relating to the complaint of the complainant.

The tribunal ordered that:

- 1) The respondent solicitor stand censured,
- 2) The respondent solicitor pay €10,000 to the compensation fund,
- 3) The respondent solicitor pay the whole of the Society's costs and witness expenses, to be taxed in default of agreement.

**In the matter of Michael Crawford, a solicitor formerly practising as Michael Crawford, Solicitor, Lurganboy, Manorhamilton, Co Leitrim, and in the matter of the *Solicitors Acts 1954-2011* [5022/DT194/13; 5022/DT01/14; 5022/DT02/14; 5022/DT16/14; 5022/DT19/14; and High Court record 2016 no 11 SA]**

*Law Society of Ireland (applicant)*  
*Michael Crawford (respondent solicitor)*

On 14 October 2015, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

**5022/DT194/13**

- 1) Failed expeditiously, within

a reasonable time, or at all to comply with an undertaking given by him in respect of named clients at property at Co Leitrim to IIB Homeloans KBC Bank Plc, by undertaking dated 3 December 2004,

- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the first complaint and named clients and, in particular, by letters dated 21 June 2007, 16 April 2009, 3 June 2009, 1 September 2009, 3 September 2009, 16 September 2009, 30 November 2009, 10 August 2010, 2 December 2010, 11 March 2011, 21 June 2011, 22 June 2011, 5 October 2011, 10 January 2012 and 23 August 2012 respectively,
- 3) Failed to reply to the Society's correspondence in respect of the first complaint and named clients and, in particular, letters dated 7 September 2012, 21 September 2012 and 19 October 2012 respectively,
- 4) Failed to comply with a direction of the Complaints and Client Relations Committee in respect of the first complaint and named clients, at the committee meeting dated 16 October 2012, within a reasonable time or at all,
- 5) Failed to comply with a direction of the committee in respect of the first complaint and named clients, originally directed by the committee meeting of 16 October 2012 and further extended by the committee meeting on 11 December 2012, within a reasonable time or at all,
- 6) Failed expeditiously, within a reasonable time, or at all to comply with an undertaking given by him in respect of named clients over property at Co Leitrim to IIB Homeloans KBC Bank, dated 25 April 2005,
- 7) Failed to reply adequately or at all to the complainant's correspondence in respect of the second complaint and



# regulation

named clients and, in particular, letters dated 4 June 2007, 1 September 2009, 16 September 2009, 12 January 2011, 18 April 2011, 2 August 2011, 18 November 2011, 11 January 2012, 22 June 2012, 3 July 2012, 21 August 2012 and 15 October 2012 respectively.

## 5022/DT01/14

- 1) Failed to comply expeditiously, within a reasonable time, or at all with a direction of the Complaints and Client Relations Committee, made at its meeting on 19 February 2013, whereby he was directed to do the following: (a) make available the file or a complete copy thereof to the complainant, (b) refund any undisbursed outlay paid by the client, (c) waive refund any professional fees charged,
- 2) Failed to attend before the Complaints and Client Relations Committee meeting on 19 February 2013, despite being required to do so,
- 3) By his acts and omissions and his treatment of the complainant, brought the profession into disrepute.

## 5022/DT02/14

- 1) Failed to comply with a direction of the Complaints and Client Relations Committee at its meeting of 19 February 2013, which directed him (a) to make available the file or a complete copy of to the complainants, (b) that any undisbursed outlay paid by the complainants should be refunded, (c) that the professional fees should be waived/refunded,
- 2) Failed to respond adequately or at all to the complainant's correspondence and, in particular, letters dated 10 January 2012 and 19 January 2012 respectively,
- 3) Failed to respond adequately or at all to the Society's correspondence and, in particular, letters dated 30 January 2012, 22 May 2012, 7 June 2012 and

- 20 June 2012 respectively,
- 4) Failed to attend a meeting of the Complaints and Client Relations Committee on 19 February 2013, despite being required to do so,
- 5) Brought the profession into disrepute by his complete disregard for the interests of named clients.

## 5022/DT16/14

- 1) Failed to comply with an undertaking expeditiously, within a reasonable time, or at all given by him to AIB Bank on 7 October 1996 on behalf of named clients over property at Co Leitrim,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the first complaint and named clients and, in particular, letters dated 14 March 2011, 5 July 2011, 14 February 2012, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 3) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 15 September 2000 in respect of named clients over property at Co Donegal,
- 4) Failed to reply adequately or at all to the complainant's correspondence in relation the second complaint and named clients and, in particular, letters dated 22 June 2011, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 5) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him on 16 July 2001 to AIB Bank in respect of a named client over property at Dublin 9,
- 6) Failed to reply adequately or at all to the complainant's correspondence in respect of the fourth complaint and a named client and, in particular, letters dated 31 January 2011, 5 July 2011, 20 February 2012, 6

- March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 7) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him on 26 April 2002 to AIB Bank on behalf of named clients over property at Co Leitrim,
- 8) Failed to reply adequately or at all to the complainant's correspondence in respect of the fifth complaint and named clients and, in particular, letters dated 17 April 2009, 10 June 2009, 12 June 2009, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 9) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 22 July 2003 in respect of a named client over property at Dublin 7,
- 10) Failed to reply to the complainant's correspondence in respect of the seventh complaint and a named client and, in particular, letters dated 31 January 2011, 5 July 2011, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 11) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 13 November 2003 in respect of a named client over property at Co Cavan,
- 12) Failed to reply adequately or at all to the complainant's correspondence in respect of the eighth complaint and a named client and, in particular, letters dated 19 August 2011, 28 October 2011, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 13) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 1 December 2004 in respect of named clients over property at Sligo,
- 14) Failed to reply adequately or at all to the complainant's correspondence in respect of the ninth complaint and named clients and, in particular, letters dated 17 April 2009, 10 June 2009, 12 June 2009, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 15) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 28 April 2005 in respect of a named client over property at Co Leitrim,
- 16) Failed to reply adequately or at all to the complainant's correspondence in respect of the tenth complaint and a named client and, in particular, letters dated 19 August 2011, 28 October 2011, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 17) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 11 May 2006 in respect of named clients over property at Co Sligo,
- 18) Failed to reply adequately to the complainant's correspondence in respect of the 11<sup>th</sup> complaint and named clients and, in particular, letters dated 23 April 2010, 25 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
- 19) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 28 August 2006 in respect of named clients over property at Co Leitrim,
- 20) Failed to reply adequately or at all to the complainant's correspondence in respect of the 12<sup>th</sup> complaint and named clients and, in particular, letters dated 31 January 2011, 5 July 2011, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April

- 2012 respectively,
- 21) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 21 May 2007 in respect of named clients over property at Co Sligo,
  - 22) Failed to reply adequately or at all to the complainant's correspondence in respect of the 13th complaint and named clients and, in particular, letters dated 9 January 2012, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
  - 23) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 1 April 2008 in respect of a named client over property at Co Leitrim,
  - 24) Failed to reply adequately or at all to the complainant's correspondence in respect of the 14th complaint and a named client and, in particular, letters dated 14 July 2010, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
  - 25) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 14 April 2008 in respect of named clients over property at Co Leitrim,
  - 26) Failed to reply adequately or at all to the complainant's correspondence in respect of the 15th complaint and named clients and, in particular, letters dated 28 February 2011, 5 July 2011, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,
  - 27) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to AIB Bank on 9 June 2008 in respect of named clients over property at Co Leitrim,
  - 28) Failed to reply adequately

or at all to the complainant's correspondence in respect of the 16th complaint and named clients and, in particular, letters dated 31 January 2011, 5 July 2011, 20 February 2012, 6 March 2012, 28 March 2012, 12 April 2012 and 27 April 2012 respectively,

- 29) Failed to comply adequately or at all with a direction of the Complaints and Client Relations Committee at its meeting on 16 October 2012.

