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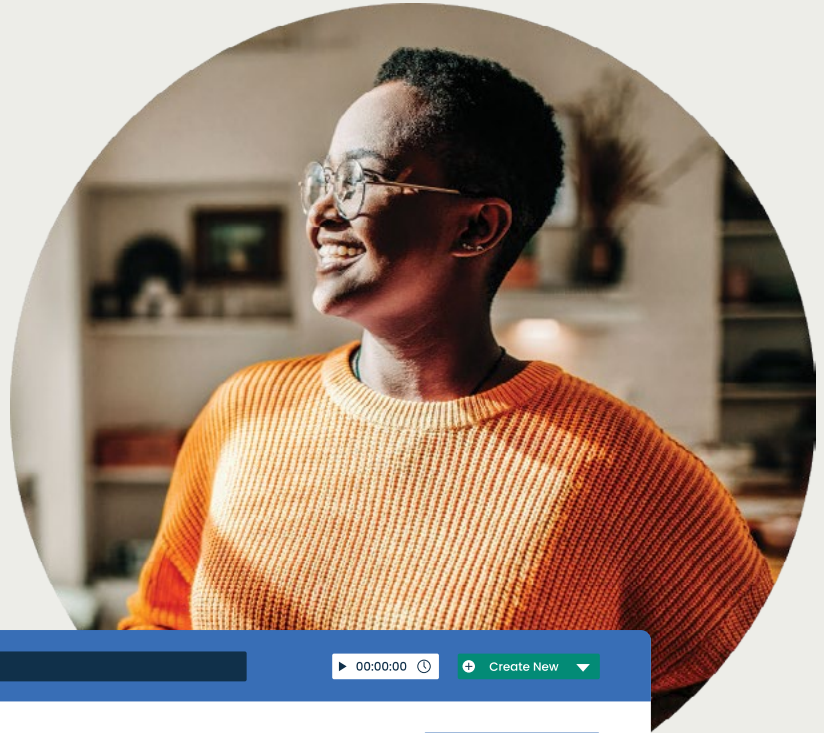
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gazette

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Reforming conveyancing

Housing has been in the spotlight for Government, the media, and the public for what seems a very long time. It's also an area where solicitors have a deep expertise, and strong opinions on how to make the system work better.

In recent weeks, the Law Society represented solicitors at a number of meetings in Government Buildings. During meetings of the Housing for All Expert Group in the Department of the Taoiseach, experts from the Law Society's Conveyancing Committee and the Probate, Administration and Trusts Committee highlighted recommendations to address ongoing conveyancing and probate delays.

In recent years, we have utilised the experience and expertise of solicitors to make submissions and recommendations to Government to highlight our concerns about the significant delays in the conveyancing process. Some of these have included using an 'all-of-Government' approach to conveyancing reforms, undertaking specific and targeted reforms to conveyancing law, and to increase the use of digital technology.

Global trend

We also made it clear that Ireland has to embrace the global trend towards e-conveyancing, an area that I and other members of Council have been looking at closely in recent months.

The recent Legal Services Regulatory Authority report on conveyancing reforms highlighted the need to increase consumer awareness of conveyancing services when buying or selling a property. I can announce that the Law Society, with input from the Society of Chartered Surveyors, has been working on a useful consumer guide that explains in plain English how to prepare for the sale of a property in Ireland – and how to avoid the most common delays in the conveyancing process. The guide will be helpful to your clients in reducing avoidable delays and is due for launch in May.

Digitised probate process


A specific workshop on probate was held recently by the Housing for All Expert Group. Our Probate, Administration and Trusts

Committee participated, along with representatives from Revenue, the Courts Service, the Probate Office, the Competition and Consumer Protection Commission, and the Departments of the Taoiseach, Justice, and Housing. Short and longer-term changes to probate practice were discussed, aimed at speeding up the process and ensuring that house sales subject to probate can be closed more promptly.

In the interests of saving time, and given ongoing resourcing issues in the Probate Office that are leading to long waiting periods and delayed validation of applications, we asked for confirmation that, as a short-term solution, queries be dealt with by email instead of through the post.

In the longer term, the good news is that the Probate Office hopes to have a digitised version of the probate application process rolled out by July 2025. This will include a solicitors' portal – the only piece of paper to be posted would be the will itself. Oaths and affidavits would be replaced by online 'statements of truth', while the online system would be integrated with the Revenue's Statement of Affairs (Probate) Form (SA.2). Early validation would mean that, once the application were accepted, the process of issuing the grant would begin. We look forward to working with other stakeholders in bringing this digitisation process to fruition.

We had previously requested that the Probate Office reopen the Seat Office and raised this option again at the April meeting. This would mean solicitors could attend in person to have their probate application checked and either accepted or returned on the spot. We will continue to press for this option and will update you on any developments.

It is imperative that we all work together to find a solution soon to the delays being experienced by solicitors and clients. We expect a report from the Housing for All Expert Group towards the end of June 2024, and look forward to reviewing those recommendations. 



IRELAND HAS
TO EMBRACE
THE GLOBAL
TREND TOWARDS
E-CONVEYANCING

BARRY MacCARTHY,
PRESIDENT

THE BIG PICTURE

ROAD TO NOWHERE

Internally displaced Palestinians who originally fled from the northern Gaza Strip walk along al-Rashid road, attempting to return home from the southern Gaza Strip on 14 April 2024. Since 7 October 2023, more than 85% of the population – up to 1.9 million people – have been displaced throughout the Gaza Strip, some more than once. The UN's Relief and Works Agency for Palestine Refugees in the Near East added that most civilians in Gaza are now in "desperate need of humanitarian assistance and protection"





PHOTO: MOHAMMED SABER/EPA-EFE/SHUTTERSTOCK

Southern stars shine in Cork



Council members of the Southern Law Association (SLA) attended the annual President's Dinner on 23 February 2024 at the Maryborough Hotel, Cork. SLA president John Fuller welcomed Law Society president Barry MacCarthy



Carol Jermyn and Fiona McNulty



Gráinne Cuddihy, Law Society president Barry MacCarthy, and Juli Rea



Judge Helen Boyle, Catherine O'Callaghan, Joyce Good Hammond, Emma Meagher Neville, Clare O'Shea-O'Neill (county registrar, Cork), and Mary Crowley (Head of Southern Region Office, Courts Service)



President John Fuller and Ruth Fuller



(From l to r): Michelle Cross, Niamh O'Connor, Patricia Canty, SLA president John Fuller, Ciara McDonnell, Kim Walley and Anne-Marie Linehan (all of JW O'Donovan Solicitors)

PICS: DARAGH KANE



Fiona Twomey and Joan Byrne



Judge Mary Dorgan, Fiona Twomey, and Judge Patricia Harney. Judge Dorgan accepted a presentation on behalf of Judge Rosemary Horgan who has retired. Judge Horgan was a member of the SLA when she practised as a solicitor, prior to her appointment to the judiciary



Richard Hammond SC (SLA past-president) addresses the guests



Brian Walker (Law Society of Northern Ireland)

A warm welcome for our newest solicitors



Chijindu Enyi-Amadi, Juliet Amadi, newly qualified solicitor Ihunanyachukwu Enyi-Amadi, Chiamaka Enyi-Amadi, and Augustine Amadi



Mark Garrett (director general), Barbara Cotter, Ally McCourt, and James McCourt (past-president)



President Barry MacCarthy and Kavi Abbi



Hannah Flynn and Niamh Young



Conor O'Hara, Edel Daly, Joseph O'Hara and Jackie O'Hara



Lara Finnegan (right) with her mother Fiona Donnelly



Tadhg Casey, Caoimhe Murnin, Abby Dempsey, Aileen Duggan, Aonaid Carr, Heather Casey, Caroline Roche, and Darragh Murray

PICS: JASON CLARKE



Teresa Carty (Prizewinner in Constitutional Law), Nina Jayne Carroll (Prizewinner for Tort), and Grace O'Donnell



Matthew Hodgins, Elizabeth McKeever, Rachel Hodgins, and Duncan Hodgins celebrate Rachel's graduation. Rachel is the fourth generation of her family to qualify as a solicitor. Her great grandfather William set up practice in Nenagh in 1915, her grandfather David qualified in 1955, while Rachel's dad Duncan became a solicitor in 1991 and works alongside his wife and fellow partner Elizabeth McKeever in Hodgins McKeever Solicitors LLP



A round of applause for their parents from Aoife Fox, Caroline Holland and Grace McKnight



Mr Justice David Nolan (High Court) addresses the newly qualified solicitors



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LLM Employment Law in Practice	28 September 2024	€3,600
Diploma in Insolvency Law and Corporate Restructuring	2 October 2024	€2,660
Diploma in Judicial Skills and Decision-Making	5 October 2024	€3,065
Diploma in Technology and IP Law	9 October 2024	€3,065
Diploma in Construction Law	12 October 2024	€2,660
Diploma in Finance Law	15 October 2024	€2,660
Diploma in Sports Law	23 October 2024	€2,660
Diploma in Education Law	1 November 2024	€2,660
Certificate in Immigration Law and Practice	7 November 2024	€1,725

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All lectures are webcast and available to view on playback, allowing participants to catch up on coursework at a time suitable to their own needs. Diploma Centre reserves the right to change the courses that may be offered and course prices may be subject to change.

School Tasking pilot proves popular with pupils



PICT: TOMMY DICKSON

The Law Society of Ireland played host to the School Tasking Taskmaster Regional Final on 21 March. School Tasking is an outreach project that enables young people to learn about the law through interactive tasks, set in the style of the *Taskmasters* TV show. PPC trainees who facilitated the School Tasking pilot project: (front l to r): Alison Fahey, Jordan Egan, and Liza Dundon; (back, l to r): Susan Satheesh, Loughlin Russell, Maeve Claffey, Hazel McAuliffe, and Grace O'Mahoney



Emma McGuire engages with pupils from St Paul's Primary School from the 'Brunner'



Loughlin Russell oversees an experiment by pupils of St Gabriel's, Arbour Hill



Students from Stanhope Street Primary School, Manor Street, Dublin, getting to grips with Tasking teamwork



PPC course managers Ruth Tracey and John Lunney (seen here with students from St Mary's Primary School, Dublin) led the innovative project

MHC appoints partner Philip Nolan as chair



Philip Nolan

● Philip Nolan has been appointed as the new chair of Mason Hayes & Curran. A partner in the firm, he will continue to advise clients as technology-law team head.

Managing partner Will Carmody said: "Philip's background combines the worlds of complex laws and emerging technology. This will further enhance our client offering as the environment in which they operate changes rapidly."

Carmody thanked former chair Christine O'Donovan for her dedication over the past four years.

Philip Nolan joined Mason Hayes & Curran as a trainee in 1997, became a partner in 2004, and has been a member of the firm's management group for 12 years.

Law Society team lifts Corn Adomnáin

● A Law Society of Ireland team has won this year's Corn Adomnáin International Humanitarian Law competition. The team, comprising Chloe McCabe, Calem Martin, and Conal O'Gadhra, also took the Cultural Property Prize at same event, which was held at the Dublin City University on 23 March 2024.

Calcutta Run aims to raise €350k

● The Law Society and its charity partners are aiming to raise €350,000 from this year's Calcutta Run, which takes place on Saturday 25 May.

Since 1999, the Calcutta Run has raised €5.3 million in support of homelessness services in Ireland and Kolkata in India.

In 2023, over 1,800 participants took part across the Dublin Calcutta Run and its associated events – the Golf Classic, Rogers Recruitment Tag Rugby, and the Cork Calcutta Run.

Registration for this year's

event is now open for firms and individuals at www.lawsociety.ie/news/calcutta-run/sign-up.

Irish rugby jersey raffle

The Dublin run will consist of a 6km and 10km run and walk, beginning and ending at Blackhall Place and proceeding through the Phoenix Park and surrounding areas.

This year's Cork run will place on Sunday 26 May, beginning and ending in Blackrock. To find out more and to register, search for 'Cork Calcutta Run' at www.lawsociety.ie.

The Law Society's main charity partners for this year's legal fund-raiser are Dublin Simon Community and the Hope Foundation, who both work to support the homeless.

This year's [Calcutta Run](#) raffle will feature the fantastic prize of a Vodafone Irish rugby jersey signed by Ireland's Six Nations men's squad. Tickets costing one for €10 or three for €20 are available at www.idonate.ie/raffle/CalcuttaRunVodafoneJerseyRaffle2024. The result will be revealed on the day of the Dublin run (25 May).



The Law Society's Glen Newman and Gillian Cregan display this year's raffle prize

Jurisdiction shake-up ‘won’t drive down costs’ or reduce delays



● Caroline Counihan (legal advisor to Safe Ireland) told a Bar of Ireland family law summit (17 April) that she could not see how planned changes to the *Family Courts Bill* would work for vulnerable women and children who were victims of domestic abuse: “It’s going to make their lives much more difficult,” she said.

Bringing divorce, separation, and cohabitation breakdown cases into the District Court would increase delays, which would increase risks for domestic-violence victims, she said.

The Circuit Court already had the architecture for effective case management, she added.

55,000 cases

Peter Doyle (chair of the Law Society’s Child and Family

Law Committee) attended the summit, which was also addressed by committee member Keith Walsh, who said that District Court judges could already have up to 200 cases before them each day.

Currently, a total of 55,000 family-law cases start in the District Court each year, of which 23,000 (42%) relate to domestic violence, he said. Over 10,000 of these were ‘walk-ins’ requiring immediate

protection or interim barring orders, he added.

Even adding substantial extra resources would not solve the problem of thousands of extra divorce cases, he warned.

Continuous adjournments before a District Court judge caused problems to fester in important issues, such as access to children and maintenance payments, Walsh stated. Such adjournments also cost money, he added.



Minister for Justice Helen McEntee was invited to visit Dolphin House

New chair for board of Courts Service

Ms Justice Elizabeth Dunne of the Supreme Court is now the chair of the Courts Service Board, which determines policy for the courts body and oversees its implementation.

The post is normally held by the Chief Justice Mr Justice Donal O’Donnell. The Courts Service said, however, that he had exercised his power under the *Courts Service Act 1998* to nominate another member of

the Supreme Court to take his place.

“With the establishment of the Judicial Appointments Commission this year, he wishes to dedicate more time to this,” the courts body said.

Library launches new cyber-security subject guide



● The Law Society’s library has launched a new subject guide on cyber-security. Recognising that the issue is a growing problem for solicitors, the guide brings together resources that will help them develop an understanding of the basics of cyber-security.

The guide highlights the library resources available to support solicitors in practice and brings together other Law Society guidance on cyber-security, as well as external resources – including legislation and Government policies.

Solicitors and trainees can use the guide as a starting point for researching law and policy on cyber-security, with books and e-books available on cyber-security law and practice, cyber-security in relation to privacy and data-protection law in the EU, and cyber-crime.

ENDANGERED LAWYERS

TANG JITIAN, CHINA



PIC: ASSOCIATED PRESS / ALAMY STOCK PHOTO

Tang Jitian

● On 11 March, the CCBE (the Council of Bars and Law Societies of Europe) wrote again to Chinese President Xi Jinping about the continued detention incommunicado of lawyer Tang Jitian (54). In a history of surveillance, harassment, detention, forcible disappearance, abuse and torture, this is a particularly poignant circumstance because his daughter died in Japan on 20 February. She was a student there in 2021 when she fell ill, and his attempt to visit her at the time was blocked on the grounds of risk to state security. The travel ban was first imposed in 2017, when he tried to go to Hong Kong for medical treatment, and remains in place.

Tang Jitian initially worked for seven years as a state prosecutor, but became disillusioned at the way the law was being abused to the disadvantage of people who did not enjoy the support of the Communist Party. He qualified as a lawyer in 2004 and left his job in 2005.

Based in Beijing with the Anhui Law Firm until 2008, he remains a prominent figure in the [Weiquan](#) (rights defending) movement, and has defended people subjected to re-education through labour camps, victims of forced eviction and illegal land acquisitions, parents of children poisoned by melamine-tainted milk, Falun Gong adherents, HIV/AIDS victims, and other vulnerable groups, including fellow human-rights lawyers. Tang was also a signatory of [Charter 08](#).

His activism led to trouble from the Chinese authorities, who permanently revoked his licence to practise as a lawyer in 2010. Nevertheless, he continued his rights advocacy. He has been placed under house arrest and detained on several occasions. His health has suffered.

He was released from a 2011 detention 15lbs lighter and with TB. In December 2021, when on his way to attend an event in Beijing commemorating Human Rights Day hosted by the EU's delegation in China, he was again arrested. Held in a form of secret detention commonly used against dissidents in China, he was only released 398 days later, in January 2023, in his hometown Jilin in northwest China, suffering from COVID-19.

On 4 November 2023, while en route to a family member's funeral, Tang Jitian became uncontactable. He is believed to be detained by police at an undisclosed location in Jilin province.

Alma Clissmann was a longtime member of the Human Rights Committee.

No class immune from domestic violence



PIC: PAUL SHERWOOD

Authors Keith Walsh and Sonya Dixon

● *Domestic Violence: Law and Practice in Ireland* by Keith Walsh and Sonya Dixon was launched at the Law Society on 10 April.

Reappointed Attorney General Rossa Fanning, who launched the volume, said that domestic violence had been a silent scourge in Ireland, but that perceptions were changing.

The AG described author Keith Walsh as “a ubiquitously cheerful presence” and “an impressive and frequent contributor to public debate on family law”.

Likewise, Sonya Dixon had developed a significant family-law practice over two decades and had lectured extensively in the field, he said.

Mr Fanning added that, unfortunately, the topic of the book was of great significance to thousands of Irish citizens, since it was estimated that one in three women globally were likely to experience violence at the hands of their partner or another perpetrator.

“There is no community that is not affected by this topic, and no social class is immune from it,” he commented.

Research shows that the incidence of domestic abuse increased during the COVID-19 pandemic because of increased isolation from support networks and prolonged proximity to perpetrators.

In 2020, there was a 25% increase in criminal charges for breaching domestic-violence orders, and a 16% increase in domestic-violence callouts with 43,000 incidents registered, the AG stated.

The volume traces the important changes introduced by the *Domestic Violence Act 2018* and critically analyses such reforms, usefully setting the Irish legislative approach against an international context.

Domestic Violence: Law and Practice in Ireland is for sale now through the Bloomsbury Professional website for €185 (paperback) or €163.33 (e-book).

Dublin to host IBA's Global Professional Ethics Symposium



PIC: CIAN REDMOND

● The second IBA Global Professional Ethics Symposium will be held at the Law Society, Blackhall Place in Dublin, from 26 to 28 June.

The symposium will be opened by Chief Justice Donal O'Donnell. The panellists will include a number of internationally recognised experts in the field of professional ethics who will discuss a broad range of issues and share their experiences.

