



House of cards

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Vet in a spin

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gazette

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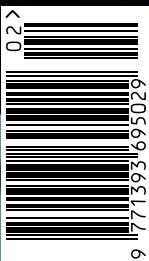
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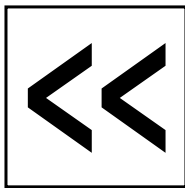




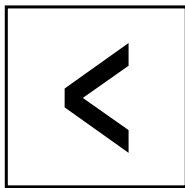
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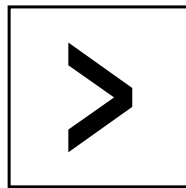
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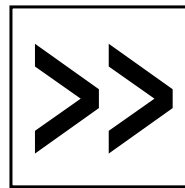

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FINDING THE ANSWER

In some ways, it seems like yesterday. In others, it's a lifetime ago. In 1999 (the last century!), my daughter Valerie was only a week old when I was elected to the Law Society Council. My son Paul – now 5ft 8in and taller than my wife Fidelma – was still three years away from his own entry into the world.

It's been a long journey to this point, but I wasn't always part of the furniture. There was a time when I asked the question that many solicitors pose: 'What does the Law Society do for us?'

I made the decision to find out. This column is far too short for a comprehensive answer to that rather esoteric question, but suffice it to say the result was that I kept coming back for more.

It has become clear to me over years of interaction with colleagues, however, that many people have not yet found the answer. There seems to be a perception that, among larger firms, we exist to assist smaller practices – and it's often the case that smaller firms feel that the opposite applies.

Ever-evolving

The truth of the matter is that we are an ever-evolving profession with increasingly diverse requirements. As of last year, 23% of the practising certificates issued were to solicitors in the largest 20 firms. A total of 18% of the profession practise outside of the traditional law firm model – either in-house (15%) or in the public sector (3%). Marrying the needs of this very large section of the solicitors' profession with the remaining percentage who work in medium or smaller firms is a major challenge, but one we are determined to meet.

I firmly believe that the Law Society has a role to play in the life of all solicitors, and it is our job to communicate this effectively. Over the course of the next year, I hope to meet as many of you as possible and listen to what you want from us. My door is never closed and my email (stuart.gilhooly@hward.ie or president@lawsociety.ie) is always on.

I am the average solicitor from a relatively

small suburban firm and can identify with the problems that most of us face on a day-to-day basis. I pay insurance, practising certificate fees, do CPD, and worry about keeping clients happy in the same way as you do.

Stressful

It is a privilege to be a solicitor, but that doesn't mean it's not stressful – it often is, and we recognise that. We are here to help and, please, never be afraid to ask.

As I write this, I'm over ten weeks into the role and it's been more hectic than I could have imagined. The cyclical insurance crisis has consumed the media and politicians for much of this period but, unlike 2002, when similar price hikes resulted in the establishment of the Personal Injuries Assessment Board, this time the focus has shifted to the dubious behaviour of the insurance industry.

As usual, they attempted to shift the blame to lawyers and the courts but, like the boy who cried


“IT'S NOT DONALD TRUMP, BUT THERE'S LOTS GOING ON!”

wolf, they did it once too often. We attended the Oireachtas Finance Committee and the working group established by Minister Eoghan Murphy and told them what was really happening.

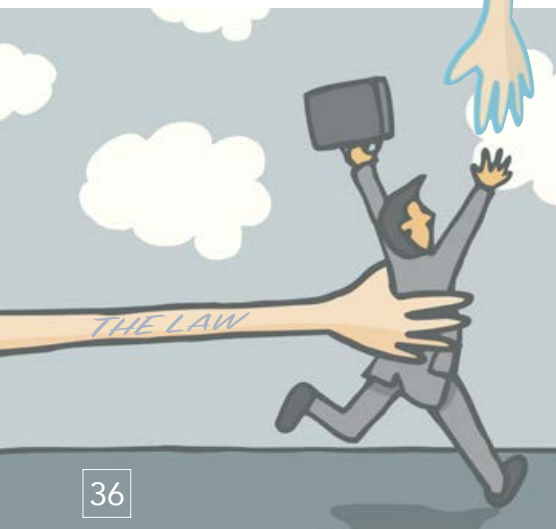
The subsequent reports of both of these bodies recognised the reality that claims and legal costs have played practically no role in the increase in insurance premiums (see p11).

We are continuing to cooperate with the working group and will be seeking a presence on the newly established Personal Injuries Commission.

This is just one example of the many projects underway this year. Finally, if you are on Twitter, give me a follow at [@LSIPresident](https://twitter.com/LSIPresident). It's not Donald Trump, but there's lots going on!


STUART GILHOOLY,
PRESIDENT

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Background checks on employees are important, particularly where they may have access to children or vulnerable people. Matthew Holmes pulls your records

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Between 2010 and 2015, a total of 4,268 companies were restored to the the Register of Companies. Sally O'Neill walks us through the practice and procedure of restoration

gazette

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Gazette readers can access back issues of the magazine as far back as Jan/Feb 1997, right up to the current issue at www.gazette.ie.

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THE BIG PICTURE

PICTURE BY EPA/JOHN TAGGART



America divided? Journalists and legal observers face unprecedented felony riot charges after they were arrested during street protests on 20 January, the day Donald J Trump was sworn in as the 45th President of the United States



M&A ACTIVITY DOWN IN 2016

Irish merger filings for 2016 fell by 14% – from a total of 78 in 2015 to 67 in 2016. At the same time, larger scale mergers and acquisitions involving Irish companies were up one (from three to four).

Five media mergers were notified in 2016, and the proposed acquisition by Independent News

& Media of several regional newspaper titles owned by Celtic Media will be closely watched in 2017.



'A LETTER OF RIGHTS'



CONSULTATION ROOM HIRE – RATE INCREASE



In order to maintain a high-quality facility and standard of service, the two-yearly rate increase has been applied to all room hire rates in the Four Courts, with effect from 9 January.

- One hour (cash payment): €55,

- Two hours: €75,
- Full day: €270.

All of the above are subject to 23% VAT. Don't forget that you can book your consultation room online at www.lawsociety.ie/fourcourtsbookings.

NEW POLITICS – NEW LAW?

'New politics – new law?' is the theme of the **Burren Law School 2017**. A year into the term of the new Dáil, the school will explore "how new politics is changing the nature of decision making, the process of legislating, and challenging the legitimacy of the institutions of justice".

The list of speakers to date includes Shelley McNamara (Grafton Architects), Ruadhán Mac Cormaic (foreign affairs correspondent, *The Irish Times*) and Kevin Rafter (professor of political communication at DCU).

To book your place, visit www.burrenlawschool.org.

To mark the 800th anniversary of the *Magna Carta* in Ireland, Chamber Choir Ireland and the Irish Chamber Orchestra, conducted by Paul Hillier, will perform a commemorative piece titled *A Letter of Rights* for chamber choir and orchestra at a number of venues around Ireland.

Commissioned by Salisbury Cathedral in 2015, British and American composer Tarik O'Regan collaborated with poet and librettist Alice Goodman to produce this large-scale work. Handel's brilliantly virtuosic *Dixit Dominus* will also feature in

the evening's programme.

Performances will take place on Saturday 25 February at St Mary's Cathedral, Limerick, at 8pm, tickets €25/22; and on Sunday 26 February at Christ Church Cathedral, Dublin, at 7.30pm, tickets €25/22 – available for both events via www.irishchamberorchestra.com/events/a-letter-of-rights.

The tour has been made possible through a Touring and Dissemination of Work award from the Arts Council/An Chomhairle Ealaíon and the Arts Council of Northern Ireland.

FAMILY LAWYERS ESSAY COMPETITION

Cork-based family solicitor Aoife Byrne (who is a member of the *Gazette* Editorial Board) and barrister Nicola Hoare have won the Family Lawyer's Essay Competition 2017 in their respective categories. The competition was open to solicitors and barristers with less than five years' post-qualification experience.

Aoife wrote about child-friendly justice, where children are involved in judicial proceedings. She has written previously

on the topic of the best interests of children in the context of the *Children and Family Relationships Act 2015*.

Niamh's essay focused on the succession rights of cohabitants under the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010*.

The prize included attendance and accommodation at the Four Jurisdictions' Family Law Conference and gala dinner in Belfast City Hall at the end of January.



COMPILED BY KEITH WALSH, PRINCIPAL OF KEITH WALSH SOLICITORS

TIPPERARY

ALL ROADS LEAD TO ROME

The Tipperary Solicitors' Bar Association (TSBA) held its annual conference in Rome in late autumn 2016. A total of 26 members and partners attended, led by then president Mariea Flanagan.

The academic programme included a talk on canon law and its interaction with civil law, given by canon lawyer Fr Aidan Fogarty OFM, at the Irish College. Dermot O'Dwyer (Conveyancing Committee) addressed aspects of conveyancing law. The business side of the conference was counterbalanced with a very enjoyable social programme.

At the recent AGM of the TSBA, the following officers and committee members were elected for 2016/17: president – Dermot O'Dwyer (Cahir), vice-president – Martin O'Brien (Nenagh), secretary – Marcella Sheehy (Clon-



Some of the attendees at the TSBA Rome conference, with Fr Aidan Fogarty and Fr Paul Finnerty (vice-rector, Irish College, Rome)

mel) and treasurer – Richard Joyce (Clonmel); general committee – Mariea Flanagan (Nenagh), Joe Kelly (Templemore), Billy Gleeson (Thurles), Maura Derivan (Carrick-on-Suir), John Lynch (Clonmel), David Hodgins (Ne-

nagh), Kathleen Burke (Thurles), David Peters (Nenagh), Conor Delaney (Nenagh), Colin Morrissey (Tipperary) and Salome Hennessy (Roscrea). Maura Hennessy (Clonmel) retired and did not seek re-election.

DUBLIN

JOSEPHA HONOURED BY COLLEAGUES

Family lawyers representing the Law Society, Dublin Solicitors' Bar Association, and the Bar paid a belated, but enthusiastic, tribute to family lawyer colleague Josepha Madigan on her election to the Dáil, at a lunch in the Unicorn recently.

Josepha tells 'Nationwide' that she has received great support from colleagues for her initiative to reduce the waiting time for divorce from four to two years. She also has a busy hands-on role on the Public Accounts Committee and is still very much involved in family law issues. She follows in the footsteps of her late father Patrick (Paddy) J Madigan, who was often described as one of Dublin's best known lawyers. Originally from Mayo, he represented the



(L to r): Aine Hynes (president, DSBA), Geraldine Kelly (past-president, DSBA), Keith Walsh (chair, Law Society Family Law Committee), Joan O'Mahony, Cliona Costelloe, Michael Sheil, Josepha Madigan TD and Avril Mangán

people of Dun Laoghaire for many years as a councillor for Fianna Fáil (the rival party to Josepha's) and subsequently as an independent.

Josepha represents the con-

stituency of Dublin Rathdown and her solicitor's practice is located in Molesworth Street near the Dáil, which she operates in partnership with her brother Patrick Madigan.

CORK

CHANGING OF THE GUARD...

The Southern Law Association's annual dinner will take place on Friday 17 February at the Maryborough Hotel and Spa. The black-tie event (always a sell-out) will be attended by Law Society President Stuart Gilhooly and director general Ken Murphy.

Its reputation precedes it, and it appears that many Dublin-based colleagues are seeking tickets. Since the dinner can only be attended by SLA members and their guests, however, those unfortunate enough to hail from outside the 'real capital' will have to hope for an invitation.

GALWAY

...AND ALSO IN GALWAY

The Galway Solicitors' Bar Association's year came to an end on 15 December 2016 with a final CPD seminar on costs, followed by the AGM. The GSBA has had a very busy year, with 39 hours of CPD seminars provided to its members, free of charge. The association has promised to provide 40 hours of free CPD at Galway Courthouse throughout 2017.

The AGM was very well attended, and the 2017 committee comprises Brendan O'Connor (president), James Seymour (vice-president), Cairbre O'Donnell (treasurer), John Martin (PRO), Ian Foley (secretary), and committee members Clodagh Gallagher, Vincent Shields, Louisa McKeon, Ronan Murphy, Ruth McDonagh, Joan O'Brien, Sharon Lally, Alma Whelan, Sinead Manning and Sarah Kemple.



COUNTDOWN TO THE SPRING GALA

The countdown is on for the most exciting addition to the legal calendar in years – the inaugural Law Society Spring Gala and Symposium, to be held on 24 March at the Intercontinental Hotel, Dublin.

The day begins with the Law Society Skillnet Symposium, which will feature some of the most prominent lawyers from around the world speaking about their fight against miscarriages of justice.

Later that evening, the Law Society Spring Gala, which is generously sponsored by Grant Thornton, will take over the ballroom of the Intercontinental Hotel, formerly the Four Seasons. The highlight of the black-tie dinner will be an address by a high profile, international, special guest speaker.

All proceeds from the gala will be donated to the Solicitors' Benevolent Association, which assists members or former members of the solicitors' profession and their



Symposium speaker: celebrated public defender Steven Wax

families who are in need.

At the symposium, Steven Wax will speak about 'Fighting for justice from Portland to Peshawar – a public defender's inside account'. A highlight from Wax's career includes successfully representing six of the detainees of Guantanamo Bay. His Oregon law office also represented Brandon Mayfield when he was arrested due to being erroneously tied to the 2004 Madrid train bombings by the FBI.

Wax retired from his public defender practice in 2014 to join the fledgling Oregon Innocence Project as their legal director, where he assists people who have been wrongly convicted and imprisoned in clearing their names. In his earlier life, Wax was part of the prosecution team that was responsible for the conviction of David Berkowitz, aka 'The Son of Sam' serial killer in New York.

Another symposium speaker – award-winner Judy Khan QC – will address the topic of 'Miscarriages of justice – the UK perspective – the Hillsborough tragedy and others'. Khan represented a number of families in the Hillsborough inquests, which spanned two years – the longest-running jury proceedings in British history. More recently, Khan represented footballer Ched Evans and secured an acquittal in his re-trial. More speakers will be announced soon.

For more information or to book, see p8 or visit www.lawsociety.ie/springgala.

DISTRICT COURT PROCEEDINGS

The significant change to the *District Court Civil Rules* introduced in 2014, provided that the date of issue of a claim notice or personal injury summons is the date on which they are "filed with the clerk for issue" (order 40, rule 4(5)). However, this overlooked the provisions of section 7(6)(a)(ii) of the *Courts Act 1964* (as amended). This provides that where a document instituting District Court proceedings is served by registered post, it is deemed to have issued on the date of posting of the envelope.

Order 40, rule 4(5) has been amended with effect from 8 November 2016 to reflect this position under section 7(6)(a)(ii) of the 1964 act (see *SI 513 of 2016*). Therefore, the date of issue of a District Court claim notice or PI summons can vary depending on the mode of service employed. This has serious implications for practitioners seeking to issue proceedings within the appropriate limitation period.

GAZETTE GARNERS GLORIOUS GONG AGAIN

Gazette editor Mark McDermott has been named Editor of the Year in the Business-to-Business category at the Irish Magazine Awards (IMA) 2016. The IMAs are the national awards for consumer and business-to-business publications. This is Mark's second time to win the award, having previously won it in 2014. The citation read: "A dedicated editor whose publication has consistently engaging covers and an ability to translate dual formats, together with strong commercial growth and innovation. The editor displays an acute awareness of and a strong relationship with his audience."

The editor paid tribute to the *Gazette* team, saying that the win was as much theirs as



Matt Cooper (host), *Gazette* editor Mark McDermott and John Cairns (EM News Distribution, award sponsor)

his. Acknowledging the tremendous team effort that goes into producing the *Gazette* each month, he thanked deputy editor Garrett O'Boyle, art direc-

tor Nuala Redmond, administrator Catherine Kearney, and advertising manager Sean Ó hOisín, as well as our team of authors and freelancers,

for their creativity, dedication and enthusiasm.

For the seventh year running, the *Gazette* was shortlisted in the two categories of 'Best business-to-business magazine' and 'Best cover'. Freelance journalist Lorcán Roche was nominated in the 'Journalist of the year' category for the second time.

Not wishing to rest on its laurels, the *Gazette* has undergone a major redesign with this issue. We look forward to receiving feedback from our readers on the new look. Our chief focus is always to ensure that the *Gazette* remains relevant and readable, reflects well on the profession, and represents the best value for money. Happy reading!

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Book now for a new event featuring a Symposium of five speakers from around the world who will address our theme, **Miscarriages of Justice**. This will be followed by a black-tie dinner featuring a high-profile, international, special guest speaker. See page 7 for more information.

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10,000 PRACTISING CERTIFICATES' MILESTONE SURPASSED FOR THE FIRST TIME

The number of practising solicitors in this jurisdiction has exceeded 10,000 for the first time ever, *writes Ken Murphy*. At the end of 2016, there were 10,098 practising certificate (PC) holders – a 4% increase on the 9,707 PC holders at the end of 2015. The previous year had also seen a 4% increase, from 9,323, in the number of practising certificates.

As it has done now for many years, the Society publishes below the numbers of practising solicitors in each of the 20 largest firms as of 31 December, the last day in the practising year. This date is chosen to ensure that like is compared with like in compiling these statistics annually.

For the first time ever, there is a tie at the top of the list of largest law firms. Both Arthur Cox and A&L Goodbody had 275 practising



Brian O'Gorman, managing partner, Arthur Cox

ing solicitors on the date in question. The gap of 29 between the two firms at the end of 2015 was closed by a reduction of 14 in the case of Arthur Cox and an increase in 15 for A&L Goodbody. Matheson remains the third largest firm.



Julian Yarr, managing partner, A&L Goodbody

The two firms that added the greatest number of practitioners to their ranks in 2016 were McCann FitzGerald (up 28), and William Fry (22). ByrneWallace also grew impressively to open a gap with Maples & Calder, with

whom they had been tied the previous year.

In fact, for most firms, there was little or no change in 2016 to the place they appeared in the table in 2015.

A major talking point will be the arrival at 11th place in the table of one of the world's largest law firms, Freshfields Bruckhaus Deringer LLP. This results from the Brexit-related decision of 87 of their England-and-Wales-qualified solicitors not just to enter on the Roll in Ireland (as a total of 806 England and Wales solicitors did last year) but to take out practising certificates in this jurisdiction. They chose to take out practising certificates even though the firm has no office in Ireland nor any plans to open one (see *Gazette*, December 2016, p11).

LAW FIRM PRACTISING SOLICITOR NUMBERS (AS OF 31/12/2016)

2016 ranking	2015 ranking	Firm name	31/12/2016	Diff +/- over 2015	31/12/2015	31/12/2014
1	1	Arthur Cox	275	-14	289	269
1	2	A&L Goodbody	275	15	260	262
3	3	Matheson	251	6	245	265
4	4	McCann FitzGerald	240	28	212	204
5	5	William Fry	210	22	188	177
6	5	Mason Hayes & Curran	196	8	188	178
7	7	ByrneWallace	121	14	107	96
8	7	Maples and Calder	116	9	107	94
9	9	Eversheds	104	9	95	84
10	10	Ronan Daly Jermyn	96	9	87	75
11	-	Freshfields Bruckhaus Deringer LLP	87	86	1	2
12	11	Dillon Eustace	82	4	78	78
13	12	Beauchamps	76	2	74	72
14	14	LK Shields Solicitors	53	0	53	49
15	13	Eugene F Collins	50	-5	55	57
16	17	McDowell Purcell Solicitors	46	7	39	28
17	15	Hayes Solicitors	44	3	41	36
18	16	Walkers Ireland	41	1	40	31
19	18	Holmes O'Malley Sexton	40	4	36	36
20	20	Philip Lee	38	5	33	29

These figures represent the total number of solicitors with a practising certificate, advised to the Law Society, up to and including 31/12/2016. The total firm figure represents a firm's primary and suboffices on the Law Society's database



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SOCIETY WELCOMES MOTOR INSURANCE REPORT

The Law Society has welcomed the publication of the *Report on the Cost of Motor Insurance*, which was issued on 10 January. The Working Group on the Cost of Motor Insurance stated that it “did not find that legal costs were a major contributory factor in the recent increase in premiums”.

The report recognises that pricing in the non-life insurance sector has been subject to much volatility in recent years, from unsustainably low levels “to the more recent experience of large increases, particularly since 2014”.

The Central Statistics Office data show that, since January 2011, motor insurance prices have increased by 51%. “This is well in excess of EU trends, and there have been conflicting messages as to the reasons for these increases,” the working group says.

The group points to the need for change in the claims environment. It reflects on “the need to enhance transparency and facilitate the use of data sharing and collection that we see in other jurisdictions”.

It recommends the creation of a national claims information database by the middle of 2018. “In advance of the realisation of a national claims information database,



Stuart Gilhooly: ‘It’s clear that legal costs and compensation costs are not the cause of premium rate increases’

there will be a requirement for industry to provide key metrics in relation to the market for publication by the Department of Finance at regular intervals.”

Law Society President Stuart Gilhooly, when asked about the significance of the National Claims Information Database on *Today with Sean O’Rourke* (11 January 2017), responded: “This will be probably the most important part of the recommendation. The key issue here is that we’ve been asking for quite some time for data in relation to the 70% of settlement between insurers directly and claimants and their solicitors, which is not available to anyone.

“The insurers have either been



Eoghan Murphy TD: ‘This will lead to greater stability in the pricing of motor insurance’

unable or have been unwilling to provide that information to anybody who’s asked, and particularly Government, so hopefully this claims database will provide that sort of information. It will then give us an idea as to where the money is going and why premiums have gone up so much, because I think what’s perfectly clear from the report is that the legal costs and compensation costs are not the cause of premium rate increases. The report is very clear on that.”

The report refers to “concerns [that] have been raised around the uncertainty of the claims process, the cost of the claims process and the method for making awards for personal injuries”.

It highlights the complex-

ity in assessing the personal injury framework in Ireland and the fact that, “ultimately, the level of awards for personal injuries are set by the judiciary”.

Given these factors, the working group states that “a Personal Injuries Commission will be established in January and begin immediately to review a number of key issues that speak directly to the cost of personal injuries. This Personal Injuries Commission will produce its first report to the Minister of State by the end of 2017”. Its terms of reference will include conducting a review of the average awards in other relevant jurisdictions, as well as the grading of personal injuries. At its most recent meeting, the Law Society’s Council noted this key recommendation, adding that the Society would seek to become involved.

The chairman of the working group, Minister of State Eoghan Murphy, said that: “In taking action and implementing the report’s recommendations, this will lead to greater stability in the pricing of motor insurance and will help prevent the volatility that we have seen in the market in the past (both up and down). It should also better facilitate potential new entrants to the market.”

FOCUS ON MEMBER SERVICES

GROUP LIFE ASSURANCE SCHEME

In the last ten years, almost 80 solicitors’ families have received in excess of €4.3 million in payments from the Group Life Assurance Scheme.

All current practising certificate holders under the age of 70, with a few exceptions, are members of the scheme. The premium of €50 is included in the practising certificate fee.

The scheme, operated by

Friends First, provides cover of €47,500, and a health declaration is not normally required, although the insurers reserve their rights to request this.

If you are a solicitor in the full-time service of the State and exempt from holding a practising certificate, or you’re a judge or county registrar, you may apply to join the scheme. To do so, you must be a member of the Law So-

ciety and pay the premium of €50 during the month of January.

During the practising renewal period, the scheme allows for ‘days of grace’ for those covered by the scheme on 31 December of the previous year. For example, in 2017, the ‘days of grace’ ran from 1 January to 1 February and covered all who were members of the scheme on 31 December 2016.

In the event of the death of a scheme member, any payout under the scheme will form an asset in the deceased’s estate.

You can learn more about the scheme and other members’ benefits at www.lawsociety.ie/memberbenefits.

To make a claim, you should contact the Society’s Yvonne Burke at 01 672 4901 or email y.burke@lawsociety.ie.



ACC MARKS ANNIVERSARY OF MAGNA CARTA IN IRELAND

On 16 November 2016, the Irish chapter of the Association of Corporate Counsel (ACC) hosted an event to mark the 800th anniversary of the *Magna Carta Hiberniae*. The venue was the former House of Lords at College Green, Dublin, which was the upper house of the parliament of Ireland from 1730 until the *Act of Union* in 1801.