#### 5022/DT19/14

##### *First complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to ICS Building Society Ltd on behalf of a named client on 10 December 2001 over property at Co Mayo,
- 2) Failed to respond adequately or at all to the complainant's correspondence in respect of the first complaint and, in particular, letters dated 9 June 2008, 2 July 2008, 4 March 2011 and 23 June 2011 respectively,
- 3) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the first complaint.
- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting of 11 December 2012 in respect of the first complaint.

##### *Second complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with undertakings given by him to ICS Building Society Ltd on 10 December 2001 and 29 June 2005 respectively on behalf of a named client over property at Co Mayo,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of

- the second complaint and, in particular, letters dated 2 July 2008, 4 March 2011 and 23 June 2011 respectively,
- 3) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee in respect of the second complaint at its meeting on 16 October 2012,
  - 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the second complaint.

##### *Third complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with undertakings given by him to Bank of Ireland Mortgages on 29 July 2003 and 29 May 2006 respectively on behalf of a named client over property at Co Roscommon,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the third complaint and, in particular, letters dated 15 July 2004, 13 January 2005, 14 July 2005, 22 May 2008, 2 July 2008, 18 January 2010, 26 April 2010, 4 June 2010, 4 March 2011 and 8 April 2011 respectively,
- 3) Failed to reply adequately or at all to the Society's correspondence in respect of the third complaint and, in particular, letters dated 9 September 2011, 25 October 2011, 8 November 2011, 23 November 2011 and 30 November 2011 respectively,
- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting dated 16 October 2012 in respect of the third complaint,
- 5) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its

meeting on 11 December 2012 in respect of the third complaint.

##### *Fourth complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to ICS Building Society Ltd on 5 October 2004 on behalf of a named client over property at Co Leitrim,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the fourth complaint and, in particular, letters dated 22 December 2006, 2 July 2008, 29 January 2004 and 4 March 2011 respectively,
- 3) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the fourth complaint,
- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the fourth complaint.

##### *Fifth complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to Bank of Ireland on behalf of a named clients on 8 December 2004 over property at Co Mayo,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the fifth complaint and, in particular, letters dated 19 January 2006, 20 July 2006, 18 January 2007, 8 February 2007, 2 July 2008, 18 July 2008, 18 January 2010, 26 April 2010, 4 June 2010, 4 March 2011 and 8 April 2011 respectively,
- 3) Failed to reply adequately or at all to the Society's correspondence in respect of the fifth complaint and, in particular, letters dated 9

# regulation

September 2011, 19 October 2011, 8 November 2011, 23 November 2011 and 30 November 2011 respectively,

- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the fifth complaint,
- 5) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the fifth complaint.

## *Sixth complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to Bank of Ireland on 11 September 2006 on behalf of named clients over property at Co Leitrim,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the sixth complaint and, in particular, letters dated 18 September 2009, 18 January 2010, 26 April 2010, 4 June 2010, 4 March 2011 and 8 April 2011 respectively,
- 3) Failed to reply adequately or at all to the Society's correspondence in respect of the sixth complaint and, in particular, letters dated 9 September 2011, 25 October 2011, 8 November 2011, 23 November 2011 and 30 November 2011 respectively,
- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the sixth complaint,
- 5) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the sixth complaint.

## *Seventh complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with undertakings given by him to Bank of Ireland on 4 December 2006 and 25 February 2008 on behalf of a named client over property at Co Roscommon,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the seventh complaint and, in particular, letters dated 14 December 2009, 18 January 2010, 26 April 2010, 4 June 2010, 4 March 2011 and 8 April 2011 respectively,
- 3) Failed to reply adequately or at all to the Society's correspondence in respect of the seventh complaint and, in particular, letters dated 9 September 2011, 19 October 2011, 3 November 2011, 23 November 2011 and 30 November 2011 respectively,
- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the seventh complaint,
- 5) Failed to reply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the seventh complaint.

## *Eighth complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to ICS Building Society on 24 January 2007 on behalf of named clients over property at Co Sligo,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the eighth complaint and, in particular, letters dated 18 January 2010, 26 April 2010, 4 June 2010, 4 March 2011 and 8 April 2011 respectively,
- 3) Failed to comply adequately

or at all with the directions of the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the eighth complaint,

- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the eighth complaint.

## *Ninth complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to Bank of Ireland on 10 October 2007 on behalf of named clients over property at Co Leitrim,
- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the ninth complaint and, in particular, letters dated 18 January 2010, 26 April 2010, 4 June 2010, 4 March 2011 and 8 April 2011 respectively,
- 3) Failed to reply adequately or at all to the Society's correspondence in respect of the ninth complaint and, in particular, letters dated 9 September 2011, 19 October 2011, 3 November 2011 and 30 November 2011 respectively,
- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the ninth complaint,
- 5) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the ninth complaint.

## *Tenth complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to Bank of Ireland on 22 April 2008 on behalf of na-

med clients over property at Co Sligo,

- 2) Failed to reply adequately or at all to the complainant's correspondence in respect of the tenth complaint and, in particular, letters dated 18 January 2010, 26 April 2010, 4 June 2010, 4 March 2011 and 8 April 2011 respectively,
- 3) Failed to reply adequately or at all to the Society's correspondence in respect of the tenth complaint and, in particular, letters dated 9 September 2011, 25 October 2011, 8 November 2011, 23 November 2011 and 30 November 2011 respectively,
- 4) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the tenth complaint,
- 5) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the tenth complaint.

## *11<sup>th</sup> complaint*

- 1) Failed to comply expeditiously, within a reasonable time, or at all with an undertaking given by him to Bank of Ireland on 9 March 2009 on behalf of named clients over properties at Dublin 3,
- 2) Failed to respond to the complainant's correspondence in respect of the 11<sup>th</sup> complaint and, in particular, letters dated 18 January 2010, 26 April 2010, 4 June 2010, 4 March 2011, 8 April 2011 and 23 June 2011 respectively,
- 3) Failed to reply adequately or at all to the Society's correspondence in respect of the 11<sup>th</sup> complaint and, in particular, letters dated 9 September 2011, 14 October 2011, 23 November 2011 and 30 November 2011 respectively,
- 4) Failed to comply adequately or at all with the directions of

the Complaints and Client Relations Committee at its meeting on 16 October 2012 in respect of the 11<sup>th</sup> complaint,

- 5) Failed to comply adequately or at all with the directions of the Complaints and Client Relations Committee at its meeting on 11 December 2012 in respect of the 11<sup>th</sup> complaint.

