



Let the wookiee win
The GDPR is nearly upon us – here's what you need to know about DPOs



Howzat!
Cecelia Joyce combines a high-flying legal career with international cricket



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A practical guide for firms facing a routine or triggered Law Society inspection

gazette

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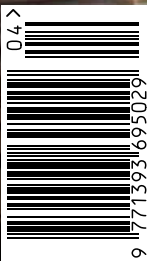
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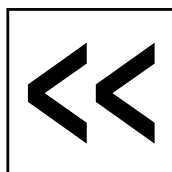
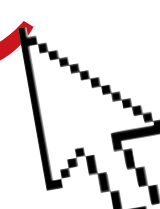




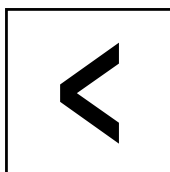
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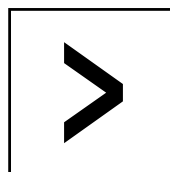
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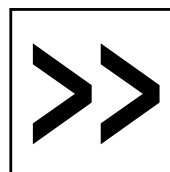
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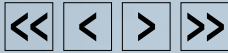
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THE MAMMOTH IN THE ROOM

April is upon us. We have seen off the ravages of 'The Beast from the East'. Most of Ireland closed for a few days, but community spirit came to the fore. Messages from the Government – from the Kildare Street bunker of the National Emergency Coordination Centre – were relayed by Teresa Mannion and others, whose advice urged us to stay indoors and avoid unnecessary journeys. Most obeyed the orders and, though discommoded, the diktat worked. A good time for Government.

A greater mammoth, however, is coming in the form of the GDPR. How many of us are ready? Will it change our data practices greatly? The answer is, yes. Solicitors hold considerable amounts of information of a personal and commercial nature on clients. From May, we will have to comply with more regulations regarding its storage. The Office of the Data Protection Commissioner has increased resources to implement data protection, which is about the fundamental right to privacy.

Privacy compromised

However, we as individuals – and certain social media corporates – consistently diminish our rights to privacy on a daily basis. The smartphone is a major culprit. We pay bills by phone, we listen to music, we email, and some play games on them – but on every occasion we use them, our privacy may be compromised. The big companies – Facebook, Google, LinkedIn, Twitter, Google, and others – know more about us than we do ourselves. They know where we shop, what we buy, what we eat, what we drink, what we drive, how fit we are, where we are, what we're looking for, and who we know.

What is dangerous about this undermining of privacy is that we accept it passively – and mostly without our knowledge. I urge you to read articles, including those in the *Gazette*, on the *General Data*

Protection Regulation in order to be GDPR ready – and to exercise caution in how you handle and deal with your own and others' data.

Spring gala beckons


The Law Society's Spring Gala Dinner takes place on Friday 27 April at the Shelbourne Hotel, Dublin. This black-tie event will bring together members of the profession from across Ireland, providing an opportunity to enjoy the company of colleagues, while supporting a very worthy cause. All profits raised will go to the Solicitors' Benevolent Association (SBA). On behalf of the more vulnerable members of our profession and their dependent families, I am asking you for your support. Journalist, broadcaster and former solicitor Miriam



“THE SOLICITORS' BENEVOLENT FUND PAYS OUT ALMOST €50,000 EVERY MONTH TO ASSIST THOSE IN NEED

O'Callaghan will be our MC on the night, while impressionist and satirist Oliver Callan will be our guest speaker.

Bookings for the gala dinner can be made online at www.springgala.ie, or by contacting Orla O'Malley at springgala@lawsociety.ie or tel: 086 807 5383. Even if you can't attend, I would encourage you to make a donation to the SBA through the Law Society.

The SBA fund needs considerable resources every year to fulfil its obligations. It pays out almost €50,000 every month to assist those members and former members of the profession, their families, and immediate dependants who are in need, across the island of Ireland. 

MICHAEL QUINLAN,
PRESIDENT



gazette

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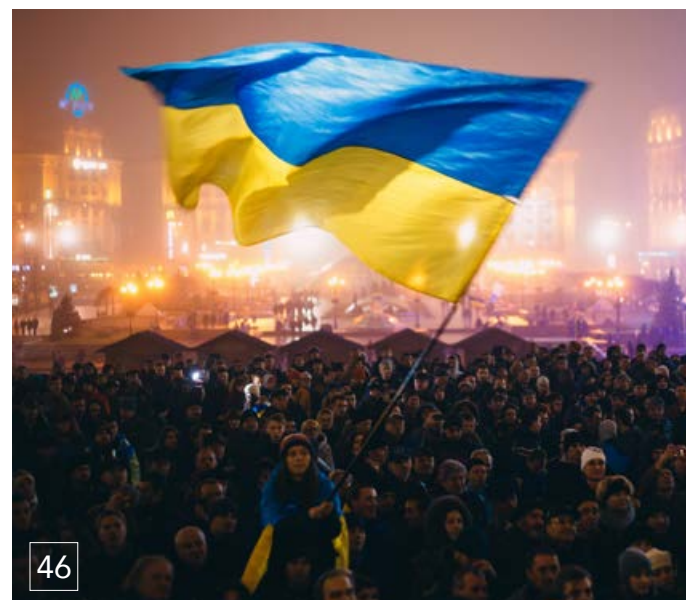
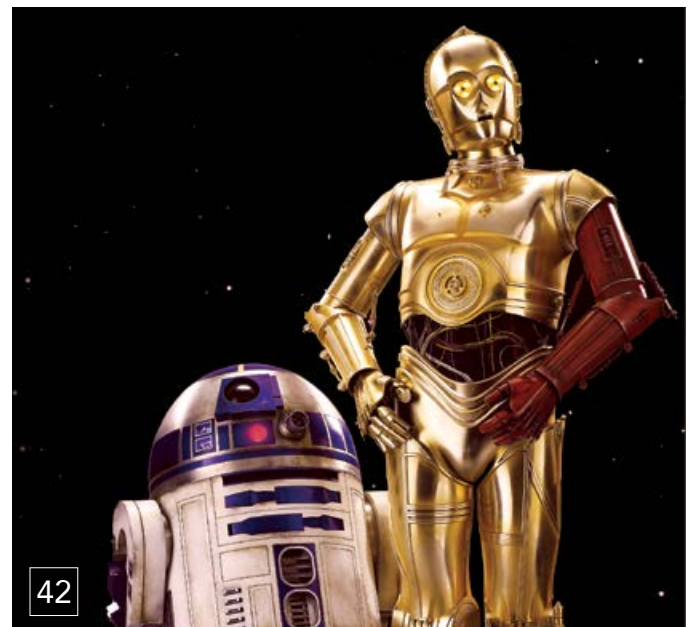
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THE BIG PICTURE





IN THEIR SHOES

Following the killing of 17 people by a student with an AR-15 rifle at Marjory Stoneman Douglas High School in Parkland, Florida, on 14 February, protesters spread out 7,000 pairs of shoes – representing all the children killed by gun violence since the mass shooting at Sandy Hook Elementary School in 2012 – on the lawn on the east side of the Capitol Building, Washington DC. The poignant action was taken to urge Congress to pass gun-reform legislation. Each year, approximately 1,300 children die from gunshot wounds in the US – that's three every day



LOUTH'S DAY IN COURT



PICTURE: KEN FINEGAN, NEWSPICS PHOTOGRAPHY

The County Louth Solicitors' Bar Association (CLSBA) held its AGM at Dundalk Courthouse on 12 March 2018. The meeting was attended by (front row, l to r): John McGahon (treasurer), Michael Quinlan (president, Law Society), Catherine MacGinley (president, CLSBA), Ken Murphy (director general) and Rory O'Hagan (secretary); (second row, l to r): James MacGuill, Fergus Mullen, Conor MacGuill, Paul Eaton, Gary Matthews and Richard McDonnell; (third row, l to r): Paul Tiernan, John McKenna, Simon McArdle, Sharon McArdle, Olivia McArdle and Donal O'Hagan; (fourth row, l to r): Michael Allison, Catherine Allison, Ciaran Hughes, James Murphy, Niall O'Hagan and Sara McDonnell; (back row, l to r): Emma Holden, Aimee McCumiskey, Aoife McGuinness, Niall Breen, Barry Callan and Francis Bellew

MASTER'S IN LAW FOR AOIFE



Cork-based solicitor Aoife Byrne (who is a member of the Gazette editorial board) was conferred with a Master's in Law at UCC on 22 February. Modules included juvenile justice, child-care law, and employment law. Her thesis was on the *Hague Convention* (child abduction)

KEEPING AN EYE ON THE ROAD AHEAD



PICTURE: CIARAN REDMOND

At the launch of the new edition of Robert Piersie's book *1961-2017 Road Traffic Legislation* at Blackhall Place on 22 March were Minister for Justice Charlie Flanagan, Minister for Culture, Heritage and the Gaeltacht Josepha Madigan, the Law Society's junior vice-president Michelle Ní Longáin and Riobard Piersie



SOUTHERN LIGHTS



The council of the Southern Law Association (SLA), with guests, attending the annual dinner on 23 February at Maryborough House Hotel (front, l to r): Amy Murphy, Emma Neville, Richard Hammond (vice-president, SLA), Joan Byrne (president, SLA), Michael Quinlan (president, Law Society), Sean Durcan (treasurer, SLA) and Juli Rea; (back, l to r): Dermot Kelly, Robert Baker, Gerry O'Flynn, Fiona Twomey, Don Murphy, Ken Murphy (director general), Jonathan Lynam, Kieran Moran and John Fulle



(Front, l to r): Ken Murphy, Joan Byrne (president, SLA), Edel Morrissey (president, Waterford Law Society) and Michael Quinlan; (back, l to r): Ian Huddleston (senior vice-president, Law Society of Northern Ireland), Patrick Dorgan (senior vice-president, Law Society), Richard Hammond (vice-president, SLA) and Robert Ryan (president, DSBA)



Deirdre O'Mahony (county registrar), Judge Brian O'Callaghan and Emma Neville



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- 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



JUDGE CONFIRMS ROAD-TRAFFIC LAW ENFORCEMENT

Judge Matthew Deery has confirmed substantial compliance with fixed-charge processing system (FCPS) policy and procedures, in line with the Garda Professional Standards Unit requirement to examine the matter.

Appointed as the independent oversight authority in January 2015, Judge Deery has pub-



lished his third annual report on the cancellation policy for the FCPS.

Justice Minister Charlie Flanagan said that he was pleased that Judge Deery's 2017 report continued to confirm "substantial compliance" with FCPS policy and procedures, acknowledging the contribution this makes to road-traffic enforcement.

PIERSE'S NEW TRAFFIC LAW EDITION

A new edition of Robert Pierse's *1961-2017 Road Traffic Legislation* (published by Bloomsbury), was launched at the Law Society on 22 March.

The Listowel-based solicitor (80) is an acknowledged expert on road traffic law in Ireland, which he described as "a total mess". During the launch, he pleaded with Justice Minister Charlie Flanagan, who launched the book, to "reform and consolidate" the law and bring it into line with modern realities, such as driverless cars.



Judge John O'Neill, Robert Pierse and Riobard Pierse

PIG: CAN REDMOND

TOP FIRM TESTS TECH



A 'legal hackathon' competition for law students at McCann FitzGerald on 24-25 March saw a 'white-collar reporting advisory' declared the winning app. Using a platform developed by New York firm Neota Logic, which provides automated legal services, the winning team devised an 'automated expertise' questionnaire to establish the existence, or otherwise, of reportable malpractice.

"Our platforms can deliver legal advice via machines," said Kevin Mulcahy of Neota Logic. "It is highly significant that McCann FitzGerald now describes itself as a law firm that sells software to clients and non-clients," he said.

CPD BONANZA

An upcoming Family Lawyers Association of Ireland conference offers an upskilling bonanza of seven CPD points for a one-day event.

The conference, at the Mullingar Park Hotel on 30 April, will cover topics such as cohabitation, the *Mediation Act*, developments in the recognition of polygamous marriages, and recent Court of Appeal decisions.

The cost is €70 for members and the newly qualified, with an early-bird discount ahead of 16 April.

BOUND FOR THE BENCH

Two solicitors have been appointed to the District Court. Geraldine Carthy, who practises with Reidy Stafford in Kildare, and Ennis-based Mary Cashin were named by the Government on 20 March. Senior counsel Denis McDonald has been appointed to the High Court.

Meanwhile, Judge Gerard Jones has been assigned to the Dublin Metropolitan District Court.

FRY SCOOPS AWARD

Top-four managing partner Bryan Bourke of William Fry won 'European managing partner of the year' at *The Lawyer European Awards 2018* in London on St Patrick's Day. The honour recognises strategic vision, leadership, innovation and creativity.

Accepting the award, Bourke commented that, as managing partner, he had focused on creating a dynamic and positive work environment and hiring the best in the market. Bourke has just been appointed to a second term in the role at the firm.

There were 200 submissions



Bryan Bourke

this year from more than 135 firms across Europe, showcasing their best legal work across 24 categories.



'STRONG ROLE MODELS' LEAD TO SURGE IN WOMEN LAWYERS

Strong role models in the shape of two female lawyers – presidents Mary McAleese and Mary Robinson – have helped lead to a surge in women taking up legal careers. That's according to Law Society junior vice-president Michelle Ní Longáin, who was interviewed on RTE's *Drivetime* by Mary Wilson on 26 March, as figures now show women are in the majority in the solicitors' profession.

The first woman was admitted to the profession in Ireland 95 years ago. Asked whether the profession had changed as a result of the greater number of women serving in it, Ní Longáin said that women were entering an interesting, challenging career with opportunities to take up a variety of diverse roles.

Ní Longáin is a partner with Dublin firm ByrneWallace and said that the law was embedded with important social values that women were keenly interested in.

"It's also a good solid career path, with opportunities to progress. I think they are important



Michelle Ní Longáin

factors," she told Mary Wilson.

Ní Longáin commented that she had been fortunate in having senior women role-models since her time as an apprentice in Belfast in the early 1990s. Commenting on changes in women's roles in law by reference to her own firm, she said: "Women are well represented across all areas ... such as corporate and banking and property – areas that might have been perceived as being more male dominated in the past.

"We don't have that now. We have women in senior roles in those areas, and that has happened or is happening in many firms. In Ireland, in the ten largest firms, 35% of the partners are women.

"That compares with just 18% in the ten largest firms in England and Wales, so we have progressed apace in the Republic of Ireland. We're doing something right. It is a career that women are seeing as open to them, and I think they see that there is real opportunity to progress."

In ByrneWallace, where Catherine Guy is the managing partner, the number of female partners is even higher, at 49%. Women have role models across all areas of practice.

Mentoring programme

Ní Longáin said that the Law Society's women in law mentoring programme offered women at mid-career level the necessary supports to progress to more senior levels.

She added: "Law is a challenging job. It is a demanding job because we're in client service." She pointed out that 20% of the profession was now employed in the in-house sector, with women comprising 68% of that number.

"We're working with our clients in their businesses, organisations, and personal lives at critical times for them, providing advice – and there are challenges in all of that in making things work for our own families and lives. But people do that and they choose different ways of doing it."

With regard to work/life balance, Ní Longáin said that both men and women were seeking different ways of working, whether by reducing hours or working from home using technology.

She concluded by observing that clients liked to see both men and women in senior roles, because a good balance offered a greater perspective in voices and understanding.

GAME ON WITH SPORTS MOOC

'Sports law – the challenges on and off the field of play' will be the Diploma Centre's 2018 massive open online course (MOOC), which starts on Tuesday 8 May.

MOOCs are free online courses open to all, and they form part of the Society's public legal education initiative.

Since their first launch in 2014, these courses have attracted over 9,000 participants from over 60 countries.

They feature online recorded and streamed presentations, interactive discussion forums and quizzes, and they allow



those taking part to engage directly with legal experts.

This MOOC will address key sports law issues – both on and off the pitch – at amateur and professional levels, and will be relevant to managers, coaches,

sports development personnel, and lawyers advising on sports law. It will tackle sports rules and regulations, appropriate policies and procedures, child protection, data protection, liability for clubs, protection of players

and management, regulation and good governance of the sports sector, commercialisation of sports (sponsorship, ticketing, broadcasting and merchandising arrangements), and disciplinary procedures (on and off the pitch.).

Expert panellists will provide insights into emerging trends in sports law, such as 'eSports', wearable technology, anti-doping, match-fixing and concussion.

The MOOC will run for five weeks. To sign up, visit <https://moo2018.lawsociety.ie>.



IRELAND LEADING THE WAY IN FEMALE PARTNERSHIP FIGURES

As the Law Society was proud to proclaim in 2015, the first legal profession in the world where the majority of practising members is female was the solicitors' profession in Ireland, writes Teri Kelly (*Law Society Director of Representation and Member Services*).

Women now comprise 52% of the profession. Irish solicitors are leading the rise of women in the legal profession globally – not just in total numbers, but also in representation at the most senior levels.

It was reported recently in *The Irish Times* that, in February 2017, a total of 33% of partners in the six largest firms in the country were women. In March 2018, this percentage had grown to 35% in the six largest firms. This percentage is almost twice that of the largest firms in England and Wales, where the representation of women partners is a paltry 18%.

When we look at all firms in Ireland, the proportion of women partners in 2018 drops slightly from 35% in large firms to 33% across the profession. Contrast this with other jurisdictions, and the Irish profession's leadership in gender diversity becomes clear. In Australia, female partnership representation sat at 25% in 2017. This was up slightly from 2016, when the percentage of female partners in Australia was 24%. In the US,

the American Bar Association reported that just 22% of partners were women in 2016.

March towards equality

This is not to say that we can't do more to promote equality at all levels of the solicitors' profession, including at partner level. Change doesn't happen overnight, so members of the profession and the Law Society are actively supporting women to reach senior positions through mentoring and return-to-work programmes.

The Law Society has run the 'Law and Women Mentoring Programme' for three years to help more women reach partner and managing partner level in the profession. To date, 62 successful pairs of mentor and mentee relationships have been created. The relationships often comprise women in very senior roles helping women part-way up the ladder to reach more senior positions.

Balancing commitments outside of work, including family needs, necessitates close management. Interviewed on *Drivetime* on International Women's Day, the Law Society's junior vice-president Michelle Ní Longáin explained that law is a challenging and demanding job – solicitors work with clients at critical times, and people choose ways to make their job work for their



Teri Kelly

families and their own lives.

Many women and men take extended career breaks to fulfil family care commitments and, here too, the Society works to help these members return to practice when they're ready. The 'Return to Work Programme' assists solicitors who have been out of work for an extended period, and wish to resume work, by providing the necessary information and tools for a successful return.

In the two years that this programme has been running, 34 members have taken part, with a further 40 members signed up to participate in 2018.

Strength through diversity

Individual firms and the profession generally benefit from diversity. A workplace that is more diverse in terms of gender, race, culture, age, socio-

economic background, religion, and sexual orientation is more entrepreneurial and hospitable to new ideas. Solicitors' firms know that implementing policies of diversity and equality is not just the right thing to do. It is also good for their businesses, the profession, and the public.

As Michelle Ní Longáin explained on *Drivetime*: "Having men and women in senior roles provides a good balance with different perspectives, voices and understanding." The firm in which Michelle is a partner, ByrneWallace, practises this principle. The seventh largest firm in the State has 39 partners, of which 19 (49%) are women.

In the next two issues of the *Gazette*, Suzanne Carthy will report on a four-year doctoral study of gender equality in the solicitors' profession in Ireland. Her in-depth statistical analysis will relate the challenges that female solicitors experience and will address gender inclusion and equality issues for employing firms and the profession.

Women have come a long way from when Mary Dorothea Heron was admitted as Ireland's first woman solicitor in 1923. There is, of course, more work to do to promote equality and diversity, particularly at the senior level of the profession. But we are moving in the right direction.

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EU MUST ASK ITSELF 'HOW DID WE GET HERE?'

Labour MP Hilary Benn told a DCU conference recently that remaining in the customs union is the simplest and best way to continuing tariff-free trading, which is essential to the British, EU and Irish economies – north and south.

Benn, who is chair of the House of Commons Brexit committee, said: “Has China suffered disadvantage because it does not have a trade agreement with the EU? No, and in the pocket of every person in this hall today is proof of that – our mobile phones.”

Trade negotiations were complex, he said, because they involved two nations, each trying to protect their vital interests, while seeking to gain advantages in the country with which they were negotiating.

Benn also said that the idea that Britain had been prevented from trading by membership of the EU was nonsense. The EU was worried that Britain would use its freedom to gain a competitive advantage in the future. However, he didn't believe that another referendum would yield a different result.

Those who argued for a multi-



Hilary Benn: the EU needs to quietly ask itself, 'How did we come to lose one of our most important member states?'



At the Brexit and the Future of Europe conference in DCU were Hilary Benn (chairman, House of Commons Committee on Exiting the EU), Herman Van Rompuy (first president, European Council) and President Michael D Higgins

ALL PICS: SAM BOAL/ROLLINGNEWS.IE

speed, multi-layer EU as the best way to maintain unity should prevail over those who argued for faster, closer, deeper union, he said, but this would be for Europe's citizens to decide.