Topics during the two-day event will include:

- AI and professional ethics,
- Litigation and abusive behaviour of legal professionals,
- Are you the one? Ethics as a criterion to select lawyers,
- Hot topics roundtable workshops,
- (How) should law firms react to such grave situations as the war in Ukraine or the Hamas terror attacks?
- ESG and legal practitioners' ethical role.

A comprehensive programme is available at www.ibanet.org/conference-details/CONF2434. Book online by 17 May 2024 to avail of early-bird discounts or complete the hard-copy booking form, available on the website, no later than 21 June.

This is an exciting event for Dublin and participation by members of the profession will ensure its success.

IRLI IN AFRICA

IRLI TARGETS DISADVANTAGED LAWYERS



● Irish Rule of Law International (IRLI) is a project-oriented, rule-of-law organisation that operates across several partner countries, including Malawi, Tanzania, and Zambia, with further projects in Somalia and South Africa. Our work advances the rule of law and human rights, harnessing the skills and knowledge of justice-sector actors and institutions across the island of Ireland.

Recently, we launched our 2024 Online Commercial Law Course in partnership with the Law Society of South Africa, Matheson, and the South African law firm Cliff Dekker Hofmeyr. The programme was developed to provide lawyers from disadvantaged backgrounds access to the highest quality of legal training and to overcome some of the structural inequalities that remained, post-Apartheid.

This is IRLI's longest standing programme, having been run by Irish lawyers since 2001, and by IRLI since its inception in 2007. With a view to promoting geographical reach and participant numbers, and in response to COVID-19, since 2022 the programme has been held online. This has enabled IRLI to target a greater number of rural and disadvantaged lawyers. The online model also means that a great number of Irish lawyers can participate, increasing both the tutor-to-student ratio and the amount of one-on-one feedback and mentoring available.

For the 2024 programme, over 100 South African lawyers attended. The programme ran for five weeks and covered a wide range of commercial legal topics. It also offered an opportunity for lawyers to network.

The programme was delivered by several highly regarded senior partners from Matheson and Cliffe Dekker Hofmeyr. We were delighted that South African judge Ismail Hussain and renowned Irish solicitor Michael Carrigan – both involved in the programme since its inception – spoke at the event. Law Society President Barry MacCarthy delivered the programme's keynote address, emphasising the important link between both jurisdictions.

IRLI wishes to extend its deep appreciation to all of its partners who made this course possible and, of course, the participants. We look forward to continuing to deliver this course in 2025 and beyond.

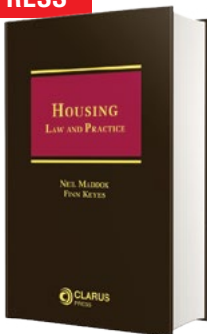
Michelle Drury is acting director of programmes at Irish Rule of Law International.

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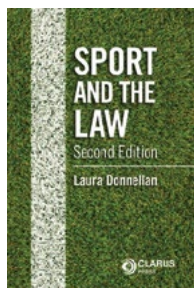
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Housing: Law and Practice

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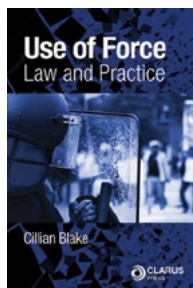
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Irish lawyers in England form fraternal association



Tamlin Bolton

● An Association of Irish Lawyers in England ([AILIE](http://AILIE.org.uk)) has been established to bring together lawyers from Ireland who now live and practise in England.

The recently-formed non-profit was established in 2023 by solicitors Seamus Kelly and Tamlin Bolton in response to the lack of a dedicated, connected community for Irish lawyers outside London.

While the [London Irish Lawyers' Association](http://LondonIrishLawyers.org.uk) (LILA) already exists as a professional network in the capital, AILIE aims to connect those working in law firms

in cities such as Manchester, Leeds and Newcastle.

Membership of AILIE is free and open to anyone from Ireland, north or south, or with a close connection to Ireland. The organisation aims to provide mentoring and support in a professional and friendly environment.

AILIE is open to lawyers in practice, students, legal staff, and academics. An inaugural event will be held later this year. Email info@ailie.org.uk for further information.



Seamus Kelly

CRO lists 10,000 companies for strike-off since October 2023

● Since October 2023, over 10,000 Irish companies have been listed for strike-off and hundreds have been involuntarily struck off the register, Eversheds Sutherland has noted in a [briefing](#).

Others have been dissolved for failing to adhere to their statutory obligation to file annual returns and financial statements with the Companies Registration Office (CRO).

Last year, the CRO resumed its

programme of enforcement action against non-compliant companies. This followed a temporary hiatus for difficulties that arose for companies during the pandemic.

Filing annual returns and financial statements is a primary responsibility for officers of a company that arises every year. A company's failure to attend to these filings for one or more years empowers the CRO to commence strike-off proceedings.

St Gabriel's garners Taskmaster Regional Final gong



● The Law Society of Ireland recently hosted an educational extravaganza – the School Tasking Taskmaster Regional Final – aimed at blending fun and learning in legal education.

Originating from the University of Warwick, School Tasking is an innovative project that educates youngsters about aspects of the law through interactive tasks inspired by the Taskmaster TV show. Spearheaded by PPC course managers Ruth Tracey and John Lunney, this initiative marked its debut outside of Britain at the Law Society of Ireland.

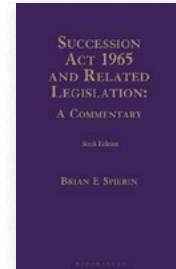
The event, held at Blackhall Place on 21 March, gathered teams from five local schools: St Mary's Primary School, St Gabriel's, St Paul's Primary School, Stanhope Street Primary School, and Loreto Senior Primary School. Enthusiastic fourth-class students showcased their legal prowess through a series of engaging challenges, mentored by ten PPC trainees.

The tasks, rooted in legal cases, ranged from crafting a short film based on legal precedents to debating the trademarking of chocolate-bar shapes. St Gabriel's emerged victorious, securing a place in the upcoming 'Champion of Champions' final that will take place at Warwick University in June.

The success of the regional final highlights the Law Society's efforts in fostering a passion for learning and shaping the legal professionals of tomorrow.

Congratulations to the participating solicitor trainees who were central to the project's success: Maeve Claffey (Arthur Cox), Elizaveta Dundon (William Fry), Jordan Egan (Matheson), Alison Fahey (A&L Goodbody), Hazel McAuliffe (McCann FitzGerald), Emma McGuire (Byrne Wallace), Aoife O'Donnell (DLA Piper), Grace O'Mahoney (Hayes Solicitors), Loughlin Russell (Matheson), and Susan Satheesh (Matheson).

COMING SOON FROM
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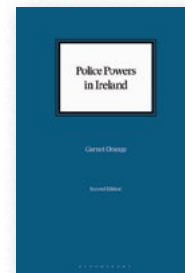
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Patrick (Paddy) J Geraghty 1949 – 2023

● Paddy Geraghty, our friend and colleague, passed away on 31 October 2023 after a brief illness, bravely fought.

Paddy grew up in Dublin but, as a young solicitor, relocated to Limerick in the early 1970s to work with Tynan & Co, and then establishing his own practice Geraghty & Company before, in 1978, amalgamating with Niall Sheehy and Dermot Morrissy Murphy to form Connolly Sellors Geraghty (now MHP Sellors LLP). Paddy spent many happy and successful years with Connolly Sellors Geraghty, forming lasting friendships with his partners and, indeed, all the staff.

He was a highly regarded commercial lawyer, advising, and working with many of the industries that started up in the mid-west. He was a skilled negotiator, representing many clients in commercial disputes. He frequently travelled around Europe and America, advising the chief executives of many large and successful companies.



Paddy was the quintessential *bon vivant* who enjoyed life to the full. He had a charming personality and could relate to young and old, being much loved by his friends and their family members. He was great

company and would always have a story to tell or might entertain you on the piano, singing his party piece, "Take her up to Monto!" He loved the game of golf, playing locally with his many friends

in Limerick Golf Club or Lahinch Golf Club, but also managing to enjoy some of the best courses in the world on his many 'away' trips. He was a great supporter of Old Crescent Rugby Club and was a former president of the club. He was a keen reader and an authority on the Roman Empire.

Paddy was a committed family man, having met his wife Rosalind Kiely in UCD, where they were both students taking the BCL degree. After graduating, they married in 1974 and raised a family of three children: Peter, Diana, and Philip. His family were a great support to him as he led his active business and social life. They miss him hugely and our heartfelt sympathy is with them in their loss. All our lives are changed by his going.

Paddy, you leave a void, and we all miss you.

NS

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PROFESSIONAL LIVES

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



What helps you through tough times?

Mental health is at the heart of professional lives – from helping us build healthy relationships with colleagues, to thinking-capacity creativity, problem-solving abilities, and motivation. But sometimes it feels a bit like ‘the elephant in the room’ – something we don’t talk about.

As a legal community, we are becoming more aware that mental health has ‘seasons’ and that, at times, we will all experience dips in mood or periods of more serious mental-health challenge.

May is European Mental Health month and, this year, it serves as an important reminder that when it comes to mental health, we are truly ‘better together’.

Elephant in the Room

The Law Society provides supports and services to solicitors to sustain them in their careers at every stage of the legal life cycle, including their psychological wellness, which falls under its ‘Career Support’ service pillar for members.

Law Society Psychological Services is now set to partner with [Elephant in the Room](#), a global project founded by sports pundit Brent

Pope, to challenge mental-health stigma and encourage open conversations in the workplace.


The concept involves placing a large elephant sculpture, decorated by a professional artist, in a prominent position within the Law Society’s buildings. The elephant is a declaration of our commitment to ‘creating an open culture in which no aspect of mental health is taboo – with the goal of improving mental health in the solicitors’ profession’.

Samaritans Ireland is Elephant in the Room’s lead charity partner for 2024. The Law Society is delighted to collaborate with these experts on suicide prevention, as it is a particularly complex aspect of mental health, and one that continues to touch lawyers and their loved ones. The Elephant in the Room is about more than suicide prevention, however – it represents a cultural shift to a more open, accepting and responsive legal community.

Leave your mark

Are you interested in contributing to the design of the Law Society’s elephant? We invite you to share one word that captures what helps you persevere through tough times and painful challenges in life. Your input will contribute to the artistic brief of our

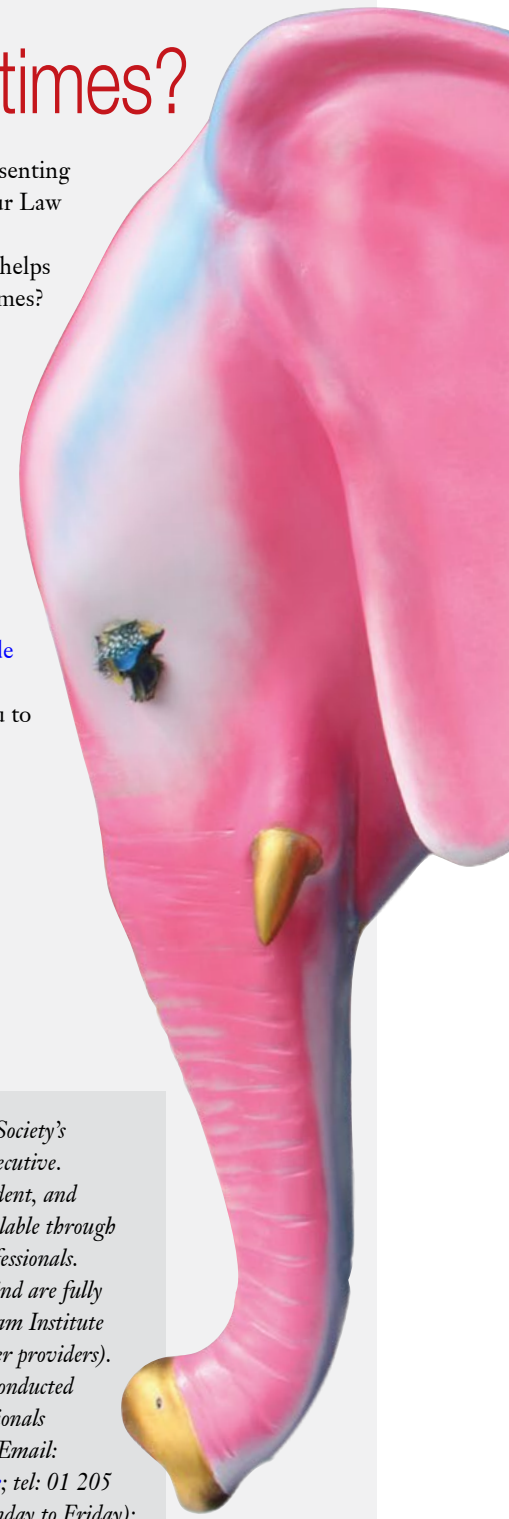
elephant sculpture, representing the real experiences of our Law Society community.

Using one word, what helps you get through tough times? We invite you to submit your word by scanning the QR code below, where your submission will be anonymous. Our designed elephant will be unveiled in a celebratory Law Society Psychological Services’ festival event in September, during [Suicide Prevention Month](#). As always, we encourage you to get in touch at ps@lawsociety.ie with ideas, thoughts, or contributions for the Professional Lives column. 



Mary Duffy is the Law Society’s professional wellbeing executive.

Confidential, independent, and subsidised support is available through LegalMind for legal professionals. All enquiries to LegalMind are fully confidential to Clanwilliam Institute (the Law Society’s partner providers). All therapy sessions are conducted by highly trained professionals in a confidential forum. Email: reception@clanwilliam.ie; tel: 01 205 5010 (9am to 5pm, Monday to Friday); see lawsociety.ie/legalmind.



A change is gonna come

The Electoral Commission's *Constituency Review Report 2023* will lead to the creation of the largest Dáil in the history of the State. Lesley O'Neill assesses the role and impact of the fledgling commission on Ireland's political landscape

GIVEN THE PROPOSED REFERENDUM ON THE QUESTION OF THE UNIFIED PATENTS COURT, ELECTORAL COMMISSION CAMPAIGNS MAY PROVE CRITICAL AND, INDEED, PIVOTAL IN ADDRESSING VOTER APATHY

Despite its infancy and recent establishment on 9 February 2023, the Electoral Commission has presented a commendable publication in its *Constituency Review Report 2023*. Its recommendations are being adopted by Government by way of the *Electoral (Amendment) Act 2023*, and it will ultimately lead to the creation of the largest-ever Dáil in the history of the State.

The Electoral Commission was established under the terms of the *Electoral Reform Act 2022* and operates as an independent statutory body whose remit includes, among other things, both new and existing functions that extend to:

- Explaining the subject matter of referendums,
- Reviewing constituencies for Dáil Éireann and the European Parliament,
- Conducting research on electoral policy,
- Encouraging participation by the public in the electoral and democratic processes of the State,
- Preparation and maintenance of the register of political parties,
- Oversight of the electoral register,
- Regulation of online political advertising, and

- Protecting the integrity of elections and referendums against the dissemination or publication of online misinformation or manipulative online behaviour.

Constituency boundaries

Currently chaired by Judge Marie Baker, the Electoral Commission also comprises four ordinary members and two *ex officio* members, and has subsumed the functions of the former Referendum Commission. In addition, it has been given further powers to assess and review constituency boundaries.

It is also empowered to undertake electoral-reform research and has recently (by way of the 39th and 40th proposals to amend the Constitution) publicly encouraged and advocated that citizens exercise their constitutionally enshrined franchise (see articles 12 and 16, *Bunreacht na hÉireann*). It is considered welcome that the Electoral Commission functions also extend to addressing online misinformation during electoral events and regulating online political advertising, given the increasing incidence of so-called 'fake news' globally. The commission is empowered to

issue compliance notices, and failure to comply with these is an offence under the terms of the *Electoral Reform Act 2022*.

Under that act, there is also an obligation on the part of online platforms to ensure that online political adverts are labelled as such and are linked to a transparency notice that should confirm, among other things, the identity of the party/person who paid for the online advert and whether the advert itself was targeted towards the viewer.

Census review

On foot of its *Constituency Review Report 2023*, the Electoral Commission has comprehensively analysed and collated data from the 2022 census, which reviewed the changing demographics and population increases within Irish society generally. The commission concluded that the current 160-seat Dáil should increase to 174 seats, to ensure and achieve a purposive reading of article 16.4 of the Constitution, which asserts that "the Oireachtas shall revise Dáil Éireann constituencies [at least once in every 12 years] with due regard to changes in distribution of the population".

The constituency findings within the report were considered and passed by both



Houses of the Oireachtas and signed into law by President Michael D Higgins on 19 December 2023 by way of the *Electoral (Amendment) Act 2023*.

It is in the area of constituency review that the commission has been most prolific in its report, analysing each of the Dáil's current 39 constituencies and concluding that the current 39-constituency base be increased to 43.

The Electoral Commission

recognised in its analyses the final census figures (which showed a population in the State of 5,149,139) and concluded that an increase to 43 constituencies would roughly equate to each TD representing an average of 29,593 people – down from the current 32,182 – and that the increase in the number of TDs itself would come closest to achieving “the optimum level of equality of representation consistent with the constitutional

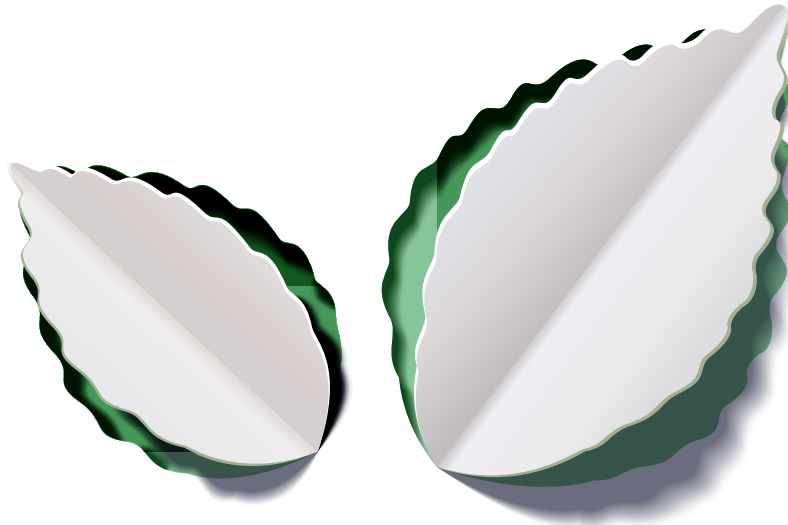
provisions”, adding that its report was “the product of detailed analysis of constitutional and statutory limits and ... arrives at a solution which best fits the needs of the country as a whole”.

New Dáil

The new 174-seat Dáil will not, however, come into effect until the dissolution of the current Dáil, which has a constitutional mandate to run until early 2025, if the current Fianna Fáil/Fine

Gael/Green Party coalition runs a full five-year term. Article 16.3.2 of the Constitution provides that the next general election must take place not later than 30 days after the dissolution of the current Dáil.

