

Fitz

FOR PURPOSE



Mark McDermott
is editor of the Law
Society Gazette

Minister for Justice Frances Fitzgerald speaks to **Mark McDermott** about her personal goals, the *Legal Services Regulation Bill* – and the challenges of addressing the ‘severe systemic failings’ in policing

When seeking to interview a member of Cabinet, it tends to become a waiting game. Diary times get ‘hit for six’ when the Government is dealing with hot-potato issues like water charges and when you have the chief inspector of the Garda Inspectorate, Robert Olson, trying to beat you to the door of the office of the Minister for Justice.

Once finally through the door, Minister Fitzgerald comes across as extremely friendly and focused, to the point that her attention remains fully fixed on you, regardless of all other distractions. She speaks of having had “quite a chequered career” in politics: “You know, you win some, you lose some. You survive in it, you don’t survive in it. When I look at the number of people I’ve known who’ve had very short stays in the Dáil and the Senate, and for me to have had the opportunity to be in the Cabinet and to be a minister in two important portfolios, it is, really, a great opportunity.

“It’s an opportunity to shape various issues based on my particular experience of being a woman, of being somebody who’s totally committed to equality, of somebody who brings a social policy background to this area, as well as experience – not directly in the legal area,

but associated with the legal area – for probably 30 years of my life at this stage.”

Having no legal background, is it a help or a hindrance in her role as Minister for Justice?

“Whatever ministry you’re in, you build and work on your strengths and your experience. I have 16 years of writing and taking legislation through the Dáil and

at a glance

- On winning and losing in politics
- Her thoughts on being contacted by Enda Kenny to be the new Minister for Justice
- The minister’s personal vision for the Irish justice system
- Institutional reform, transparency and accountability
- The *Legal Services Regulation Bill* – its strengths and weaknesses
- Dealing with the breakdown in policing practices



‘ I’m certainly very well disposed towards the concept that the new authority would have the benefit of the experience of Law Society people ’

through the Seanad, so 16 years of legislation is probably as much as a lot of people have in the House. That’s a great help to me whatever department I’m in. I’ve been fortunate enough to work with many in the legal profession over the course of my career, for example, Mella Carroll and Catherine

McGuinness for four years when I was on the Commission on the Status of Women in Ireland.

“Obviously there are a lot of technical elements to justice but, equally, justice is about the sort of society we want – and my whole social policy background is about that

and about communities and how individuals access services, including legal services.

“I’m very conscious that I have huge legal expertise around me, and it’s really important to me that I use that well and avail of it. I know how to access that and who to work with. I have to say that I find people in law

very generous in terms of wanting our law to be better – and they're not slow in giving me their opinions, as you probably know!"

Late-night phone call

How did she feel when Enda Kenny contacted her asking her to be the new Minister for Justice?

"Well, I got an indication in a late-night phone call from the Taoiseach that he'd be calling me the next morning, so I had to read a little bit between the lines. I was extraordinarily honoured, because it is a major Government department. I was very pleased that I'd had the experience of being a minister in Government where I had obviously been listening to, and been part of, all of the discussion about the legal changes that were coming in under my predecessor. I had the advantage of being in Cabinet. I knew that the scale of the job was very big, obviously."

And, as minister, what is her personal vision for the justice system?

"Part of this Government's approach to the last election was about reform, and I think all of our institutions are undergoing considerable analysis at the moment, and that includes the legal profession. It includes all our institutions. I think they're all having to be more transparent, more accountable.

"There are many different areas. It's hard to encompass all of them but, in terms of the legislation, there's a huge legislative programme. I'd like to help the courts in the areas that they want to see reformed. There are a lot of outstanding areas that would make the courts – and the lawyers are telling me this – more effective, more efficient. Whether it's the periodic payment review, whether it's dealing with certain age limits in relation to judges, whether it's just how the system works, whether it's in the family courts so that you develop more expertise in the family law area, and I think we can be imaginative in how we do that."

Pushing through

When asked about her priorities for the Government's remaining term, she refers to "half a dozen areas" that she is determined to see through.

"We've done the Court of Appeal. That's been really important. My priorities are making sure that we see the *Legal Services Regulation Bill* enacted and the *Judicial Council Bill* published and enacted, making

sure that the new sexual offences legislation is brought through, that the *Victims' Directive* is enacted, that the *Child and Family Relationships Bill* leading to marriage equality is dealt with and that we have that referendum. I certainly see myself playing a leading role in that. That's extremely important. And then we must look at ongoing reform in the penal area – we've just received a major report on that – and a Garda Síochána that's absolutely fit for purpose and on the road to reform. That's really critical.

"Obviously we've new bail legislation.

You get a lot of criticism obviously in relation to repeat offenders. I, as minister, have to work on reducing reoffending. I'd like us to be looking at the legal system in a very holistic way – to have holistic initiatives around the courts, around our probation service and the various services, in the area of prevention. For example, when you do get to court, if you get to court, that it's effective and efficient and works for the profession as well, because I think there are lots of elements that don't work for the profession at the moment."

Is she talking about stiffer sentencing, bigger prisons?

"No, we're not talking about bigger prisons! We're reducing the prison population and in fact, as I say, that's why I'm focusing on reducing reoffending. I'm talking about persistent offenders. We

have to have more targeted initiatives for persistent offenders. We know enough about the diversion programmes out there, that they work."

Elephant in the room

The elephant in the St Stephen's Green office is the *Legal Services Regulation Bill*. What does she regard as its strengths and weaknesses?