The tribunal ordered that the matter go forward to the High Court and, on 14 March 2016, the High Court ordered that:

- 1) The name of the respondent solicitor shall be struck from the Roll of Solicitors,
- 2) The respondent solicitor do pay a cumulative sum of €10,000 to the compensation fund in respect of all five matters heard before the Solicitors Disciplinary Tribunal on 14 October 2015,
- 3) The Society do recover as against the respondent solicitor the costs of the High Court proceedings and the costs of the five proceedings before the Solicitors Disciplinary Tribunal, to include witness expenses – said costs to be taxed in default of agreement.

**In the matter of Michael Crawford, a solicitor formerly practising as Michael Crawford, Solicitor, Lurganboy, Manoramilton, Co Leitrim, and in the matter of the *Solicitors Acts 1954-2011* [5022/DT161/14] *Law Society of Ireland (applicant)***

***Michael Crawford (respondent solicitor)***

On 5 May 2016, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- 1) Caused or permitted a deficit on client account of €111 as at 31 December 2011, brought about by a client ledger debit balance of €210, in breach of regulation 7(2)(a) of the *Solicitors Accounts Regulations*, partly offset by €99 bank interest not yet transferred,
- 2) Caused or permitted his income tax affairs to be in arrears – at the time of the Society's investigation (March 2012), the respondent solicitor had not submitted accounts or prepared tax returns for the previous four years,
- 3) Inappropriately collected moneys from clients, ostensibly for VAT, when not VAT registered and ultimately misappropriated those moneys,
- 4) On the sale file of a named client, the respondent solicitor inappropriately transferred his professional fee of €968 early from a sale deposit held in trust, in breach of regulation 11(3), despite the issue of transferring fees early being highlighted in a previous investigation,
- 5) On the sale file of a named client, the respondent solicitor inappropriately transferred his professional fee of €1,210 early from a sale deposit held in trust, in breach of regula-

tion 11(3), despite the issue of transferring fees early being highlighted in a previous investigation,

- 6) On the sale file of a named client, the respondent solicitor inappropriately transferred his professional fee of €1,089 early from a sale deposit held in trust, in breach of regulation 11(3), despite the issue of transferring fees early being highlighted in a previous investigation,
- 7) On the sale file of a named client, the respondent solicitor inappropriately transferred his professional fee of €2,420 early from a sale deposit held in trust, in breach of regulation 11(3), despite the issue of transferring fees early being highlighted in a previous investigation,
- 8) On the sale file of a named client, the respondent solicitor inappropriately transferred his professional fee of €7,260 and €1,210 early from a sale deposit held in trust, in breach of regulation 11(3), despite the issue of transferring fees early being highlighted in a previous investigation,
- 9) Failed to maintain proper books of account that would give a true and accurate picture of the financial state of the practice and the position of client funds, contrary to regulation 12.

The tribunal ordered that the respondent solicitor:

- 1) Do stand censured,

- 2) Pay a sum of €15,000 to the compensation fund,
- 3) Pay the whole of the costs of the Society.

**In the matter of Elizabeth M Cazabon, a solicitor previously practising as Cazabon Solicitors, Gray Office Park, Galway Retail Park, Headford Road, Galway, and in the matter of the *Solicitors Acts 1954-2011* [8142/DT80/15 and High Court record 2016 no 59 SA]**

***Law Society of Ireland (applicant) Elizabeth Cazabon (respondent solicitor)***

On 11 February 2016, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of professional misconduct in that she failed to ensure there was furnished to the Society a closing accountant's report, as required by regulation 26(2) of the *Solicitors Accounts Regulations 2001* (SI 421 of 2001), in a timely manner or at all, having ceased practice on 31 December 2013.

The tribunal ordered that the Society bring the matter before the President of the High Court and, on 13 June 2016, the High Court (noting that the respondent solicitor was struck off the Roll of Solicitors by order of the High Court dated 20 July 2015) ordered that the respondent solicitor:

- 1) Was not a fit person to be a member of the solicitors' profession,
- 2) Pay the whole of the costs of the Law Society, to be taxed by a taxing master of the High Court in default of agreement.

**IF LIFE GIVES YOU LEMONS,  
WE'RE HERE TO HELP**

Consult a Colleague in total confidence

**Call us on 01 284 8484**

All calls to the Consult A Colleague helpline are treated in the strictest confidence - there is no need to give a name or number.

A confidential free service from the DSBA.  
[www.consultacolleague.ie](http://www.consultacolleague.ie)

**Patricia Lord**  
**Solicitor, Legal Costs Accountant**

Drawing, settling and taxing legal costs for the past 20 yrs.

For a fast, efficient and reliable service, send your file to:  
Lords Legal Costs Accountants  
1 Ormond Place, Dublin 7.  
**Tel:** 01 8727111  
**Fax:** 01 8727132  
**E-Mail:** [patricialord7@eircom.net](mailto:patricialord7@eircom.net)  
**DX No:** 1067

# professional notices

## WILLS

**Breen, William (Liam) (deceased)**, late of Apartment 1F, 45-25 41st Street, Sunnyside, New York, 11104 New York. Would any person holding or having knowledge of a will made by the above-named deceased, who died on 26 May 2016, please contact Gartlan Furey, Solicitors, 20 Fitzwilliam Square, Dublin 2; reference ERF/BRW002/0001; tel: 01 799 8081, email: [privateclient@gartlanfurey.ie](mailto:privateclient@gartlanfurey.ie)

**Broderick, John (deceased)**, late of Auburn Drive, Coosan Road, Athlone, Co Westmeath, and formerly of 23 Hillcourt, Cartron-troy, Athlone, Co Westmeath, and Beencuncen, Causeway, Co Kerry, who died on 17 July 2016. Would any person having knowledge of a will executed by the above-named deceased, or if any firm is holding same, please contact Deirdre Flynn, Solicitors, Cathedral View, Ardfert, Tralee, Co Kerry; tel: 066 711 5695, email: [info@deirdreflynn solicitors.ie](mailto:info@deirdreflynn solicitors.ie)

**Codd, Liam (deceased)**, late of Birchall, Oughterard, Co Galway, who died on 1 June 2016. Would any person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact Shannon & O'Connor, Solicitors, 6 Hatch Street Lower, Dublin 2; tel: 01 539 7321, email: [legal@shannonocconnor.ie](mailto:legal@shannonocconnor.ie)

## RATES

# professional notice rates

RATES IN THE PROFESSIONAL NOTICES SECTION ARE AS FOLLOWS:

- **Wills** – €147 (incl VAT at 23%)
- **Title deeds** – €294 per deed (incl VAT at 23%)
- **Employment/miscellaneous** – €147 (incl VAT at 23%)

**HIGHLIGHT YOUR NOTICE BY PUTTING A BOX AROUND IT – €33 EXTRA**

**ALL NOTICES MUST BE PAID FOR PRIOR TO PUBLICATION. CHEQUES SHOULD BE MADE PAYABLE TO LAW SOCIETY OF IRELAND.** Deadline for October 2016 *Gazette*: 19 September. For further information, contact the *Gazette* office on tel: 01 672 4828.

