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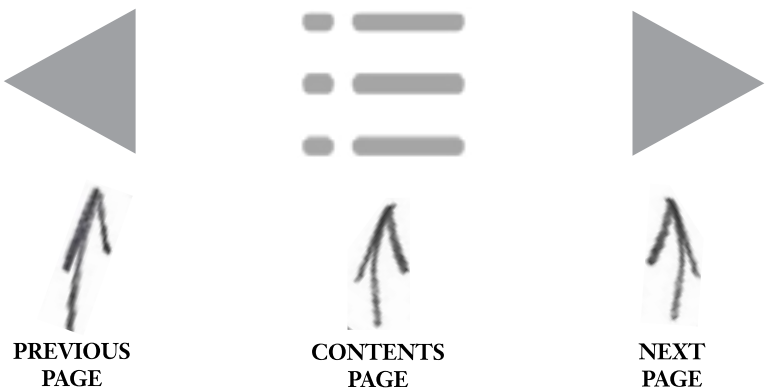

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The latest online legal news

Ireland's Digital Product of the Year* – brings daily legal news to your desktop and smart device. It is the portal for our narrated journalism service, provided by NewsOverAudio.com.

*(IRISH MAGAZINE AWARDS 2018)

Condensed into a digest

Gazette.ie now delivers a weekly briefing of the top legal news stories, as published on Gazette.ie, to Law Society members and subscribers via email.

THE BIG PICTURE

SITTING PRETTY

This young kingfisher perches on a frozen twig, surrounded by its first-ever glimpse of snow. The seasonal snap has led to a significant drop in temperature in Ireland following an unseasonably warm November

PIC: TIMOTHY LEES/SOLENT NEWS/SHUTTERSTOCK

Law Society 'beacon' honoured

A ceremony was held at the Law Society on 6 November to mark the dedication of the Attracta O'Regan Lecture Theatre. Then President of the Law Society Barry MacCarthy formally unveiled the dedication plaque at an event attended by family, friends, and former colleagues of the late Attracta O'Regan, who passed away last year following a long battle with cancer. Attracta served as a solicitor and was head of Law Society Professional Training and Law Society Skillnet for 18 years. "She was passionate about learning, human rights, the rule of law, and helping others," her widower Ultan Bannon told the event. Richard Hammond (chair of the Law Society's Education Committee) described Attracta as "a beacon – she was an absolute light in our staff and in our profession"

PICS: CIAN REDMOND

Declan Bannon, Cúán Bannon-O'Regan and Maura Butler

Ultan Bannon and Cillian MacDomhnail

Tracy Donnery and Hilkka Becker

Family members and friends, as well as current and former colleagues, attended the event

Director of education TP Kennedy addresses the dedication

Yvonne Bannon-O'Regan and Alecia Bannon-O'Regan

Southern state of mind

PICS: DARRAGH KANE PHOTOGRAPHY

The incoming council and officers of the SLA (2024/2025), with Law Society President Eamon Harrington and director general Mark Garrett. (*Front, l to r):* Jonathan Lynam (vice-president, SLA), Eamon Harrington (president, Law Society), Dermot Kelly (president, SLA), Mark Garrett (director general), and Grainne Cuddihy (CPD coordinator, SLA). (*Back, l to r):* Elaine O'Sullivan, Fiona Twomey, Cormac O'Regan, Louise Smith, Barry Kelleher, Sean Durcan (treasurer), Joyce Good-Hammond, Gerald AJ O'Flynn, John Tait, Julie Rea, Catherine O'Callaghan (secretary), John Fuller (outgoing president, SLA), and Joan Byrne (PRO).

Dermot Kelly (incoming president of the SLA) receives the chain of office from outgoing president John Fuller

The SLA's Cork Calcutta Run Committee presented a cheque for €12,465 to SHARE Cork. At the handover were *(l to r):* Zak O'Sullivan and fellow members of the Share executive, with Brendan Cunningham, Dermot Kelly (incoming president, SLA), John Fuller (outgoing president, SLA), Joan Byrne (PRO), and Sean Durcan (treasurer, SLA)

Cork's Calcutta Run Committee presented a cheque for €12,465 to the Hope Foundation – the proceeds from Calcutta Run events held during the summer: Joan Byrne (PRO), Dermot Kelly (incoming president, SLA), Aoife Bulman (The Hope Foundation), John Fuller (outgoing president, SLA), Sean Durcan (treasurer), Brendan Cunningham, and Sharon Noonan (The Hope Foundation)

At the SLA AGM 2024, held in the Imperial Hotel, Cork, were SLA council members Sean Durcan (treasurer), Louise Smith, Grainne Cuddihy (CPD coordinator), Jonathan Lynam (vice-president), and Barry Kelleher

Parchment conferrals, 6 November

PICS: JASON CLARKE

Tommy Whittle and Josh Bourke

Hannah Garvey and Emily Clifford

Rebecca Murphy

Charlotte Bowen and Bridin Redmond

Then Law Society President Barry McCarthy and Jack Clapham

Ivan Rakhmanin and Dana Valino

Then Law Society President Barry McCarthy and Julie Shaw

North by north-east

There was a very strong turnout for the North-East CPD Cluster event on 20 October at the Glencarn Hotel, Castleblayney. The event was organised by Law Society Skillnet in association with Monaghan Bar Association, Cavan Bar Association, Drogheda Bar Association, and Louth Bar Association. In all, 151 attendees received important updates on a variety of legal practice topics, including in guidance and ethics from Susan Martin

Paul Tweed spoke on developments in media law

Sorcha Hayes, head of practice regulation at the Law Society

Just some of the 151 members who attended the North-East Cluster event

Aoife McVerry, Conor MacGuill, Jessica Taggart and Molly Hughes

Stuart Gilhooly SC – expert in personal-injuries litigation and sports law

Hybrid AGM reviews 2023 highlights

PICS: CIAN REDMOND

Martin Lawlor, Eamon Harrington, Barry MacCarthy, Mark Garrett and Edel McCormack

Rosemarie Lofus

Niamh Counihan, Hilary O'Connor and Valerie Peart

Rosemarie Loftus, Sonya Lanigan, Shane Coyle, Graham Kenny, Martin Lawlor

Tom Menton, Garry Clarke

Law Society welcomes new president

PICS: CIAN REDMOND

Outgoing Law Society President Barry MacCarthy receives the applause of his Council colleagues on his final day in office

The new executive team: senior vice-president Rosemarie Loftus, President of the Law Society Eamon Harrington, and junior vice-president Valerie Peart

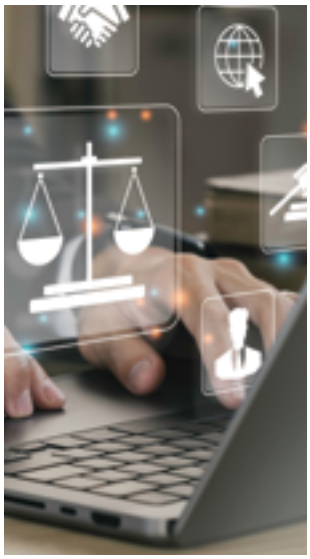
Law Society team takes mediation prize

Winners of the Michael Peart Cross Border Mediation Competition, held in Blackhall Place on 7 November: Katie Ward (Matheson), Niamh Donnelly (Eversheds Sutherland), Caoimhe Daunt (Arthur Cox), Alexander Dunne (Mason Hayes and Curran)

PICS: CIAN REDMOND

The second-placed team: Mia Wheatley, Lucy Bissett, Michael Murphy and Niall O'Hare from the Institute of Professional Legal Studies

New online courts portal trialled



The Courts Service is rolling out a new online portal that will (in time) support digital filing, case tracking, serving, payments (where relevant), and order-collection across the board.

The service says the portal will "grow in scope and functionality over the coming months and years as we work together with the legal profession, judges, staff, and other court users to understand the best approach".

The first part of the portal recently went live in Cavan, supporting digital filings for Circuit Court family proceedings, including the digital issuing of summonses. Once this is assessed, the portal will be expanded to include support for the digital serving of, and responding to, summonses. Again, if that works as expected, the portal will be expanded to cover counties outside of Cavan and other jurisdictions and case types, such as probate and High Court matters.

Harrington named 154th Law Society president

Law Society President Eamon Harrington

Cork-based solicitor Eamon Harrington has become President of the Law Society for 2024/25, with effect from 8 November 2024.

Harrington is a senior partner at Comyn Kelleher Tobin LLP, which has offices in Cork and Dublin. Eamon qualified as a solicitor in 1988 and specialises in healthcare law and dispute resolution. A UCC graduate (BCL, LLM), he is a CEDR accredited mediator and fellow of the Chartered Institute of Arbitrators.

He will serve a one-year term as president of the 24,000-strong Irish solicitors' profession until November 2025.

Progressive voice

Harrington said: "It is a privilege to serve as President of the Law Society over the next 12 months. I am proud to be a progressive voice to represent the Irish solicitors' profession at home and abroad.

"I am mindful that, while the solicitors' profession is thriving, there is work to do to support smaller and sole practices, as businesses, to adapt to meet the changing needs of our local communities.

"I look forward to supporting the Law Society to implement its ambitious new strategy for the future of the solicitors' profession and law reform in the public interest. This strategy is a catalyst for positive change, engagement, and new collaborations, which will support the needs of our legal system and all who use it."

Outreach programmes

"We will continue to support aspiring solicitors through outreach programmes, financial grants, and flexible legal training options, including the Law Society's Access Programme, PPC Hybrid, and Small Traineeship Practice Grant."

He added: "The Law Society is committed to increasing access to justice, helping to widen access to the solicitors' profession, supporting practitioners, and driving forward justice and law-reform issues for the benefit of the Irish public.

"At the heart of this, the Law Society wants more people to have the opportunity to access legal advice, and have their legal issues resolved in a timely and efficient manner. This includes working towards a properly funded and well-resourced justice system," he concluded.

Eamon has been on Council since 2006 and has chaired the Litigation and ADR Committees. He is married to Jamie, and they have three children: Jesse and Richard, both historians, and Ana, who is a trainee solicitor.

Council election 2024

The scrutineers have approved the results of the online Council election and agreed their report. The following candidates were deemed elected in the national elections: Fiona McNulty, Rosemarie Loftus, Áine Hynes SC, Martin Lawlor, Maura Derivan, Brian McMullin, Stuart Gilhooly SC, Tony O'Sullivan, Graham Kenny, Garry Clarke, Cristina Stamatescu, Peter Doyle, Imran Khurshid, and Thomas Coughlan.

Sonya Lanigan was deemed elected in the Leinster provincial election.

PC applications for 2025 now open

● Applications are now open for the 2025 practising certificate (PC) renewal – solicitors can apply and pay online through the Law Society's website at lawsociety.ie/pc.

PC forms, including applications for qualifying certificates, membership, and solicitors in the full-time service of the State, are all accessible through the website. If you need to make an application for a certificate of good standing or certificate of attestation, contact pc@lawsociety.ie for assistance.

Updated payment system

The Law Society has partnered with NoFrixion to deliver upgraded services to solicitors, trainees, firms, and all others who make payments to the Law Society. As well as changes to card payments to make processing quicker and more efficient, new options will also be added.

You will be able to use Apple Pay, Google Pay, and Pay by Bank (currently supported by AIB, PTSB and Revolut), enabling smoother transactions for both personal and company cards. These changes bring numerous benefits, including enhanced flexibility and improved services for solicitors and firms.

For those paying by card, you won't need to do anything differently. If you pay your PC fees by electronic transfer (EFT), there are some changes. Each solicitor and firm has been assigned a unique 'Virtual IBAN', which replaces the Law Society IBAN you may have used before.

This Virtual IBAN will be displayed on your EFT form as part of the online PC renewal process, and in the 'Firm Admin' area for group PC payments. Just make sure you update your bank details with this Virtual IBAN before you make a payment. A full guide on the changes and how to access the Virtual IBAN is available at lawsociety.ie/payments (or contact pc@lawsociety.ie for assistance).

Statutory deadline

To ensure you have a PC bearing the date of 1 January 2025, the Law Society must receive a fully completed application form and full payment of fees on or before **Saturday 1 February 2025**. Any applications received after that date will bear the date when the fully completed application and fees are received by the Law Society.

This is a statutory deadline, and the Law Society does not retain any discretion to backdate an application that is received after the deadline.

Finance scheme

The Law Society has partnered with PTSB to provide practitioners with financing for PC fees for the 2025 renewal. For information on the available loans and interest rates, visit www.ptsb.ie/law-society.

Check your details

To ensure your PC application is processed without issue, please take the time to notify the Law Society of any changes to your place of work, position, or contact details. You can view and edit your details on the Law Society website at www.lawsociety.ie/Dashboard/my-profile.

HERE TO HELP

The Law Society website provides instructional videos to assist solicitors and firm administrators with the application process and the new changes to how payments are made. You can also access detailed guidance notes at each stage of the application form, designed to answer the most common queries.

If you have any questions, please email pc@lawsociety.ie or tel: 01 672 4800 and ask for the Practice Regulation team. If you need help logging into the website, email webmaster@lawsociety.ie. Visit the Law Society website for additional guidance and resources at lawsociety.ie/pc.

First solicitor/barrister legal partnership announced

● Simmons & Simmons (Ireland) LLP is the first legal partnership to be formed in Ireland under the new regulatory framework for this alternative business structure.

The introduction of legal partnerships broadens the scope of business models available to practitioners, allowing for greater flexibility and diversity of services delivered.

Prior to the introduction of the legal framework for legal partnerships, only solicitors were permitted to form partnerships with other solicitors. Under the new framework, legal partnerships must notify the Legal Services Regulatory Authority (LSRA) of their intention to deliver legal services.

LSRA chief Dr Brian Doherty said: "The LSRA is very pleased to welcome Ireland's first legal partnership within weeks of the enabling regulatory framework being established. Legal partnerships are an innovation in the Irish legal-services market that will help modernise the provision of legal services and yield benefits for both legal practitioners and clients alike. Barristers and solicitors practising in partnerships will benefit from the efficiencies that flow from a group practice, such as being able to share backroom costs and client work, as well as risks. Consumers, in turn, will be offered expanded choices when availing of legal services."

Rachel Stanton (country head, Simmons & Simmons (Ireland) LLP) said: "We believe that this model will set the standard for legal excellence and client service in the international legal arena. We commend Minister McEntee and the LSRA for their efforts in bringing these legal partnerships into existence."

ENDANGERED LAWYERS

LU SIWEI, CHINA

Lu Siwei

Radio Free Asia reported in mid-October that prominent human-rights lawyer Lu Siwei was rearrested, and that the Chinese authorities are proceeding with his prosecution. He was originally picked up in Laos in August 2023. The Laos authorities returned him to China the following month, where he was charged with "illegally crossing a border", then released on bail. This was despite a considerable international appeal to allow him to continue with his journey and join his family in the US, for which he had a visa.

He told his lawyer, hired by his wife, that conditions in detention were very poor and that he could only sleep on his side. Detention centres in China are packed, amid a sharp rise in the number of arrests in the first half of this year, with as many as 20 people forced to sleep in cells originally designed for ten, according to the report. The rights website Weiquanwang reported that 27 people were crammed into his cell.

According to a CNN report in August 2023, Lu Siwei represented a long list of defendants considered dissidents in China over many years. In 2015, there was a major crackdown on lawyers acting in a range of human-rights cases, including politically sensitive ones, when hundreds were arrested in July of that year.

The role of a human-rights lawyer has become increasingly difficult to pursue under the current regime. Lu represented fellow human-rights lawyer Yu Wensheng after he ended up in the dock for taking on the cause of a number of those detained in the initial roundup. In 2021, he was deprived of his licence to practise after representing one of 12 activists who were trying to flee Hong Kong by sea. Deprivation of a licence to practice is a common tactic used to neutralise lawyers seeking to defend rights.

Lu was also prohibited from leaving the country in May of that year. China has a long history of imposing exit bans on individuals in an attempt to force suspected criminals to surrender, to resolve business disputes, or to maintain pressure on political dissidents and regime critics.

Lu is based in Szechuan, in south-east China. Neighbouring Laos is a popular route for Chinese people trying to slip out of the country. However, Laos has a communist regime with close ties to Beijing, which gives China a long arm in persecuting dissidents abroad. The Chinese justice system is described as being harsh and often arbitrary.

Alma Clissmann was a long-time member of the Human Rights Committee.

New standards initiative launched

A Law Society initiative aimed at building confidence between solicitors and their clients is now available to the profession.

The Legal Services Excellence Standard (LSES) will allow solicitors to show that their practice is adhering to the highest standards of excellence.

The LSES is independently audited and accredited by the National Standards Authority of Ireland and has been designed by solicitors, for solicitors. The Law Society believes that the initiative will work to help practitioners grow, sustain, and operate their practices more efficiently, as well as giving confidence to clients.

Pat Mullins (solicitor and chair of the LSES Steering Group) said that the standard had been "several years in the making", having been one of the recommendations of a report by the Future of the Law Society Task Force in 2013. He added that the steering group had included solicitors from all geographical regions and from all types of firms "to ensure that the standard was inclusive, reflected all aspects of the profession, and was mindful of all challenges and management issues in firms".

Three-year cycle

The group says that LSES accreditation will help practitioners in several areas: encouraging best practice, improving efficiency, client satisfaction, employee engagement, succession planning, regulation compliance, sustainability, and financial planning. Accreditation is valid for three years, after which renewal is required.

There are six steps in the process:

- Submit an application,
- Upload the required documents to the LSES portal for audit by the NSAI,
- On-site visit from an NSAI auditor (this will take from half a day to two days),
- NSAI submits its final audit report to the Law Society's LSES Accreditation Committee,
- The committee meets quarterly to decide on awards, and
- Successful firms receive LSES accreditation – including a certificate and logo for branding purposes.

Seal of approval

Suzanne Parker (Parker Law Solicitors, Waterford), one of seven practitioners who have already completed the process, said that it had enabled her to achieve "excellence to the highest standard with the Law Society seal of approval".