The Electoral Commission is also tasked under the *Electoral Amendment Act 2022* with the additional function of preparing general explanations of the subject matter of the proposal for the referendum concerned,



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which is an unenviable task, given that such proposals often speak to complex and nuanced legal matters.

Given the proposed referendum on the question of the Unified Patents Court, Electoral Commission campaigns may prove critical and, indeed, pivotal in addressing voter apathy, given the perception that the said referendum is an esoteric legalistic issue entailing a “transfer of jurisdiction in patent litigation from the Irish courts to an international court” that will have little to no actual relevance or bearing to citizens’ daily lives.

Despite Taoiseach Leo Varadkar’s self-described ‘double wallop’ of the ‘no/no’ results in the ‘care’ and ‘family’ referendums held on 8 March, the Electoral Commission’s pre-publicity campaign did see a striking upsurge in voter registration, with some 37,000 additional voters registering in the days preceding the

referendums, and is to be strongly applauded.

The continuing role of the Electoral Commission, therefore, in future democratic and electoral systems cannot be overstated in its endeavours to both activate and encourage electorate turnout and engagement, and to convey and articulate legal concepts and abstractions in an ‘easy-to-understand’ manner.

Given the often low turnout for referendums on issues such as Seanad university representation and adoption rights in the 1970s, it is hoped that the establishment of the Electoral Commission, via its outreach and publicity work, will assist in shaking off electoral *emui*.

It is anticipated that the commission will be pivotal in the future in encouraging civic engagement and, to this end, it must be acknowledged that it will come to occupy a space as a central party to the democratic and electoral systems of this country.

Following the dissolution of the current Dáil, and based on the recommendations set out in the commission’s 2023 report, Dáil Éireann shall thereafter consist of 174 members and will see the creation of the largest-ever Dáil in the history of the State. This will be a momentous and historical moment for constitutional lawyers and political analysts alike.

Lesley O’Neill is a solicitor specialising primarily in State property.

DESPITE TAOISEACH LEO VARADKAR’S SELF-COINED ‘DOUBLE WALLOP’ OF THE ‘NO/NO’ RESULTS IN THE ‘CARE’ AND ‘FAMILY’ REFERENDA HELD ON 8 MARCH 2024, THE ELECTORAL COMMISSION’S PRE-PUBLICITY CAMPAIGN DID SEE A STRIKING UPSURGE IN VOTER REGISTRATION

LOOK IT UP

LEGISLATION

- [Bunreacht na hÉireann](#)
- [Electoral \(Amendment\) Act 2023](#)
- [Electoral Reform Act 2022](#)

LITERATURE:

- [Constituency Review Report 2023 – Dáil and European Parliament Constituencies](#)



BE MY BABY

The Health (Assisted Human Reproduction) Bill 2022 has recently cleared the Dáil's third stage. Aoife Byrne argues that only time, and trial and error, will judge whether this voluminous bill will address the gamut of legal uncertainties presented by surrogacy



PIC: SHUTTERSTOCK

urrogacy has been in the dark. A lack of legislation has meant that it has been rife with potential problems and legal uncertainty. The *Health (Assisted Human Reproduction) Bill 2022*, with 246 pages of legislation and amendments, seeks to address a gamut of issues contained within the surrogacy space.

‘Surrogacy’ is defined in the bill as “an agreement between a woman and the intending parents (or, in the case of a single intending parent, that intending parent) under which the woman agrees to attempt to become pregnant, by the use of an egg other than her own, and, if successful, to transfer the parentage of any child born as



IN THE CASE OF DOMESTIC SURROGACY, A SURROGATE MOTHER MUST HABITUALLY RESIDE IN THE STATE, AS MUST THE INTENDING PARENTS, FOR NOT LESS THAN TWO YEARS (SECTION 49). THE EMBRYO TRANSFER MUST BE UNDERTAKEN IN THE STATE. IMPORTANTLY, A DOMESTIC SURROGACY AGREEMENT IS A PERMITTED SURROGACY AGREEMENT ONLY WHERE A SURROGACY HAS BEEN APPROVED BY THE REGULATORY AUTHORITY PRIOR TO ANY TREATMENT BEING PROVIDED

a result of the pregnancy to the intending parents (or, in the case of a single intending parent, that intending parent)”.

There is no DNA link, therefore, between the surrogate mother and the child she bears. Surrogacy has allowed couples and individuals to become parents in circumstances where they were prevented from doing so, whether due to fertility issues or recurrent pregnancy loss. In addition, LGBT+ parents have often embraced surrogacy as an option in their parenting journey.

Unregulated risks

The risks, in an unregulated space, include the exploitation of women and violation of laws preventing the sale of children. Surrogacy is not legal in many countries across Europe, including France and Germany. Britain permits altruistic surrogacy. Ukrainian and Russian laws have been described as lax in this area. In *Paradiso and Campanelli v Italy*, a child was placed in care in circumstances where a surrogacy arrangement, agreed in Russia, did not comply with national standards in Italy. In the US, commercial surrogacy does not contravene the law.

In 2014, the Irish Supreme Court confirmed the common-law presumption that, despite intention or genetic link, the surrogate mother is the legal mother of the child. As noted by O’Donnell J in *MR v An t-Árd-Chláraitheoir*: “The absence of legislation does not mean an absence of assisted reproduction; rather it means an absence of regulation ... This court, in clear and forceful terms, drew attention to the absence of regulation in its decision in *Roche v Roche* [in 2010] The need for legislation is even more urgent today.”

The *Health (Assisted Human Reproduction) Bill* has recently cleared the Dáil’s third stage. A total of 110 pages of amendments appears unprecedented. This is a highly complex piece of legislation, described, in part, by Deputy Stephen Donnelly as a “bespoke and comprehensive solution to the issues arising”.

What will be regulated

The following are sought to be regulated as part of the legislation:

- Gamete and embryo donation for assisted human reproduction,
- Domestic altruistic surrogacy,
- Gamete and embryo donation for research,
- Preimplantation genetic testing of embryos,
- Embryo and stem-cell research, and
- Posthumous assisted human reproduction.

International surrogacy and past surrogacy arrangements are dealt with in the amendments.

For the purposes of this article, discussion will be limited to domestic altruistic surrogacy, set out in the bill.

Importantly, commercial surrogacy is not to be permitted in Ireland, with no payment or reward save for reasonable expenses (section 34). Both a donor and a surrogate can claim for certain documented expenses related to the surrogacy, including travel, medical, legal, counselling, and loss of income.

Regulation is one of the main tenets of this legislation. The Assisted Human Reproduction Regulatory Authority (AHRRA) will be tasked with protecting, promoting, and aiming to ensure the health and wellbeing of the surrogate mother, intending parent(s), and child born as a result of assisted-human-reproduction (AHR) treatment (section 78).



PIC: SHUTTERSTOCK AI

AHRRA'S AIMS WILL BE TO REGULATE SURROGACY THROUGH ISSUING LICENCES, OVERSEEING SURROGACY AGREEMENTS, AND KEEPING A NATIONAL SURROGACY REGISTER OF ALL THOSE CHILDREN BORN AS A RESULT OF AHR TREATMENT AND A SURROGACY AGREEMENT

Oversight

The authority will aim to regulate surrogacy through issuing licences, overseeing surrogacy agreements, and keeping a National Surrogacy Register of all those children born as a result of AHR treatment and a surrogacy agreement. Importantly, a domestic surrogacy agreement is a permitted surrogacy agreement only where a surrogacy has been approved by the AHRRA prior to any AHR treatment being provided (section 51). The final success of a surrogacy application, therefore, lies with the AHRRA.

An individual without a licence will be prevented from providing AHR treatment. Licences will be issued by the AHRRA (section 109). An AHR treatment provider shall not use a relevant donation to create an embryo from that donation and the gamete of a genetic family member of the relevant donor (section 33). An AHR treatment provider shall not provide AHR treatment to a relevant person unless satisfied that the relevant person or persons will not present a significant risk of harm or neglect to any child (section 16).

AHR counselling shall be provided to the intending parents or parent, as well as the

surrogate mother, and a copy of the report will be provided to the AHR treatment provider (section 17).

An AHR treatment provider will not provide AHR treatment to a person unless consent in the specified form is given to the intending treatment (section 18).

Residing in the State

In the case of domestic surrogacy, a surrogate mother must habitually reside in the State, as must the intending parents, for not less than two years (section 49). The embryo transfer must be undertaken in the State. The surrogate mother can manage all aspects of her health during pregnancy and maintains the right to freely seek and obtain medical services (section 56).

A woman may act as a surrogate mother only if she has previously given birth to a child before entering into the agreement and has reached 25 years of age. A surrogate may not enter into a surrogacy agreement more than twice (section 52). Interestingly, there does not appear to be an upper age limit for surrogate mothers, where a woman's fertility can continue into her 50s.

The surrogate mother and intending parents shall have received legal advice about the legal implications of the surrogacy agreement (section 58). Legal advice and counselling are both recommended by the UN Special Rapporteur as being in the interests of the child born via surrogacy.

A surrogacy agreement can be entered into by two intended parents jointly or a single intended parent – in both cases the minimum age being 21 (section 53).

DNA link

Section 53(3) states that every surrogacy agreement shall involve an embryo created using the gamete of either or both of the intending parents (or single intended parent). This is important to note, as there will be a DNA link between the child and one or both of the intended parents. At least one of the intending parents (or the single intended parent) must have a reasonable expectation of living to parent the child until the child reaches at least 18.

Section 5(1) states that the Circuit Court shall have jurisdiction to hear and determine proceedings under the act. Sections 62 and 63 address the application for, and granting of, a parental order for a child born as a result of permitted surrogacy. An application should be made by the intending parent(s) not earlier than 28 days following birth of the infant and not later than six months after the birth.

The surrogate mother must consent to the granting of the order. The amendments have inserted that, in any relevant proceedings before the court, in determining whether to make the order, the court shall regard the best interests of the child as the paramount consideration.

Section 64 sets out the effect of a parental order: namely, the child becomes the child of the intending parent only whomever is included in the order and, in particular, the surrogate mother will lose all parental rights and duties toward the child. When parental orders are made pre-conception (as in South Africa and Portugal), the intending parents are recognised as the child's legal parents from the moment of birth. The AHRRA shall receive a copy of the parental order.

Donor AHR


The allocation of the parentage of children born as a result of donor-assisted human reproduction had already been legislated for in parts 2 and 3 of the *Children and Family Relationships Act 2015*, which came into effect on 4 May 2020.

Section 156 of the *Health (Assisted Human Reproduction) Bill 2022* has inserted section 6BA into the *Guardianship of Infants Act 1964*, which provides that, where a child is born as a result of AHR treatment provided pursuant to a surrogacy agreement, then, subject to a statutory declaration containing agreement

REGULATION IS ONE OF THE MAIN TENETS OF THIS LEGISLATION. THE ASSISTED HUMAN REPRODUCTION REGULATORY AUTHORITY WILL BE TASKED WITH PROTECTING, PROMOTING AND AIMING TO ENSURE THE HEALTH AND WELLBEING OF THE SURROGATE MOTHER, INTENDING PARENT(S), AND CHILD BORN AS A RESULT OF ASSISTED-HUMAN-REPRODUCTION TREATMENT

of the surrogate mother and intending parent(s), the intending parent(s) may become guardian(s) of the child.

This is a welcome piece of legislation whose intentions are well grounded. Banning surrogacy would invariably result in it going underground, putting the lives of mothers and children at risk, and effectively create a legal wasteland. Unregulated surrogacy means that older laws are relied on in situations like citizenship and obtaining passports – those laws reflecting an environment long before surrogacy existed.

It will be a matter of time, and trial and error, to judge whether this voluminous bill when enacted – and once the amendments have been inserted into the body of the legislation – will suitably address current problems and create solutions for those forming families by surrogacy. 

Aoife Byrne is a solicitor and a member of the Gazette Editorial Board, with a particular interest in family-law matters.

LOOK IT UP

CASES:

- *MR v An t-Árd-Chláraitheoir* [2014] IESC 60, 3 IR 533
- *Paradiso and Campanelli v Italy* (ECHR, 25358/12, 24 January 2017)
- *Roche v Roche* [2010] IESC 10

LEGISLATION:

- *Children and Family Relationships Act 2015*
- *Guardianship of Infants Act 1964*
- *Health (Assisted Human Reproduction) Bill 2022*





LAYING DOWN THE LAW

Busy barrister Siobhán Ní Chúlacháin has pivoted to become director of research at the Law Reform Commission. Mary Hallissey pores over the fine print

Barriester Siobhán Ní Chúlacháin caused a mini-sensation

when she recently announced that she was leaving her thriving legal practice to lead the Law Reform Commission's research team: "I was ready for change – it was just a question of how I was going to change," she comments.

Her move to the director of research role comes ahead of the LRC's 50th anniversary next year.

The new appointee hopes to spend some time reflecting on the commission's earlier successes – and the major challenges for the law reformers of the future.

Ní Chúlacháin is a former co-chair of the Irish Council for Civil Liberties and vice-president of the International Federation for Human Rights. She was strongly attracted to the role because of her love for writing and research, and the timeliness of the law-reform position in its intersection of

legal expertise, relationship management, and carefully researched legal projects.

As research director, Ní Chúlacháin will give strategic leadership and direction to the LRC, with a particular focus on upcoming projects on adult safeguarding, victim compensation, and unincorporated associations.

Landmark case

Called to the Bar in 1999, Ní Chúlacháin worked in administrative law, judicial review, criminal law, and extradition, and defended criminal cases in the Circuit, Central, and Special Criminal Courts, including murder, rape, and IRA membership cases. She acted both for the State and for private clients.

Siobhán represented Ireland in the landmark case of *Minister for Justice and Equality v Celmier* at the European Court of Justice, relating to the consequences of the breakdown of the rule of law in Poland on European Arrest Warrant procedures.

Fluent Gaeilgeoir Ní Chúlacháin also litigated through Irish and contributes to public-policy debate through the language. The married mother-of-one grew up in Bray with teacher parents, and had a formative interest in human rights, lobbying as a young lawyer for the abolition of section 31 of the *Broadcasting Act*, among other campaigns. Her sister is Judge Sinéad Ní Chúlacháin. Their mother quipped that the pair decided to 'lay down the law' for real!

As a young lawyer, Siobhán worked with FLAC and did a research master's in adult wardship, which dovetails well with current LRC concerns.

She enjoys writing and research and getting "down and dirty" with legal argument: "I'm so excited that all of that is being nourished again," she says.

Her goals for the job are for the LRC to produce high-quality relevant research in areas that need to be reformed. On that point, the LRC hosted an adult safeguarding seminar



on 17 April that focused on the paucity of specific legislation and the need for an overarching legal framework for those unable to mind themselves: "There's very little law protecting adults of diminished capacity," she added.

Detailed report

The LRC's detailed report will be part-published in plain English to be accessible to all stakeholders. "It's a very big report, possibly the biggest we've done for many years," she explained.

Also in the in-tray is a consultation paper on non-court adjudicative bodies, which will be published later this year. This will consider the proliferation of adjudicative bodies with a variety of procedures, functions, and powers, and will consult on the need to simplify and clarify this growing body of administrative law. Such bodies with regulatory functions need standardised procedures that respect the rights of the people involved, she says.

"That's the kind of work that the Law Reform Commission adds such value to, because it will



THE MARRIED MOTHER-OF-ONE GREW UP IN BRAY WITH TEACHER PARENTS AND HAD A FORMATIVE INTEREST IN HUMAN RIGHTS, LOBBYING AS A YOUNG LAWYER FOR THE ABOLITION OF SECTION 31 OF THE *BROADCASTING ACT*, AMONG OTHER CAMPAIGNS

reform a whole area of administrative law, such as sports clubs and charities, unincorporated associations, and voluntary groups. That's actually transpired to be a fascinating and very interesting area, which is in need of reform but is quite complex," she says.

More to do

The criminal-injury compensation scheme needs to be reviewed urgently in view of best practice across Europe, since Ireland is one of the few countries that hasn't reformed this area, she says.

Consolidation of the difficult and sprawling *Road Traffic Acts* may be in the pipeline, too, Ní Chúlacháin adds. A report is also expected on the possibility of third-party litigation funding.

As a practitioner, she found the LRC's history of statute amendments to be very useful and practical, with their careful updates and hyperlinks.

The commission has a great team of young researchers doing interesting and varied work, she adds. The 24-strong LRC also has a team identifying very old laws, no longer fit for purpose, into a list of obsolete legislation to be repealed.

Finite resources

An LRC recommendation for reform carries weight, but it's not in its remit to implement change.

"This isn't a huge organisation with infinite resources – we have a set programme, some of which is agreed by the Government. The Attorney General sometimes makes an urgent request to us," she added.

"Sometimes we could do a lot of work, only to see it bypassed or overtaken by events. For example, we've done quite a few reports about the courts, but there's going to be new legislation about family courts soon. Those are the kinds of decisions we have to make all the time, based on resources."

The LRC's work must remain relevant, useful and achievable, she adds.

The commission has always been seen as a building-block for careers, with many illustrious researchers and commissioners passing through its doors: "They come in very good, but they go out better," Ní Chúlacháin declares.

"The work that we do in the LRC is very valuable, and it's a great thing for a young lawyer to consider – both as a public service and also as a unique contribution to the formation of law."

LRC research positions are sought after, though there is stiff competition to secure quality candidates. Published research work is a great draw for young early-career lawyers considering a stint with the LRC, she believes: "It's an absolute badge," she concludes.

Mary Hallissey is a journalist at the Law Society Gazette.

ROAD TO HELL

Road-traffic law is a wreck in Ireland – we have 25 acts and over 400 statutory instruments. The latest is the *Road Traffic Act 2024*. Robert Pierse pulls us over

It was about 5am on Sunday on 5 August 1888 that the formidable Berta Benz drove her husband Karl's car to Pforzheim, a town in southwestern Germany. She was accompanied by her two sons on the 66-mile adventure. This was the Mark III Benz Patent-Motorwagen, which launched a marketable 'horseless carriage'. "Before me, no automobile existed," Berta boldly proclaimed, which wasn't quite true. The advent of the *motorwagen* also led to many road-traffic laws, a situation that continues unabated today.

At that time, no German national laws existed for the horseless carriage. What a change during the intervening 136 years! In our republic, we have 25 acts and over 400 statutory instruments on road-traffic law. The latest is the *Road Traffic Act 2024*, coming hot on the heels of the *Road Traffic and Roads Act 2023*.

I drove all night

This article mainly concerns itself with the *Road Traffic and Roads Act 2023*. It is adding somewhat to the confusion that the 2024 act makes amendments to the series of *Road Traffic Acts 1961-2023*. Remember the adage:

*"I am the parliamentary draftsman,
I make the country's laws,
And of half the litigation,
I am undoubtedly the cause."*

The 2023 act is divided into 16 parts – more complicated than Gaul, which Caesar managed to divide into just three parts!