“I just hope that in making that choice, the EU will, at some point, pause and quietly ask itself, ‘How did we come to lose one of our most important member states?’”

Delicate balance

In his speech to the conference, President Michael D Higgins said that, for the first time in many years, the future shape of the EU has become a matter of contestation and debate.

“Until social and labour rights are given the same priority, if not a higher one, as economic freedoms in the treaties, the latter will prevail. These issues must be clarified by public debate and through engagement with the European street.

“The laws of the market are seen as, and must be experienced as, instrumental, not intrinsic,” President Higgins said, concluding that the economy must be subordinated to the democratic will of the people.

HOGAN PONDERES FUTURE OF COMMON LAW POST-BREXIT

Mr Justice Gerard Hogan has floated the possibility of a bespoke transnational court for a post-Brexit Britain.

“As lawyers, we should try to accommodate the political realities,” he said at this year's Four Jurisdictions Family Law Conference in Dublin on 27 January.

“I suspect the UK would live with the single market – Norway version – but without the Court

of Justice. Perhaps it would be possible, if the Court of Justice would allow it, to have a bespoke transnational court for the UK? It would be a bit like the EFTA Court [for European Free Trade Association states] but, I suggest, based in the UK with a mix of UK judges and judges from other countries that could, perhaps, adjudicate as closely as possible, in the Brussels context, on the issues,” he said.

A discussion on the ‘portability of judgments’ heard the scale of the issue: there were 140,000 international divorces within the EU last year and 30,000 child-abduction cases. The current framework delivers legal certainty to clients and protects the autonomy of parties. However, proposed Brexit withdrawal arrangements will replicate EU family law – but

without reciprocal arrangements – thus limiting the efficacy of statutory instruments.

Mr Justice Hogan mused on whether, post-Brexit, the influence of EU law would be seen as a blip in the history of common law, or whether EU principles would leave a residual mark that would continue to influence common law generally, and family law in particular.



LAWYERS THREATENED AS LEGACY OF THE TROUBLES CONTINUES TO PLAY OUT

Belfast lawyer Pádraig O Muirigh is working in an atmosphere of rising intimidation and threat, writes Mary Hallissey.

His work on legacy cases that deal with collusion between the security forces and Loyalist paramilitaries – in the form of inquests, civil actions or prosecutions – has put him in some personal danger.

“I received a death threat three years ago and have been told that my movements were being watched,” he told the *Gazette*. He was advised by the PSNI to review his personal security.

His work has also drawn highly personalised attacks from some elements in the media. “Sensationalist media coverage doesn’t help. I’ve been pictured in one newspaper with a target on my head. I’m the father of teenagers, and this kind of media coverage creates an environment where someone might act on that threat,” he says.

Speeches in the British House of Commons have also criticised some solicitors and, in some cases, linked them directly to Republican clients.

O Muirigh has also been subject to verbal abuse, jostling, and hostility while in Belfast city centre with his family. He says that he represents the families of victims who died on both sides of the conflict and that much of his firm’s work is *pro bono*.

Media coverage has also drawn attention to the fact that his father, Sean Murray, is a senior member of Sinn Féin. “That my father is active in Sinn Féin may be factually correct, but the context in which it is presented is hostile, and it has led to abuse and slurs on social media,” he says. “That fact is irrelevant to



Pádraig O Muirigh: ‘Sensationalist media coverage doesn’t help’

my capacity to do my job properly and to represent my clients, who come from both sides of the community.

“The Peace Process is now embedded in the North, but that could change,” he says, citing rising hostility about lawyers receiving State funds, in the form of legal aid, to pursue legacy cases.

Duty of care

This atmosphere of threat is long-standing in the North. Belfast solicitor Pat Finucane was

shot dead in front of his wife and children in 1989, while solicitor Rosemary Nelson was killed by a car bomb in 1999.

Belfast firm KRW Law has also been subject to threats and online abuse following hostile press coverage.

KRW consultant Christopher Stanley said: ‘Unregulated social media avenues to vent anger against us may soon result in violent direct action. Those in the public sphere – whether protected by [parliamentary] privilege or not – must have a duty of care to both their law officers and their legal profession not to encourage such random outbursts of hatred with its fearful results.’

In November, Tory MP Richard Benyon told the House of Commons that “extreme nationalist-leaning individuals in the Northern Ireland justice system” were probing wrongdoing by British security forces during the Troubles as “a form of retributive politics”. The MP for Newbury himself served with the British Army in the North.

Three firms in the North, namely KRW Law, Madden and Finucane, and Ó Muirigh Solicitors, are now taking legal action against *The Sun* for a December 2016 article that pictured their staff and offices and claimed that they were involved in a ‘witch hunt’ probe of killings by British troops during the Troubles.

British Prime Minister Theresa May also appeared to single out human rights lawyers in her conference speech to the Conservative Party on 5 October 2016, when she said: “We will never again, in any future conflict, let those activist, left-wing, human rights lawyers harangue and harass the bravest of the brave, the men and women of our armed forces.”

She made her comments just a day after stating that Britain would opt out of parts of the *European Convention on Human Rights*, in order to “put an end to the industry of vexatious claims that has pursued those [members of the British armed forces] who served in previous conflicts.”

PAROLE BOARD MAY CONFERENCE

The 2018 Parole Board Conference will take place at Blackhall Place on Thursday 10 May 2018.

The conference will examine the operation of parole panel hearings in neighbouring jurisdictions, and how to avoid problems encountered in such hearings. It will also explore European developments in the legal operation of parole in EU countries and in Canada.

Speakers will include Mr Jus-

tice Garrett Sheehan, Shane McCarthy (Parole Board), Michael Lynn SC, Paul Mageean (commissioner, Parole Commissioners for NI), Martin Jones (CEO, Parole Board for England and Wales), Dr Laura Janes (legal director, The Howard League), and Barry Donoghue (deputy director, Office of the Director of Public Prosecutions).

The event is free, but booking is essential, on [\[brite.ie\]\(http://brite.ie\) \(search ‘Parole Board Conference 2018’\), or through the \[website\]\(http://www.acjrd.org\) of the Association for Criminal Justice Research & Development \(ACJRD\).**](http://www.event-</p>
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Registration is at 8.45am. The conference will run from 9am until 1.30pm. CPD certificates of attendance will be available.

The event is sponsored by Sheehan and Partners, and supported by the ACJRD. (See ‘On parole’, p30 of this Gazette.)



WORKPLACE WELL-BEING HAVE A THINK

The recent death of a giraffe in Fota Island Wildlife Park brought to mind that, many years ago, I took my now 17-year-old son to see a newly born giraffe in the park. The new-born ruminant was sitting on the grass. I asked my then very young son what he thought the new arrival was doing. "He's having a think!" he replied.

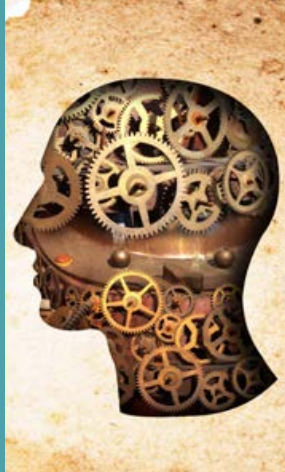
Sometimes, we forget to take time just to 'have a think' – or not to think at all – particularly when we are stressed, overthinking things, or under pressure.

Christmas week 2017 saw me at the funeral of an accountant in Cork. He was 57. 'Tragic', 'too young', 'a heart attack' were the comments that abounded. By all accounts, overwork and stress were responsible for his early demise. No doubt clients – duty done by attending the funeral – moved on.

For his wife and teenage children, however, dealing with his loss will be difficult, and the challenge of healing will take a long time.

In 2016, I was hospitalised with ulcerative colitis, brought on by stress and overwork. I lost two stone. It knocked me flat, and it took months before I was back on an even keel. Since then, I've learned to take the time to 'have a think'.

I do what I can for people, within reason, but not to the point where I end up overworked and overstressed. I have refocused my work. Now, I try to concentrate



more on mediation and alternative dispute resolution – helping people who are 'rowing', often against the tide. Helping people resolve problems is very satisfying work; helping people resolve disputes even more so.

I now take exercise at weekends, which involves spending time with a four-person crew doing some actual rowing – in currachs on the River Lee.

Both are good for the body, good for the mind, and good for the soul. I have met a whole new group of friends. I have time to read, write, enjoy a meal or a film, and spend time on what is important – family, first and foremost. I'm taking the time to 'have a think'.

Try it, before the opportunity passes you by.

Bill Holohan is senior partner of Holohan Law in Cork and Dublin and a member of the Law Society's Alternative Dispute Resolution Committee.

SOCIETY MOOT TEAM TO REPRESENT IRELAND



Dr Donna Lyons (judge), Amina Flynn (Arthur Cox), Austin Conlon and Laura Scanlan (both A&L Goodbody), Rachel O'Sullivan (Matheson) and Deirdre Potenz (McCann FitzGerald)

The Philip C Jessup International Law Moot Court Competition is the world's largest event of its kind, with participants coming from over 645 law schools in 95 countries. The competition is a simulation of a fictional dispute between countries before the International Court of Justice.

One team is allowed to participate from every eligible school. Teams prepare oral and written pleadings, arguing both the applicant and respondent positions of the case.

The Law Society team won the national round of the competition on 24 February. It will represent Ireland at the international final in Washington DC, which runs from 1-8 April. The team competed against UCC in the preliminary rounds and against UCD in the final round. The team also won best memorials, while Deirdre Potenz was named best speaker.

We wish the team and coach Jean Tomkin the very best of luck.

LEGAL INTELLIGENCE

Half of the top ten Irish law firms are now using legal intelligence platform Courtsdesk, in some form, out of 600 total users.

The paid-for subscription-model service pulls together all the court data in the country, offering search, tracking, and analysis of 593,000 Irish cases involving 1.3 million parties. Users can search by plaintiff or defendant, from every court sitting in the country, and the site lists every case currently running in court.

There is a full CRO search integrated into Courtsdesk, and the national insolvency registers will also be integrated over time.

Another search-type offered is user alerts, which can be set up for up to 500,000 names, monitoring new court mentions for all of those names.

Time-stamped billable searches, to be passed directly to the client, are also built in to the platform in the same way as billable land registry or company searches.



'LAW AND THE ART OF THE POSSIBLE'



The theme of the 25th **Burren Law School** is 'Law and the art of the possible: the fifth province?', which takes place at Newtown Castle, Ballyvaughan, Co Clare, from 4-6 May 2018.

Speakers include Josephine Feehily (former chairperson, Policing Authority), Brian Feeney (historian, author and journalist), Rita Ann Higgins (author and playwright), Shane Kilcommins (professor of law, University of Limerick), Justice Mary Laffoy (chairperson, Citizens' Assembly), Eamonn Mallie (journalist and broadcaster), Alison O'Connor (journalist and broadcaster), Judge Catherine O'Malley (District Court judge, Baltimore City, USA), Martin O'Malley (former Governor of Maryland, USA), and David Wexler (director, Interna-

tional Network on Therapeutic Jurisprudence).

This year's guest director is Ellen O'Malley Dunlop, who said that, from the first millennium up to the 16th century, the Burren had been the site of a number of Brehon law schools, most notably the O'Davoren law school.

"This tradition inspired a group of people to establish the Burren Law School 25 years ago with the idea of raising awareness and interest in our legal past. The school creates a forum for people from various disciplines to debate contemporary aspects of our legal, political and social systems," she said.

The programme is available at www.burrenlawschool.org, where bookings may also be made. Tel: 065 707 7200.

BREXIT IP DIVIDEND

Intellectual property on-shoring to Ireland rather than Britain will be a key dividend of Brexit, according to Matheson managing partner Michael Jackson.

Speaking at an IBEC business leaders' conference in Dublin on 27 March, Jackson said that companies with substantive tangible investments already located here are in search of business-friendly locations to on-shore their IP.

Ireland is ticking the relevant boxes and edging out alternatives such as Britain, he said. But the

legal framework must reflect the speed of change in business and cater for intangible assets, such as IP.

"One of the added benefits of this type of move on intangible assets on-shore is that the initial move is usually followed by the locating of more senior executives from the company to Ireland. That has a number of spin-off benefits, including payroll and taxes paid, as well as a further deepening of the companies' engagement with Ireland," Jackson said.

MARKETING YOUR FIRM BEWARE MARKETING 'SPECTACULARS'

Marketing is a process, not an event. This is the most important thing you need to know about marketing and, as with so many fundamental principles, its simplicity can be beguiling.

Marketing is never 'one-and-done'. Sporadic, one-off 'spectaculars' are never as successful as consistent and regular efforts. However, consistent and regular is never as interesting and exciting as planning something big and new. And that's why most people's marketing efforts either never get off the ground, or produce disappointing results – failing to do the basics consistently.

So, if you proceed from the start on the basis that your job is just to keep implementing the stuff that we know works regularly, your results will surprise you.

Before looking at some recent stats last month that underlined the importance of consistent marketing, we had begun to take a look at client newsletters.

They are, without question, one of the most powerful weapons in your marketing arsenal. Here's why: the simple and methodical act of keeping in regular contact with your past, present, and prospective clients is the most effective marketing you can do.

The best form of newsletter is a printed version, sent in the post, regularly. Email



is better than nothing, but it really comes only a poor second to print.

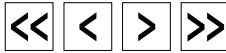
So, how to start? You'll need to get your address list into shape before sending your newsletter.

What type of newsletter should you send? A word of warning: do not send the type of newsletter that details updates on the law. That would be the marketing kiss of death! Why? Because it's boring.

Remember, it has to be interesting, which means that at least 60% of the content – ideally more – should be completely non-relevant to your practice area of law and your business offering.

This is counterintuitive, but vitally important. Next month, we'll see why exactly it's the secret to a successful newsletter.

Flor McCarthy is the author of the Solicitor's Guide to Marketing and Growing a Business, available at www.thesolicitors-guide.com.



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DX 199

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Public Counter lodgement of applications will be accepted only in the PRA Office, Chancery St, Dublin 7, D07 T652

Any queries in relation to the above can be emailed to helpdesk-corporateservices@prai.ie



FAREWELL TRIBUTES PAID TO 'WARM AND EFFERVESCENT' MR JUSTICE RYAN

The President of the Court of Appeal Mr Justice Sean Ryan has retired. At a special event marking his final day on the bench on 23 March 2018, his colleague Mr Justice Michael Peart paid tribute to a “truly great legal career”.

Sean Ryan was called to the Bar in July 1972, practising on the south-eastern circuit. He was subsequently appointed to the High Court bench in 2003.

His career culminated with his acceptance of the second-highest judicial office in the land – the presidency of the Court of Appeal, in October 2014.

Mr Justice Peart described him as a “wonderful colleague”, with an enduring acuity of intelligence and wit. His leadership had led to an outstanding record of achievement in the Court of Appeal.

He was a “wise human being



Mr Justice Sean Ryan has retired

for whom ordinary practical common sense is never far from the justice of any case”, Mr Justice Peart observed, since “common sense is the foundation of common law”.

He pointed out that founding

a new Court of Appeal in 2014 had been no easy task, but that Mr Justice Ryan had been the right man for the job. He had set about it with the same gusto and enthusiasm that had characterised his career at the Bar, gather-

ing a remarkable team of judges around him.

“As you depart from us today, you leave behind a legacy of outstanding public service, a large number of important judgments, burdened only with the weight of our admiration, our deep respect and our sincere admiration,” he concluded.

Law Society past-president Stuart Gilhooly, representing the solicitors’ profession, recounted his own days as a newly-qualified solicitor dealing with Sean: “He was a doyen of the Bar and one of the ‘go-to’ men in personal injury cases,” he said.

Mr Justice Sean Ryan would go down in history as the first President of the Court of Appeal, he added, and would be remembered for the courtesy, mentioned by so many, that made him a pleasure to know and work with.

CALCUTTA RUN AIMS FOR €4M TARGET

The legal profession’s charity fund-raiser, the Calcutta Run, aims to reach a cumulative total of €4 million on its 20th anniversary this May.

That’s the stated goal of Law Society President Michael Quinlan, who helped launch this year’s run in Dublin on 14 March at the offices of Mason Hayes & Curran in Dublin.

“This is a very special year for the Calcutta Run, as we celebrate its 20th anniversary,” he said. “Recent weather events have highlighted the vital work those on the front line do to assist the homeless, and the legal profession is delighted to contribute to that effort,” he said.

Event MC Gavin Duffy pointed out that no other profession had



Maura Lennon (Hope Foundation), Michael Quinlan (Law Society president) and Pat Doyle (Peter McVerry Trust)

a fund-raiser with the profile and heft of the Calcutta Run.

The launch was attended by managing partners from the top 20 firms, who have all added their

muscle to the flagship cause.

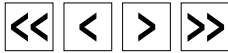
On 26 May, up to 1,500 participants will undertake a 5km or 10km route through Dublin’s Phoenix Park, with a cycling

route available in Cork. An international event, admittedly on a smaller scale, is being planned in New York.

All proceeds from the 2018 run will go towards the work of the Peter McVerry Trust and the Hope Foundation, which help the homeless in Ireland and India respectively.

Pat Doyle of the Peter McVerry Trust said: “The Calcutta Run has made a huge contribution to our work over the years and to our ability to respond to people experiencing homelessness in Ireland.”

Maureen Forrest of the Hope Foundation added: “The Calcutta Run is making an incredible difference to the children with whom we work with in Kolkata.”



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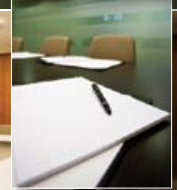
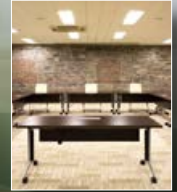
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THREE STALWARTS OF THE JUDICIARY TO RECEIVE INAUGURAL MEDAL

The inaugural Hibernian Law Medal is to be awarded jointly to Mrs Justice Susan Denham (former Chief Justice of Ireland), Lord Neuberger (former president of the British Supreme Court), and Justice Beverley McLachlin (former Chief Justice of Canada).

All three will attend a ceremony at the Law Society on 11 May and will participate in a panel discussion reflecting on

their most memorable judicial experiences.

The medal will be awarded annually by the *Hibernian Law Journal* (HLJ). Established in 1999, the HLJ is a journal coordinated by trainee and newly qualified solicitors.

Editor Glen Rogers says: “This year’s recipients were chosen on the basis of their lifelong contributions to the advancement of justice, integrity of the rule of law,



Former Chief Justice Susan Denham

independence of the judiciary and the legal professions, and public access to and understanding of the legal system, both in Ireland and in neighbouring common law jurisdictions.”

Admission to the ceremony is free, but pre-registration is essential via events@hibernianlawjournal.com or Eventbrite. For further information, see www.hibernianlawjournal.com/medal.

BREXIT SUPPORTS FOR CLIENTS – OPPORTUNITIES FOR YOUR FIRM

State departments and trade agencies currently provide a range of supports to businesses as they prepare for the departure of Britain from the EU. The advisory services and tools provided by the State may provide a useful template that can be adapted for your clients.

Full details of enterprise supports can be found at <https://dbei.gov.ie> (search for ‘which support is for you?’).

Currently, two schemes represent opportunities for firms to work with their clients in responding to the challenges and prospects ahead:

- The Intertrade Ireland ‘Start to plan vouchers’, and
- The Enterprise Ireland ‘Be prepared grant’.

As part of its Brexit Advisory Service, Intertrade Ireland provides 100% financial support up to £2,000/€2,000 (inclusive of VAT) towards professional advice in relation to Brexit matters.

The ‘Start to plan vouchers’ for professional services can

apply to legal, tax, customs, supply chain, and other cross-border requirements. Qualifying criteria for businesses include:

- The company must be a registered small business (250 employees or fewer) and have either an annual turnover of less than €50 million, or a balance sheet total of less than €43 million,
- The assistance requested must relate to a cross-border issue,
- It must be a manufacturing or internationally tradable service company.

Solicitor practices looking to join the panel of advisors are recommended to phone 048 3083 4122 or email [mark.sterritt@intertradeireland.com](mailto:sterritt@intertradeireland.com). Further details are at www.intertradeireland.com/brexit/vouchers.

The ‘Be prepared grant’ offers up to €5,000 to assist in the cost of developing a strategic response to Brexit.

It is intended to provide support to clients to use external

resources to undertake a short assignment to determine how the company could respond to the threats and opportunities of Brexit. The grant can be used to cover consultants’ fees and travel and expenses for both domestic and international employee travel.

The support might involve:

- Researching opportunities in new markets,
- Investing in innovation to differentiate and stay ahead of the competition,
- Reviewing and optimising sourcing, transport and logistic arrangements,
- Strengthening financial and currency management,
- Preparing a worst-case scenario plan, and
- Understanding customs procedures with third countries.