Guest speakers included British Ambassador Robin Barnett, Ken Murphy (director general, Law Society) and Dr Peter Crooks (assistant professor of medieval studies at Trinity College Dublin).



Ken Murphy (director general), British Ambassador Robin Barnett, Michael Kealey (in-house counsel, DMG Media), Dr Peter Crooks (guest speaker) and Patrick Ambrose (ACC country representative)

FIG: DAVID MURPHY

REVISED STAMP DUTY 'HELP TEXT'

Revenue released a revised 'help text' for stamp duty returns on 26 November 2016. It can be accessed by clicking on the 'form help' icon on the top left-hand corner of each screen on the [eStamping return](#).

If you have any comments on the content of the revised help text, Revenue would like to hear from you – email stampduty@revenue.ie and insert 'help text' in the subject line.

Revenue updates and adds information on an ongoing basis to the [stamp duty webpages](#). Revenue would like to hear from you if you have any comments on the content of the webpages – email stampduty@revenue.ie and insert 'stamp duty website content' in the subject line.

In response to some common requests, Revenue advises as follows:

- It is possible for filers to amend a stamp duty return where errors, changed circumstances, etc, come to light that affect the return original-

ly filed. Information on how to amend a return is available on www.revenue.ie/en/tax/stamp-duty/e-stamping/amended-return.html.

- Revenue does not automatically make stamp duty refunds. If you consider that a refund is due, you must apply in writing to the National Stamp Duty Office – more information is available on www.revenue.ie/en/tax/stamp-duty/refunds.html.
- Information on current rates of stamp duty is available on www.revenue.ie/en/tax/stamp-duty/rates.html. Information on rates of stamp duty applicable to conveyances/transfers of residential and non-residential property since 4 August 1973 is available on www.revenue.ie/en/tax/stamp-duty/former-residential-rates-stamp-duty.html and www.revenue.ie/en/tax/stamp-duty/former-non-residential-rates-stamp-duty.html.

- Revenue gets many queries about tax numbers. The most common queries are addressed at www.revenue.ie/en/tax/stamp-duty/tax-reference-numbers-note.html.

The only circumstances where the National Stamp Duty Office should need to be contacted are where:

- An individual has a PPS number, but that number has not been registered for tax with Revenue,
- An individual registered as a stamp-duty-only customer prior to 7 December 2015 and has not, since then, registered for any other tax with Revenue,
- A person other than an individual (that is, a foreign company) that is not liable to corporation tax, income tax, VAT, etc, and that does not have an Irish tax reference number,
- A foreign company allocated a dedicated stamp-duty cus-

tomers number (that is, number prefixed by the letter 'S') prior to 7 December 2015 that has not, since then, been registered for any other tax with Revenue.

An individual's PPS number is always quoted on official correspondence from Revenue (such as a tax credit certificate or a PAYE balancing statement/end of year review or a notice of assessment).

An individual's PPS number will also be mentioned on any correspondence between that individual and their social welfare office/Department of Social Protection. Sight of such correspondence, with the tax information blacked out should the person so wish, provides confirmation that the number is valid.

More information is available on www.revenue.ie/en/tax/stamp-duty/tax-reference-numbers-note.html.



ACCESS YOUR LAWYER TO ACCESS YOUR RIGHTS



David Conlan-Smyth SC, chairman of the CCBE Migration Committee

On 7 December, the Irish delegation to the CCBE (from the Law Society and Bar of Ireland) organised a talk and reception at Blackhall Place to mark European Lawyers' Day 2016.

Established by the CCBE in 2014, European Lawyers Day celebrates the rule of law and the legal profession's intrinsic role in its defence, as well as lawyers' common values and contribution to the justice system.

The event was introduced by Stuart Gilhooly (Law Society president), while Paul McGarry SC (chairman, Bar of Ireland) spoke about the role of the CCBE in representing more than one million lawyers across Europe.

This year's theme highlighted

the fact that having access to a lawyer provides a person with access to all of their rights. And what better example of access to lawyers than the 'European Lawyers in Lesbos' project, which was discussed by the guest speaker, David Conlan-Smyth SC (chairman, CCBE Migration Committee). The project, organised jointly by the CCBE and the German Bar Association, has been operational since July 2016. Its purpose is to give refugees on the island of Lesbos the chance to receive individual legal advice from lawyers. The Law Society has given financial support to this project.

For more information on its efforts, visit www.europeanlawyersinlesvos.eu.

GURU GUIDANCE

The DSBA's property seminar is almost sold out, writes *Keith Walsh*. No surprise, given the line-up of talent and practical topics. The seminar will be held on 9 February 2017 at the Radisson Hotel, Golden Lane, Dublin 8. Topics will include:

- 'Registry of deeds: getting title ready for registration – a practitioner's perspective,' by Brian Gallagher (consultant with Gallagher Shatter Solicitors),
- 'Requisition 44 and searches,' by Mairead Cashman (senior sol-

icitor, commercial and property section, Dublin City Council),

- 'First registration in the Property Registration Authority,' by Eithne Ryan (legal services unit, Property Registration Authority), and
- 'Mapping – PRA requirements,' by Tom Brosnahan (head of mapping, Property Registration Authority).

See www.dsba.ie for more details or contact maura@dsba.ie.

LAW AND WOMEN MENTORING

Following on from the successful 2016 pilot programme, the Law and Women Mentoring Programme for 2017 is inviting applications from female solicitors who wish to be mentored by a more senior colleague. The programme is developed and run jointly by the Law Society and the Bar. Applications are welcome from mentees at varying degrees of seniority, including those at the beginning of their career, those at a point of change in their professional lives, and those applying for promotion or changing jobs. The promotion of diversity within the profession will be prioritised when choosing applicants. We will also try to match mentees with a mentor who

is most suited to mentoring them.

Participation in the programme involves one hour a month for a year. All participants must complete training prior to beginning the programme. The training session qualifies for three CPD points.

Training for mentees takes place from 4-7pm on 22 February at the Law Society. Please ensure you are available for training prior to applying to join the programme.

The online application form is available at www.lawsociety.ie/lawandwomen. The closing date for receipt of applications is 16 February. If you have any queries about the programme, contact Sinéad Travers at lw@lawsociety.ie.

ATHENIAN SCHOOL FOR ASYLUM AND IMMIGRATION



Among the Irish solicitors who took part in the Athens event were Julia Hull (Legal Aid Board, Cork), Siobhan Conlan, Moira Shipsey, Cristina Stamatescu and Julienne Dockery (Chief State Solicitor's Office)

An asylum and immigration training event for European lawyers took place in Athens from 8-9 December. 'Training of Lawyers in European Law relating to Asylum and Immigration' was organised by the European Lawyers Foundation, Consiglio Nazionale Forense, the Law Society, Abo-

gacia Espanola Consejo General, Athens Bar Association, Krajowa Izba, and Radcow Prawnych.

The event was just one of a four-part series of training workshops. The Society will host the next seminar in Dublin from 2 to 3 February. For more information, visit europeanlawyersfoundation.eu.



AR MHAITH LEAT A BHEITH AR CHLÁR NA GAELIGE?

The PPC2 elective Advanced Legal Practice Irish/*Ardcbúrsa Cleachtadh Dlí as Gaeilge* is open to practising solicitors who wish to be registered on the Irish Language Register.

In order to be entered onto the register, a solicitor must take this course and pass all assessment and attendance requirements.

The course will run from 13 April until 15 June. Its contact hours (lectures and workshops) will be delivered on Thursday evenings from 6-8pm at the Law Society. Lectures in weeks 1 and 2 will be made available online, so physical attendance on those par-



ticular Thursday evenings is not required.

This is a 'blended learning' course; in addition to physical attendance on the specific Thursday evenings, participants will be required to complete individual and group coursework online in between each session.

Due to the group work logistics of this course, attendance at all of the Thursday evening workshops is essential.

Assessment will combine continuous assessment and an end-of-course oral presentation. It is recommended that course participants have a good level of IT skills and be familiar with web browsing, word processing, uploading/downloading files, and watching online videos. A Leaving Certificate Higher Level standard of Irish is a minimum standard. In advance of course commencement, participants will be invited to attend IT clinics to become

familiar with the technology utilised in the course.

This course will fulfil the full practitioner CPD requirement for 2017. The fee is €625 and the closing date for applications is Friday 7 April at 5pm. Further information is available on the Law Society website at www.lawsociety.ie/alpi.aspx.

Information on the Irish Language Register/*Clár na Gaeilge* can be found at www.lawsociety.ie/Find-a-Solicitor/Clar-na-Gaeilge.

Queries relating to the course can be addressed to Robert Lowney, r.lowney@lawsociety.ie or tel 01 672 4952.

MASTER CONVEYANCER MOVES ON

John F Buckley brought an end to an era in November 2016. He asked not to be reappointed to the Law Society's Conveyancing Committee, of which he had been a founder member as long ago as 1974.

He had been an invaluable chairman, member, or consultant to the Conveyancing Committee on which he served, remarkably, for almost all of its 42 years of existence. Even during the years when he served as a judge of the Circuit Court (in 1996, he was one of the first solicitors ever honoured by such an appointment), he still contributed his unsurpassed knowledge of Irish land law, planning, and conveyancing practice generally, as a consultant to the committee. The committee tended to refer the toughest, knottiest and most apparently intractable conveyancing problems, submitted by members of the profession seeking the Law Society's assistance, to him. Only he had the depths of legal knowledge, expertise and ingenuity to resolve them. He convened countless working groups within the committee, producing major



submissions shaping modern legislation including, more recently, the *Land Law and Conveyancing Reform Act 2009*, and the *Multi-Unit Development Act 2011*.

With students and with practitioner colleagues, he was always very generous with his assistance whenever requested. This was recognised when he was awarded the Lifetime Achievement Award at the Irish law Awards in 2016. Even up to very recently, at the age of 85, he was still practising one day a week in his firm, Beauchamps,

where his daughter continues to practise. A former junior vice-president of the Law Society, John F Buckley was one of the chief architects of the Society's then new 'learning by doing' education and training system in the 1970s and '80s, and also made a major contribution to the publication of legal text books. However, it is his recent retirement from an astonishing 42 years of unmatched service to the Society's Conveyancing Committee that deserves the highest recognition and tribute here.

MURPHY'S WORLD

Director general Ken Murphy has been elected to the ten-member Bar Issues Commission – which is the voice of bars, law societies, and their members worldwide – within the International Bar Association (IBA). His two-year term began on 1 January 2017.

Five places on the commission were open on this occasion, and ten candidates contested the election. They represented a wide variety of legal professional bodies in jurisdictions all over the world – most of them far bigger than Ireland. The result was announced at the Council meeting of the IBA in Washington DC in September 2016.

Murphy is already in his second two-year term as co-chair of the IBA's Bar Executives Committee. He was appointed by the then president of the IBA, David Rivkin, as a member of his Presidential Task Force on the Independence of the Legal Profession. The [task force report](#) was published last autumn and is available on the IBA's website at www.ibanet.org.



MEETING THE IN-HOUSE CHALLENGES OF 2017

With 18% of qualified solicitors in Ireland working either in-house (15%) or in the public sector (3%), the role of the in-house solicitor has evolved significantly. The need to expand and diversify is increasing for many organisations and, in turn, their in-house counsel.

Starting on 3 March, a new Certificate in Strategic Development for In-House Practice, being offered by the Law Society's Diploma Centre, will equip participants with practical skills to identify and exploit key opportunities for innovation, development and growth within the workplace. It will assist participants to:

- Identify how their practice creates value for the organisation,
- Explore how typical budgetary constraints may be overcome through monetisation and business modelling,
- Expand the scope of the ser-



PIC: CIAN REDMOND PHOTOGRAPHY

vices offered by the in-house function, and

- Help identify and assess key trends and dynamics in the commercial environment.

Participants will learn about how to identify opportunities for developing and expanding their in-house expertise. In addition, they will design and build a business

model establishing key deliverables to secure successful implementation of this expansion, using metrics to manage risk.

In order to boost their skills in representing their company or organisation, those taking part will gain new communication and marketing expertise through the development of pitching and presentation skills.

Mindful of busy schedules and the limited time available to firms for business development, this Certificate in Strategic Development for In-House Practice course is delivered through block releases on Fridays and Saturdays – lectures will be delivered at Blackhall Place and simulcast online.

To learn more or to sign up for the certificate course, visit www.lawsociety.ie/diplomacentre. The closing date for applications is 24 February 2017.

LIBRARY SERVICES FOR IN-HOUSE LAWYERS

Legal research support for in-house lawyers is an important aspect of the work carried out by the Law Society Library, writes Mary Gaynor (head of Library and Information Services). Our focus includes the research requirements of solicitors working outside of private practice, whose needs can be both broad ranging and highly specific.

Currently we have a selection of books including *In-house Ethics in Practice*, by Tracey Calvert; *Butterworth's In-house Lawyers' Handbook*, by Ian Jones; *A Strategic Guide to Managing the In-house Legal Function*, by Brian Swartz; *The Future of the In-house Lawyer: The General Counsel Revolution*, by Richard Tapp; and *General Counsel in the 21st Century: Challenges and Opportunities*, Christoph H Vaagt and Wolf Peter Gross (eds).

We also subscribe to various



journals that regularly carry articles featuring in-house lawyer articles, such as the *In-house Lawyer* journal. This journal is published by Legalease quarterly and contains a multiplicity of articles on differing aspects of working in-house. The autumn 2016 issue has a range of articles on leadership

and the modern GC, technology, cybersecurity, crisis management, the post-Brexit landscape, and so on.

We can carry out article searches on any aspect of working in-house, and our library services make it easy for in-house lawyers to borrow books that can be deliv-

ered or collected. Our online catalogue provides instant access to judgments, which can be searched by specific topics or using other filters.

If you require case law from other jurisdictions, we are happy to guide you through various free online databases, or to advise about the suitability of searching on a commercial database.

A list of [selected library resources](#) for in-house lawyers is available on the [committee](#) page. Finally, the library's weekly newsletter, *LawWatch*, provides all members with updates on selected case law, legislation and journal articles. It only takes a couple of minutes each week to browse through the newsletter and identify what is pertinent to your area of practice. You can contact the library at 01 672 4843 or email libraryenquire@lawsociety.ie.



THREE-BOOK DEAL FOR SOCIETY STAFF MEMBER

Law Society staff member Maria Hoey is on top of the (literary) world. She has just signed a three-book deal with publishers Poolbeg.

Maria, who is PA to the Society's president, told the *Gazette* that she has been writing short stories since the age of eight.

Her book, *The Last Lost Girl*, is her debut novel but, unlike those many authors who submit their manuscript in the hope that a publisher will recognise its literary worth, Maria can't claim to be able to paper her walls with publishers' rejection slips.

"This was my first time to contact a publisher," says Maria, "and the book was accepted by Poolbeg first time round." It would appear that Poolbeg wasn't the only publisher to see its promise. A short time after Poolbeg's letter of acceptance, she received an expression of interest from another publisher.

The Last Lost Girl is a novel about a teenage girl who goes missing from North County Dublin in the 1970s. Forty years later, her younger sister decides to try to unravel the mystery. The novel moves between the hot summer of



Maria with publisher Paula Campbell

1976 in north Dublin and a contemporary English seaside town. The genre has been described by the publishers as 'grip lit' – or 'fiction with an edge'.

Maria started the novel five years ago but took a break from it. She completed it last year, thanks in the main to being awarded a

writer's residency in the Tyrone Guthrie Centre in Co Monaghan. "That's where the Muse spoke and I finally pulled the whole thing together," she says.

She submitted the book to Poolbeg last September and was offered a three-book deal in November. *The Last Lost Girl* will

be published in July 2017.

Originally from Swords in Co Dublin – the inspiration for the fictional Irish town in her novel – Maria admits to "always having been intrigued by missing persons cases, how the affected families reconcile themselves with those situations – and the not knowing.

"I combined this intrigue with my obsession for the 1970s, when I was a teenager. My memories of that decade are so vivid. So I thought why not combine those two things, and the hot summer of '76?"

"I'm absolutely steeped in Agatha Christie and PD James. My story was always going to have a dark underbelly."

Maria is no stranger to being recognised for her writing. She won the Swords' Festival Short Story Competition in 1998, was shortlisted for the Michael McLaverty Short Story Award 2010, was runner-up in the *Msllexia* Women's Short Fiction Competition 2011, was shortlisted for *The Irish Times* Amateur Travel Writer Competition 2015, and her poetry has twice been published by *Poetry Ireland*.

PICS: CIAN REDMOND PHOTOGRAPHY

LADY SOLICITORS' GOLF SOCIETY – DATES FOR YOUR DIARY

The spring outing of the Lady Solicitors' Golf Society (LSGS) will take place at the Killeen Golf Club, Kill, Co Kildare, on 7 April 2017. The autumn outing will take place at Glasson Golf Club, Athlone, on 8 September. Last autumn, the LSGS played for the Quinlan Trophy at the Hermitage Golf Club, where the winner was Vicki Robinson (right). She was presented with the cup by Michael Quinlan (on behalf of his mother Moya) and Christine Scott (captain, 2016). For further information on the LSGS, contact Christine Scott at cmscott@eircom.net.





NATIONWIDE PROFILES THE LAW SOCIETY

The Law Society will be the subject of an upcoming RTÉ *Nationwide* episode profiling the solicitors' profession, with a particular focus on the growing diversity within the sector.

The programme will air on RTÉ1 at 7pm on Wednesday 15 February. It will profile Street Law, an initiative where trainee solicitors visit DEIS schools and teach law to transition year students in a practical way.



In addition, two former Access Programme participants will be interviewed, and will tell about their respective journeys to becoming solicitors.

Director general Ken Murphy will take presenter Mary Kennedy on a tour of Blackhall Place and, show how the profession has adapted and become an international example of integrating technology into education.



PICS: JASON CLARKE PHOTOGRAPHY



CALCUTTA RUN RAISES €180K FOR THE HOMELESS

As one of his first official duties as president of the Law Society, Stuart Gilhooly handed over two cheques – each to the value of €90,000 – to the Calcutta Run recipient charities GOAL and the Peter McVerry Trust. The cheque handover took place in the House of Lords, College Green, and was hosted by McDowell Purcell and Bank of Ireland.

“It’s hard to remember a time when the issue of homelessness was more important and the problem more acute. The legal profession must play its role, and we are delighted to assist in this small way in such an essential humanitarian project,” said Stuart.

Last May saw the 18th year of the Calcutta Run. Over 1,200 people registered, raising an in-



Law Society President Stuart Gilhooly presents cheques for €90,000 each to the Peter McVerry Trust, and GOAL; (l to r): Aidan Stacey (GOAL), Pat Doyle (Peter McVerry Trust) and Stuart Gilhooly

credible €180,000 in support of homeless youths in Dublin and Calcutta.

This year’s Calcutta Run will

take place on Saturday 20 May – a target of €200,000 has been set. Individuals or teams can either walk or run the 5k or 10k route.

A new cycling challenge will be announced soon, and 14 firms are hoping to battle it out for the coveted tennis tournament title.

The 5km and 10km courses will start and finish at Blackhall Place, winding their way through the Phoenix Park via the historic Arbour Hill and surrounding streets of Dublin 7. Participants will wind down at the Finish Line Festival, with a free barbecue, bar, vintage stands and DJ, as well as kids activities on the grounds of Blackhall Place.

You can register now at www.calcuttarun.com. If your firm does not have a Calcutta Run representative, please contact hilary@calcuttarun.com to volunteer or sign up as a supporter firm, or to register a team.



LAW SOCIETY MEETING WITH BAR OF IRELAND



PIC: LENS MEN

The liaison committee between the Law Society and the Bar of Ireland meets twice a year to discuss a wide range of matters of mutual interest. Pictured at the meeting in Blackhall Place on 17 January 2017 were: (front, l to r): Ciara Murphy, Seamus Woulfe SC, Paul McGarry SC, Stuart Gilhooly, Simon Murphy and Ken Murphy. (Back, l to r): Shane English BL, Damien Colgan SC, Mary Keane, James McCourt, Fiona Duffy, Sean O'hUallachain SC and James MacGuill

ANNUAL MEETING OF CAVAN ASSOCIATION



PIC: ADRIAN DONOHUE

Attending the County Cavan Solicitors' Association (CCSA) meeting on 8 December 2016 in Cavan Courthouse were (front, l to r): Martin Cosgrove, Paul Kelly (president, CCSA), Stuart Gilhooly (president, Law Society), Ken Murphy (director general) and Eirinn McKiernan (secretary); (back, l to r): Damien Glancy (treasurer), Mary McAveety, Rory Hayden, Eilis McCabe and Bernard McCartin



MAYO TURNS OUT IN FORCE FOR THEIR ANNUAL DINNER DANCE IN WESTPORT



At the annual dinner of the Mayo Solicitors' Bar Association on 3 December 2016 were (l to r) Dr Jimmy Devins, Judge Mary Devins, Judge Patrick Durcan, Mary Clare Durcan, James Ward (president, MSBA), Mary Ward, Judge Grainne O'Neill and Ken Murphy (director general, Law Society)



Sandra Murphy and Charlie Gilmartin



John Bruton (guest speaker) and James Ward



Brendan Donnelly, Therese Hannon, Marc Loftus and Deirdre Loftus

PEOPLE
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WOMAN LAWYER OF THE YEAR



ALL PICS: LENS MEN

Solicitor Patricia Rickard-Clarke has been named the IWLA Woman Lawyer of the Year 2016. The award is in recognition of Patricia's work in promoting the rights of vulnerable adults and older people, and developing the law on the issue of capacity. She was presented with her award by the president of the Irish Women Lawyers' Association Catherine McGuinness at a gala ceremony at Blackhall Place on 5 November. The event was held in collaboration with Law Society Skillnet and the Bar of Ireland. Further information on IWLA is available at www.iwla.ie. Details of the Law and Women – Promoting Equality 2017 Mentoring Programme can be obtained from lw@lawsociety.ie and lw@lawlibrary.ie. Pictured are (front, l to r): Maura Butler (Law Society), Patricia Rickard-Clarke, Ms Justice Catherine McGuinness, Orlaith Carmody (keynote speaker) and Aoife McNickle BL (chairperson, IWLA); (back, l to r): Tracey Doney, Attracta O'Regan (both Law Society Skillnet), Grainne Larkin BL, Cathy Smith BL, Aoife McNicholl, Fiona McNulty and Maeve Delargy



Zoe Kidney BL, Jane McGowan BL, Aisling Mulligan BL and Carina Davidson



Alex Lebedeva, Aisling Fitzgerald, Deirdre Hosford and Linda Schaefer



Caoimhe Stafford, Ailbhe Moloney, Aisling O'Mahony, Mary Ann Sullivan, Ms Justice Marie Baker and Maggie MacAonghusa



Ms Justice Úna Ni Raifeartaigh, Ms Justice Marie Baker, Ms Justice Catherine McGuinness, Ms Justice Mary Faherty, Aoife McNickle (chairperson, IWLA) and Ms Justice Sinéad Ni Chúlacháin



800 YEARS OF MAGNA CARTA HIBERNIAE



PICT: LYNN GLANVILLE

Celebrating the 800th anniversary of Magna Carta Hiberniae at Christ Church Cathedral Dublin were (l to r): Dr Thomas Mohr UCD, Dr Kenneth Milne, Dr Adrian Empey, Sir Donnell Deeny (president, Irish Legal History Society), Prof Paul Brand (All Souls College Oxford), Robert D Marshall (solicitor chairman of the conference organising committee), and John Larkin QC (Attorney General for Northern Ireland)

LEADERSHIP GROUP



At the meeting of the liaison committee between the Law Society and the Bar of Ireland in Blackhall Place on 17 January 2017 were (l to r) Stuart Gilhooly, Ciara Murphy, Ken Murphy and Paul McGarry

MARKING LEGAL HISTORY



PICT: LYNN GLANVILLE

At the 800th anniversary celebration of Magna Carta Hiberniae were (l to r): Prof Colum Kenny (Dublin City University), James McGuire MRIA, Dr Maebh Harding (University of Warwick), and Dr Ian Campbell (Queen's University Belfast)

BACK TO THE FUTURE



At the Future of Law and Legal Technology 2016 seminar at the Aviva Stadium were Prof Barry O'Sullivan, Shirley Brookes (head, Legal PwC UK), Prof Dan Katz, Larry Fenelon (managing partner, Leman Solicitors) and Peter O'Neill (associate general counsel, Facebook)

ON THE MOVE



Beauchamps has appointed Barry Cahir as partner and head of insolvency and restructuring. He is an expert in contentious and non-contentious insolvency, restructuring and corporate recovery law. The announcement follows the addition of four new partners in construction, commercial property, and energy and natural resources in June 2016.