The most important are:

- Part 2 concerns driving licences (where there are many changes).
- Parts 4, 12 and 14 contain a multitude of amendments of the *Road Traffic Act 1961* and some amendments to the other acts.
- Part 4 comprises section 5 of the 2023 act, which makes over 40 amendments to 1961 act (these amendments include the insertions of new sections 22B, 23C, 23D, 23E, 56A, 56B, 78A, and 109A).
- Part 12 has 12 sections amending the





1961 act. This is the part that introduces you to the fascinatingly named ‘powered personal transporter’ – unregistered and uninsured vehicles. This is defined. I’d leave you the pleasure of reading that section, but it has just been amended by the 2024 act! Section 5 also introduces the definition of ‘autonomous vehicles’ and ‘vehicle identification number’ (VIN).

- Part 14 consists of 14 pages of amendments, mainly focused on speeding offences. It inserts new sections into the 2004 act: 9A, 10A, 10B, 10C, 10D, and 10E. Further changes have been made in the new 2024 act.

- Part 16 includes a pathetic section entitled ‘Functions of the minister in relation to zero to low emissions’.

Speed king

The common charge of dangerous driving can be found in section 53 of the *Road Traffic Act 1961*. There are small changes to that section in the 2023 act. However, these changes are likely to have quite a big effect. Section 5(K) of the 2023 *Road Traffic and Roads Act* makes two changes to subsection (1), specifically removing the words ‘public place’ and inserting ‘in which it is driven’ after conditions and use of the place. Apparently,

this was to deal primarily with scrambler-bike events held on private property.

Secondly, section 5(P) inserts a two-and-a-half-page section 109A into the 1961 act, headed ‘Powers of Garda Síochána in relation to dangerous driving’. These are very wide powers that are included in seizure, for example. We are already hearing of garda raids and seizures under this section. One in Dublin on 19 December 2023 was carried out while the owners of the offending vehicles were at school!

There are provisions for applying to the District Court to get your vehicle back within two months of seizure.



PIC: SHUTTERSTOCK M

Souped-up Ford

There are now the following definitions of ‘driving’ at the time of writing (April 2024):

- 1) Prior to the passage of the *Road Traffic Act 2023*, the definition of ‘driving’ in section 3 was, and still is: “Driving includes managing and controlling and in relation to a bicycle or tricycle riding” and “driver and other cognate words shall be construed accordingly”.
- 2) Section 5(a)(ii) of the 2023 act amends section 3(1) of the 1961 act to provide that “driving includes (a) managing and controlling, (b) in the case of autonomous vehicles, during periods of time when the vehicle is moving autonomously, monitoring, overseeing and supervising, and (c) in relation to bicycle, tricycle or ‘powered personal

transporter’, ‘riding’ and ‘driver’ and other cognate words shall be construed accordingly”.

- 3) In part 12 of the *Road Traffic Act 2023*, which deals with ‘powered personal transporters’, section 16 reads: “Section 3 of the act of 1961 is amended (a) in the definition of ‘driving’ by substitution of ‘bicycle, tricycle or powered personal transportation’ for ‘bicycle or tricycle’.

It does not say “for this part of the act”, so we have a further definition – namely, that ‘driving’ includes managing and controlling, and in relation to a ‘bicycle, tricycle or powered personal transporter’, ‘riding’ and ‘driver’ and cognate words shall be construed accordingly.

I think item (2) will survive eventually – neither (2) nor (3) had been brought into force as of April 2024.

Waitin’ for the bus

Section 56 of the *Road Traffic Act 1961* (compulsory insurance) now has two ‘children’ sections, specifically section 56A and section 56B dealing with information.

There is a new section 78A dealing with information, databases, and the MIBI.

Parts of the 2003 act:

- Part 5 makes many amendments to the 1968 act, particularly in relation to driving instructions and instructors.
- Part 6 amends the powers of traffic wardens under the 1975 *Local Authorities (Traffic Wardens) Act*. Section 3 is



AT THAT TIME, NO GERMAN NATIONAL LAWS EXISTED FOR THE HORSELESS CARRIAGE. WHAT A CHANGE DURING THE INTERVENING 136 YEARS! IN OUR REPUBLIC, WE HAVE 25 ACTS AND OVER 400 STATUTORY INSTRUMENTS ON ROAD-TRAFFIC LAW. THE LATEST IS THE *ROAD TRAFFIC ACT 2024*

replaced with new sections 3A, 3B, 3C and 3D, and sections 3E, 3F, 3G and 3H are inserted. Don't forget to pay your parking charge!

- Part 7 amends section 35 of the *Road Traffic Act 1961*, which deals with the control of traffic and pedestrians. It introduces a new section 35A as to the control of certain vehicles.
- Part 8 amends the *Road Traffic Act 2002*, dealing mostly with penalty points. There is a further amendment to penalty points/disqualification in view of the recent public criticism of section 2(8) of the *Road Traffic Act 2002*, in the 2024 act.
- Part 9 amends the 2010 act, which I always regard as the '*Intoxicants Act*'. There are two-and-a-half pages of amendments, with further amendments in the 2024 act (see below).

The 2023 act affects 17 amendments to section 95 of the 1961 act. The 2024 act amends three of the 2023 act amendments to section 95 – what a jungle!

At time of writing, much of the 2023 act had not been brought into operation, unfortunately. Three commencement orders have been made. I am told that many commencement orders are on the way in 2024. How exciting!

The 2024 act:

A new provision has been added as to the intoxication tests when there is a road collision (I don't like the word 'accident', in most circumstances) by the 2024 act.

On 17 April 2024, the President signed the new *Road Traffic Act 2024*. It has 22 sections, each amending older acts, specifically the 1961, 2004 and 2010 acts and, indeed, the 2023 act.

It amends the law as to penalty points, speed limits, intoxicated driving – namely sections 9, 10,

22 and 23 of the 2010 act. Parts 10 and 11 set out minor amendments to the *Road Traffic Acts 2014* and *2016*.

Space truckin'

We have had our first high-tech car case. It involved a charge of dangerous driving heard in the District Court in Dublin. A motorist was seen driving in a motorway lane with no hands on the wheel – his arms were folded on his chest. He was prosecuted for dangerous driving. The case was dismissed, as the defendant explained that the car was automated, could drive itself, and could react to cars crossing between lanes – so there was no danger (see *The Irish Times*, 26 October 2023).

The 81-page 2023 act and 11-page 2024 act add to the mass (or should that be 'mess'?) of controls concerning road traffic. This area cries out (as I have been stating for a number of years) for consolidation. Help!

I would be very happy to hear from anybody who would be interested in updating, with me, my fourth edition of *1961-2017 Road Traffic Legislation*. I'm 86 you know! You are welcome to email me at pierserobert@gmail.com.

Robert Pierse BCL, LLB, is a retired Kerry-based solicitor.

LOOK IT UP

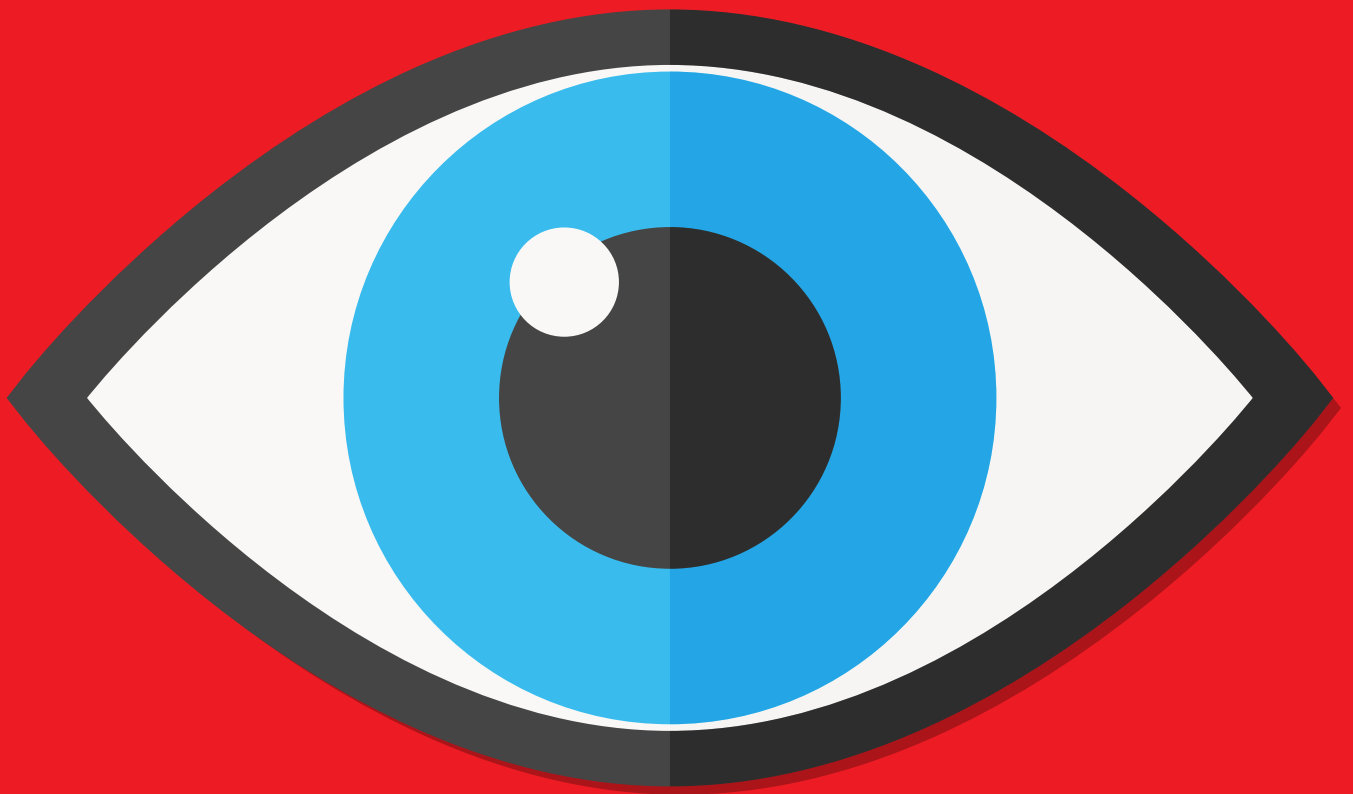
LEGISLATION

- [Local Authorities \(Traffic Wardens\) Act 1975](#)
- [Roads Acts 1993-2024](#)
- [Road Traffic Acts 1961-2023](#)
- [Road Traffic and Roads Act 2023](#)
- [Road Traffic Act 2024](#)

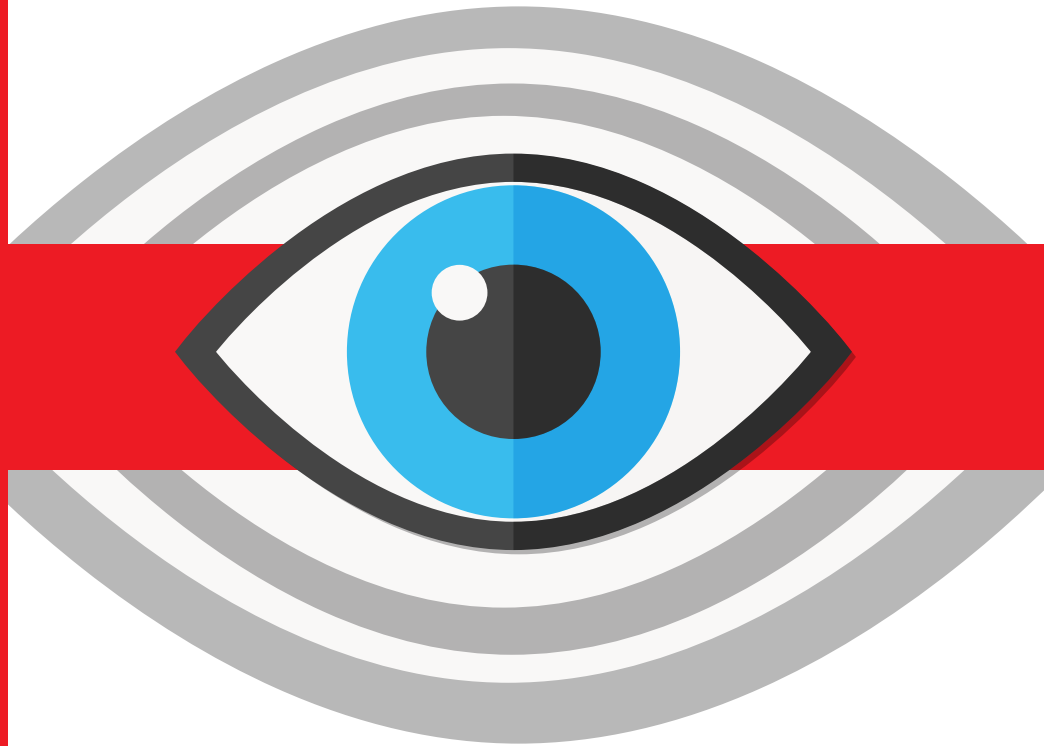
LITERATURE:

- [1961-2017 Road Traffic Legislation](#), published by Bloomsbury Professional (2018)

WATCHING THE CLOCK



The French supervisory authority has fined Amazon France Logistique €32 million for its 'excessively intrusive' employee-monitoring system. Rosemarie Blake, Colin Rooney, Sonam Gaitonde, and Cian Beecher pack the boxes



n the brave new world of remote and hybrid work, practices surrounding workplace productivity continue to pose data-protection challenges. The recent decision of the French supervisory authority, Commission Nationale de l'Informatique et des Libertés (CNIL), to fine Amazon France Logistique €32 million for “an excessively intrusive system for monitoring the activity and performance of employees” provides a timely reminder of the need for careful analysis if monitoring employees in the workplace, whether conducted remotely or in the office.

In the case of Amazon's monitoring practices, scanners were put in place to document how long it took its warehouse workers to carry out certain tasks, and to quality-check articles within a certain minimum time frame. This information was stored and used to calculate indicators providing information on the quality, productivity, and periods of inactivity of each employee, and was further utilised as part of employee coaching and performance reviews.

Paragraph of 168 of the CNIL's decision states: “Infringements of the principles of minimisation and of the obligation to have a legal basis are therefore reflected in almost



PIC: ALAMY

continuous and massive processing of indicators relating to all direct tasks and to the performance of employees, which result in disproportionate computer surveillance of their activity. It recalls that this processing makes it possible to evaluate the employee working on direct tasks by means of the detailed consultation of the data in the tools, in order to maintain a certain pace and quality of activity. She

points out that awareness-raising letters can be sent following only one or two quality errors, observed over a week, or a drop in productivity in some cases of less than 10% and notes that, in some positions, ‘underperformance’ observed over a single day can lead to the implementation of coaching. Accordingly, it considers that such processing of personal data induces disproportionate pressure on workers,

disproportionately affecting their rights and freedoms in the light of the company’s economic and commercial objectives.”

Compliance failures

The CNIL found that Amazon’s practices failed to comply with the data-minimisation principle, pursuant to article 5(1)(c) of the GDPR, and a failure to ensure lawful processing under article 6 of the GDPR.



AMAZON ALREADY HAD ACCESS TO NUMEROUS INDICATORS IN REAL TIME, BOTH INDIVIDUAL AND AGGREGATED, TO ACHIEVE ITS OBJECTIVE OF QUALITY AND SAFETY IN ITS WAREHOUSES. AND, AS IMPLEMENTED, THE PROCESSING REQUIRED EMPLOYEES TO JUSTIFY EVERY BREAK OR INTERRUPTION TO THEIR WORK

Regarding the type of personal data processed, three indicators processed by the company were found to be non-compliant:

- The 'stow machine-gun' indicator, which provided an error message when an employee scanned an item "too quickly" (that is, less than 1.25 seconds after scanning a previous item),
- The 'idle-time' indicator, which signalled periods of scanner downtime of ten minutes or more, and
- The 'latency-under-ten-minutes' indicator, which signalled periods of scanner interruption between one and ten minutes.

The CNIL found that the processing of all three indicators could not be based on legitimate interest, as it led to excessive monitoring of the employee when balanced against the commercial objectives pursued by Amazon.

The CNIL noted that Amazon already had access to numerous indicators in real time, both individual and aggregated, to achieve its objective of quality and safety in its warehouses, and that, as implemented, the processing required employees to justify every break or interruption to their work. Accordingly, the processing was found to be excessively intrusive.

The decision also found that the company had failed to properly inform employees that their personal data would be processed by the scanners in advance of their data being collected, leading to a breach of its obligation to provide information and transparency, pursuant to articles 12 and 13 of the GDPR, and a failure to comply with the obligation to ensure the security of personal data captured, pursuant to article 32 of the GDPR.

DPC guidance

The Data Protection Commission (DPC) has noted in previous guidance on data protection in the workplace that employers have a legitimate interest in protecting their business, reputation, resources, and equipment. The DPC cautions within this guidance that any limitation of the employee's right to privacy in the workplace,



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welcome a number
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Seamus White has joined as a legal director in the Injury Risk team, senior associates Lisa Kelly and Feena Robinson have both joined the Specialist Insurance team, and legal director Sinead Morgan has joined the Employment team.



Pictured from left to right: Seamus White, Lisa Kelly, Lisa Broderick (Location Head of DACB Dublin), Feena Robinson and Sinead Morgan.

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PRACTICAL GUIDANCE FOR EMPLOYERS

Consider the use of AI carefully: conduct a data-protection-impact assessment and a legitimate-interests assessment.

Regarding the legal basis for monitoring, the DPC notes that, while 'legitimate interests' is the most flexible legal basis to rely on, employers should exercise caution before doing so.

In relying on legitimate interests, employers should undertake a full legitimate-interests test noting: (a) the existence of a legitimate interest justifying the processing, (b) the processing of the personal data that is necessary for the realisation of the legitimate interest, and (c) that the interest prevails over the rights and interests of the data subject. Examples of legitimate interests cited by the DPC include fraud prevention, commercial interests, or broader benefits to wider society.

If a controller is unsure of the outcome of the balancing test, it may be safer to consider another lawful basis for processing, especially where processing is unexpected or poses a high level of risk. If processing activities involved in the monitoring involve high-risk processing – for example, monitoring of turnstile data, the use of a large-scale CCTV programme, or tracking of employee vehicles (see the 'Look it up' panel) – a data-protection-impact assessment will also be required.

In addition, if employers are using AI to undertake monitoring activities, consideration will need to be given to compliance with the obligations of the forthcoming AI Act. The AI Act was approved by the European Parliament on 13 March 2024 and is expected to be finally adopted in the coming months, pending a lawyer linguist check through the corrigendum procedure.

In particular, where the employer's activities involve a 'high-risk' AI system, at a minimum, employers will need to consider how transparency is provided to employees, embedding human review in the process and ensuring that risk management is incorporated into the AI system's lifecycle.

particularly with regards to monitoring software, should be proportionate to the likely impact to the employer's legitimate interests. The commission further notes that, in the ordinary course of business, employers should consider implementing other less-intrusive means of monitoring employees.