To be eligible, the business must be an Enterprise Ireland client that is directly or indirectly exposed to the British market.

More details are at www.prepareforbrexit.com/be-prepared-grant.

DIPLOMA CENTRE SCOOPS SILVER

The Law Society’s Diploma Centre has been awarded silver at the recent European Association Awards 2018 in Brussels. The awards recognise the elite of European associations, which are setting the standards for and on behalf of their members. The Diploma Centre received the award for its Street Law programme in the ‘Best Association Training Initiative’ category.

Accepting the award on behalf of the Society, Dr Freda Grealay (head, Diploma Centre) remarked: “We’re delighted with the recognition for Street Law and our public legal education programme, which includes Street Law Schools, Street Law Prisons, Solicitors of the Future, Solicitors in the Community, and our massive open online courses. We congratulate our volunteer PPC trainee solicitors and the transition year schools for all their hard work throughout the year, and the solicitors who were awarded the Certificate in Public Legal Education.”

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LAW SOCIETY
OF IRELAND

SPRING GALA 2018

SUPPORTING THE SOLICITORS' BENEVOLENT ASSOCIATION

Friday 27 April 2018

SHELBOURNE HOTEL, DUBLIN.



MC:
Miriam O'Callaghan
Journalist, broadcaster
and former solicitor



SPECIAL GUEST:
Oliver Callan
Star of 'Callan's Kicks', Ireland's
top impressionist and satirist



The Law Society Spring Gala returns in 2018 with a new venue – the historic Shelbourne Hotel in the heart of Dublin. This black-tie dinner is the peak event for members of the profession that raises funds for the Solicitors' Benevolent Association.

Table dinner package for 12 guests: €2,400. Individual dinner seats: €200 per person.

To book your place, visit www.springgala.ie

Gala profits will be donated to the Solicitors' Benevolent Association – a voluntary charitable organisation assisting members or former members of the solicitors' profession in Ireland and their wives, husbands, widows, widowers, families and immediate dependants who are in need.



COMPILED BY KEITH WALSH, PRINCIPAL OF KEITH WALSH SOLICITORS

SLIGO

THIRD GENERATION JOINS SLIGO FIRM

Tubbercurry firm Rochford Gallagher & Co, Solicitors, enjoyed a historic day on 28 February when Fiona Gallagher (daughter of Declan Gallagher and niece of Eamonn Gallagher – both partners in the firm) was introduced before Judge Kevin Kilrane at Tubbercurry District Court.

Fiona is the third generation of the family to work in the firm, which was established in 1944 by Eamonn P Gallagher and the late Alfie Rochford. Despite Alfie being elevated to the District Court bench several years later, the firm retained its name.

Fiona was introduced to the court by her dad Declan and was welcomed by Judge Kilrane and Treena Hever (on behalf of the



Declan J Gallagher, Fiona Gallagher, and Eamonn M Gallagher

court staff), as well as Superintendent Paul Kilcoyne (for An Garda Síochána).

Her first (successful) application before the court was for a festival club licence for the

Western Drama Festival, which this year is celebrating its 75th anniversary. Coincidentally, the late Alfie Rochford was one of the founding members of the festival.

WEXFORD

WEXFORD DELIVERS CPD

Wexford's Siobhan Dunne reports that a very successful CPD day took place at the National Heritage Park on 23 March, organised by the Wexford Solicitors' Association. Speakers included Myles Roban (dealing with business succession), Bill Holohan (the Mediation Act) and David Rowe (practice matters and the future of sole-practitioner firms). More than 45 solicitors attended.

The association aims to provide most (if not all) of the required 20 hours of CPD to its members – locally and at a competitive price. Anyone interested in speaking at these events should contact Siobhan Dunne at info@dunnelaw.ie.

DUBLIN

DON'T FEED THE GONDOLAS

This year's Dublin Solicitors' Bar Association (DSBA) annual conference will take place in Venice, the floating city, from 21-23 September. DSBA presi-

dent Robert Ryan is leading the charge to the gondolas.

Places are in high demand, so you are encouraged to book now to avoid disappoint-

ment. Contact Colette O'Malley (Marketing Initiatives Ltd) at tel: 01 866 5870 or 087 284 6366, email: colette@marketinginitiatives.ie.

CAVAN

BREAKING BREAD

Eirinn McKiernan (president, Cavan Solicitors' Association) informs us that a dinner to mark the retirement of Judge John O'Hagan of the Northern Circuit and the appointment of Judge John Aylmer was hosted by the solicitor associations of Cavan, Monaghan, and Leitrim on Friday 16 March in the Farnham Estate Golf and Spa Resort, Cavan.

MIDLANDS

UPSKILLING OPPORTUNITIES FOR MIDLAND PRACTITIONERS

The Midland Bar Association will host a four-hour afternoon CPD event on 13 April at Tullamore courthouse. Topics to be covered include solicitors' accounts and

anti-money-laundering measures (presented by investigating accountant Tim Bolger from the Law Society), stress management and self-care, sentencing trends

in criminal law, and family law developments.

Upcoming midland CPD dates for your diary include 18 May, 14 September, and 9 November.



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DOWN ON LEGAL STREET

Sixth-class children in Co Meath recently staged a hugely successful mock trial in Trim Courthouse. Local solicitor Gillian Brennan (Nathaniel Lacy and Partners) worked with teacher James Brennan to coach the children about the Irish legal system.

Gillian is a recent graduate of the Certificate in Public Legal Education run by the Law Society's Diploma Centre. This programme develops the skills of solicitors to run an effective public legal education programme in their community, based on the Street Law system of learning.

The programme aims to encourage lifelong civic engagement and break down barriers to legal education from a young age. Gillian put this into practice with Bohermeen National School, in Navan, Co Meath.

The case at Trim Courthouse last November was listed as *DPP vs Jack Jones* and it hinged on the State's bid to prosecute 'Jack Jones' for the murder of 'Arthur Giant'. Cavan solicitor Anne Dolan gave freely of her time to act as 'judge' on the day. For an



ALL PICS: COURTS SERVICE

hour and a half, both prosecution and defence 'barristers' put their case, with the aim of proving that Jack was guilty 'beyond reasonable doubt'.

The 12 'jurors' were drawn from fifth class. In the end, they delivered a unanimous guilty verdict. An appeal is pending against the 'conviction' and the





25-year prison sentence.

Gillian says: “Street Law is a fantastic initiative from the Law Society. It gave me the impetus to work with national-school children, educating them about access to justice, human rights, and the courts system in Ireland. It was a wonderful opportunity to explain to the children the role of the solicitor in our justice system. We also had fantastic support from the school and the school community and, in particular, the class teacher James Brennan.”

Mr Brennan added: “This was the stuff of dreams and something the children will never forget. I have no doubt we have some budding barristers and solicitors in the making, though hopefully no defendants!” he laughed. He thanked the Law Society for a “brilliant initiative” and the Courts Service for its “amazing support”.

Research has shown that one year of Street Law training improves critical-thinking skills by almost 25%.





A GOOD INNINGS

Ireland's opening batswoman Cecelia Joyce also fields a demanding legal career at A&L Goodbody. **Mary Hallssey** is bowled for six

MARY HALLSSEY IS A JOURNALIST AT GAZETTE.IE



I'D RATHER SOMEONE LOST 50 LEAVING CERT POINTS AND CONTINUED TO HAVE A LIFE BECAUSE, ULTIMATELY, THAT'S WHAT WE'RE HERE FOR. AND YOU GET SO MUCH JOY FROM SPORT

Ireland's opening batter Cecelia Joyce offers proof that it's possible to have a high-flying legal career combined with playing sport at international level. An associate with A&L Goodbody in Dublin, Cecelia (34) has spent more than half her life on the Irish women's cricket team and got her 100th cap in 2016.

From a high-achieving sporting family in Bray, she was first called up to the Irish squad at the age of 15 as a leg-spin bowler, with her first cap at 17.

But it's getting harder to balance sporting and professional life. Match commitments are growing as Irish cricket develops. It takes work to maintain rankings.

"When I started playing, it was a maximum of three Ireland matches a year. We're now the only team in the top ten global rankings that is not professional," Cecelia explains.

"We get some compensation for loss of earnings, depending on whether Cricket Ireland has the money, but it's not something we have agreed with them," she says.

"There is a sporting penalty. If you spend so much time playing sport, you necessarily take longer to do other things in your career. It took me longer to do exams and get qualified."

In the groove

The training commitment is huge, with two strength and conditioning gym sessions a week in

DCU, as well as a session 'grooving' her batting skills.

As well as opening the batting for Ireland, Cecelia fields on the boundary, reading the ball off the bat and anticipating its run.

Cecelia is the youngest (with her twin Isobel) in a family of nine, and her five older brothers all play. Ed Joyce is a professional cricketer, best known as the Ireland batsman who played for two different countries in successive World Cups. Ed switched to England for the 2007 World Cup, but returned to play for Ireland in the 2011 tournament.

Twin sister Isobel is a professional cricketer in Tasmania and a former captain of the Irish team who once ranked number three in the world. By contrast, eldest sister Dr Helen Joyce is the finance editor at *The Economist*.

The family's love of cricket stemmed from father James, an actuary brought up in Dublin's Liberties, who developed a love of the game in his middle years and brought his children to play and watch club matches at Merrion Cricket Club in Dublin 4.

Family game

"With cricket in this country, the people who are the most interested and involved are the ones whose families are involved. Cricket is a very time-consuming sport, and you are brought up thinking it's acceptable to spend your whole weekend at cricket," Cecelia explains.

She believes that cricket has an image problem, and she has been

subjected to snide comments in the past. "The same people slagging us for playing an 'English sport' are playing soccer and rugby!" Cecelia points out.

"Cricket did lose out a huge amount when the GAA 'foreign game' ban came in. There used to be multiple cricket clubs in the Phoenix Park, and most of them fell away – to only two now," she says.

But the game is rising in popularity, with new clubs springing up throughout the country, often driven by immigrants who love the game. The Merrion Cricket Club pro is from India this year, Cecelia says.

She feels very strongly about the pressure on young girls to focus on exams, to the detriment of participating in team sports: "To focus solely on exams is so counter-productive for life skills. If you can't study and continue to have a life, how are you going to work and have relationship, or work and have a child?" she asks. "Exercise increases brain power and memory. It's good for self-esteem, for positive body image, for integration, teamwork and general life skills.

"I'd rather someone lost 50 Leaving Cert points and continued to have a life because, ultimately, that's what we're here for. And you get so much joy from sport."

Now that she's in the workplace, Cecelia observes higher stress levels in perfectionists who feel that they should be able to 'do everything'.



THE SAME
PEOPLE
SLAGGING US
FOR PLAYING
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"I think I can manage my stress better – which, for women in my demographic, is a big problem."

Trinity pink

Cecelia studied history at Trinity, where she captained both cricket and hockey teams, and is a Trinity 'pink' – the highest honour the college awards to its athletes.

She feels strongly that the only way forward for the Irish women's cricket team is to go professional, or at least semi-pro, since the demands in terms of both preparation and recovery time are so onerous.

"It is very hard to win against teams that are better prepared. A lot has to go right for us to win. People love the underdog story, but I would prefer to be an underdog that was given the same opportunity to prepare," she says. "Sport is all about repeatable skill. It's about the percentages. How often can you

execute your skill under pressure, at the right time?"

She believes that women's sport must get more support in order for the standard to improve, which will, in turn, draw bigger crowds to games.

At A&L Goodbody, Cecelia works in commercial litigation, where Ireland hockey cap Mitch Darling is a team colleague.

"Everybody who is a solicitor knows that you work for however long the job takes. I have worked overnight before. To then turn up for a match or training and give it your all – it's just not possible."

Different kind of hard

She accepts that being a full-time athlete is "a different kind of hard". But she questions the romantic notion of women's sport as better because it's 'purer'.

"It doesn't matter how much you love the game if you can't

make it to training or can't pay your bills. Ten years ago, in terms of work/life balance, it was much easier – there was one tour a year," she says.

That balance changed when Cecelia entered the solicitors' profession in 2011 as a trainee at Arthur Cox. And, in recent years, the number of fixtures has gone up exponentially.


"I make some sacrifices, I don't go on holidays. But with the demands being put on the Irish team, it's just not sustainable. We have 50 days of cricket during work days this year, or 85 days including weekends, when availability is expected," she points out.

The huge attrition in female participation in team sports is a particular bugbear of Cecelia, as is the poor level of coverage in the media. "Every day I look at the newspapers and I see only men's sport covered,

even in papers like *The Guardian* that talk a lot about equality. It's incredible to me that I can open *The Irish Times* and four of six articles are about men's rugby. Put a woman on there!" she says.

"People read what gets covered. Children's favourite athletes are the ones they see. If you can't see it, you can't be it. I see the betterment of women in sport as a corollary of the betterment of women in society. The more respect that women get in all areas, the better it is for everyone."

As if she weren't busy enough, Cecelia is also vice-president of the newly founded Irish Cricketers' Association, which represents all those playing for Ireland in terms of welfare and contract negotiation.

And as a lawyer, Cecelia has some sage counsel: "My advice is not to get in a fight, but if you do, get good advice." 



IN-HOUSE 'GROWING LIKE TOPSY'

A whopping 81% of in-house solicitors work in Dublin, as revealed by the Law Society's latest figures on the in-house sector. Ken Murphy reports

KEN MURPHY IS DIRECTOR GENERAL OF THE LAW SOCIETY



A trend that is sweeping the legal profession world-wide is that of commercial, regulatory, and other organisations recruiting lawyers as 'in-house' practitioners. In-house solicitors are practising solicitors, just as their colleagues in private practice are. The only difference is that in-house solicitors have just a single client – their employer.

Employment as an in-house solicitor in Ireland, as distinct from private practice, was relatively rare even 20 years ago. But during the last two decades, it has become a perfectly normal and professionally respected career choice for solicitors in Ireland.

In this *Gazette*, we publish, for the first time, a table showing the 20 organisations employing the largest numbers of in-house PC-holding solicitors in the State, with the number of PCs in each case. The table shows numbers of PCs, from 11 upwards. There are, of course, a great many other organisations, too numerous to list here, with fewer PC holders.

Largest employer

Allied Irish Banks – with 108 PC holders – is, by a distance, the largest employer (that is not a law firm) of practising solicitors in the 26 counties. Indeed, if Allied Irish Banks were a law firm, it would rank as the ninth biggest firm in the State – just behind Maples and Calder at 115 PCs, and ahead of Eversheds Sutherland at 103 – as was

revealed by the table of law firm practising solicitor numbers, published on page 28 of the Jan/Feb 2018 *Gazette*.

It is striking, moreover, how many organisations in the financial services sector are major employers of solicitors.

The total number of PCs

issued to solicitors in the State, either in private practice or working in-house, on 31 December 2017, was 9,665 (as analysed on page 22 of the March 2018 issue of the *Gazette*). The table published here reveals that 1,805 of those PC-holders are working as in-house solicitors. Accord-

26-COUNTY BREAKDOWN OF IN-HOUSE PRACTISING SOLICITORS, BY GENDER

County	Male	Female	Male and female total
Carlow	0	0	0
Cavan	3	2	5
Clare	3	10	13
Cork	27	85	112
Donegal	1	6	7
Dublin	482	987	1,469
Galway	14	24	38
Kerry	7	14	21
Kildare	6	24	30
Kilkenny	3	4	7
Laois	1	2	3
Leitrim	1	0	1
Limerick	6	17	23
Longford	1	2	3
Louth	0	2	2
Mayo	3	4	7
Meath	3	12	15
Monaghan	0	3	3
Offaly	0	3	3
Roscommon	0	0	0
Sligo	2	1	3
Tipperary	2	3	5
Waterford	1	3	4
Westmeath	1	9	10
Wexford	2	5	7
Wicklow	4	10	14
TOTAL	573	1,232	1,805

These figures represent the total number of solicitors with a practising certificate in the in-house sector in the 26 counties, as advised to the Law Society, up to and including 31/12/2017

THE FACT THAT 1,232 IN-HOUSE PC HOLDERS ARE WOMEN AND 573 ARE MEN REVEALS THAT NO LESS THAN 68% OF IN-HOUSE PRACTITIONERS ARE FEMALE



IF ALLIED IRISH BANKS WERE A LAW FIRM, IT WOULD RANK AS THE NINTH BIGGEST FIRM IN THE STATE

IN-HOUSE AND PUBLIC SECTOR PRACTISING SOLICITOR NUMBERS (AS OF 31/12/2017)

2017 ranking	Corporate/public sector body	31/12/2017
1	Allied Irish Banks	108
2	Central Bank of Ireland	94
3	Bank of Ireland	58
4	Law Society of Ireland	50
5	National Asset Management Agency	40
6	State Claims Agency	35
7	Electricity Supply Board	26
8	Dublin City Council	19
9	Córas Iompair Éireann	16
10	ESB Networks Legal	15
10	Accenture	15
10	Ulster Bank	15
13	Icon	14
14	Deloitte	13
14	Zurich	13
16	AXA	12
16	Citi	12
18	Cork County Council	11
18	eir	11
18	KPMG Legal Services	11
TOTAL		588

These figures represent the top 20 in-house and public sector entities employing solicitors who hold practising certificates in the 26 counties, advised to the Law Society, up to and including 31/12/2017. (These figures do not include solicitors employed in the full-time service of the State)

ingly, rounded to the nearest percentage point, 19% of practitioners in the State practice in-house – a percentage that is ‘growing like Topsy’ every year.

Excluded from these figures is the substantial number of solicitors who are working ‘in the full-time service of the State’. Specific provisions in the *Solicitors Acts* exempt such solicitors, such as those in the Chief State Solicitors Office, from the legal requirement of all other practising solicitors to hold PCs.

Gender divergence

The distribution of in-house PC holders, on both a county-by-county and gender basis, is published here for the first time.

A whopping 81% of in-house solicitors have employment addresses in Dublin city or county. This is far higher than the total number of PCs – inclusive of private and in-house practitioners – based in Dublin, which is 63%.

In Cork, which has in total 9% of the State’s PC holders, there are just 6% of the State’s

in-house practitioners. No less than 14 of the State’s 26 counties have in-house solicitor numbers that are in single digits. Carlow and Roscommon have none.

Perhaps the most interesting of the statistics published here relates to the very considerable gender divergence between private practice and in-house practice. The fact that 1,232 in-house PC holders are women and 573 are men reveals that no less than 68% of in-house practitioners are female. Some 52% of the entire practising profession are women, but only 48% of those who are in private practice are women.

Work/life balance?

The reasons why women solicitors are choosing in-house practice, rather than private practice, to such a marked extent deserves to be studied properly. Issues to do with work/life balance are often cited in this regard, but the implications, for the future of all legal practice, of this phenomenon requires research and consideration. [g](#)



INSPECTOR GADGETS

Solicitors' practices are usually subject to an audit by the Law Society's Regulation Department every five years. **Garry Clarke** offers a practical guide to dealing with inspections

GARRY CLARKE IS A SOLICITOR WITH [LANIGAN CLARKE SOLICITORS](#) AND A MEMBER OF THE REGULATION OF PRACTICE COMMITTEE



THE BEST
ADVICE TO ANY
SOLICITOR WHO
HAS CONCERNS
ABOUT AN
INSPECTION
OR APPEARING
BEFORE THE
COMMITTEE IS
TO SPEAK TO
A COLLEAGUE
EXPERIENCED IN
DEALING WITH
ACCOUNTS AND
REGULATION

There is a certain dread that accompanies a letter from the Regulation Department of the Law Society notifying you that you are going to be subject to an inspection.

In general, a practice will be subject to a routine inspection every five years, with new firms being inspected around three years after opening. However, the Society has moved to a more risk-based approach so, for example, if your reporting accountant's report is late or qualified, or if there are complaints against you, this may trigger an inspection. Follow up inspections are also quite common.

Once you are on notice of the inspection, a certain amount of panic and action ensues to make sure you are compliant with the *Solicitors Accounts Regulations*. It is a better long-term approach, however, to ensure that your practice complies with the regulations on an ongoing basis.

The starting point of any inspection is to ensure that your books of accounts are up to date. They need to be completed and reconciled within two months of every six-month accounting period. A practice should, ideally, be reconciling the client and office account on a monthly basis. If there are deficiencies in your book-keeping, they will show up in this process, and can – and should – be addressed and rectified.

Once the investigating accountant completes the report, it will be classified as either contentious or non-contentious. A non-contentious report is precisely that. There are no issues of concern.

Contentious reports

A contentious report, on the other hand, will require you to write a letter of explanation and, if the issues raised are serious or if you do not respond, you will be requested to appear before the Regulation of Practice Committee, which comprises solicitors and a lay member, to provide an explanation of how you are addressing the issues raised.

The committee reviews the case and, if the solicitor deals with the issues to the satisfaction of the committee, the matter can be closed. The committee has the power to refer the case to the Solicitors Disciplinary Tribunal or the High Court in the case of serious issues, such as non-cooperation or a deficit in the client account.