Barry was appointed by the Minister for Jobs, Enterprise and Innovation to be a member of the Company Law Review Group on behalf of the Irish Society of Insolvency Practitioners and he chairs its corporate insolvency committee.



NEW BILL PUTS VICTIMS AT CENTRE OF JUSTICE SYSTEM

The Government recently published the *Criminal Justice (Victims of Crime) Bill 2016*.
Joseph Madigan says its enactment can't come quickly enough

JOSEPHA MADIGAN IS THE FINE GAEL TD FOR DUBLIN RATHDOWN AND A QUALIFIED SOLICITOR

For too long, the victims of crime have been ignored in this country. Being a victim of crime – whether a serious offence or a minor one – leads to all kinds of suffering and anguish. The harms caused by crime can be psychological and emotional, as well as physical or financial.

As a TD, I have heard too many stories from constituents who feel that the criminal justice system reduces them to little more than a witness, who will be cross-examined but not heard. One told me that going before the courts was even worse than the crime itself, as it reopened old wounds and made her feel like she was the one on trial. She told me that, if she could turn back time, she wouldn't have bothered reporting the crime at all.

Victims should be treated by the courts as being more than just another witness. The Government has recently published a new bill

that aims to put victims of crime at the centre of the criminal process. It is hoped to stop the criminal justice system from becoming another source of victimisation and to give victims more of a role in what was previously a very intimidating process.

The *Criminal Justice (Victims of Crime) Bill 2016* aims to give victims of crime full recognition in the criminal justice system. The bill's purpose is to ensure that victims of crime receive appropriate information, support, and protection and that they are able to participate with dignity in criminal proceedings. When it comes into force, it will give victims a whole host of statutory rights for the first time. The rights apply all the way through the criminal justice system – from a victim's first contact with the gardaí, right the way through to when the offender is released from prison.

Victims have to be protected by our crimi-

nal justice system, not just during trials but beforehand as well. If victims are not protected during interviews, medical examinations and investigations, they may be put off coming forward and reporting their crimes. This is especially true for victims of certain sensitive crimes, such as rape, or for certain vulnerable victims, such as children. Some of the measures here include rights to stop victims being questioned about their private lives during the trial or during investigations. They will also be given the right to give evidence from behind a screen in appropriate cases.

The right to be informed

Victims will have the right to special measures based on their particular vulnerabilities, to protection from repeat victimisation, intimidation and retaliation. The bill also gives victims the right to be provided with information about the progress of the investigation and any court proceedings. This information must be in clear, concise language, translated if necessary, to enable victims of crime to understand and be understood during the criminal justice process. This will go a long way towards helping victims as they progress through the criminal justice system.

Perhaps the most important rights this bill gives victims include the right to be informed of any decision not to institute a prosecution of the offence committed against them – and the right to request a review of that decision. These are rights that need to be enforced. Under the current *ad hoc* system, there has been only one

THIS BILL GIVES VICTIMS THE RIGHT TO BE INFORMED OF ANY DECISION NOT TO INSTITUTE A PROSECUTION OF THE OFFENCE COMMITTED AGAINST THEM – AND THE RIGHT TO REQUEST A REVIEW OF THAT DECISION



Minister for Justice Frances Fitzgerald receives the Victims' Rights Alliance report from its author, barrister Maria McDonald, in November 2014

case where that decision has been overturned. Before November 2015, victims did not have this right at all! Granted, I wasn't a TD at that stage, but I have heard stories from constituents about old cases where they felt really let down, because their cases were dropped and they never found out why.

It is important that the Government acts responsibly in ensuring the rights of victims of crime. After all, anyone can become the victim of a crime. This bill is based on an EU directive. Unfortunately, the deadline for this directive's implementation in Irish law has long since passed. This bill is over a year overdue, and we risk being punished by the EU for not implementing it sooner.

Massively underfunded

I am a long-time supporter of the victims of crime. In my work as a family law solicitor, I have had the opportunity of helping many

SOME OF THE MEASURES HERE INCLUDE RIGHTS TO STOP VICTIMS BEING QUESTIONED ABOUT THEIR PRIVATE LIVES DURING THE TRIAL OR DURING INVESTIGATIONS

of them, particularly victims of domestic violence. As a TD, I am proud to help put forward laws to assist the victims of vicious criminals. There is always more that can be done to help the victims of crime – for example, the [Criminal Injuries Compensation Scheme](#) is massively underfunded, which is another breach of EU law.

This victims' rights bill has been a long time coming and, in my opinion, can't be enacted

into law soon enough. Its measures have been carefully thought through to tackle the various problems and fears that victims of crime face in our criminal justice system. It puts them at the centre of the criminal justice system and treats them with dignity and respect.

There is an old maxim that a society is judged on how it treats its weakest members. Hopefully, with this bill, we can now be seen as treating ours that little bit better. [g](#)



MIGRATION – A TEST FOR THE FUTURE OF HUMAN RIGHTS LAW

The EU has played a crucial role in developing the human rights framework governing refugees and other migrants. Now it needs to ensure these rights are upheld, urges **Michael O’Flaherty**

MICHAEL O’FLAHERTY IS DIRECTOR OF THE EU AGENCY FOR FUNDAMENTAL RIGHTS

The figures paint a sorry picture. Some 362,000 people crossed the Mediterranean in perilous conditions in 2016, searching for protection or simply a better life. According to figures from the International Organisation for Migration, 5,079 people perished in the attempt to reach Europe’s shores, up from 3,777 in 2015.

Since the beginning of 2016, there have been 1.2 million applications for international protection across the EU, Switzerland and Norway. For much of the year, the largest single group of those requesting protection was from Syria.

Such data help us to understand the volume, but it is only part of the story. Each one of those 1.2 million individuals has rights – the rights laid out in the *Universal Declaration of Human Rights* and in the *Charter of Fundamental Rights of the EU* – to life, to dignity, and to equality before the law.

Are these rights being respected? To what extent? In which countries? Where they are being violated, what remedies that are both practical and feasible could be suggested?

The EU Agency for Fundamental Rights (FRA), which I have had the privilege of heading since December 2015, has immersed

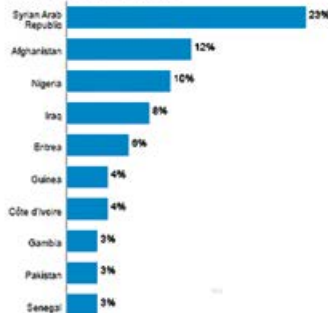
itself over the past year in finding answers to just these questions. We have been publishing *monthly overviews* of the human rights situation of the newcomers arriving in the EU, covering issues such as new legal and policy measures, criminal proceedings initiated against migrants, reception conditions, child protection, and hate crime.

These reports make depressing reading. We have found persistent problems with reception facilities, where incidents of abuse and sexual assault have been reported. At the same time, we have observed that inadequate first reception facilities often result in unaccompanied children

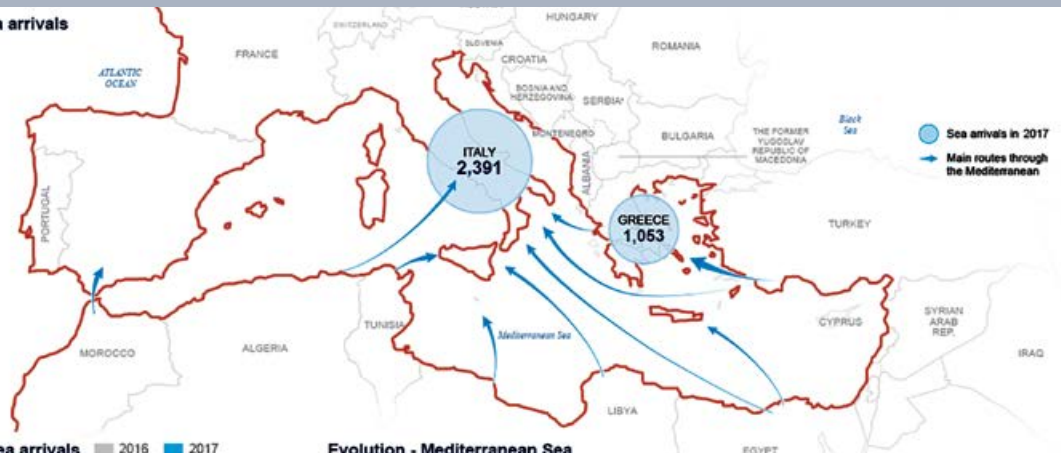
TOP 10 NATIONALITIES OF MEDITERRANEAN SEA ARRIVALS

Top-10 nationalities of Mediterranean sea arrivals

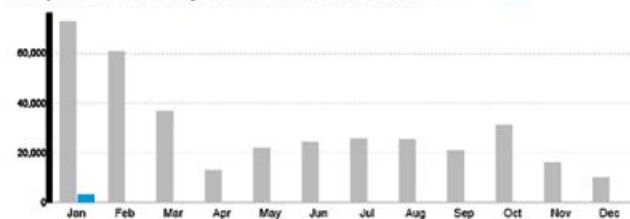
Top-10 nationalities represent 76% of the sea arrivals based on arrivals since 1 Jan 2016



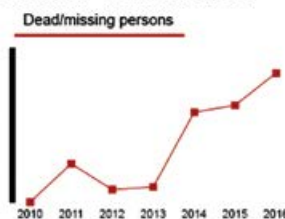
Other countries represent 24% of the total



Comparison of monthly Mediterranean sea arrivals



Evolution - Mediterranean Sea



3,444 arrivals by sea in 2017
 361,712 arrivals by sea in 2016
230 dead/missing in 2017
53% of arrivals come from the world's top 10 refugee-producing countries



PIC: EPA/ SIMELA PANTZARTZI



absconding, and we are now facing a situation in which there are tens of thousands of missing child migrants in the EU.

Qualified staff and clear guidance to identify children at risk are often lacking, and children face legal and practical obstacles to access asylum procedures. Children are far too often held in detention. While this is nominally for their protection, the negative effects on children frequently traumatised by civil war or other conflicts – and all they have witnessed and experienced on the long journey to Europe – are immeasurable.

Refugee hunters

Unfortunately, the difficulties of the refugees and other migrants do not stop once the issue of quality reception and care has been solved. On the contrary, one could say that they are only beginning.

We see that violence, harassment, threats and hate speech targeted at refugees and

WE ARE NOW FACING A SITUATION IN WHICH THERE ARE TENS OF THOUSANDS OF MISSING CHILD MIGRANTS IN THE EU

migrants are pervasive across Europe, with ‘refugee hunters’ in some places terrorising those crossing the border. There is also evidence that online hate speech is growing. Perpetrators are often members of the general public who do not belong to a specific politically or ideologically motivated group – a disturbing illustration of the fact that hatred has moved from the margins to the middle of society.

With challenges to human rights from almost every quarter, the FRA’s resources are currently strained to the limit. Nonetheless, we

maintained a small but permanent presence in the so-called hot spots in Greece for most of 2016. In both Greece and Italy, we provided legal and practical human rights advice to the EU and national authorities dealing with registration, first reception and accommodation, asylum, and the return of those whose asylum requests have been turned down. In this context, we have been working with the UNHCR, the UN’s refugee agency, to train staff at reception centres on fundamental rights protection and site management.

We are seeing many brave people at the



Does your client have a claim eligible for ASR Hip ADR?

The ADR Process gives claimants a neutral non-binding evaluation of eligible claims

How it works

To apply, submit a completed Form B to McCann FitzGerald solicitors. Form Bs are available from McCann FitzGerald and from www.hipadr.ie. On receipt of Form B McCann FitzGerald may ask for additional information or documents, such as necessary medical records or details of any special damages claimed. If the claimant's case is eligible, Form B will be endorsed and returned to the claimant's solicitor. Both parties prepare written submissions which are submitted to an independent Evaluator who issues a written evaluation stating the amount of any damages assessed. The parties have 45 days to accept or reject the evaluation.

- Claimants in the ADR Process do not have to prove liability; only causation and quantum are relevant
- There is no fee to submit a claim to the ADR Process
- If necessary, McCann FitzGerald will collect the claimant's medical records where written authorisation has been provided
- Evaluators are senior counsel or retired Superior Court judges
- A €25,000 payment in respect of the claimant's legal costs, outlay and VAT will be paid within 28 days of settlement of claims within the ADR Process. This is without prejudice to a claimant's right in the circumstances of a case to seek higher costs and outlay through negotiation or taxation

Eligible claims

Claimants may avail of the ADR Process if:

- Proceedings have issued
- The index surgery of the ASR product took place in Ireland
- Revision surgery took place in Ireland not earlier than 180 days and not later than 10 years after the index surgery
- Injuries Board authorisation has been obtained
- The claim is not statute barred
- Revision surgery was not exclusively due to dislocation; trauma; infection; fracture of the femoral head; or any issue related to the femoral stem

For further information, or to discuss settlement of any eligible claim, please contact McCann FitzGerald (DFH/RJB) on 01 829 0000 or email hipadr@mccannfitzgerald.com



WE HAVE FOUND PERSISTENT PROBLEMS WITH RECEPTION FACILITIES, WHERE INCIDENTS OF ABUSE AND SEXUAL ASSAULT HAVE BEEN REPORTED

front line of the humanitarian crisis. On the Greek islands, there has been incredible support for the newcomers from people who often have very little themselves. That is why we say ‘no’ to the [criminalisation](#) of those providing humanitarian assistance to migrants arriving in the EU, whether they are fishermen saving the lives of children at sea or lawyers offering legal advice.

Further along the migration route, there are thousands of volunteers all over the EU, bringing, sorting and handing out clothes to the new arrivals, teaching refugees Italian, German or Swedish, and taking children to parks, playgrounds and museums.

However, this is not enough. As well as brave citizens, brave policy is also needed to ensure that human rights are adequately safeguarded.

Hot spots challenges

That is not to say there has been no movement on the policy front. The hot spots referred to above are very much part of the EU’s response to the increased challenges we face. If well implemented, these hot spots are an opportunity to better address basic needs and fundamental rights, detect potential vulnerabilities, and offer those in need of international protection the opportunity to claim asylum, or suspected victims of human trafficking the assistance and support they need. With some adjustments, the concerted action by national, European and humanitarian actors at the hot spots could potentially constitute a model for other parts of the EU.

There have also been improvements in child protection. [Proposed reforms](#) to the EU’s common asylum system include clearer deadlines to ensure that unaccompanied minors are appointed a guardian promptly, with the time limit for lodging an asylum request only beginning once the guardian has been assigned and has had opportunity to meet the child.



At national level, there are innovative practices that could be adapted to local needs elsewhere. For example, in Germany there are programmes to combat prejudice and fear in the local population through cooperation between the authorities, police, local politicians, local organisations, business and civil society. Or take the Swedish Migration Agency, which has opened special accommodation for particularly vulnerable asylum seekers, such as torture victims, in three major cities.

Piecemeal responses

In the face of the challenges Europe is facing, though, these responses remain piecemeal. Despite efforts at national and EU level, the approach to migration is not sufficiently holistic to take migrants from their point of physical arrival through to the ‘psychological homecoming’ that marks their integration into EU society.

Much courage is needed to integrate

the newcomers – courage and hard work on both sides. In the preamble to the *Charter of Fundamental Rights*, we read that enjoyment of the rights contained in the charter “entails responsibilities and duties with regard to other persons, to the human community and to future generations”.

EU and international human rights law make clear that we are all individuals, with the right to live as we wish, but that at the same time we also belong to communities and to society as a whole. And so the rights of the individual are mirrored by that same individual’s duty to care for his or her fellow human beings.

The humanitarian crisis and its resolution are a test of our commitment to human rights. In Ireland, a country that has produced so many migrants over the centuries, there should be recognition for the fact that strengthening respect for human rights law is not just in the interest of the refugees, the newcomers. It is in the interest of us all. [g](#)



RISE OF THE CYBERMEN

The Law Society has launched a new cybersecurity section on its website to advise members on how to protect themselves from cybercrime attacks. **Rory O'Neill** fires up his fax and glittergun – and resets his daily backups

RORY O'NEILL IS AN INVESTIGATING ACCOUNTANT WITH THE LAW SOCIETY OF IRELAND

The continuing integration of technology in our everyday lives has significantly increased the risk of being subjected to a cybercrime attack. A recent Smith & Williamson [law firm survey](#) (November 2016) reported that there has been a near 50% increase in the number of cyberattacks reported by Irish law firms in the past year.

The profession can best protect itself against such attacks by:

- Being aware of the type of risks involved and attacks being perpetrated,
- Ensuring that its knowledge base is maintained and up to date at all times, and
- Implementing current best-practice guidelines.

The Law Society has launched a new cybersecurity section on its website at www.lawsociety.ie/cybersecurity

or under the 'running a practice' drop-down menu.

This [new section](#) will assist in:

- Raising awareness – see examples of some typical cyberattacks that have been experienced by solicitors. In order to keep these relevant, fraud alerts will be included on the site as soon as an incident comes to the Society's attention.
- Reporting incidents – we have provided an online '[incident report form](#)' to allow solicitors to report any cybercrime attack to the Society (this report may be submitted anonymously). This incident will be included in the fraud alert section (anonymised if requested), ensuring that the profession is aware of the different type of frauds attempted at all times.
- Education – details of upcoming CPD courses on cybersecurity will be listed when

available. The site will also include a list of safeguards to be implemented in order to minimise the risk and impact of such an attack, as well as articles and publications on the area that are relevant to the profession, with links to useful websites.

Recurring attacks

Based on the attacks reported to the Law Society to date, the majority fall into two categories: 'ransomware' and 'email spoofing' (more detail on these types of attacks is on the website, along with other attacks under the heading 'examples of cybercrime').

Given the increasing frequency of these two types of attack, the profession should pay specific attention to the precautions that should be taken to assist in preventing such attacks. Solicitors are also advised to refer to the cybersecurity section for further details.

HOW TO SHARE BANK ACCOUNT DETAILS SAFELY

The Technology Committee produced a practice note in September 2016 that sets out the following ten tips, particularly in relation to sharing bank account details.

This practice note, along with other useful articles, can be found at www.lawsociety.ie/cybercrime-articles.

- Only send IBANs and BICs for your accounts or other accounts by letter or fax.
- Clients should be asked for their bank details by way of a copy statement at the start of a transaction.
- If a client does not give you copy bank documentation, then you should ask the client to write out the IBAN and BIC in full for you in their own handwriting, asking them to sign it.
- If another solicitor is sending you their account details, then they should do so by fax or letter

and you should still verify these with them. It is common for the fraud to involve only changing one digit or letter.

- If you have to write down bank account details yourself (for example, because you are getting them over the phone), then you must read the details back to the client for verification and you must memo this on your file. This is important, because if the other person gives you an incorrect number by accident, it may cause the money to go astray.
- If you get an IBAN and BIC by email, including in an attachment, then you must ring the person to verify the details, and you also should memo that on your file.
- If somebody tells you that their account details have changed, this is an instant red flag. You should immediately raise a query and verify the account details through an alterna-

tive medium, such as by phone, fax or letter. In addition, let your clients know that your firm does not change its bank account details (if this is the case). Clients should be advised not to send any money to new account details without confirming the change by talking to someone in the firm.

- We cannot rely on the banks to verify the account name against the account number. If you put in a wrong number, then the money will go astray and may not be recoverable. Typographical errors must be avoided.
- Any internal mail asking you to request or effect the transfer of moneys must be verified by a phone call to the sender of the mail.
- The obligation on the client to provide accurate bank details, and the risk of fraud, should be mentioned in the section 68 letter and letter of engagement.



PIC: REX FEATURES

In summary, a ransomware attack is where the data and files on a computer or network are encrypted as a result of malware. These files can only be accessed by inputting an 'encryption key' held by the fraudster, who emails the victim and demands a payment, often (though not always) in [Bitcoin](#).

If a solicitor is a victim of such an attack, the options available to them in order to restore access to their files, are:

- Restore the most recent backup made (which might lead to some loss of work), or
- Pay the ransom (with no guarantee that the criminal gang will provide the key, and which rewards the criminal gang for their actions).

The Technology Committee published a practice note in July 2016 to assist solicitors in protecting themselves against a ransomware attack and provide information on procedures if they do fall victim. This can be found at www.lawsociety.ie/cybercrime-articles.

The single most important precaution is to make daily backups and regularly ensure that the backup procedures are working appropriately. In a number of cases, solicitors had scheduled the system to back up regularly; however, after suffering an attack, they realised that the backup process had been repeatedly unsuccessful, resulting in the loss of months, if not years, of work. Solicitors are advised to speak to their IT service

THE SINGLE MOST IMPORTANT PRECAUTION IS TO MAKE DAILY BACKUPS AND REGULARLY ENSURE THAT THE BACKUP PROCEDURES ARE WORKING APPROPRIATELY

providers to establish a robust backup routine.

Also ensure that all software (including the operating system, internet browser, anti-virus, etc) on all computers is up to date in order to minimise any potential vulnerabilities.

Email spoofing

Email spoofing is the creation of email messages with a forged sender address – that is, the email appears to come from a trusted source but is actually from a fraudster.

In general, malware provides a criminal with access to the system. With this access, the criminals can then employ many methods of gaining access to confidential information.

The criminals often watch and investigate the internal email traffic in the practice to determine who processes electronic banking requests and which individual is most likely to request one. Then the criminal sends an email to the relevant member of staff in the accounts department from a fee-earner re-

questing a transfer of money to a foreign bank account. As the criminal has access to the system, they will identify ongoing cases and can include legitimate client references and names in the email.

In other cases, external emails between the solicitor and the client have been intercepted and read by the criminals. When a genuine email is sent with bank account details enclosed, the fraudster intercepts and amends the details of the bank account. This amended email is then forwarded to the appropriate recipient from the spoofed email account.

If the recipients act on the emails in either of the above cases, the money will be transferred to the fraudulent account, from which it is often dissipated prior to the fraud being identified, making it very difficult to recover the money.

Visit the cybersecurity page for further advice on how to reduce the risk and impact of a cyberattack. [E](#)



FIGS: CONOR HORGAN, BLINDER FILMS





Striking out

RTÉ's latest drama puts the Irish legal system front and centre for the first time in Irish TV history. **Grainne Rothery** went on set for the *Gazette* to meet the stars of the show

GRAINNE ROTHERY IS A FREELANCE JOURNALIST



For the first time in a TV drama series, the Irish legal system has taken centre stage with the launch last month of RTÉ's *Striking Out*, focusing on a Dublin-based solicitor who quits her job in a large firm to set up her own family law practice.

The show's four-week run has already concluded, but the signs are good for a second series. Development work for a follow-up six-episode series is underway, according to RTÉ's head of drama Jane Gogan, who describes the response to the opening run as very positive.

The viewing figures for the Sunday night airing of each show were also strong. Week one, which went out at 9.30pm on New Year's Day, pulled in an average audience of 445,000 viewers, while 550,000 people tuned in for episode two and 492,000 for week three. These figures were supplemented by good numbers watching the Saturday night repeat and catching up on the RTÉ Player.

Starring Amy Huberman, the show is centred on solicitor Tara Rafferty, who – on her hen night – discovers that her fiancé and co-worker Eric Dunbar has been cheating on her with another colleague. She quits her relationship – and the firm – and with the personal and professional help of a motley crew of supporting characters, decides to go out on her own.