Lawful basis

Employers must have a lawful basis to process personal data under article 6 of the GDPR (such as consent, contractual necessity, legal obligation, vital interests, legitimate interests, etc). In addition to identifying an appropriate 'article 6 ground', and to the extent that an employer is processing health data (for example, information regarding reasonable-adjustment requests, ergonomic-assessment information, or details of

medical leave), the employer will also need to ensure that it complies with one of the exceptions in article 9 of the GDPR.

As noted by the CNIL, employers also need to tell their employees in an appropriate privacy notice of the legal basis relied upon to collect personal data, and the purposes for which they are collected.

Disproportionate impact

The CNIL's decision demonstrates the readiness of data-protection authorities to impose fines for the unlawful monitoring of employees in the workplace, where monitoring has a disproportionate impact on worker privacy.

It reinforces the need for employers to demonstrate compliance with their existing data-protection obligations when processing employee data and, critically, for employers to undertake appropriate risk assessments in advance of commencing any employee-monitoring measures. Employers may find it challenging to justify any measures that have a high impact, where less intrusive measures are available.

The CNIL's decision is currently under appeal, so employers should watch this space for further guidance.

Rosemarie Blake, Colin Rooney, Sonam Gaitonde and Cían Beecher are members of the Technology and Innovation Group at Arthur Cox LLP.

LOOK IT UP

CASES:

- [Délibération de la formation restreinte n SAN-2023-021 du 27 Décembre 2023 concernant la société Amazon France Logistique](#) (CNIL, French language)

LEGISLATION:

- [General Data Protection Regulation](#), Chapter II, articles 5.1.c and 6; Chapter III, articles 12 and 13; Chapter III, section 2, article 32

LITERATURE:

- [Employee monitoring: CNIL fined Amazon France Logistique €32 million](#) (Commission Nationale de l'Informatique et des Libertés, 23 January 2024)
- [Guidance Note: Employer Vehicle Tracking](#) (Data Protection Commission, May 2020)
- [Guidance on the Use of CCTV – for Data Controllers](#) (Data Protection Commission, October 2019)



LEADERS OF THE PACK

Applications for the 2024/25 Women in Leadership Programme are now open. Its aim is to support women's personal and professional growth and help them advance their careers to a senior level. Mary Hallissey meets a mentor and mentee who are reaping the benefits

Solicitor and mentee Yvanne Kennedy says that the Law Society's Women in Leadership programme has been very successful in moving her towards her career goals: "I have colleagues being mentored, and I've encouraged others to sign up because I've had a positive experience," she says.

Kildare native Yvanne went to school in Dublin and then to UCD law, followed by a master's in human rights and criminal justice at Queen's.

She qualified in early 2020 and has remained at Mason Hayes & Curran, where she trained and now works on the public, regulatory, and investigations team. With the support of the team, she has also completed UCD's Professional Diploma in Professional Regulation.

"The clients and the people that I'm working with have kept me there," she said, "as well the interesting, high-quality work the firm engages in. The firm is interested in me professionally and personally and wants to see good things for me."

Weather eye

Her goal in signing up for the Women in Leadership programme was to keep a weather-eye on the next stage and progression of her career.

"While the mentoring has been a fantastic addition for me, and a gloss on top of things, I'm lucky that there's huge support in my firm generally for progression," Yvanne says.

She can see herself becoming a Law Society mentor in time to come, due to her very positive experience with the programme. She is now in her second round on the programme and is very happy that it's now open to early-career solicitors, given that she qualified just over four years ago.

"It was a great benefit for me coming into this only two-and-a-half

years qualified. I think it has a place at all stages of your career," she says, citing her strengthened feelings of readiness and resilience. "It's a brilliant opportunity, to have the chance to just talk about yourself and what's going on, even if there isn't a set goal or a very specific aim. Each time, I come out feeling refreshed and energised."

Carefully matched

For solicitor Aoife Raftery, who is mentoring Yvanne, the time commitment has been negligible, but the personal and professional benefits of participation are immense. Aoife believes the reason the programme is so successful is because it's run so effectively.

"Yvanne and I weren't paired randomly – we were very carefully matched according to our interests and our backgrounds. Very quickly we found congruence on values, and we developed trust very, very quickly – pretty much immediately."

Aoife praises the excellent Law Society training provided for all mentors – including



PHOTOS: CIAN REDMOND

Aoife Raftery and Yvonne Kennedy

in communication models, active listening, and collaborative goal setting: “I drew on that immediately and it was excellent to get trained in the tools. I kept going back to them,” she says.

The Women in Leadership training took under three hours to complete. “The time commitment for solicitors is minimal compared to the rewards that you get from doing this,” Aoife adds. “I always feel very supported – there is excellent back-up.”

She describes the existing set of mentors as exceptionally talented, with several holding some of the most senior legal leadership roles in the State.

“To have access to that wealth of knowledge for me was outstanding. There was such a sense of community and collaboration, and that assisted me so much in a practical way in my own leadership development and my own professional development. I would recommend to any solicitor to be a mentor on the programme.”

The experience has also been hugely rewarding, Raftery adds: “Overall, it’s really improved my leadership performance, because it gives the opportunity to take the initiative, to see around corners, and to come up with solutions across diverse circumstances,” she adds.

Leadership reflection

For a mentor, the programme is a useful leadership reflection tool, she says. “A big part of the process as a mentor is sharing experiences – my own career path and the obstacles I faced, and how I overcame those.

“As a mentor, it triggers a lot of self-reflection, so I started to question my own knowledge and my own experiences and assumptions.”

Aoife dealt with weighty matters as a young solicitor and moved into senior leadership roles early on. She got excellent work experience as a legal administrator in Early & Baldwin Solicitors,

Fairview, Dublin 3, before sitting her FE1 exams. “Tom Baldwin taught me so much and really believed in me,” she recalls.

A subsequent stint at Seán Costello Solicitors, in Dublin 7, saw Aoife “thrown in at the deep end: “When you get very large responsibility at a young age, you crave it going forward,” she remarks.

“But it also sets you up for the challenges, because every career comes with challenges you must face. The challenges have their benefits. I’m happy to say that I’ve learned more from my testing moments. The mentoring programme at the Law Society gives you such an excellent opportunity to share those experiences.”

Others' success

“Contributing to somebody else’s success is very gratifying,” Aoife adds. “The Law Society has done a huge amount of work in tackling that idea of the emotional labour involved in legal work,” she says.

“The mentoring programme is an excellent



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DATE	EVENT	CPD HOURS & VENUE	FEE	DISCOUNT FEE
IN-PERSON CPD CLUSTERS 2024				
23 May	North West Practice Update 2024	Lough Eske Castle Hotel, Donegal	€160	
30 May	Essential Solicitor Update Leitrim 2024	The Landmark Hotel, Carrick-on-Shannon, Leitrim	€160	
20 June	Clare & Limerick Essential Solicitor Update 2024	The Inn at Dromoland, Co. Clare	€160	
11 September	Essential Solicitor Practice Update Kerry 2024	Ballygarry Estate Hotel and Spa, Tralee, Kerry	€160	
IN-PERSON AND LIVE ONLINE				
28 May	Risk and resilience in the legal profession	Law Society of Ireland 4.5 hours (by group study)	€195	€160
06 June	Probate Update with the Probate Bar Association	Zoom webinar 1 general (by eLearning)	€65	
25 June	Negotiation Skills for Lawyers	Law Society of Ireland 3.5 professional development and solicitor wellbeing (by group study)	€185	€160
26 September	EU law relating to vulnerable groups of migrants	Law Society of Ireland 5.5 general (by group study)	Complimentary	
ONLINE, ON-DEMAND				
Available now	Legislative Drafting Processes & Policies	3 general (by eLearning)	€280	€230
Available now	Practical Guide to Cybersecurity	3 client care and professional standards (by eLearning)	€230	€195
Available now	Construction Law Masterclass: The Fundamentals	11 hours general (by eLearning)	€470	€385
Available now	Employment Law Hub	Up to 9.5 general (by eLearning)	€280	€230
Available now	International Arbitration in Ireland Hub	Up to 9.5 general (by eLearning)	€135	€110
Available now	Fintech Seminars	Up to 4 management & professional development skills (by eLearning)	€185	€160
Available now	Suite of Social Media Courses 2024	Up to 4 professional development and solicitor wellbeing (by eLearning)	€180	€150
Available now	GDPR in Action: Data Security and Data Breaches	1 client care and professional standards (by eLearning)	€135	€110
Available now	Common Law and Civil Law in the EU: an analysis	2 general (by eLearning)	€198	€175
Available now	Professional Wellbeing Hub	See website for details	Complimentary	
Available now	LegalED Talks Hub	See website for details	Complimentary	
Available now	Legaltech Talks Hub	See website for details	Complimentary	
SAVE THE DATE!				
02 October	In-house & Public Sector Annual Conference 2024			
03 October	Younger Members Annual Conference 2024			
17 October	Property Law Annual Update Conference 2024			
18 October	North East CPD Day 2024			
23 October	Litigation Annual Update Conference 2024			
24 October	Connaught Solicitors Symposium 2024			
06 November	Employment & Equality Law Annual Update Conference 2024			
13 November	Business Law Update Conference 2024			
14 November	Practitioner Update Cork 2024			
21 November	General Practice Update Kilkenny 2024			
21 November	Environmental Law Conference			
03 December	Time Management for Lawyers			
04 December	Client Care Skills for Lawyers			
06 December	Family & Child Law Annual Conference 2024			



way of being that change agent and contributing to another solicitor's growth, which is hugely rewarding. The time commitment that's involved is not taxing," she stresses. "That has led to greater self-awareness and self-esteem, and it has led to a lot more self-efficacy and better decision-making in my role. So, it's been excellent.

"As well, it gives you an opportunity to really build on and hone very important professional developmental skills, such as interpersonal and communication skills, emotional intelligence, and time-management skills. It's heightened my levels of 'generativity' as well," says Aoife.

By 'generativity', she means concern for the younger generation coming up and the knowledge that one can have an impact on somebody else's professional career in a positive fashion.

"It's about having concern that they are fulfilling their own career goals, but in a very meaningful, positive, and optimistic way," she adds.

Unique process

What prompted Aoife to embark on mentoring?

"I was considering it for some time but, first, I wanted to have enough experience to put myself forward. It came with a great sense of pride and accomplishment when I was chosen as a mentor.

"It really has made me realise the impact of mentoring on somebody's professional career and on their life. It has triggered in me an awareness that mentoring is a very important process, and I will certainly be taking that responsibility more seriously in the future. Mentoring is a unique process – it's not like coaching or counselling. There's no set rubric or list of activities, so you get a chance to be creative.

"As solicitors, I think we all recognise that we have such high standards, we're very

driven and very ambitious, and I think that we need to give ourselves a break, too, and support each other."

Even lawyers in contentious workstreams can support each other, she believes.

Clarifying thoughts

Her mentee Yvanne adds that, though she has already enjoyed a huge amount of support in her workplace, she has benefitted enormously from the Women in Leadership Programme.

"I could only imagine what it could do for someone who maybe has less support, for whatever reason," she notes.

The mentor is not making decisions for the mentee but aims to start a process of clarifying their thoughts, mentor Aoife muses: "We work in a challenging profession and that's why it's so important that we support each other. One way of being that supportive person is through this programme."

"I'm so interested in leadership," she reflects. "It's something that is so important, because good leaders shape everything, and we need them everywhere."

Leadership means self-reflection and self-awareness of one's impact on others. Emotional intelligence and empathy are critical skills for leaders, she adds, and from them, everything good flows in terms of decision-making and delivery of results. Bad leadership is always found out eventually, she notes.

In a fast-paced world, solicitors have many demands made upon them, but to be that change agent making a positive impact on somebody else's professional life is a huge opportunity. She would encourage any solicitor to become a mentor: "Do it for the profession, for society, and for yourself," she urges.



FOCAL POINT AUTHENTIC LEADERSHIP

Working for Revenue, Aoife Raftery is a senior prosecutor on the criminal prosecution team.

"My main area of interest is corporate indictable workstreams. I also spear-up the proceeds-of-crime function, advise in relation to OECD Global Forum Peer Reviews, and represent Revenue internationally as its IP prosecution contact point for Ireland."

Last December, she was invited by the EU Intellectual Property Office to speak in Shanghai. She gave a presentation to a large group of Chinese prosecutors about the IP enforcement regime in Ireland, an expertise that she links back to a diploma in IP taken at the Law Society, which opened many doors.

"It really opened my eyes to the importance of our profession and how well-respected Ireland is abroad in terms of the rule of law," she noted.

Aoife is currently undertaking doctoral studies in authentic leadership at the University of Limerick and feels she is putting that learning into practice in a meaningful and important way as a mentor.

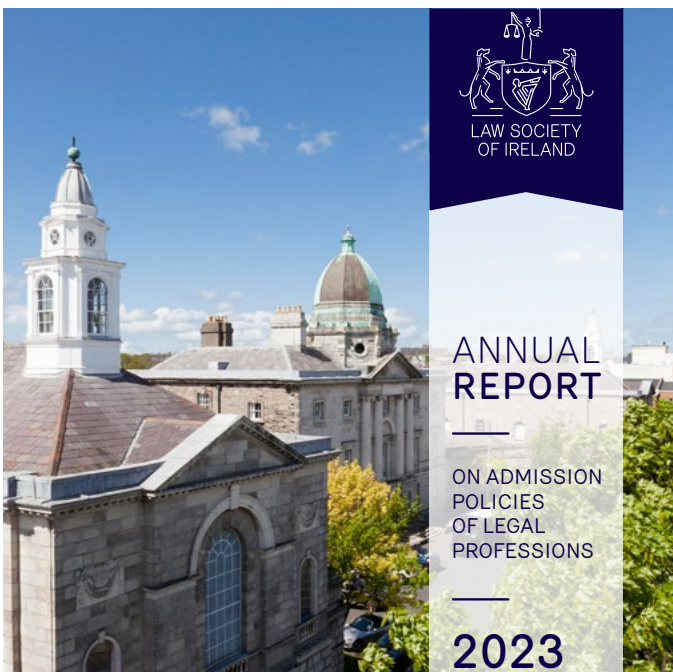
"Authentic leadership involves no pretence or trickery," Aoife explains, "and without those distractions, trust develops quickly. Playing a 'role' as a leader is not healthy. The authentic leader understands that they can't play a role, and concerns about team and organisational wellbeing are a massive component for the authentic leader," she explains.

Applications for the 2024/25 Law Society Women in Leadership mentoring programme are now open. Applications are invited from both mentors and mentees on a countrywide basis and from all areas of practice. The programme is presented in collaboration with Law Society Skillnet, which is responsible for mentor and mentee training activities. To find out more and apply, search for 'Women in Leadership Programme' at lawsociety.ie.

Mary Hallissey is a journalist at the Law Society Gazette.

Trainee numbers reach 15-year high

Trainee intake hit a 15-year high at year-end 2023. However, a cause for concern is that 13 counties have either zero or just one trainee, writes Mark Garrett



Trainee solicitor admissions in Ireland nudged to a 15-year high at year-end 2023 with an intake of 561 trainees, as revealed in the Law Society's *Annual Report on Admission Policies of Legal Professions 2023*.

The continuing strength of admission numbers is timely, given that the sector has been grappling with attracting and retaining skilled professionals for some time. Law firms have been struggling with recruitment and retention issues, exacerbated by escalating salary inflation, as highlighted in the 2022 survey of law firms

conducted by Evelyn Partners.

The report warns, however, that economic uncertainties that have continued into 2024 could potentially lead to price hikes in the future for consumers in order to offset rising operational costs.

Pivotal gateway

The report spotlights the pivotal gateway to the legal profession in Ireland – the Law Society's entrance examination, known as the Final Examination – First Part (FE1) – a rigorous assessment that comprises eight papers covering core legal subjects.

The FE1 ensures a uniform standard of knowledge among trainee solicitors, irrespective of their academic background, whether coming from the arts, humanities, engineering, or science.

In 2023, a total of 413 undergraduates undertook the FE1s under the 'accelerated access' scheme initiated in 2020. The scheme aims to attract aspiring solicitors from many walks of life. The statistics reveal a nuanced breakdown of candidates from various universities and academic programmes and highlights the evolving landscape of legal education and recruitment.

Paradigm shift

Meanwhile, the revamped solicitors' education model rolled out by the Law Society in 2023 marks a paradigm shift in professional legal training, heralding the most extensive

overhaul since 2002.

The introduction of the 'fused' Professional Practice Course (PPC) has streamlined the training process, integrating all taught elements into a single academic year, thus providing significant logistical and practical advantages to trainees and firms.

The core curriculum on the full-time PPC course runs from September to April each year and includes a continued focus on such skills as negotiation, research, drafting, advocacy, interviewing and advising, and presentation skills, together with an enhanced focus on more general skills such as leadership, project management, office and legal technology, and financial skills.

Professional responsibility – including enhanced coverage of legal ethics, solicitors' accounts and rules of professional conduct, and law-firm life – also forms an integral part of the core

TOTAL PPC INTAKE (FULL-TIME & HYBRID)										
YEAR	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
TOTAL	388	384	405	412	446	501	473	538	560	561
%	+10%	-1%	+6%	+2%	+9%	+12%	-6%	+14%	+4%	0%

BREAKDOWN DEMOGRAPHIC PPC 2023									
	Male	Female	18-25	26-30	31-40	40+	Dublin	Outside Dublin	TOTAL
2023 Full-time	215	252	266	157	18	6	430	37	467
2023 Hybrid	27	67	23	40	23	8	38	56	94

TRAINING FIRM BY GEOGRAPHY										
County	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Dublin	319 (82%)	323 (84%)	335 (83%)	341 (83%)	387 (86%)	416 (83%)	410 (87%)	436 (81%)	469 (84%)	452 (81%)
Cork	16	17	20 (5%)	21 (5%)	22 (5%)	24 (5%)	17	27 (5%)	27 (5%)	36 (8%)
Limerick	7	10	7	8	5	8	6	9	9	12
Galway	6	8	5	13	7	8	8	11	9	11
Waterford	4	2	1	0	1	2	2	4	2	5
Donegal	4	0	4	3	1	0	4	8	5	4
Kerry	5	0	1	1	7	3	0	2	2	3
Mayo	3	3	0	1	0	1	2	4	1	3
Meath	1	2	1	3	2	1	1	2	4	3
Kildare	1	2	4	1	2	4	4	5	6	2
Sligo	3	0	6	1	1	6	1	6	4	2
Wicklow	1	3	3	2	1	2	1	2	3	2
Monaghan	2	0	3	0	1	1	2	1	0	2
Tipperary	2	1	3	4	3	4	3	6	1	1
Louth	2	4	1	2	1	2	5	5	2	1
Westmeath	1	1	2	2	3	4	1	1	1	1
Kilkenny	1	2	1	2	1	2	1	3	1	1
Offaly	1	0	0	0	0	0	0	1	1	1
Longford	0	0	0	1	1	2	0	0	0	1
Wexford	1	0	0	0	1	0	2	0	3	1
Clare	4	2	1	2	3	3	0	2	2	0
Cavan	1	1	0	2	1	2	1	0	2	0
Roscommon	0	1	1	1	1	1	1	0	0	0
Carlow	1	2	3	1	0	2	1	0	1	0
Leitrim	2	0	1	0	0	0	0	0	1	0
Laois	0	0	0	0	0	2	0	0	1	0

curriculum. This is in addition to courses such as business law, dispute resolution, land law, probate, family law, and taxation. The psychology of a lawyer and legal-practice Irish continue to be part of the core curriculum.