In the majority of cases, issues are resolved, some over months. The approach adopted by the committee is proactive and can be summarised as: 'Solve the problems so we can close your case.'

The best advice to any solicitor who has concerns about an inspection or appearing before the committee is to speak to a colleague experienced in dealing

with accounts and regulation.

It is difficult to run a practice, do all the work, manage the accounts, and deal with all the regulations that operating a practice involves. We all need some help. If you are not sure what to do, take advice and get assistance. A panel of solicitors who can assist you is sent out with the call-up letter.

After the crash, many practices cut back on their staff or resources, with the result that oversight might not be as robust as it ought to be. Lack of resources in handling your accounts will cause difficulties in complying with the accounts regulations, with knock-on effects for the practice. Many solicitors practising for years, if not decades, have not kept up with the gradual changes in the regulations and are taken by surprise by the depth and rigour of an investigation.

Common problems that result in contentious reports include:

- *Poor book-keeping*: accounts are not written up to date or are not being monitored by the principal; records such as ledgers or returned client account cheques are not available. There may be debit balances or deficits in the client account or credit balances in the office account.
- *Costs*: are left in the client account undrawn for over three months.



PIC: SHUTTERSTOCK

- *Client 'inactive' or dormant balances:* there are a substantial number of client 'inactive' or dormant balances, where there has been no movement on the client account for over six months. These funds should be distributed. Where not actively managed, a practice can have substantial funds in dormant balances, which can take months and a substantial amount of work to resolve and distribute.
- *Files:* should be compliant with [section 68](#). Section 68(6) tends to cause most problems and has to be complied with, even if a solicitor/client fee is not charged. (Section 68(6) requires a solicitor to furnish to the client a copy of the bill on completion of a transaction where he gets paid by a third party, such as an insurance company.)
- *Probate files:* ensure that beneficiaries are paid without undue

delay. If there are beneficiaries in an estate who can't be located, a tracing agent should be used to locate the beneficiaries.

- *Anti-money-laundering legislation:* you must adopt policies and procedures to prevent and detect the commission of money-laundering or terrorist-financing offences. You must verify the identity of certain clients and keep records. In simple terms, you need to obtain photo ID (such as a passport) and proof of address for these clients. This is notwithstanding the fact that the client may have been a client for decades. In some circumstances, you may need to enquire about the source of funding and, in others, where a number of money-laundering red flags arise, you will need to consider whether what is being proposed is money laundering

or terrorist financing. In such circumstances, you should not proceed with the transaction, and you will need to consider your reporting obligation.

The above list is not exhaustive, but accounts for probably 80% of the issues that solicitors' practices have when inspected. Prevention is better than cure, and some active practice management can resolve most of these matters.

If you have any concerns in relation to the topics outlined above, you may consider availing of the confidential Practice Advisory Service provided by the Law Society through Outsource, which offers a 'health check' on your practice. This lasts for half a day, is a good way of checking how your practice is performing, and will give you sound advice on how best to address problematic areas in your accounts and practice management. [G](#)

MANY SOLICITORS PRACTISING FOR YEARS, IF NOT DECADES, HAVE NOT KEPT UP WITH THE GRADUAL CHANGES IN THE ACCOUNTS REGULATIONS AND ARE TAKEN BY SURPRISE BY THE DEPTH AND RIGOUR OF AN INVESTIGATION



ON PAROLE

Reform of victim input has been proposed in the *Parole Bill 2016*. But what role, if any, should victims play in decisions relating to the parole or release of an offender?

Diarmuid Griffin looks at the evidence

DR DIARMUID GRIFFIN IS A LECTURER IN LAW AT NUI GALWAY AND AUTHOR OF *KILLING TIME:*

LIFE IMPRISONMENT AND PAROLE IN IRELAND



THE AVERAGE TIME SERVED BY LIFE-SENTENCE PRISONERS WHO WERE RELEASED BACK INTO THE COMMUNITY OVER THE LAST DECADE WAS 18.5 YEARS

Victim input in criminal justice decision-making has become a matter of increasing focus in many countries, as systems respond to the concerns of the victims' movement and the need to provide a greater role for victims in the criminal justice process.

Perhaps the most significant procedural development has been the adoption of victim-impact statements at sentencing. While this is now a widely accepted practice in many countries, what role, if any, should victims play when it comes to decisions relating to the parole or release of an offender back into the community?

With reform of victim input being proposed in the *Parole Bill 2016*, it is important to examine this aspect of sentence administration.

Unlike victim-impact statements, there is little by way of settled practice on victim input in parole decision-making. Victims' rights can include the right to information, the right to be heard, and the right to be present at parole hearings.

The provision of information regarding release at the request of the victim is common practice in many countries. The right to be heard and the right to participate, however, are far more contentious.

Victim input, in the form of a written or oral statement presented to a parole authority is

permitted in the United States, England and Wales, and Canada. Many European countries, such as Belgium, Finland and Sweden, do not allow victims to input into the process.

Research on the impact of written and oral submissions by victims on parole outcomes is limited, but evidence in the US indicates that there is a correlation between victim participation and parole denials.

Ministerial discretion

In Ireland, there are various mechanisms for releasing offenders back into the community, most of which do not afford the space for victim input, due to the procedure of release. However, there is space for victims to have a role in the parole process, which deals with those serving lengthy determinate sentences, or sentences of life imprisonment.

A person eligible for this process may be released on parole (or full temporary release) at the discretion of the Minister for Justice following the advice of the Parole Board. The *Criminal Justice (Victims of Crime) Act 2017* provides that a victim may request to be informed on the release of an offender, as well as any conditions pertaining to the offender's release.

Provision of information on release can be helpful and positive, but it can also cause undue concern regarding early release,

particularly in relation to life-sentence prisoners.

Life-sentence prisoners, most of whom have been convicted of murder, are eligible for review and release having served seven years in prison. But in reality, they will not be released until many years later. The average time served by life-sentence prisoners who were released back into the community over the last decade was 18.5 years.

Serious anxiety

The impact of being informed at the seven-year stage, when there is no realistic prospect of release, can cause serious anxiety and concern to a victim's family members.

This was acknowledged by a member of the Parole Board who participated in a study that I conducted on parole decision-making: "Victims hear that Joe Bloggs is up for review after seven years, and they'll say: 'What? He just killed my daughter seven years ago, and now they're reviewing him.' That puts them through torture. Now, we know that the likelihood in that probable case is that person's not going to get out for another seven years."

In addition to the information from official agencies, the Parole Board receives letters from victims and victims' families. The Parole Board has stated that these letters are "seriously considered" when making a decision.



The board and various ministers, however, have also stated that their primary consideration is the risk of reoffending on release. They receive information on risk assessment from the Probation Service and the Prison Psychology Service.

Can a system primarily focused on risk assessment be reconciled with taking victim input into consideration in decision-making? For example, a victim may express a view that the offender should be released back into the community, but this view may be inconsistent with the information available to decision-makers that the offender is at a high risk of reoffending.

Alternatively, a victim may express the wish that the offender continue to be detained. This may be inconsistent with the information available that the offender is at a low risk of reoffending.

The *Parole Bill* proposes to place the Parole Board on a statutory footing, remove the minister from the decision-making process, and create criteria for the purpose of decision-making, which is to be focused primarily on considerations of public protection.

Significant role

The bill also provides for the board to receive written submissions from victims and, where a hearing is held and it is considered necessary, the victim may attend and make oral submissions. The victim may also be permitted legal representation for the purpose of the hearing. Curiously, the bill does not refer to victim input from family members where the victim has died as a result of the offence.

The bill proposes to provide a significant role for victims in parole decision-making, but there are real concerns as to

whether victims should be permitted to input to a sentence at its end-stage.

Ultimately, victim input raises questions about what effect victims should have on parole outcomes. Victim support and the provision of information is accepted practice in most jurisdictions, but verbal and written submissions are a cause for closer scrutiny.

States that permit victim input at parole hearings tend, also, to be characterised by punitive policies on criminal justice generally. It is important that the reforms adopted strike the balance between supporting victims and victims' family members, with a system that provides a rational and clear basis for release or further detention, based on objective criteria.

Perhaps focusing on factors such as the risk of reoffending and public protection is the best way to ensure the protection of victims and the public at large. [E](#)

THE IMPACT OF BEING INFORMED AT THE SEVEN-YEAR STAGE, WHEN THERE IS NO REAL PROSPECT OF RELEASE, CAN CAUSE SERIOUS ANXIETY AND CONCERN TO A VICTIM'S FAMILY MEMBERS



BREAKING THE SILENCE

‘#MeToo’ has been the great enabler in the absence of proper systems for checking abuse and dealing with harassment, argues **Noeline Blackwell**

NOELINE BLACKWELL IS CHIEF EXECUTIVE OF THE DUBLIN RAPE CRISIS CENTRE AND IS A NON-PRACTISING SOLICITOR. SHE IS A CONSULTANT TO THE LAW SOCIETY'S HUMAN RIGHTS COMMITTEE



PICTURE: SHUTTERSTOCK

in the sights of those testaments; for a system that just doesn't know what to do.

If our systems for checking abuse and harassment worked, #MeToo would never have happened. The dam would have had a sluice gate to allow people to report sexual transgressions. Those accused of the harassment would have been heard. There would be a just outcome and effective remedy.

A SOCIAL MEDIA CAMPAIGN FILLED THE SPACE, WITH ALL ITS BENEFITS OF REACHING PEOPLE WHO HAD BEEN DENIED THEIR RIGHTS FOR TOO LONG

Since October 2017, saying ‘#MeToo’ has enabled millions of people, some for the first time, to name the sexual harassment and abuse to which they had been subject. It has created a significant shift, moving from a norm of not reporting harassment, of blaming oneself, and only admitting it in safe spaces – of which there were precious few. Family, work colleagues or friends were not always safe. In fact, they often constitute the main advisors of silence and getting on with life.

Because of #MeToo, it has dawned on many that their experiences of sexual abuse and harassment are neither isolated nor unique. They have been able to report their experiences into a receptive, or at least a neutral space, rather than the previously normal negative one, where the default response was to enquire what the victim did to invite the attack. For many, #MeToo has broken the silence. It has expanded the safe spaces.

I am writing about this following a discussion between my colleague and friend Kieran Cummins and me at a Law Society Human Rights Committee meeting, where he raised his unease about the lack of due process on social media for those accused of harassment. I responded, highlighting the value to so many of being able to finally name the wrong done to them. Our articles continue the discussion.

Bursting the dam

I liken the #MeToo phenomenon to a dam. Before it roared into life in October 2017, many of those who suffered sexual harassment felt sealed behind the dam walls, required to stay isolated and silent.

#MeToo pressure from those who had put up with too much burst the dam. And the sheer energy of the release is somewhat terrifying for all concerned – for those who are testifying to harms long repressed and opportunities denied; for those who will be

Filling the space

But that system wasn't there. A social media campaign filled the space, with all its benefits of reaching people who had been denied their rights for too long, and brought its attendant risks of publication without proper caution.

The answer cannot be to shut down or deny the importance of #MeToo. That it is needed will be obvious to many readers of the *Gazette* who will know from their work and personal lives that sexual harassment continues to be a real and prevalent consequence of the abuse of power.

Rather than close down the conversation, we need to build better systems to report and investigate sexual harassment and abuse, and to provide effective hearings and remedies. That, in turn, will build a better, safer, society – which benefits us all.

Anyone affected by these issues is welcome to contact the Rape Crisis Centre's national 24-hour helpline at: 1800 778 888.



'TIME'S UP' FOR #MeToo

Kieran Cummins argues that the #MeToo movement is not justice; rather, it is retribution

KIERAN CUMMINS IS DIRECTOR OF ECO ADVOCACY AND IS A MEMBER OF THE LAW SOCIETY'S HUMAN RIGHTS COMMITTEE

There has been much coverage of the #MeToo movement in recent times. Any reasonable person would condemn the behaviour of people like Harvey Weinstein. However, what started out as a debate about sexual violence has developed into an ugly form of McCarthyism. Public accusations and character assassination are commonplace against named individuals who find themselves labelled as sex offenders without the well-developed legal concepts of due process, a right of reply, a formal opportunity to defend themselves, and the presumption of innocence.

Viral campaign

The #MeToo movement was originally a campaign to promote "empowerment through empathy" among women of colour who have experienced sexual abuse, particularly within underprivileged communities, and which was created by Tarana Burke in 2006. It spread to Afghanistan, where it is estimated that 90% of women suffer sexual harassment. On 15 October 2017, actress Alyssa Milano encouraged spreading the phrase as part of an awareness campaign – it then went viral.

The related 'Time's Up' movement was founded on 1 January 2018 by Hollywood celebrities in response to the 'Weinstein effect' and #MeToo. As of February 2018, it has raised \$20 million for its legal defence fund and gath-



PICTURE: SHUTTERSTOCK



ered over 200 volunteer lawyers.

Should an attempt be made by a prosecution team in a criminal trial to produce a #MeToo claim as evidence, there is a very real possibility that the judge would direct a jury that all such evidence be deemed inadmissible because of excessive, prejudicial, pre-trial publicity. Indeed, it is likely that defence lawyers would argue that their clients would be unable to get a fair trial in circumstances where there has been such adverse publicity about their client, and that the selection of an impartial jury would be impossible. A trial would likely collapse.

Loose talk

On the civil end of the scale, social media chat is essentially loose talk, where there is little concern for accuracy, due process, or a right of reply. Furthermore, once something is published online, it is very difficult to completely remove such content. Moreover, there is also a lack of a clear iden-

tification of a publisher, meaning that the laws of defamation are difficult to engage.

A paper published in the journal *Science* recently found that false news spreads 20 times faster than real news on Twitter.

The #MeToo movement has been responsible for calling out men for anything from gross predatory behaviour to infringements of a *de minimis* nature. There are no legal definitions and no tests in 'trial by social media'.

The Economist recently published a survey suggesting that, in the US, 18% of 18-year-old girls regard being asked out for a drink as sexual harassment. One quarter of 18-year-old boys thought the same. Over one-third of those polled ranging in age from 18 to 30 (male and female) said a man 'commenting on attractiveness' would 'always' or 'usually' be a form of sexual harassment.

The #MeToo movement is not justice; it is retribution. Two wrongs don't make a right.

#METOO IS NOT IN THE INTERESTS OF VICTIMS EITHER, AS WITHOUT THE PROTECTION OF THE COURTS, SPEAKING OUT IN PUBLIC IS FRAUGHT WITH RISKS



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DIVINING A CLAIM TO TITLE

From: Noreen Maguire, Maguire Muldoon Solicitors, Clonskeagh, Dublin 14

Dealing with Irish banks has become increasingly frustrating. Following the recession, they made many of their ‘old-timers’ redundant, meaning that we now have a whole bunch of ‘newbies’ to deal with. The result? They don’t always have the experience to take a practical viewpoint! I stumbled upon the following recently (most likely an urban myth), which deals with a lawyer’s experience in the United States, but caused me to reflect on our situation here.

Rebuilding New Orleans after Katrina often led to residents being challenged to prove home titles going back hundreds of years. Over two centuries, houses were passed along through generations of families, sometimes making it quite difficult to establish a paper trail of ownership.

A lawyer sought a Federal Housing Administration (FHA) rebuilding loan for a client. He was told that the loan would be granted upon submission of satisfactory proof of ownership of property, as it was being offered as collateral. It took the lawyer three months, but he was able to prove title dating back to 1803. After sending the information to the FHA, he received the following reply:

“Upon review of your letter adjoining your client’s loan application, we note that the request is supported by an Abstract of Title. While we compliment the able manner in which you have prepared and presented the application, we must point out that you have only cleared title to the proposed collateral property back to 1803. Before final approval can be accorded, it



will be necessary to clear the title back to its origin.”

The lawyer responded:

“I note that you wish to have proof of title extended further than the 206 years already covered in the present application. I was unaware that any educated person in this country, particularly those working with real property, would not know that Louisiana was purchased by the United States from France in 1803, the year of origin of title identified in our application.

“For the edification of uninformed FHA bureaucrats, the title to the land prior to US own-

ership was obtained from France, which had acquired it by Right of Conquest from Spain. The land came into the possession of Spain by Right of Discovery made in the year 1492 by a sea captain named Christopher Columbus, who had been granted the privilege of seeking a new route to India by the Spanish monarch, Queen Isabella.

“The good Queen Isabella, being a pious woman and almost as careful about titles as the FHA, took the precaution of securing the blessing of the Pope before she sold her jewels to finance Columbus’ expedition.

“Now the Pope, as I’m sure you may know, is the emissary of Jesus Christ, the Son of God, and God, it is commonly accepted, created this world. Therefore, I believe it is safe to presume that God also made that part of the world called Louisiana. God, therefore, would be the owner of origin, and His origins date back to before the beginning of time, the world as we know it, and the FHA. I hope you find God’s original claim to be satisfactory.

“Now, may we have our reconstruction loan?”

The loan was immediately approved.

VACATES OF CHARGE

From: Michael G Shiel & Co, Solicitors, Letterkenny, Co Donegal

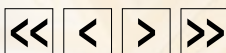
I recently encountered major difficulty in obtaining a discharge of a mortgage, now owned by Promontoria (Oyster) DAC. Essentially, this mortgage was originally taken by my client with Ulster Bank, but the bank sold this particular mortgage on to Promontoria, who are, I believe, a US-based vulture fund.

Despite my discharging the full mortgage quite some time ago, Promontoria have yet to provide a sealed vacate of charge, as they continually write to us seeking further personal information and details regarding both the vendor and the purchaser.

Thankfully, I have the cooperation of the purchaser’s solicitor, but only for that cooperation, I

would not be in a position to provide Promontoria with the purchaser’s details requested.

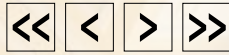
This letter is to warn colleagues that, in the event you are dealing with Promontoria, I would countenance you to be extremely careful before you provide an undertaking to provide a sealed discharge, as Promontoria are proving very difficult to deal with.



TOP *dogs*

The US has pioneered the concept of ‘courthouse dogs’ – specially trained facility dogs that are allowed to accompany vulnerable witnesses in court as they testify. **Patricia Hynes** goes walkies

PATRICIA HYNES IS A PRACTISING SOLICITOR WITH FITZGERALD SOLICITORS, CORK, AND IS A MEMBER OF THE LAW SOCIETY'S HUMAN RIGHTS COMMITTEE





On 22 February 2018, the Victims' Rights Alliance and the Irish Council for Civil Liberties launched a new guide on the EU *Victims Directive* and the *Criminal Justice (Victims of Crime) Act 2017*. This guide was aimed at anyone working with victims in the justice system. Maria McDonald BL, of the Victims' Rights Alliance, commented when launching the guide that the intention was to open up discussions on innovative ways to protect victims as they encounter possibly traumatic difficulties in the legal system.

She cited the example from Britain, where child victims of serious crimes are allowed to bring toys or pets into the witness box with them. And in the US, she noted the use of specially trained dogs being allowed to accompany vulnerable witnesses as they testified.

Dog day afternoon

In Seattle, Washington, USA, Ellen O'Neill-Stephens, a retired deputy prosecuting attorney (who I am proud to call my cousin) noted with interest the introduction on 27 November 2017 of the *Criminal Justice (Victims of Crime) Act 2017*. She received her bachelor's degree in sociology and was a juvenile probation officer before entering law school.

The Courthouse Dogs Foundation and the development of its model in the US was cofounded by Ellen and Dr Celeste Walsen in 2008. Dr Walsen has a doctor of veterinary medicine degree and a BA in psychology.

Ellen's son Seán and his service dog Jeeter were the inspiration for what was to become the Courthouse Dogs Foundation. She first started bringing Jeeter to juvenile court in King County, Seattle, in 2003 on a part-time and unofficial basis. She saw first-hand how the dog's presence relaxed everyone in the courtroom. Word of how he lessened tensions

COVER STORY



AT A GLANCE

- The mission of the Courthouse Dogs Foundation is to promote justice with compassion through the use of professionally trained courthouse facility dogs to provide emotional support to everyone in the justice system
- The foundation envisions a world where a facility dog can be made available to every courthouse in order to provide emotional support to anyone in need during stressful legal proceedings

spread throughout the prosecutor's office.

One day, Ellen was approached by a deputy prosecutor who relayed to her the difficulties he was having prosecuting a father on charges of first-degree rape of a child and first-degree child molestation of his twin daughters. The prosecutor commented: "The twins won't talk to me."

Ellen, Seán and Jeeter paid a visit to the girls, who instantly bonded with the dog. As a result, the prosecutor was able to interview the girls in the presence of Jeeter. However, when the twins saw their father in the courtroom where they were to testify against him, they both broke down and cried.

With permission from the judge, Ellen brought Jeeter into court. One of the girls was hesitant to describe where she was inappropriately touched by her father, but she did so by reference to Jeeter's body parts. The girls were interviewed some seven years later, when they were aged 16, by Christine Clarridge, a reporter from the *Seattle Times* for her article 'Courthouse dogs calm victims' fears about testifying'.