Getting personal

The show has a 'story-of-the-week' format, introducing and resolving a different case within each episode. The fact that those cases

AT A GLANCE

- *Striking Out* is the first TV drama series to focus specifically on the Irish legal system and Irish lawyers
- The series follows Dublin-based solicitor Tara Rafferty, who quits her job in a large firm to set up her own family law practice
- On average, the series has attracted about half a million viewers per episode
- The main stars are Amy Huberman as Tara Rafferty and Neil Morrissey as Vincent Pike SC
- A number of solicitors and barristers pored over the scripts in order to ensure the accuracy of the legal process
- A second series is now being considered

have a strong focus on personal relationships was a big attraction for Huberman.

"That's at the heart of most things when you're watching a drama and how they build up, are tested, and break down," Amy told the *Gazette*. "And because Tara's been through her own personal disturbance, she's seeing all these other things through her own experience and where she's at with it."

Huberman was also very interested in her character's journey. "She has been on this track her whole life and nothing has ever really upset her that much. This is the first time where she

has real self-reflection. It's the first time where she's probably had to find the measure of her own stock and how strong she is, because she's front and centre of the job she does. There's no hiding."

As regards the law, Huberman has relatively limited experience, apart from a stint on jury duty a number of years ago and having several friends who work as solicitors.

Her preparations for the role included spending a day in court with a solicitor. Although legal advisors were on set during filming to ensure the accuracy of the writing and that everyone conducted themselves correctly, it was very useful to see things first-hand, says Huberman.

Particularly fascinating was the shorthand of how people speak to and deal with each other. "There's all the old-school formality of how you talk to the judge, but I was kind of surprised at how everyone's talking over each other and at how busy it is."

While she never considered becoming a solicitor, Huberman regards it as a "hugely interesting job". "You nearly have a luxury in [acting] to be able to dip into it without having to do the four or five years of college. I cheated and pretended. But I think I learnt a lot through it, and it was good fun to do."

First-time barrister

Her co-star Neil Morrissey, who plays senior counsel Vincent Pike, was drawn to his role by "interesting storylines" and the fact that the show is set in Dublin. "And it was a good part. I'd never played a barrister before. And I think it was brave of them to think of me to play that part."

His preparations for the role were boosted to some extent by the fact that his real-life partner is a lawyer. "I was able to run some of the dialogue by her, but she got her law degree in America at Berkeley and then she retook to practise in Washington, then in Los Angeles, and then moved to England and took the bar there. And it's different again when you come to Ireland."

For him, the most challenging aspects of the role were the courtroom scenes. "The dialogue isn't triggered by a response. In scenes that aren't in the courtroom, it's easy because it's the kind of dialogue you're used to: the train of thought is there, and it's in the last question. That's not the case when you're in court. It's not a flowing dialogue and it's really hard to learn."





It was ‘in at the deep end’ during his first couple of days of filming in the courts. “I had 18 pages to learn in the first two days. You can ask any actor: that is terrifying. So, walking in and doing that in the Four Courts, in the actual spaces where these things happen, was a great experience.”

The legal setting of *Striking Out* adds to the drama and appeal for a number of reasons, according to Gogan. “It’s a place that, unless you’re born into the milieu or have encounters with the law, you really don’t know much about. It’s something that’s ‘over there’ in the iconic buildings – but what actually goes on inside is something that’s really a mystery to most of us, and that’s interesting.”

“And then there’s such variety in what happens within, which is what you always look for in drama. It is a place with lots of stories.”

Diving straight in

Produced for RTÉ by Katie Holly and Yvonne Donohoe of Blinder Films, the genesis of the show was an idea by James Phelan, who was also one of the writers on the series. “We pitched the series to RTÉ and they really liked the tone and the characters,” says Donohoe. “They were very keen to develop it with us.”

“The way that Blinder pitched it gave us a contrast to other types of series we do,” says

FAMILY LAW IS AN AREA THAT’S GOOD FOR THE KIND OF SHOW WE’RE DOING. IT’S HUMAN DRAMA RATHER THAN CRIME DRAMA

Gogan. “It had a kind of sparkle and lightness of touch about it that gave it an entertaining edge.”

According to Donohoe, the initial concept was quite different to the end product. While it was always intended to be set in the legal world, Tara was originally to be a law student in the process of changing career. “As we started to develop it, we thought, ‘why are we dancing around it, why not just dive straight in there and have Tara be a solicitor so we can go into the courts?’”

RTÉ was particularly keen on having the ‘story-of-the-week’ format. “Because of the presence of new platforms like Netflix, Hulu and Amazon Prime, it’s a good time for a traditional broadcaster to look at doing stories that have a story of the week,” Gogan says. “The legal world offers that potential very nicely.”

And the format is something that has both general audience and international appeal, says Donohoe.

RTÉ was the anchor financier for the series, with funding also provided by the Broadcasting Authority of Ireland, and through section 481 of the *Taxes Consolidation Act* (which provides tax incentives for film and television). International co-financing came from Acorn Media Enterprises and DCD Rights. Acorn will be streaming the show on its online platform and trying to sell it to US broadcasters. DCD Rights, meanwhile, is selling it internationally.

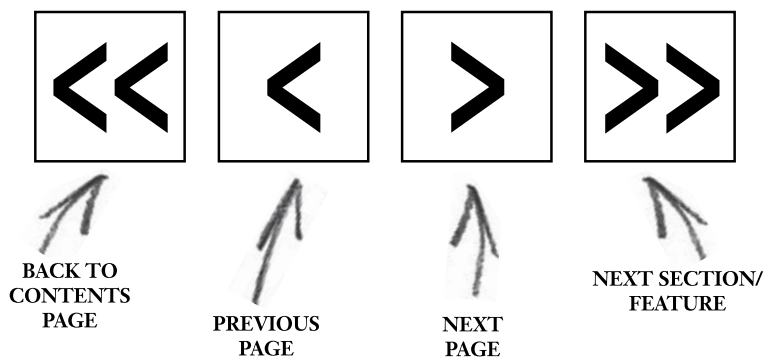
“When we were trying to sell the series and get it picked up in terms of international interest, a lot of people really liked it, both because it’s on the lighter side – it’s not your typical dark, heavy crime-driven legal show – and also because it has cases of the week. Audiences really love those kinds of shows,” Donohoe adds.

Huberman believes the show’s universal appeal is rooted in its personal relationships.



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“None of that is specific to Ireland,” she says. “It just happens to be set here with an Irish voice. I think they’ve made Dublin look so beautiful as well. It’s lovely when you watch a show and you get an essence of the city it’s being shot in, and to see it in a way you haven’t seen it before.”

The fact that it is Ireland’s first real legal drama series is an added draw. “We’ve obviously had dramas that have gone in and out of court, or characters that have been involved in scuffles and skirmishes, but we’ve never had the court system front and centre,” says Donohoe. “That was something that was very appealing, to us and to RTÉ. And I think there is an interest among international audiences as well in the peculiarities and the particularities of different legal systems in the world.”

Legal advisors

Getting things right from the legal-process perspective was paramount, and a number of solicitors and barristers were involved at various stages of development and in different capacities.

Expert feedback at the writers’ room stage provided an initial sketching of the legal world and, among other things, helped decide Tara’s area of specialisation. “It was news to us when we realised Tara wouldn’t be on her feet an awful lot unless it were a family law court,” Donohoe says. “Family law is also an area that’s good for the kind of show we’re doing. It’s a human drama rather than a crime drama.

“But, also, family law cases, we’ve been told, are generally faster moving as well,



PIC: CIAN REDMOND PHOTOGRAPHY

Solicitor Avril Mangan was one of the legal consultants on the series

because they’re more immediate.”

Some of those early advisors remained on to provide feedback on the initial scripts. “Once we knew it was happening, we had consultants very much involved in detail, going through it word-by-word, line-by-line,” says Donohoe.

“Their work has been terrific and has managed to convey the world and the procedure very well, with minimal dramatic licence, which is amazingly commendable,” she adds.

One of those involved was Avril Mangan, who established her own family law practice, Mangan & Company Solicitors, in Dublin’s Upper Pembroke Street, in 2011. Mangan believes she caught the interest of the producers because of her experience in setting up, and her age profile, which is similar to Tara’s.

“I set up in a recession, not on the basis of

a broken heart,” she says. “It was obviously very different circumstances, but I had literally just set up on my own. On that basis, they found me interesting.”

Dramatic licence

Her contribution included attending an initial writers’ room meeting, advising on the plausibility of various scenarios, and reading through and giving feedback on a couple of scripts.

“They didn’t want to do any storylines that weren’t believable, as they wanted the legal profession to buy into the programme as well,” says Mangan. “They did want the scenarios to be realistic and believable. They didn’t want it to be fantastical, even though, at times, that was to the detriment of a really good storyline!”

While she believes the court scenes were strong, she stresses that setting up a practice is not as quick and easy as it was for Tara. “There’s no way you’d be taking on a client and going down to court without your insurance. But, from the perspective of telling the story, I can see why they played it the way they did. They had to make the show work.”

“We’ve only had to take dramatic licence on one or two tiny things – literally where something wouldn’t move as fast,” says Donohoe. “The procedure was all correct, and that was very important to us.”

A second series is now in development. “Production isn’t guaranteed just yet, but if ratings go well – and public sentiment seems to be good – we’ll hopefully get a second series,” says Donohoe. “Watch this space.” [g](#)

Q FOCAL POINT

A SHOCK DISCOVERY

Striking Out follows the tumultuous professional and personal life of Dublin-based solicitor Tara Rafferty and her fledgling legal firm. When Tara discovers that her fiancé (and fellow solicitor) has been cheating on her with a colleague, she breaks up with him, quits her job at the prestigious law firm they worked at together, and sets about making a solo career for herself.

Helping out are Ray Lamont (her street-smart and opinionated client-

turned-assistant), Meg Riley (tech guru and private detective), Pete (the easy-going owner of the café building where she sets up her new office), and Tara’s mentor and friend Vincent Pike (senior counsel).

Over time, Tara’s cases put her in direct conflict with influential families and the legal and political establishment, and also challenge her own ethics, as she navigates her new life against the pull of the old.



Brexitradition

Brexit is set to have a significant impact on extradition between Ireland and Britain. **Ray Briscoe** takes a look at how such business could be conducted post-Brexit

RAY BRISCOE IS A PRINCIPAL PROSECUTION SOLICITOR AND DEPUTY HEAD OF THE SUPERIOR COURT'S SECTION IN THE OFFICE OF THE DPP. HE HAS PRIMARY RESPONSIBILITY FOR UNDERTAKING OUTGOING EUROPEAN ARREST WARRANTS AND EXTRADITION REQUESTS MADE ON BEHALF OF THE DPP



Will 'the law of unintended consequences' apply to extraditions between Ireland and Britain, post-Brexit? Is it possible that, by increasing controls on the free movement of people, there will paradoxically be decreasing

controls on the free movement of criminals?

In January 2004, the European arrest warrant (EAW) system came into force, replacing the existing complicated, unilateral-based extradition system.

The EAW system provided a unified, streamlined method of ensuring that the 28 European member states could surrender individuals accused or convicted of crimes in another member state efficiently and without delay.

England and Wales' DPP Alison Saunders, reflecting upon the efficiency of the current EAW system, recently stated: "It's three times faster to use an EAW, and it is four times less expensive for us to be able to do that as well."

Two years after article 50 of

the *Lisbon Treaty* is triggered, Britain will cease to be an EU member state and will cease to be part of the EAW system.

It will come as no surprise to learn that Ireland's largest 'trading partner' for EAWs is Britain. So how will Ireland conduct this extradition business post-Brexit?

The preferred option

The first and preferred option is that Britain enters into a harmonised EAW-style system with the 27 remaining EU member states. Britain and the remaining EU states could

come together collectively to reach one coherent extradition agreement. Various commentators, including the director of public prosecutions for England and Wales, have called for Britain to remain in an EAW-style system in order to ensure that prosecutors retain the ability to effectively fight cross-border crime.

The main challenge is that, in order to do so, it will, in all likelihood, be necessary for Britain to continue to accept the principle of the supremacy of EU law. This would clash directly with the express stance taken by Prime Minister Theresa May when stating that ending "the authority of EU law" is the central feature in any Brexit negotiations.

AT A GLANCE

- How will Ireland conduct its extradition business post-Brexit?
- The preferred option would be that Britain enters into a harmonised EAW-style system with the 27 remaining EU member states
- A second, unviable option would be that Ireland and Britain fall back upon any pre-existing extradition arrangements
- The option of using the *European Convention on Extradition 1957* as the basis for future extraditions is impractical



IT IS OPEN TO IRELAND AND BRITAIN TO ENTER INTO THEIR OWN BESPOKE EXTRADITION ARRANGEMENTS. THIS COULD TAKE THE FORM OF A NEW BILATERAL EXTRADITION TREATY

PICTURE: GETTY IMAGES

A possible alternative that might succeed in overcoming this concern would be for Britain to enter into a collective extradition agreement directly, following the precedent established under [Council Decision 2006/697/EC](#) of 27 June 2006. That directive effectively extended the use of EAWs to the third-party, non-EU states of Iceland and Norway and is virtually identical in its terms to the [EAW Framework Decision](#), with one crucial difference: namely, that the principle of the supremacy of EU law does not apply. The national courts are not subordinate to the European Court of Justice (ECJ). Under the terms of the directive, any dispute can be referred to a “meeting of representatives of the governments ... with a view to settlement within six months”.

To promote uniformity in the interpretation of law, Iceland and Norway have agreed to keep their domestic case law under constant review and, while not accepting to be bound by ECJ judgments, there is an acceptance of the persuasive value of those judgments.

It should be borne in mind that both Iceland and Norway’s systems of law, as members of the European Free Trade Association and the [Schengen acquis](#) (the EU’s border-free zone), are compatible with the EU member states. Contrast this position with the stated aim of the Brexit campaign to restore Britain’s ability to exert control over the free movement of people.

The extradition agreement between Iceland, Norway and the EU member states took eight years to negotiate and, after a

further five years in waiting, the agreement (the directive) is still not in force. Compare this timeline with the maximum two-year period that would be required to both negotiate and to complete an extradition agreement once Brexit is triggered.

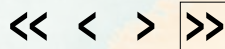
If Britain and the EU do not enter into such an agreement or there is a delay of several years before a collective extradition agreement is actually in force, what happens in the interim period?

The ‘not viable’ option

A second, though unviable, option would be that Ireland and Britain fall back upon any pre-existing extradition arrangements.

Up to 1965, any arrest warrant issued by a court in Britain, the Channel Islands, the Isle of Man, or Ireland was immediately

EXTRADITION



PIC: GETTY IMAGES

effective throughout all of those jurisdictions. If an Irish court issued a warrant, that warrant was transmitted to, say, Wales, where the person was arrested and then sent back to Ireland. This simple procedure was facilitated by virtue of section 29 of the *Petty Sessions (Ireland) Act 1851*.

Unsurprisingly, there were successful challenges to this extradition system in both jurisdictions. In 1964, the House of Lords ruled in *Metropolitan Police Commissioner v Hammond* that, as Ireland was an independent state with its own police force, this system could no longer operate. In 1965, the Supreme Court in *State (Quinn) v Ryan* ruled that this extradition system was unconstitutional because it failed to provide any grounds for a person to challenge their extradition in a court.

This system of rendition came to an

end with the introduction of part III of the *Extradition Act 1965* in Ireland and correspondingly by the *Backing of Warrants (Republic of Ireland) Act 1965* in Britain. On 1 January 2004, part III of the *Extradition Act 1965* was repealed in Ireland and was replaced by the EAW system.

The ‘old’ legislation has been repealed and cannot, as a result, be resurrected to be relied upon in the future.

The impractical option

A third option – using the *European Convention on Extradition 1957* as the basis for future extraditions – is impractical.

The convention is a multilateral extradition treaty introduced in 1957. Prior to the introduction of the European arrest warrant, the convention provided a system for the extradition of persons between the

member states of the Council of Europe (including EU countries), together with certain specified ‘third’ states.

The convention was ‘replaced’ in Ireland after 1 January 2004 (per article 31 of the framework decision) and in each of the member states with the European arrest warrant system, which streamlined extradition procedures between the member states. To this day, the convention remains in existence between EU member states and the other specified third states – for example, South Africa. It also, of course, governs extradition arrangements between Ireland and non-EU European states.

The current EAW system acts “without prejudice” to “existing extradition agreements between member states and third states”, which is the category that Britain will fall into post-Brexit. Britain will therefore be in a similar position to, for example, the ‘third’ states of Jersey or South Africa, from which Ireland has successfully extradited persons using the 1957 convention.

How might this option work in practice?

This option is not automatically available. Ireland specifically excluded the application of part II of the *Extradition Act 1965* to Britain. *SI 474/2000* sets out the various countries with which Ireland has extradition arrangements and states

UP TO 1965, ANY ARREST WARRANT ISSUED BY A COURT IN BRITAIN, THE CHANNEL ISLANDS, THE ISLE OF MAN, OR IRELAND WAS IMMEDIATELY EFFECTIVE THROUGHOUT ALL OF THOSE JURISDICTIONS

EXTRADITION



“other than the United Kingdom”. It would be relatively straightforward to rectify this position by formally introducing a new SI extending part II of the 1965 act to specifically cover Britain.

In contrast to the current EAW system, it would be necessary in all cases to prove correspondence of offences between Ireland and Britain. Given the historical links, it is not anticipated that this would present a substantial issue.

There would undoubtedly be delays encountered in using the convention as the basis of extradition, as it has more ‘moving parts’ – with, for example, the diplomatic transmission of extradition documents being a requirement.

While Britain does not have a constitutional bar on extraditing its own citizens to Ireland, this contrasts with the position in Ireland. By virtue of section 14 of the *Extradition Act 1965* (as substituted), Ireland “shall not” grant the extradition of a person to Britain if that person “is a citizen of Ireland, unless the relevant extradition provisions ... provide”. The exceptions to this bar are set out in, and limited to, the EAW system and extraditions made pursuant to the bilateral extradition treaties that Ireland holds with the USA and Australia.

In effect, this would mean that, where Britain made an extradition request under the convention (as opposed to the EAW system)

to Ireland, any Irish citizen present in Ireland would have an automatic defence preventing their extradition to Britain.

The bespoke option

It is open to Ireland and Britain to enter into their own bespoke extradition arrangements. This could take the form of either a new bilateral extradition treaty or, alternatively, by enacting reciprocal primary legislation in both jurisdictions similar to that which previously existed. It is apparent that Ireland will not obtain any preferential treatment in terms of negotiating Brexit. The German chancellor’s statement is unambiguous in this regard: “Of course, I cannot anticipate the outcome of the negotiations. The 27 member states will bring their influence to bear. The Irish voice will be heard as much as every other voice.”

It therefore appears optimistic to be overly reliant upon the EU and Britain reaching a collective extradition agreement prior to Brexit. A prudent course of action for Ireland would be to consider negotiating in due course, and indeed implementing as required, a new bilateral extradition agreement with Britain, while keeping a keen eye on wider developments.

A spokesperson for the Irish government recently stated that, while there was an “agreed and united EU position that there can be no negotiation until article 50 has been triggered” and while “Ireland fully adheres to

that position”, that did not mean that Ireland “cannot have exploratory discussions on ongoing bilateral issues, including those which will need to be sorted out”.

When considering Brexit and the necessity to be proactive in future planning, the words of the American poet Robert Frost are fitting: “The afternoon knows what the morning never suspected.”

LOOK IT UP

CASES:

- *Metropolitan Police Commissioner v Hammond* [1965] AC 810
- *State (Quinn) v Ryan* [1965] IR 70

LEGISLATION:

- *Backing of Warrants (Republic of Ireland) Act 1965* (Britain)
- *Council Decision 2006/697/EC* of 27 June 2006
- *Council Framework Decision of 13 June 2002 on the European Arrest Warrant (EAW Framework Decision)*
- *European Convention on Extradition 1957*
- *Extradition Act 1965*
- *Petty Sessions (Ireland) Act 1851*
- *Extradition Act 1965 (Application of Part II) Order 2000* (SI 474/2000)

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It shouldn't happen to a vetting officer

Background checks on employees are important, particularly where they may have access to children or vulnerable people.

Matthew Holmes pulls your records

MATTHEW HOLMES IS A PRACTISING BARRISTER AND THE AUTHOR OF [ADMINISTRATIVE LAW NUTSHELL](#) AND THE FORTHCOMING [NUTSHELL ON EU LAW](#)



Vetting allows employers in certain sensitive fields to find out information about a potential employee's history, in particular their criminal record.

On 29 April 2016, two acts were commenced that change the way vetting is carried out in Ireland. They are the *National Vetting Bureau (Children and Vulnerable Persons) Database System*

Act 2012 (the Vetting Act) and the *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 (the Spent Convictions Act)*. The former was amended in part by the latter. These acts have to juggle the difficulty of allowing disclosure of sensitive information while still respecting people's privacy rights. On one hand, no one wants a sex offender working as a teacher. On the other, the potential disclosure of convictions is enough to cause anyone anxiety or distress.

The *Vetting Act* sets up the National Vetting Bureau, which replaces the Garda Central Vetting Unit. Before this act, the vetting unit did not operate under any specific statutory power. The Law Society's Criminal Law Committee raised concerns with the Irish Human Rights Commission in March 2014 about this and the extent to which garda vetting interfered with privacy

rights. The act also creates the position of chief bureau officer and sets up a national database, known as the National Vetting Bureau (Children and Vulnerable Persons) Database System. This database contains registers of relevant organisations, specified information, and vetted persons.

Vet in a spin

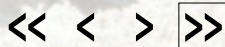
The bureau is now in charge of vetting. Vetting is only conducted on behalf of registered organisations and is not conducted for individuals. Under section 12 of the *Vetting Act* a 'relevant

organisation' cannot permit anyone to do 'relevant work or activities' on their behalf unless they receive vetting disclosure about that person from the National Vetting Bureau. It is an offence to do otherwise. 'Relevant work or activities' means work or activities relating to children or vulnerable persons, and 'relevant organisation' means anyone who employs or permits someone to carry out this 'relevant work or activities' with children or vulnerable persons.

Vetting requirements do not apply to everyone who works with children or vulnerable persons – under section 3, there is an exception for family or

AT A GLANCE

- Vetting allows employers in certain sensitive fields to find out information about potential employees' histories, in particular their criminal record
- In April 2016, two acts were commenced that change the way vetting is carried out in Ireland
- These acts have to juggle the difficulty of allowing the disclosure of sensitive information while still respecting people's privacy rights



PIC REX FEATURES

THE ACT TAKES RELEASING SOMEONE'S PERSONAL INFORMATION VERY SERIOUSLY – NOT JUST ANYONE CAN APPLY

personal relations where work is done for free. These vetting requirements also do not apply to employment that began before 29 April 2016, although there is the possibility of retrospective vetting under section 21 of the act and re-vetting under section 20.

The chief bureau officer is required to create and maintain a register of relevant organisations. Relevant organisations are required to apply to be on this register and to give their names, addresses, and other relevant information. The act takes releasing someone's personal information very seriously – not just anyone can apply. It can only be relevant organisations and, even with those, it is only the liaison person within that organisation who can apply for the information and receive it. Once registered, the relevant organisation will nominate a liaison person in writing. This

is the person who will apply for and receive vetting disclosures.

The formalities for an application for vetting disclosure are found in section 13 of the act. An application for vetting disclosure shall identify the relevant work or activity to which the application relates, and the personal information of the person to whom it relates. Relevant organisations can apply for vetting on behalf of other organisations they represent. One area that is particularly sensitive is 'specified information' – this means information concerning a finding or allegation of harm to another person that is received by the vetting bureau from the gardaí or from bodies such as the HSE, the Teaching Council or the Medical Council.