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

**Corbally, Paul Christopher (deceased)**, late of 53 Old Church Crescent, Clondalkin, Dublin 22. Would any person having knowledge of any will made by the above-named deceased, who died on 31 December 2014, please contact Helen McGrath, O'Connor Solicitors, 8 Clare Street, Dublin 2; tel: 01 676 4488, email: [mail@oclegal.ie](mailto:mail@oclegal.ie)

**Cronin, Finbarr (Barry) (deceased)**, who died on 30 September 2015 and late of Rosnacaheragh, Durrus, Bantry, Co Cork. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Orla O'Connell, solicitor, Eamon Murray & Co, Solicitors, 6/7 Sheares

Street, Cork; tel: 021 493 7000, email: [orla@murraysolicitorscork.ie](mailto:orla@murraysolicitorscork.ie)

**Cronin, Mary Ellen (deceased)**, who died on 11 December 2015, late of Rosnacaheragh, Durrus, Bantry, Co Cork. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Orla O'Connell, solicitor, Eamon Murray & Co, Solicitors, 6/7 Sheares Street, Cork; tel: 021 493 7000, email: [orla@murraysolicitorscork.ie](mailto:orla@murraysolicitorscork.ie)

**Delahunty, James (deceased)**, late of 12 Frankfurt Avenue, Rathmines, Dublin 6, formerly of 7 La Vere Terrace, Harold's Cross, Dub-

lin 6, who died on 13 April 2016. Would any person having knowledge of the whereabouts of any will executed by the said deceased please contact Tarrant & Tarrant, Solicitors, Law Chambers, Arklow, Co Wicklow; DX 11 005 Arklow; tel: 0402 32424, email: [info@tarrantandtarrant.com](mailto:info@tarrantandtarrant.com)

**Desmond, Daniel (deceased)**, who died 22 October 2014, late of 10 The Mews, Pelletstown Manor, River Road, Ashtown, Dublin 15. Would any person having knowledge of the whereabouts of any will executed by the said deceased please contact Nathaniel Lacy & Partners, Solicitors, Kenlis Place, Kells, Co Meath; tel: 046 928 0718, email: [law@nlacy.ie](mailto:law@nlacy.ie)

# MISSING HEIRS, WILLS, DOCUMENTS & ASSETS FOUND WORLDWIDE

Now in Ireland

**FREEPHONE 1800 210210**  
(Ireland Only)

**finders**

international probate genealogists

[www.findersinternational.ie](http://www.findersinternational.ie)

Finders with insurance by **AVIVA**



Free 'Heir Hunters' App now available



**Dillon, Mary (née Duff)**, late of Kilnahinch, Moate, Co Westmeath and Birrfield, Clonard, Co Meath. Would any person having knowledge of any will made by the above-named deceased, who died on 6 August 2016, please contact NJ Downes & Company, Solicitors, Dominick Street, Mullingar, Co Westmeath; tel: 044 93 48646, fax: 044 93 43447, email: [jwallace@njdownes.ie](mailto:jwallace@njdownes.ie)

**Donnelly, Peter (deceased)**, late of San Antonio, Ardburgh, Dalkey, Co Dublin, who died on 4 May 2016. Would any person holding or having any knowledge of the whereabouts of any will made by the above-named deceased please contact Lavelle Solicitors, St James House, Adelaide Road, Dublin 2; tel: 01 644 5800, email: [aredmond@lavellesolicitors.ie](mailto:aredmond@lavellesolicitors.ie)

**Doran, Joan (deceased)**, late of 37 Marian Park, Newtownpark Avenue, Blackrock, Co Dublin, who died 21 April 2016. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Stephen P Maher, O'Mara Geraghty McCourt, Solicitors, 51 Northumberland Road, Dublin 4; tel: 01 660 6543; email: [smaher@omgm.ie](mailto:smaher@omgm.ie)

**Edgeworth, Maureen (deceased)**, late of Western Alzheimer's Maryfield Nursing Home, Athenry, Co Galway, and formerly of 9 Renmore Crescent, Galway, who died on 5 December 2015. Would any person having any knowledge of the whereabouts of any will made by the above-named deceased please contact Thomas K Madden & Co, Solicitors, 1 Camlin View, Longford, Co Longford; tel: 043 334 1192; email: [tom@tkmadden.com](mailto:tom@tkmadden.com)

**Freehill, Margaret (otherwise Etta) (deceased)**, late of 64 Glendhu Road, Navan Road, Dublin 7, date of birth 27 October 1921 and date of death 17 January

2016. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Garrett J Fortune & Co, Solicitors, 11 Church View, Cavan; tel: 049 436 1233, email: [info@gjfortune.ie](mailto:info@gjfortune.ie)

**MacManus, Gerald (deceased)**, late of 4 Nutgrove Court, Rathfarnham, Dublin 14, who died on 24 July 2009. Would any person having knowledge of the whereabouts of any will executed by the said deceased, or if any firm is holding same, please contact Miriam Tighe & Company, Solicitors, 3 The Village Centre, Lucan, Co Dublin; tel: 01 628 1755, email: [echamp@miriamtighe.ie](mailto:echamp@miriamtighe.ie)

**McAuliffe, Denis (otherwise Denis Joseph) (deceased)**, late of Apartment 10, Clochanbarra, 43 Sheares Street, Cork, who died on 13 May 2016. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact John Hickey, Poe Kieley Hogan Lanigan, Solicitors, 21 Patrick Street, Kilkenny; tel: 056 772 1063, email: [jhickey@pkhl.ie](mailto:jhickey@pkhl.ie)

**Monaghan, William (otherwise Liam) (deceased)**, late of 32 Lyons Road, Newcastle, Co Dublin, who died on 8 December 2015. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Treasa Howell, Howell & Company, 2 Tower Road, Clondalkin, Dublin 22; tel: 01 403 0777; email: [info@howellsolicitors.ie](mailto:info@howellsolicitors.ie)

**Murphy, Frank (deceased)**, late of Dromleigh, Aherlow, Tipperary, who died on 15 January 2015. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Beatrice Dolan, Vincent McCormack & Co, Solicitors, 11 St Michael Street, Tipperary Town; tel: 062 52899, fax: 062 52944, email: [tippelgal@ircornet](mailto:tippelgal@ircornet)

**O'Dwyer, Josephine (deceased)**, late of 13 Glenside, Annacotty, Co Limerick. Would any person having knowledge of a will (or documents relating to a will) made by the above-named deceased, who died on 18 March 2016, please contact Keating Connolly Sellors, Solicitors, 6/7 Glentworth Street, Limerick; DX 3005 Limerick; tel: 061 414 355; email: [nsheehy@sellors.ie](mailto:nsheehy@sellors.ie)