When asked about what they recalled about being molested and the subsequent court hearing, they immediately recalled a dog named Jeeter, and replied, "I remember him drinking out of the sink in the bathroom and thinking that was awesome," while the other said: "I remember Jeeter slobbering on me."

For their mother, that was the ultimate testament to the role King County's first courthouse dog played in her daughters' emotional recovery since their sexual abuse. She said: "Their memories, which could have been so graphic, are limited. Jeeter gave the girls a chance to get over an ugly situation. Victims in every county in every state deserve the same opportunity."

With the aid of Jeeter, a golden retriever/lab mix, the twins in 2004 became the first victims of crime in the US to testify at a trial with the aid of a facility dog. The term 'courthouse dogs' was coined to describe dogs that assist legal professionals in the investigation and prosecution of crimes.

Deputy dawg

In the US, 'facility dogs' are a type of assistance dogs that have been trained by an assistance dog organisation, which is a member of *Assistance Dogs International* (ADI). ADI is a non-profit organisation that sets the highest standards for the training and placement of these dogs. It certifies that the dog and handler teams will not create a public hazard.

Facility dogs differ from service dogs in that they do not assist people with disabilities, and don't have public access. Facility dogs are assigned to institutions rather than individuals. They assist professionals by improving the quality of their work. In the legal system, such dogs are placed with professional handlers and work with victim advocates, forensic interviewers, law enforcement officers, and assistant district attorneys.

COURTHOUSE DOGS PROVIDE COMFORT AND REASSURANCE TO CHILDREN AND VULNERABLE VICTIMS, ALLOWING THEM TO OPEN UP ABOUT WHAT HAPPENED TO THEM AND GIVE EVIDENCE AT TRIAL



Ellen O'Neill-Stephens with Jeeter – the world's first courthouse dog

Each dog comes to its handler with about two years of training. The dogs live with their 'owner' handlers and accompany them to work each day. In addition to the primary handler, there may be one or two others who are trained to work with and care for the dog when the primary handler is unavailable.

There are distinct differences between facility dogs and 'pet therapy dogs'. The latter have usually gone through training with their owners to provide comfort to a variety of people. Their use is not recommended by the Courthouse Dogs Foundation, since therapy dogs (normally registered with therapy dog organisations) require minimal training and little or no oversight of the dog/handler team.

Although pet-therapy dog owners are well-meaning, they can unknowingly become witnesses if a victim discloses information about a crime to them. They may also become emotionally traumatised by being exposed to another person's suffering and could inadvertently, through their actions, create grounds for a mistrial or an issue on appeal.

Providing services to vulnerable people involved in stressful legal proceedings is regarded as 'mission-critical' work, so only

professionally trained dogs and handlers should be involved in this process.

The Courthouse Dogs [website](#) was launched in 2008 to set about informing members of the public and legal professionals about the

benefits of courthouse facility dogs and their role in the legal system.

Training programmes are available for attorneys, child advocacy centres, and other legal professionals in order to develop a

Q FOCAL POINT

RESEARCH BASIS

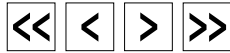


It is acknowledged that the process of a victim giving evidence can be a traumatic experience. The emotional state of a victim may affect their ability to participate in the legal process. It is also well accepted that scientific evidence shows that dogs **reduce stress** in people.

Furthermore, in March 2017, the journal of the American Academy of Pediatrics published a policy statement entitled '**The child witness in the courtroom**'. They said that "studies have established clearly that children experience anxiety surrounding court appearances, and that the main fear is of facing the defendant. Other fears

include being hurt by the defendant, embarrassment about crying or not being able to answer questions, and going to jail. The more frightened a child is, the less he or she is able to answer questions."

The journal noted: "To decrease the stress experienced by children appearing in courts, various accommodations were developed, ranging from allowing children to hold comforting objects to being accompanied by a support person while testifying". They further noted: "Recently, specially trained facility dogs have been allowed to offer comfort for witnesses."



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Finin O'Brien, Solicitor
GDPR issues for Fiduciaries

Marie Bradley, Bradley Tax Consulting
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best-practice model throughout the US, and subsequently in Canada and Chile. This led to the founding, in 2012, of the non-profit organisation, the Courthouse Dogs Foundation.

Dog eat dog

There have been challenges to the practice. Mr Timothy Dye appealed his 2010 burglary conviction in King County Superior Court on the grounds that allowing a dog to sit with a disabled victim during the trial unfairly “presupposed to the jury the very victimhood of the complainant”.

The appeals court ruled unanimously that the dog’s temporary presence did not create a bias. “It’s a loaded situation,” said attorney Jan Trasen, who handled Dye’s appeal. “The defendant is supposed to have a presumption of innocence, and the jury is supposed to reserve judgment, but then you have an alleged victim testifying with the most beautiful, well-trained dog you have ever seen.”

However, Ellen O’Neill-Stephens said that the court ruling came as no surprise. Her view is that a correctly trained facility dog is legally neutral. She further holds that the dog does not take sides and provides unconditional love and acceptance to anyone who wants it. In addition, facility dogs are trained to lie quietly on the floor of the witness box and are out of sight of the jury. Since then, ten appellate courts in the US [have reviewed this issue](#), and all have affirmed the practice, once certain conditions are met.

Paws for thought

Testament to the success of the Courthouse Dogs model is the fact that there are now over 180 courthouse facility dogs working in the United States, Canada and Chile. Six states across the US have enacted legislation that permits facility dogs to provide this accommodation to testifying witnesses under certain circumstances. Most recently, on 7 February 2018, the Association of Prosecuting Attorneys (a US national association dedicated to supporting and enhancing prosecutors in their efforts to create safer communities) resolved to support the use of facility dogs as a model practice for providing quiet companionship to vulnerable individuals during the investigation and prosecution of crimes and other stressful legal proceedings.



Courthouse dogs may be useful, but cats will judge you

The groundbreaking contribution of the Courthouse Dogs Foundation has been recognised by the following awards:

- Finalist in the competition for the ‘Successful Innovating Justice Award’ at the Hague Institute for the Internationalisation of Law in 2013,
- ‘Victims’ Rights Partnership Award’ from the National Crime Victim Law Institute in the US in 2014, and
- The Paul H Chapman Award 2017 for ‘Significant Contribution to the Improvement of Justice in America’.

Courthouse dogs provide comfort and reassurance to children and vulnerable victims, allowing them to open up about what happened to them and give evidence at trial. The mere presence of the dogs, which are trained to unobtrusively interact with humans, can put frightened people at ease and help allay the reluctance some children and victims experience when discussing traumatic experiences (see panel, p39).

In 2011, Scott Burns, executive director of the National District Attorneys Association (which passed a resolution supporting the use of court facility dogs), commented: “If a victim or witness shuts down on the witness stand, the system has failed everyone.”

While assistance dogs are an integral part in the daily lives of many people in Ireland, the role of assistance and therapy dogs in the area of education, nursing homes, and the prison service largely goes under the radar. The use of courthouse facility dogs to support victims of crime is not presently a feature of the Irish court system. [G](#)

LOOK IT UP

WEBSITES:

- <https://courhousedogs.org>
- <https://courhousedogs.org/legal/appellate-case-law/>

LITERATURE:

- Christine Clarridge, ‘Courthouse dogs calm victims’ fears about testifying’, *Seattle Times*, 22 September 2012
- Robert H Pantell, ‘The child witness in the courtroom’ (policy statement, Committee on Psychosocial Aspects of Child and Family Health, *Pediatrics*, American Academy of Pediatrics, March 2017, vol 139, issue 3)



See, DPO

In case you hadn't heard, the GDPR is coming! **Eoin Cannon** and **Siobhán Coen** look at the duties of data protection officers, when they're needed, and who should be appointed to the role

EOIN CANNON IS A DUBLIN-BASED BARRISTER. SIOBHÁN COEN IS A DATA PROTECTION SOLICITOR WITH AIB



The *General Data Protection Regulation* (GDPR) comes into effect in May. It has been estimated that the regulation will require the appointment of 28,000 data protection officers (DPOs) Europe-wide. The role of the DPO has been described as a cornerstone of the principle of accountability that is at the heart of the GDPR, and it is a requirement to hire a DPO in certain situations (article 4).

The failure of a data controller to comply with the requirements surrounding DPOs leaves them open to heavy potential fines under the GDPR – which are substantial: up to €10 million or, in the case of an undertaking, up to 2% of the total worldwide annual turnover of the preceding financial year, whichever is higher.

While certain specific functions may be outlined in the as yet-to-be enacted *Data Protection Bill 2018*, the role is clearly detailed in the text of the GDPR.

Do I need a DPO?

While there may be some additional specific measures that may be stated as requiring a DPO in the *Data Protection*

Bill when enacted, the GDPR outlines that most public sector bodies will be required to appoint a DPO where they are a controller of personal data, as will private bodies that are acting as controller of personal data where processing involves regular and systematic monitoring of individuals on a large scale or the processing of 'special categories' of personal data. Where a body is a processor, it may be obliged to appoint a DPO also.

A single DPO can be appointed in respect of an undertaking. This should take account of the scale and size of the

organisation and its processing operations. Where an organisation is operating in several member states, the DPO will need to have knowledge of the different data protection rules applying in each member state. The member state legislation that will implement the GDPR will introduce variances in the law. For example, the 'digital age of consent' for children will differ between the member states.

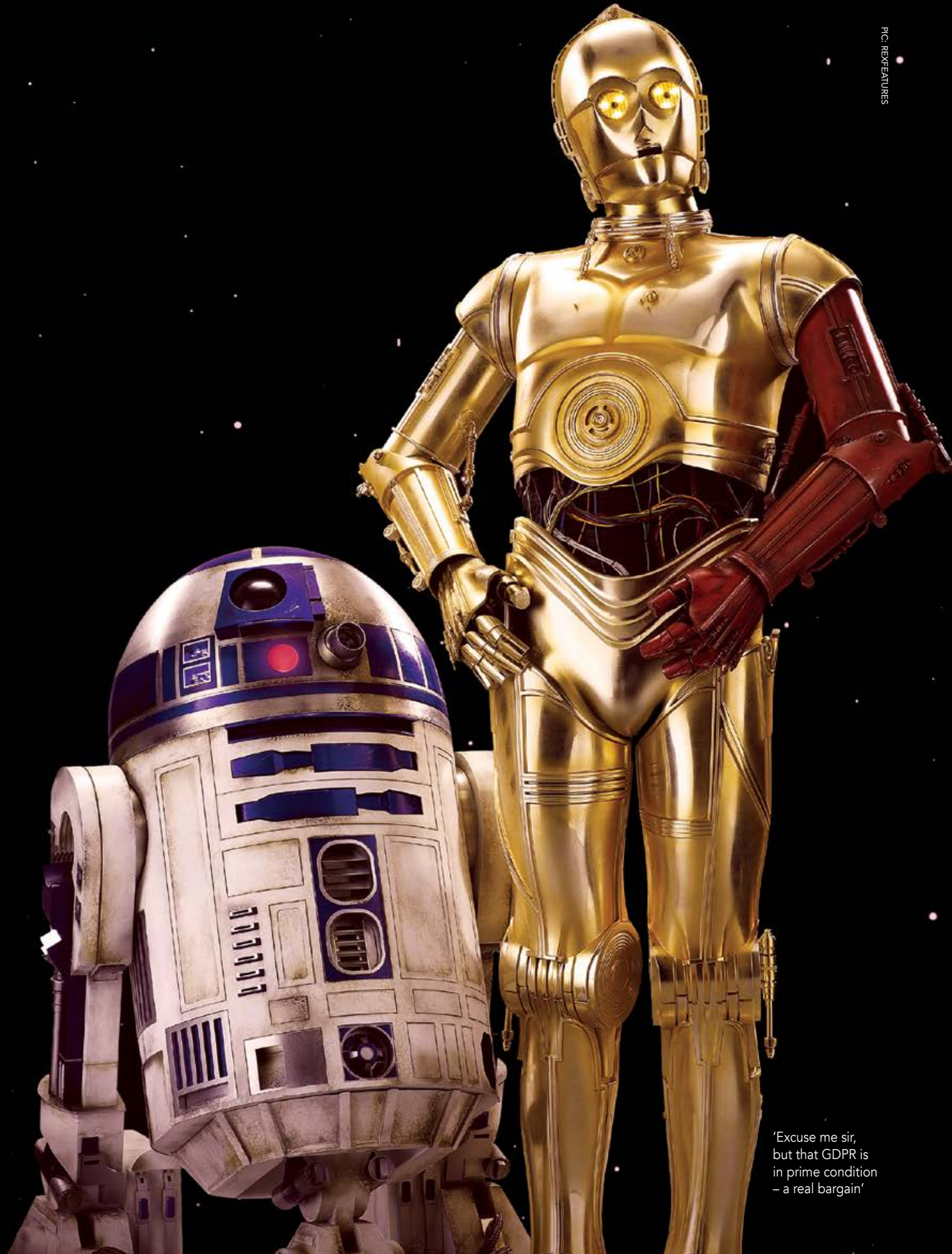
Organisations may also appoint a DPO on a voluntary basis and may choose to do so as a means of improving customer confidence and organisational practice. However, care should be taken, as assigning the

≡ AT A GLANCE

- The GDPR seeks to standardise data protection law across Europe, and through the threat of large fines seeks to have these laws taken seriously
- Data protection officers are envisaged as a central cog in all of this
- It has been estimated that the GDPR will require the appointment of 28,000 data protection officers across Europe



PICTURE: REKFEATURES



'Excuse me sir, but that GDPR is in prime condition – a real bargain'



title of DPO will lead to the organisation assuming the statutory obligations associated with a DPO under the GDPR.

What does the DPO do?

In short: communicate, advise, guide, represent, record.

The purpose of a DPO is to assist an organisation in monitoring internal compliance with the GDPR. The DPO will be a key individual in an organisation's data governance structure and will enable compliance through the implementation of accountability principles. The DPO will act as a mediator between an organisation and key stakeholders, such as the supervisory authorities and data subjects.

There is a mandatory list of tasks for which the DPO is responsible, outlined in article 39 of the GDPR, and these have been echoed in the *Data Protection Bill*. These tasks may be distilled into the following categories.

Firstly, the role is advisory to those parties that matter – the controller and processor – but this also includes any employees processing data.

There is also an educational aspect in what is referred to as 'awareness raising' and training of relevant staff (see article 39(a) and (b) and section 32 of the bill).

A DPO must provide advice in relation to a data impact assessment and monitor this, where appropriate, giving guidance to processors and controllers of personal data and helping them to identify, grade and avoid risks associated with data processing (GDPR article 35(2) and 77).

A DPO is required to cooperate with the Data Protection Commissioner and is to act as a contact point on behalf of controllers and processors, should the need arise. It would appear that this aspect would present



'Data Protection' Bill: "We're doomed!"

a potential conflict, with the need for confidentiality between the DPO and their employing body, as outlined in article 38.

A DPO should also be consulted should a data breach occur and, once appointed, they must be accessible for all who may wish to contact them – including data subjects (articles 38(4) and 39). Controllers and processors should publish the details of a DPO role to this end (article 37).

While there is a requirement in article 30 that the data controller maintain a record of processing activities or operations, it is suggested that this be done by the DPO on their behalf in order to aid their position as the 'point person' for a controller/processor should they be required to engage with the Data Protection Commissioner and cooperate with them (Article 29 Working Party *Guidelines on Data Protection Officers*, p18).

Employers' duties

An employing body must "actively support the role, including sufficient time being allocated to a DPO in the performance of their duties; they are not to receive instruction in relation to their tasks by either controller or processor, and must not be 'dismissed or penalised' in the performance of their tasks (article 38 GDPR).

The DPO must be adequately resourced to perform the role and be provided with additional training as required. This does not diminish the need to appoint a suitably qualified person, but rather facilitates a DPO who may require additional training to perform specific tasks as the law evolves.

Who to appoint?

Careful consideration should be given to choosing the individual who will fulfil the role of the DPO. The GDPR is not prescriptive in relation to the necessary experience of a DPO, stating that a DPO "shall be designated on the basis of professional qualities and, in particular, expert knowledge of data protection law and practices, and the ability to fulfil the tasks referred to in article 39" (article 37). The necessary level of expert knowledge should be designated in accordance with the tasks that are set out to be performed.

To underscore the importance of the role within the organisation, the DPO must report to the highest management level of an organisation (such as the board of directors). The level of expertise will vary, depending on the complexity of activities in relation to data that an organisation is carrying out. The DPO should have a deep understanding of the organisation's activities and the industry in which it operates. The more complex and unusual the area, the more specialist the expertise required. This would lead most organisations to appoint a person who already works within their ranks to the position of DPO as a means of capitalising on their experience of a body's structure and practice.

DPO as an in-house role

The solicitor who assumes the dual position of in-house solicitor and DPO was discussed at the Law Society's 2017 conference for in-house solicitors in the private and public sectors (December 2017 *Gazette*, p26). The decision as to whether an in-house solicitor should assume an appointment as a DPO must be considered on its merits in every individual situation.

Consideration has to be given to the scale of an organisation, its processing activities, and the existing role and functions of in-house counsel when determining whether the independence of a DPO can

“THE FAILURE OF A DATA CONTROLLER TO COMPLY WITH THE REQUIREMENTS SURROUNDING DPOs LEAVES THEM OPEN TO THE HEAVY POTENTIAL FINES UNDER GDPR



be maintained. One of the main benefits of having someone working in-house is that, especially if they have worked in an organisation for some time prior to appointment, they are likely to have a unique understanding of the workings of that organisation, leaving them in a better position in which to advise.

However, the role may become challenging, as one may be placed in the difficult position of having to self-audit one's decision-making as in-house counsel against the role of the DPO. It is likely to prove impossible to separate one's thought-processes and decisions for each distinct role. If in-house counsel is performing a dual role and seeks to rely on professional privilege, the non-legal aspect of the role may cause a loss of professional privilege.

In short, the role should not be undertaken if it cannot be adequately fulfilled. Although a DPO cannot be held personally liable under the GDPR, there is the risk of reputational damage if one is the DPO of a non-compliant organisation. Some in-house practitioners may consider the role of the DPO as a specialised legal area, which they wish to focus on as a standalone role.

It is further the case that, while someone may be given the task of DPO along with other duties, article 38(6) of the GDPR outlines that the other duties cannot be incompatible with their DPO functions. A clear conflict of interest arises where a DPO also takes the role of data controller. Examples of roles that would conflict with a DPO's duties were outlined by the Article 29 Working Party: chief executive officer, chief

operating officer, chief financial officer, chief medical officer, head of marketing, head of human resources, and head of IT.

An independent DPO

The manifestation of the role of a DPO as outlined by the GDPR may also lie in a person or body separate to the organisation that they are overseeing. In this context, even with large organisations with complex structures, while it may be of benefit to have a person or persons who are working experts on data protection within the organisation, the final say on compliance with the regulation may best be taken by someone at a remove, giving a detached view. Further, many organisations are not going to need a full-time DPO and will simply be happy to have the role filled on a part-time basis.


The main benefit would be that independence will act as protection for both employer and DPO, shielding the latter from undue pressure to crowbar their analysis of data protection concerns into the desires of management. The clear weakness of the independent DPO is that they may only be as useful as the information they are supplied with, should they not have a complete understanding of the organisation that they oversee.

Let the Wookiee win

The GDPR does not reinvent the wheel in relation to data protection law. However, what it does is to attempt to standardise data protection law across Europe and, through the threat of large fines, seeks to have these laws taken seriously. A DPO is envisaged as a central

cog in all of this, a role that encompasses many different skill-sets and demands a high degree of independence in discharging its function.

A DPO is responsible for consultation with data subjects and educating a workforce, but must be at a remove from its employer to ensure compliance with the GDPR and enable the role as a go-between in any exchanges with the Data Protection Commissioner should the need arise. This independence applies regardless of whether they are an employee or employed on a contract-for-services basis.

Employing bodies have a choice as to what form the appointment of a DPO is to take: whether it is possible to maintain adequate levels of independence while working in-house, or whether an external DPO will have the requisite insight to complete their duties. This choice must be addressed on a case-by-case basis. The resulting success or lack thereof will likely depend very much on the attitude of the employing body involved, as much as the work of the DPO appointed, in whatever capacity that may be. 