Sligo solicitor Michael Monahan said that he was proud to be part of the LSES: "It elevates our profession and my firm to a higher level of accountability and service for our clients," he added.

Another accredited solicitor, Fergal McManus (Mercantile Solicitors, Cavan), said: "Having established my practice five years ago, I wanted the opportunity to take stock of how I was doing. Without the momentum of the LSES process, I might never have carved out the time to do this."

A self-assessment checklist is available to help practitioners to decide whether they are ready to apply for accreditation. If a firm is not awarded LSES accreditation, it will be advised of areas where it needs to improve, as well as what options are available to gain future accreditation.

More information is available at lawsociety.ie/LSES or by contacting solicitorservices@lawsociety.ie.

Widening entry to the profession

The Law Society's Access Scholarship Programmes aim to alleviate the impact of socio-economic barriers that can hinder access to the solicitors' profession for certain students. The programmes contribute to the Law Society's goal of increasing diversity among trainee solicitors and qualified solicitors in Ireland.

The programmes provide financial support towards the cost of the FE1 exam, indenture registration fee, PPC fees, and the enrolment fee. These programmes also pay the fees and provide maintenance for students from a background of socio-economic disadvantage.

Success

While the commitment starts with the FE1, an increasing number of Access trainees are successfully passing the examinations and securing training contracts.

Brendan Cunningham (chair of the Law Society's Education Committee) said: "The Law Society is proud of the positive impact the Access Programme has had on promoting greater diversity, which is vital in helping to build a legal profession that reflects the diversity of the society it serves. Many recipients are now successfully practising in a wide range of legal positions, including as in-house solicitors, within top commercial law firms, and as sole practitioners."

Outreach

The programme is just one of the Law Society's outreach endeavours aimed at widening access to the law and the solicitors' profession. Schools are encouraged to engage with Law Society student initiatives, including Solicitors of the Future, Street Law, Legal Ambitions, and The Gráinne O'Neill Memorial Legal Essay Competition.

A contribution towards the Law Society's 'Professional Access Programme' is included in the overall practising certificate fee for 2025 for the first time. The role of the Professional Access Programme is to implement further initiatives towards reducing barriers for those seeking to enter, return to, or progress within the solicitors' profession. The overall objective of this initiative is to promote greater diversity in the profession, and follows the LSRA's *Breaking Down Barriers* report published in September 2024.

IRLI'S JAMES DOUGLAS, EXECUTIVE DIRECTOR, RIP

As we approach the end of the year and reflect on 2024, Irish Rule of Law International (IRLI) would like to remember and honour James Douglas, our executive director, who passed away in August. James was a wonderful leader, colleague, and friend to everyone who had the great benefit to work with and get to know him. He is deeply missed.

Throughout his life, James was passionate about international and social justice. He always placed the local communities' and victims' needs at the heart of all his work. He used this mindset to great effect with his work in IRLI.

He first joined the organisation as director of programmes in 2020, before becoming executive director in 2023. James brought with him over eight years of experience working on different human-rights issues for civil society and the United Nations.

He made significant contributions to IRLI's vision and work, including strengthening IRLI's flagship access-to-justice programme in Malawi, creating and leading our first transitional justice programmes in Somalia and Tigray, and leading IRLI's initial work in Tanzania.

Moreover, James was a cornerstone of the Afghan Justice Appeal, supporting the relocation of ten Afghan women judges and their families to Ireland, and he contributed significantly to the Ukraine Ireland Legal Alliance.

He combined passion, intellect, integrity and humanity in all his work. He inspired and uplifted those he worked with. James loved working with human-rights defenders to facilitate ways for them to conduct advocacy and strategic litigation. He used all of his wonderful intellectual and emotional abilities for the good of humanity.

He forged strong connections with his team and with IRLI's partners and friends to further the organisation's work. He was gifted with many fine qualities – a deep care for people, an easy presence, a supportive and uplifting nature, and a wonderful sense of humour – yet remained genuinely humble.

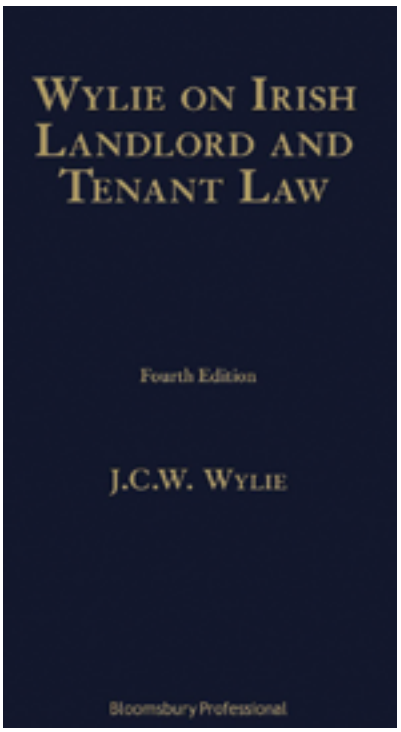
James's passion for justice and fairness was palpable. There are no adequate words to describe the deep loss felt by all of us. We hope that his memory and legacy will stay alive at IRLI through our continued work.

May he rest in peace.

The IRLI team.

Wylie on Irish Landlord and Tenant Law (4th ed)

JCW Wylie. Bloomsbury Professional (bloomsburyprofessional.com/ie). Price: €217.



I was delighted to have the opportunity to review this fourth edition of *Wylie on Irish Landlord and Tenant Law*, and wondered what might be said usefully about it – given that the title itself reflects its standing as *the* authoritative book and Prof Wylie's pre-eminent position as the academic expert in these matters.

As might be expected, this edition continues to be a magisterial analysis of the current situation, and features the author's pithy remarks on recent judgments and on proposed, sometimes long-awaited reforms.

The law applicable is set out in detail in a well-structured format, applying (as far as possible) a logical framework to the subject. The historical background and basic principles for each issue are covered succinctly but thoroughly, followed by the detail of statutory provisions and case law.

Despite the convenience and searchability of digital versions, there are still aspects to consulting the printed volume that are preferable, particularly if one needs to consult several sections while reading – and to flip back and forth between them. For those who wish to keep abreast of new developments on a running basis, the digital version includes monthly updates.

As just one example, I particularly needed to consult the sections on a tenant's statutory entitlement to enlarge their interest. I found this book better than any of the other resources available. Among the various authorities, it had the best elucidation of the 'no improvements'/loss-of-original-identity provisions of section 9 of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, which can sometimes cause confusion. I also noticed that, unlike some other volumes, the questions of a tenant's right to acquire a fee simple and their right to a reversionary lease were treated separately; though this takes up more space, it is extremely helpful for clarity. This thorough treatment of all the major topics continues throughout.

I came across very few lacunae. I did note that, while the provisions of section 29 of the *Landlord and Tenant (Ground Rents) Act 1967* – relaxing certain restrictive covenants regarding alterations – are covered in chapter 18 ('User'), there seems to be no specific reference back to this in chapter 19 ('Alterations and improvements'). A reader might be consulting chapter 19 as a standalone topic and might miss this exception (which has saved many a tenant from being found to have breached the terms of their lease).

It remains unquestionably the definitive book on the subject of landlord-and-tenant law. Any practitioner dealing with this area would be well advised to have it at their elbow. g

Eimear Ní Mhéalóid is senior executive solicitor, Law Department, Dublin City Council.

Entertainment and Media Law in Ireland

Simon Shire. Clarus Press (claruspress.ie). Price: €149.

Like so many of his colleagues, Simon Shire started his legal career as a solicitor in general practice. His abiding love of music, however, piqued his interest in entertainment and media law. That, in turn, led to his advising a range of clients, from music artists to record labels, film producers, directors, writers and crew.

The fruits of that work are to be found in this comprehensive review of media and entertainment law. It is the first one-stop resource of its kind, aimed at both legal practitioners and those working in Ireland's burgeoning audiovisual market.

This is no dusty academic tome – as befits someone who not only holds a qualification in sound engineering and music production, but has a dedicated entry on the Internet Movie Database (IMDb) in his role as executive producer on television and film projects. It is written in straightforward language with an eye to the practices and practicalities of the industry.

While considerable focus is naturally given to Irish and European legislation and case law, the global nature of the entertainment business means that Shire must cast his net wider. For that reason, we read, for example, of copyright cases in the US involving Ed Sheeran and Marshall Mathers (better known as Eminem), and of the fallout in the UK following the breakup of the Smiths.

With 36 chapters divided into six parts, the author covers a range of topics, starting with business set-ups and going on to explore tax credits, copyright, trademarks, performer rights and moral rights, and the funding and distribution of films and television. There are sections on defamation, privacy, and data protection, including GDPR.

Shire also examines the regulation of audiovisual content and the replacement of the Broadcasting Authority of Ireland with Coimisiún na Meán. Earlier this year, its executive chairman likened its establishment to building an aircraft while flying it. This analogy is just as apt for the pace of regulatory and legal change in this area.

Thus, it was as recently as October 2024 that Coimisiún na Meán's Online Safety Code was adopted. Quite how successful the code will be, and who precisely is covered by it, are open questions. Far be it from me to add to Shire's already considerable workload, but I hope a second edition of his text will go some way towards answering these important questions.

In the preface, Shire states that "an exhaustive analysis of each discrete area of law (in this jurisdiction and internationally) is beyond the scope" of his book, and that it is "better viewed as a series of signposts in the form of best-practice guidelines". He is being unduly modest. His book is a distillation of years of expertise, exhibits a remarkable breadth of legal knowledge, and will benefit any lawyer with even a passing interest in the area.

Michael Kealey is solicitor for DMG Media and a member of the Gazette *Editorial Board.*

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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.

Breaking shame, building hope

During the first lockdown, I set up what I called the 'Drop-In Bench' on Highbury Fields near my home. Lawyers – many struggling with addiction – would sit and share their challenges. Most just needed a compassionate ear and a steer in the right direction. Today, many of those individuals are still sober. While the credit belongs entirely to them for taking action, I'm proud to have been part of their recovery journey. This simple act of connection reminds me that shame thrives in silence, but hope flourishes through support.

The legal profession is no stranger to workaholism, perfectionism, and high expectations, which often leave solicitors struggling to ask for help. Addiction compounds this silence, trapping people in cycles of shame and isolation.

Judgement fear

I lived that reality for nearly two decades. My addiction didn't just erode my health – it cost me jobs, strained relationships, and left me fearful of judgement. The winter months often amplified those struggles, as darker days deepened feelings of despair and disconnection.

Recovery changed everything. It didn't happen overnight, but seeking help enabled me to rebuild my life and career. Today, I'm over six years sober, and much of my work involves helping others thrive – personally and professionally – through their recovery journeys. I've learned that thriving doesn't come from perfection; it comes from connection, vulnerability, and community.

This winter, law firms have an opportunity to address these challenges head-on and create spaces where solicitors can truly thrive. Here's how they can support those who are struggling:

- *Build support networks* – establish internal networks for solicitors to connect and share their experiences in a safe, confidential environment,
- *Encourage open conversations* – normalise discussions about mental health and addiction, reducing stigma and creating a culture of acceptance,
- *Provide resources and training* – equip managers and teams with tools to recognise signs of struggle and respond compassionately,
- *Offer flexibility* – flexible working arrangements can make all the difference for someone rebuilding their life while managing recovery,
- *Celebrate recovery* – share stories of resilience to inspire others and create visible role models within the firm.

Winter can be a challenging season, but it's also an opportunity to prioritise connection and wellbeing. Recovery saved my life, and I believe it has the power to transform workplaces too. Lawyers deserve not only to survive, but to thrive in their careers and lives. If you're struggling, know this: you are not alone, and recovery is possible. And if you're in a position to help others, now is the time to act. Connection counters addiction. And, through connection, we thrive.

Steven McCann is founder and director of MCG Consulting, specialising in mentoring, addiction recovery, and mental-health support for workplaces; contact: hello@mcgonline.co.uk.

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); web: lawsociety.ie/legalmind.

Seen to be done

Both public and private family law proceedings should be open to scrutiny, argues Carol Coulter

THE LAW PERMITTING MEDIA REPORTING IS NOT FIT FOR PURPOSE AND REQUIRES SUBSTANTIAL AMENDMENT IF THE MEDIA IS TO ATTEND CONTESTED PRIVATE FAMILY LAW PROCEEDINGS

The last day of the Dáil saw the passage of the *Family Courts Bill*, which, when commenced, will open a new chapter in family justice. Part of that chapter, according to the Family Justice Strategy published by the Department of Justice last year, will be a system for ensuring transparency in family law proceedings.

The administration of justice in public is a fundamental democratic principle, reiterated on numerous occasions by our superior courts. Transparency in court proceedings is fundamental to democracy: it promotes confidence in the administration of justice; it permits the public and policymakers to see how laws work out in practice and whether or not they are fit for purpose; and it thus informs reform and change in law and policy when necessary.

Transparency is of particular importance when states act against their citizens, especially vulnerable citizens, as has been emphasised by the European Court of Human Rights. Criminal proceedings and child protection proceedings are two areas in the administration of justice where the might of the state is pitted against individual citizens, often citizens who are poor, marginalised, and vulnerable. The stakes are very high – the liberty of an individual in criminal proceedings, and the loss of constitutional family rights in child protection proceedings. Though these latter proceedings are described as inquiries, Ms Justice Iseult O'Malley has said in the High Court that it difficult for parents to see them as other than adversarial. It is therefore of exceptional importance that the exercise of such state power is subject to scrutiny.

In camera never lies

Of course, this is not an absolute. The constitutional imperative that justice be administered in public is qualified in article 34 of the Constitution by the caveat "save in such special and limited cases as may be prescribed by law". In criminal law, this has meant that trials for various sexual offences take place "otherwise than in public", while permitting the media attend and report on the proceedings, subject to protecting the anonymity of the victim and, until conviction, the accused. The right to anonymity can be, and sometimes is, waived by the victim.

There can be no doubt that media reporting of trials for rape and other sexual offences has contributed enormously to public debate and to legislative reform in this area, most recently in the *Criminal Law (Sexual Offences and Human Trafficking) Act 2024*, and the law has been undergoing reform in response to such debate for a number of decades now. To name just a few reforms, the definition of consent to sexual activity, the right of a victim to legal representation in certain circumstances, and the specification of a wide range of sexual offences against children all arose following extensive and sustained public debate over many years, prompted by the reporting of trials for rape and other sexual offences. The media has managed to do this while protecting the anonymity of victims, and without requiring detailed guidance from legislation or the courts.

This is in contrast to the manner in which child protection proceedings, and family law proceedings in general, have been dealt with. Until recently, the *in camera* rule in these proceedings acted to prevent any reporting whatsoever, by the media or anyone else. Indeed, until the enactment of the *Civil Liability and Courts Act 2004*, even the disciplinary bodies of the legal professions could not be informed of what happened in family law proceedings.

Of course, the *in camera* rule – protecting the identity of parties in family law proceedings – is very important in ensuring that children and families do not suffer additional trauma as a result of their privacy being breached. But for too long the way in which it operated inhibited any informed discussion of family and child protection law, and left such discussion to rely on rumour and anecdote.

The reform of the rule by the *Civil Liability and Courts Act 2004*

PIC: SHUTTERSTOCK

and the *Child Care (Amendment) Act 2007* made possible the reporting of both private and public family law proceedings by the Courts Service and a number of other bodies named in regulations. These included all the main third-level institutions, the ESRI, the Law Reform Commission and, for child care proceedings, FLAC. However, apart from the Child Law Project, to which I will return, there has been very limited take-up of these provisions. Media reporting continued to be prohibited.

This changed with the *Courts and Civil Law (Miscellaneous Provisions) Act 2013*. This act permits the media to attend and report on all types of family law proceedings, but their attendance is subject to a wide range of restrictions. The court can exclude or restrict attendance by journalists at all or part of the proceedings, or prohibit the publication of all or part of a report, on its own motion or by application of a party, whose views must be considered.

Circumstances in which exclusion or restriction can occur include whether information given or likely to be given in evidence is sensitive personal information, extending to information about a person's tax affairs; the extent to which the attendance of *bona fide* representatives of the press might inhibit or cause

undue distress to a party to the proceedings or a child to whom the proceedings relate, by reason of the emotional condition or any medical condition, physical impairment, or intellectual disability of the party or the child concerned; commercially sensitive information, from witnesses as well as parties; and whether any of this information, "when taken together with other information would, if published or broadcast, be likely to lead members of the public to identify a party to the proceedings or a child to whom the proceedings relate".

Jimmy Olsen's blues

Pity the unfortunate journalist charged with attempting to operate within these strictures. Not alone might they have to face an application from lawyers for a party seeking their exclusion on any of the wide range of grounds available, then having to instruct their own legal representatives to argue for their right to attend, they would also have to possess the superhuman ability to be aware of "other information" that might be out there, which, put together with the report, could lead to identification. Breaching these conditions could lead to fines of up to €50,000, or three years in jail, or both. It is small wonder that, to my knowledge, there has not been a single media report of divorce or legal separation proceedings in the decade since the enactment of the legislation. The media do attend District Court proceedings from time to time when domestic violence applications are made, which are rarely contested.

The provisions of the 2004 and 2007 acts operate differently. These restrict who can attend and report but, apart from requiring the protection of the anonymity of the children and families to which the proceedings relate, they do not impose any other restrictions. The courts may, of course, themselves impose conditions on the publication of reports of the proceedings within the framework of the general presumption in favour of publication.

However, initially none of the nominated bodies in the regulations attached to the 2004 act took up the permission they had been granted. In late 2006, the Courts Service established a pilot project on private family law reporting (set up and run by me) which continued into 2008, when the financial crisis hit and it was discontinued. Reports of proceedings were published in magazine format every three months, along with a statistical analysis of one month's proceedings in all the Circuit Courts, based on court records. The report on the pilot project is published by the Courts Service at uspi.ie/attachments/File/Report_of_the_Family_Law_Reporting_Project_Committee_to_the_Board_of_the_Courts_Service.pdf.