**O'Reilly, Berna (deceased)**, late of 19 Woodfield, Scholarstown Road, Rathfarnham, Dublin 16. Would any person having knowledge of any will made by the above-named deceased, who died on 5 June 2016, please contact Cogan-Daly, Solicitors, Brighton House, 50 Terenure Road East, Rathgar, Dublin 6; tel: 01 490 3394, email: [contact@cogandalylaw.ie](mailto:contact@cogandalylaw.ie)

**O'Reilly, Mary (deceased)**, late of 20 Ballyroan Road, Templeogue, Dublin 16, who died on 29 August 2015. Would any person having knowledge of the whereabouts of a will made by the above-named deceased on or around September 2006, or any other will made by her, please contact Eugene F Collins Solicitors, Temple Chambers, 3 Burlington Road, Dublin 4; ref: MCK/o32071.1; tel: 01 202 6400, fax: 01 667 5200, email: [mmckeever@efc.ie](mailto:mmckeever@efc.ie)

**Priestley, James (deceased)**, who died on 12 September 2012 at The

**Is your client interested in selling or buying a 7-day liquor licence? If so, contact Liquor Licence Transfers**

**Contact  
0404 42832**

**www.FOL.ie**  
Forensic Video Services

Glendade Nursing Home, Shilleagh Road, Tullow, Co Wicklow. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Julie Breen, solicitor, Mill Centre, Irish St, Enniscorthy, Co Wexford; tel: 053 923 5699, email: [info@juliebreensolicitor.ie](mailto:info@juliebreensolicitor.ie)

**Riordan, Timothy (Tim) (deceased)**, late of Old Post Office Street, Cahirciveen, Co Kerry, who died on 16 June 2016. Would any person having knowledge of the whereabouts of any will made by the above-named person, or if any firm is holding same and/or title deeds to the property referred to above, please contact Tim Riordan, Gore & Grimes, Solicitors, Cavendish House, Smithfield, Dublin 7; tel: 01 872 9299, email: [tim.riordan@goregrimes.ie](mailto:tim.riordan@goregrimes.ie)

### CONSULTANTS WANTED WORK FROM HOME

ALL DISCIPLINES  
Experience of English work a bonus

You will:

- Be happier and more productive
- Waste less time commuting
- Be fully supported with the latest technology
- Be the envy of your former colleagues.

Attractive package for the right candidates.

Email your CV to:

[charterhouse@gmail.com](mailto:charterhouse@gmail.com) for full details.



## professional notices

**Selwood, Ursula (deceased)**, late of Haven View, Kilcashel, Avoca, Co Wicklow, who died on 14 July 2016. Would any person having knowledge of the whereabouts of any will executed by the said deceased please contact MT O'Donoghue & Co, Solicitors, 11 Main Street, Gorey, Co Wexford, Y25 A3T8; DX 48-003 Gorey; tel: 053 942 1137, email: [maeve.breen@mtodonoghue.com](mailto:maeve.breen@mtodonoghue.com)

**Sewell, Mary Ann (deceased)**, late of 16 Ryan's Buildings, off Blarney Street, Cork City, and formerly of Loughrott, Drimoleague, Co Cork who died on 3 May 2016. Would any person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact Jim Grogan, Solicitors, 27 Cook Street, Cork; tel: 021 427 0840, email: [groganlaw@gmail.com](mailto:groganlaw@gmail.com)

### MISCELLANEOUS

**Solicitor(s)/firm required for established southside private client firm**, with a view to eventual take-over or merger. Apply to Raymond A Hunt & Co, Accountants, by email: [declan@rayhuntandco.ie](mailto:declan@rayhuntandco.ie)

### TITLE DEEDS

**Nagle, Joseph (deceased)**, late of 29 Rosmeen Park, Dun Laoghaire, Co Dublin. Would any person having knowledge of any will made by the above-named deceased, or if any firm is holding same, or also

anyone knowing the whereabouts or holding title documents on behalf of the late Joseph Nagle, late of above address, please contact Frizelle O'Leary & Co, Solicitors, Slaney Place, Enniscorthy, Co Wexford; tel: 053 923 3547, fax: 053 923 4880

**O'Neill, Paul and Margaret ('Peggy') (deceased)**, late of 152 and 154 Seafield Road, Clontarf, Dublin 3. Would any person having knowledge of the whereabouts of any title documents, or holding title documents relating to the above property, please contact Michael Curneen, Curneen Solicitors, 3 Deansgrange Road, Blackrock, Co Dublin; DX 7013 Blackrock; tel: 01 289 1144; email: [michael@curneensolicitors.com](mailto:michael@curneensolicitors.com)

### 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*

Take notice any person having any interest in the following property: all that and those the premises demised by an indenture of lease dated 19 May 1773 made between John Lord Baron Erne of the one part and Luke Mercer Esq of the other part and therein described as "all that and those the two messuages, dwellinghouses or tenements, now used as a watch-house for the officers of His Majesty's Revenue, and situate on Rogerson's Quay in the suburbs of the

city of Dublin, together with the backsides and appurtenances thereunto belonging, which said houses or tenements were formerly in the possession of John Callan and Clement Clinton and late in the possession of Robert Moorehouse Gentleman in as full ample and beneficial manner as the same were held and enjoyed by the said Robert Moorehouse and which are now known as 25-26 Sir John Rogerson's Quay, Dublin 2".

Take notice that Balark Investments Limited (the applicant) has submitted an application pursuant to the above-mentioned legislation to the county registrar for the county and city of Dublin for the acquisition of the fee simple and all superior interests in the above-mentioned premises, and any party asserting that they hold the fee simple or other superior interest in the aforesaid premises (or any part or parts thereof) are called upon to identify themselves and furnish evidence of any title to the above-mentioned premises to the below named by Monday 3 October 2016.

Balark Investments Limited intends to proceed with the application before the county registrar, which is listed for hearing on Tuesday 29 November 2016, and has applied to the county registrar for such awards, orders, and/or directions as may be appropriate on the basis that the persons entitled to the fee simple or other superior interest in each of the aforesaid premises are unknown or unascertained.

Date: 2 September 2016

Signed: Arthur Cox (solicitors for Balark Investments Limited), Earlsfort Terrace, Dublin 2

### In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*: an application by **Liam Dalton and Mary Dalton**

Any person having a freehold estate to an intermediate interest in all that and those the portion of the premises situate at 133 The Quay, Waterford City, held under lease dated 17 January 1933 and made between Kate A Hearne, Catherine Kenneally, Dominic Kenneally, Edwin Bingon Jacob, Thomas Frederick Harvey Jacob to Reginald O'Grady, for the term of 99 years from 29 September 1933 at the yearly rent of €40 therein reserved, and therein described as "all that and those the premises fronting Bailey's New Street and adjoining other premises of the lessors in the occupation of the lessee measuring 34 feet, 6 inches frontage to the said street; and 26 feet backwards from north to south; 19 feet on the east side; and 18 feet, 6 inches and 19 feet, 6 inches on the south side; and as more particularly delineated and described in the map endorsed on the said lease and thereon coloured pink, which said premises are situate in the parish of Trinity within and county of the city of Waterford, which said premises are registered in folio



## Take Control!

Train your staff today. eXpd8 offers **Cyber Security Awareness Training** sessions to your staff in your office. This training qualifies for CPD points.