Once the bureau receives the application for vetting disclosure, it will make enquiries

with the gardaí to establish whether or not there is a criminal record and examine its databases to see if it contains particulars of any record of, or specified information relating to, the person concerned. The standard is higher where it relates to specified information, as this is not a conviction. Here, the act has to balance the presumption of innocence with protecting children and the vulnerable. Where a bureau staff member considers there is specified information relating to a person who is the subject of an application, they will refer matters to the chief bureau officer to see if it should be disclosed. If this occurs, the chief bureau officer will notify the person being vetted in writing and let them know of the information and allow them to make written submissions about it. The chief bureau officer





AN APPLICATION FOR VETTING DISCLOSURE SHALL IDENTIFY THE RELEVANT WORK OR ACTIVITY TO WHICH THE APPLICATION RELATES, AND THE PERSONS TO WHOM IT RELATES PERSONAL INFORMATION



will assess the information and only disclose it if there is a risk that the person being vetted is a danger to children or vulnerable persons and the officer is satisfied that it is necessary, proportionate and reasonable to disclose it. The chief bureau officer's determination decision can be appealed by a person "aggrieved" by it, under section 18 of the act. Up to 85% of vetting applications are now done online, and the majority of applications are processed within five days.

If only they could talk

Vetting disclosure includes particulars of the criminal record (if any) and a statement of the specified information (if any) relating to the person. If there is no criminal record or specified information relating to the person, then a statement will be given to that effect.

Vetting disclosure will not include certain convictions under section 14A of the *Vetting Act* (as inserted by the *Spent Convictions Act*). This applies where:

- The offender was 18 at the time of the offence,
- Has served the sentence, and
- Seven years have passed without any subsequent convictions.

This only applies to one conviction (other than public order and road traffic offences). Where a person has more than one conviction, it does not apply. Section 14A excludes a wide range of offences, including sexual offences, domestic violence, assaults, cruelty to children, drugs offences (other than a first offence of simple possession), riot type offences, firearms and offensive weapons offences, and a number of offences relating to various professions.

The test under section 14A is similar to the test for a spent conviction under section 5 of the *Spent Convictions Act*. However, this is narrower, as Circuit Court sentences of less

than a year can become spent, whereas section 14A only applies to District Court (and District Court appeal) convictions. Spent convictions do not generally have to be disclosed to an employer. Vetting only applies to those who will be working with children or vulnerable persons. For further information on spent convictions, see 'As crimes go by' (*Gazette*, July 2016, p22).

Let sleeping vets lie

There is some case law from the English courts and the European Court of Human Rights that provides useful guidance on the limits of vetting. The leading case from the European court is *MM v the United Kingdom* (2013). Here, the applicant had a caution for child abduction. An offer of employment was withdrawn when vetting disclosed this. The applicant claimed this disclosure was a breach of her right to privacy under article 8 of the *European Convention on Human Rights*. The court found that the retention and disclosure of the applicant's offence was not in accordance with the law under section 8(2) of the convention. This was because, under the legislation, no distinction was made based

on the seriousness or the circumstances of the offence, the time that had passed since the offence was committed, and whether the caution was spent. There was no scope for the exercise of any discretion in the disclosure exercise. It was also taken into account that there was no mechanism for independent review of a decision to retain or disclose data.

All things wise and wonderful

The most recent case was *P&A v Secretary for State* (2016). There the applicants included a schizophrenic former teacher who had two convictions for shoplifting a sandwich and a book valued at 99p. This stopped her getting voluntary positions and possibly work as an assistant teacher.

The other was a 51-year-old financial director whose work and family life were threatened by theft convictions from when he was a teen. They claimed that changes to the disclosure system were a violation of their article 8 convention rights. It was found that disclosure by the police of spent convictions was unreasonable.

This case is useful, as it gives an overview of how the vetting system worked in England.



EMPLOYEE VETTING



This case drew on the 2014 Supreme Court decision in *R(T) v Chief Constable of Greater Manchester Police*, where the disclosure of cautions and warnings was found to fall foul of *MM*. The English vetting system had had to be changed in the aftermath of that decision, and this case dealt with the new system.

Lord Justice McCombe found in *P&A* that the test would be whether the statute requires the provision to set out adequate safeguards that would enable the proportionality of the interference to be adequately examined, as well as protecting against arbitrariness. He also went on to hold that there was no reason why a second conviction would require an entire lifetime of disclosure of those convictions and that there was no “rational relationship” with the objectives of the legislation, namely rehabilitation.

All things bright and beautiful

It should be noted that there is nothing stopping employers from employing people after they have been vetted, even if they have previous convictions. Potential employees may

have a reasonable explanation or be able to show they have changed. However, it is safe to assume that, in many cases, this disclosure will cause employers to reject employees with a chequered past. *The Irish Times* reported on 11 January that over 32,000 teachers will have to be vetted this year under this legislation and will face fitness-to-practise inquiries if vetting reveals a risk to children or vulnerable adults.

The Irish legislation contains safeguards that meet many of the concerns raised in the English case law. The nature of the offence is taken into account, as well as the time passed since conviction. There are tighter restrictions on the disclosure of specified information and there is an appeals mechanism. These may still be criticised – for example, there is no reason why a minor matter dealt with by a small fine in the Circuit Court would have to be disclosed, while another case that got up to a year’s custody in the District Court would not.

The fact that multiple convictions would have to be disclosed was criticised in *P&A*. An offender might go through a period of offending before turning their life around, but

the legislation does not reflect this. Overall, however, these acts do a good job of balancing rights against the public interest. [G](#)

LOOK IT UP

CASES:

- *MM v the United Kingdom* (2013, app no 24029/07)
- *P&A v Secretary for State* [2016] EWHC 89 (Admin)
- *R(T) v Chief Constable of Greater Manchester Police* [2014] UKSC 35

LEGISLATION:

- *Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016*
- *European Convention on Human Rights*
- *National Vetting Bureau (Children and Vulnerable Persons) Database System Act 2012*



“I was keen to further my academic career but thought it would be impossible due to my position as a partner in a busy solicitor’s office. The two-year (part-time) LL.M. in Public Law programme offered by NUI Galway was the answer. I enjoyed the course hugely and have found that my experience of life and my life as a solicitor gave me a greater understanding and appreciation for the course.”

Sandra Murphy, Solicitor and Partner at Gilmartin and Murphy Solicitors, Co. Mayo.

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The LLM in Public Law suite of programmes offered by the School of Law, NUI Galway examines emerging and topical issues in public law from a national, international and comparative perspective. Legal practitioners undertake the programme in order to develop or update their knowledge of public law and their legal research skills. Many legal practitioners opt to take the LLM in Public Law part-time over two years.

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FOR MORE INFORMATION VISIT: <http://www.nuigalway.ie/courses/>



Get in!

Being a training solicitor is not the sole preserve of solicitors in private practice. In-house and public-sector solicitors can be training solicitors too. It comes with many advantages, as **Ian Ryan** explains

IAN RYAN IS TRAINEESHIP EXECUTIVE AT THE LAW SOCIETY

The in-house role has developed from being nearly non-existent 20 years ago to being a crucial strategic role in most multinational and large indigenous businesses today. As director general Ken Murphy pointed out at the recent

annual In-House and Public Sector Conference, 15% of solicitors in Ireland are now working in-house, while 3% are employed in the public sector. This has led to many new challenges, including the need to train new solicitors for in-house counsel roles.

Through recent panel discussions and a RED C poll of in-house and public sector members, it was discovered that there was some confusion regarding the eligibility criteria for taking on a trainee solicitor. What might not be immediately obvious to many solicitors in the sector is that they too can apply to be training solicitors – subject to meeting the eligibility criteria. Being a training solicitor is not just the preserve of solicitors in private practice.

While there may be some internal barriers that make taking on a trainee solicitor less attractive from an employer's perspective, there are many advantages, including:

- Acting as a training solicitor can help develop management skills,
- It's an excellent means of growing a legal team and an opportunity to mould and develop new talent,
- It is a practical way of assisting businesses with the fulfilment of their corporate and social responsibilities.

Trainee solicitors can complete their training contract in-house, provided that during the course of their individual training contracts, they cover the necessary blocks of legal practice (see panel, opposite) during their period of in-office training.

If a training solicitor cannot provide training in all of the necessary blocks, they must arrange for their trainee solicitor to go on a secondment so that the missing block(s) of experience are obtained.

For instance, some trainee solicitors have, in the past, completed their training contract by obtaining – in-house – the required experience in blocks 2, 4 and 5, while gaining the required experience in block 1 (conveyancing, and landlord and tenant law) as part of a secondment. That secondment could, for example, be in a private-practice

AT A GLANCE

- Despite a common misconception, in-house and public-sector solicitors who meet the eligibility criteria are free to become training solicitors
- Trainee solicitors can complete their training contract in-house, provided they cover the necessary blocks of legal practice during training
- Trainees may go on secondment to fulfil their experience requirements



ALL PICS: DAVID MURPHY

Terence O'Keeffe, law agent
with Dublin City Council

OVERALL WE HAVE HAD A VERY POSITIVE EXPERIENCE FROM THE PROCESS. THE TRAINEES ALL FELT THAT THEY RECEIVED A GOOD GROUNDING IN LEGAL PRACTICE HERE AND OBTAINED BROADER EXPERIENCE THAN THEY WOULD HAVE ELSEWHERE

office or, indeed, the legal department of a company or state body that is able to provide the requisite experience in block 1.

Another option is for a trainee solicitor in a training contract with a training solicitor in private practice, to complete a secondment in-house. This would require the consent of the training solicitor and the Law Society, but might provide a prospective in-house/public-sector employer with a useful method of recruiting, on a short-term basis (maximum eight months), trainee solicitors interested in working in-house.

In addition to trainees receiving instruction in the core areas of law, it is also necessary that they acquire practice in the following core skills: drafting, letter writing, interviewing and advising, legal research, negotiation, advocacy, and oral presentation.

FOCAL POINT

NECESSARY BLOCKS

Training solicitors are required to provide trainee solicitors with reasonable and appropriate instruction and experience in the areas of legal practice:

- Compulsory block 1: conveyancing and landlord and tenant law,
- Compulsory block 2: litigation.

As well as two of the remaining three blocks:

- Block 3: wills, probate and administration of estates,
- Block 4: commercial law, or corporate law, or insolvency law,

- Block 5: criminal law and procedure, or employment law, or EU law, or family law, or intellectual property law, or pensions law, or planning and environmental law, or revenue law and taxation, or another specialised area of legal practice.

For example, it is not mandatory for a trainee solicitor to complete wills, probate and administration of estates as part of their training contract, provided they obtain experience in the other four blocks.



The training contract starts 14 days after PPC1 ends and is for a period of 24 months, inclusive of attendance at PPC2 (11 weeks).

Eligibility criteria

You are eligible to become a training solicitor if you are currently a practising solicitor and:

- You have at some time been in continuous practice for at least four years,
- You can offer a trainee solicitor the instruction and experience necessary to prepare them for private practice,
- You can agree to the terms and conditions contained in the indentures of apprenticeship, which govern the training period, and
- You have not exceeded the maximum number of trainee solicitors that you are permitted to train at any one time (currently two, but it is possible to employ additional trainees if there are assistant solicitors working in your firm or company. You can engage one further trainee for every two assistant solicitors employed).

A 'practising solicitor' is defined as a solicitor who is engaged full-time in the provision of legal services as:

- A sole practitioner,
- A partner in a firm of solicitors,
- A solicitor in the whole-time employment of a body corporate, or
- A solicitor in the full-time service of the State, within the meaning of section 54 (as substituted by section 62 of the *Solicitors (Amendment) Act 1994*) of the *Solicitors Act 1954*.

Q WEB RESOURCES

- [In-House and Public Sector Committee](#) page on the Law Society's website.
- ['Hiring a trainee'](#) page on the Law Society's website (in the 'running a practice' section). Here you will find information on how to recruit a trainee, the qualification process, CV registers, training solicitor's guide, information for trainees on becoming a solicitor, and minimum salary scales.

TRAINING SOLICITOR PROFILES

Terence O'Keeffe



"In 2006, Dublin City Council took on nine trainee solicitors following an open competition. This proved to be very successful. We

found that the trainees integrated very well in the department.

"We rotate them every six months between the various department sections to ensure they get as much experience as possible. We send them to an outside firm for a while also, to gain experience of probate, as we don't do that in-house.

"The advantages for the trainees are that they get to see a very wide range of issues being dealt with, for example, prosecutions,

judicial review, personal injuries defence litigation, debt collection, and all forms of conveyancing, including compulsory purchase, etc. We deal with a wider range of issues than the average legal office.

"The trainees also get to see how a big corporation works and may even attend council meetings from time to time. It seems to be an overall good experience for them. Three of the original nine are now employed as full-time, permanent solicitors in the department.

"In 2008, a permanent member of staff was taken on as a trainee and she is now a solicitor in the department. In 2014, two further staff members were taken on as trainees. One of them is a solicitor here and the other is about to qualify.

"Overall we have had a very positive experience from the process. The trainees all felt that they received a good grounding in legal practice here and obtained a broader experience than they would have elsewhere."

Alan Daly



"The ESB has, for many years, provided opportunities for staff members, and particularly legal executives, to consider training as solicitors with the ESB. As a

legal department of almost 50 people, the team is the first point of call for all legal issues arising in ESB's domestic and international operations in the generation, supply and transmission of electricity, and in its energy consulting business.

"Our staff provide legal assistance and support on a wide range of issues, focusing in particular on six core areas of practice – corporate and commercial law, regulatory and competition law, employment and industrial relations law, litigation and dispute resolution, commercial property, and planning and environmental law.

"This gives our trainees an opportunity to train in an environment that is not dissimilar from that of a medium-size legal practice, gaining experience in a wide range of practice areas, with the added advantage of working very closely with clients.

"Our experience with our in-house trainees has been extremely positive. We find that upon qualification, our in-house trainees are very advanced in terms of the immediate impact they have as practising solicitors, leveraging the undoubted benefits that come with a deep knowledge of the client organisation and the relationships they have in that organisation.

"The strength of the ESB in-house legal team lies in the diversity of training and experience of its staff, and in-house training is an important part of this. As per Law Society requirements, we arrange to place our in-house trainees on secondment with an external law firm for a period of their training. We find that this experience makes our trainees well rounded in terms of the practice of law generally."



TRAINEE SOLICITOR PROFILES

Gráinne McMahon



Why in-house?

“After college, I joined the Vodafone Graduate Programme and spent several months working with the in-house legal team before

starting my training contract. The idea of training in-house appealed to me because, in addition to training as a solicitor, you have the opportunity to quickly develop valuable business acumen and often have unrivalled exposure to the day-to-day operations of a large company.

“Vodafone operates in an exciting and fast-paced industry where, every day, the legal team is presented with a wide-ranging variety of legal challenges. I was lucky to have been involved in significant business transactions from day one, which allowed me to put the law into practice at an early stage and gain hands-on experience in areas such as corporate and commercial law, dispute resolution, and intellectual property law.”

Advantages?

“The key advantage of an in-house training contract is that, following your training period, you qualify as a solicitor with invaluable commercial experience. You will have seen, first-hand, how law works in practice and the impact it can have on a business.”

I WAS LUCKY TO HAVE BEEN INVOLVED IN SIGNIFICANT BUSINESS TRANSACTIONS FROM DAY ONE, WHICH ALLOWED ME TO PUT THE LAW INTO PRACTICE AT AN EARLY STAGE AND GAIN HANDS-ON EXPERIENCE

Aoife Hogan



Why the public sector?

“Having already worked within the law department of Dublin City Council prior to starting as a trainee solicitor, an in-house training contract appealed

to me due to the varied, challenging and supportive environment that it offers to trainees.”

Advantages?

“One of the main advantages of training in-house, particularly in a public-sector body such as a local authority, is the exposure to a wide range of areas of law, which allows trainees develop a solid foundation for their legal careers.

“The law department provides legal support and services to the various internal departments, affording trainees the opportunity to experience a diverse, widespread and constantly changing work environment.

“Throughout my training contract, I have gained invaluable legal and administrative experience in relation to the day-to-day administration of Dublin City Council and the provision of services to the public.”

Sean O'Connor



Why in-house?

“I was always drawn to working in the financial sector and believed that a legal role would be a great way of getting involved with

the critical parts of how these businesses operate.

“After university, the variety of companies that provided traineeships surprised me, as I'd always assumed that all solicitors trained in private practice. After gaining some experience working in the legal departments of international funds and securities companies, I knew that training in-house would be a great opportunity to improve my business acumen as well as my legal knowledge. Fortunately, it turned out to be a really enjoyable experience too.”

Advantages?

“The amount of solicitors working in-house has significantly grown in both Ireland and Britain recently. This shows that businesses are increasingly valuing commercially adept lawyers. Learning about a client makes you a more effective lawyer when you're advising them, and training with that client continuously improves this insight.”



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Restored to glory

Between 2010 and 2015, a total of 78,190 companies were struck off the Register of Companies and 4,268 companies were restored. Sally O'Neill walks us through the practice and procedure of restoration

SALLY O'NEILL IS A BARRISTER WITH A CIVIL PRACTICE BASED PRIMARILY IN DUBLIN.
SHE THANKS BRIAN KENNEDY SC FOR REVIEWING THIS ARTICLE

The consequences of being struck off the Register of Companies are stark. The company ceases to have any legal existence, it is divested of all assets, and proceedings cannot be commenced or maintained against it.

Despite this, the liability of its members, directors, and other officers continues and may be enforced as if the company had not been dissolved. All property, both realty and personality, including *choses* in action, automatically vest in the State. The company controllers therefore have no authority to deal with company assets and expose themselves to personal and civil liability should they continue to trade. Furthermore, to the extent that such trading involves the disposal of company assets, the controllers technically expose themselves to criminal liability.

These difficulties are remedied by restoring the company to the register.

Currently, the majority of court-ordered restoration applications are brought by creditors seeking to enforce a right or pursue a claim against the company. However, a significant percentage are still brought by directors, frequently where the directors, ignorant

of the strike-off, find themselves unable to complete an intended transaction on behalf of the company following a company search revealing the strike-off. Despite the high number of these applications, a considerable degree of confusion persists surrounding the correct practice and procedure.

While a company can strike itself off voluntarily, it normally occurs involuntarily at the instigation of the registrar, pursuant to part 12 of the *Companies Act 2014*, on foot of a failure to deliver annual returns. Only where a company has been struck off in accordance with part 12, chapter 1 (or its legislative predecessors) may it be restored pursuant to part 12, chapter 2. Where the company has been dissolved through

≡ AT A GLANCE

- Most court-ordered restoration applications are brought by creditors seeking to enforce a right or pursue a claim against the company
- However, a significant percentage are still brought by directors, frequently where the directors find themselves unable to complete an intended transaction on behalf of the company
- In the case of a creditor's application, a restoration order takes effect irrespective of the failure on the part of the member/officer at issue to take the steps directed



PIC: GETTY IMAGES

some other means, different considerations apply (see panel, p50).

All applications to restore a company pursuant to part 12 must be brought within 20 years of the dissolution. The date of dissolution is the date of publication of the strike off in the *CRO Gazette/Iris Oifigiúil*. In certain cases, an application can be brought directly to the registrar within 12 months of the date of dissolution. This is discussed in greater detail below.

Locus standi

A company may be restored to the register on the application of:

- An officer of the company at the date of its dissolution, defined in the *Companies Act* as a director or secretary.
- A member or person who had an entitlement to be registered as a member at the date of dissolution (arguably, an executor/ personal representative of a member also has *locus standi*).

- A creditor of the company – a contingent/ perspective creditor may also bring an application. See *Re Deauville Communications Worldwide Ltd* (2002).
- The Registrar of Companies.
- The company itself (see section 734 of the act).

All applicants, bar the registrar, must establish that they have been ‘disadvantaged’ by the strike-off. This requirement is rarely, if ever, at issue and, accordingly, is not the subject of any reported judgment in this jurisdiction.

Forum

Any applicant with *locus standi* may bring a restoration application in the High Court (at present listed on Mondays in the Chancery 2 List).

In addition, a creditor (or the registrar) may bring a restoration application in the Circuit Court (generally the circuit in which the registered office of the company was located).

A member or officer may make an

application within 12 months of the company’s dissolution to the registrar. The application must be submitted to the Companies Registration office (CRO) no later than the day before the anniversary of the dissolution. In the case of an owners’ management company, this time limit is extended to six years in certain circumstances.

A company will be listed on the CRO website as ‘strike-off listed’ for a number of weeks prior to being struck off. In such cases, urgent action is required, as the CRO maintains a discretion to defer the strike off, for example, where a potential applicant/ creditor provides evidence of pending litigation.

Notice parties

A restoration application should be made on notice to and served on:

- The Registrar of Companies,
- The Minister for Public Expenditure and Reform,



UPON TIMELY RECEIPT BY THE REGISTRAR OF THE RESTORATION ORDER, THE COMPANY IS DEEMED TO HAVE CONTINUED IN EXISTENCE AS IF IT HAD NOT BEEN STRUCK OFF



- The Chief State Solicitor (notwithstanding that the Chief State Solicitor acts on behalf of the minister and the registrar, the practice is that all three are served),
- The Revenue Commissioners (both the Revenue Solicitor and the National Companies Unit), and
- In the case of a creditor's application, the secretary and all persons listed as directors at the time of dissolution. In addition, pursuant to [order 75, rule 3\(2\)](#) of the *Rules of the Superior Courts*, the company should also be served; however, in practice, serving the directors is often sufficient.

Directors/secretary/member restoration

In an officer/member application, a number of requirements ought to be satisfied prior to the application being made. While the *Companies Act* allows for the application to be made in advance of these matters having been dealt with, in practice the state body notice parties will not issue letters of consent until the following requirements are satisfied:

- All outstanding annual returns must be delivered to the registrar (section 740(2)(a)). Confirmation as to what returns are outstanding can be obtained from the CRO.
- Section 740(2)(b) requires the court to make an order, where applicable, directing that all outstanding statements as required by section 882 of the *Taxes Consolidation Act 1997* (TCA) be delivered to Revenue. In practice, these returns are rarely outstanding. Should other tax returns remain outstanding, Revenue will require these to be filed prior to issuing consent. In addition, should there be outstanding tax liabilities, Revenue will generally require an undertaking, given on affidavit, to discharge these liabilities, usually within a one to three-month period. Obviously, careful consideration should be given by an applicant to his ability to

comply with any undertaking intended to be given. Practitioners should note that Revenue have historically taken a pragmatic approach in this regard and will consider alternative arrangements.

- The company must have a EEA resident director or otherwise comply with section 137 of the *Companies Act*.

In rare circumstances, where it is not possible to file returns prior to the application, the state body notice parties may treat an officer/member application akin to a creditor's application and seek orders at the application directing the director(s) to file all outstanding annual and tax returns within a specified period.

Creditor's application

Similar to a director/member application, a creditor applicant should procure letters of consent from Revenue, the CRO and the

Chief State Solicitor. These consents will usually issue subject to the following provisos:

- Should the company's annual returns remain outstanding, the CRO will issue a letter consenting to the restoration, conditional upon the court making an additional order directing the directors to file all outstanding annual returns within a period of time, usually three months. Pursuant to section 740(4)(a), the court is mandated to make this order where such returns are outstanding.
- The *Companies Act* requires that all outstanding statements, as required by section 882 of the TCA, be delivered to Revenue. As stated above, in practice these returns are rarely outstanding. Should other tax returns remain outstanding, Revenue will appear at the application and likely seek an order directing the directors to file all

Q FOCAL POINT

DISSOLUTION OTHER THAN PURSUANT TO PART 12

If a company was dissolved by means other than part 12, an application to the High Court pursuant to section 708 may be made within two years of the dissolution. Should this order be made following a completed liquidation, it has the effect of voiding the dissolution and restoring the company's status to that of 'in liquidation'.

Fees

- The Chief State Solicitor will require payment of a fee (at present €350) prior to issuing a letter of consent. When the applicant is a creditor, this fee can be claimed back from

the company in costs following a successful application.

- For a directors/members application, Revenue will also require a fee (at present €530) prior to issuing a letter of consent.
- A late filing penalty of €100 becomes due to the CRO in respect of an annual return on the day after the expiry of the filing deadline (28 days after the effective date of the return), with a daily penalty of €3 accruing thereafter, up to a maximum of €1,200 per return up to a maximum of three years. This is in addition to the standard filing fee of €40 per return.

COMPANY LAW



outstanding returns within a period of time, usually three months.