There has been no private family law reporting since, apart from a short survey of family law proceedings in selected Circuit Courts published by the Law Society as part of its 2019 report *Divorce in Ireland: The Case for Reform*.

In 2012, two philanthropic organisations – the One Foundation and Atlantic Philanthropies – approached the then Department of Children offering to support a project reporting on child protection proceedings. The department agreed to help with an office and logistical support, and the Child Care Law Reporting Project (later operating as the Child Law Project) was established by me in November 2012, under the sponsorship of FLAC.

The project published four volumes of reports a year on its website, www.childlawproject.ie, for the first three years, reduced to two in the latter years, though the total number of reports published annually remained approximately the same. These reports ranged from composite reports of short hearings to reports of lengthy and complex cases, some of which took over a year to reach a conclusion, with multiple adjournments.

In addition, it published a number of analytical reports based on the data collected from the individual reports, along with ten other reports, submissions, and presentations, including on the proposed *Family Courts Bill*, the *Child Care (Amendment) Bill* and the review of the *Child Care Act*, all of which are on the website.

Information overload

Transparency in family law requires not just statistics and the analysis of data, which are both necessary, but also information on the process itself – that is, on the actual proceedings. The media have a role to play. But it is a limited role, for a number of reasons.

First of all, the law permitting media reporting, as outlined above, is not fit for purpose and requires substantial amendment if the media is to attend contested private family law proceedings.

Secondly, for two decades now, the media has been under severe threat from Big Tech, which has consumed much of its income from advertising, reducing the resources available for extensive reporting. There is no possibility a media organisation can finance attendance at a significant number of family law proceedings in order to provide a comprehensive picture of what happens there.

FOR TWO DECADES NOW, THE MEDIA HAS BEEN UNDER SEVERE THREAT FROM BIG TECH, WHICH HAS CONSUMED MUCH OF ITS INCOME FROM ADVERTISING, REDUCING THE RESOURCES AVAILABLE FOR EXTENSIVE REPORTING


PIC: SHUTTERSTOCK

Thirdly, the media, of its nature, publishes stories. Much family law is mundane – in private family law, it may involve disputing the exact amounts of maintenance to be paid, or the proportion of the value of the family home to be allocated; in child care law, the accounts of neglect by parents with mental health, addiction, and related issues are depressingly repetitive. Yet this is the reality of family law, and it is very important that the full reality, not just the exceptional or dramatic cases, are reported so that the public and policymakers have an accurate and complete knowledge of what happens.

In relation to child care proceedings, there has been a kind of symbiotic relationship between the Child Law Project and the media. It publishes on average 100 reports on cases a year, some very concerning, some more mundane, some with happy outcomes as families are reunited or a child exits care as a happy, rounded young person facing into further education and responsible adulthood. Not only are they fully anonymised according to a protocol developed for that purpose, the fact that they are not linked to a specific date or geographical area greatly reduces the danger of identification of the family. The project produces a press release to accompany the publication of each volume, highlighting the issues identified, along with synopses of six or eight of the most significant cases. These are then published by the media, which alerts the public, stakeholders in the child protection system, and policymakers to the totality of the work of the project as contained on the website. The media also, of course, has access to all the reports on the website.

The role of the Child Law Project has been, in a sense, to act as a filter between the raw material of the court proceedings and the reports that reach the public domain. It removed the identifying information and any disturbing details not essential to the decision in the case, while reporting comprehensively on the exchanges in court that reveal shortcomings on the part of State agencies and the reactions of parents to the proceedings, or an account of progress made in overcoming problems. It is arguable that only a dedicated court reporting body can follow cases that may go on for years and devote resources to mundane as well as dramatic cases so that a representative picture is painted.

In private family law proceedings, the information published could include the extent to which domestic violence allegations feature in the case; the intersection between family law proceedings and criminal proceedings and how they are related; the manner in which the voice of the child is heard and the influence this has on the proceedings; and the use of expert evidence and the nature of the expertise involved.

The Department of Justice Family Justice Strategy, published last September, outlined its commitment both to supporting families going through the family courts and to a pilot reporting project, which has yet to be launched. It is to be hoped that, when it comes into being, it will ensure that the public can access comprehensive information on the operation of the new family courts, now that the *Family Courts Bill* has been enacted.

Carol Coulter is former legal affairs editor of the Irish Times *and the founder and director of the Child Law Project.*

CLASH OF THE TITANS

There is uncertainty among copyright holders as to how they can create a legally effective reservation of rights within the rapidly evolving age of artificial intelligence. Mark Hyland is not a robot

PIC: SHUTTERSTOCK

The EU's much anticipated *AI Act* came into force on 1 August 2024. As the world's first comprehensive law on AI, it would be difficult to overstate its importance. Not only is it a pioneering piece of legislation, but it is also very quickly becoming a compelling legal template for other jurisdictions. From the perspective of the intertwined themes of the race to regulate AI and AI geopolitics, the EU is now very much in the vanguard. In addition, the fact that the *AI Act* has extraterritorial effect further underscores its truly global legal reach.

While the act is very much concerned with fostering trustworthy AI in Europe and beyond, this article will focus on the copyright provisions in this landmark law.

Maze of the Minotaur

Like all EU secondary legislation, the *AI Act* aims to harmonise laws across the EU 27, in this case, the laws concerning the use and supply of AI systems in the EU. Despite its common-law sounding title, the *AI Act* is, in fact, an EU regulation. This means that it will have general application, be binding in its entirety, and be directly applicable in all 27 EU member states. The formal title of the *AI Act* is Regulation (EU) 2024/1689 of the European Parliament and of the Council laying down harmonised rules on artificial intelligence.

Article 1 of the *AI Act* sets out the purpose of the new law. It is "to improve the functioning of the internal market and promote the uptake of human-centric and trustworthy AI, while ensuring a high level of protection of health, safety, fundamental rights enshrined in the *Charter*, including democracy, the rule of law and environmental protection, against the harmful effects of AI systems in the union and supporting innovation". It is worth noting that, in the context of the *EU Charter of Fundamental Rights*, intellectual property is protected by article 17(2) as a 'subset' of property.

Between them, recitals 4 and 5 of the act provide a balanced 'assessment' of AI. Recital 4 states that AI contributes to "a wide array of economic, environmental, and societal benefits across the entire spectrum of industries and social activities". The recital then sets out a large number of industries/sectors that benefit tangibly from AI – for example, healthcare, transport and logistics, and environmental monitoring, to name but a few. Recital 5 takes a more circumspect approach and asserts that "AI may generate risks and


PIC: ALAMY

cause harm to public interests and fundamental rights that are protected by union law". The recital states that the harm might be material or immaterial, including physical, psychological, societal, or economic in nature.

Reading these two compelling recitals together, it is clear that AI is a double-edged sword.

The Odyssey

As part of promoting trustworthy AI, the *AI Act* takes a risk-based approach, categorising AI systems according to four levels of risk: unacceptable risk, high risk, limited risk, and minimal risk.

Where an AI system falls into the unacceptable risk category, it will be prohibited. A good example would be real-time biometric identification in publicly accessible places (subject to certain exceptions). Such an AI system would pose an unacceptable risk to individuals' safety, rights, or fundamental values. At the other end of the spectrum, a basic email filter classifying messages as spam would fall into the 'minimal risk' category.

Article 3 of the act is the definitions provision. Reflecting its comprehensiveness and complexity, 68 different terms are defined. For our current purposes, the following definitions are important: 'AI system', 'general-purpose AI model', and 'general-purpose AI system'.

> THE *AI ACT* IS, IN FACT, AN EU REGULATION. THIS MEANS THAT IT WILL HAVE GENERAL APPLICATION, BE BINDING IN ITS ENTIRETY, AND BE DIRECTLY APPLICABLE IN ALL 27 EU MEMBER STATES

Drawing inspiration from the OECD, the term 'AI system' is defined as "a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments".

Of relevance to the IP component of the *AI Act* is the term 'general purpose AI model'. This is defined as "an AI model, including where such an AI model is trained with a large amount of data using self-supervision at scale, that displays significant generality and is capable of competently performing a wide range of distinct tasks regardless of the way the model is placed on the market, and that can be integrated into a variety of downstream systems or applications, except AI models that are used for research, development, or prototyping activities before they are placed on the market".

A practical example of a general-purpose AI model is ChatGPT, which exploded into public life on 30 November 2022 and has had an impact in many different industries and professions.

The golden fleece

While it is clear that the *AI Act* is not a copyright-specific law, it is important to note that it contains provisions that protect the interests of copyright owners in an AI world. Significantly, article 53 lays down obligations for providers of general-purpose AI models that relate to technical documentation, information sharing, compliance with copyright law, and public disclosure. Interestingly, article 53(b) is broader than just copyright law, in that it refers

INTERESTINGLY, ARTICLE 53(B) IS BROADER THAN JUST COPYRIGHT LAW, IN THAT IT REFERS TO THE NEED TO OBSERVE AND PROTECT INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIAL BUSINESS INFORMATION OR TRADE SECRETS IN ACCORDANCE WITH UNION AND NATIONAL LAW

to the need to observe and protect intellectual-property rights and confidential business information or trade secrets in accordance with union and national law.

Article 53(1)(c) obliges providers of general-purpose AI models to put in place a policy to comply with EU law on copyright and related rights and, in particular, to identify and comply with (including through state-of-the art technologies) a reservation of rights (or use of works) expressed pursuant to article 4(3) of Directive (EU) 2019/790 on copyright and related rights in the digital single market (the *CDSM Directive*). Where a rightsholder reserves his/her rights under article 4(3), the reservation will take that rightsholder's copyright content outside the text and data-mining (TDM) copyright exception. By opting out of the TDM copyright exception, the rightsholder prevents mining of their reserved copyright works. Thereafter, a third party will only be able to mine such content with the rightsholder's authorisation.

Article 4(3) states that the reservation should be effected "in an appropriate manner, such as machine-readable means in the case of content made publicly available online". Recital 18 of the *CDSM Directive* illuminates this requirement by stating that metadata should be incorporated into the machine-readable means, and that the reservation of rights could be effected by way of "terms and conditions of a website or a service".

Article 53(1)(d) of the *AI Act* obliges the provider of general-purpose AI models to draw up and make publicly available a sufficiently detailed summary about the content used for training of the general-purpose AI model, according to a template provided by the AI Office.

Besides the all-important article 53, there are several recitals in the act that are relevant to copyright. They are recitals 104 to 109 (inclusive). While recitals may not be legally binding, they have persuasive effect and are often used by the European Commission and EU courts to interpret or illuminate an ambiguous substantive provision.

Recital 105 is compelling, as it underscores the importance of rightsholder authorisation in the context of TDM where a copyright exception/limitation does not apply. The recital relates to general-purpose AI models, and it acknowledges that large generative AI ('GenAI') models present unique innovation opportunities, but they also present challenges to artists, authors, and other creators in terms of the way their creative content is created, distributed, used, and consumed.

The recital states that the development and training of such models requires access to vast amounts of text, images, videos, and other data. TDM techniques may be used extensively for the retrieval/analysis of such content, which may be protected by copyright and related rights. Recital 105 reiterates the requirement of rightsholder authorisation where a third party wishes to use copyright-protected content unless, of course, a copyright exception or limitation applies. Referring to the *CDSM Directive*, the recital speaks of the TDM copyright exception and the fact that rightsholders may choose to reserve their rights over their works to prevent TDM.

The recital then sets out the logical conclusion that, where a rightsholder has opted out "in an appropriate manner", then providers of general-purpose AI models need to obtain an authorisation from that particular rightsholder if they wish to mine the reserved content.

Daedalus and Icarus

Given the clear nexus between TDM and GenAI, it is unsurprising that there is a significant copyright crossover between the *AI Act* and the *CDSM Directive*. From a rightsholder's perspective, the all-important reservation of rights (article 4(3), *CDSM Directive*) is copper-fastened by way of article 53 of the *AI Act*. This is important as GenAI continues to rapidly evolve, driven by fierce competition among the tech companies, for example, Microsoft/OpenAI, Meta (Llama 3), Apple (Apple Intelligence), and Google (DeepMind).

From a purely practical viewpoint, there is some uncertainty among rightsholders as to how they can create a legally effective reservation of rights. Currently, there are no generally accepted protocols or standards concerning reservation of rights. While certain approaches are beginning to emerge, it remains unclear whether they will be acceptable to the major AI model providers. This uncertainty is complicating the important reservation-of-rights issue for rightsholders. To dispel this legal uncertainty, the European Commission should intervene with clear guidance on the issue of reservation of rights. This guidance should focus on the practicalities of creating a reservation of rights/works under the


PIC: SHUTTERSTOCK

CDSM Directive that will pass muster from both a legal perspective and a technological perspective ('machine-readable means').

Intriguingly, in parallel with the important legislative reiteration of the reservation of rights at EU level, there is high-profile litigation concerning GenAI and copyright-protected content in a number of different jurisdictions. Unsurprisingly, the litigation relates to several different industries. As regards the music sector, there is the Tennessee case (recently transferred to the courts of California) *Concord Music Group et al v Anthropic PBC* and the very recently instituted proceedings in *RIAA v Suno AI and Udio AI*. This case concerns AI audio, with the Suno AI-related litigation taking place in Massachusetts while the Udio AI-related case is being heard in New York.

In the publishing sector, there is the ongoing case between *The New York Times* and OpenAI/Microsoft being heard in the federal courts of New York. Lastly, there are also legal proceedings in the visual-media sector. Getty Images is suing Stability AI in the English High Court, alleging illegal use of its images by the defendant in the training of its Stable Diffusion AI system. Indications are that the case may proceed to trial in summer 2025.

Should these cases go to trial, they will generate important judicial precedent for the common-law world. As there is no TDM copyright exception in the US, American courts will have to examine and assess the alleged illegal activity through the prism of the fair-use doctrine.

Dr Mark Hyland is lecturer at the Faculty of Business, Technological University Dublin.

The CONCRETE JUNGLE

Solicitor Bernard Gogarty, chair of the Construction Contracts Adjudication Panel, lays the foundations with the *Gazette*

Contruction contracts have, by their very nature, a strong probability of disputes arising, solicitor Bernard Gogarty believes.

And he should know, since Bernard advises both employers (public and private) and contractors and has acted as arbitrator and conciliator in construction disputes over the last 30 years.

In July 2021, Bernard was appointed by Minister Damian English to chair the panel of adjudicators provided for by the *Construction Contracts Act 2013*. That law arose out of the financial crash, which left many subcontractors and contractors unpaid, despite monies being transferred by the employer to the main contractor. The act is based on the understanding that cashflow is the lifeblood of the construction contracting industry.

An experienced commercial litigator, UCD graduate Gogarty qualified as a solicitor in Ireland in 1979 and in the North in 1992. He has been a partner in Smyth and Son solicitors since 1984 and has extensive experience in conveyancing, litigation, construction law, and commercial arbitration. He has acted as consultant to several local authorities and has advised many of the major construction and building companies operating in Ireland. He also lectures at Trinity on his specialism.

ALL SOLICITORS, EVEN THOSE WHO ARE NOT INVOLVED IN THE CONSTRUCTION SECTOR, NEED TO UNDERSTAND THE NEED FOR SPEED AND THE IMPORTANCE OF ACTING WITHIN THE TIMEFRAMES OF THE ADJUDICATION PROCESSES

PICS: CIAN REDMOND

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28 February	**Human Rights Annual Conference 2024 - Friend or Foe? AI, Justice & Human Rights**	Law Society of Ireland | 4 general (by group study)	Complimentary
ONLINE, ON-DEMAND			
Available now	**New: Neurodiversity Awareness [Professional Wellbeing Hub]**	1 client care and professional standards (by eLearning)	Complimentary
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No one knows

Bernard believes that there is a lack of awareness of the availability of the adjudication process in the legal professions – and, to an extent, in the construction industry itself. Some parties are not fully aware of the availability of the procedure, which can be commenced at any time, irrespective of whether an arbitration and/or court proceedings have been commenced, he says.

The jurisprudence so far suggests that Irish courts are highly supportive of the procedure. All applications to court to enforce adjudication decisions have been successful to date.

The legislation is a significant development for ensuring quicker resolution of disputes, Bernard points out. However, he sees a need for clearer protocols in legal practices in dealing with disputes relating to payment if such advice is sought. It is essential that the legal and administrative parties handling matters (such as receptionists or staff in law offices) understand the urgency of these limited timeframe disputes.

This is especially so in situations where an adjudication has already been initiated and a key party in the solicitors' office may be on leave.

Built for speed

Solicitors' practices must be aware that, if they are approached by a client in circumstances where an adjudicator has been appointed, then they must make a decision immediately as to whether or not they will act for that party. They must be in a position immediately to either advise that client to go elsewhere, refer the matter to the appropriate professional, or take the case on.

All solicitors, even those who are not involved in the construction sector, need to understand the need for speed and the importance of acting within the timeframes of the adjudication processes.

Solicitors must understand the applicability of the process to disputes that they might not consider as 'construction disputes'. Such disputes might include circumstances where a professional (such as an architect, engineer, or chartered surveyor), who has acted for either a contractor or an employer and has not been paid their fees, may be entitled to refer the matter to adjudication. This will have it resolved in the 28/42-day period rather than facing lengthy Circuit or High Court proceedings.

A significant role remains for lawyers in the construction sector, especially in higher-stakes projects, Bernard adds. However, lawyers need to be prepared to work quickly and efficiently, respecting the timelines set out in adjudication processes.

Lawyers should become more proactive in understanding these adjudication processes, Gogarty advises, as they could miss out on significant work if they don't adapt to the faster pace of adjudication compared with traditional court-based dispute resolution.

Next in line

While the parties have a right to – and should be encouraged to – agree the identity of the adjudicator, the legislation provides that, if such an agreement is not reached within five days, a party may seek the appointment of an adjudicator at any time. This is irrespective of whether a conciliation, arbitration, or litigation has commenced.