Contact us today for more information:

t: +353 1 8900 390 e: [sales@eXpd8.com](mailto:sales@eXpd8.com) w: [www.eXpd8.com](http://www.eXpd8.com)



3964L of the register of freeholders county of Waterford”.

Take notice that Liam Dalton and Mary Dalton, being the persons at the date of the application being entitled to the lessees' interest under the said lease, intend to apply to the county registrar of the county of Waterford 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 are called upon to furnish evidence of title to same to the below named within 21 days from the date of this notice to Purcell & Kennedy Solicitors, 21 Parnell Street, Waterford, or email: [info@purcellkennedy.ie](mailto:info@purcellkennedy.ie).

In default of any such notice being received, Liam Dalton and Mary Dalton intend to proceed with the application before the county registrar at the end of the 21 days from the date of this notice

and will apply to the county registrar for the county of Waterford for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown and ascertained, which said application before the county registrar will be dealt with at the Court House, Grace Dieu, Ballindud, Tramore Road, Waterford, on 26 September next at 2.15pm.

*Date: 2 September 2016*

*Signed: Sonja Kennedy, Purcell & Kennedy (solicitors for the applicants), 21 Parnell Street, Waterford*

**In the matter of the Landlord and Tenant Acts 1967-1994 and in the matter of the Landlord and Tenant (Ground Rents) Act 1967: an application by the Health Service Executive**

Take notice that any person having any interest in the freehold estate

of or superior interest in the following property: all that and those the property comprised in folio 2349L of the register Co Wexford, more particularly known as no 2B St Peter's Square, Wexford, in the parish of St John's, situate in the townland of Townparks, barony of Forth, and county of Wexford, being the property held under lease dated 12 July 1790 from Nicholas Corish to Thomas Brown for the term of 297½ years from 25 March 1790 at the yearly rate of £2.95 shillings, and held under lease dated 22 July 1823 from Walter Eakins to Peter Sinnott for the term of 264½ years from 25 March 1823 at the yearly rate of £8 sterling and subject to the covenants on the part of the lessee and the conditions contained in the said lease insofar as same relate to or affect the said premises.

Take notice that the applicant, the Health Service Executive, intends to submit an application

to the county registrar for the county of Wexford for the acquisition of the freehold interest and any intermediate interests in the aforesaid premises and that any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of title to the aforementioned premises to the below named within 21 days from the date of this notice.

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

*Date: 2 September 2016*

*Signed: Ensor O'Connor (solicitors for the applicant), 4 Court Street, Ennis-corthy, Co Wexford*

## DIPLOMA CENTRE

Leading the way in continuing professional legal education



AUTUMN 2016 COURSE NAME	DATE	FEE
Diploma in Law	Friday 9 September 2016	€4,400
Diploma in Trust and Estate Planning	Saturday 17 September 2016	€3,000
Diploma in Finance Law	Tuesday 4 October 2016	€2,400
Diploma in Corporate Law and Governance	Wednesday 12 October 2016	€2,400
Diploma in Alternative Dispute Resolution (New)	Thursday 13 October 2016	€2,650
Diploma in Healthcare Law (New)	Wednesday 19 October 2016	€2,400
Diploma in Sports Law (New)	Wednesday 19 October 2016	€2,400
Diploma in Judicial Skills and Decision Making (New)	Friday 21 October 2016	€2,400
Diploma in Education Law (New)	Friday 4 November 2016	€2,400
Diploma in In-House Practice	Friday 18 November 2016	€2,400
Certificate in Aviation Leasing and Finance	Wednesday 28 September 2016	€1,400
Certificate in Company Secretarial Law and Practice	Tuesday 4 October 2016	€1,400
Certificate in Data Protection Practice	Thursday 6 October 2016	€1,400
Certificate in Pensions Law and Practice	Tuesday 11 October 2016	€1,400
Certificate in Charity Law, Trusteeship and Governance	Friday 14 October 2016	€1,400
Certificate in Aviation Leases (New)	Friday 21 October 2016	€1,550
Certificate in Commercial Contracts	Saturday 22 October 2016	€1,400
Certificate in Conveyancing	Tuesday 25 October 2016	€1,400
Certificate in Cape Town Registration (New)	Friday 28 October 2016	€1,550
Certificate in Trade Mark Law	Thursday 10 November 2016	€1,400
Certificate in Aviation Securitisation (New)	Friday 11 November 2016	€1,550

### CONTACT DETAILS

E: [diplomateam@lawsociety.ie](mailto:diplomateam@lawsociety.ie)

T: 01 672 4802

W: [www.lawsociety.ie/diplomacentre](http://www.lawsociety.ie/diplomacentre)

Please note that the Law Society of Ireland's Diploma Centre reserves the right to change the courses that may be offered and course prices may be subject to change.

Some of these courses may be iPad courses in which case there will be a higher fee payable to include the device. Contact the Diploma Centre or check our website for up-to-date fees and dates.



## ne ultra crepidam judicaret



## Coffee with a kick!

Customers of a London coffee shop recently got more than they bargained for when they were invited by customer service agents outside the shop to avail of a free coffee and pastry, simply by liking the shop's Facebook page, *Silicon Republic* reports.

Unknown to them, technicians from an English fraud prevention service called Cifas – working from a van parked nearby – who were viewing the shop's customers via video-link, got to work on their laptops and started scanning the customers' social media accounts to glean as much personalised information as possible, in minutes.

The information was then relayed to earpieces worn by staff members, who got busy writing the information on each customer's coffee cup before presenting them with their free beverage. The information included surname, mother's maiden name, telephone number, career, place of work, schools attended, interests and religious belief. The clever stunt was part of a campaign to highlight to internet users just how much information they reveal about themselves online – and just how easy it is for would-be fraudsters to access it.

## Should've, could've, would've? Probably...

Specsavers looks like it's about to successfully trademark the word 'should've' in Britain, *the BBC* reports.

It is also aiming to secure the rights to the ungrammatical 'shouldve', having applied to Britain's Intellectual Property Office for trade protection on the two terms on 18 July.

The company has been using its 'Should've gone to Specsavers' slogan since 2003.

With IPO approval granted, there is now a two-month waiting period to allow third parties to object.

Speaking to *The Times*, one London patent attorney said that he was surprised at the move to trademark a single word, without it being part of a longer phrase.

Another trademark specialist said that applications for distinctive slogans such as Nike's 'Just do it' were generally far

more likely to get approval, adding that "It would be very difficult to monopolise 'should've'."

However, 20 years ago, Carlsberg successfully registered 'probably', setting a precedent for the registration of 'always', 'don't' and 'never' as trademarks.

The trademark does not prevent competitors from using such words in ordinary descriptive sentences.

## A bog-standard practice?

Lawyers at London City outfit Nabarro have been told they can bill clients for time they spend on the toilet, *Legal Cheek* reports. Justifying the move, Nabarro's bosses claim their lawyers – who apparently never switch off – will "still [be] thinking about" the matter they're working on, despite being on the pot.