- Provided the grounding affidavit contains an averment that, to the best of the deponent's knowledge, the Minister for Public Expenditure and Reform has not in any way intermeddled with the company assets, the Chief State Solicitor will issue a letter of consent on behalf of the minister and the CRO, referencing its support for the position adopted by Revenue.

These consents frequently take a number of weeks to issue, and this should be borne in mind when seeking a return date.

While the act does not specifically require the consent of the state body notice parties, the court is slow to disregard their objections, particularly in respect of outstanding tax and annual returns. See *New Ad Advertising Ltd* (2006) and *Zota Manufacturing Ltd* (2010).

In the case of a creditor's application, a restoration order takes effect irrespective of the failure on the part of the member/officer at issue to take the steps directed. However, in the case of a member/officer application, the order is conditional upon these steps being taken. Laffoy J explained this distinction in *New Ad Advertising* on the basis that the creditor applicant was not responsible for the default at issue.

Proofs

An originating notice of motion, grounding affidavit, and supplemental affidavit exhibiting the state body consents are

required. In addition, an affidavit of service on the directors and officers should also be sworn, where applicable. The grounding affidavit should cover:

- The company constitution,
- An up to date CRO printout,
- The company's last annual return, and
- Any relevant documentation supporting the applicant's reason or objective for seeking the company's restoration, for example, loan agreement, draft proceedings, land folio.

Reliefs to be sought

- In the High Court, an order pursuant to [order 75, rule 4](#) of the *Rules of the Superior Courts*,
- An order pursuant to section 738 of the *Companies Act 2014* restoring the company (the order to lapse if it is not delivered by the applicant to the Registrar of Companies within 28 days from the date of its perfection),
- The applicant's costs against the company, where appropriate (if Revenue is required to appear, they will normally seek their costs as against the company),
- As discussed above, additional reliefs will be needed in a number of circumstances – for example, if tax or annual returns remain outstanding or if no EU resident director remains.

Post application

A certified copy of the court order restoring the company, together with the appropriate filing fee (at present €15), should be delivered to the CRO within 28 days of its

perfection. If not done, the order will lapse and a fresh restoration application will be necessary.

Upon timely receipt by the registrar of the restoration order, the company is deemed to have continued in existence as if it had not been struck off. Subject to any order made to the contrary, the strike-off will not affect the rights and liabilities of the company in respect of any debt or obligation incurred, or any contract entered into by or on behalf of the company between the date of its dissolution and the date of restoration. For example, once a company has been restored, time will be deemed to have been running while the company was dissolved for the purposes of a section 570 demand letter. [g](#)

LOOK IT UP

CASES:

- *Deauville Communications Worldwide Ltd* [2002] IESC 19; 2 IR 32
- *New Ad Advertising Company Ltd* [2006] IEHC 19
- *Zota Manufacturing Ltd* [2010] IEHC 114

LEGISLATION:

- *Companies Act 2014*
- *Rules of the Superior Courts*, order 75
- *Taxes Consolidation Act 1997*, section 882

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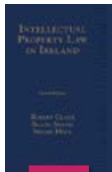
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BOOKS



THE LAW OF COMPANIES

Thomas B Courtney. Bloomsbury Professional (2017), www.bloomsburyprofessional.com. ISBN: 978-1-7804-384-05. Price: €275.

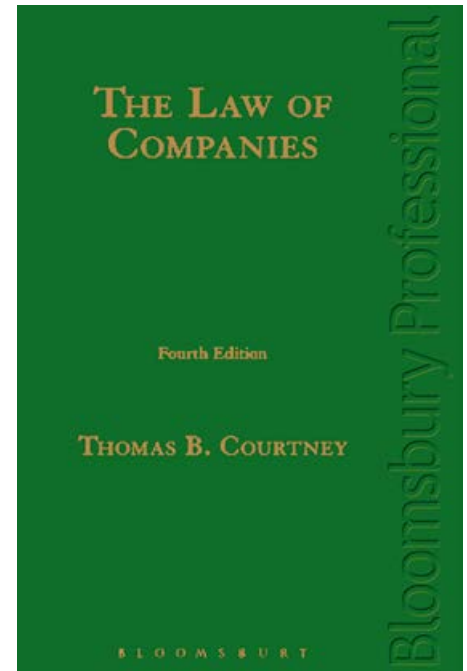
By the time you get into the first few pages of this magnificent book, you are reassured that it will again be the definitive textbook on Irish company law for the Irish legal practitioner, as well as being of immeasurable assistance to students and academic readers. This fourth edition has expanded considerably, extending now to almost 3,000 pages, including tables and index. This new edition merits attention, of course, because of the radical overhaul of Irish company law by the *Companies Act 2014*. As well as repealing 32 previous company law enactments, the 2014 act restructured the law around the private company limited by shares – the LTD – with law relating to other company types dealt with in dedicated parts of the act.

The act's structure – due in no small part to Courtney's work as chair of the Company Law Review Group – is followed and expanded upon in this book. Most practitioners will dip into it for particular analyses and solutions to situations in practice, and the fact that the book mirrors the successive parts of the act makes this book all the more accessible.

It starts with seven chapters that expand on part 2 of the act – an examination of the LTD, incorporation, constitutional documents, the consequences of incorporation, separate legal personality, civil litigation and contracts, capacity and authority. Part 3, relating to share capital, is reflected by chapters on shares generally, transfers of shares, and capital maintenance. Parts 4 and 5, relating to corporate governance and directors' duties, are dealt with in seven chapters addressing everything from shareholders' remedies to transactions with directors. Courtney's analysis of the derivation and application of the duties of directors is particularly deserving of mention, quite apart from meriting reading by those holding or about to hold office as director.

Corporate borrowing, registration, and enforcement of security (parts 7 and 8) are the subject of three chapters, approached with both academic rigour and focused practicality. Corporate restructurings and takeovers (part 9) insolvency, examinership and winding-up (parts 10 and 11) are dealt with in detail.

Three chapters then deal with the



administration of company law (parts 12-15) – strike-off, investigations and enforcement. This includes a detailed analysis of restriction and disqualification of directors.

There are then separate chapters for designated activity companies (DACs), public limited companies (PLCs), companies limited by guarantee, unlimited companies, conversion by re-registration, and external companies.

Courtney is expertly assisted by Prof Brian Hutchinson, who contributes chapters on the consequences of incorporation, the disregarding of separate legal personality, investigations, and PLCs. Courtney's Arthur Cox colleague Dáibhí O'Leary contributes an excellent chapter on accounts and audit, an area destined to continually evolve, as reflected by the pending *Companies (Accounting) Bill* and *Statutory Audits Bill*.

The Law of Companies is a magisterial work, which I unreservedly recommend as an essential component of a solicitor's professional library.

Paul Egan is a partner in Mason Hayes & Curran, a member of the Council of the Law Society, and a member of the Company Law Review Group.



THE SUPREME COURT

Ruadhan Mac Cormaic. Penguin Ireland (2016), www.penguin.co.uk. ISBN: 978-1-8448-834-00. Price: €26.99.

There are about 400 books on the US Supreme Court currently on sale. Ruadhan Mac Cormaic's is the first on its Irish equivalent.

Both courts are cornerstones of the separation of powers in mature democracies. Both have the ability to strike down legislation that is in contravention of written constitutional principles. Both have had to grapple with issues that the legislature and executive have deemed too controversial.

Given its central position in Irish life, it is something of a surprise that we have had to wait until now to see a book devoted to the workings and personnel of Ireland's highest court.

This is a popular history. While it outlines the ebb and flow of judicial activism – largely through an analysis of high-profile constitutional actions – it is not an academic work.


It is at its best when detailing the human stories behind seminal decisions. The court's recognition of an unremunerated right to marital privacy in *McGee v AG* is well known to lawyers. Less so, perhaps, is the background, stoicism and courage of the McGees.

One would have to have a heart of stone not to be moved by the description of the human cost of the court's decision on the rights of natural fathers in adoption cases in *State (Nicolaou) v An Bord Uchtála*.

As a journalist, Mac Cormaic knows the value of a scoop. He has gained access to correspondence between Brian Walsh and his counterpart on the US Supreme Court, William Brennan, over a 30-year period. Like Judge Brennan, Walsh was a member of an



activist court, primarily under the stewardship of Cearbhall Ó Dálaigh. Walsh and Brennan shared ideas, arguments and, on occasion, as yet unpublished judgments. It is suggested that this may have fed developments on both sides of the Atlantic. While these exchanges are important, their influence may be a little overstated. Brennan was only one of nine and Walsh one of five judges in many constitutional cases.

As readers of *The Irish Times* will know, Ruadhan Mac Cormaic is a fine writer. He has produced an engrossing account of one of the central institutions of the State. 

Michael Kealey is in-house counsel at DMG Media.

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REPORT OF THE LAW SOCIETY COUNCIL MEETING ON 2 DECEMBER 2016

Meeting with the Tánaiste

The president reported on a meeting with An Tánaiste on 16 November 2016, at which the Society had raised concerns regarding the taxation of costs, criminal legal aid, and vacancies in judicial appointments. The commencement of aspects of the *Legal Services Regulation Act* was also discussed.

It had been a cordial and worthwhile meeting, and the Society had emphasised the need for additional resources in relation to the taxation of costs (which was at crisis point in terms of delays), the restoration of the swingeing cuts in criminal legal aid rates, and the need for greater diversity in the appointment of judges.

The Society had received a full and sympathetic hearing on all of the issues raised and would continue its engagement with the Department of Justice and Equality in relation to each item.

Motor insurance

The Council discussed the draft recommendations from the Working Group on the Cost of Motor Insurance, which had just been published, and noted that a key recommendation was the es-

tablishment of a Personal Injuries Commission, in which the Society would seek to be involved.

The working group's statement that it "did not find that legal costs were a major contributory factor in the recent increase in premiums" was warmly welcomed. The president and director general were congratulated on their presentations to the Oireachtas committee and in the media, and their cogent rejection of the self-serving claims by the insurance industry that legal costs were a key element in those increases.

The Council also noted that the Society had been invited to meet the Competition and Consumer Protection Commission, in the context of its examination of the conduct of the insurance industry in relation to motor insurance premiums.

FATF evaluation of Ireland

Deputy director general Mary Keane reported on the FATF evaluation of Ireland, which culminated in two meetings with the FATF evaluation team in November 2016, one with a practising solicitor and one with representatives of the Law Society. The pur-

pose of the evaluation was to report on Ireland's compliance with its obligations to establish and enforce rules preventing money-laundering and terrorist financing. The final report of the evaluation team would be considered at a FATF plenary session scheduled for June 2017.

Legal Services Regulation Act

The Council considered draft precedents in relation to legal costs, which had been prepared by a subcommittee of the Legal Services Regulation Act Task Force, led by Keith Walsh. The Council noted that section 150 of the act would require solicitors to provide notices to their clients providing information in relation to legal costs.

The draft precedents included six separate section 150 notices in relation to six different types of legal service, together with guidance and a precedent in relation to the 'bills of cost' provisions in section 152. It was agreed to circulate the draft precedents to the profession for review and feedback.

eSignatures Working Group


The Council received a presentation from the Society's eSig-

natures Working Group and unanimously endorsed its recommendations for the development of both a solicitor and client e-signature.

Practising certificate fees

The Council approved the practising certificate fees for 2017, which involved an increase of €50 over 2016. The Council noted that this was the first increase since 2009, except for the member-approved SMDF levy. In fact, there was a reduction of €120 in 2010 and another €100 of the general fee was reallocated to the compensation fund in 2011-2013. The increase could not be avoided and was required in order to avoid an operational deficit as a result of increased investment in the Society's representative function, essential investment in IT, and additional costs associated with the operations of the LSRA.

Award-winning Gazette editor

The Council congratulated the editor of the Society's *Gazette*, Mark McDermott, for winning the 'Editor of the Year Award' in the Business to Business category of the Irish Magazine Awards. 

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CONVEYANCING COMMITTEE

FINES (PAYMENT AND RECOVERY) ACT 2014: CONVEYANCING IMPLICATIONS

The *Fines (Payment and Recovery) Act 2014* came into operation on 11 January 2016 by virtue of SI no 6 of 2016.

The act provides that a court that has imposed a fine of not less than €500 can appoint a receiver ('receiver' means a sheriff or an approved person appointed under section 8(1)(a)) to recover fines. The power of a receiver so appointed includes the power to seize real property and exceeds those powers already vested in sheriffs for enforcement of tax warrants and court orders. As a result, it will now be necessary to carry out a search in the receiver/sheriff's office prior to closing a sale or a mortgage against all property, both leasehold and freehold.

The search should be done against the name of the vendor/mortgagor in the office of the receiver of fines where the property is located. In the counties and cities of Dublin and Cork respectively, the receiver of fines is the existing sheriff. In all other counties, the receiver of fines is the revenue sheriff.

Points of note include:

- Section 7 of the act provides

that recovery orders for fines over €500 may be made by the court,

- Section 8 provides for the appointment of a receiver in default of payment of the fine to recover the unpaid fine, together with the fees and expenses of the receiver, or seize and sell property belonging to the fined person and recover from the proceeds of sale a sum equal to the amount of the unpaid fine and the fees and expenses of the receiver,
- Section 8(16) defines 'property' as land and personal property,
- On reading the act, it would appear that the property does not vest in the receiver until he takes possession of it.

Where a sheriff receiver is appointed and a contract for sale has already passed on the beneficial interest in the property to a purchaser, it is the view of the committee that the receiver can only follow the proceeds of the sale. Practitioners should also familiarise themselves with the powers of the receiver under sec-

tion 8(3) and section 8(7) of the act.

In respect of contents passing in such a sale, the position is as in the preceding paragraph, in that, if they have sold to a third party, then the receiver's interest transfers to the proceeds of sale.

The practice of searching in the county registrar's office outside of the cities and counties of Dublin and Cork should also continue in respect of leasehold commercial property.

It is anticipated that the profession will first encounter recovery orders in practice in or around early 2017, and it remains to be seen how the new legislation will work out in practice. The committee will keep the matter under review and would appreciate feedback from practitioners on any difficulties they encounter in practice.

The identity of sheriffs or revenue sheriffs is listed in the Law Society's *Law Directory*.

You should satisfy yourself that your law searchers are carrying out the searches you require by establishing with them what offices they search in when asked to carry out specified searches.

CONVEYANCING COMMITTEE

WATER CHARGES – FURTHER UPDATE

The committee wishes to remind practitioners that purchasers' solicitors need not enquire with vendors' solicitors as to whether vendors of dwellings have discharged water charges, as water charges are not a charge on dwellings.

Vendors' solicitors should note that, notwithstanding the suspension of water charges provided to a dwelling for the period from 1 July 2016 to 31 March 2017 by virtue of the *Water Services (Amendment) Act 2016*, they are still obliged to comply with their obligations under section 48 of the *Environment (Miscellaneous Provisions) Act 2015*.

Practitioners are referred to the committee's practice notes on this topic as published in the March 2016 and December 2015 issues of the *Gazette*:

The committee also confirms that:

- **The outgoings referred to in requisition 11 do not include these water charges, and**
- **Requisition 11.6 relates to commercial water rates, not these domestic water charges.**

CONVEYANCING COMMITTEE

LETTERS RE ROADS AND SERVICES IN CHARGE

The committee issued a practice note in the July 2015 *eZine* and in the September 2015 issue of the *Gazette* recommending the following:

- 1) If a solicitor's certificate is being furnished regarding roads and services, it should be from the vendor's solicitor in the current transaction, and his-

torical letters or certificates given by vendors' solicitors in previous transactions should no longer be accepted.

- 2) If a solicitor is on enquiry of a possible change in circumstances in relation to a local authority letter and is not satisfied as to the correct current position, an up-to-date local

authority letter with a covering identifying map where appropriate should be obtained.

The committee wishes to make clear that it is only if condition 2 above applies that an up-to-date certificate or letter from the local authority needs to be furnished. If there is no reason to believe that

the position regarding roads and services would have changed, then it is perfectly acceptable to rely on an old local authority certificate.

It is proposed to amend the requisitions on title to ask a vendor if there has been any change in circumstances since the issue of a previous certificate from the local authority.



TECHNOLOGY COMMITTEE

E-LICENSING – COURTS SERVICE

The Technology Committee was happy to join forces some time ago with the Litigation Committee and the Society's investigating accountants to meet with the Courts Service to discuss the latter's advanced plans to implement electronic filing and serving of licensing applications. Such applications would include, for example, special exemptions applications, as well as applications made at the annual licensing sessions.

Licensing is an area that could benefit hugely from greater computerisation. The project will involve, among other things, electronic filing and service of licensing applications on the Court's Service, electronic service of the Garda Síochána, and the creation of an electronic licensing register that can be updated directly by the court clerk. Ideally, the need for gardaí and fire officers to attend court would be greatly reduced. Potential savings for the State are very large.

The committees very much welcome and commend the Courts Service's vision and drive in pursuing this project. Early and continuing engagement with stakeholders is absolutely critical to the successful design and implementation of eGovernment services so that they benefit users as well as effecting savings for the

State. The Courts Service's invitation to the Society to provide input to the project was very welcome for this reason.

The committees have asked the Courts Service to take on board its various comments and requests, including that:

- The Law Society be treated as a key stakeholder and be kept fully involved in the development of the system, and that full consideration be given to representations made on behalf of practitioners to ensure that practitioners share in the benefits of the system and do not get saddled with additional administrative work previously carried out by the State,
- The system facilitate proper control and tracking of payments within solicitors' practices in order to enable practitioners to readily comply with their professional obligations,
- The system provide for re-use of information from previous licensing applications (for example, for special exemptions),
- The system provide for different levels of user permissions so that support/junior staff can prepare applications for review/sign-off by practitioners and bank account controllers,
- The system provide for batch

uploading of licensing applications information listed in spreadsheets or comma-separated text files (for example, for annual renewals) in order to reduce the need for practitioners to laboriously re-input data already typed out in spreadsheets and *Word* documents,

- The system accommodate multiple descriptions of premises to reflect the difference between areas covered by different licences (for example, a public dancing licence may not cover the entire area covered by a publican's licence),
- The system should not preclude practitioners applying to amend applications in court, up to and including the day the application is moved,
- The system recognise the limits as to matters that solicitors can certify, for example, a solicitor or their staff may be able to certify posting of an application (for example, to a fire authority not covered by electronic service), but will not be able to certify delivery by An Post,
- The system should, in time, accommodate electronic service of as many parties as possible (to include fire authorities, where possible) and should permit differentiation between the notice parties (for example, garda superintendent for the area where the premises is located and garda superintendent for the area where the applicant resides),
- The system properly reflect different evidentiary requirements for different types of applications (for example, requirement for gardaí to be

heard at an application for a restaurant certificate),

- The need to ensure continued access to the courts for those practitioners without proper broadband access, and indeed, for applicants without solicitors,
- The need for all eGovernment systems to provide an API to enable practice-management software packages to interface with the online services being provided.

The Courts Service agreed to take the Law Society's comments on board where possible. However, the Courts Service did put the committees on notice that a lot of systems development work had already been completed and, further, that the Courts Service had to work within its own constraints. Obviously, the Technology Committee is strongly of the view that all necessary resources should be provided for the proper design of eGovernment systems in light of the significant and enduring costs that poorly designed systems can impose on users as compared with the significant savings and efficiencies afforded by well-designed systems.

It was intended that the committees would be involved in testing the e-licensing system before it was rolled out and, indeed members of the committees volunteered to take part in that testing. However, the Courts Service has since advised that all testing is taking place within the Courts Service, with the system already being deployed in certain regional courts offices for internal use.

The committees stand ready to provide any further assistance and feedback to the Courts Service.



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Leadership changes announced at LK Shields



LK Shields has announced significant leadership changes as the firm readies itself for further growth in 2017.

The changes are part of exciting new developments in the management structures of the firm, which come into effect on 1 January 2017.

Emmet Scully has been elected as the firm's new Managing Partner. Emmet succeeds Edmund Butler, who has led the firm through a period of significant growth and development of specialist teams. Edmund will continue as a partner in the firm until April next, following which he will be a consultant to the firm over a number of years. Emmet has been a partner in the firm since 1998 and is Head of the firm's Corporate and Commercial team. He has a strong track record in advising on investments into and trade sales of technology businesses.

Michael Kavanagh will become the firm's Chairman. Michael will continue to serve the firm's clients as Head of the Litigation and

Dispute Resolution team. He has been a partner in the firm since 1999 and is a former Chairman of the Law Society's Litigation Committee. He has extensive experience in all forms of dispute resolution and regularly acts in large and complex disputes before the Commercial Court.

Aoife Bradley will lead the firm's substantial Employment and Pensions team. Aoife is a highly experienced employment practitioner and commercial litigator and has been a partner in the firm since 2007. She enjoys a strong reputation in the area of senior executive disputes.

Commenting on the announcement, outgoing Managing Partner Edmund Butler said: "Like all successful businesses, LK Shields has focused on leadership succession planning and our new leadership structure will maintain that policy as the firm continues to thrive and deliver excellent service to our clients."



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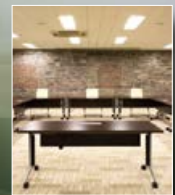
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BUSINESS LAW COMMITTEE

PREPARATION AND REGISTRATION OF NEW CONSTITUTION OF COMPANY LIMITED BY GUARANTEE: OVERVIEW

This practice note relates to existing companies limited by guarantee (CLGs), not having a share capital, that were incorporated by an enactment prior to, and in existence immediately prior to the commencement of, the *Companies Act 2014* on 1 June 2015 ('existing guarantee companies'), but the precedent constitution at section 6.2 may also be used when incorporating a new CLG under the act.

It is aimed primarily at charities, but please note that CLGs are not always charities. Also, guarantee companies that have a share capital are a separate category under the act and are not dealt with in this note.

Do we have to change our memorandum and articles?

No. Existing guarantee companies continue in existence and are automatically deemed to be a CLG under part 18 of the act.

Should we change our memorandum and articles?

The memorandum and articles of association of an existing guarantee company registered before 1 June 2015 shall continue in force. Where this document is inconsistent with a mandatory provision of the act, the act shall prevail. Also, references to prior *Companies Acts 1963* are to be read as references to the corresponding provision of the act. This may, however, be somewhat confusing and difficult to administer. We recommend updating the memorandum and articles for future ease of reference. It is also good practice to refresh the memorandum and articles, par-

ticularly where they have not been recently updated.

Can we retain our ministerial exemption from using the word 'limited'?

Yes. If the exemption was in force on 1 June 2015, it shall continue to have effect, but it shall be an exemption from the use of the words 'company limited by guarantee' instead of 'limited'. The Registrar of Companies now administers the exemption.

How do we prepare a new constitution?

The following is a checklist of actions to be taken.

State in the memorandum:

- 1) The company's name in the form [company name] [company limited by guarantee],
- 2) That the company is a company limited by guarantee registered under part 18 of the *Companies Act 2014*,
- 3) The objects for which the company is established,
- 4) That the liability of the members is limited,
- 5) That every member of the company undertakes to contribute to the assets of the company if the company is wound up while he or she is a member or is wound up within one year after the date on which he or she ceases to be a member for:
 - a) The payment of the debts and liabilities of the company contracted before he or she ceases to be a member and the costs, charges, and expenses of winding up, and
 - b) The adjustment of the rights of contributories among themselves,

c) Such amount as may be required, not exceeding €1.

State in the articles that the following regulations shall apply to the company:

- 1) The number of members with which the company proposes to be registered,
- 2) [That the provisions of the *Companies Act 2014* are adopted] or
- 3) [The new regulations of the company].

The constitution must:

- 1) Be in a form as near as circumstances permit to that shown in schedule 10 of the act, and
- 2) Be printed in an entire format – that is, with the memorandum and articles as the one document.

Is there an example document showing these changes?

Please refer to the Document 6.2, draft CLG model constitution for a CLG. This contains useful footnotes that will assist with tailoring the constitution to your clients' requirements.

What are the basic considerations when drafting a new constitution?

Parts 1-15 of the act relates to the CLG, save to the extent they are varied by part 18 of the act. In the main, the variations in part 18 are with respect to the disapplication of references to shares and share capital, which are not relevant to a CLG.