The act has provided for the formation of a panel of adjudicators, which contains 35 people of various professions, including architects, engineers, chartered surveyors, solicitors, barristers, and fellows of the Chartered Institute of Arbitrators. Once an application is made to the adjudication service, an appointment is normally made within seven days. Following an appointment, the referring party must file its referral within seven days from the date of the appointment of the adjudicator. The adjudicator will then issue a timetable to the parties, with scope for the decision to be made within 28 days of the date of receipt of the referral.

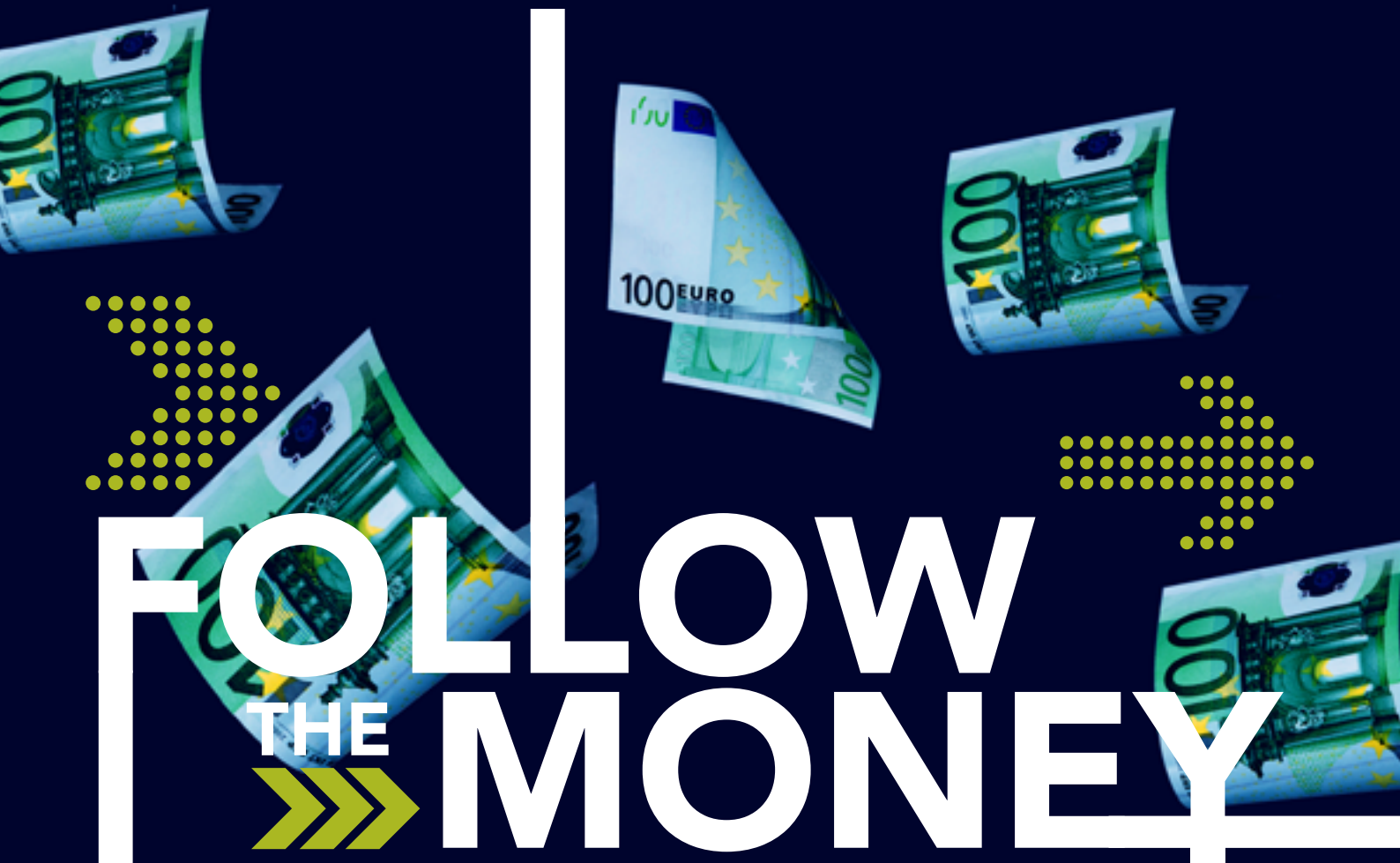
> SOLICITORS' PRACTICES MUST BE AWARE THAT, IF THEY ARE APPROACHED BY A CLIENT IN CIRCUMSTANCES WHERE AN ADJUDICATOR HAS BEEN APPOINTED, THEN THEY MUST MAKE A DECISION IMMEDIATELY AS TO WHETHER OR NOT THEY WILL ACT FOR THAT PARTY

The decision of the adjudicator is binding, unless overturned by a decision of an arbitrator (if arbitration is provided for in the contract) or a court. The decision of the adjudicator is also enforceable by way of notice of motion to the court.

There has, at the date of commencement of the legislation, been no successful challenge to the enforcement of an adjudicator's decision.

In 2023/24, the number of applications and appointments by the panel was the highest since the act's commencement. And the combined value of the disputes for that period was €42.2 million, bringing the total value over the last five years to €227.7 million, Gogarty concludes.

Mary Hallissey is a journalist with the Law Society Gazette.



FOLLOW THE MONEY

Ciara McQuillan sets out the anti-money-laundering/ terrorist-financing obligations on solicitors and provides step-by-step guidance in applying them to the client file

In recent years, anti-money-laundering and terrorist-financing (AML/CTF) has become a pivotal security concern, and solicitors play a crucial role in this battle. However, the profession is also vulnerable to being exploited by those individuals and entities looking to launder money, or to finance terrorism.

The *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* (as amended) is the primary legislative framework for combating money-laundering and terrorist-financing in Ireland. This legislation rendered solicitors "designated persons" and defined certain legal services as AML regulated. It placed an obligation on solicitors to detect and prevent money-laundering and terrorist-financing in respect of those services. This legislation has been amended on numerous occasions, to incorporate EU directives aimed at harmonising anti-money-laundering practices across the EU.

To address evolving risk, the *Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021* expanded many existing obligations. The combined effect of the legislation requires solicitors to carry out client due diligence, monitor transactions, consider the risk of money-laundering or terrorist-financing, maintain records, and report any suspicious activity as a 'suspicious transaction report' (STR) to the relevant authorities.

Client risk assessment

Conducting a thorough client risk assessment (CRA) is the first step in an effective AML process. The ideal time to begin to carry out a CRA is after a client makes an appointment with your firm, but before a consultation.

In a CRA, a wide variety of factors should be considered, including the client's industry, their geographic location, their background, and whether they operate in high-risk industries or cash-intensive businesses.

The nature of the transaction should also be considered. Is the request for the legal service consistent with the client's profile? Does the legal service involve large cash transactions, cross-border payments, or complex financial arrangements? These factors generally carry a higher risk. During the CRA, enquiries should be made and documented regarding the client's source of funds and source of wealth. It is also an opportunity to consider how funds may enter your client account. An early discussion with a client regarding the client's source of funds and wealth presents the opportunity to consider the legitimacy of the funds. This can help prevent a solicitor being unwittingly used to launder funds or route moneys that could later be used to finance terrorism.

Later in the transaction, you will want to review your CRA to check that the funds you received into your client account are consistent with the client's earlier instruction. Detailing how a client plans to finance the proposed

PIC: ALAMY

MANY SOLICITORS ENGAGE IN THE MENTAL PROCESS OF CONSIDERING THE TRANSACTION IN TERMS OF AML RISK, BUT FAIL TO DOCUMENT THEIR THOUGHT PROCESS SUFFICIENTLY

transaction assists in identifying the correct level of client due diligence. The CRA should be reviewed and updated throughout the transaction. Throughout the process, any unusual actions or irregularities should be noted, taking consideration of the earlier risk assessment.

Essentially, the CRA is a living instrument: it evolves and grows with the transaction, and its lifespan should only end with the conclusion of the client's file.

Based on all factors considered in the CRA, you will assign a risk level to your clients. Attributing the correct level of risk will help to assign the correct level of client due diligence (CDD) that should be noted on the file. The risk level may affect the level of CDD. If unsure of the correct level of risk, it is good practice to apply a higher standard. A risk level can be lowered if, on foot of further information, a specific risk has been addressed.

A crucial part of compliance with AML legislation is documentation, and it is vital to retain your risk assessment, with your documented thought process, on your file.

Client due diligence

Following that first step, the identity of the client must be verified. If the client is an individual, a copy of their passport or driver's license and a proof of address must be retained on file. In the case of a corporate entity, it will be necessary to identify the correct corporate structure and identify who the beneficial owners behind the corporate

FOCAL POINT: AN EXAMPLE

Ms Blue calls George's Court Solicitors to make an appointment to assist in the purchase of a residential property. The receptionist makes an appointment and requests that she brings her ID and a recent household bill with her. Ms Blue tells the receptionist she has paid a booking deposit for a new build in the area.

Step 1: Initial CRA

George's Court Solicitors begins by assessing Ms Blue's risk level. Ms Blue is buying residential property in the area she currently rents in, and resides locally. It initially appears to be a 'low to medium' risk.

Consider all known factors: factors such as the client's intentions (a residential property purchase), the property type, and the geography are reviewed to ensure no risks are present.

CRA: George's Court Solicitors records the initial risk assessment and decides that standard CDD should apply, pending Ms Blue's identification verification and source-of-funds check.

Step 2: CDD – identification and verification

As part of standard CDD, Ms Blue is requested to provide her passport for identity verification and a recent utility bill as proof of address. During her first visit, Ms Blue only brings her proof of address (utility bill). Her solicitor reminds her that she must bring her passport or driver's licence for identity verification before proceeding with the legal matter.

Risk alert: the missing identity document raises a mild-risk alert. The transaction cannot proceed until Ms Blue has her identity verified in compliance with AML requirements. The solicitor informs Ms Blue that they cannot proceed until her identity is verified.

Step 3: Source of funds

Payment inquiry: Ms Blue states that she recently paid a booking deposit. The solicitor asks Ms Blue for more details about the funds used to pay the booking deposit. The solicitor also inquires whether she will be using personal savings, a mortgage, or funds from another source to fund the purchase. Ms Blue is informed that she will need to provide evidence of the funds for the property purchase.

Source of funds/wealth verification: as soon as Ms Blue provides her identity documents, the solicitor will follow up by requesting documentation verifying the source of her funds and wealth. Bank statements, showing regular savings and earnings, are ideally a good proof that the funds are from a legitimate source.

Step 4: Document everything

George's Court Solicitors keeps detailed notes of each meeting with Ms Blue, noting the initial request for identity documentation, her partial furnishing of documents, and the reminder for identification documentation.

Risk assessment as a living document: the initial CRA is updated to reflect that Ms Blue has provided proof of address, but still needs full-identity verification. This ensures that the file reflects a current and accurate risk assessment.

Step 5: Monitor the risk assessment

George's Court Solicitors will continue to monitor Ms Blue's activities throughout the property transaction. Any unusual changes in behaviour, unexpected funds, or foreign transfers could prompt a review and possibly raise her risk level, which in turn could trigger enhanced due diligence.

Completion of CDD: once Ms Blue provides her passport, completes source-of-funds verification, and no suspicious activity arises, George's Court Solicitors will proceed with the purchase, updating the risk assessment to ensure that it reflects all verified information. Ms Blue advised her solicitor that she is obtaining a mortgage from Main Street Bank to assist paying for the property. George's Court Solicitors look at all the information before them and conclude that no enhanced process applies.

entity are. There is an obligation to apply due diligence to the individuals who exercise effective control of the corporate entity, and these persons must be identified before the business relationship commences.

During your initial CRA, an evaluation of the client and the transaction will have determined the level of CDD required. There are three levels of CDD that may apply: simplified, standard, and enhanced.

Simplified due diligence applies in low-risk situations, where the likelihood of money-laundering or terrorist-financing is minimal. Examples include public bodies in well-regulated sectors or government bodies. The client identity is still verified and retained on file, but less frequent monitoring is required. Importantly, the CRA must demonstrate adequate analysis of the lower risk.

Standard due diligence applies to the vast majority of clients in general. These clients will be individuals or business entities that do not present any elevated risk. Client-identity verification follows the same procedure, but the beneficial ownership of a corporate entity must be registered before the start of a business relationship. Transactions should be monitored for any activity not consistent with the client or transaction profile and, if any significant changes occur, consideration should be given to applying a higher standard of CDD.

Enhanced due diligence is applied when dealing with high-risk clients or situations where there is an increased risk of money-laundering or terrorist-financing. Factors that may pose an increased risk include clients who are 'politically exposed persons', clients from high-risk countries, or transactions involving unusually large sums.

Enhanced due diligence presents a greater risk to the solicitor and is more challenging from a compliance perspective. More detailed and extensive information gathering is required, particularly in relation to the source of funds and wealth. Client-identity verification follows the same process as the lower levels, but transaction monitoring must be more frequent. The solicitor must also be very alert to potential suspicious activity, and client identity checks must be periodically repeated.

Source of funds and wealth

CDD is much broader than simply verifying a client's identity. As designated persons, solicitors are required to make reasonable enquiries of their clients to verify the source of funds used to finance the transaction.

It is necessary to verify both the specific origin of the funds being used in the transaction and the legitimacy of these funds. In practical terms, it is necessary to check that the funds lodged to a client account stem from an account that belongs to the client, and not a third party. This is also important in terms of the obligations for the *Solicitors Accounts Regulations*. Regardless of the risk level of the transaction, the legitimacy of all the funds must be established. This is often the most challenging part of CDD in practice.

When considering the legitimacy of the funds, it is important to gather detailed information from a client. If a client presents with a large amount of cash, a solicitor must probe the source. Documentation verifying the origin of funds or the source of a client's wealth must be obtained. Bank statements over a period can demonstrate a client's earnings and savings patterns. Investment statements, loan agreements, or evidence of property sales can also be used as proofs to demonstrate sources of wealth.

Whatever documentation your client presents, it must be analysed and considered in terms of the client's general profile and the nature of the transaction at hand.

Any unusual activity – for example, large unexplained cash deposits, large international cash transfers, or transfers from high-risk jurisdictions – may require further explanation. In these circumstances, further documentation should be sought and an explanation obtained from the client.

In the event that the source of funds and wealth cannot be explained, it may be necessary to make an STR to the relevant authorities.

Monitor the transaction

The next step in the AML process is important: the continuous monitoring of the transaction, and reviewing a client's activities to detect any unusual or suspicious activity. Any changes that occur should be considered in terms of the risk assessment. Continually monitoring the transaction greatly assists in preventing a client account from being used to launder illicit funds.

Document, document, document

This is perhaps the most overlooked step in the process. Many solicitors engage in the mental process of considering the transaction in terms of AML risk, but fail to document their thought processes sufficiently.

The CRA, CDD, and source of funds or wealth documentation must be retained on file and stored with the file after the close of the matter.

To illustrate the application of these steps, refer to the panel (previous page). Don't hesitate to contact the AML Helpline at AML@lawsociety.ie for any further information.

Ciara McQuillan is financial regulation executive in the Law Society.

LOOK IT UP

- *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010*
- *Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018*
- *Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021*
- *Solicitors (Money Laundering and Terrorist Financing) Regulations 2020*
- *Solicitors Accounts Regulations 2023*
- EU Directives 2015/849 and 2018/843

PIC: SHUTTERSTOCK

On the HORIZON

Ten years on from the *Companies Act 2014*, the company-law teapot is brewing very nicely, thank you! In the second half of 2024, a bumper crop of new and proposed legislation has been infusing. Neil Keenan stirs the pot

For those of us who have been practising company law for some time, the *Companies Act 2014* is still the 'new' *Companies Act*, so it is hard to believe that it is now ten years since it was first enacted (albeit that it was commenced during 2015 with a transitional period thereafter).

While the 2014 act was a very welcome and much-needed consolidation of company law, it has been subject to quite significant amendment since its original enactment. The more notable amendments include the *Companies (Accounting) Act 2017*, which amended the thresholds for small, medium and large companies and introduced the concept of a 'micro' company, and which also brought many unlimited companies within the obligation to file financial statements.

The *Companies (Corporate Enforcement Authority) Act 2021* replaced the Office of the Director of Corporate Enforcement with the Corporate Enforcement Authority (CEA) and introduced a number of other company-law changes, including to corporate-governance requirements and insolvency law. The *Companies (Rescue Process for Small and Micro Companies) Act 2021* introduced the very welcome 'SCARP' rescue process for small and micro companies. We have also, in the interim, had the COVID-19 pandemic and a number of temporary changes to

company law that were required to deal with the challenges of that period. These were provided for in the *Companies (Miscellaneous Provisions) (COVID-19) Act 2020* and the regulations made thereunder. These changes included the facilitation of virtual shareholder meetings, some relaxation of the requirements around affixing a company seal to facilitate electronic signing, an increase in the thresholds at which a company would be deemed to be unable to pay its debts, and an extension of the period in which a company could remain in examinership. Some of these measures expired at the end of 2023.

In practice, many of these changes were actually very useful to facilitate the new ways of remote working that we all discovered during the lockdown period and the much more remote and online environment that we found ourselves in afterwards.

Bumper year

Now that we are at the end of 2024, we are finding that this is actually a 'bumper' year for corporate and business lawyers, with a raft of new legislation or proposed legislation, including the E*mployment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024*, which gives employees increased protections in an insolvency situation, but has also introduced significant changes to insolvency law, particularly around the tests for fraudulent and reckless trading and the periods during which a liquidator can potentially set aside transactions.

We have also seen the *European Union (Adjustment of Size Criteria for Certain Companies and Groups) Regulations 2024*, which increased the thresholds for micro, small, medium and large companies by 25%, and the *European Union (Corporate Sustainability Reporting) Regulations 2024* (supplemented by the *European Union (Corporate Sustainability Reporting (No. 2) Regulations 2024*, which implemented the *EU Corporate Sustainability Reporting Directive*.

We have recently seen the scheme of a bill to replace the *Limited Partnerships Act 1907* and the *Registration of Business Names Act 1963*, and a draft *CooperativeSocieties Bill* is expected shortly.