Fused Hybrid PPC

The first 'fused' Hybrid PPC was introduced in December 2022, with 91 trainees on the programme. The PPC Hybrid makes greater use of best practice in online learning, doing away with the need to relocate to Dublin for an extended period. It also permits trainees to stay in full-time employment during the delivery of the PPC.

As such, it was deliberately structured in order to meet the Law Society's priorities for diversity and inclusion, making training more accessible for mature trainees and those with family and other caring commitments. The second batch of participants

are now taking part in the full-time and Hybrid PPC 2023.

Easy access

However, despite commendable strides in fostering inclusivity, challenges persist, particularly in relation to financial accessibility. The Law Society's Access Scholarship Programme, operational since 2001, endeavours to alleviate the impact of socio-economic barriers that can hinder access to certain students to the solicitors' profession. The programme contributes to the Law Society's goal of encouraging diversity among trainee solicitors and qualified solicitors in Ireland.

The access programme provides financial support towards the cost of the FE1 examination, indenture registration fee, PPC fees, and the enrolment fee. This programme also pays the fees and provides maintenance for students from a background of socio-economic disadvantage.

Each year, the Law Society receives approximately 85 applications to join the scheme. Over the past three years, approximately 80% of applicants have been successful in joining the scheme, which is open for applications from everyone, regardless of age.

But accessibility suffers from other systemic hurdles outside of the Law Society's control, including the stringent eligibility criteria imposed by the Student Universal Support Ireland (SUSI) grant scheme.

The constrictive guidelines disqualify trainee solicitors from receiving assistance from the Law Society, exacerbating financial strains for candidates from disadvantaged backgrounds. The impending reform of grant legislation offers a glimmer of hope, though this is tempered by ongoing uncertainties about revisions to the eligibility criteria.

Legal ecosystem

In addition, the plight of non-EEA students navigating visa constraints underscores the importance of streamlined immigration policies to assist

with their seamless integration into Ireland's legal ecosystem.

In tandem with its commitment to fostering inclusivity, the Law Society spearheads an array of outreach initiatives aimed at demystifying legal careers and empowering aspiring solicitors.

These include the Street Law programme, which harnesses the expertise of trainee solicitors to deliver legal literacy workshops in local schools and community settings, providing them with an understanding of legal principles.

Separately, over 18,000 transition-year students have taken part in the TY Law Module and 'Solicitors of the Future' programmes. These provide students with the opportunity to explore a future career as a solicitor and learn how the law is relevant to their daily lives.

This multifaceted approach by the Law Society helps to demystify legal careers and foster a more inclusive legal landscape, helping to lay the foundations for a more equitable and resilient legal profession in the near future.

Mark Garrett is Director General of the Law Society of Ireland.

RUNNING THE NUMBERS

- The Law Society recorded an intake of 561 new trainees in 2023,
- 467 trainees enrolled in the full-time PPC course, which began on 5 September 2023,
- 94 trainees enrolled in the 2023 PPC Hybrid fused course that started on 13 December 2023,
- There are currently 189 trainees participating in the Access Scholarship Programme,
- 111 individuals are currently pursuing FE1 exams and receiving financial support from the Law Society,
- 78 individuals are at post FE1 level and receiving financial support on the full-time and Hybrid PPC,
- Of the individuals at post FE1 level, 34 joined the PPC fused courses in 2023 with access programme funding,
- In addition, 214 individuals have qualified as solicitors with financial support from the Access Scholarship Programme.

Work fulfils if aligned with personal values

The Law Society's High-Impact Professional series hears from public-sector legal leaders. Mary Hallissey reports

PUBLIC SERVICE WORK/LIFE-BALANCE POLICIES RECOGNISE THE REALITIES OF LIFE, THE DIFFERENT STAGES WE ALL GO THROUGH AT DIFFERENT TIMES IN OUR LIVES AND IN OUR CAREERS. THESE POLICIES OFFER CHOICE AND THEY HELP WITH STAFF RETENTION

Senior public-sector legal leaders spoke at the Law Society's High-Impact Professional series webinar on 18 April. Part four of this six-part series was titled 'High-Impact Leaders in Law'. It was organised by Law Society Psychological Services and attended by nearly 600 delegates.

Chaired by Law Society Director General Mark Garrett, the session heard that the solicitors' profession has seen significant change in recent years, with women in the majority since 2014, while just over 25% of solicitors work in-house in both the public and private sectors.

Chief State Solicitor Maria Browne indicated that the representation of female



Maria Browne

solicitors in the Chief State Solicitor's Office (CSSO) exceeds the profession's average, and that women are proportionately represented at all grades, including on the management board.

The CSSO is the principal provider of solicitor services to the Attorney General and the Government, engaged in a broad range of legal transactional and civil litigation work, and is the seventh largest legal office in the State, Browne noted.

Growing leadership potential

Legal leaders have a responsibility to grow leadership potential in their workplaces, Browne commented. While individual leaders come and go, it is the culture and values that persist, she added. It can take a long time for change to take effect, and what is needed is diversity rather than dominance by one group or another.

June Reardon heads up the Office of the Parliamentary Counsel to the Government (a constituent office of the Office of the Attorney General), comprising specialist parliamentary counsel lawyers who draft primary and secondary legislation. She reports to Attorney General Rossa Fanning SC on the delivery of draft legislation.

"Our focus is very much on public law, constitutional law, administrative law, EU law, and



June Reardon

also human-rights law," she said – all areas that have seen exponential growth.

The discipline of support services to lawyers has developed, and the legal-research function is also growing rapidly, Reardon said.

"In the context of drafting, we have developed what are called 'legislative editors,'" she explained. These have a support function and read, review, and comment on draft law as a form of quality-assurance system.

Building resilience

Faye Breen (deputy director general at the Office of the Attorney General) previously worked as a barrister in private practice in the late 1990s and the early 2000s, which she described as challenging, but helpful in building resilience. "However, even today, fewer than 20%

of senior counsel are women, so there are clearly still some barriers for progression for female barristers,” she commented.

Breen then took a job as an advisory counsel in the Office of the AG. Advisory counsel advise the Government, working on the most important legal issues in the State and shaping, for example, the legal response to the pandemic.

“We were there from the very start, exerting an influence and guiding the legal solutions,” Breen said.

Opportunities to grow

The work involves dealing with senior civil servants or Government ministers, advising on the Constitution, interpreting EU law, handling litigation against the State, writing legal opinions, and advising on draft legislation on every area of law, from crime, tax, immigration, banking, environmental law, to planning law. Advisory counsel can be solicitors or barristers, and this system works very well, she said. The work offers great variety and many opportunities to grow.

“We like to believe that we bring all of the values of private practice into our public-law practice, such as professionalism, independence and integrity,” she said.

Having a sense of purpose in one’s work is closely linked to overall wellbeing and fulfilment. When we feel that our work is meaningful and aligns with our values and goals, we experience high levels of motivation, satisfaction and engagement, she added.

The current generation of legal trainees desire purpose, connection, and a sense of accomplishment in their work, Breen observed, and salary and bonuses alone are not sufficient motivators.

“There have been many times over the course of my career



Faye Breen

where I have felt genuine pride in the work that my colleagues do – not just because of its quality, but because of its outcome,” she said.

The goal of the work is to benefit Irish society as a whole, and this is a very powerful motivator.

Resilience in difficult times

Maria Browne spoke about how appointments to the public service are by open competition, based on merit, with equality of opportunity. “It’s not a question of who you know, or where you went to school,” she added.

Touching on the importance of maintaining resilience in difficult times, Browne noted that good workplace policies that offer support and flexibility are key. Public service work/life-balance policies recognise the realities of life, the different stages we all go through at different times in our lives and in our careers. These policies offer choice, and they help with staff retention, she added.

While the financial rewards won’t always match those available in the private sector, the public service offers other rewards, she noted. What keeps people in the public service is their love of the work and its

importance, which often turns out to be its own reward, Browne added.

The opportunity to build strong relationships within the five different teams in the Attorney General’s Office, and to get the chance to manage a team of advisory counsel, is a great privilege, Faye commented. “Leading professionals can be incredibly rewarding. The people on your team are experts in their area of law but, as a leader, you’re trying to inspire them as individuals to build something important together as a team,” she explained.

June Reardon said that she was one of the first solicitors recruited to her office, which previously recruited barristers only. “It was really ‘an experiment’ that, over time, has proved very positive, and now we have many solicitors – it’s more or less a 50/50 balance.”

Drafting legislation is a crucial function requiring a specialist expertise on top of legal skills, which involves taking instructions from Government departments and officials and, ultimately, the minister, in order to convert policy proposals into draft legislation, Reardon said. As parliamentary counsel ‘hold the pen’, they perform a powerful role in shaping legislation, although policy is for the minister to determine.

The opportunity to have the



Webinar chair, Mark Garrett

honour of representing Ireland abroad as a lawyer is also very appealing, she added.

In terms of the challenges of working as part of a larger system, Maria Browne noted that public-service lawyers might need to be creative in coming up with solutions:


“You sometimes need imaginative minds when trying to devise a legal solution to a problem for your client,” she said.

Complex problems

Faye Breen added that relationship-building across the wider civil-service sector can also assist in providing solutions to complex problems.

Those in power may sometimes have to be persuaded of the value of supporting and further expanding the legal function, with a view to saving the State money in the long term, Reardon said. “Sometimes that can be a hard message to sell – to persuade of the downstream benefits.”

The Civil Service is strong at training and development as well as continuous professional development, the webinar heard. Many internal promotions and opportunities are open in public-service legal jobs. “We are extremely well supported internally – everyone is encouraged to self-develop,” said Reardon.

Jobs in the Attorney General’s Office and the CSSO are advertised frequently on publicjobs.ie, the webinar heard. A major recruitment drive by the Attorney General’s Office is planned for this autumn.  Visit the Law Society Psychological Services’ webpage at lawsociety.ie/ps for updates on the next High-Impact Professional webinar.

Mary Hallissey is a journalist at the Law Society Gazette.

Run through the jungle

The *Amazon* case, recently determined by the CJEU, provides an excellent summary of the EU's state-aid principles governing taxation measures taken by member states. Marco W Hickey clears the vines

THE CJEU STRESSED THAT DETERMINING THE REFERENCE SYSTEM IS OF PARTICULAR IMPORTANCE IN THE CASE OF TAX MEASURES, SINCE THE EXISTENCE OF AN ECONOMIC ADVANTAGE FOR THE PURPOSES OF ARTICLE 107(1) TFEU MAY BE ESTABLISHED ONLY WHEN COMPARED WITH 'NORMAL' TAXATION

On 14 December 2023, the Court of Justice of the European Union (CJEU) delivered its judgment in C457/21P *Grand Duchy of Luxembourg, Amazon EU Sàrl and Amazon.com, Inc v European Commission*.

The case concerned an appeal against the decision of the General Court annulling a finding by the EU Commission that Luxembourg had granted state aid to Amazon in the form of a tax ruling (subsequently extended) relating to the calculation of royalties payable by an Amazon group limited partnership in Luxembourg to another Amazon group entity in the US, in the context of Luxembourg's transfer-pricing rules and the income and net-wealth tax treatment of the US-based partners of the Luxembourg limited partnership.

Article 107(1) of the *Treaty on the Functioning of the European Union* (TFEU) requires each of the following conditions to be fulfilled for a finding of state aid:

- 1) There must be an intervention by the state or through state resources,
- 2) The intervention must be liable to affect trade between member states,
- 3) It must confer a selective

advantage on the beneficiary, and

- 4) It must distort or threaten to distort competition.

Many of the disputes regarding the treatment of national taxation matters in the context of the EU state-aid rules, including the recent *Amazon* case, centre on the issue of whether the selective-advantage criterion above has been properly met by the commission in its application of EU state-aid law.

I put a spell on you

The CJEU in *Amazon*, citing *Fiat Chrysler Finance Europe v European Commission* (8 November 2022), described 'selective advantage' as requiring a determination as to whether, under a particular legal regime, the national measure at issue is such as to favour 'certain undertakings or the production of certain goods' over other undertakings that, in the light of the objective pursued by that regime, are in a comparable factual and legal situation and that, accordingly, suffer different treatment that can, in essence, be classified as discriminatory. To classify a national tax measure as 'selective', the CJEU confirmed that the commission must implement the following three steps:

- Firstly, it must identify the reference system, that

is, the 'normal' tax system applicable in the member state concerned,

- Secondly, it must be shown that the tax measure at issue is a derogation from that reference system, insofar as it differentiates between operators who, in the light of the objective pursued by that system, are in a comparable factual and legal situation, and
- Thirdly, the concept of 'state aid' does not, however, cover measures that differentiate between undertakings that, in the light of the objective pursued by the legal regime concerned, are in a comparable factual and legal situation, and are therefore *a priori* selective, where the member state concerned is able to demonstrate that the differentiation is justified, in the sense that it flows from the nature or general structure of the system of which those measures form part. The application of the above distinction and the dividing line between them has been described as "very difficult to draw" and is arguably a "matter of judgement and impression".

The CJEU stressed that determining the reference system is of particular importance in the case of tax



measures, since the existence of an economic advantage for the purposes of article 107(1) of the TFEU may be established only when compared with ‘normal’ taxation. Thus, the determination of the set of undertakings that are in a comparable factual and legal situation depends on the prior definition of the legal regime and its objective, in the light of which it is necessary, where applicable, to examine whether the factual and legal situation of

the undertakings favoured by the measure in question is comparable with that of those which are not.

The CJEU stressed that, for the purposes of assessing the selective nature of a tax measure, it is therefore necessary that the common tax regime or the reference system applicable in the member state concerned be correctly identified in the commission decision, and examined by the court hearing a dispute concerning that identification.

Since the determination of the reference system constitutes the starting point for the comparative examination to be carried out in the context of the assessment of selectivity, an error made in that determination necessarily vitiates the whole of the analysis of the condition relating to selectivity.

Heard it through the grapevine
With regard to identifying the reference system, the CJEU highlighted that two steps are necessary.

Firstly, the determination of the reference framework, which must be carried out following an exchange of arguments with the member state concerned, must follow from an objective examination of the content, the structure, and the specific effects of the applicable rules under the national law of that state.

Secondly, in the absence of harmonisation of tax law at EU level, it is the member state concerned that determines, by exercising its own competence

THE GENERAL COURT WAS FULLY ENTITLED TO FIND THAT THE COMMISSION HAD NOT ESTABLISHED THE EXISTENCE OF AN ADVANTAGE FOR THE BENEFIT OF THE AMAZON GROUP, WITHIN THE MEANING OF ARTICLE 107(1) TFEU, AND TO ANNUL THE DECISION AT ISSUE



in the matter of direct taxation and with due regard for its fiscal autonomy, the characteristics constituting the tax, which define, in principle, the reference system or the 'normal' tax regime, from which it is necessary to analyse the condition relating to selectivity. This includes, in particular, the determination of the basis of assessment, the taxable event, and any exemptions that may apply.

Down on the corner

The CJEU underlined that it followed that only the national law applicable in the member state concerned must be considered to identify the reference system for direct taxation – that identification being itself an essential prerequisite for assessing

not only the existence of an advantage, but also whether it is selective in nature.

The 'arm's-length principle' can only be applied if it is recognised by the national law concerned and in accordance with the detailed rules defined by it. Under EU law as it stood at the time, there was no autonomous arm's-length principle that applied independently of the incorporation of that principle into national law for the purposes of examining tax measures in the context of the application of article 107(1).

The CJEU referred to its decision in *Fiat*, where it held that that, while the national law applicable to companies in Luxembourg was intended, as regards the taxation of integrated companies, to bring

about a reliable approximation of the market price, and while that objective corresponded, in general terms, to that of the arm's-length principle, the fact remained that, in the absence of harmonisation in EU law, the specific detailed rules for the application of that principle are defined by national law and must be taken into account in order to identify the reference framework for the purposes of determining the existence of a selective advantage.

The CJEU recalled that the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* are not binding on OECD member states. As the court pointed out in *Fiat*, even if many national tax authorities are guided by those guidelines in the preparation and control of transfer prices, it is



P.C. ALAMY

only the national provisions that are relevant for the purposes of analysing whether particular transactions must be examined in the light of the arm's-length principle and, if so, whether or not transfer prices, which form the basis of a taxpayer's taxable income and its allocation among the states concerned, deviate from an arm's-length outcome.

The CJEU highlighted that parameters and rules external to the national tax system at issue, such as the OECD guidelines, cannot be taken into account in the examination of the existence of a selective tax advantage, as provided for in article 107(1), and for the purposes of establishing the tax burden that should normally be borne by an undertaking, unless that national tax system makes explicit reference to them.

Bad moon rising

The CJEU held that the General Court, in this case, has erred in finding that the EU Commission could, in a general manner, apply the arm's-length principle in the context of implementing article 107(1) of the TFEU, even though that principle has no autonomous existence in EU law, without stating that that commission was required, as a preliminary step, to satisfy itself that that principle was incorporated into the national tax law concerned.

The CJEU held that there was no autonomous arm's-length principle that applied independently of the incorporation of that principle into national law. The new article of the Luxembourg tax law that explicitly formalised the application of the arm's-length

principle under Luxembourg tax law was adopted only after the issue and extension of the tax ruling at issue. Furthermore, by applying the OECD guidelines on transfer pricing without having demonstrated that they had been, wholly or in part, explicitly adopted in Luxembourg law, the commission breached the prohibition on taking into account parameters and rules external to the national tax system at issue, such as those guidelines.

The CJEU confirmed that such errors in determining the rules applicable under the relevant national law and, therefore, in identifying the 'normal' taxation in the light of which the tax ruling at issue had to be assessed, necessarily invalidated the entirety of the reasoning relating to the existence of a selective advantage. Consequently, the General Court was fully entitled to find that the commission had not established the existence of an advantage for the benefit of the Amazon group, within the meaning of article 107(1) and to annul the decision at issue.

Fortunate son

Apple represents another recent case in which the Luxembourg courts have found that the commission erred in its EU state-aid analysis of national tax

measures and conclusions on selective advantage.

Ireland acted as an intervener in each of the *Amazon*, *Fiat* and *ENGIE* cases, supporting the argument that state aid had not been shown to exist in each case. These judgments against the commission's findings on selective advantage might have given some comfort to Ireland in the context of the appeal to the CJEU in cases T-778/16 and T-892/16 *Ireland and Others v European Commission*.