The act contains 151 optional statutory default positions applicable to the LTD that may be varied or amended. Many of these also

apply to the CLG. Fortunately, the optional default provisions were drafted to reflect the standard positions adopted by the majority of companies prior to enactment of the act. These optional provisions may be disappplied or modified, and companies may draft their own bespoke alternative provisions. Where the constitution of a CLG does not modify an optional provision, the provision applies to the CLG.

Is there a requirement for the original subscribers to sign the amended constitution?

When submitting a new company's constitution to the CRO, section 19(2)(c) of the act states that a constitution shall either be signed by each subscriber in the presence of at least one witness or be authenticated "in the manner referred to in section 888". Pursuant to section 888 of the act, a document may be authenticated in the manner prescribed by ministerial regulation (section 12(1) of the act).

With respect to the amended constitution, current practice when submitting an amended constitution to the Companies Registration Office is to include the list of original subscribers, but such subscribers are not required to sign the revised memorandum and articles. It is expected that this practice will continue with respect to the submission of the constitution adopted by members of existing guarantee companies.

The constitution is prepared – what next?

To adopt the new constitution, the company should take the following steps:



Customer Notice: Where to Lodge your Application


The Property Registration Authority is committed to providing a quality customer service as set out in our Customer Charter.

As part of our ongoing efforts to enhance customer service in providing improved response times and clarity in relation to where applications are processed we would like to notify our customers of the following changes:

From 1st December 2016:

The **Waterford Office** will deal with First Registration Form 3 applications for **all 26 counties**.


All other Land Registry applications for the following counties should continue to be lodged directly to the Waterford Office:
Carlow, Clare, Cork, Kerry, Kilkenny, Laois, Limerick, Offaly, Tipperary, Waterford, Wexford.


 Property Registration Authority
Cork Road,
Waterford
Eircode X91 FP98
Office DX number – DX 44090

From 1st January 2017:

The **Roscommon Office** will deal with all Land Registry applications (excluding First Registration Form 3 applications) for the following counties:
Donegal, Galway, Leitrim, Longford, Mayo, Roscommon, Sligo.

The **Chancery Street Office** will deal with all Land Registry applications (excluding First Registration Form 3 applications) for the following counties:
Cavan, Dublin, Kildare, Louth, Meath, Monaghan, Westmeath, Wicklow.

 Property Registration Authority
Golf Links Road,
Roscommon
Eircode F42 NC84
Office DX number – DX 90014

 Property Registration Authority
Chancery Street,
Dublin 7
Eircode D07 T652
Office DX number – DX 228

We would like to thank all our customers for their co-operation.



- 1) At the time of writing, the approval of the Revenue Commissioners is required for amendments to the constitutions of CLGs (or other approved documentation) in order to continue to hold charitable status for tax purposes. Standard clauses have been agreed between the Charities Regulatory Authority and the Revenue Commissioners that must be included in any constitution seeking the charitable tax exemption. Once the Revenue Commissioners have approved the first amendments to such documentation and have received an updated copy, any subsequent approvals will be under the auspices of the Charities Regulatory Authority. The requirements of the Revenue Commissioners with respect to the conditions attached to the granting of the charitable tax exemption must continue to be adhered to.
- 2) The prior approval of the CRA is required to amendments to the constitution of a CLG with charitable purpose.
- 3) Once the approval of the relevant regulator(s) has been obtained, in accordance with the requirements of its existing memorandum and articles and the *Companies Act 2014*, the members of a CLG must pass a special resolution adopting the new constitution.
- 4) The new constitution, together with Form G1, must be submitted to the Companies Registration Office for registration. Please consult guidance from the Companies Registration Office on the requirements for completion of this form.
- 5) Finally, the new form constitution must be uploaded to the relevant charity's CRA account on the CRA website (www.cra.ie).

CONVEYANCING COMMITTEE

NEW CONDITIONS OF SALE 2017 EDITION

The committee would like to remind practitioners that the new 2017 edition of the Law Society's **Conditions of Sale** was posted on the website in mid-December, with the recommendation that it be used for transactions commencing on or after 3 January 2017.

The accompanying **explanatory memorandum**, also posted on the website, sets out the main changes that have been made to the standard contract. Solicitors should familiarise themselves with these changes so they are aware of what the new contract terms involve.

In response to requests from the profession, the precedent **Conditions of Sale** have been made available for the first time in electronic format. Practitioners can

download the precedent in fillable PDF format from the website and complete it on-screen.

As the committee intends producing future precedents in fillable PDF format, it would like to ensure it is suitable for the profession to use. Therefore, any feedback from solicitors would be welcomed – you can email your comments to c.offaherty@lawsociety.ie.

The committee has already received some suggestions for improvement that it is looking into, and it will adjust the precedent accordingly over time. The latest version of the document will always be the one on the precedents page of the website, and practitioners should therefore make sure to download the precedent from the website for each transaction.



An tÚdarás Clárúcháin Maoine
Property Registration Authority

Customer Notice: Opening Hours

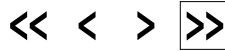
Amendment to Opening Time of Land Registry Public Offices

Customers should note that, as and from Tuesday 3rd January 2017, the opening time of the Land Registry Public Offices will be changed from 10.30 a.m. to 10.00 a.m.

Therefore as and from the **3rd January 2017**:

* The Land Registry and the Registry of Deeds shall be open to the public daily, except on Saturdays, Sundays and the following days, namely, St. Patrick's Day (or the day kept as a holiday in lieu thereof), Good Friday, Easter Monday, the first Monday in May, the first Monday in June, the first Monday in August, the last Monday in October, Christmas Day, St. Stephen's Day (or the day kept as a holiday in lieu thereof) and the next following working day and any other working day which is a day appointed to be a public holiday.

* The hours during which they shall be open to the public shall be from **10:00 a.m. to 4.30 p.m.**



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SOLICITORS DISCIPLINARY TRIBUNAL

Reports of the outcomes of Solicitors Disciplinary Tribunal inquiries are published by the Law Society of Ireland as provided for in section 23 (as amended by section 17 of the *Solicitors (Amendment) Act 2002*) of the *Solicitors (Amendment) Act 1994*

In the matter of Claire Keaney, a solicitor previously practising as Keaney & Company, Solicitors, at PO box 42, Pearse Park, Dundalk, Co Louth, and in the matter of the *Solicitors Acts 1954-2011* [7372/DT53/15, DT54/15, DT55/15, DT56/15, and High Court record 2016 no127 SA] *Law Society of Ireland (applicant) Claire Keaney (respondent solicitor)*

On 19 April 2016, the Solicitors Disciplinary Tribunal heard four complaints against the above solicitor and delivered a decision in relation to each of those complaints on 25 May 2016.

7372/DT53/15

The tribunal found the respondent solicitor guilty of misconduct in her practice as a solicitor in that, up to the date of referral to the tribunal, she:

- 1) Failed to stamp and register her client's title to a property in Co Meath, purchased in July 2013, in a timely manner or at all,
- 2) Failed to respond to the Society's correspondence and, in particular, the Society's letters of 14 April 2014, 1 May 2014, 13 May 2014 and 25 June 2014 in a timely manner, within the time provided, or at all,
- 3) Failed to comply with the direction made by the Complaints and Client Relations Committee at its meeting on 22 July 2014 that she furnish a written update to the Society no later than 1 September 2014.

7372/DT54/15

The tribunal found the respondent solicitor guilty of misconduct in her practice as a solicitor in that, up to the date of referral to the tribunal, she:

- 1) Failed to stamp and register her client's title to the property in Co Kilkenny, purchased in 2011, in a timely manner or at all,
- 2) Failed to comply with the direction made at the meeting of the Complaints and Client Relations Committee on 22 July 2014 that she furnish a full response to the Society, including a copy of the transfer deed, her ledger card, and any other relevant documentation on or before 1 September 2014.

7372/DT55/15

The tribunal found the respondent solicitor guilty of misconduct in her practice as a solicitor in that she:

- 1) Failed to complete the stamping and registration of her client's title and that of her client's nephew and his wife to property in Tallaght, Dublin 24, having been instructed to do same and paid for doing same on 4 July 2008, in a timely manner or at all,
- 2) Failed to respond to the Society's correspondence dated 28 May 2014, 13 June 2014, 30 June 2014, and 29 July 2014 in a timely manner, within the time provided, or at all,
- 3) Failed to comply with the direction made by the Complaints and Client Relations Committee at its meeting on

NOTICE: THE HIGH COURT

In the matter of Damien Cassidy, solicitor, formerly practising as Walker & Co, Solicitors, 22 Sandymount Road, Dublin 4 [2016/ 58 SA]

Take notice that, by order of the High Court made on 21 November 2016, it was ordered that the name of Damien Cassidy be struck from the Roll of Solicitors.

**John Elliot, Registrar of Solicitors, Law Society of Ireland
28 November 2016**

22 July 2014 that she furnish specific documentation to the committee on or before 1 September 2014.

7372/DT56/15

The tribunal found the respondent solicitor guilty of misconduct in her practice as a solicitor in that she:

- 1) Failed to stamp and register her clients' title to property in Co Kilkenny, purchased in 2011, in a timely manner or at all,
- 2) Failed to comply with the direction of the Complaints and Client Relations Committee made at its meeting on 29 July 2014 that she respond to the Society on or before 12 August 2014,
- 3) Continues to withhold moneys paid to her by her clients to stamp and register her clients' title deeds.

The Solicitors Disciplinary Tribunal referred the matter to the High Court and, in proceedings entitled 2016 no 127 SA on 17 October 2016, the High Court made orders that:

- 1) The respondent solicitor's name be struck off the Roll of Solicitors,
- 2) The respondent solicitor pay the whole of the costs of the Society, to be taxed by a taxing master of the High Court in default of agreement – execution and registration of the said costs order to be stayed for a period of nine months.


In the matter of Martin J Kearns, solicitor, practising as Martin J Kearns & Co, Solicitors, 1 Devon Place, The Crescent, Galway, and in the matter of the *Solicitors Acts 1954-2011* [4403/DT67/16]

Law Society of Ireland (applicant) Martin J Kearns (respondent solicitor)

On 14 November 2016, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in his practice as a solicitor in that he:

- 1) Failed to ensure there was furnished to the Society an accountant's report for the year ended 30 November 2015 within six months of that date, in breach of regulation 26(1) of the *Solicitors Accounts Regulations 2014* (SI 516/2014),
- 2) Through his conduct, showed disregard for his statutory obligation to comply with the *Solicitors Accounts Regulations* and showed disregard for the Society's statutory obligation to monitor compliance with the regulations for the protection of clients and the public.

The tribunal ordered that the respondent solicitor:

- 1) Stand advised and admonished,
- 2) Pay a sum of €1,000 to the compensation fund,
- 3) Pay a sum of €1,000 as a contribution towards the whole of the costs of the Law Society. 



NEWS FROM THE EU AND INTERNATIONAL AFFAIRS COMMITTEE
 EDITED BY TP KENNEDY, DIRECTOR OF EDUCATION, LAW SOCIETY OF IRELAND

CROSS-BORDER ACCESS TO PAY-TV SERVICES

Last July, the European Commission made commitments offered by a British registered company (Paramount Pictures International Limited) and the US-based Viacom Inc – jointly referred to as Paramount – legally binding under EU competition rules. These remedies address the commission's competition concerns arising from particular clauses in film-licensing contracts between Paramount and Sky UK Limited and Sky Plc (collectively known as Sky). The relevant provisions prevented Sky from offering its retail pay-TV services to customers located in the European Economic Area (EEA), but based outside Britain and Ireland. Separately, Paramount was obliged to prevent non-British or Irish EEA-established pay-TV broadcasters from making their services available to British or Irish customers in response to unsolicited requests.

The licensing of films

Film producers typically control all rights to a particular movie. Those rights are often licensed to pay-TV companies who, in turn, retail the relevant content to

viewers (the various Sky Cinema channels are an obvious example of this). Different revenue sources are used to finance film production. These include so-called 'output agreements', pre-sales contracts and co-financing agreements. Major movies are typically licensed for pay-TV using output agreements, whereby a studio/producer licenses their entire future film production to a particular broadcaster for a certain period of time. Since premium films are, along with live coverage of major sporting events, probably the key factor in selling pay-TV subscription packages, licensing contracts are typically concluded on an exclusive basis for a particular territory. The licensed area typically coincides with the territory of a particular EU/EEA member state or a small group of EU/EEA member states that share a common language, such as Ireland and Britain.

Paramount and Sky

Paramount, whose recent blockbusters include *The Big Short*, *Zoolander 2* and *The Wolf of Wall Street*, agreed a 2009 contract granting Sky the exclusive right to exhibit

certain movies to pay-TV and subscription video on demand (or SVOD) customers in Ireland and Britain. This agreement also provided that Sky should not knowingly allow viewers outside Ireland and Britain to receive the relevant satellite broadcasts. In addition, Paramount was not to authorise the use of any third-party satellite decoder that would allow end-users in Ireland or Britain to watch the relevant films. The 2009 contract also stipulated that Sky was to use 'geo-blocking' to prevent un-authorised internet transmission outside the relevant territory.

Commission investigation

Article 101 of the *Treaty on the Functioning of the EU* (TFEU) generally prohibits agreements between undertakings, decisions by associations of undertakings, and concerted practices that have the object or effect of restricting competition in the EU. However, restrictive agreements may be exempted where their overall effect is to promote competition. In order to determine whether an agreement is an object breach of article 101, the commission should examine its content and

objectives as well as the relevant legal/economic context.

The background to the commission's investigation lies in the Court of Justice of the EU's October 2011 ruling in the *FA Premier League/Murphy case* (see 'Pub football and the distribution of digital content', *Gazette*, March 2012, p57). The CJEU found in *Murphy* that the ban on the use of foreign decoders means that each licensee is granted absolute territorial exclusivity over the broadcasting of FA Premier League games and, thus, competition from other broadcasters is eliminated. This partitioning of the market results in an object infringement of article 101. The CJEU's decision prompted the commission to examine whether other licensing contracts for premium movies and sports content contain absolute territorial protection clauses that prevent viewers elsewhere in the EEA from watching such broadcasts. The commission's investigation showed that the major Hollywood film studios typically license their productions to a single pay-TV broadcaster in each EU/EEA member state or, alternatively, in a group of EU/EEA member states with a common language.

In January 2014, the commission initiated formal proceedings to consider whether certain provisions in the licensing contracts between the major US films studios and the key EEA-based pay-TV companies (namely Sky, Canal Plus, DTS of Spain, Sky Deutschland and Sky Italia) breach article 101 of the TFEU.

MAJOR MOVIES ARE TYPICALLY LICENSED FOR PAY-TV USING OUTPUT AGREEMENTS, WHEREBY A STUDIO/PRODUCER LICENSES THEIR ENTIRE FUTURE FILM PRODUCTION TO A PARTICULAR BROADCASTER FOR A CERTAIN PERIOD OF TIME



P.C. GETTY IMAGES

In July of the following year, the commission sent a statement of objections to the British-based Sky plus each of Paramount, Disney, NBC Universal, Sony, Twentieth Century Fox and Warner Bros. The commission alleged that the individual output agreements between Sky and each of the six studios restricted passive sales of the pay-TV services supplied by Sky to Irish and British customers elsewhere in the EEA, thus infringing article 101 of the TFEU.

Article 9 of Regulation 1/2003

Article 9 of EU Regulation 1/2003 is intended to provide a speedy and effective solution to competition issues by avoiding the need for a formal finding of infringement. Under this provision, the commission may thus accept binding commitments offered by companies under investigation for infringements of EU

competition rules. The commission should decide whether the measures proposed are sufficient to address its initial competition concerns. By contrast, article 7 of the regulation allows the commission, when deciding that there has been a breach of articles 101 or 102 of the TFEU, to impose behavioural or structural remedies necessary to terminate the infringement. Article 7 also allows the commission to impose fines.

Paramount's commitments

In order to address the commission's article 101 concerns, Paramount offered a number of commitments regarding both satellite and internet transmission within the EEA. Firstly, when negotiating an output agreement with a pay-TV broadcaster, Paramount commits to allowing the latter to respond to unsolicited requests from EEA consumers based outside the relevant licensed territory.

Secondly, Paramount will also allow pay-TV broadcasters based elsewhere in the EEA to respond to unsolicited requests from consumers within the licensed territory.

Thirdly, Paramount undertakes not to take contract enforcement proceedings against any pay-TV company who responds to a request from a consumer based outside its territory.

Finally, Paramount will not launch any proceedings against a pay-TV broadcaster based outside the licensed territory from responding to requests in that licensed territory.

Each commitment lasts for five years. Moreover, a monitoring trustee has been appointed to oversee compliance by Paramount. Although no financial penalty may be imposed under article 9, Paramount may be fined by the commission for any failure to honour the relevant commit-

ments. The commission's investigation of the other five US studios remains ongoing.

E-commerce sectoral inquiry

Separate to its investigation of the relationships of the various film studios with pay-TV broadcasters, the commission launched a sectoral inquiry in May 2015 into competition issues in the e-commerce sector. The purpose of this investigation is to gather information regarding private barriers to trade (for example, contractual provisions) established by companies selling goods and services via the internet. In March last year, the commission published its initial findings, which show that 'geo-blocking' is widespread in the EEA for both consumer goods and digital content. In some cases, such activity may result from agreements between suppliers and resellers, but they will need to be assessed on a case-



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by-case basis. This conduct may infringe EU competition rules. However, if a non-dominant company makes an independent business decision not to sell abroad or indeed via the internet, article 101 of the TFEU does not apply. The commission's final report is due to be published later this year.

Copyright rules

Paramount's decision to settle needs to be examined against the background of EU intellectual property rules. Article 3 of the EU *Copyright Directive* (2001/29/EC) provides that film-makers have the exclusive right to allow or prevent the making available to the public of their movies, including the making available of their works in such a way that members of the public may access them from a place and at a time individually chosen by them. Accordingly, notwithstanding the relevant article 9 commitments, 'passive sales' of pay-TV subscriptions for premium film content may be precluded by national copyright rules.

Next steps

As stated above, Paramount's settlement decision does not signal the end of the commission's investigation of the other major US film studios. Time will tell whether these proceedings result in other settlements or, alternatively, infringement decisions. The commission will, of course,

THE COOPERATION OF THE FILM STUDIOS WOULD BE INSUFFICIENT TO MEET THE COMMISSION'S OVERALL OBJECTIVE OF PROMOTING THE CROSS-BORDER PROVISION OF BROADCASTING SERVICES

be mindful that article 9 investigations do not require the same degree of legal and economic rigour as article 7 infringement cases. Moreover, the actual issue of whether the prevention of the cross-border provision of pay-TV services is anticompetitive has not been decided, since Paramount settled without admitting any breach of article 101. If none of the other film studios follow Paramount's lead, it could, therefore, be some time before the commission's investigation is concluded. (That said, it will be very difficult for the commission to drop the other cases where one film studio has tacitly admitted defeat.)

Moreover, the chances of a lengthy investigation have only been increased by the December 2016 decision of the French pay-TV company, Canal Plus, to seek to have the Paramount settlement decision annulled by the EU's General Court. Canal Plus is claiming that this settlement undermines the EU system of film financing, which relies on broadcasters being able to use

varying release dates and pricing strategies in different countries throughout the EEA. Indeed, this challenge has apparently resulted in the commission seeking further information from Sky and the five other US studios on the likely effect of any changes to the financing of independent film production.

Wider implications

Given its goal of promoting European market integration, the commission's ultimate preferred outcome is that the relevant pay-TV programmes are available across borders in the EEA. While Paramount has agreed not to enforce its copyright protection against Sky (or indeed any other broadcaster that wishes to respond to an unsolicited request from an EEA customer based outside Ireland and Britain), this does not mean that a pay-TV broadcaster is obliged to provide the relevant services cross-border. Moreover, other film studios are not, pending the outcome of the commission's investigation,

legally obliged to follow Paramount's example.

In any event, the cooperation of the film studios would be insufficient to meet the commission's overall objective of promoting the cross-border provision of broadcasting services, since the pay-TV companies must also decide to respond positively to any request for passive sales. This would require these broadcasters to breach national copyright law in the EU/EEA member state where the would-be viewer is based. However, it may not be in Sky's – or indeed other pay-TV companies' – respective interest to infringe copyright rules, since this would likely undermine their individual chances of winning future content licensing award processes. In brief, far-reaching reform of the *Copyright Directive* is required before the commission's aim of significantly increasing cross-border sales of pay-TV is realised. [E](#)

Cormac Little is a partner and head of the competition and regulation department in William Fry, Solicitors.

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

WILLS

Balfe, Rose (née Kelly) (deceased), late of Kylebeg (Kilbeg), Lacken, Blessington, Co Wicklow, who died in or around 24 September 1973. Would any person having knowledge of a will made by the above-named deceased, or of its whereabouts, please contact Miriam McColgan, Doyle Fox & Associates, The Farmhouse, Main Street, Blessington, Co Wicklow; tel: 045 851 980, email: miriammccolgan@doylefox.ie

Dowling, Richard (deceased), late of 7 Patrick Street, Mountrath, Co Laois. Would any person holding or having any knowledge of a will made by the above-named deceased, who died on or about 5 August 2016, please contact Messrs James E

Cahill & Company, Solicitors, Market Square, Abbeyleix, Co Laois; tel: 057 873 1246, email: donaldwunne@securemail.ie

Flynn, Joseph (deceased), late of Cloonree, Castlereagh, Co Roscommon, who died on 27 November 2016. Would any person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact Padraig Kelly, Solicitors, Strokestown, Co Roscommon; DX 130002 Strokestown; tel: 071 963 3666 or email: info@pksols.ie; ref: F/16/16

Giblin, Richard (deceased), late of Glencannon, Baltinglass, Co Wick-

low, who died on 27 January 2016. Would any person having knowledge of the whereabouts of any will made, or purported to have been made, by the above-named deceased, or if any firm is holding a will (dealing with his personal property in particular), please contact O'Shee Murphy & Company, Solicitors, New Quay, Clonmel, Co Tipperary; tel: 052 612 2411, email: info@jjosm.ie

Jacks, Stephen Paul (otherwise Steve) (deceased), late of 9 Merrion Village, Ballsbridge, Dublin 4, formerly of Bantry General Hospital, Co Cork, and 140 Station Road, Pendelberry, Swinton, Manchester, UK, who died on 26 December 2016. He died in Blackrock Hospice. Would any person having knowl-

edge of the whereabouts of any will executed by the above-named deceased please contact Cullen & Co, Solicitors, 86/88 Tyrconnell Road, Inchicore, Dublin 8; tel: 01 453 6114, email: enquiries@cullencosolicitors.com

Kelly, Brian Anthony (deceased), late of 32 St Enda's Park, Rathfarnham, Dublin 14. Would any person having knowledge of any will made by the above-named deceased, who died on 24 August 2016, please contact James Cahill, solicitor, of Thomas Montgomery and Son, Solicitors, 5 Anglesea Buildings, Upper Georges Street, Dun Laoghaire, Co Dublin; tel: 01 280 9955, email: james@montgomerysolicitors.ie

Kennedy, Michael (deceased), late of 84 The Woodlands, Castle-town, Celbridge, Co Kildare; 9 The Downs, Dunboyne Castle, Dunboyne, Co Meath; and formerly of Barrack Street, Loughrea, Co Galway, who died on 18 May 2016. Would any solicitor holding/having knowledge of a will made by the above-named deceased please contact Mary Cowhey & Company, Solicitors, Suite 2/3 Manor Mills, Maynooth, Co Kildare; tel: 01 628 5711, email: info@marycowhey.com

Kennelly, Donal (deceased), late of St Raphael's, Holyhill, Castlebar, Co Mayo, who died on 8 December 2016. Would any person having knowledge of the whereabouts of any will made by the above-named

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deceased please contact Garavan & O'Connor, Solicitors, Main Street, Castlebar, Co Mayo: tel: 094 902 4600, fax: 094 902 3930, email: garavanandoconnor@gmail.com

McCormack, Brigid (deceased), late of Kilcommon Cross, Thurles, Co Tipperary, company director, who died on 28 February 2016. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Kennedy Frewen O'Sullivan, Solicitors, St Michael Street, Tipperary; tel: 062 51184, fax: 062 51718, email: ronankennedy@kfos.ie

O'Callaghan, Mary Kate (deceased), late of 2 Newry Road, Dundalk, Co Louth. Would any person having knowledge of any will made by the above-named deceased, who died on 7 August 2014, please contact Ahern McDonnell, Roden Place, Dundalk, Co Louth; tel: 042 933 5384, fax: 042 933 9539, email: francis@ahernandmcdonnell.ie

O'Grady, Ulick (deceased), late of Bermingham Road, Tuam, Co Galway, who died on 8 January 2017. Would any person having any knowledge of the whereabouts of any will executed by the said deceased, or if any firm is holding same, please contact Frances Mahon, solicitor, Eric Gleeson & Co, Solicitors, Shop Street, Tuam, Co Galway; tel: 093 52396, email: carla@ericgleeson.ie

Phelan, Thomas (deceased), late of Newpark, Ballysax, The Curragh, Co Kildare, and Cuddagh, Mountrath, Co Laois. Would any person holding or having knowledge of a will made by the above-named deceased, who died on 16 November 2016, please contact Myles C Murphy & Company, Solicitors, Gouldsbury House, Newbridge, Co Kildare; tel: 045 431 334, email: info@mylescsmurphy.ie

Roche, James (otherwise Roche, Seamus) (deceased), late of Roxboro (otherwise Roxborough), Drinagh, Wexford, shopkeeper, retired, who died on 10 July 1989. Would any person having knowledge of the where-

abouts of any will made by the above-named deceased, please contact Tina Ennis, Matheson, Solicitors, 70 Sir John Rogerson's Quay, Dublin 2; tel: 01 232 2034 or by email: tina.ennis@matheson.com

Scott, Kathleen (orsee Catharine Scott) (deceased), late of 35 Church Gardens, Rathmines, Dublin. Would any person having any knowledge of any will made by the deceased, who died on 12 September 2016, please contact Sinead Glynn, solicitor, Michael Houlihan and Partners, 9-11 Bindon Street, Ennis, Co Clare; tel: 065 684 6000, fax: 065 682 1780, email: sglynn@mhp.ie

MISCELLANEOUS

West of Ireland practice (county town) seeks interested party to acquire practice. Reply to **box no 01/01/17**

TITLE DEEDS

Anyone holding title documents on behalf of Barry Lynch and Linda Lynch in relation to the property at Castleview, 5 Diamond Hill, Monkstown, Co Cork, please contact Diarmaid Falvey Solicitors, Church Street, Cloyne, Co Cork; tel: 021 465 2590, fax: 021 465 2868, email: info@diarmaidfalvey.ie

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: an application by Raymond Tang

Take notice any person having an interest in the freehold estate of the following property: all that and those 32 Abbeyview, Monkstown, Co Dublin, held under an indenture of lease dated 29/1/1969 between Coolock Public Utility Society Limited (the lessor), Martin Moran of the second part, and John Joseph Devine of the third part (the lessee) for the term of 300 years from 25/3/1966 at yearly rent of £15 therein reserved and therein described as "all that and those that piece or plot of ground part of the lands of Abbeyview in the parish of Kill, barony of Rathdown and borough of Dun Laoghaire, Co

Dublin, more particularly delineated and described on the map or plan attached hereto and thereon edged red and no 32 together with the dwelling-house and premises erected thereon".