It is notable that some important changes to the 2014 act have actually been made by way of statutory instrument, which is making it quite difficult to track what the most up-to-date legislative position is. An updated text of consolidated company law would be very welcome at this point. In the meantime, the website of the Law Reform Commission is a very good source of up-to-date legislation.

Many of the changes and proposed changes we have seen in company law are arising from various reports of the Company Law Review Group (CLRG). The Business Law Committee of the Law Society has also made submissions to the CLRG, particularly around some improvements it identified that could be made to aspects of the wording of the 2014 act. Some of the changes in the new act – the *Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024* (which is the primary subject of this article) – arise from various CLRG reports and recommendations. The 2024 act was signed in to law on 12 November 2024 but, at the time of writing, is still to be commenced.

These reports and recommendations include the 2019 *CLRG Report on the Regulation of Receivers;* the 2021 *CLRG Report on Company Law Issues Arising Under Directive (EU) 2017/828 of 17 May 2017 (SRD II), Central Securities Depositories Regulation (EU) 909/2014 (CSDR) and the Companies Act;* and the *CLRG Report on Certain Company Law Issues Under the Companies Act 2014 Relating to Corporate Governance* (May 2022). Certain changes also arise pursuant to a review by the Department of Justice of structures and strategies to prevent, investigate, and penalise economic crime and corruption.

The 2024 act itself had a detailed preparation phase, with a public consultation issued in May 2023 and a general scheme of a bill along with a regulatory impact assessment published in March 2024. The 2024 act is very similar to the general scheme of the bill, albeit

with certain provisions not taken forward. The changes in the 2024 act could best be grouped under the headings identified in the public consultation, being corporate governance, company-law administration, company-law enforcement and supervision, and corporate insolvency, including the regulation of receivers.

Corporate governance and administration

a) The ability contained in the 2020 *COVID-19 Act* whereby a company may hold hybrid or virtual shareholder general meetings is to be made permanent, unless a company's constitution states otherwise. The requirements around this largely replicate the *COVID-19 Act*, and the act does set out certain procedures for the convening and conduct of a hybrid or virtual shareholder meeting.

b) A provision that expired at the end of 2023 and introduced by the *COVID-19 Act*, permitting companies to execute sealed documents in multiple counterparts, is reinstated. This allows documents to which the common seal of a company is affixed to be executed by the persons signing and countersigning the affixing of the seal in different counterparts to the version to which the seal is affixed.

c) A change will be made to the procedures for statutory mergers by absorption to allow multiple mergers by absorption within the same corporate group to be undertaken by way of the one transaction. In addition, statutory domestic mergers can be undertaken where all of the merging companies are 'designated activity companies' (DAC). The 2014 act required at least one of the parties to such a merger to be a limited company, due to some unintentional wording in that legislation.

d) There are a few changes implemented in relation to public limited companies (PLCs), specifically as follows:
   i) Section 1087G of the 2014 act has been amended to provide that the record date for an adjourned shareholder meeting shall be the record date of the original meeting where the adjourned meeting is held within 14 days of notice being given to members. This again is to facilitate shares held in a CSD (central securities deposit), the holders of which cannot make use of the opportunity to refresh voting instructions in a proxy form because a changed record date or a change in previously submitted voting instructions is not permitted for CSDs.
   ii) A PLC is entitled to investigate the ownership of its shares by requiring information from persons that the company knows or has reasonable cause to believe has an interest in the shares. An obligation is to be introduced on a person to reply to such an enquiry within five days (rather than a 'reasonable period', which is the provision in the current law).

e) The Companies Registration Office (CRO) will be enabled to require evidence to verify a company's registered address when a constitution or change of registered address is being registered.

f) There is an interesting provision in the 2024 act providing for the voluntary disclosure of information by companies in relation to the gender balance among their board of directors that can be filed with a company's annual return. This is something that could potentially become mandatory in the future.

g) A useful amendment has also been made whereby a company that is entitled to the audit exemption will lose it only if there is a failure to deliver its annual return on time for a second or subsequent time in the preceding five years. Currently, any late filing of the annual return will cause a loss of the audit exemption for the subsequent year.

h) There will be a prescribed form for approval by a person or entity to act as an electronic filing agent and similar provisions will be introduced for the provision of registered office facilities to companies. Many law firms provide these services.

i) A legislative basis has been introduced for the prescribed form used by the CRO for the filing of declarations by companies that are using the 'summary approval procedure'. Currently, many different types of such declarations may be submitted.

> WE ARE FINDING THAT THIS IS ACTUALLY A 'BUMPER' YEAR FOR CORPORATE AND BUSINESS LAWYERS, WITH A RAFT OF NEW LEGISLATION OR PROPOSED LEGISLATION

Enforcement and supervision

a) The 2024 act introduces additional grounds for the involuntary strike-off a company, being (i) where a company fails to notify the registrar of beneficial ownership of information in relation to the beneficial owner of a company; (ii) where a company fails to notify the CRO of a change in registered address; and (iii) where a company fails to record a company secretary. There are also some procedural provisions around these requirements. Strike-off on any of these new grounds won't give rise to directors being disqualified as a consequence.

b) There is a new notification requirement in respect of bankrupt individuals. The Corporate Enforcement Authority (CEA) will need to be notified if any undischarged bankrupt applies to act in certain roles regarding a company 14 days before the matter comes to court, and can object.

c) There are safeguards around information obtained by the CEA, so that it would only be able to disclose information to other competent authorities for certain functions linked to the functions of the competent authorities listed in the act and the CEA itself. The range of competent authorities to which information can be disclosed will be expanded.
d) The CEA will be given a longer period (14 rather than the current seven days) to apply to court for a determination as to whether information it has seized is legally privileged. It will be possible for the CEA to make the application on an *ex parte* basis. A court also may appoint more than one independent legal expert to examine materials to determine whether materials are subject to legal privilege and report to the court.
e) New offences of obstructing a CEA officer or staff member or intimidating a CEA officer or staff member are created.
f) The CEA is given new powers to gather information, including access to court orders relating to the restriction and disqualification of directors, an expansion of the statutory bodies that may disclose information to the CEA, and enhancement of the ability to share information with those bodies.
g) Liquidators and certain process advisers must report "forthwith" offences by a past or present officer or member of a company.
h) The *Probation of Offenders Act 1907* will not apply to an offence caused by a company failing to file an annual return, as required by the 2014 act.

Insolvency and receivers

a) The 2024 act introduces a right of access to information for the members and creditors of a company regarding receivers' fees, which must be shared within seven days of a request by members or creditors.
b) Receivers will also have rights in relation to remuneration, regardless of the situation in which the receiver is engaged, similar to the rights that liquidators have with respect to their fees. Fees can be set by way of a percentage, the length of time of the receivership, or another method or thing. There are also various criteria set out where a court is asked to fix the amount owed to the receiver.
c) An obligation is imposed on liquidators to apply to court for the restriction of directors of an insolvent company. Such an obligation applies throughout the liquidation process, including in circumstances where appeals are brought.
d) There is streamlining of the process under which liquidators must refer offences committed by officers and members of a company to the CEA and the Office of the Director of Public Prosecutions. Referrals to the CEA have to be made without delay, and as close a time as possible in relation to referrals to the DPP.
e) Certain returns that have to be made by liquidators to the CRO are to be pursuant to forms prescribed in legislation (rather than the administrative forms currently used).
f) There are some technical corrections and clarifications to the SCARP process.

In summary the 2024 act , along with legislation already enacted and other legislation proposed, heralds very significant changes that practitioners in company and business law should review carefully and advise their clients accordingly.

Neil Keenan is a corporate partner with Pinsent Masons Ireland LLP, a member of the Law Society's Business Law Committee, and is the Law Society's representative on the Company Law Review Group.

LOOK IT UP

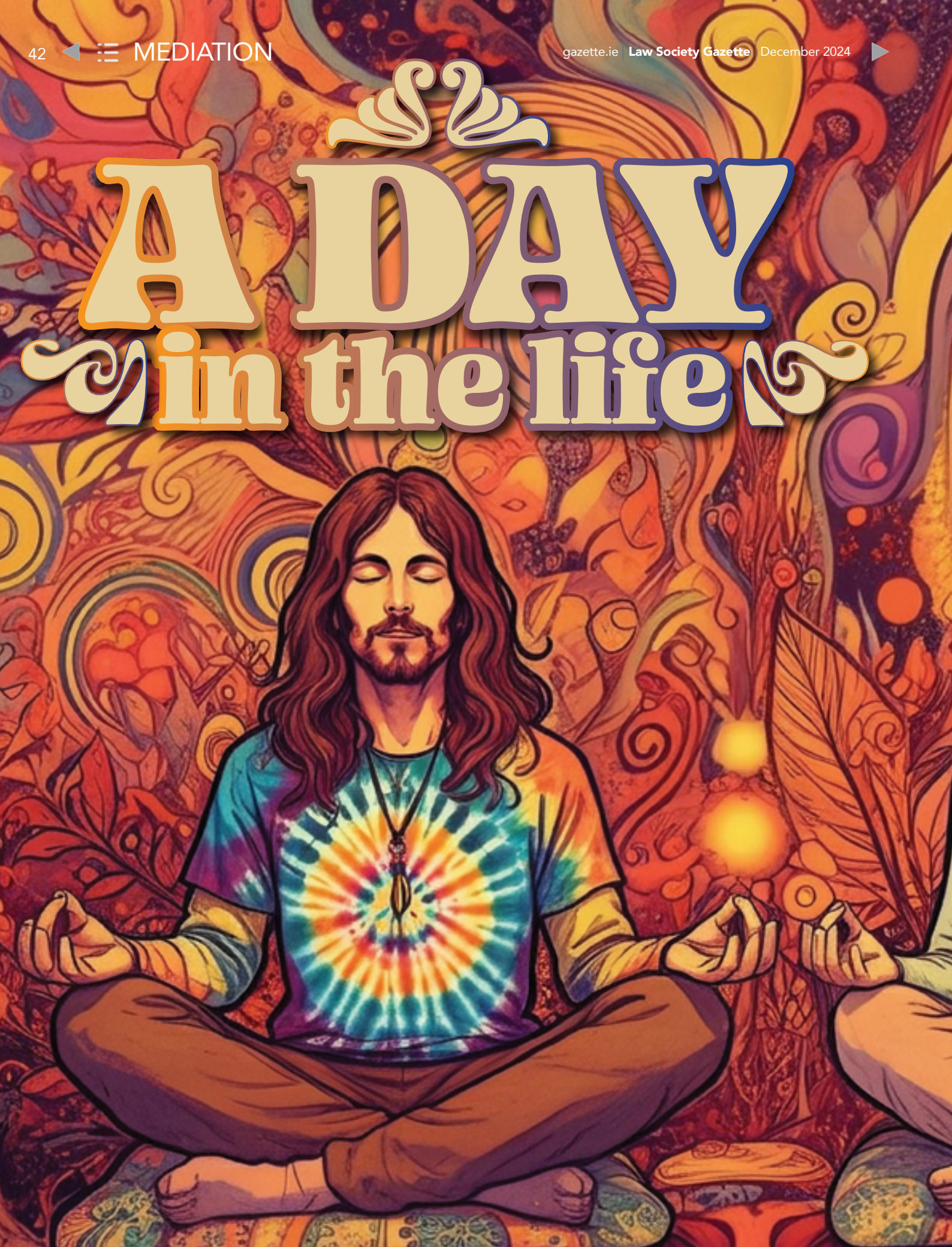
LEGISLATION:

- *Companies (Accounting) Act 2017*
- *Companies Act 2014*
- *Companies (Corporate Enforcement Authority) Act 2021*
- *Companies (Corporate Governance, Enforcement and Regulatory Provisions) Act 2024*
- *Companies (Miscellaneous Provisions) (COVID-19) Act 2020*
- *Companies (Rescue Process for Small and Micro Companies) Act 2021*
- *Corporate Sustainability Reporting Directive* (EU 2022/2464)
- *Employment (Collective Redundancies and Miscellaneous Provisions) and Companies (Amendment) Act 2024*
- *Limited Partnerships Act 1907*
- *Registration of Business Names Act 1963*
- SI 301/2024 – *European Union (Adjustment of Size Criteria for Certain Companies and Groups) Regulations 2024*
- SI 336/2024 – *European Union (Corporate Sustainability Reporting) Regulations 2024*

LITERATURE:

- *Pre-legislative Scrutiny of the Companies (Corporate Enforcement Authority) Bill 2018* (Joint Oireachtas Committee on Enterprise, Trade and Employment, April 2021)
- *Public Consultation on Proposals to Enhance the Companies Act 2014*
- *Report on Certain Company Law Issues Under the Companies Act 2014 Relating to Corporate Governance* (Company Law Review Group, May 2022)
- *Report on Company Law Issues Arising Under Directive (EU) 2017/828 of 17 May 2017 (SRD II), Central Securities Depositories Regulation (EU) 909/2014 (CSDR) and the Companies Act 2014* (Company Law Review Group, December 2021)
- *Report of the Company Law Review Group on the Regulation of Receivers* (May 2019)

A DAY in the life



PIC:: SHUTTERSTOCK

In an ideal world, what should the process of mediation look like? Helen Kilroy lets it be

In the March, July, and September *Gazette*s we had insightful and educational articles by Judge Michael Peart, Bill Holohan, and Liam Guidera on different aspects of mediation. Taking them as read, and the excellent guidance they provide, I have been asked to consider what a mediation process looks like for the mediator on 'a good day'?

For me, four 'Cs' immediately come to mind: collaborative, considered, concise, and creative. The good days generally involve several of them; the very good days involve all of them.

With a little help from my friends

Collaboration – as a mediator, collaborative processes are the easiest to manage. Parties and advisors who choose to collaborate at mediation are often rewarded with a very productive outcome. I say 'choose', because how everyone behaves at mediation is a choice.

Collaboration starts when the parties' advisors engage with the mediator in a 'process call' to agree preparations for the mediation. Ideally, that call will address certain basic questions. What materials would it be useful to brief to the mediator? Would an exchange of information on a particular issue facilitate parties to better understand their risk on the issue? Should there be an exchange of expert reports or expert conferral in advance of the mediation? Who is attending the mediation, and how might the day be best run?

Having rows about preparations rarely improves the mood for the day of mediation and, if you have to ask the mediator to make directions on disputed preparation points, it can undermine the voluntary nature of the process. Many preparation rows are about what the mediator should receive. In that context, remember that parties can say what they want to the mediator in private session. So why waste time rowing about the briefing? It is more effective to be collaborative, acknowledge that the other side can share what they want with the mediator privately if it is not in the agreed core book, and avoid an unnecessary row before the mediation.


PIC: ALAMY

Despite successive rounds of Ringo Bingo – an early form of alternative dispute resolution – John and Paul's relationship never recovered from the 'Yellow Submarine' incident. Oh no, it didn't

On the day of mediation, having a collaborative engagement with the mediator is generally much more productive than taking an aggressive or adversarial approach. The mediator is there to help. While venting at the mediator might ease the mood in your room, remember that you need the mediator to advocate and persuade for your client with the other side. The mediator is more likely to do that if you work with, rather than against, them. The more open you can be with the mediator in explaining your needs, and listening to and understanding what the mediator is saying to you about the other side's needs, the better.

Having a professional and collaborative engagement with other advisors at the mediation helps you to keep the focus on finding a path to resolution. How you engage with colleagues on the day of the mediation sets a tone. Working with them throughout the day in a collaborative rather than aggressive or adversarial way in response to their suggestions (whether shared through the mediator or in joint sessions) can often have a positive ripple effect when it comes to managing difficult aspects of the commercial negotiations or drafting points later in the day. Remember: the dispute is your clients', not yours, so don't make it personal; your clients might get annoyed or upset on the day, but mirroring their emotions rarely helps the process!

Within you without you

Considered approach – parties and advisors who adopt a considered approach to mediation are a joy for mediators to work with. Their approach is underpinned by conducting a detailed analysis of the claim in advance of the mediation, and thoughtful engagement on the day of mediation.

What does this approach entail? Ideally, it involves looking critically at the strengths and weaknesses of the claim, both from the plaintiff's and the defendant's perspectives, and considering the most likely outcome at trial. If you adopt this approach, you and your client will be able to explore the impact of the likely trial outcome on your client personally or on their business – and on the other side. Having conducted such an analysis, you will be well positioned to consider what alternative outcome at mediation might be sufficient to meet your client's needs and, at the same time, be acceptable to the other party.

Doing this work in advance of mediation will help in managing your client's expectations about possible settlement terms. If a party has unrealistic expectations on the day of mediation, it will slow the process down at a minimum (while the mediator explores risk with them and seeks to establish what is a realistic outcome) or, worse, can result in the talks breaking down.

Time spent reflecting on the claim in advance of mediation can be invaluable in identifying points of sensitivity for your client or the other side – for example, a reputational or relationship issue between the parties. Once identified, the issues can be shared with the mediator, with a view to the mediator being forewarned of the need to manage or navigate around the issue.

A considered approach also assists when points of tension arise on the day of

REMEMBER: THE DISPUTE IS YOUR CLIENTS', NOT YOURS, SO DON'T MAKE IT PERSONAL; YOUR CLIENTS MIGHT GET ANNOYED OR UPSET ON THE DAY, BUT MIRRORING THEIR EMOTIONS RARELY HELPS THE PROCESS!

mediation. If you and your client can reflect before reacting to a point of tension, that can be of great assistance in defusing the tension.

Fixing a hole

Be concise – most mediators will tell parties that less is more in all aspects of mediation. The mediator is not a decision-maker on the merits and will not decide who has 'behaved badly' (even if you ask them to!), so the mediator does not need to read or be told 'everything'.

On a good day, the mediator will be able to explore with each team privately what the likely case outcome will be, and how that outcome will affect each party. To do that, the mediator needs enough information to understand what the issues are, so as to be able to ask questions about the risk of adverse outcomes – and the shape of those outcomes. The mediator does not need to see all affidavits, exhibits, witness statements, discovery, correspondence, or necessarily the pleadings, though, on occasion, a good briefing might require inclusion of some of that material.