"This is a key Government policy. In legal terms, it's dealing with criticisms that go back at least 20 years, specifically from the Restrictive Practices Commission and the Competition Authority, and others. These all felt that independent regulation and the removal of restrictive practices in the Irish legal services was critical.

"Its key strengths are, first of all, the overhaul of the legal costs adjudication regime; independence in relation to complaints – the fact that you have independent, publicly accountable oversight is really important; regulation of the legal professions; and the beginning of opening up restrictions in business. My own belief in relation to the latter is that it has to be well researched in terms of its impact on the market. I don't believe that one should be ideological simply for the sake of being ideological about it. You have to do what will work for the profession and for the consumer, and you have to have evidence about that. So that's what I'm teasing out at the moment in the final stages of the preparation for the report stage of the bill."

Progress on the bill has been lagging. When does she foresee it being enacted?

"We have the report stage coming up. The plan is to bring it in in a couple of weeks. We are working very actively on it. In fact, I was

I, as minister, have to work on reducing reoffending. I'd like us to be looking at the legal system in a very holistic way

FOCAL POINT

slice of life

Where from?

Stillorgan, Dublin. Attended school in Sion Hill, Blackrock: "So I was framed by the Holy Family of nuns and the Dominicans, those great women." She has lived in West Dublin since 1981.

Better half?

Married to Michael, a child psychiatrist. They have three sons, Mark (an actor), Robert (an accountant), and Owen (recently graduated in French and translation studies in DCU), who are in their late 20s or early 30s.

Rising time?

"In this job, it gets earlier and earlier. I get up at around 6.30am."

Quitting time?

"Very late. Very often around 11pm."

If you weren't a politician?

"I did some work with the BBC when I was in London, and I've always been quite interested in communications. I like radio and television. I did consider it as a career at one stage and I did apply to RTÉ. I don't think they replied back to me!"

speaking to the AG about it this morning [10 November] and working out some of the detail. There's a lot of detail that came up at committee stage that still has to be worked out. I would hope that we would finish in the Dáil and get into the Senate before Christmas, and then finalise early in the New Year and bring the Legal Services Regulatory Authority into being in the first half of next year."

One of the big issues for the Law Society and its employees is the transfer of staff from the current Regulation Department to the new authority. Does she envisage a seamless transfer taking place?

"Well, I'll tell you something. I have met the Law Society. I have discussed this issue. I know the commitment of the people involved and the work that they've done, and I'm certainly very well disposed towards the concept that the new authority would have the benefit of the experience of those people. Now, I've had engagement with the Department of Public Expenditure on it. Obviously, you're moving people from a private body, and there are detailed implications about that. There are issues about how you handle the current complaints and who would be dealing with those in the new scenario. So those issues have to be worked through. But I would like to facilitate people as much as possible, and the work I'm doing is to try to ensure that that will happen."

Does she think it will happen?

"I would hope that it could happen for people, yes. I mean, that's my intention, you know. Obviously, I'm working out the transfer issues to a statutory public body, so it will be in the Senate when I sort that out, because I'm still working with the department on it. But, you know, my goal is to ensure that the experience isn't lost. Now people have argued, 'Oh, you need a fresh start,' but my own feeling is that experience is very important and I don't like losing experience, but there are transitional issues and I'm trying to resolve those."

Breakdown in policing practices

The problems in the Garda Síochána in recent years have been widely publicised, including, among others, the whistleblower penalty points saga, the suspected recording of solicitor conversations with their clients in garda stations, which have called into question certain garda practices, as well as

You have to look at the systemic failings in the Garda Síochána – and they are severe – and you have to have a plan of action to address those failings



Robert Olson (Chief Inspector of the Garda Inspectorate) with Frances Fitzgerald

the more recent Garda Inspectorate report into garda failures in the investigation of serious crime. How does the minister react to the apparent breakdown in policing practices?

"Here's what I believe, and it's a real issue. When there's a critique of the establishment, you have to try and separate out poor systems from the performance of individual people and the commitment and dedication of so many. When I go down to Limerick and I see the horrific situations facing the gardaí down there with regard to murder – absolutely horrific to hear the details of what they have had to deal with; it's beyond imagining actually – and you see how they've dealt with it, you see the commitment, the personal risks that gardaí take, you see the huge commitment in an unarmed garda force. Quite incredible you know, apart from some of our specialist units. So what I would say is that you have to look at the systemic failings – and they are severe – and you have to have a plan of action to address those failings."

And just where have those systemic failings occurred?

Minister Fitzgerald replies: "In the Garda Inspectorate's report, the systemic failings are

quite serious in terms of crime investigation. They're serious in terms of management systems, technology – not unique to An Garda Síochána, I have to say, as the Courts Service will know, and they've had to do so much work in that area.

"But, you know, this is an overdue analysis. It's an excellent in-depth analysis with 200 recommendations. There are certain implications flowing from it, which I will be acting on. This is a line in the sand and we move forward from here in terms of the reform agenda, which includes the new Policing Authority, which is the most radical change in terms of garda accountability in decades, and the appointment of a new Garda Commissioner."

Is An Garda Síochána broken to such an extent that it can't be reformed?

"No, it *can* be fixed," she replies adamantly. "It *can* be reformed. It has the people. It has the commitment. It has the history. It has the community contact and trust, which we must make sure to build on. When you see a report like this, or indeed some of the other reports we've seen, you have to try and understand that so many people are very deeply committed. So many lawyers are 100% committed – gardaí the same – but systems need ongoing change and review." 