LOOK IT UP

LEGISLATION:

- [General Data Protection Regulation](#)
- [Data Protection Bill 2018](#)

LITERATURE:

- [Law Society Gazette, December 2017, p26](#)
- [Article 29 Working Party, Guidelines on Data Protection Officers](#)





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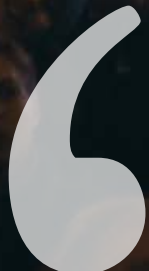
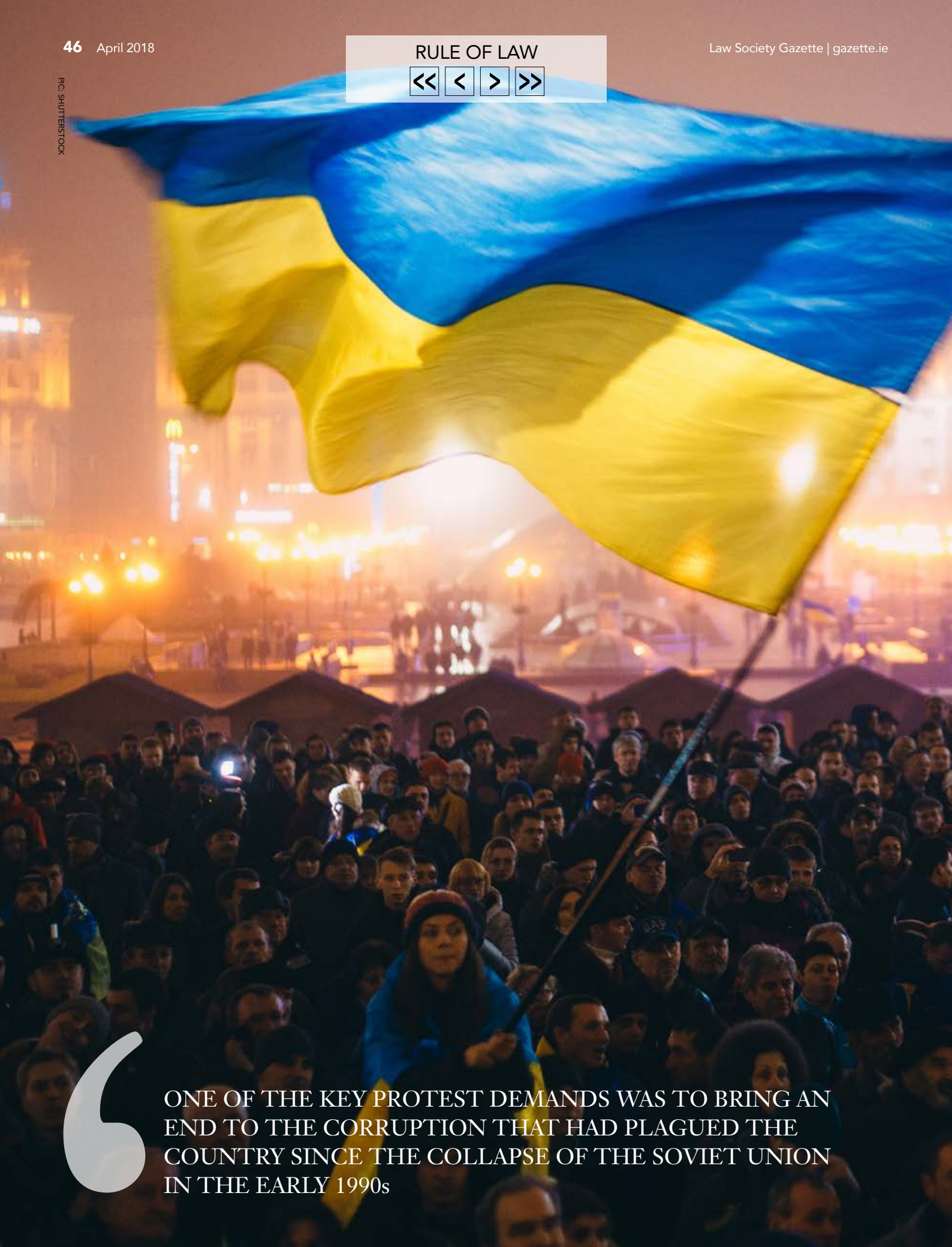
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ONE OF THE KEY PROTEST DEMANDS WAS TO BRING AN END TO THE CORRUPTION THAT HAD PLAGUED THE COUNTRY SINCE THE COLLAPSE OF THE SOVIET UNION IN THE EARLY 1990s



Talkin' 'bout a revolution

In response to the Ukrainian 'Revolution of Dignity', the EU Advisory Mission to Ukraine was established. **Lynn Sheehan** describes its work and progress

LYNN SHEEHAN IS AN IRISH SOLICITOR WHO IS CURRENTLY DEPLOYED TO THE EU ADVISORY MISSION TO UKRAINE AS DEPUTY HEAD OF OPERATIONS BY THE DEPARTMENT OF FOREIGN AFFAIRS AND TRADE. ANY VIEWS EXPRESSED ARE THE AUTHOR'S OWN

In the winter of 2013/2014, the people of Ukraine embarked on a series of demonstrations that culminated in the 'Revolution of Dignity'. One of the key protest demands was to bring an end to the corruption that had plagued the country since the collapse of the Soviet Union in the early 1990s.

This demand was intrinsically linked with the population's lack of confidence in the rule of law. The initial protests were sparked by the decision of the then-president Victor Yanukovich, in November 2013, to suspend preparations for the signature of an association agreement with the EU. The protests were met with police force and, ultimately, this led to fatalities and casualties.

The president fled and the demonstrators subsequently broke into his vast residential compound outside Kyiv, finding a range of acquisitions indicative of an opulent and extravagant lifestyle.

The compound is now open to the public and is a popular weekend destination for hikers and cyclists, who can also tour the ex-president's residence, Spanish-style galleon, expansive gardens, and mini zoo. The revolution is the subject of a

number of films, including the documentary *Winter on Fire: Ukraine's Fight for Freedom*, directed by Evgeny Afineevsky, which was nominated for an Oscar in 2016 and which provides an insight into the reasons behind the initial protests and the escalation of events.

In response to the revolution, the Council of the EU decided to establish the EU Advisory Mission to Ukraine (EUAM), with the mission officially launched in December 2014. EUAM is a common security and defence policy mission under the European External Action Service, led by Frederica Mogherini (High Representative of the EU for Foreign Affairs and Security Policy).

≡ AT A GLANCE

- EUAM's focus is on police reform, but it is also tasked with advising on prosecutorial and judicial reform and supports the full range of Ukrainian law enforcement bodies
- The mission also works in cooperation with a range of EU Commission-funded projects targeting, among other things, corruption, and judicial and law-enforcement reform
- EUAM has also played a role in coordinating donor activity in terms of the establishment of the new Supreme Court of Ukraine



It is one of 11 such EU missions across Europe, the Middle-East and Africa. EUAM has the full support of the Irish Government, and the Department of Foreign Affairs and Trade deploys two professionals (one police officer and one solicitor) to the mission.

Police reform

The focus of EUAM is on police reform (in part a response to Ukrainian police actions during the Revolution of Dignity), but it is also tasked with advising on prosecutorial and judicial reform and supports the full range of Ukrainian law enforcement bodies. Collectively, these bodies are referred to as the 'civilian security sector'.

EUAM also works in cooperation with a range of EU Commission-funded projects targeting, among other things, corruption, judicial reform, and law-enforcement body reform. Accordingly, it is part of the 'EU family' operating in Ukraine.

The year 2017 was important for Ukraine in terms of Ukraine/EU relations. On 1 September, the EU association agreement came into effect, having been signed in June 2014 by the then newly elected president Petro Poroshenko, thus 'righting the wrong' of Victor Yanukovich in failing to sign it some eight months previously. Ireland was among the first of the EU countries to ratify the agreement.

A key feature of the agreement is the *Deep and Comprehensive Free Trade Agreement*, which creates a free-trade area between Ukraine and the EU, including Ireland. In addition, visa-free, short-term travel to Europe for Ukrainians with biometric passports came into effect in June 2017.

EUAM's key task is to provide strategic advice to law-enforcement bodies, such as the Ministry of Internal Affairs, the national police, the General Prosecutor's Office, the State Security Service, the



Victoria Popovich, Tatyana Gosh, Lyudmila Ivashchuk, Irina Vuhovanec, Julia Galushchak and Yelena Nadeyeva at a communications training event for prosecutors

State Fiscal Service, and the State Border Guard Service on a range of institution-building and capacity-enhancing initiatives. This includes advising on mechanisms to address corruption within their respective institutions.

To a lesser extent, EUAM advises the recently established Ukrainian anti-corruption agencies, some of which have, since establishment over two years ago, struggled to assert their independence and to disentangle themselves from political influence.

I do declare!

One of the most significant reforms introduced to combat corruption – and one of the requirements for visa liberalisation with the EU – was an 'e-declaration system', introduced in 2016, that obliges public officials to declare their property and wealth online.

In late 2016, when the e-declarations became publically accessible, there was quite an amount of surprise expressed at the wealth

of certain politicians, and also by how much money they kept in cash.

Since then, there has been disappointment among both Ukrainians and the international community about the lack of action in terms of e-declaration verification and subsequent investigations. In this regard, Ukraine is currently in the process of drafting legislation on the establishment of a high anti-corruption court.

In October 2017, an opinion was provided by the Venice Commission of the Council of Europe on two draft laws related to the establishment of such a court. [Opinion 896/2017](#) was adopted by the Venice Commission in October 2017. Discussions are currently ongoing in Ukraine about, among other things, the jurisdiction of the court and the manner in which the judges of the court should be appointed.

Upward trajectory

EUAM also works closely with the Ukrainian prosecution service and, to a lesser extent, with the courts. A recent public



THE FORMER PRESIDENT'S COMPOUND IS NOW OPEN TO THE PUBLIC AND IS A POPULAR WEEKEND DESTINATION FOR HIKERS AND CYCLISTS, WHO CAN ALSO TOUR THE EX-PRESIDENT'S RESIDENCE, SPANISH-STYLE GALLEON, EXPANSIVE GARDENS, AND MINI ZOO



EUAM IS STRIVING TO ENSURE THAT ALL REFORMS ARE LOCALLY OWNED AND DRIVEN

survey conducted by EUAM showed public trust in the prosecution system and the courts to be on an upward trajectory, with trust in the prosecution service at 20% (a seven percentage point increase compared with two years previously) and in the courts at 17% (a four percentage point increase compared with two years previously).

In relative global terms, however, this level of public trust is very low and, if a similar survey were carried out in Ireland, where the courts are independent and free from political influence, those percentages would be significantly higher.

EUAM would like to see public trust in the prosecution service grow and, to this end, the mission (together with other donors) continues to provide support and advice to the General Prosecutor's Office of Ukraine on a range of issues, including:

- Abolition of 'general supervision powers', which are a legacy of Ukraine's Soviet past,
- Establishment of prosecutorial self-governance bodies,
- Performance evaluation, and
- Legislative reform.

Progress has been made since the adoption of the *Law on the Public Prosecutor's Office of Ukraine* in 2014, but there is still much to be

done. In this regard, EUAM is striving to ensure that all reforms are locally owned and driven. One of the key reforms that the prosecutor's office is currently tackling is the obligation to transfer its investigative functions to a range of law-enforcement bodies, including the National Anti-Corruption Bureau (established 2015), and the State Bureau of Investigations (established late 2017, but not yet operational).

This has led to disputes over jurisdiction, with claims being made that the prosecution service is unwilling to make the reforms that are necessary in accordance with the law and that its motivation is to retain its powerbase of investigative authority. Under the reform process, prosecutors are obliged to take on the role of 'procedural managers' of individual cases and to oversee criminal investigation cases.


EUAM has also played a role in coordinating donor activity in terms of the establishment of the new Supreme Court of Ukraine, which was officially launched on 15 December 2017. In November 2016, an advertisement was posted online for 120 vacancies at the new court, and over 800 applications were received. Candidates who were found to fulfil the minimum criteria were subject to a background check,

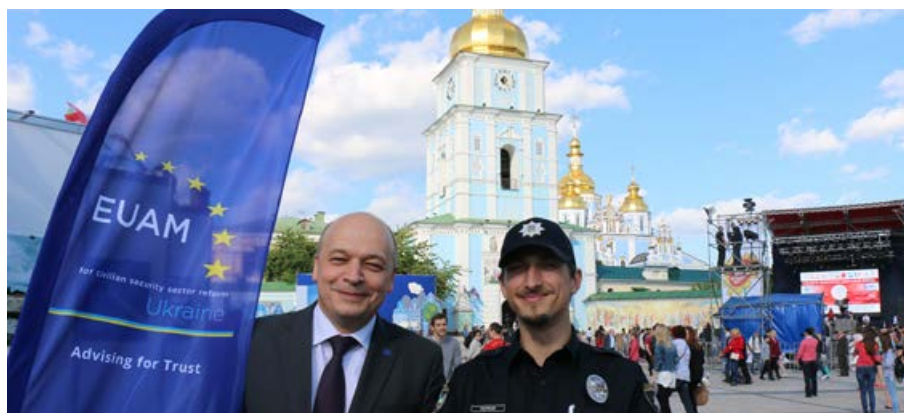
a written examination, a psychological test and an interview. The interviews, which were broadcast on YouTube, gave the interview panel the opportunity to ask questions on the candidates' past professional experience, their financial circumstances, and their assets. The law also provided for a 20-member Public Integrity Council, selected by civil society organisations, to investigate candidates' circumstances in terms of meeting the necessary standards on ethical behaviour and integrity.

Judicial ethics

In terms of establishing/maintaining an independent judiciary, free from corruption, it is critical that judicial ethics are strictly observed. To this end, in September 2017, Chief Justice Frank Clarke, Mr Justice George Birmingham and barrister Helen Boyle conducted a series of training events at the Ukrainian National School of Judges in both Kyiv and Kharkiv. There, they addressed questions of judicial ethics, including suitable judicial conduct off the bench, maintenance of judicial confidentiality, and recusal.

The Chief Justice also presided over an expert discussion on judicial independence, organised by EUAM, that was attended by a range of international organisations (Council of Europe, USAID, EU Delegation), together with high-ranking members of the Ukrainian judiciary. At the expert discussion, the Chief Justice remarked on the high levels of transparency evident during the recruitment of judges to the new Supreme Court. He also expressed a hope that it would bring with it the required levels of judicial independence, as he observed that there is not necessarily always a direct correlation between transparency and independence.

The cooperation with the Irish judiciary will continue this year, with a study visit by a delegation of Ukrainian judges to Ireland in spring 2018 and a return visit by the aforementioned Irish delegation to Ukraine to provide further training on judicial ethics. These events are being conducted under the auspices of the National School of Judges of Ukraine and will be financed by the Department of Foreign Affairs and EUAM respectively. 



Kestutis Lancinskas (head of mission, EUAM) with a member of the patrol police of Ukraine, at a Europe Day celebration in Kyiv in 2016



DISCOVERY WHEN YOU'RE *David*

When it comes to discovery, smaller parties in large-scale discovery struggles need to choose their battlefield wisely. **Ben Clarke** fires his sling

BEN CLARKE IS A DUBLIN-BASED BARRISTER. HE WISHES TO THANK SIMON COLLINS FOR REVIEWING THE ARTICLE

Practitioners and litigants understandably often adopt a tough stance when facing down larger parties, such as State bodies or financial institutions, and the huge resources at their disposal. This is all the more true in the context of the various pre-trial procedures applicable in large cases. There is no better example of this than in motions for discovery. In this context, such parties can choose the wrong issues about which to 'get tough', and perhaps misapprehend what does, and does not, constitute a 'victory'.

This can be due to ignorance about the process, and the fears that naturally arise from a perceived lack of resources on behalf of smaller parties. This article highlights some specific areas in which the 'small guy' can – and should – 'box clever'.

Practitioners involved in large-scale discovery should pay attention

to version 2.0 of the *Good Practice Discovery Guide*, published by the Commercial Litigation Association of Ireland (CLAI). Regard should also be had to the recent CLAI discussion

document entitled *Possible Reforms to the Rules of the Superior Courts to Reduce the Time and Cost of Discovery*.

These documents will bring any practitioner up to speed with the various issues facing the courts in the context of discovery projects involving large amounts of electronically stored information (ESI).

Back to basics

To understand the practical issues addressed below, it is necessary to understand the fundamentals of electronic document review (EDR) and technology assisted review (TAR). For this, practitioners should refer to the [April 2017](#) issue of the *Gazette* (p44).

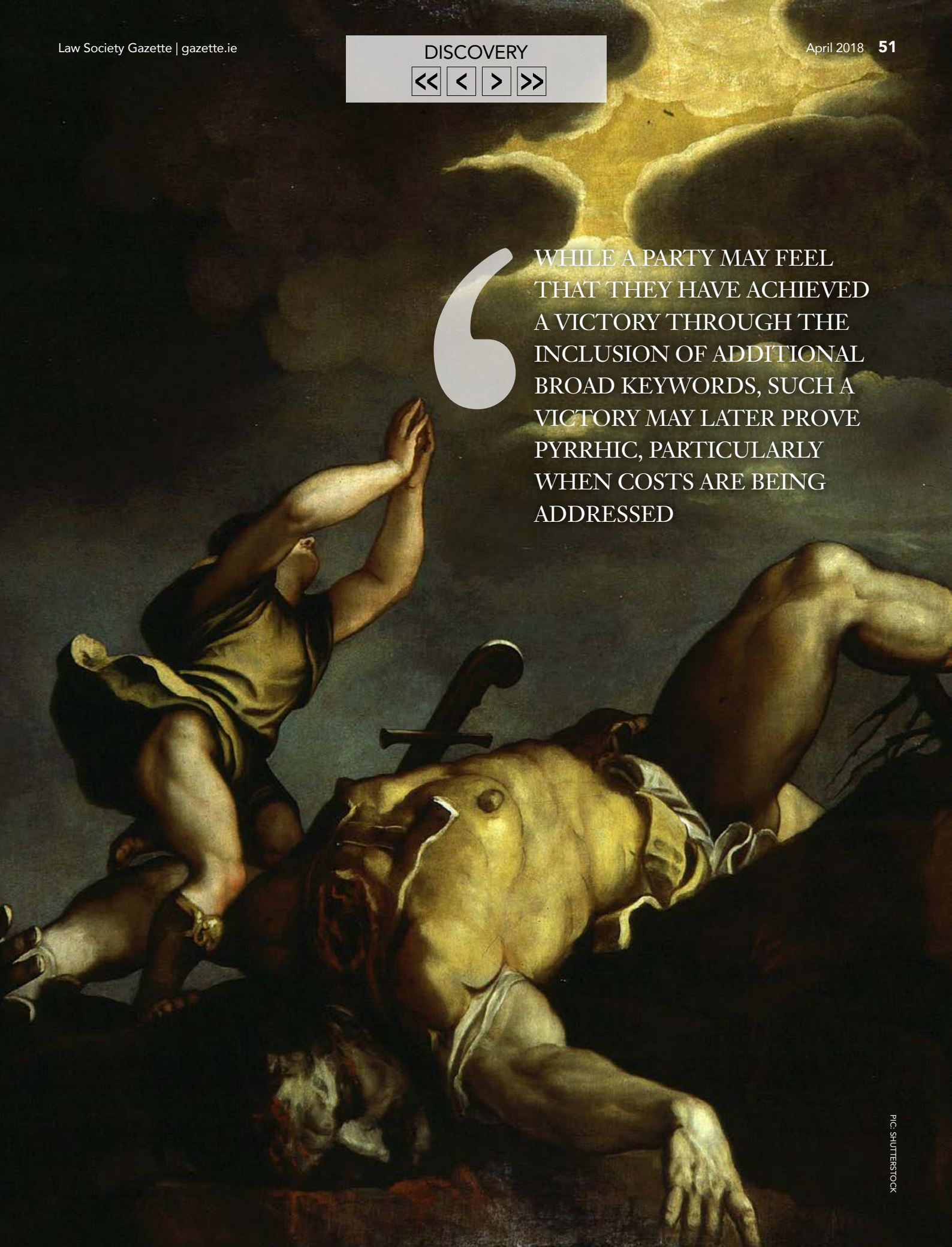
The increased use of electronic

≡ AT A GLANCE

- Adopting a tough stance when facing up against larger parties can be understandable, but in motions for discovery, it's wise to 'box clever'
- Practitioners involved in large-scale discovery should pay attention to the *Good Practice Discovery Guide* (version 2.0) published by the Commercial Litigation Association of Ireland
- After initial processing of the electronically stored information, it may be necessary to further narrow the universe of documents through technology assisted review



WHILE A PARTY MAY FEEL THAT THEY HAVE ACHIEVED A VICTORY THROUGH THE INCLUSION OF ADDITIONAL BROAD KEYWORDS, SUCH A VICTORY MAY LATER PROVE PYRRHIC, PARTICULARLY WHEN COSTS ARE BEING ADDRESSED





devices has led to a corresponding proliferation of ESI. Today, even relatively standard cases might necessitate a document review encompassing electronic documents numbering in the tens or hundreds of thousands. This process will involve a team of reviewers working on an electronic review platform. This is a program that presents the reviewer with documents that the reviewer codes by clicking the appropriate boxes in respect of applicable categories – privilege, redaction, etc – and is called manual review.

Before manual review commences, the party making discovery must gather the data from the relevant custodians and sources. In large cases, it is increasingly common that this process can return over a million documents. This body of documents is referred to as the ‘universe’ of documents. This raw ESI must then be processed. Documents may then be filtered by date range and keywords (or search terms), to identify potentially relevant documents. The quantity of documents returned through this process will depend on factors such as the temporal scope of the discovery order and the precision of the keywords applied.