What the mediator does need and want (ideally in advance of the mediation) is clear guidance on the issues in dispute and the impediments or blockages that parties and their advisors see to a deal being reached. This could be set out openly (in a position paper that will exchanged), or privately (in a confidential letter for the mediator's eyes only). The sooner you disclose impediments, the better, as it gives the mediator time to reflect on possible work-arounds and explore them with the parties and their advisors.

At the mediation, being concise in engagements with the mediator and colleagues helps to keep the discussions moving. It can be very frustrating for parties if they are left hanging around for long periods while the mediator struggles to gather answers, information, or instructions in the other room. As advisors, your role is to be equipped to answer the mediator's questions clearly and concisely. You need to be well prepared to be able to do so, as does your client.

Getting better

Being creative – an invaluable aspect of mediation is how the process facilitates a safe (without prejudice) space for creative solutions to be explored. Creative solutions are ones that the court generally cannot order in the underlying proceedings.

Participants who combine the three 'Cs' (of being collaborative, considered and concise in their approach) tend to build trust with each other as the process develops, and that facilitates creative problem-solving. If you really listen to the other side's needs, you can try to meet them. If you see the other side's problem as your problem too, you will be motivated to work with the other side to resolve them.

Several examples come to mind:

- In a contractual claim, agreeing a payment moratorium, suitable payment instalments, and appropriate default provisions,
- In a defamation claim, agreeing how an 'offending' article that cannot be removed from the 'official record' can be linked effectively to a clarifying statement, so both are always read together,
- In an employment claim, agreeing a package that includes a termination date to facilitate further pension contributions and payment of benefits in a tax-efficient manner,
- In a negligence claim, agreeing the form of an apology acceptable to the plaintiff,
- In a property claim, agreeing what boundary for partition would best suit each side's needs.

Being collaborative, considered, concise, and creative in your approach to mediation might sound like a big ask. But this sort of positive approach to the process goes a long way towards delivering excellent outcomes.

Helen Kilroy is vice-chair of the Law Society's Alternative Dispute Resolution Committee and a partner in McCann FitzGerald.

Organ of change

The Law Society's Education Committee is fundamentally a regulatory body, regulating admission to the profession, says Richard Hammond SC, who has recently stepped down as committee chair.

The committee supervises training and education for the Irish legal profession, which is now a sector worth €14 million a year in Ireland, he notes. This is in addition to its oversight role on the Professional Practice Course (PPC) for trainees and Law Society Professional Training, which focuses on continuing professional development for solicitors. The postgraduate qualifications the committee supervises range from diplomas to master's to doctoral-level programmes.

The committee also regulates the training relationship between firms and the trainee solicitors and, as such, is a very significant arm of the Law Society.

This substantial regulatory burden must be complied with outside of any other educational initiatives the committee also undertakes.

Its other recent projects include the first full overview and overhaul of CPD, which occurred in 2022-23. Solicitors this year have a completely redesigned CPD programme that is far more fit for modern expectations, Hammond says.

Don't stop believing

The committee is also considering the idea of a series of 'qualifications' throughout the life-cycle of each practising solicitor, from being a law student to working as a seasoned lawyer. Those who complete FE1s could be called 'scholastic associates' of the Law Society. On entering traineeship, one might become a 'trainee associate'. On qualification, one becomes a Law Society member and is admitted to the Roll. And 12 years post-qualification, solicitors might be eligible to be called 'fellows of the Law Society'.

"This would be a massive change. Heretofore, the only qualification received was the word 'solicitor'," Hammond notes, pointing to similar levels in other professions.

The committee is also involved in the significant redevelopment of the Blackhall Place Green Hall building to create an education hub that is fit for purpose, with space befitting the wide extent of the courses offered on campus. "The space in Blackhall Place is already very much oversubscribed, and when this comes to pass, within a few short years, we are going to have far-extended capacity to offer courses," Hammond says. The expansion will particularly facilitate tutorials, workshops, and all the other in-person engagement that the Law Society offers, and which are less satisfactory on a remote basis.

The committee is also working on a formal protocol for return to practice and delayed entry to practice. "While there are current provisions for dealing with these circumstances, it is somewhat ad hoc. We will be looking at practice in this and other jurisdictions, both in legal and other professions, to see what may be suitable from the perspective of regulating in the public interest, to ensure that knowledge and skills and practices are up to date when they return," he explains.

Radar love

Routes to qualification are also on the committee radar. As well as the full-time PPC, which runs from September to April, there is a hybrid option, which runs from January to December.

"The full-time course remains immensely popular, and is at or over capacity every year, and that suits the traditional student coming almost immediately from their undergraduate studies into their training contract.

"From the perspective of our commitment to diversification of the profession and ensuring that people from diverse social and economic backgrounds can access routes to qualification, the introduction of the hybrid course has been key," Hammond says.

The hybrid course is delivered on a 'blended-learning' basis, with most of the lectures delivered online so that they can be viewed by the student when s/he has capacity so to do, with suites of tutorials and workshops given on Fridays and Saturdays every three to four weeks throughout the year. The material covered is precisely the same as that covered in the full-time course, and the tutors and lecturers are all the same.


PIC: CIAN REDMOND

Richard Hammond with newly appointed committee chair Brendan Cunningham (left) and vice-chair Justine Carty

"It is simply that the mode of delivery is adapted to suit those who are not in a position to commit to a full-time course in Dublin, particularly those who might be coming to qualification later in life, or those who might have caring, or other family commitments that simply don't facilitate full-time learning," Richard explains.

In the medium term, the Education Committee will also be examining proposals to create an apprenticeship route to qualification, although significant research is still needed in that regard to ensure parity of standards.

"Ultimately, anyone who is given a practising certificate must, in the public interest, be capable of discharging their functions, co-equally with any other solicitor. However, it is recognised that not every potentially good solicitor is able to commit themselves to the many years of undergraduate learning required, while not being employed.

THE COMMITTEE IS ALSO CONSIDERING THE IDEA OF A SERIES OF QUALIFICATIONS THROUGHOUT THE LIFE-CYCLE OF EACH PRACTISING SOLICITOR, FROM BEING A LAW STUDENT TO WORKING AS A SEASONED LAWYER

"The particular options that may be developed are still under consideration, and it would be premature to set out what they look like, other than to say this is under active consideration and is likely reach some sort of fruitful conclusion in the medium term," Hammond explains.

School days

The Education Committee has nine voting members, and it is unique in that its composition is set by statutory instrument. There must be a minimum of five Law Society Council members in situ, and a maximum of four non-members of Council. Richard was recently replaced as chair by Brendan Cunningham (RDJ), while Justine Carty (Taillte Éireann) stepped into the vice-chair role.

The officers of the Law Society are also *de jure* members of the committee – president, senior vice-president and junior vice-president. The officers normally don't participate in its business, but are held in reserve in cases that need a rehearing by committee members who have not previously heard the matter and comprise an independent quorate committee.

The spread of committee members is geographically wide, drawing from big and small firms, Dublin and provincial practices, as well as in-house and public sector lawyers. One member is not a solicitor and comes from an education technology background. This diverse cross-section of the profession is very helpful in bringing a good balance of perspectives to bear on decision-making, Hammond says.

In addition, the committee has several non-voting consultants in attendance, including representatives of the judiciary and previous long-standing members, who bring wide experience and are free to express their opinions.

The committee meets with every Council meeting, a minimum of eight times a year, but may also have three or four bonus meetings when pressing admission matters arise, such as to the barrister-transfer course into the solicitor profession.

The Law Society's Education Department also attends and weighs in on relevant matters.

The committee deals with a wide number of applications concerning transfers, exemptions, and CPD queries, which leads to wide interaction with the profession. "The entire offering of Law Society Professional Training is outreach to the profession," Hammond explains. "Every trainee on the PPC course is indentured to a training solicitor at a firm, so that is also outreach to the profession, which is continuously interacting with the Education Department in some form or another," he adds.

"At some stages in the past, it has been suggested that other providers may be licensed to undertake the professional legal education of trainee solicitors. The Law Society already does an excellent job in that respect. If such other providers were ever licensed, I do not think the Law Society would have anything to fear, such is the quality of the associate faculty, the course managers, and indeed the courses delivered.

"Nonetheless, given the number of trainee solicitors – which, in the greater context of educational offerings, is somewhat low in and of itself – I would question whether there is a critical mass of prequalification trainees that would justify broadening the number of providers.

"Equally I would be concerned about any diminution in the standards of education received in any other course. The main benefit to the Law Society's education offering to trainee solicitors is that they are being taught on the PPC by well-experienced seasoned colleagues who are giving of their time very generously.

"It is difficult to imagine that that would be replicated in a situation where other providers were in the market," Hammond concludes.

Mary Hallissey is a journalist with the Law Society Gazette.

Colouring within the lines

This year has been pivotal in advancing the 'Well Within the Law' initiative, a drive to shift work culture within the profession. Mary Hallissey breaks out the crayons

THE WELL WITHIN THE LAW MOVEMENT IS MORE THAN JUST A SERIES OF EVENTS. THIS IS A CULTURAL SHIFT THAT'S GAINING GLOBAL MOMENTUM AND SETTING BENCHMARKS FOR WELLBEING AND WORKPLACE CULTURE IN THE LEGAL PROFESSION

'Well Within the Law' is a dynamic movement, led by Law Society Psychological Services, to transform culture within the legal profession. It begins with open, honest conversations about the interconnection between mental health, psychological wellbeing, and legal workplace culture.

The Law Society has been at the forefront of this cultural shift, with solicitors and legal workplaces from across the profession – large firms, public sector, and in-house counsel – participating in several groundbreaking initiatives. And as the year draws to a close, it's time to reflect on some of the highlights.

Firstly, the sheer scale of engagement. More than 2,500 solicitors participated in the 'High Impact Professional' lunchtime conversations, curated by chartered work and organisation psychologist Mary Duffy, of Law Society Psychological Services. These sessions went deep into the psychological roots of legal culture, addressing themes such as psychological safety, leadership in law, trauma-informed lawyering, the role of social connection in tackling mental health challenges, and bringing a deeper understanding to addictive patterns used to cope with the pressures of legal practice.

The Law Society Skillnet Wellbeing Summit on 15 October had 'Tackling Burnout' as its theme. The sold-out event saw over 1,000 solicitors hear experts, including psychiatrist Dr Noel Kennedy, discuss the alarming rates of burnout in the legal profession and strategies for tackling it head-on.

Access to these courses can be found on the Professional Wellbeing Hub, professionalwellbeinghub.learnskills.ie.

Elephants in the room

More than 500 solicitors registered for the Well Within the Law festival at Blackhall Place on 5 September, which launched the society's 'Elephant in the Room' initiative.

This project aims to break the silence around the mental-health struggles often hidden within the profession. Attendees heard former rugby international Brent Pope tell of his attempts to overcome what he described as a "too weak to speak" attitude to mental-health issues.

The complete lawyer

In a significant development for PPC trainees at Blackhall Place, the 'Culture First: Well Within the Law' module was introduced as part of their 'Complete Lawyer' course.

Trainees contributed to meaningful conversations on building healthy workplace cultures by addressing key mental health and wellbeing 'elephants in the room' and exploring innovative solutions for creating supportive legal environments.

Time to think

The 'Time to Think' series of workshops, offered in partnership with Hannah Carney and Associates, brought senior leaders from the public sector and in-house legal departments together to explore how to optimise team performance while prioritising wellbeing.

This was a thought-provoking initiative for general counsel on how to create a 'thinking culture' as part of organisational life.

The last year also saw the Psychological Services team expanding collaborations within legal practices to develop and deliver professional workshops and contribute to panel discussions across Dublin, Cork, Waterford, and Belfast.

It has been a pivotal year for culture transformation. The Law Society has collaborated with top-tier legal and financial institutions, including McCann FitzGerald, William Fry, A&L Goodbody, Bank of Ireland, and CKT to provide insights into a new sustainable systemic approach to professional wellbeing.

Expansion

A milestone was the launch of a mental health and wellbeing podcast series in collaboration with the Professional Wellbeing Commission of the International Bar Association. The series features candid conversations with legal leaders about how they sustain peak health and performance.

The movement for sustainable cultural change in the legal profession continues to gather momentum, with several exciting initiatives are on the horizon.

Informed by a 2024 pilot with RDJ and SEVEN Psychology at Work, a 'Well Within the Law Chartership' is under development and set to be launched in 2025. This programme will offer a recognition system for legal workplaces that demonstrate a strong commitment to fostering healthier, more supportive environments for their people. The chartership will set a new standard of excellence in mental health, wellbeing, and workplace culture for the legal profession. Further details will be shared in January 2025, and any workplace or team who would like to engage are invited to contact ps@lawsociety.ie or visit the website at lawsociety.ie/ps.

However, the Well Within the Law movement is more than just a series of events. This is a cultural shift that's gaining global momentum and setting benchmarks for wellbeing and workplace culture in the legal profession.

Through continued collaboration, leadership, and education, the goal is to ensure that legal practices become spaces where mental health is prioritised and professionals are supported to thrive both personally and professionally.

For more information or to set up time to discuss new ideas with this dynamic team or with the head of Psychological Services, Antoinette Moriarty, feel free to reach out on ps@lawsociety.ie.

We are here for you!

Mary Hallissey is a journalist with the Law Society Gazette.

Opportunities knock

The Law Society's annual in-house conference heard that there are 'extraordinary' opportunities in a thriving sector. Andrew Fanning reports

THE AIB GENERAL COUNSEL ALSO URGED LAWYERS TO MOVE AWAY FROM ANY 'I'M SPECIAL' ATTITUDES. SHE STATED THAT AIB'S FOCUS WAS LESS ON LAWYERS' CERTIFICATES OR QUALIFICATIONS – THEY CARE THAT THEIR LAWYER GIVES PRAGMATIC ADVICE

In-house lawyers have been told not to underestimate the value of the skills they acquire in their legal training, as the sector's annual conference focused on leadership in the legal sector – and in the wider business world.

The well-attended annual In-House and Public Sector Conference at the Law Society on 2 October heard from two separate panels: one consisting of top-tier leaders of in-house teams in the public and private sector, the other comprising lawyers who have moved into key business and management roles in their organisations.

The second panel included the Commissioner for Data Protection, Dr Des Hogan, who outlined his path to leadership in a keynote address to the conference.

The event was organised by the Law Society Professional Training team in collaboration with the Law Society's In-house and Public Sector Committee, whose chair Alison Bradshaw (head of Credit Legal Services, AIB) told attendees that the growing sector now made up 25% of the solicitor profession.

The Law Society's director general, Mark Garrett, led the opening panel discussion and told the conference that this figure was expected to hit 30% in the next five years, adding that the "thriving" sector reflected the economy's growth and diversity.

Regulation issue

The conference also heard that everything the Government did had a legal element, and that the State sector had seen "huge growth" in work linked to judicial reviews, immigration and asylum, and commercial matters.

Eleanor Daly (director and associate general counsel, global corporate, Meta) said that a proliferation of regulation had created more opportunities for lawyers.

The Chief State Solicitor, Maria Browne, who began her career as a property lawyer for small firms, outlined how she had moved to the in-house area during a recession, when the State was the only sector hiring.

Helen Dooley (group general counsel, AIB) began her career as a banking lawyer in private practice in London, but told the conference that she realised that in-house work could give her the chance to do what she wanted to do: lead.

Asked about the transition from being a lawyer to managing a team, Marion Berry (deputy Director of Public Prosecutions) said that one of the main challenges was to try to convince colleagues that specialist expertise was only one facet of the skillset needed by senior people leading an organisation – including a legal one. She said that there could be a fear that held people back from moving up a legal organisation, that it would mean the loss of the comfort blanket of the law.

"You're still a lawyer, and you must always be a lawyer," she stated, adding that you brought your skill and strength as a lawyer in addition to, and not instead of, these other skills and strengths that had to be built and developed to run a legal office.

Daly, who told the event that she had never realised that she would enjoy managing a team, stressed the importance of the ability to communicate and simplify. "Senior lawyers apply judgement to how you deliver a legal message," she stated.

Layer cake

Browne said that some practitioners feared promotion to leadership, as they felt they would no longer be lawyers. She added, however, that, in an in-house role, "you're still always an independent lawyer". The Chief State Solicitor said that she saw her task as bringing on the next layer of leaders, and succession planning for the future.

PICS: CIAN REDOMND


Meta's Eleanor Daly


Caroline Dee-Brown (director of legal services and general counsel, Commission for Communications Regulation)and Mark Cockerill (senior VP, legal – corporate, M&A and international development, ServiceNow)


Chief State Solicitor Maria Browne


Data Protection Commissioner Dr Des Hogan


Committee member Orla Fitzpatrick with chair Alison Bradshaw

Dooley told the event that what she called the "ivory tower" of law sometimes closed down opportunities for practitioners, pointing out that legal training provided a good grounding for other roles. "The deep technical expertise that I once had equips me to do my job well," she stated.

The AIB general counsel also urged lawyers to move away from any 'I'm special' attitudes. She stated that AIB's focus was less on lawyers' certificates or qualifications: "they care that their lawyer gives pragmatic advice." Asked about what additional skills in-house team leaders needed, Dooley cited resilience and integrity. In-house lawyers sometimes needed to "find the best way to say 'no'" when they saw something that they didn't agree with, she said.

Daly said that working with a multidisciplinary team and the ability to "build a coalition" were key differences from working in private practice, while Berry pointed to the need to "lift your head" and see the bigger picture for the wider organisation.

On the current profile of the in-house sector, the Meta director told the conference that the career path was better understood now, compared with 2004, when she had moved in-house and when "people didn't fully understand the role of an in-house lawyer".

Flexibility

The all-female panel also discussed their experience, as women, of reaching leadership positions in the in-house sector.

Berry shared her previous experience of seeing how difficult it was to be a parent as a practising barrister. In contrast, in the State sector, "it just didn't matter".