Case C-465/20 is pending appeal against the judgment of the General Court (on 15 July 2020) in *Ireland and Others v European Commission*, although Advocate General Pitruzzella (9 November 2023) opined that the General Court erred in its conclusions and recommended to the CJEU that the appeal be allowed and that the commission's finding that Ireland granted state aid to Apple be upheld.

The CJEU is not bound by the opinion of the advocate general, although it does follow the opinion in most cases. We will have to wait and see the outcome of the appeal before the CJEU against the decision of the General Court in *Apple*.

Marco W Hickey is head of the EU Competition and Regulated Markets Unit at LK Shields Solicitors.

Q LOOK IT UP

CASES:

- [Commission v Ireland and Others \(C-465/20P\)](#)
- [Fiat Chrysler Finance Europe and Ireland v European Commission](#) (joined cases C885/19P and C898/19P)
- [Grand Duchy of Luxembourg, Amazon EU Sàrl and Amazon.com, Inc v European Commission](#) (C457/21)
- [Grand Duchy of Luxembourg, Engie Global LNG Holding Sàrl, Engie Invest International SA, Engie SA v European Commission](#) (joined cases C451/21P and C454/21P)
- [Ireland and Others v European Commission \(T-778/16 and T-892/16\)](#)

PRACTICE NOTES

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

CONVEYANCING COMMITTEE

SIGNIFICANT CHANGES IN COMMERCIAL RATES

● The Conveyancing Committee would like to draw the attention of practitioners to significant changes introduced in commercial rates legislation, which are in force since 1 January 2024.

New rates provisions

The changes have been introduced by sections 1 to 22, section 27, and the schedule to the *Local Government Rates and Other Matters Act 2019*, as amended by the *Historic and Archaeological Heritage and Miscellaneous Provisions Act 2023*.

The new rates provisions are aimed at modernising the law governing commercial rates. Before the commencement of the 2019 act, the key provisions governing commercial rates in the context of property transactions were those set out in section 32 of the *Local Government Reform Act 2014* (LGRA 2014). That section specified what rates liability needed to be discharged upon a transfer of an interest in a property, and the notification that must be given to the rating authority on foot of that transfer. Section 32 also set out the circumstances in which rates arrears would attach as a charge on property, including any penalty for failure to notify the rating authority.

Section 32 has now been repealed, and the new rates provisions (save for section 12, relating to the payment of interest) commenced on 6 November 2023 and 1 January 2024.

Practitioners should be aware that this note is issued on an interim basis, pending the publication of guidance from the Department of Housing, Local Government, and Heritage. *Note:* References throughout this note to ‘person’ include body corporates.

Summary of key provisions

- There are new notification requirements where there is a change in the particulars recorded in the rates database or where there is a change in the ‘liable person’,
- New criminal offences for failure to give the necessary notifications,
- Apportionment of rates as between the liable person and any subsequent liable person,

where the liable person changes during the year and rates have not yet been fully paid for the year,

- There is an obligation on a liable person to pay any outstanding rates levied under the 2019 act and owing by them before completion of the sale of a property (and an associated criminal offence for failure to do so),
- There will be no limitation on how long a property remains charged with unpaid rates (and any interest) owing by an owner, but such a charge will cease to apply upon a sale of the property where the ‘owner’ changes,
- Interest on unpaid rates will be payable at the daily rate of 0.0219% (c8% per annum),
- Local authorities may determine the abatement they will grant in respect of vacant premises, but the Minister for Housing, Local Government and Heritage may prescribe the maximum abatement allowed. Regulations are awaited.

Some key terms

‘Relevant property’: The new rates provisions apply to ‘relevant property’. ‘Relevant property’ is defined in the 2019 act as having the same meaning set out in the *Valuation Act 2001*. **Schedule 3 of the 2001 act** sets out what constitutes ‘relevant property’. It should be noted that a property may be considered a ‘relevant property’ even if it is not rated or rateable, and therefore there may now be an obligation to give notice to the local authority upon a sale, lease etc, for these properties. The committee is liaising with the department in this regard, since it is believed that this is an unintended consequence of the drafting of the legislation.

‘Liable person’: The legislation introduces a new definition of ‘liable person’, being the person in occupation or entitled to occupy (if the property is unoccupied) on the first day of the local financial year (that is, 1 January).

New notice requirements

Change in the particulars on the rates database

Local authorities are obliged to maintain rates databases. The database must include (a) the name of the occupier, (b) if unoccupied, the name of the person entitled to occupy, (c) the address of the property, (d) any unique reference number assigned to the property, (e) the nature of the business at the property, and (f) any other information in relation to the property considered appropriate by the local authority.

There is a new requirement for a liable person to notify the local authority within ten working days of becoming aware of any change in the particulars on the rates database relating to that liable person or the property. Failure to do so, without reasonable excuse, is a criminal offence.

It is unclear as yet whether the rates database will be publicly available and/or accessible by liable persons.

As part of a relevant transaction, practitioners should advise clients of their ongoing obligations to notify the local authority in good time if they become aware of any change in the particulars on the rates database.

Change in the liable person

The new rates provisions have also introduced a new notice requirement where there is a change in the liable person. Where (a) a person ceases to be a liable person, (b) a person becomes the liable person, (c) the liable person moves from being an occupier to the person entitled to occupy (for example, where the owner vacates the property and it is unlet), or (d) the liable person moves from being the person entitled to occupy (for example, the owner, where the property is vacant) to the person in occupation, such person must notify the local authority within ten working days of such change.

In many instances, there will now be a dual notification requirement for a vendor and a purchaser, landlord and tenant etc. This increases the administrative burden of the

parties to these (and some other) transactions. The table (*right*) gives some examples of when notification must be given (this list is not intended to be exhaustive).

There is no need to serve notice if a transaction does not result in a change in the liable person, for example:

- In the sale of a fully let property,
- A refinance or share purchase agreement, or
- A renewal lease.

The legislation allows for a representative of a liable person, with written authority, to serve the notice. Practitioners may prefer that their clients serve such notice. Failure to comply with the notification requirements is a criminal offence.

Payment of rates before a sale

A liable person who proposes to sell a relevant property now must, before completion of the sale, pay any rates imposed under the 2019 act (that is, since 1 January 2024), together with any accrued interest, owing by that liable person for the period up to and including the day immediately before completion.

A local authority must provide a rates statement showing the rates owing as of the date of expected completion within ten working days of a request for such statement. This may make it difficult to complete a sale any earlier than ten working days from the date of sale, unless the entire year's rates have been paid up to date, where this is possible.

If rates have been paid by a liable person for the rates year, the usual approach to apportionment of rates under the contract for sale/lease should continue to apply.

The definition of 'liable person' in the 2019 act could be interpreted to mean that the liable person cannot change during the course of a rates year, even when a property is sold or let during a rates year. As such, where rates have not yet been paid for the full year, a prudent approach for the outgoing liable person may be for them to pay the rates for the full year and to apportion on completion such that the incoming liable person refunds them the rates amount for the rest of the rates year. At a minimum, the outgoing liable person must pay the amount due by it to the local authority for the period up to the date of completion. In accordance with the

Transaction/scenario	Who is obliged to notify?
Sale of an owner/occupied or vacant premises	Vendor and purchaser
Sale of a partially let premises	Vendor and purchaser in respect of any unlet parts
Where an owner vacates a property leaving the property vacant	Owner
Where an owner moves into occupation of a property	Owner
Grant of an occupational lease, save for a renewal lease	Landlord and tenant
Assignment of occupational lease or grant of a sublease	Tenant and assignee/sublessee
Forfeiture/lease expiry/surrender	Landlord and tenant

legislation, this must be paid to the local authority before completion of the sale (not afterwards out of the proceeds of sale). It is a criminal offence to fail to comply with these payment obligations.

It is not clear what constitutes a 'sale' within the meaning of the relevant provision (section 13 of the 2019 act). Pending clarification, a prudent approach may be to treat it as including a lease, sublease, assignment, surrender etc.

Any outstanding rates levied under the old legislation would not have to be paid before completion of the sale. This does not mean, however, that the liable party is absolved of liability for those rates. The local authority can still pursue them for the arrears.

Pre-existing charges

Although section 32 of the LGRA 2014 has been repealed by the new rates provisions, any penalties that previously arose under that section will continue to apply indefinitely until discharged, or for a period of 12 years as against a purchaser in good faith for full consideration or as against mortgagees.

This means that practitioners should continue to enquire as to the position under section 32 of the LGRA 2014, in addition to making enquiries under the 2019 act. The committee is considering changes to the Law Society Requisitions on Title to reflect the new rates provisions.

Arrears as charge on property

Any rates levied under the 2019 act (together with any interest) due and unpaid by an

'owner' (as defined in the legislation) will be a charge on property. Such a charge will remain indefinitely until discharged, but will cease to apply once the property is sold, in circumstances where the liable person who accrued the rates in question ceases to be the owner of the property.

Unfortunately, the legislation does not include a definition of 'sold', so there is some lack of clarity over what 'sold' includes. The transaction in question must result in the 'owner' changing. So, for example, in a refinance or SPA, the charge would continue to apply and would not fall away.

Practitioners, when acting in a purchase, should ensure that they are satisfied that any charge arising under the new rates provisions will cease to apply on completion of the sale. Practitioners should not strictly insist upon provision of evidence of payment of rates imposed under the 2019 act where any charge would cease to apply upon completion of the sale.

Form of notice

It has come to the attention of the committee that certain local authorities have produced their own forms of notice. Some of the details required by these forms are not based on any statutory requirement. The committee is not recommending that practitioners use these forms, and practitioners may wish to use their own forms of notice or advise their clients to do so.

CONVEYANCING COMMITTEE

PRE-CONTRACT DEPOSIT SHOULD BE STATED TO BE PAID TO STAKEHOLDER OR ON TRUST

● The Conveyancing Committee wishes to remind practitioners of the 2013 High Court case, *In the Matter of Protim Abrasives Limited (In Liquidation) and In the Matter of the Companies Act 1963-2009* [2009 no 510 COS].

In this case, Feeney J held that monies paid by a purchaser to a vendor's solicitor by way of a pre-contract deposit, in the absence of a contrary agreement, is paid to the vendor's solicitor as agent of the vendor, and not as stakeholder, and those monies were deemed in effect to have been paid to the vendor.

The committee wishes to alert practitioners to its previous note on the case

(see lawsociety.ie/solicitors/knowledge-base/practice-notes/pre-contract-deposit-should-be-stated-to-be-paid-to-stakeholder-or-on-trust).

The committee continues to keep the matter under review following the lodgement of the Law Society's law reform submission to the Department of Justice in 2016.

The committee reminds practitioners that it continues to recommend that the communication to the vendor's solicitor sending the draft contracts signed by the purchaser should include wording along the following lines: "*The monies for the proposed deposit [have been] [will be] sent subject to the*

following pre-condition, namely that it will be held by your firm in trust for and to the order of the purchaser until the [enclosed][attached] contracts are counter-signed by the vendor and exchanged in a manner acceptable to both the vendor and the purchaser at which time the said money will be held by your firm as stakeholder under the terms of the proposed contract. If you are not willing to accept payment of these monies subject to this condition please confirm [and return any monies paid for the proposed deposit to us]."

The committee further reminds practitioners that it is preferable that these matters are agreed in advance of transmitting funds.

CONVEYANCING COMMITTEE

VACANT HOMES TAX

● *This note is for information purposes only. Vacant Homes Tax is not a charge on property, in contrast to Local Property Tax. Compliance with the requirements of the VHT legislation is not a matter of title. An investigation of title need not extend to the question of whether or not Vacant Homes Tax has been paid.*

Vacant Homes Tax (VHT) is an annual self-assessed tax that applies to vacant residential properties, liable to LPT, that have been occupied for less than 30 days in a 12-month chargeable period. VHT was introduced by section 96 of the *Finance Act 2022* and is contained in part 22B of the *Taxes Consolidation Act 1997* (TCA 1997). An exemption may be available in certain circumstances. Any liability to VHT is in addition to a liability to Local Property Tax (LPT).

For a step-by-step guide, see revenue.ie/en/property/vacant-homes-tax/index.aspx.


Revenue has also published a tax and duty manual, titled *Vacant Homes Tax – Part 22B-01-01*. The manual outlines in detail when VHT applies, when properties are outside the scope of the tax, the obligations on chargeable persons, Revenue powers, and certain exemptions that can be claimed.

Each chargeable period commences on 1 November and ends on 31 October of the following year. Owners of vacant properties are required to self-assess their liability to VHT by looking back over the previous chargeable period to determine if their property was liable in that chargeable period. Where a property has been occupied for less than 30 days, a return must be filed electronically within seven days of the end of the relevant chargeable period, that is, by 7 November. The first chargeable period for VHT commenced on 1 November 2022

(the 'initial chargeable period'), with the first VHT return to be submitted to Revenue by 7 November 2023, seven days following the 1 November liability date.

VHT is charged annually, with a rate for the initial chargeable period at three times the base LPT rate (the rate excluding any local adjustment factor), increasing to five times from November 2023, following Budget 2024, on the value of liable residential properties.

Even if the taxpayer has assessed that VHT does not apply to a property, Revenue may still ask for confirmation of the status of the property and for the submission of a VHT return. To confirm the status of the property, evidence must be provided that, during the chargeable period, the property has been occupied, sold, or subject to a qualifying tenancy.

A register of vacant homes and their associated chargeable persons is being established by Revenue and will be continually updated as necessary. The legislation provides for the exchange of information between the Revenue Commissioners and other bodies, such as local authorities, for the purposes of administering the tax and maintaining the register. VHT will operate on a self-assessment basis. The legislation also provides for penalties, interest, and a late filing surcharge to be applied in cases of non-compliance. 



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WILLS

Berry, Noel (deceased), late of 39 Sheephill Green, Blanchardstown, Dublin 15, who died on 19 January 2024. Would any person having knowledge of the last will made by the above-named deceased, or its whereabouts, please contact Muldowney Counihan & Co, Solicitors, Office 3, Clon Court, Main Street, Clonee, Dublin 15; tel: 01 825 5863, fax: 01 801 3249, email: muldowneycounihan@msn.com

Carroll, Paul (deceased), late of 1 St Agnes Crescent, Crumlin, Dublin 12, who died on 15 February 2024. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Tom Collins, Tom Collins & Company LLP, Solicitors, 132 Terenure Road North, Dublin 6W; tel: 01 490 0121, email: tom@tomcollins.ie muldowneycounihan@msn.com

Finn, David (deceased), late of 2 Kimmage Grove, Terenure, Dublin 6W, who died on 16 January 2024. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Geraldine Kelly & Co Solicitors, 195 Lower Kimmage Road, Dublin 6W; DX111004 Kimmage; tel: 01 492 1223, email: info@geraldinekellysolicitors.ie

James, Thomas (otherwise Seamus/Shay) (deceased), late of 28 Gullistan Cottages, Rathmines, Dublin 6. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 29 November 2021 (a single man), please contact John Paul Feeley, Kelly & Ryan LLP, Solicitors, Manorhamilton, Co Leitrim; tel: 071 985 5034, email: johnpaulfeeley@kellyryanmanor.com

Kerrisk, John (deceased), late Glencairn, Lismore, Co Waterford who died on 12 November 1999. Would any person having

RATES

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ALL NOTICES MUST BE PAID FOR PRIOR TO PUBLICATION. ALL NOTICES MUST BE EMAILED TO catherine. Kearney@lawsociety.ie and PAYMENT MADE BY ELECTRONIC FUNDS TRANSFER (EFT). The Law Society's EFT details will be supplied following receipt of your email. **Deadline for May 2024 Gazette: Wednesday, 15 May 2024.**

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

knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same, please contact Lanigan & Curran, Solicitors, Cross Bridge Street, Dungarvan, Co Waterford; DX 75002 Dungarvan; tel: 058 41533, email: info@lanigancurran.ie

Kerrisk, Patrick (deceased), late Glencairn, Lismore, Co Waterford, who died on 23 December 2023. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same, please contact Lanigan & Curran, Solicitors, Cross Bridge Street, Dungarvan, Co Waterford; DX 75002 Dungarvan; tel: 058 41533, email: info@lanigancurran.ie

Landers, John Oliver (deceased), late of 2 Ashley Court, Lismore, Co Waterford, who died on 28 November 2023. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in recent contact with the deceased regarding his will, please

contact Neil Twomey & Co, Solicitors, Fernville, Lismore, Co Waterford, P51 FX73; tel: 058 54658, 54075, email: info@neiltwomeysolicitors.com

Leahy, Eric (deceased), late of 19 Hollywoodrath Avenue, Blanchardstown, Dublin 15, who died on 29 July 2023. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Jim Downing, Carmody Moran Solicitors, 11/12 The Plaza, Main Street, Blanchardstown, Dublin 15; tel: 01 827 2888, email: solicitor@carmodymoran.ie

Lynch, Daniel (Danny) (deceased), late of Oakstown, Trim, Co Meath, and late of Church Lane, Trim, Co Meath and Ratoath Manor Nursing Home, Ratoath, Co Meath, who died on 29 November 2023. Would any person having knowledge of any will made by the above-named deceased please contact Brian Callaghan of Regan McEntee & Partners Solicitors, High Street, Trim, Co Meath; DX 92002 Trim; tel: 046 943 1202

McInerney, Eoin (deceased), late of Shanaway Road, Clareen, Ennis, Co Clare; formerly of 13 Linnane's Terrace, Kilrush Road, Ennis, Co Clare, 22 Oaklands

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Crescent, Rathgar, Dublin 6; and 1 Keeper Road, Crumlin, Dublin 12, who died on 14 August 2023. Would any person having knowledge of the whereabouts of a will made by the above-named deceased please contact Jim Downing, Carmody Moran Solicitors, 11/12 The Plaza, Main Street, Blanchardstown, Dublin 15; tel: 01 827 2888, email: solicitor@carmodymoran.ie

Miller, Margaret Ann (deceased), late of 12 Cuil Na Tire, Monamolin, Gorey, Co Wexford. Would any person having knowledge of a will executed by the above-named deceased, who died on 26 September 2023, please contact Cooke & Kinsella Solicitors, Wexford Road, Arklow, Co Wicklow; tel: 0402 32928, 40012, fax: 0402 32272, email: fergus@cookekinsella.ie

Moore, Mary (deceased), late of 15 Glen Bay, Poulshone, Gorey, Co Wexford, who died on 8 September 2023. Would any person or firm having knowledge of the whereabouts of any will

made by the above-named deceased please contact Julie Breen Solicitors LLP, Mill Centre, Irish Street, Enniscorthy, Co Wexford; tel 053 923 5699, email: info@juliebreensolicitor.ie