After initial processing, it may be necessary to further narrow the universe of documents through TAR – a method aimed at reducing the universe of documents to a more manageable size.

In broad terms, TAR can be described as a system whereby algorithms are used so as to establish the likelihood of the relevance of a document, based on human interaction in the form of manual review of sample sets by a senior lawyer. Eventually, the system’s

predictions will be sufficiently consistent with the manual decisions, so that it will be able to make reliable and accurate predictions for the remaining documents.

Keeping it relevant

TAR involves a number of stages and, although there has been debate as to the precise stage at which it should be carried out, the process will involve the preliminary identification of potentially relevant documents by applying keywords to the electronic documents held by a party.

Even where TAR isn’t applied, keywords may still be used in the processing stage to remove irrelevant data.

In either case, the categories are already set. The specificity of keywords should not be perceived as an attempt by the discovering party to avoid their obligations. The application of appropriately constructed keywords is a device enabling parties to separate the wheat from the chaff.

While a balance must be struck, it goes without saying that overly broad keywords are not helpful in this process. Practitioners who are less familiar with the process will often push for the inclusion of inappropriate terms, based on the fear that what they perceive to be overly precise terms will lead to relevant documents being missed. This issue was addressed in *Thema* and, in Britain, in *Goodale*.

Section 10.7.2 of the *Good Practice Discovery Guide* provides guidance on the process of developing filtering criteria and search terms, which will require collaborative input from legal professionals and IT specialists.

When countering with further proposed

search terms, practitioners should ensure they are adding value. Although methods such as Boolean operators may assist, non-specific keywords like ‘bank’, ‘central bank’, ‘guarantee’, ‘contract’, or ‘interest’ will not assist either side.

While a party may feel that they have achieved a victory through the inclusion of additional broad keywords, such a victory may later prove pyrrhic, particularly when costs are being addressed.

Who’s yo’ daddy?

The manner in which families of documents are treated is a central issue in any review. In both hard and soft-copy review, it is vital that the context and familial relationship of documents is maintained. ‘Family’ in this context refers to the hierarchical relationship between groups of documents. The best example of this in the context of ESI is the relationship between an email – the ‘parent’ document – and its attachments, ‘the children’.

Irrelevant documents should not be discovered, but attachments should never be ‘orphaned’. *The Good Practice Discovery Guide* covers this issue in detail at 15.1 (p57) and F.2.3 (pp78-80).

In short, where an email is irrelevant, save for the fact that affixed to it is a relevant attachment, the parent should be discovered along with the relevant attachment. It is not necessary to discover any other irrelevant sibling attachments. One consequence of this approach is that a great many documents, relevant only by virtue of their attachment, will be marked as relevant, thereby necessitating review by the receiving party.

“ TIME AND MONEY ARE OFTEN WASTED WHERE INTERNAL MEETINGS ARE CALLED TO DECIDE THE APPROPRIATE APPROACH TO TAKE. SUCH MEETINGS WILL INCLUDE THE ENTIRE REVIEW TEAM AND A NUMBER OF SOLICITORS, PERHAPS INCLUDING A PARTNER, ALL CHARGING BY THE HOUR

DISCOVERY



A solution to this problem is the inclusion of ‘parent for context’ (PFC) as either a distinct option in the category field, as an alternative option in the relevancy ‘yes/no’ field, or both. I first encountered this approach within the data investigation group of a large firm, and have consistently recommended, requested or applied it ever since. The fact that a large firm utilised this approach should be of comfort to smaller firms. PFC benefits all parties. At the front end, it means that those conducting the review have a more manageable data set, while at the back end, it enables the receiving party to identify those documents to which primary attention should be paid – all while maintaining compliance with the *Good Practice Discovery Guide*.

The use of PFC in the manner set out above should be regarded as the ‘gold standard’, and should be incorporated into the next edition of the guide.

Smaller parties should, at the outset, request that the party making discovery use this approach. If this cannot be agreed, it should be addressed in case management.

Don't take the bait

Despite the guide's clear statement that irrelevant documents should not be produced, some firms adopt a policy of discovering the entire family of all relevant documents.

This could be misinterpreted as some manner of concession, or as being advantageous to the receiving party. Most large firms have review teams working on a semi-permanent basis, and this approach merely enables such a firm to ensure its review team processes more matters in less time. By adopting such a policy, once one family member is deemed relevant, it becomes unnecessary to consider each additional familial document for relevance. Each document will still need to be considered for privilege, redaction, and other such issues but, in most cases, it will simply be a case of applying the same coding to each document.

A practical example of the consequences of such a policy is the email sent by a party

whose *pro forma* email includes unique images or logos in the signature section. Even after de-duplication, a long email thread will often generate tens or hundreds of iterations, all requiring manual review in their own right. However, despite the relevance of the email thread itself, many such iterations could have a large number of entirely irrelevant attachments.

In theory, this specific problem ought to be solved at the front end by the service provider. In my experience, however, this does not always happen and, in any event, is only one example of the overall problem. One hundred relevant iterations of an email thread, half of which have 15 irrelevant attachments, would generate 750 more documents for production. This equation could repeat itself multiple times throughout a day of review.


For the party making discovery, the end result is increased efficiency within its discovery unit. In contrast, the receiving party, who is potentially at a disadvantage in terms of finances, technology and manpower, receives what is, in effect a ‘data-dump’. Swamping tactics like this can lead to the obfuscation of highly relevant documents, and can also rapidly consume the finances of the smaller party, perhaps pricing them out of the litigation.

Smaller parties should, at the outset, ensure that documents are not to be discovered merely due to the relevance of their sibling. Where a document is necessary so as to provide context for its relevant sibling, then that document should be discovered and coded accordingly.

Miscellaneous issues

Oftentimes, documents will respond to a multitude of categories. The extent to which this occurs will depend on the precision of the categories requested. In reviews with multiple categories, this can be a significant issue. Time and money are often wasted where internal meetings are called to decide the appropriate approach to take to such issues. Such a meeting will include the entire review team and a number of solicitors, perhaps including a partner, all charging by the hour.

Because each reviewer will take a different view in terms of marginal categorisation, it is prudent to agree a general limit to the obligation to code for all relevant categories. No great prejudice is likely to arise if, for instance, categorisation is limited to the four most applicable categories.

In conclusion, practitioners should seek to engage and confer on an *inter partes* basis at the earliest possible stage. To do so meaningfully, it will be necessary for smaller practitioners to familiarise themselves, in broad terms, with the issues that arise when dealing with large quantities of ESI. Doing so will limit the extent of the exposure of all parties to significant cost orders down the line. 

LOOK IT UP

CASES:

- [Goodale & Ors v The Ministry of Justice & Ors](#) [2009] EWHC 3834
- [Hyles v New York City](#) [10 Civ 3119, 1 August 2016]
- [IBRC v Quinn](#) [2015] 1 IR 603
- [Moore v Publicis Groupe & MSL Group](#) [11 Civ 1279 (ALC) (AJP), 24 February 2012]
- [Rio Tinto PLC v Vale SA](#) [14 Civ 3042 (RMB)(AJP), 2 March 2015]
- [Thema Intl Fund v HSBC Inst Trust Services \(Ireland\)](#) [2011] IEHC 357

LITERATURE:

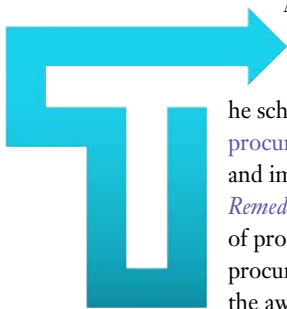
- [Good Practice Discovery Guide](#) (v2.0 – November 2015), published by the Commercial Litigation Association of Ireland
- [Possible Reforms to the Rules of the Superior Courts to Reduce the Time and Cost of Discovery](#), published by the Commercial Litigation Association of Ireland
- Karyn Harty, ‘Discovery program’, *Law Society Gazette* (April 2017, pp44-47)



New direction

Practitioners acting in public procurement contracts should heed the decision of the Court of Appeal in *Word Perfect*, argues **Aoife Beirne**. It may well result in the reversal of previous jurisprudence in the lifting of automatic suspensions

AOIFE BEIRNE IS A BARRISTER AND JOINT COORDINATOR OF THE ADVANCED DIPLOMA IN PUBLIC PROCUREMENT LAW AT THE KING'S INNS



The scheme envisaged by the [European public procurement regime](#), as it relates to remedies and implemented in this jurisdiction by the [Remedies Regulations 2010](#), is that the bringing of proceedings challenging the award of a procurement contract automatically suspends the award of that contract by a contracting

authority. The 2010 regulations also provide that damages may also be awarded as compensation for loss resulting from an infringement of EU law.

In *OCS v DAA* (2015), the Supreme Court held that the court had no jurisdiction to lift the automatic suspension. The 2010 regulations were amended in 2015 to allow a contracting authority to make an application to lift the automatic suspension. So far so simple, but the test to be applied by the courts in deciding whether to lift the automatic suspension has been the subject of some debate.

The effect of the 2015 amendments was to require the court to proceed on the hypothetical basis that an interlocutory injunction had been applied for and, in the event that the court considered that no such injunction would have been granted, to consider then whether the suspension created by the standstill provisions should be lifted. A number of decisions in the High Court, such as *BAM*, *Powerteam* and *Beckman*, had established that the court must

apply the *Campus Oil* test appropriate for interlocutory injunction applications. This meant that the onus rested on the disappointed tenderer to show that:

- There was a fair issue to be tried,
- Damages would not be an adequate remedy, and if not, then
- The balance of convenience was in favour of granting the injunction.

In challenges of this kind, it is usually more likely than not that there will be a fair issue to be tried. Regarding adequacy of damages, the effect of the previous case law was that damages would readily be available in a public procurement case in the same way as they would be in a standard action for breach

of contract, and that the normal principles applicable to damages – namely causation, foreseeability and quantification – would apply. For example, in *BAM*, damages had been found to be an adequate remedy, notwithstanding the fact that the plaintiff had contended that it would suffer serious reputational damage. However, a recent decision of Hogan J from the Court of Appeal has taken a different approach.

Lost in translation

In *Word Perfect*, the plaintiff was the supplier of specialist translation services to a range of State bodies. The plaintiff brought proceedings challenging the award by the Minister

AT A GLANCE

- There has been some debate over the test to be applied by the courts in deciding whether to lift the automatic suspension of the award of a procurement contract when there is a legal challenge to that award
- Till recently, a number of High Court cases had established that the court must apply the *Campus Oil* test appropriate for interlocutory injunction applications
- In *Word Perfect*, the Court of Appeal took a different view regarding which regime governs the question of adequacy of damages



PICTURE: SHUTTERSTOCK



THE CONSEQUENCE OF HOGAN J'S CONCLUSION WAS TO REMOVE THE CASE FROM THE STANDARD APPLICATION FOR AN INJUNCTION, AS FAR AS THE QUESTION OF ADEQUACY OF DAMAGES WAS CONCERNED



HOGAN J DECIDED THAT THE REFERENCE TO DAMAGES IN THE 2010 REGULATIONS MUST BE UNDERSTOOD AS BEING A REFERENCE TO FRANCOVICH DAMAGES ONLY, AS THIS IS ALL THAT EU LAW REQUIRED

provision – the setting aside of awards of contracts and damages. However, the EU had not specified what type of damages it had in mind, nor whether the measure of damages was to be determined by national or EU law.

Hogan J observed that a recent case of the CJEU had determined that member states are required by EU law to provide remedies by reference to the *Francoovich* criteria, but that it was open to member states to provide a more ‘claimant-friendly’ remedy. The question then arose as to whether Ireland had provided for this in its implementing legislation.

While the 2010 regulations did not give any guidance in terms of the availability of damages in public procurement cases, Hogan J regarded it as relevant that they were not transposed by means of legislation by the Oireachtas, but rather by way of ministerial order made under section 3 of the *European Communities Act 1972*.

Hogan J drew upon established constitutional principles in deciding that the reference to damages in the 2010 regulations must be understood as being a reference to *Francoovich* damages only, as this is all that EU law required. He surmised that if the legislature wanted to provide for an award of damages over and above *Francoovich* damages, then this would have had to be effected by legislation and not ministerial order, as article 15.2.1 requires that a change beyond that necessitated by EU law can only be effected by legislation. The [British Supreme Court](#) had recently come to a similar conclusion.

The consequence of Hogan J’s conclusion was to remove the case from the standard application for an injunction as far as the question of adequacy of damages was concerned. He noted that the highly limited and conditional nature of *Francoovich* damages had recently been illustrated by an Irish

Supreme Court decision, and that it is necessary to show, not simply that there had been an objective breach of breach of EU law but, rather, that such breach was either “grave or manifest” or “inexcusable”.

Hogan J recognised that the task for a court in an interlocutory application, such as the one before it, was to ensure the least possible injustice, pending the outcome of the substantive action.

Hogan J concluded that damages were not an adequate remedy for *Word Perfect* and, as an arguable case had been made out, the remaining question was where the balance of convenience lay. Hogan J, in weighing up the competing factors of the public interest in ensuring the State had available to it the best possible translation service versus the real risk of reputational, and possibly terminal, damage to *Word Perfect*, found them to be finely balanced.

Whether EU or national law were to be applied, the [right to an effective remedy](#) was fundamental, and Hogan J concluded that *Word Perfect* would enjoy no real remedy if the automatic suspension were lifted, and so allowed the appeal. It was acknowledged that the fact that damages had not been found to be an adequate remedy as an important and, perhaps, even a decisive factor, in this decision.

Practitioners acting for both contracting authorities and disappointed tenderers would do well to heed the decision of the Court of Appeal in *Word Perfect*, as it may well result in the reversal of the prior trend that had emerged in the Irish courts of lifting automatic suspensions.

Under the *Francoovich* criteria, damages are less likely to be an adequate remedy for a tenderer challenging the legality of a procurement process. The decision should be further welcomed as adding to the growing body of Irish jurisprudence in this area. [g](#)

LOOK IT UP

CASES:

- [BAM PPP PGGM Infrastructure Cooperative UA v National Treasury Management Agency and Anor](#) [2015] IEHC 756
- [Beckman Coulter Diagnostics Ltd v Beaumont Hospital](#) [2017] IEHC 537
- [Campus Oil v Minister for Industry and Energy \(No 2\)](#) [1983] IR 88
- [Combinatie Spijker Infrabouw-De Jonge Konstruktie](#) (case C-568/08 [2010] ECR I -12655)
- [EnergySolutions v Nuclear Decommissioning Authority](#) [2017] UKSC 34
- [Homecare Medical Supplies v HSE](#) [2018] IEHC 55
- [Francoovich](#) (joined cases C-6/90 and C-9/90 [1991] ECR I-5357)
- [Ogieriakhi v Minister for Justice and Equality](#) [2017] IESC 52
- [OCS v DAA](#) [2015] IESC6
- [Powerteam Electrical Services Ltd v ESB](#) [2016] IEHC 87
- [Word Perfect Translation Services Ltd v The Minister for Public Expenditure and Reform](#) [2018] IEHC 1 and [2018] IECA 35

LEGISLATION:

- [Directive 2007/66 EC](#) with regard to improving the effectiveness of review procedures concerning the award of public contracts
- [European Communities Act 1972](#)
- [European Communities \(Public Authorities’ Contracts\) \(Review Procedure\) Regulations 2010](#)
- [European Communities \(Public Authorities’ Contracts\) \(Review Procedures\) \(Amendment\) Regulations 2015](#)



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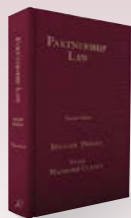
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BOOKS



EU DATA PROTECTION LAW

Denis Kelleher and Karen Murray. Bloomsbury Professional (2018), www.bloomsburyprofessional.com. Price: €175 (incl VAT).

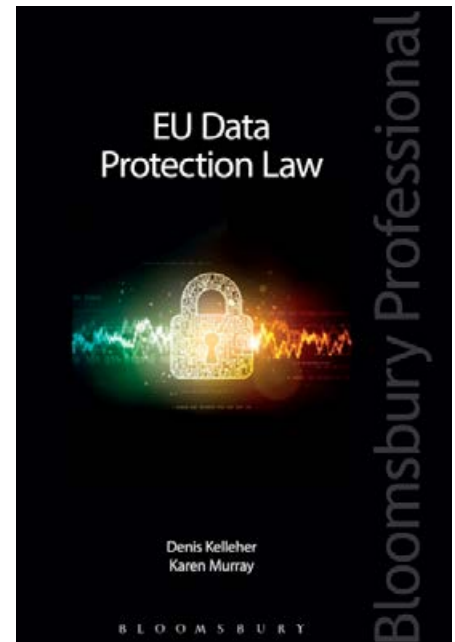
In publishing, as in much of life, timing can be everything. That is certainly the case with this book. Much of its focus is on the *General Data Protection Regulation* (GDPR). As recent radio advertisements by the Data Protection Commissioner have stressed, this becomes law on 25 May 2018. That approaching deadline has to help sales.

The GDPR introduces strengthened obligations on companies that handle personal data. There are stricter mechanisms for obtaining consents (which can be withdrawn at any time), and a need to have a recording system to show compliance with its provisions. There are considerably increased fines. Existing rights enjoyed by data subjects, such as the right to access and rectify data, continue and are enhanced.

There is an apparent contradiction at the heart of EU data protection law. Running in parallel with the “protection of individuals with regard to the processing of personal data” is “the free movement of such data”. With the understandable public emphasis on the rights of individuals, it is easy to forget that a central purpose of the European Union is the free movement of goods and services.

As the authors point out, the only EU institution that can achieve the requisite balance between these rights and freedoms is the Court of Justice, whose decisions they extensively reference.

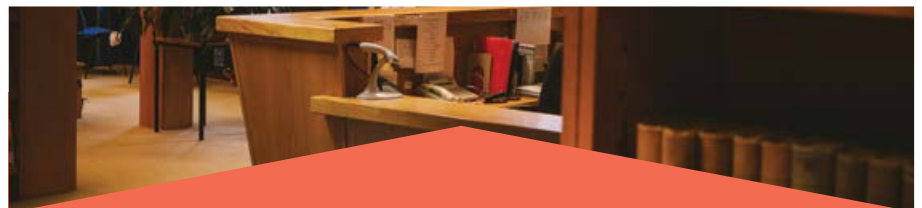
There has been controversy over aspects of the Irish legislation, passing through the Oireachtas at the time of writing, to give effect



to the GDPR. These include the ‘age of digital consent’ and a proposal that State bodies be exempt from many sanctions for breach of the regulation.

However, as the title shows, the authors focus upon EU law, with only passing reference to domestic law and courts, including Ireland. While some practitioners might bemoan that, it does not detract from either the importance or timeliness of the work.

Michael Kealey is in-house counsel for Associated Newspapers.



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TAX HAVENS AND INTERNATIONAL HUMAN RIGHTS

Paul Beckett. Routledge (2017), www.routledge.com. Price: Stg £115 (incl VAT); e-book: Stg £35.99.

The author is an Isle of Man advocate and shows that he is well acquainted with the tax-haven structures of different jurisdictions, in particular, those that are under the British wing.

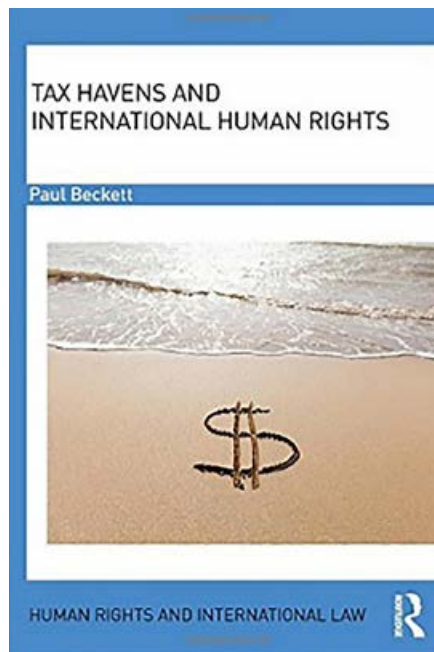
The type and level of financial activities that can take place using tax havens has recently come to prominence, with publications in the media of commentaries on the Mossack Fonseca files, also known as the 'Panama Papers', and the 'Paradise Papers'. These revelations give a glimpse of the scale of offshore tax-haven activity.

Not all of the business activities conducted in offshore tax havens are illegal, or indeed in anyway reprehensible. It must be accepted that, in many cases, offshore tax havens provide legal structures in which international deals can be accomplished by respectable means, which might not be easily available elsewhere to the parties concerned. That said, quite a significant amount of activity in tax havens may be questionable.

In the light of the staggering amounts of money flowing out of Third World countries that could be – but, due to offshore tax haven activities, is not – available to be taxed in those countries, it is assumed, with some justification, that the human rights of the citizens of those Third World countries are seriously impaired.