"It doesn't matter who you know," said Browne, citing the anonymised, competency-based system of promotion in the public sector. Describing the position of women being represented in leadership roles generally across the legal sector as a journey, however, she warned that "we're not there yet".

Dooley spoke about the joy of walking away from what she described as the "dinosaur" of billable hours, stressing the flexibility of in-house roles for lawyers. "If they go through a rough patch, they will be looked after," she told the event.

Daly added that law firms may struggle to put forward a competitive alternative offering to the in-house career model, describing the range of legal careers available in Dublin as "extraordinary".

Values and purpose

Delivering his address to the conference, Commissioner for Data Protection Dr Des Hogan outlined his career path, from his early work with Amnesty International – initially as a volunteer – to later senior positions with the Irish Human Rights Commission and the Chief State Solicitor's Office.


Mark Garrett


Alison Bradshaw

DR HOGAN OUTLINED THE BENEFITS OF LEGAL TRAINING IN DRAFTING DECISIONS AND ANALYSING INFORMATION VERY QUICKLY, BUT WARNED THAT OVERT LAWYERS' CAUTION DID NOT HELP IN WIDER IN-HOUSE ROLES, AND RISKED SLOWING DOWN AN ORGANISATION

His work with Amnesty involved interviewing the survivors of Srebrenica and victims of human-rights abuses in Myanmar, as well as leading the Amnesty Australia response to East Timor.

Dr Hogan stressed the importance of personal values and purpose, urging attendees to ask themselves if these were aligned with the job that they were doing. He spoke about developing "opportunity experiences" – recognising that things would come at you quickly, but being prepared to respond.

Hogan told the conference that leadership skills did not come overnight, but were developed by learning from adversity and not being afraid to fail. He described mistakes as "huge learning opportunities".

On the role of in-house lawyers, he told the conference that success could depend on how well you understood your organisation's priorities, and how you delivered your message. "Be sensitive to your impact on other staff," he urged, adding that lawyers' impact on an organisation could be substantial.

Hogan also participated in the conference's second panel discussion, led by Caroline Dee-Brown (director of legal services and general counsel, ComReg), which focused on lawyers who had made their mark in business and management roles.

Particular set of skills

All three panellists emphasised the value of their legal training in their current roles.

Mark Cockerill (senior VP, legal – Corporate, M&A, and International Development, ServiceNow) told the event that legal roles were leadership roles. "We have a valuable contribution to make to the wider business," he stated. He urged lawyers never to demean or dismiss their role, adding that a legal background gave people a wider view of a business, as well as the analytical skills to ask the right questions.

Cockerill warned, however, that there were 'soft' skills, such as communication or management, that were not learned at law school.

Ruth McCarthy (CEO Corporate Payments, Fexco) studied law initially, but did not want to become a solicitor. Eventually, however, she was drawn back by realising the benefits of becoming a qualified lawyer. "Qualification is so valuable, particularly in financial services," she told attendees, adding that the regulatory environment meant that work in the sector was more aligned than previously with legal skills.

McCarthy gradually moved from legal into compliance functions, and spoke about the value of seeing how decisions were made "when the lawyer is not in the room". She warned lawyers thinking about a broader business role that they might have to accept lower pay initially, but that the trade-off was more opportunities. She also added that a new role might be "less comfortable" for lawyers who were used to being regarded as knowledgeable in their own field.

Dr Hogan outlined the benefits of legal training in drafting decisions and analysing information very quickly, but warned that overt lawyers' caution did not help in wider in-house roles, and risked slowing down an organisation. "If in-house oversteps, that's a problem for the business," he stated, urging in-house lawyers to give frank legal advice, but then allow managers to make a choice on the way forward.

"Be an enabler, rather than a barrier," he concluded.

Andrew Fanning is a journalist with the Law Society Gazette.

Brexit breaks it

The implementation of the *Windsor Framework* has given rise to legal and constitutional challenges and the consequential costly access to justice for persons resident in post-Brexit Northern Ireland. Brexit has not only fractured the EU, but also the UK, says Duncan Grehan

WHILE ALL NI RESIDENTS CAN ENJOY NO DIMINUTION OF EU LAW RIGHTS, THIS HAS A TIME LIMITATION, AND THOSE WHO CHOOSE IRISH CITIZENSHIP WILL CONTINUE TO HAVE MANY SUCH RIGHTS – BUT THOSE WHO DON'T, WON'T

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

The central topic of an Irish Centre for European Law conference in Queen's University Belfast in October examined article 2 of the *Windsor Framework* (formerly known as the *Ireland/NI Protocol*), in the aftermath of the Court of Appeal's decision in the *Dillon (Legacy Act)* case (*Dillon & Ors, Application for Judicial Review* [2024] NICA 59 (20 September 2024); *Northern Ireland Troubles (Legacy and Reconciliation) Act 2023*).

The *Dillon* judicial review involved an appeal by seven cross-appellants, the Secretary of State for Northern Ireland as respondent/appellant, the Police Ombudsman for Northern Ireland, Department of Justice, and Coroners Service for Northern Ireland as notice parties, and the Human Rights Commission, Equality Commission for Northern Ireland, Wave Trauma Centre, and Amnesty International (UK) as the intervenors. Before the three presiding judges, there appeared 24 barristers instructed by 12 solicitors' offices. And this matter may well still proceed for further costly review by the UK Supreme Court.

At paragraph 2 of its judgment, the NI Court of Appeal (NICA) explained: "This case concerns the legality of primary legislation, the *Northern Ireland Troubles (Legacy and Reconciliation) Act 2023*, which was introduced to deal with the legacy of Northern Ireland's troubled past, and whether that legislation offends the *European Convention on Human Rights* and/or undermines rights previously guaranteed by EU law."

At paragraph 4, the court addressed the main *Legacy Act* consequence: "In summary, those who have brought the lead case are directly affected by the end of inquests and civil actions and the potential grant of immunity from prosecution, as set out in their affidavit evidence."

At paragraph 7, the court recognised the tension between its role and that of politics: "Furthermore, we are conscious that, whilst this case arises in the legal sphere, it also occupies the political space. Hence, we are also aware of the potential political ramifications of this case. However, to be clear, our role is not to make policy. The courts are simply concerned with the legality of the legislation. This is a legitimate part of the judicial function, reflective of adherence to the rule of law and the constitutional role of the courts recognised both at common law and in legislation. We proceed on that basis."

EU law directly effective

The court clearly set out its opinion on the continuing binding nature of EU law in the UK and therefore in Northern Ireland post the

PIC: SHUTTERSTOCK

Withdrawal Agreement (WA) at paragraph 57: "… certain Union law continues to apply in the circumstances mandated by the WA. In addition, provisions of the WA itself are to have the same legal effects as they produce within the EU. Those laws and provisions of the WA shall be capable of being relied upon directly so far as they have direct effect and may give rise to the remedy of disapplication of primary legislation." It cited, at paragraph 56, WA article 4.1 in clear support of that dicta.

Article 2(1) of the *Windsor Framework* (WF) states that the UK shall ensure that, as a result of the UK's withdrawal from the EU, there "shall be no diminution of rights, safeguards or equality of opportunity" and this is also set out in the 1998 *Belfast/Good Friday Agreement* (B/GFA), paragraph 1 of which stated, albeit somewhat generally, that its parties committed "to the mutual respect, the civil rights and the religious liberties of everyone in the community".

The NICA found in *Dillon* (paragraph 85) that article 2(1) "is directly effective" in the legal relationships between

POST-BREXIT IN NI, THERE IS ONGOING EU LAW AND RIGHTS. PURSUIT OF SUCH RIGHTS AND REMEDIES INVOLVES TIME, A LENGTHY AVENUE TO REDRESS, AND SO UNCERTAINTY AND COST – ESPECIALLY GIVEN THE NECESSARY INVOLVEMENT OF THE PUBLIC SECTOR'S ORGANS AND FUNDS

the state and its citizens. However, it also pointed out that, "although the questions of whether there has been a diminution in rights and whether, if so, this can be said to have resulted from the UK's withdrawal from the EU, will require a degree of detailed analysis on the concrete facts in any given case, the key obligation assumed by the UK in article 2(1) is a clear and unconditional obligation of result."

So, the issue of the legality of domestic law *vis-a-vis* the article 2(1) guarantee that there shall be no diminution of citizens' rights is to be decided on a case-by-case basis.

No diminution permitted

At paragraph 60, the NICA states with clarity: "Specifically, article 2(1) WF provides for the rights of individuals resident in Northern Ireland. It imposes a state obligation on the UK to ensure that no diminution of rights, safeguards or equality of opportunity, as set out in that part of the 1998 agreement entitled RSE, occurs post-withdrawal from the EU."

Post-Brexit in NI, there is ongoing EU law and rights. Pursuit of such rights and remedies involves time, a lengthy avenue to redress, and so uncertainty and cost – especially given the necessary involvement of the public sector's organs and funds. In the event of any EU or international law default, the EU Commission has no entitlement to bring enforcement proceedings (article 12(4) WF), and the UK courts have no right to refer questions to the CJEU. Ensuring compliance with EU law is the obligation of its domestic courts. Challenging breaches of article 2 claiming the diminution of rights requires exhaustion of complex and time-consuming steps: firstly to the NI Human Rights Commission (article 14 WF); secondly, to the Specialised Committee (article 165 WA); thirdly, to the Joint Committee


PIC: SHUTTERSTOCK

(articles 167-169 WA) – and only then, fourthly, can there be arbitration and clarification and the binding determination of the CJEU (articles 170-174).

One of the questions also raised in the *Dillon* case was whether the WA and the B/GFA are international treaties and thereby subject to the 1969 *Vienna Convention on the Law of Treaties* (VCLT). Helpfully, somewhat, the NICA at paragraph 78 concluded: "The WA is plainly an international treaty to which the VCLT could apply. Both the UK and Ireland are parties to the VCLT. Furthermore, it is well-recognised that articles contained in this treaty on treaties represent a codification of the norms of customary international law. The position as regards the B/GFA is less clear-cut."

Legacy act not lawful

EU law and its principles remain available for residents in NI. The domestic laws and remedies to be compliant with EU law standards must be appropriate, effective, proportionate, and dissuasive and respect the principles of equivalence and effectiveness.

The *Legacy Act* provided an end to the rights of those with loss as a result of the Troubles to seek redress, remedies, and compensation. At paragraph 10, the NICA noted that the trial judge, Colton J ([2024] NIKB 11) "found that 'there is no evidence that the granting of immunity under the 2023 act will in any way contribute to reconciliation in Northern Ireland, indeed, the evidence is to the contrary. It may well be that a system whereby victims could initiate the request for immunity in exchange for information would be compliant with articles 2 and 3 ECHR, but this is not what is contemplated here.' This is a finding which he was entitled to make."

In reaching its conclusion on the illegality of the *Legacy Act*, and having considered the *Charter of Fundamental Rights of the EU*, the ECHR, as well as the VCLT, it stated (paragraph 244): "The legislation as it currently stands provides a blanket prohibition on civil claims, which to our mind is not proportionate or justifiable."

Postscript

Advocate General Anthony Collins (who retired this October and has been nominated a judge of Ireland's Court of Appeal) noted, as the ICEL conference's final speaker, that while all NI residents can enjoy no diminution of EU law rights, this has a time limitation, and that those who choose Irish citizenship will continue to have many such rights – but those who don't, won't. He also agreed and noted, during question time, that the WF is binding on the UK and that its article 2(1) provisions have direct effect.

Duncan Grehan is a solicitor, accredited mediator, and member of the EU and International Affairs Committee of the Law Society of Ireland.

> IN REACHING ITS CONCLUSION ON THE ILLEGALITY OF THE *LEGACY ACT*, THE NI COURT OF APPEAL STATED: 'THE LEGISLATION AS IT CURRENTLY STANDS PROVIDES A BLANKET PROHIBITION ON CIVIL CLAIMS, WHICH TO OUR MIND IS NOT PROPORTIONATE OR JUSTIFIABLE'

COUNCIL REPORT

LAW SOCIETY COUNCIL MEETING – 12 SEPTEMBER 2024

● Council approved the admission of two motions to the November meeting: practising-certificate-fee approval and amendments to Law Society regulations.

Council appointed Geraldine Clarke and Michelle Ní Longáin to be scrutineers for the election of senior vice-president and junior vice-president, in accordance with the requirements of regulation 70.

Following consideration of recommendations from the Coordination Committee, Council approved two appointments/nominations to the European Bars Federation, and the District Court Rules Committee.

Council noted two appointments made under regulation 31 between the July and September meetings – to the Housing for All Implementation Group, and to the EU Commission's AI Task Force. It also approved standard terms of appointment to external bodies; the adoption of a protocol for the award of Honorary Member of the Law Society of Ireland; and the modification of access to declarations of interest to permit trusted members of the governance team to have access to the declarations, as approved by the head of governance.

Council heard details of stakeholder engagement, including with Government and political parties.

The Council considered questions arising from the recent LSRA *Breaking Down Barriers* report. Council members noted that accessibility has been improved and the returners programme is to be commended. Currently, there are 16 counties without trainee solicitors – members considered how the Law Society could get more trainees into these areas. The Law Society welcomes the report. The broad themes are 'culture' and 'access'. The criticisms of solicitors revolve around pathways to the profession and culture. The Law Society recognises the problem and invests about €2 million per annum in related services.

The Council heard details of a recent data breach from the Law Society's data-protection officer and how the breach was managed and resolved. A notification was sent to the Data Protection Commissioner. The Council commended the DPO and the Law Society team on the management of the data breach.

The director of regulation provided an update to the Council on the PII market and PC renewal. The PC renewal period will open on 1 December 2024 and close on 1 February 2025. Members are advised to check their details in advance. Council considered the recent rise in the number of cyber-fraud cases and emphasised the importance of cyber-fraud cover, in addition to PII, for members.

The director of finance and operations presented on proposed refurbishments at Blackhall Place, including to the Council Chamber, and Council approved the budget. Members expressed a strong preference that the identity and heritage of the chamber be maintained, and this aspect will be further considered via the Coordination Committee.

The head of governance presented proposed amendments to the byelaws to Council. These will be presented to the AGM for approval in November. g

CONVEYANCING COMMITTEE

ASSISTED DECISION-MAKING (CAPACITY) ACT 2015: GUIDANCE

The Conveyancing Committee has received queries from practitioners regarding the *Assisted Decision-Making (Capacity) Act 2015* and its impact on conveyancing practice.

The act establishes a new legal framework for supported decision-making in Ireland and came into full effect on 26 April 2023. It has abolished and replaced the wards-of-court system.

Practitioners should be aware of, and understand, the distinction between the various types of support arrangements for people who may face challenges when making certain decisions – namely, decision-making assistance, co-decision-making agreements, and the appointment of a court-appointed decision-making representative ('the order'). This practice note deals only with the latter two supports. Practitioners should also be aware that the act affects enduring powers of attorney, but those are not dealt with as part of this practice note.

The Conveyancing Committee and the Mental Health and Capacity Taskforce are engaging with the Decision Support Service (DSS), Tailte Éireann, and the Revenue Commissioners in order to highlight the issues and queries that will arise in practice during the conveyancing process and agree the procedures that should be followed, and will update the profession in due course.

The current advice to practitioners dealing with purchasers and vendors in transactions relating to property is as follows:

The vendor's solicitor should establish at the outset of the transaction, and prior to issuing contacts for sale, whether any co-decision-making agreement is in existence or any order of court appointing a decision-making representative (DMR) has been made, and the vendor's solicitor should ascertain what impact, if any, such agreement or order may have on the transaction. If any agreement or order exists, the vendor's solicitor should ensure the agreement or order has been registered with the DSS, and the vendor's solicitor should put the purchaser's solicitor on notice of any such agreement or order, if appropriate. This should be dealt with by way of an appropriately drafted special condition in the contract for sale.

The purchaser's solicitor, once on notice of any such agreement or order, should request a copy of the agreement or order as registered in the DSS, together with proof of that. While the DMR has authority to act on foot of the perfected order before it is registered with the DSS, the committee has been advised by the DSS that it is occasionally necessary to seek amendment to orders so that they may be registered. It is, therefore, prudent to obtain the copy of the order as registered in the DSS. An agreement will not be valid unless registered with the DSS, so that only a copy of the agreement as registered may be relied upon.

The purchaser's solicitor should check the terms of any court order to confirm that the decision-making representative has the power to enter into an agreement for the sale of the property, and also ascertain if the order is subject to review by the court at a future date. If the order stipulates that a review must be undertaken at a future date, the terms and timing of the review should be carefully considered, and the purchaser's solicitor should seek a declaration on closing from the vendor to confirm that the order has not been varied or revoked, up to and including the date of completion. The contract for sale and the deed of assurance should be executed by the DMR in accordance with the terms of the order. As the decision-making representative can only aver to matters within their own knowledge, care should be taken in the drafting of declarations for completion.

In relation to co-decision-making agreements, the contract for sale, deed of assurance, and all other documentation in connection with the transaction should be executed by the vendor, who is being supported by the co-decision-maker in the normal manner. In addition, the co-decision-maker should join in the contract for sale, the deed of assurance, and all other documentation other than declarations, to confirm that their assistance has been sought and provided in accordance with the terms of the agreement.

Practitioners should be aware that the DSS has issued a number of codes of practice for practitioners when they are interacting with a person who requires support in making decisions. See decisionsupportservice.ie/resources/codes-practice.

The committee will issue further guidance to practitioners following its engagement with the DSS and other relevant parties in due course, if appropriate.