It reminded the *Gazette* of US poultry workers who are routinely denied toilet breaks, forcing them to wear nappies while on the production line.

The 'time recording policy', which was published on Nabarro's private

intranet, states that breaks "of up to six minutes" should be added to a client's tab (see picture, below).

A Nabarro spokesperson said that "time recording is not directly correlated to billing. Nevertheless, most businesses build natural breaks into the cost of their services. Indeed, some of our best legal minds have their best legal insights when they get up for a short break." So unlike your average City lawyer, who will spend their break-time Tinder-ing or crying, Nabarro's dedicated legal minds are still thinking about work.

## Steely decision

Germany's constitutional court has ruled that a hip-hop artist can sample a two-second beat sequence that came originally from a Kraftwerk track, 'Metall auf metall' ('Metal on metal') – without infringing copyright, *The Guardian* reports.

Kraftwerk singer Ralf Hütter had argued that his copyright had been breached by the producer Moses Pelham in the song 'Nur mir' ('Only for me'), sung by the rapper Sabrina Setlur.

The ruling addresses the complex legal issue of the competing interests of artistic freedom and copyright.

The court said that the



sequences were only seconds long and "led to the creation of a totally new and independent piece of work".

It added that banning sampling would, in effect, spell the end of some music styles.

Time Recording Policy, Paragraph 4 (Principles of Time Recording), at Principle 3: Short Breaks:  
"Any short break, e.g. coffee break, of up to 6 minutes should still be recorded to the matter you are currently working on, on the basis that you would still be thinking about it."

# Join us

DWF is an award-winning, full service commercial law firm and one of the UK's largest legal businesses. In our Dublin office we are looking for a number of high calibre and highly motivated people to fill the following roles:



## Corporate / Commercial Solicitor - all levels

The role will involve providing sophisticated legal advice to leading domestic and international companies from all industries and sectors, including drafting complex legal agreements and a wide variety of work. The ideal candidate will have strong technical knowledge and transactional experience of mergers and acquisitions, corporate finance and corporate governance.

## Commercial Property Solicitor - all levels

The role requires a proven track record in the property arena dealing with sales and acquisitions, commercial lettings, landlord and tenant issues, property development and real estate finance.

## Insurance Policy Coverage Supervisor - up to Partner level

The role will involve advising predominantly insurers and their agents on the extent of coverage applicable under various professional indemnity and other types of insurance policies, supervising the work of an experienced team of lawyers and linking into the similar capabilities within the Dublin office and the wider business.



To apply, please email [recruitment.enquiries@dwf.law](mailto:recruitment.enquiries@dwf.law) with your CV and reference to the particular role.

© DWF LLP 2016. DWF LLP is a limited liability partnership registered in England and Wales (registered number OC328794). DWF LLP is authorised and regulated by the Solicitors Regulation Authority. DWF LLP is also recognised as an incorporated practice with the Law Society of Scotland (registered number 43186). DWF in Ireland is a partnership regulated by the Law Society of Ireland. The term Partner is used to refer to a Member of DWF LLP or an employee or consultant with equivalent standing and qualification. A list of the Members of DWF LLP and of the Non-Members who are designated as Partners is open to inspection at its registered office, 1 Scott Place, 2 Hardman Street, Manchester M3 3AA. Ref 4042 250816

[www.dwf.law/join-us](http://www.dwf.law/join-us)



## Legal Roles in Aircraft Financing and Leasing

As the leading executive search firm focusing on aviation leasing and financing, Horizon Executive Search currently has a number of clients who are seeking aviation leasing or asset finance experienced In-House Counsel and all levels of lawyers in practice.

Current assignments include:

- General Counsel
- VP Legal Leasing
- Legal Counsel
- Senior Associate, Aviation Finance
- Junior Associate, Aviation Finance
- Contract Managers or Paralegals

If you are an experienced aviation transaction lawyer considering a new challenge or if you have broader asset finance experience and would like to consider a transition to this area, please contact us in confidence on [info@horizonexecsearch.com](mailto:info@horizonexecsearch.com).

## Philip O'Sullivan & Co

Philip O'Sullivan & Co are an established firm based in Tralee who are currently seeking to recruit a qualified Solicitor in their General Practice. The successful candidate must meet the following criteria:

- Minimum of 2 years PQE.
- Must have a good knowledge of Conveyancing and Litigation.
- Must have strong organisational skills and be self motivated.
- Attention to detail and ability to work as part of a team essential.

**If you are interested in applying for this role please send your CV to [aisting@philipsullivan.com](mailto:aisting@philipsullivan.com).**

## POSITION AVAILABLE

**Want to place your recruitment advertisement here?**

Contact Seán Ó hÓisín  
Tel: 086 8117116  
Email: [sean@lawsociety.ie](mailto:sean@lawsociety.ie)

## PRACTICE

### Real Estate Finance Solicitor

€80,000 - €100,000  
Top 10 / Dublin  
Ref: 907906

### Senior Legal Counsel (Mat Leave)

€70,000 - €75,000  
Technology / Dublin  
Ref: 908897

### IP / Data Protection Solicitor

€60,000 - €90,000  
Top 10 / Dublin  
Ref: 908447

### NQ Aviation Finance / Banking Solicitor

€55,000 - €65,000  
Top Tier / Dublin  
Ref: 906030

### Investment Funds Associate

€70,000 - €100,000  
Top 10 / Dublin  
Ref: 907535

### Corporate Solicitor

€65,000 - €100,000  
Top Tier Firm / Dublin  
Ref: 904517

### Construction Solicitor

€60,000 - €70,000  
Top 10 / Dublin  
Ref: 907226

### Childcare Law Solicitor

€50,000 - €55,000  
Specialised / Meath  
Ref: 905652

### Tax Solicitor

€70,000 - €90,000  
Top 10 / Dublin  
Ref: 908563

### Commercial Property Solicitor

€65,000 - €90,000  
Top Tier / Dublin  
Ref: 908746

### Commercial Solicitor

€60,000 - €70,000  
Mid Tier / Limerick  
Ref: 906951

### Litigation Solicitor

€40,000 - €45,000  
Mid Tier / Limerick  
Ref: 906950

## Featured Jobs

### SENIOR BANKING ASSOCIATE

€80,000 - €110,000 / Top 20 / Dublin

Our client, a top 20 firm in Dublin is seeking to recruit a senior associate for its newly established banking division. You will be working in a growing and dynamic firm and alongside extremely well respected legal practitioners. The role will involve developing the firm's relationships with existing and potential clients as well as a high level of transaction work. The successful candidate will be a senior associate in an established banking practice looking to progress their career.

Ref: 908717

### ENVIRONMENTAL AND PLANNING SOLICITOR

€70,000 - €90,000 / Top Tier / Dublin

Our client, a top tier firm is seeking to recruit a solicitor to join its' environmental and planning group, which is recognised as a market leading group. The role will involve providing sophisticated legal advice across all sectors; energy and natural resources, water, waste, pharma, chemicals, manufacturing, agribusiness and transport and also representing clients in both civil and/or criminal proceedings at all jurisdictional levels. The ideal candidate will have post qualification experience from another leading environmental and planning group.