Take notice that Raymond Tang (the applicant) intends to submit an application to the county registrar for the county/city of Dublin for acquisition of the freehold interest in the aforesaid premises, and any party asserting that they hold a superior interest in the aforesaid premises are called upon to furnish evidence of the title to the aforementioned premises to the below named within 21 days from the date of this notice.

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

Date: 3 February 2017

Signed: Caroline Fanning (solicitors for the applicant), 49 Foxrock Avenue, Dublin 18; email: info@fanningsolicitors.ie

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of 59 Claremont Road, Sandymount, Dublin 4: an application by Argyle House Management Limited and Claremont Court Residents Society Limited

Take notice that any person having any interest in the freehold estate (or any intermediate interest) of the piece or parcel of ground and the apartment buildings erected thereon known as Argyle House and Claremont Court, 59 (formerly 35) Claremont Road, Sandymount, Dublin 4, and held with other property under an indenture of lease dated 24 April 1863 and made between William Allen, Bernard Synott and Eliza Morris of the first part, Eliza Morris of the second part, John Morris of the third part, and James Nevins of the fourth part for a term of 250 years from 1

May 1863 at the yearly rent of £23, and therein described as "all that and those the piece or plot of ground containing one acre, two roods, and 35 perches situate on the south side of Serpentine Avenue in the county of Dublin, bounded on the north by Serpentine Avenue, on the south by Sir John Barrys holding, and on the east partly by Mr Atkin's and ground belonging to the lessors, and on the West by ground belonging to lessors".

Take notice that Argyle House Management Limited and Claremont Court Residents Society Limited (the applicants) intend to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold interest in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid premises (or any of them) are called upon to furnish evidence of the title to the aforementioned premises to the below named within 21 days from the date of this notice.

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

Date: 3 February 2016

Signed: Sherwin O'Riordan (solicitors for the applicant), 74 Pembroke Road, Ballsbridge, Dublin 4

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the land and premises known as no 76/77 Upper Dorset Street, Dublin 1 (James Byrne Court): an application by NMC Holdings Limited

Take notice that any person having an interest in the freehold estate or any superior or intermediate interest in the property known as number 76 Upper Dorset Street, Dublin 1, being the land demised by an indenture of



lease (the first lease) dated 22 October 1954 and made between John Valentine Adair of the one part and John McCourt of the other part for a term of 99 years from 25 March 1955, subject to the yearly rent thereby reserved and to the covenants on the part of the lessee and conditions therein contained, and by indenture of lease (the second lease) dated 12 day of December 1904 and made between the governors of the Ormond Quay Presbyterian endowments of the one part, Michael Whelan, Edward Whelan and Patrick J Byrne for a term of 199 years from 1 August 1904, subject to the yearly rent of £40 thereby reserved and to the covenants on the part of the lessee and conditions therein contained, should give notice of their interest to the undersigned solicitors.

Take notice that the applicant intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the freehold and all intermediate interest in the said property, and any party asserting that they hold an interest therein is called upon to furnish evidence of their title to the undersigned solicitors within 21 days from the date of this notice.

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

Date: 3 February 2017

Signed EP Daly & Co (solicitors for the applicant), 23/24 Lower Dorset Street, Dublin 1

In the matter of the *Landlord and Tenant (Ground Rents) Act 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* – notice of intention to acquire fee simple (section 4): an application by KW Real Estate plc (the applicant)

Notice to any person having any

interest in the freehold interest of the following property: all that part of the lands comprised in block A (otherwise known as the State Street Building), 78-82 Sir John Rogerson's Quay, Dublin 2, in the parish of Saint Mark in the city of Dublin, which said premises are all of the lands comprised in folio 147851L of the register of leaseholders Co Dublin (plot A), part of the lands adjacent to block A (otherwise known as the State Street Building), 78-82 Sir John Rogerson's Quay, Dublin 2, in the parish of Saint Mark in the city of Dublin, which said premises are indicated on the filed plan for folio 147854L of the register of leaseholders, Co Dublin, and thereon marked with the letters and numbers 'C5R15' (plot B), the premises situate at Benson Street and Green Street East in the city of Dublin, which said premises are indicated on the filed plan for folio 147854L of the register of leaseholders Co Dublin, and thereon marked with the letters and numbers 'C5R16' (plot C), plot A, plot B and plot C being together part of the lands held under by a lease dated 16 September 1863 between (1) Henry Courtney and (2) Sir Robert Kane (the 1863 lease) for a term of 244 years from 25 March 1863 and subject to the yearly rent of £80 and to the covenants and conditions on the part of the lessee therein contained.

Take notice that KW Real Estate plc, being the person currently entitled to the lessee's interest in the 1863 lease, intends to apply to the county registrar of the county of Dublin for the acquisition of the freehold interest and all intermediate interests in the aforesaid properties, and any party asserting that they hold a superior interest in the aforesaid properties is called upon to furnish evidence of their 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 said KW Real Estate plc intends to proceed with an application before the Dublin county registrar at the end of 21 days from the date of this notice and will apply for such directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest,

including the freehold reversion in the aforesaid premises, are unknown and unascertained.

Date: 3 February 2017

Signed: Arthur Cox (solicitors for the applicant), Earlsfort Centre, Earlsfort Terrace, Dublin 2; ref: KW007/016

In the matter of the *Landlord and Tenant (Ground Rents) Act 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* – notice of intention to acquire fee simple (section 4): an application by KW Real Estate plc

Notice to any person having any interest in the freehold interest of the following property: all that part of the lands adjacent to block A (otherwise known as the State Street Building), 78-82 Sir John Rogerson's Quay, Dublin 2, in the parish of Saint Mark in the city of Dublin, indicated on the filed plan for folio 147854 of the register of leaseholders Co Dublin, and thereon marked with the letters and numbers 'C5R18', which said premises are held under a lease dated 1 June 1857 and made between (1) Henry Courtney and (2) Thomas Paul and William Vincent (the 1857 lease) for a term of 250 years from 25 March 1857 and subject to the yearly rent of £50 and to the covenants and conditions on the part of the lessee therein contained.

Take notice that KW Real Estate plc, being the person currently entitled to the lessee's interest in the 1857 lease, intends to apply to the county registrar of the county of Dublin for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property is called upon to furnish evidence of their 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 said KW Real Estate plc intends to proceed with an application before the Dublin county registrar at the end of 21 days from the date of this notice and will apply for such directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest,

including the freehold reversion in the aforesaid premises, are unknown and unascertained.

Date: 3 February 2017

Signed: Arthur Cox (solicitors for the applicant), Earlsfort Centre, Earlsfort Terrace, Dublin 2; ref: KW007/016

In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) Act 1967* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, and in the matter of the *Landlord and Tenant (Amendment) Act 1984* and in the matter of premises situated at 95 New Street, Killarney, Co Kerry, and in the matter of an application by John Paul Coghlan and Margaret Coghlan

Take notice that any person having any interest in the freehold estate of or any superior or intermediate interest in the hereditaments and premises situate at Unit 8, Unit 7, Unit 6 and part of the access way in the Shopping Arcade, 95 New Street, in the town of Killarney, parish of Killarney, barony of Magunihy, and county of Kerry, comprising "all that and those the dwellinghouse and premises with the appurtenances as are now and for several years past in the possession and occupation of the said John McSwiney, bounded on the west by the house and premises in occupation of John Cronin, on the east by the house and premises in occupation of Thomas Curtaigne, postmaster, on the north by the New Street, and on the south by the tan yard premises of the lessee, and measuring in breadth in front 28 feet, 11 inches, and in length from front to the stream at the rear 128 feet, 9 inches, and in breadth to the rear 32 feet, 9 inches, which said premises are situate, lying and being in the New Street, town of Killarney, parish of Killarney, barony of Magunihy and county of Kerry", all of which property demised in 1920 was known as 95 New Street, Killarney, Co Kerry, being part of the property held under an indenture of lease dated 1 December 1920 for the term of 50 years from 1 November 1964, should give notice to the undersigned solicitors.

Take notice that the applicants,



John Paul and Margaret Coghlan, intend to apply to the county registrar for the county of Kerry for acquisition of the freehold interest and all intermediate interests in the above mentioned property, and any party asserting that they hold an interest superior to the applicant in the aforesaid property are called upon to furnish evidence of title to same to the below named solicitors within 21 days from the date hereof.

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

Date: 3 February 2017

Signed: Downing Courtney & Larkin (solicitors for the applicant), 84 New Street, Killarney, Co Kerry

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) Act 1967 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978, and in the matter of the Landlord and Tenant (Amendment) Act 1984 and in the matter of premises situated at 95 New Street, Killarney, Co Kerry, and in the matter of an application by Michael Coghlan

Take notice that any person having any interest in the freehold estate of or any superior or intermediate interest in the hereditaments and premises situate at Unit 9 and part of the access way in the Shopping Arcade, 95 New Street, in the town of Killarney, parish of Killarney, barony of Magunihy and county of Kerry, comprising "all that and those the dwellinghouse and premises with the appurtenances as are now and for several years past in the possession and occupation of the said John McSwiney, bounded on the west by the house and premises in occupation of John Cronin, on the east by the house and premises in occupation of Thomas Curtaigne, postmas-

ter, on the north by the New Street, and on the south by the tan yard premises of the lessee, and measuring in breadth in front 28 feet, 11 inches, and in length from front to the stream at the rear 128 feet, 9 inches, and in breadth to the rear 32 feet, 9 inches, which said premises are situate lying and being in the New Street, town of Killarney, parish of Killarney, barony of Magunihy and county of Kerry" all of which property demised in 1920 was known as 95 New Street, Killarney, Co Kerry, being part of the property held under an indenture of lease dated 1 December 1920 for the term of 50 years from 1 November 1964, should give notice to the undersigned solicitors.

Take notice that the applicant, Michael Coghlan, intends to apply to the county registrar for the county of Kerry for acquisition of the freehold interest and all intermediate interests in the above mentioned property, and any party asserting that they hold an interest superior to the applicant in the aforesaid property are called upon to furnish evidence of title to same to the below named solicitors within 21 days from the date hereof.

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

Date: 3 February 2017

Signed: Downing Courtney & Larkin (solicitors for the applicant), 84 New Street, Killarney, Co Kerry

In the matter of the Landlord and Tenant Acts 1967-2005 and in the matter of the Landlord and Tenant (Ground Rents) Act 1967 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978 and in the matter of the Landlord and Tenant (Amendment) Act 1984, and in the matter of premises situated at 96 New Street, Killarney, Co Kerry, and in the matter of an

Solicitor's practice for sale in a thriving residential area in County Meath. Sole Practitioner contemplating retirement. Consultancy possible. Preliminary details available to Principals only. Audited Accounts and further details to genuinely interested parties only. **Reply to box no 02/01/17.**

application by John Paul Coghlan and Margaret Coghlan

Take notice that any person having any interest in the freehold estate of or any superior or intermediate interest in the hereditaments and premises situate at Units 1, 2, 3, 4 and 5 in the Shopping Arcade, 96 New Street, in the town of Killarney, parish of Killarney, barony of Magunihy, and county of Kerry, comprising "all that and those the dwellinghouse and premises formerly in the tenancy and occupation of Margaret Twomey, bounded on the west by Richard Hilliard's house, and on the east by Francis Donnelly's house, and now in the tenancy of the lessee situate on the north side of New Street in the town and parish of Killarney, barony of Magunihy, and county of Kerry, together with all buildings, stables and out-offices, yards, gardens and appurtenances thereunto belonging or in anywise appertaining and usually enjoyed with the said dwellinghouse", all of which property demised in 1903 was known as 96 New Street, Killarney, Co Kerry, being part of the property held under an indenture of lease dated 10 January 1903 for the term of 120 years from 1 November

1902, should give notice to the undersigned solicitors.

Take notice that the applicants, John Paul Coghlan and Margaret Coghlan, intend to apply to the county registrar for the county of Kerry for acquisition of the freehold interest and all intermediate interests in the above-mentioned property, and any party asserting that they hold an interest superior to the applicant in the aforesaid property are called upon to furnish evidence of title to same to the below named solicitors within 21 days from the date hereof.

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

Date: 3 February 2017

Signed: Downing Courtney & Larkin (solicitors for the applicants), 84 New Street, Killarney, Co Kerry

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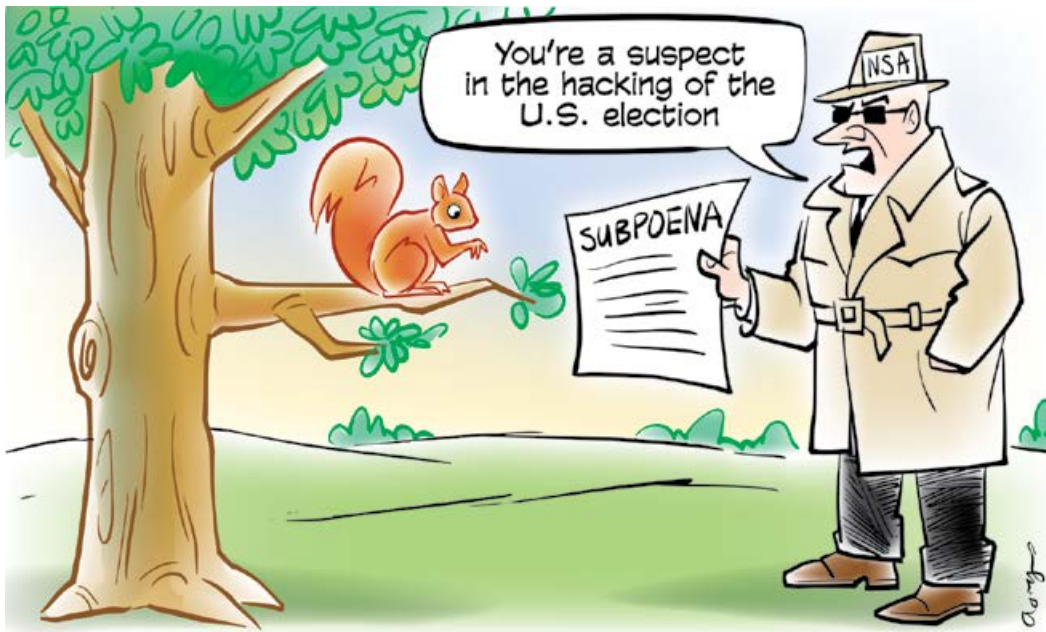
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PUELLA CARTHAGINIS RIDEBAT



SECRET SQUIRREL CYBERATTACKS

The real threat to global critical infrastructure is not enemy states or organisations. It's squirrels, according to one security expert. Cris Thomas has been tracking power cuts caused by animals since 2013, the [BBC reports](#). His 'Cyber Squirrel 1' project was set up to counteract what he called the "ludicrousness of cyberwar claims by people at high levels in government and industry", he told a security conference in Washington recently.

Squirrels, birds and other animals have been responsible for more than 1,700 power cuts affecting nearly 5 million people – and squirrels top the list, with 879 'attacks'. By tracking these issues, Thomas is seeking to dispel the hype around cyberattacks.

Damage done by real cyberattacks was tiny compared with the "cyberthreat" posed by animals. Indeed, there have been eight deaths attributed to animal

attacks on infrastructure, including six caused by squirrels downing power lines.

He'd want to watch himself, though. A Chicago city councilman who has railed against the growing squirrel menace was nearly taken out by a 'suicide-squirrel' that hurled itself into the front wheel of his bike in November. He was hospitalised with a broken nose, a fractured skull, and several missing teeth.

SOLICITOR SUES OVER CAREER PATH

An Oxford graduate is suing his *alma mater*, claiming "appallingly bad" tuition cost him a first-class degree and prevented him from having a successful career as a "high flying commercial barrister", [Legal Cheek reports](#). Instead, he had to make do with the booty prize of a Magic Circle training contract.

The 38-year-old achieved a 2:1 in history from the prestigious Brasenose College 16 years ago, but took the university

to court over the grade last December. He is claiming for loss of earnings of more than £1 million.

Oxford stated that Faiz Siddiqui's claim was time-barred. However, the High Court judge ruled that Oxford had a case to answer and that a trial should take place "as soon as possible", according to [The Independent](#).

Mr Justice Kerr continued: "I am satisfied that the university has a case to answer that is fit for

trial in relation to both limbs of the claim for damages, and that the claimant has a real prospect of succeeding in persuading the court to entertain his claim, either on the basis that it is not out of time, or by persuading the court that it is just and equitable to allow the action to proceed."

If Siddiqui's case is successful, it could open the door for more students to launch similar claims if they don't graduate with the grade they believe they deserve.

TERMS AND CONDITIONS APPLY

A top London media lawyer has rewritten Instagram's terms and conditions so that even children can understand them, [Quartz Media reports](#).

Jenny Afia, a partner at Schillings, used child-friendly language to rephrase and condense the popular social media app's 17-page privacy policy into one page. The guidance featured in a Children's Commissioner report called [Growing Up Digital](#).

Afia said: "One-third of internet users are children, but the internet wasn't created for children."

Some Instagram users may be interested to know that "officially, you own any original pictures and videos you post, but we are allowed to use them, and we can let others use them as well, anywhere around the world. Other people might pay us to use them and we will not pay you for that."

Similarly, the image-sharing site "may keep, use and share" personal information with companies connected to the site, including your name and pictures, your email address, school, address, phone number, your friends, and who you are chatting to via DM.



"I've shared my response to Instagram's terms and conditions."



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MAKING A DIFFERENCE

Are you an experienced ambitious senior solicitor or barrister keen to make a positive impact in the Irish mental health sector?

Our vision is a quality mental health service that is founded on the provision of recovery based care, dignity and autonomy for service users.

Our mission is to safeguard the rights of service users, to encourage continuous quality improvement, and to report independently on the quality and safety of mental health services in Ireland.

Do you identify with our values of:

- Quality
- Empowerment
- Recovery
- Confidentiality
- Respect and Dignity
- Accountability and Integrity

If so, the Mental Health Commission (the Commission) invites you to apply for the immediate vacancy of:

■ Head of Legal Services (REF: MHC0117)

This exciting opportunity is a key role for the Commission and the successful candidate will be a member of the Senior Management Team; provide comprehensive legal advice on all aspects of legislation pertinent to the statutory functions and operation of the Commission and have overall responsibility for and management of the Mental Health Tribunals Division.

The Commission is seeking applicants who are qualified Solicitors or Barristers with at least ten years' extensive experience in the provision of legal advices and have a thorough knowledge of the Mental Health Act 2001. You must have a proven track record of provision of the highest level of legal advice/counsel to a broad range of stakeholders and have strong managerial experience including people management. You must have demonstrable practical experience of operating at a senior level either in a leading law firm or in an in-house role with expertise in general corporate affairs, regulatory matters, mental health law, healthcare law generally and general litigation.

FURTHER INFORMATION

Further details, including **How to Apply** are available at www.mhcirl.ie/About_Us/Careers

For general enquiries please contact Sonya Boyce, Mazars on +353 1 449 6466.

No enquiries or canvassing should be made directly to the Mental Health Commission.

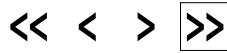
YOUR APPLICATION

Applications in the required manner should be sent to: execrecruit@mazars.ie (quoting job reference MHC0117 in the subject of your email).

Deadline for applications: Monday, 6th February 2017 at 5.00pm GMT.

The Mental Health Commission is an equal opportunities employer.





Medico-Legal Advisor

OUR CLIENT

Medisec assists its GP members whenever their professional reputation is at risk, whether by way of a clinical negligence claim for damages, involvement in a tribunal or inquest, or regarding an ethical or disciplinary matter. Medisec also strives to educate its members to reduce risk, incidents of complaints and claims, promote best practice and patient safety and care.

THE ROLE

The successful candidate will:

- Advise GP members on the full range of medical, ethical or legal queries and dilemmas arising in day to day general practice.
- Work with the team on risk management awareness, education and training.
- Assist members with matters relating to professional conduct and ethics.
- Work with the team on assisting members drafting depositions for inquests and preparing for hearings and liaise with Medisec's legal panel.
- Keep abreast of and consider new legislation, regulations and case law as they are enacted.

THE CANDIDATE

You will require a strong knowledge of the medico legal field in Ireland, good oral and written communication skills, empathy, confidence, an eye for detail and effective time-management.

As the role is to advise, support and assist GPs at a stressful time in their career, it can be emotionally and intellectually demanding. The candidate must therefore possess the ability and confidence to advise on medico legal consequences and support the GP throughout the process.

A competitive remuneration and benefits package is on offer.

Want to find out more?

For more information, and/or a discussion in strict confidence, please contact our recruitment consultant, Michael Benson at Benson & Associates, who has been exclusively retained to conduct this assignment.

A: Suite 113, The Capel Building, St. Mary's Abbey, Dublin 7.

T: +353 (0) 1 670 3997 mbenson@benasso.com www.benasso.com