WILLS

Bailey, Lisa (deceased), late of 68 Burrin Manor, Tullow Road, Carlow, who died on 29 September 2024. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Nichola Delaney, O'Flaherty & Brown Solicitors, Greenville, Athy Road, Carlow; tel: 059 913 0500, email: nichola@oflahertybrowne.ie

Bell, John Reginald (deceased), late of Lusk, Co Dublin, who died on 23 September 2018. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Pádraic Grennan, Erin International, Iceland House, Arran Court, Smithfield, Dublin 7; tel: 01 482 1095, email: info@erininternational.com

Bell, Terrence (deceased), late of Lusk, Co Dublin who died on 27 October 2023. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Pádraic Grennan, Erin International, Iceland House, Arran Court, Smithfield, Dublin 7; tel: 01 482 1095, email: info@erininternational.com

Carolan, Liam (deceased), late of 26 Cherry Hill, Kells, Co Meath, who died on 20 May 2021. Would any person having knowledge of any will made by the above-named deceased, or if any firm is holding any will or documents, please contact Dara Murtagh Solicitors, Main Street, Kingscourt, Co Cavan; tel: 042 966 7503, email: dara@daramurtagh solicitors.ie

Cawley, John (deceased), late of Cum, Lahardane, Ballina/Crossmolina, Co Mayo, who died on 15 January 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 if any person has any knowledge of the identity of the next of kin of the said deceased, please contact MacHales LLP, Pearse Street, Ballina, Co Mayo; tel: 096 21122, email: info@machales.com

Conlon, Thomas Patrick (deceased), late of 45 The Maples, Bird Avenue, Clonskeagh, Dublin 14, formerly of Lisbrogan, Swinford, Co Mayo, who died on 17 August 2024. Would any person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact P O'Connor & Son, Solicitors, Swinford, Co Mayo; tel: 094 925 1333, email: law@poconsol.ie

Connor, Daniel (John) (deceased), late of New Lanes, Duleek, Co Meath, who died on 7 August 2022. Would any person holding or having any knowledge of a will made by the above-named deceased please contact Ann Matthews, O'Reilly Thomas Solicitors, 8 North Quay, Drogheda, Co Louth; tel: 041 983 3777, email: info@oreillythomas.ie

Coote, Ernest (otherwise Ernie) (deceased), late of Sheelin Nursing Home, Tonagh, Mountnugent, Co Cavan, and formerly of Dromore, Bailieborough, Co Cavan. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 1 October 2024, please contact Prior McAlister Solicitors, Cogan Street, Oldcastle, Co Meath, A82 WK40; tel: 049 854 1971, email: barry@priorlegal.ie

Fox, Angela (deceased), late of 3 Convent Avenue, Drumshambo, Co Leitrim, who died on 20 June 2024. 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 Foy Murphy & Company, Solicitors, Glebe Street, Ballinrobe, Co Mayo; DX 133003 Ballinrobe; tel: 094 954 1056, email: foymurphy@gmail.com

Freeman, Kenneth (deceased), late of 156 Kildare Road, Crumlin, Dublin 12, who died on 9 September 2024. Would any person or firm having knowledge of the whereabouts of any will made by the above-named deceased please contact Jean Wilkinson, Ahern Rudden Quigley LLP Solicitors, 5 Clare Street, Dublin 2; tel: 01 661 6102, email: jean.wilkinson@arqsolicitors.com

Lavelle, Philomena (deceased), who died on 3 October 2024 at Our Lady of Lourdes Hospital, Drogheda, late of Silver Stream Nursing Home, Dundalk; Sun Hill Nursing Home, Termonfeckin; 46 Ard Na Si, Lis Na Dara, Dundalk; also Castlebar, Co Mayo, and Trim, Co Meath. Would any person having knowledge of any will made by the above-named deceased please contact MacGuill and Co, Solicitors, 5 Seatown, Dundalk, Co Louth; email: info@macguill.ie

Leniston, Bridget (deceased), late of 133 Mourne Road, Drimnagh, Dublin 12. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, who died on 27 March 2024, please contact Malone Hegarty Solicitors LLP, Unit 3 & 6, The Courtyard, Fairhill, Killarney, Co Kerry; tel: 064 662 0411, email: info@malonehegarty.ie

RATES

PROFESSIONAL NOTICE RATES

RATES IN THE PROFESSIONAL NOTICES SECTION ARE AS FOLLOWS:

- **Wills** – €163 (incl VAT at 23%)
- **Title deeds** – €325 per deed (incl VAT at 23%)
- **Employment/miscellaneous** – €163 (incl VAT at 23%)

HIGHLIGHT YOUR NOTICE BY PUTTING A BOX AROUND IT – €30 EXTRA

ALL NOTICES MUST BE PAID FOR PRIOR TO PUBLICATION. ALL NOTICES MUST BE EMAILED TO catherine.kearney@lawsociety.ie and PAYMENT MADE BY ELECTRONIC FUNDS TRANSFER (EFT). The Law Society's EFT details will be supplied following receipt of your email. **Deadline for January/February 2025 *Gazette*: Friday 10 January 2025.**

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*.

O'Meara, Sean (deceased), late of 1 Father Matthew Terrace, Clonmel, Co Tipperary, who died on 24 May 2024. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Aine Ryan, solicitor, Binchy Law LLP, Quay House, Clonmel, Co Tipperary; tel: 052 612 1411, email: aryan@binchylaw.ie

Murphy, Philip (deceased), late of 6 Royal Terrace West, Dun Laoghaire, Dublin, who died on 26 September 2024. Would any person having knowledge of any will made by the above-named deceased please contact Coonan Cawley, Solicitors, Wolfe Tone House, Naas Town Centre, Naas, Co Kildare; tel: 045 899 571, email: office@coonancawley.ie

Ronan, Julia (otherwise Sheila) (deceased), late of 179 Sweepstakes, Ballsbridge, Dublin, who died on 27 September 2024. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact John M Joy & Co, Solicitors, 38 O'Connell Street, Clonmel, Co Tipperary; DX 22004 Clonmel; tel: 052 612 3338, email: johnkelly@johnmjoy.com

Walsh, Gerard (deceased), late of 13 Hillview, Rathcoole, Co Dublin, D246KE4, who was born on 7 October 1951 and who died on 13 April 2024 and was a former member of An Garda Síochána. Would any person having any knowledge of a will made by the above-named deceased please contact Isabelle Charmant-Tunney, Kevin Tunney, Solicitors, Millennium House, Main Street, Tallaght, Dublin 24; tel: 01 451 8887, email: icharmant@kevintunney.ie and info@kevintunney.ie

Young, Thomas Leo (deceased), late of 31 Leopardstown Park, Stillorgan, Co Dublin, who died on 5 December 2022. Would any person having knowledge of a will made by the above-named deceased please contact Ruairi O'Brien, solicitor, John C Walsh & Co, Solicitors, 24 Ely Place, Dublin 2; tel: 01 676 6211, email: ruairi.obrien@johncwalsh.ie

TITLE DEEDS

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*, sections 9 and 10, and in the matter of Spar, 33 Ashtown Grove, Navan Road, Dublin 7: an application by Valleycrest Holdings Limited

Any person having an interest in the freehold or any superior estate in 33 Ashtown Grove, Navan Road, Dublin 7. Take notice that Valleycrest Holdings Limited, as holder of the premises pursuant to a lease dated 23 March 1962 between Clare Dunn, Judith Darling, Jessie Marie Doyle, Edward J Doyle, Charles Hart and Eileen Gray of the one part and James Quinn of the other part, intends to submit an application to the county registrar for the county and city of Dublin for acquisition of the freehold interest in the premises, and any party asserting that they hold a superior interest in the premises is called upon to furnish evidence of their title to the premises to the below-named within 21 days hereof.

In default of such evidence being received, the above-named applicant intends to proceed with an application before the county registrar for the county and city of Dublin at the end of 21 days from the date of this notice and will apply to the said county registrar for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the premises are unknown or unascertained.

Date: 6 December 2024
Signed: Cahill & Company Solicitors (solicitors for the applicant), 21 Windsor Place, Dublin 2

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* and in the matter of the property situate at Ladyswell Street and Canopy Street, Cashel, in the county of Tipperary: an application by Jean Byrne

Take notice that any person having an interest in any estate in the above property that Jean Byrne intends to submit an application to the county registrar for the county of Tipperary for the acquisition of the fee simple interest in the aforesaid property, and any person 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 within 21 days of the date of this notice.

Any person having any interest in the property held under a lease dated 9 October 1905 between Maria Grace of Hill House, Cashel, in the county of Tipperary and Andrew O'Grady and Alice O'Grady, should provide evidence to the below named within 21 days from the date of this notice.

In default of any such information being received, the applicant intends to proceed with the application before the county registrar and will apply to the country registrar for the county of Tipperary for directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the said premises are unknown or unascertained.

Date: 6 December 2024

Signed: Donal T Ryan LLP (solicitors for the applicant), 89-90 Main Street, Cashel, Co Tipperary

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of property known as The Coach House, Ashleam, Strand Road, Monkstown, Co Cork, being comprised in Folio CK2988L, and in the matter of an application by Lisa O'Brien and Christopher O'Brien

Take notice that any person having an interest in any estate in property known as 'The Coach House', Ashleam, Strand Road, Monkstown, Co Cork, that Lisa O'Brien and Christopher O'Brien intend to submit an application to the county registrar of the county of Cork for the acquisition of the fee simple interest and all intermediate interest in the aforesaid property, and any person 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 hereof.

Any person having any interest in the property, which is held by the applicants under the lease of 9 November 1905 made between Jane Westropp of the first part and Michael Westropp of the second part and Henry Sugrue of the third part, should provide evidence of their title to the below named.

In default of such information being received by the applicants, the applicants 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 entitled to the superior interest including the freehold interest in the said premises are unknown and unascertained.

Date: 6 December 2024

Signed: Galvin Donegan LLP (solicitors for the applicant), 91 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* and in the matter of an application by Grand Canal Place Property Holdings Limited as general partner of the Grand Canal Place Property Holdings Partnership

Any person having a freehold estate or any intermediate interest in all that and those premises at Sandwith Street, Dublin, included in an indenture of lease dated 22 December 1871 between Mary Robinson of the one part and Rev John James Landers and Mary Amanda Landers of the other part for the term of 300 years from 1 May 1843, subject to the yearly rent of £13.7s.7d until 1 May 1882 and £16.13s.9d thereafter and to the covenants on the lessee's part and conditions contained therein, the property the subject of the said lease being therein described as "that lot or piece of ground situate, lying, and being on the east side of Sandwith Street, being part of the South Lotts in the parish of St Mark and county of the city of Dublin".

Take notice that Grand Canal Place Property Holdings Limited, as general partner of the Grand Canal Place Property Holdings Partnership, being the person entitled to the lessee's interest in the premises, intends to apply to the county registrar of the county of Dublin to vest in it the fee simple and any intermediate interests in the premises, and any party asserting that they hold a superior interest therein is called upon to furnish evidence of title to same to the below named within 21 days from the date of this notice.

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

Date: 6 December 2024

Signed: Mason Hayes & Curran (solicitors for the applicant), South Bank House, Barrow Street, Dublin 4

PRO BONOBO

'That's not a bear, that's a furry!'

● Four Los Angeles residents have been arrested after an investigation revealed they used a bear costume to fake attacks on their cars to secure insurance payouts, NPR reports.

The suspects claimed that a bear had damaged their Rolls Royce while parked in an area known for its bear population. Video shows a furry figure entering the car, climbing around, and crawling out, leaving scratches on the seats and door.

"Upon further scrutiny, the investigation determined the bear was actually a person in a bear costume," officials said.

Detectives executed a search warrant and found the costume – complete with a furry snouted head, paws, and metal tools in the shape of claws – in the suspects' home.

What has a hazelnut in every bite?

● The owner of an Instagram-star squirrel that was seized and put down by authorities has promised 'a very big lawsuit', NBC News reports.

Peanut (rescued by Mark Longo seven years ago after its mother was hit by a car) was deemed a rabies risk by New York's Department of Environmental Conservation. Officials later confirmed that Peanut was rabies-free.

"They'll get peanuts."

Longo, who runs an animal refuge, said: "The DEC raided my house without a search warrant to find a squirrel! These people don't have the stones to give me a call to say 'Hey, I killed your animals, also I cut their heads off, also Peanut doesn't have rabies,' like we all knew at the beginning of this story."

Outbreak breakout monkey madness!

● Dozens of monkeys are on the run in South Carolina after escaping a research facility, *The Guardian* reports. Claims that they may have superpowers are largely unconfirmed, sources close to Bonobo slurred.

Alpha Genesis CEO Greg Westergaard said that a caretaker 'accidentally' left a door to the enclosure unsecured. The ensuing escape, he said, was like monkey see, monkey do. Westergaard said he hoped the monkeys would ultimately return home of their own free will.

In what is being portrayed by informed sources as a completely unrelated incident, RTÉ News reports that a Thai police station has come under attack from around 200 monkeys.

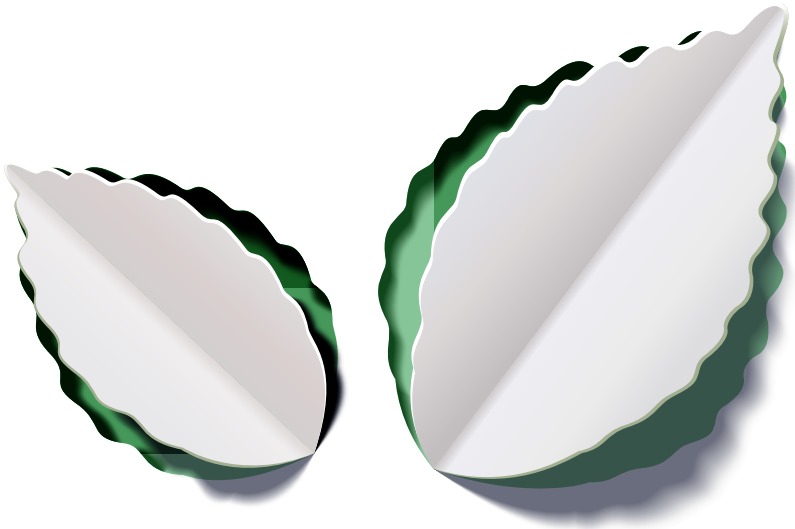
The Grok AI has allegedly refused to deny speculation that the events are part of a mass Musky mutant monkey mutiny.

AI turns muskrat

● Elon Musk's own AI bot – 'Grok' – has called him "one of the most significant spreaders of misinformation on X", *Fortune* reports.

In answer to a user, Grok said: "Musk has made numerous posts that have been criticised for promoting or endorsing misinformation, especially related to political events, elections, health issues, and conspiracy theories", adding that, because of Musk's large number of followers and high visibility, this "can have real-world consequences, especially during significant events like elections".

Musk has previously tweeted "Use Grok for answers that are based on up-to-date info!"



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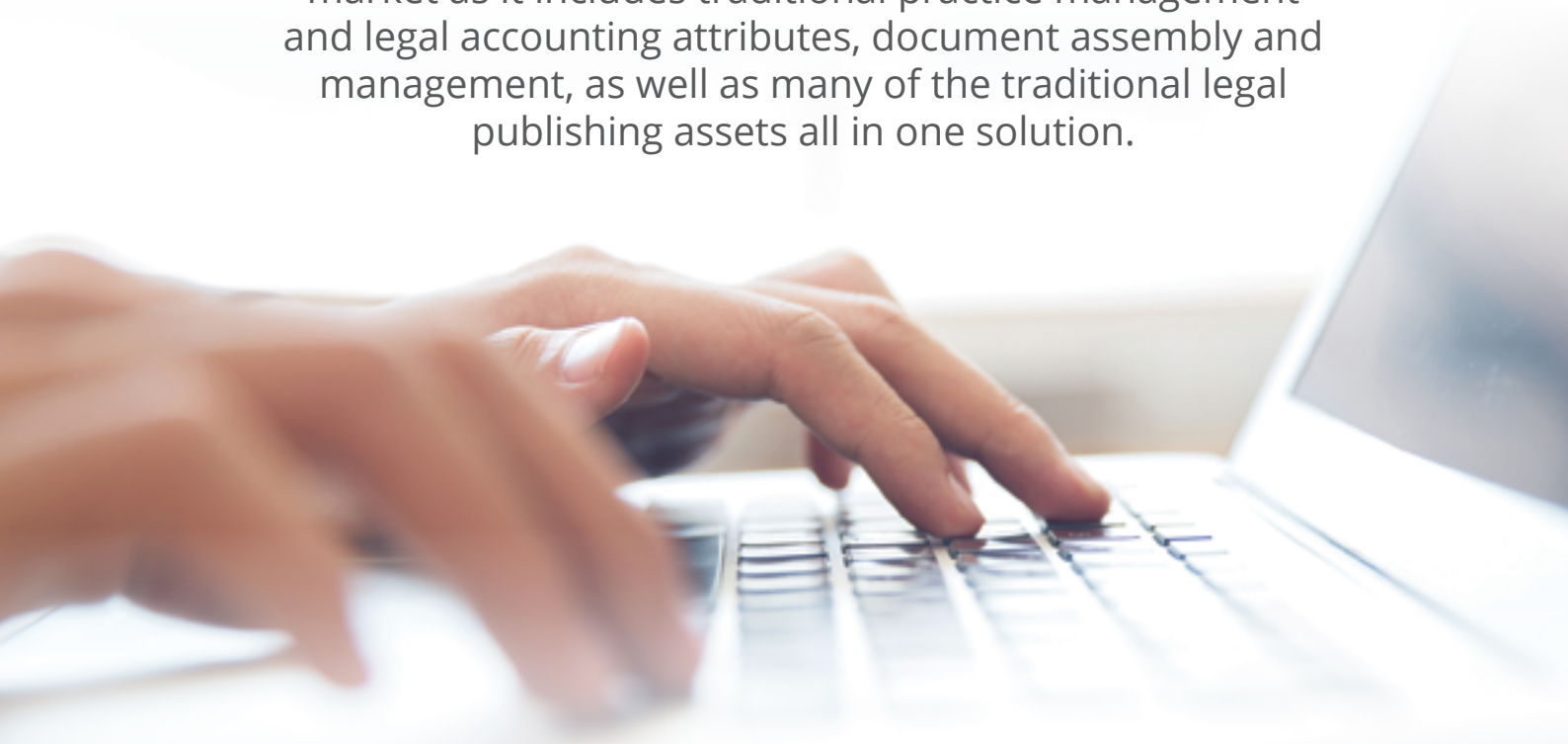

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