Mulligan, John Benjamin (otherwise Ben) (deceased), late of 18 Lanesville, Monkstown, Co Dublin, who died on 22 October 2022. Would any person holding or having knowledge of a will made by the above-named deceased please contact Mark Curtin, Partners At Law Solicitors, 4 Clarinda Park North, Dun Laoghaire, Co Dublin; tel: 01 280 0340, email: pals@pals.ie

O'Connell, Daniel/Dan (deceased), late of Glenduff, Ballyhugh, Limerick, who died on 7 March 2023. Would any firm having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in contact with the deceased regarding his will, please contact Staines Law Solicitors, Suite 413 The Capel Building, Mary's Abbey,

Dublin 7; tel 01 872 0888; email: james.staines@staineslaw.ie

Ogan, Angela (deceased), late of Annaghderg, Keshcarrigan, Co Leitrim, and formerly of 52 Ballyneety Road, Ballyfermot, D10 BK77, Dublin 10, who died on 4 August 2022. Would any person having knowledge of any will made by the above-named deceased please contact Connellan Solicitors by email: info@connellansolicitors.ie

O'Reilly, Anthony (deceased), late of 19 New Row, Chapelizod, Dublin 20, who died on 31 December 2023. Would any person having knowledge of the last will made by the above-named deceased or its whereabouts please contact Muldowney Counihan & Co, Solicitors, Office 3, Clon Court, Main Street, Clonee, Dublin 15; tel: 01 825 5863, fax: 01 801 3249, email: muldowneycounihan@msn.com

O'Rourke, Annie (deceased), late of 50 Seatown Villas, Swords, Co Dublin. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 10 January 2000, please contact Shannons Solicitors LLP, 29 Main Street, Swords, Co Dublin; DX: 91 007 Swords; tel: 01 840 1780, email: vincent@shannons.ie

Power, Laurence (deceased), late of Ballyhook, Grangecon, Co Wicklow, and formerly of 25 Limekiln Close, Manor Estate, Greenhills, Dublin 12, who died on 5 December 2023. Would any person having knowledge of any will made by the above-named deceased please contact Doyle Murphy & Co, Solicitors, Weaver Square, Baltinglass, Co Wicklow; tel: 059 648 1888, email: info@doylemurphysolicitors.ie

Rice, Margaret Adeline (otherwise Yvonne Cummins)

(deceased), late of St Vincent's Hospital Dublin, formerly of Apt 2, Heatherbrook, Marlton Road, Wicklow Town, Co Wicklow. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 21 March 2024, please contact Geoff O'Reilly, solicitor, Nash Allen Williams & Wotton Solicitors, 64-66 The Entrance Road, The Entrance, New South Wales, Australia 2261; tel: +61 2 4332 3588; email: entrance@nawlaw.com.au

Rice, Margaret Adeline (otherwise known as Yvonne Cummins) (deceased), late of 4B Heatherbrook, Marlton Road, Wicklow Town, Co Wicklow. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 21 March 2024, please contact Patrick O'Toole Solicitors, 5 Church Street, Wicklow Town, Co Wicklow; DX 46 006 Wicklow; tel: 0404 68000, email: reception@patrickotoolesolicitors.ie

Rohan, Martin (deceased), late of Raggetstown, Ballinakill, Co Laois, who died 20 July 2021. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same, please contact James E Cahill & Company, Solicitors, Market Square, Abbeyleix, Co Laois; tel: 057 873 1246, email: donalwdunne@securemail.ie

Smith, Kathleen (deceased), late of Millbrook, Oldcastle, Co Meath, who died on 7 November 2023. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in recent contact with the deceased regarding her will, please contact

Michael O'Byrne, Solicitors, Kenlis Place, Kells, Co Meath; tel: 046 924 7500, email: paddy.rogers@obyrnelaw.ie

Stockil, Priscilla (Cilla) (deceased), late of 2 Taney Manor, Dundrum, Dublin 14, who died on 28 August 2023. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact Jennifer Morrow, Gartlan Furey Solicitors, 20 Fitzwilliam Square, Dublin 2; tel: 01 799 8000, email: jennifer.morrow@gartlanfurey.ie

Tobin, Martin (deceased), late of 17 Colmcille Road, Edenderry, Co Offaly, who died on 22 September 2023, formerly of New Road, Allenwood, Naas, Co Kildare, and 8 Willow Park Grove, Ballymun, Dublin 11. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact O'Shaughnessy Bairread, Solicitors, 1 Fr McWey Street, Edenderry, Co Offaly; DX 158003 Edenderry; tel: 046 973 2315, email: marc@osbsolicitors.ie

TITLE DEEDS

Would any person having knowledge of the location of title deeds to the premises at 16/17 Woodquay, Galway, or if any firm is holding same, please contact Mulroy & Co, Solicitors, 4 University Road, Galway; tel: 091 586 760, email: info@mulroyandcompany.ie

Would any person having knowledge of the location of title deeds to the property known as 10 Percy French Road, Walkinstown, Dublin 12, or if any firm is holding same, please contact Clark Hill Solicitors LLP, Percy Exchange, 8-34 Percy Place, Dublin 4; tel:

01 663 5668, email: emburke@clarkhill.com

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2017 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of an application by Tricondale Limited: notice of intention to acquire fee simple pursuant to the above acts in relation to 26 Maylor Street, in the city of Cork

Any person having an interest in the fee simple or any interest in the above property: take notice that Tricondale Limited intends to submit an application to the county registrar for the city of Cork for the acquisition of the fee simple and all or any intermediate leasehold interest in the aforesaid property, and any persons asserting that they hold a superior interest in the property are called upon to furnish evidence of title to the premises to the below named within 21 days from the date of this notice.

In particular, any person having an interest in the lessor's interest under an indenture of lease dated 24 August 1847 made between Jane O'Brien and Ellen O'Brien of the one part and John Jenkins of the other part, should provide evidence of title to the below named.

In default of any such information being received by the applicant, Tricondale Limited intends to proceed with the application before the county registrar and will apply to the county registrar for the county of Cork for directions as may be appropriate on the basis that the person or persons entitled to the superior interest, including the fee simple or any intermediate leasehold interest, are unknown and unascertained.

Date: 3 May 2024

Signed: Crowley Millar Solicitors LLP (solicitors for the applicant), 2-3 Exchange Place, George's Dock, IFSC, Dublin D01 AE27

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2017 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of an application by Trimerchant (Cork) Limited: notice of intention to acquire fee simple pursuant to the above acts in relation to 9 Merchant Street, in the city of Cork

Any person having an interest in the fee simple or any interest in the above property: take notice that Trimerchant (Cork) Limited intends to submit an application to the county registrar for the city of Cork for the acquisition of the fee simple and all or any intermediate leasehold interest in the aforesaid property, and any persons asserting that they hold a superior interest in the property are called upon to furnish evidence of title to the premises to the below named within 21 days from the date of this notice.

In particular, any person having an interest in the lessor's interest

under an indenture of lease dated 12 December 1941, made between Thomas Magahy of the one part and Factors Ireland Limited of the other part, should provide evidence of title to the below named. In default of any such information being received by the applicant, Trimerchant (Cork) Limited intends to proceed with the application before the county registrar and will apply to the county registrar for the county of Cork or directions as may be appropriate on the basis that the person or persons entitled to the superior interest, including the fee simple or any intermediate leasehold interest, are unknown and unascertained.

Date: 3 May 2024

Signed: Crowley Millar Solicitors LLP (solicitors for the applicant), 2-3 Exchange Place, George's Dock, IFSC, Dublin D01 AE27

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter

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of an application by Patrick Leader of 20 Belair, Douglas Road, Cork, and Catherine Leader of 23 Chesterton Court, Knockrea Lawn, Cork

Take notice any person having an interest in the freehold estate or any other estate of the following property: 77 North Main Street, in the city of Cork. Take notice that Patrick Leader and Catherine Leader intend to submit an application to the county registrar for the county of Cork for the acquisition of the freehold interest and all intermediate interests in the aforementioned property, and any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the aforementioned premises to the below named.

In particular, such persons who are entitled to the interest of Justin McCarthy, deceased, pursuant to a lease of 9 September 1891 between Justin McCarthy by his committee of John George McCarthy of the one part and William Joe Shinkwin of the other part for a term of 200 years from 1 March 1892 in property known as 77 North Main Street in the city of Cork, should provide evidence of their title to the below named.

In default of any such notice

being received, the applicants Patrick Leader and Catherine Leader intend to proceed with the application before the county registrar and will apply to the county registrar for the county of Cork for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest, including the freehold in the premises, are unknown and ascertained.

Date: 3 May 2024

Signed: Babington, Clarke & Mooney Solicitors (solicitors for applicants), 48 South Mall, Cork

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of an application by Patrick Leader, 20 Belair, Douglas Road, Cork, and Catherine Leader, 23 Chesterton Court, Knockrea Lawn, Cork

Take notice any person having interest in the freehold estate or any other estate of the following property: 76 North Main Street in the city of Cork. Take notice that Patrick Leader and Catherine Leader intend to submit an application to the county registrar for the county of Cork for the acquisition of the freehold interest and all intermediate interests in

the aforementioned property, and any party asserting that they hold a superior interest in the aforesaid property are called upon to furnish evidence of title to the aforementioned premises to the below named.

In particular, to such persons as are entitled to the interest of Daniel McCarthy pursuant to a lease dated 5 December 1839 between John Moore Travers of the one part and Daniel McCarthy of the other part for a term of 500 years, in property all that and those two dwellinghouses with the back, yards, and back concerns thereunto belonging, situate in the North Main Street in the city of Cork. In particular such persons who are entitled to the interest of Elizabeth Augusta Julian, Elizabeth Geraldine Sylvia Julian, Francis Marjorie Ruth Julian, and Donal McCarthy, pursuant to a lease dated 11 June 1952 between Elizabeth Augusta Julian, Elizabeth Geraldine Sylvia Julian, Francis Marjorie Ruth Julian, and Donal McCarthy of the one part, and James J Murphy & Co Ltd of the other part for a term of 99 years from 29 September 1951 in the property known as 76 North Main Street in the city of Cork, should provide evidence of their title to the below named.

In default of any such notice being received, the applicants, Patrick Leader and Catherine Leader, intend to proceed with the application before the county registrar and will apply to the county registrar for the county of Cork for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold in the premises are unknown and unascertained.

Date: 3 May 2024

Signed: Babington, Clarke & Mooney Solicitors (solicitors for applicants), 48 South Mall, Cork

In the matter of the Landlord and Tenant Acts 1967-2019 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 (as amended): an application by Martha Cosgrove

In the matter of the hereditaments and premises consisting of and known as those parts of 22 O'Connell Street, Ennis, parish of Drumcliffe, barony of Islands, in the county of Clare, comprising a shop on part of the ground floor with the foundations and everything underneath, and a yard (together with the easements excepted and reserved by and specified in the second part of the first schedule of a deed of assignment dated 15 June 1979



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between Patrick Vaughan and Patrick Stafford).

Take notice that any person having any interest in the freehold estate or intermediate interest(s) of the hereditaments and premises consisting of and known as those parts of 22 O'Connell Street, Ennis, parish of Drumcliffe, barony of Islands, in the county of Clare, comprising a shop on part of the ground floor with the foundations and underneath, and a yard (together with the easements excepted and reserved by and specified in the second part of the first schedule of a deed of assignment dated 15 June 1979 between Patrick Vaughan and Patrick Stafford), being part of the property demised by deed of lease dated 13 April 1891 and made between Edward Arthur Gore as lessor of the one part and Mary Knox as lessee of the other for a term of 300 years, reserving a yearly rent of Stg£10, and subject to the covenants therein contained, and take notice that the applicant, Martha Cosgrove, being the person entitled to the lessee's interest under the said lease intends to apply to the county registrar for the county of Clare for the acquisition of the freehold and any intermediate interest(s) in the

said premises, and any party or parties asserting that they hold a superior interest in the premises are called upon to furnish evidence of title to the premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, Martha Cosgrove intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for such orders or directions as may be appropriate on the basis that persons entitled to superior interest(s) in the premises are unknown or unascertained.

Date: 3 May 2024

Dated: MHP Sellors LLP (solicitors for the applicant), 6/7 Glentworth Street, Limerick

In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*: in the matter of an application by **Access Credit Union Limited**

In the matter of premises at 27 South Main Street, Bandon, in the county of Cork, which premises were demised by a lease made on 13 July 1908 from James Bennett Scott as the lessor

to John Wesley Dawson as the lessee, for a term of 200 years from 29 September 1900, and which premises are now comprised in Folio CK25556L of the register of leaseholders in the county of Cork.


Take notice any person having any superior interest (whether by way of freehold interest or otherwise) in the following property, or who owns any encumbrance on the following property: the premises at 27 South Main Street, Bandon, in the county of Cork, the subject of a lease of 13 July 1908 made between James Bennett Scott as the lessor of the one part and John Wesley Dawson as the lessee of the other for a term of 200 years from 29 September 1900 at the yearly rent of £40, which premises are now comprised in Folio CK25556L of the register of leaseholders in the county of Cork.

Take notice that Access Credit Union Limited, which now hold the lessee's interest in the said property, intends to submit an application to the county registrar for the county of Cork for the acquisition of the freehold interest and any intermediate interest and any superior interest in the aforesaid

property, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them), including but not limited to any person claiming to be entitled to the lessor's interest of the heirs, executors, administrators, successors and assigns of James Bennett Scott, deceased, late of Bandon in the county of Cork, are called upon to give notice of their said claim and furnish evidence of their title to the aforementioned premises to the below named within 21 days from the date of this notice.

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

Date: 3 May 2024

Signed: Michael Powell Solicitors LLP (solicitors for the applicant), 5 Lapps Quay, Cork T12 RW7D 



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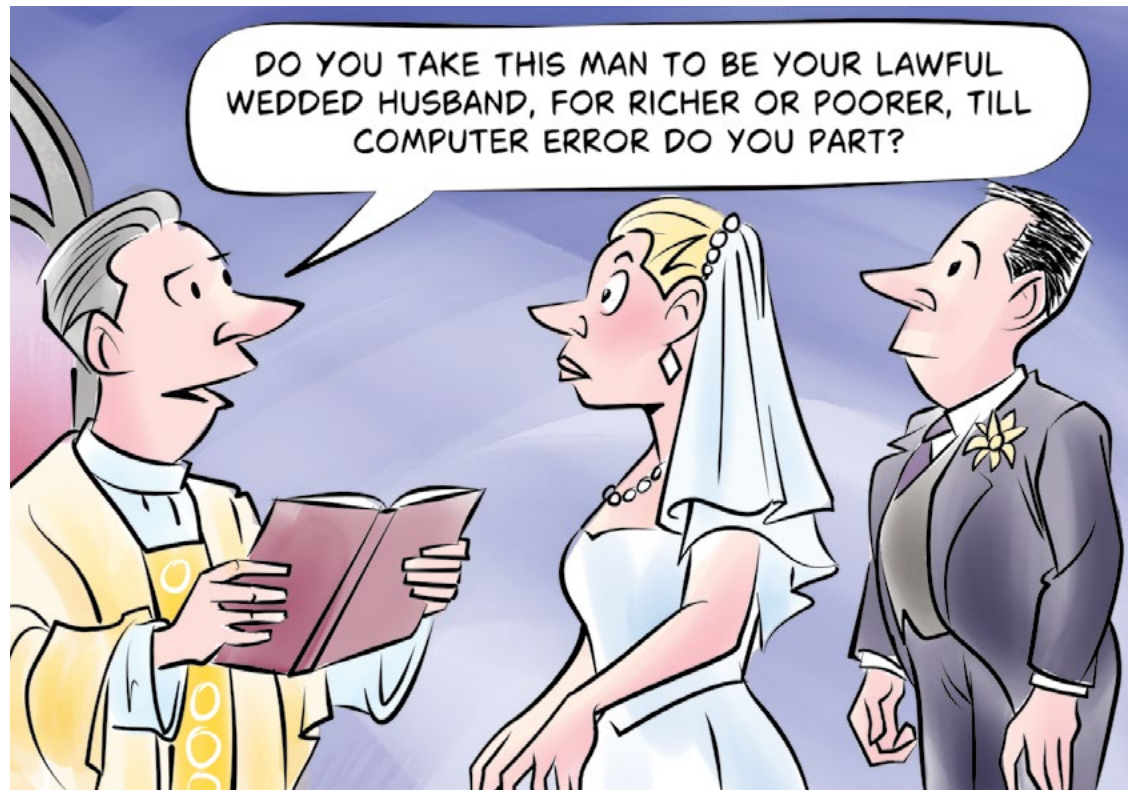
PRO BONOBO

Computer says ‘press the wrong key, Lee!’

● A prominent English law firm found itself embroiled in controversy after accidentally acquiring a final divorce order for a client.

[LegalCheek.com](#) reports that the case involved a couple who had separated in January 2023 after over two decades of marriage. Despite the wife not giving her explicit consent for a final divorce order, the firm mistakenly applied for one – citing an accidental click on the wrong button within the online divorce portal.

An application to overturn the order was rejected. The judge was unmoved by the firm’s explanation, stating that the procedural regularity of the process couldn’t be ignored. He emphasised that there was no precedent for setting aside a final order under such circumstances.



Ars gratia artis

● A German art museum has dismissed a staff member for covertly displaying his own painting alongside works by pop-art icon Andy Warhol, [The Guardian](#) reports.

The 51-year-old employee, who was seeking artistic recognition, smuggled his 60cm by 120cm artwork into the gallery. Having



"He was caught breaking into the gallery."

access to the gallery outside working hours, he installed his

piece on an empty wall. Although noticed early the next day, the museum opted to keep it up during opening hours, removing it after closing time.

Ironically, the incident coincided with an exhibition on art errors and disruptions titled ‘Glitch: On the Art of Interference’.

After the goldrush

● A 67-year-old metal detectorist has stumbled upon England’s largest-ever gold nugget, [The Guardian](#) reports.

Richard Brock travelled three-and-a-half hours to participate in an organised dig in the Shropshire Hills last May. Despite arriving an

hour late and facing technical difficulties with his tool, he unearthed a mammoth 64.8g golden nugget, worth £30,000, after just 20 minutes.

‘Help’, I need somebody!

● Three spunky sailors were plucked from a tiny uninhabited Pacific island after being stranded there for over a week. Their salvation was due to a gigantic ‘HELP’ sign they made from palm leaves on the beach of Pikelot Atoll.

According to [Newstalk.com](#), the trio survived on coconuts as they awaited rescue. Their plight was brought to light when a concerned relative contacted the Joint Rescue Sub-Centre in Guam, informing them that the men were missing and sparking a massive search and rescue operation. A US Navy aircraft spotted their improvised sign on 7 April.



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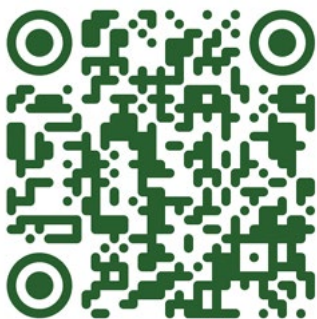


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