Ref: 908692

### RESIDENTIAL CONVEYANCING SOLICITOR

€60,000 - €65,000 / General Practice / Kildare

Our client, a general practice in Co. Kildare, is seeking to recruit a conveyancing solicitor with experience in probate matters to join its growing team. This extremely busy firm is seeking to grow and develop its team of practitioners as its client base is expanding. The role will involve managing the firms residential and commercial conveyancing files, from inception to closing, as well as overseeing probate matters for the firm's private client base.

Ref: 908821

## IN-HOUSE

### Head of Legal and Compliance

€140,000 - €180,000  
Investments / Dublin  
Ref: 908559

### Head of Legal / Litigation EMEA

Six Figure Package  
Technology / Dublin  
Ref: 908559

### Commercial Contracts Counsel

€60,000 - €70,000  
3<sup>rd</sup> Level Institution / Dublin  
Ref: 907292

### Debt Recovery Solicitor

€60,000 - €65,000  
In House / Dublin  
Ref: 908729

### Commercial Contracts Officer

€45,000 - €55,000  
3<sup>rd</sup> Level Institution / Dublin  
Ref: 907079

## Featured Jobs

### HEAD OF LEGAL AND COMPLIANCE

€140,000 - €180,000 + package / Investments / Dublin

Our client, a global investment company is seeking to make a senior legal appointment to its senior management team as a result of an internal restructure. Reporting to C level, you will manage a small team of legal and compliance to deliver all legal and best practice for the business across EMEA. You will be responsible for legal and contractual advice, managing external counsel, regulatory requirements, compliance, data protection and general commercial counsel. You will be a qualified solicitor with experience in either within a similar industry or top 10 legal practice. You will have knowledge of the investment or life markets and have experience managing a team.

Ref: 908559

### HEAD OF LEGAL / LITIGATION EMEA

Excellent Six Figure Package / Technology / Dublin

Our client, a growing & diverse technology company is seeking to appoint a senior legal professional to head up litigation for the EMEA region. This role demands a strong leader who is commercially focused and will lead a highly experienced & talented legal team. You will be someone who wants to work for a dynamic company that is a leader in its sector. They want a legal professional who is not afraid to challenge and push through adversary. Someone who will lead from the front with razor sharp strategy, tenacity and agility. You will be a senior lawyer with experience in civil litigation with extensive experience litigating complex commercial matters.

Ref: 908559

### LEGAL COUNSEL

€95,000 - €105,000 + package / FS / Dublin

Our client, an international financial services company is seeking to appoint a legal counsel to join its firm based in Dublin. You will be responsible for providing legal advice on investments and legal transactions, draft and review deal documents, manage portfolio risks, ensure all compliance and regulation requirements. You will have experience as a transactional lawyer with experience in standard financial legal documentation. You will be commercially astute with excellent communication and organisational skills.

Ref: 908406

Should you require further information about any of these roles, please contact our legal consultants in strictest confidence:

Michael Minogue, Team Leader  
m.minogue@brightwater.ie

Deborah Crilly, Partner - Executive  
d.crilly@brightwater.ie



# Moving Jobs


is never **black & white**

Balancing the sometimes competing demands of career goals and ambitions, finances, work-life balance and most importantly fit, is a complex process. As a leading recruitment adviser to Ireland's top legal talent for over twenty years, our wide ranging experience ensures that we provide candidates with pragmatic, discrete and informed advice. A number of our private practice clients in the Big 6, Top 10 and international arena are currently seeking to recruit exceptional senior lawyers at associate and partner level in Corporate, Real Estate, Banking & Asset Finance, Funds, Tax and Competition Law.

For an exploratory conversation about career opportunities, please submit your CV to [bryan.durkan@hrmrecruit.com](mailto:bryan.durkan@hrmrecruit.com) or contact me by phone on +353 1 632 1852. All discussions and applications are strictly confidential.

**DUBLIN** | **CORK** | **GALWAY** | [www.hrmrecruit.com](http://www.hrmrecruit.com)

**HRM**  
T A L E N T M A T T E R S



Twenty years' experience enables us to source and select the best opportunities.

We have significant new opportunities for practitioners across many practice areas from Recently Qualified to Partner level. The following are examples of the roles our clients are seeking to fill. Please make sure to visit our website for other positions.

**Asset Finance – Assistant to Senior Associate**

A first rate solicitor is being sought for the large and successful Asset Finance Group of this Big 6 firm. The Group has unrivalled expertise specialising in aircraft and big ticket leasing matters. You will be working in asset finance or in general banking or commercial law and interested in developing an expertise in this area.

**Banking/Regulatory Solicitor – Newly Qualified to Assistant**

A pre-eminent Dublin based corporate law firm is seeking to recruit a solicitor to join its Banking and Financial Services Group to work on financing transactions and advise on regulatory issues for both domestic and international clients. The successful candidate will have experience in consumer regulation, regulatory authorisation applications, loan portfolio sales and debt capital markets.

**Commercial Litigation – Associate to Senior Associate**

Our client is a highly successful mid-tier practice seeking to recruit a solicitor with strong exposure to Circuit and High Court litigation. You will have worked with a well-respected firm and be keen to deal with high calibre clients and challenging cases.

**Commercial Property – Associate to Senior Associate**

Our Client is a long established mid-tier practice seeking an Associate Solicitor to join their growing commercial property department. You will have a proven track record in the property arena dealing with:

- Sales and Acquisitions;
- Commercial Lettings;
- Landlord and Tenant Issues;
- Property Development;
- Real Estate Finance.

**Intellectual Property Specialist – Associate to Senior Associate**

An excellent opportunity has arisen for a specialist intellectual property practitioner to join a leading Irish law firm. You will have experience of acting for a blue chip client base dealing with complex matters. You will also be a team player with strong technical skills. This represents a significant opportunity for career advancement for the right candidate.

**Litigation/Defence Personal Injury – Associate**

Our Client, an Insurance and Risk law firm, is seeking to recruit a Litigation/ Personal Injury Solicitor to assist in dealing with all aspects of personal injury litigation including defending catastrophic injury cases, fraudulent claims and disease cases.

**Projects/Construction – Partner**

Our Client is a full-service international law firm seeking to recruit a Projects/Construction Partner to assist in the expansion of its Dublin office. You will possess strong technical drafting skills and the ability to deliver a well-focused client service, giving clear, timely and practical legal advice coupled with the pre-requisite enthusiasm for and experience in, business development.

**Taxation Solicitor – Assistant to Associate**

Our client, one of the fastest growing law firms in Ireland has an immediate need for a Taxation Solicitor to meet client demand and a rapidly expanding client base. You will be AITI qualified with experience of dealing with tax matters for domestic and international corporate clients.

For more information on these and other vacancies, please visit our website or contact Michael Benson bcl solr. in strict confidence at: Benson & Associates, Suite 113, The Capel Building, St. Mary's Abbey, Dublin 7.

T +353 (0) 6703997 E mbenson@benasso.com www.benasso.com