Oxfam estimates that, in the past three decades, while net profits posted by the world's richest corporations tripled in real terms – from US\$2 trillion in 1980 to US\$7.2 trillion in 2013 – this increase is not reflected in a proportional increase in tax revenue, which Oxfam attributes partly to tax havens. It claims that developing countries lose US\$100 billion annually as a result of corporate tax avoidance schemes. Of course, quantification of the actual loss is not possible.

The actors in these transactions are the tax havens and their customers. The author does not comment to any significant degree on the customers, but gives a fair description of how some tax havens work and a description of how, even though efforts have and are being



made at an international level to address the problem, such efforts are inadequate and are being frustrated and ignored.

In popular imagination, the picture of a tax haven is likely to involve an island jurisdiction, tropical or otherwise, to which the unsavoury can fly with a suitcase full of cash. Although such jurisdictions do play their part, in reality, they are substantially under the control of developed countries, such as the US, Britain and others. In fact, the main tax havens in the world could be said to be certain developed countries, with Switzerland topping the list.

Although the author suggests some remedies to cure the ills brought about by the use of tax havens – for instance, the adoption of human rights principles for external transactions by countries currently facilitating avoidance and evasion – it is clear that the problem is likely to be very difficult to resolve, particularly as most of the main actors have a vested interest in continuing to facilitate it. 

Michael O'Connor is a solicitor with Tipp McKnight, 41 Fitzwilliam Place, Dublin 2.

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CONVEYANCING COMMITTEE

LOCAL GOVERNMENT (CHARGES) ACT 2009: NPPR

The *Local Government (Charges) Act 2009* provided for the introduction of a charge, known as the NPPR charge, on residential property in the sum of €200 per year, payable to the local authority in which the property was located.

The 2009 act provided (among other things) for an exemption from the charge in respect of a residential property that was occupied by an individual as his/her sole or main residence. Section 7 of the act provided that any charge or late payment due and unpaid by an owner of residential property would be and remain a charge on the property to which it relates. The act did not provide that a form of certification was required in the event that the property was exempt from the charge – that is, to say if the property was the principal private residence of an owner on a liability date.

Section 19 of the *Local Government (Household Charge) Act*

2011 amended section 8 of the 2009 act by the insertion of section 8A(4), with effect from 1 January 2012, to provide that, on or before the completion of the sale of a residential property, the vendor of that residential property shall, in respect of that residential property, give to the purchaser (a) a certificate of discharge or (b) a certificate of exemption, as may be appropriate, in respect of each year in which a liability date fell since the date of the last sale of the property.

Problems have arisen in connection with properties that were purchased in the years 2009, 2010 and 2011 before the coming into force of the 2011 act and that are now being sold. This is because, prior to 1 January 2012, it was not possible to obtain a certificate of exemption from the local authority in respect of the property concerned for any liability date. This issue does not arise

in obtaining certificates of discharge for years prior to 2012.

The Conveyancing Committee [practice note](#) dated 28 August 2009 (also published in the *August/September 2009 Gazette*, p44) recommended that a solicitor for a purchaser of a residential property (prior to the coming into force of the 2011 act) should seek a statutory declaration from the vendor confirming that the provisions of the 2009 act did not apply, if such was the case, because the property was the sole or principal residence of the vendor.

The committee engaged at length with the Department of the Environment to seek a solution to this issue for practitioners, but was advised that the local authorities could only operate within the legislation, which did not provide for certificates of exemption prior to 2012. As a result, the committee has, at the request of the profession, reviewed the legislation

in this matter and has decided to issue a practice note advising solicitors that, given the requirements of section 8A(4), **a certificate of exemption need only be provided in respect of each year in which a liability date fell since the date of the last sale of the property.**

In the event of a sale in the years 2009 to 2011, it was the recommended practice to obtain a statutory declaration from the vendor confirming that the property was occupied by that individual as their sole or main residence and was accordingly exempt from the charge. Therefore, in the absence of any reason to question the validity of the statutory declaration, a purchaser should be entitled to rely on this statutory declaration and to seek a certificate of exemption only in respect of the liability dates since the date of the last sale of the property.

LEGAL EZINE FOR MEMBERS

The Law Society's *Legal eZine* for solicitors is now produced monthly and comprises practice-related topics such as legislation changes, practice management and committee updates.

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CONVEYANCING COMMITTEE

ONLINE AUCTIONS AND DEPOSITS

The Conveyancing Committee has been made aware by practitioners that some of their clients have ‘signed’ contracts online for the purchase of property before seeking legal advice and that some were threatened with forfeiture of their deposit moneys when it was discovered that the title was not good and that the contract should not be completed.

It should be noted that the body responsible for the regulation of estate agents and other property professionals is the [Property Services Regulatory Authority \(PSRA\)](#), and it is that body that solicitors should contact in relation to specific complaints they or their clients might have in relation to any such cases.

The committee has always promoted its standard contract for sale on the basis that it strikes a balance as between the respective rights and responsibilities of a vendor and a purchaser in a conveyancing transaction. However, it appears that, in many online auctions, the standard contract is being altered to the extent that the balance of fairness has been shifted heavily against a potential purchaser.

Some of the matters that the online contracts for these sales typically include that are of concern to the committee are:


- The purchaser is bound to the contract terms and conditions when they click to buy, whether or not they have taken legal advice on the title to the property or on the terms of the contract itself.
- A 10% deposit is payable in order to secure the property in the online auction – this is not a normal booking deposit – it is a full contract deposit and is stated in the contract to be non-refundable.
- The online auction firm does not hold the deposit either as stakeholder or otherwise – it is paid over immediately to the vendor. It is not held by the vendor as stakeholder or in trust for the purchaser. There is no security given to the purchaser that the deposit moneys are safe or will be returned in the event that the contract does not proceed for any reason. This is not usual practice. Usual practice is that an estate agent takes only a booking deposit – not a full 10% contract deposit – and holds the booking deposit moneys on

trust for the purchaser until a binding contract is in place, and as stakeholder after the contract becomes binding, and the booking deposit moneys are not released to the vendor until the sale has closed.

- The online auction firm takes its own fees out of the deposit moneys before it pays the remainder over to the vendor and before completion of the sale. This is not usual practice.
- The purchaser is required to nominate a person in the online auction firm to sign the contract on his/her behalf. There is a similar requirement for the vendor.

The committee has asked the PSRA whether it is their view that these practices are in compliance with regulations that the PSRA promotes and enforces. It has also asked the PSRA to confirm if it is satisfied that the practice of online auction employees acting as appointed

agents or attorneys for both the vendor and purchaser in the same transaction is in order. The PSRA has also been asked to advise if there are any ethical standards set down by it or any regulatory requirements that would require a licensee or its employees not to act for both a vendor and a purchaser in relation to any matter to do with a sale of property, including the execution of contract documents on behalf of both parties that bind them in contract. The committee will advise the profession of any replies it gets in due course.

The committee realises that there is little or nothing that members can do if their clients have already bought these properties by ‘clicking to buy’ online before they are consulted for legal advice. The committee would advise that solicitors direct their clients to the PSRA to make complaints in any appropriate case. 

CONVEYANCING COMMITTEE

VENDOR TO FURNISH REDEMPTION FIGURES

It has come to the attention of the Conveyancing Committee that some vendors are refusing to furnish redemption figures to purchasers in advance of completion. Practitioners should note that it is the recommendation of the committee that, prior to com-

pletion, the purchaser’s solicitor should be furnished with a copy of the letter obtained by the vendor’s solicitor from his/her client’s lending institution, setting out the figure on receipt of which the lending institution will discharge the vendor’s mortgage.

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INTELLECTUAL PROPERTY AND DATA PROTECTION LAW COMMITTEE

GDPR AND YOUR FIRM

We are all familiar with the EU *General Data Protection Regulation* (GDPR), and the need to prepare for May 2018. The GDPR will introduce new obligations and financial penalties arising from data breaches. The regulation comes into force on 25 May, while the *Data Protection Bill* was published in early 2018.

The GDPR introduces specific provisions on security of data, data breaches, requirements to notify breaches to the *Data Protection Commissioner*, and penalties for breaches.

Why is the GDPR important?

- Law firms are data controllers and, as such, have to comply with the GDPR provisions whenever the firm processes personal data,
- ‘Personal data’ is data that relates to identified or identifiable living individuals,

- The definition of ‘processing’ is wide and includes any collection, recording, organisation, structuring, storage, adaptation, alteration, retrieval, consultation, use, disclosure, erasure or destruction of data,
- Law firms have a large depository of client personal data as well as employee data,
- Data security should be the concern and responsibility of all in the firm, from the senior partner downwards. Everyone in the firm should have an understanding of the GDPR, and should understand their responsibilities.

Getting GDPR ready

If you have not already done so, you should start now. The Intellectual Property and Data Protection Law Committee, together with Law Society Finuas Skillnet, has prepared two

online learning resources to assist practitioners.

It is recommended that practitioners find out more about the GDPR, why it matters to law firms, and what to do to prepare for May and beyond, by watching and listening to the online seminar ‘GDPR: an introduction – a practical guide for practitioners’. The seminar is in four modules and covers the following topics:

- An overview of the changes,
- The SME toolkit,
- Right of access,
- Breaches and data litigation.

The seminar is available free from March 2018 to the end of the year.

The second online resource, ‘GDPR: how to get your firm GDPR ready – a practical guide for practitioners’, gives a more detailed and practical look at

preparing a law firm for GDPR, and answers many frequently asked questions.

The above seminars are available on the *Law Society Professional Training* page at www.lawsociety.ie.

In addition to these training resources, the committee is in the process of preparing written guidance and precedents to assist practitioners. As these resources become ready, they will be made available on the data protection page at www.lawsociety.ie.

Other GDPR resources

Practitioners may find the following resources useful:

- ‘Brave new world’ (John Cahir, *Law Society Gazette*, Jan/Feb 2018, p46),
- *EU Data Protection Regulation (Regulation 2016/679)*,
- www.GDPRandYOU.ie,
- www.dataprotection.ie.

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COURSE NAME	DATE	FEE
SPRING 2018		
Diploma in Commercial Property Law	Wednesday 7 March	€2,500
Certificate in Data Protection Practice	Thursday 8 March	€1,550
Certificate in Pensions and Applied Trusteeship	Tuesday 13 March	€1,550
Certificate in Charity Law Trusteeship and Governance	Friday 23 March	€1,550
Sports Law MOOC (5 week online course)	Tuesday 8 May	Free
Certificate in Decision-Making Capacity & Support	Saturday 12 May	€1,550
Certificate Company Secretarial Law and Practice	Tuesday 2 October	€1,550
Diploma in Sports Law	Wednesday 24 October	€2,500
Diploma in Education Law	Friday 2 November	€2,500
CONTACT DETAILS		
E: diplomateam@lawsociety.ie	T: 01 672 4802	W: www.lawsociety.ie/diplomacentre

Please note that the Law Society of Ireland's Diploma Centre reserves the right to change the courses that may be offered and course prices may be subject to change. Some of these courses may be iPad courses in which case there will be a higher fee payable to include the device. Contact the Diploma Centre or check our website for up-to-date fees and dates.





SOLICITORS' BENEVOLENT ASSOCIATION

154TH REPORT, 1 DECEMBER 2016 TO 30 NOVEMBER 2017

This is the 154th report of the [Solicitors' Benevolent Association](#), which was established in 1863. It is a voluntary charitable body, consisting of all members of the profession in Ireland. It assists members or former members of the solicitors' profession in Ireland and their wives, husbands, widows, widowers, family, and immediate dependants who are in need, and is active in giving assistance on a confidential basis throughout the 32 counties.

The amount paid out during the year in grants was €716,928, which was collected from members' subscriptions, donations, legacies and investment income. Currently, there are 84 beneficiaries in receipt of regular grants, and approximately half of these are themselves supporting spouses and children.

There are 20 directors, three of whom reside in Northern Ireland, and they meet monthly in Blackhall Place. They meet at the Law Society of Northern Ireland in Belfast every other year. The work of the directors, who provide their services entirely on a voluntary basis, consists in the main of reviewing applications for grants and approving of new applications. The directors also make themselves available to those who may need personal or professional advice.

The directors are grateful to both law societies for their support and, in particular, wish to express thanks to Stuart Gilhooly (past-president of the Law Society of Ireland), Ian Huddleston (past-president of the Law Society of Northern Ireland), Ken Murphy (director general), Alan Hunter (chief executive), and the personnel of both societies. The Law Society organised the Spring Gala during the year, and our association received the sum of €22,621 from the proceeds. A very sincere thanks

RECEIPTS AND PAYMENTS A/C FOR YEAR ENDED 30/11/2017		
	2017	2016
	€	€
RECEIPTS		
Subscriptions	429,962	441,841
Donations	183,328	106,252
Legacies	2,000	15,000
Investment income	65,684	62,506
Bank interest	6	180
Currency gain	-	5,007
Repayment of grants	1,200	45,137
	682,180	675,923
PAYMENTS		
Grants	716,928	656,774
Bank interest and fees	1,212	1,139
Administration expenses	59,770	49,153
Currency loss	2,827	-
	780,737	707,066
OPERATING DEFICIT FOR THE YEAR	(98,557)	(31,143)
Profit on disposal of investments	152,468	47,791
Provision for decrease in the value of quoted investments	(18,277)	(12,142)
SURPLUS FOR THE YEAR	35,634	4,506

DIRECTORS AND OTHER INFORMATION

- **Directors:** Thomas A Menton (chairman), Caroline Boston (Belfast), Liam Coghlan (Killarney), Thomas W Enright (Birr), Felicity M Foley (Cork), William B Glynn (Galway), John Gordon (Belfast), Colin Haddick (Newtownards), Niall Lavery (Dundalk), Seamus Mallon (Castleblayney), Paul Malone (Borrisokane), Anne Murrain (Waterford), John M O'Connor (Dublin), John TD O'Dwyer (Ballyhaunis), Colm Price (Dublin), Mark Quinn (Gorey), James I Sexton (Limerick), John Sexton (Dublin), Andrew F Smyth (Dublin), Brendan J Twomey (Donegal)
- **Trustees** (ex officio directors): John Gordon, John M O'Connor, Andrew F Smyth
- **Secretary:** Geraldine Pearse
- **Auditors:** Deloitte, Chartered Accountants and Statutory Audit Firm, Deloitte & Touche House, Earlsfort Terrace, Dublin 2
- **Financial consultants:** Tilman Brewin Dolphin Limited, 3 Richview Office Park, Clonskeagh, Dublin 14
- **Bankers:** Allied Irish Banks plc, 37 Upper O'Connell Street, Dublin 1; First Trust Bank, 92 Ann Street, Belfast BT1 3HH
- **Offices:** Law Society of Ireland, Blackhall Place, Dublin 7; Law Society of Northern Ireland, Law Society House, 96 Victoria Street, Belfast BT1 3GN
- **Charity number:** CHY892

to Stuart Gilhooly, the members of the Council, and to the organisers of the Spring Gala.


I wish to express particular appreciation to all those who contributed to the association when applying for their practising certificates, to those who made individual contributions, and to the

following: Law Society of Ireland, Law Society of Northern Ireland, County Louth Solicitors' Bar Association, Dublin Solicitors' Bar Association, Courts Service, Faculty of Notaries Public in Ireland, Limavady Solicitors' Association, Mayo Solicitors' Bar Association, Medico-Legal Society

of Ireland, Sheriffs' Association, Southern Law Association, Tipperary Solicitors' Bar Association, Waterford Law Society, and West Cork Bar Association.

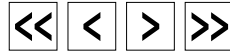
I note, with deep regret, the death last February of our colleague Brendan Walsh, who was a director of the association for many years and during that time gave up his time and energy in furthering the aims of the association. His kindness and courtesy will be long remembered by those with whom he came in contact, both as a colleague, classmate, friend, and an able representative of the association.

The demands on our association are rising due to the present economic difficulties, and to cover the greater demands on the association, further fund-raising events are necessary. Additional subscriptions are more than welcome, as, of course, are legacies, and the proceeds of any fund-raising events. In certain cases, the association can claim tax relief for donations of €250 or more. Subscriptions and donations will be received by any of the directors or by the secretary, from whom all information may be obtained at 73 Park Avenue, Dublin 4. Information can also be obtained from the association's website at www.solicitorsbenevolentassociation.com. I would urge all members of the association, when making their own wills, to leave a legacy to the association. You will find the appropriate wording of a bequest at p34 of the *Law Directory 2017*.

I would like to thank all the directors and the association's secretary, Geraldine Pearse, for their valued hard work, dedication and assistance during the year. 

Thomas A Menton, chairman

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DATE	EVENT	DISCOUNTED FEE*	FULL FEE	CPD HOURS
12/13 April	ENGLISH AND WELSH PROPERTY LAW AND PRACTICE	€411	€588	9 General (by Group Study)
13 April	TRACHILD – Training of Lawyers representing Children in Criminal, Administrative and Civil Justice	Complimentary		TBC
20/21 April	MASTERCLASS IN PLANNING & ENVIRONMENTAL LAW AND PRACTICE FOR THE CONVEYANCER	€350	€425	8 General, 2 M & PD Skills (by Group Study)
10 & 11 May	ESSENTIAL SOLICITOR UPDATE PARTS I & II – in partnership with Leitrim, Longford, Roscommon and Sligo Bar Associations Landmark Hotel, Carrick-on-Shannon, Co Leitrim	€80 (Part I) €170 (Parts I & II)	€115 (Part II)	4 (by Group Study) Part I 6 (by Group Study) Part II
11 & 12 May & 23 June	SUPRALAT - TRAINING FOR DEFENCE SOLICITORS – Advising Clients in Garda Custody – Fota Island Resort, Fota Island, Cork Application deadline 9 April 2018	€350	€425	Full participation in this Masterclass will cover all of your general CPD requirements for 2018 (by Group Study & eLearning)
15 May	ANNUAL HUMAN RIGHTS LECTURE	Complimentary		1.5 General (by Group Study)
17 May	PROFESSIONAL WELLBEING FOR A SUCCESSFUL PRACTICE – Connacht Hotel, Galway	€150	€176	5 M & PD Skills (by Group Study)
18 May	MIDLANDS GENERAL PRACTICE UPDATE – in partnership with Laois Solicitors' Association and Carlow, Midlands and Kildare Bar Associations Midlands Park Hotel, Town Centre, Portlaoise, Co Laois	€115 <i>Hot lunch and networking drinks included in price</i>		6 (by Group Study)
18/19 May & 15/16 June	PROBATE & TAX MASTERCLASS <i>Attend Module 1, Module 2 or both modules</i>	€750 €375 (per module)	€850 €425 (per module)	10 General (by Group Study) per module
22 May	EU REGULATION OF CRYPTOCURRENCY: AML v BITCOIN – in collaboration with the EU and International Affairs Committee	€115		2 Regulatory Matters (incl Accounting & AML) by Group Study
24 May	THE IN-HOUSE SOLICITOR – DEALING WITH CHANGE AND UPHEAVAL – in collaboration with the Inhouse and Public Sector Committee	€55		2.5 M & PD Skills (by Group Study)
7 June	THE ASSISTED DECISION MAKING (CAPACITY) ACT, 2015 – THE IMPLICATIONS FOR PRACTICE	€150	€176	3 General (by Group Study)
14 & 15 June	NORTH WEST GENERAL PRACTICE UPDATE PARTS I & II – in partnership with Donegal and Inishowen Bar Associations Solis Lough Eske Castle Hotel, Donegal	€80 (Part I) €170 (Parts I & II)	€115 (Part II)	Part I – 4 (by Group Study) Part II – 6 (by Group Study)
22 June	ESSENTIAL SOLICITOR UPDATE 2018 – in partnership with Clare and Limerick Bar Associations – Treacy's West County Hotel, Co Clare	€115 <i>Hot lunch and networking drinks included in price</i>		6 (by Group Study)
22/23 June	PERSONAL INJURIES LITIGATION MASTERCLASS 2018	€350	€425	10 hours including 1 Regulatory Matters (by Group Study)



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 John O'Dwyer, a solicitor, of O'Dwyer Solicitors, Bridge Street, Ballyhaunis, Co Mayo, and in the matter of the *Solicitors Acts 1954-2015* [2338/DT25/16]

Named client (applicant)
John O'Dwyer (respondent solicitor)

On 8 December 2017, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in respect of the following complaint, as set out in the applicant's affidavit: "In his letter dated 4 November 2010, the respondent solicitor did not help the applicant, but seriously misled the applicant and told the applicant to pay up."

The tribunal ordered that the respondent solicitor:

- 1) Stand advised and admonished,
- 2) Pay a sum of €7,500 in part restitution to the applicant, without prejudice to any of the legal rights of the applicant,
- 3) Pay a sum of €500 to the applicant in respect of his attendance at the hearings herein.

In the matter of John Mark McFeely, a solicitor previously practising as Hegarty & McFeely Solicitors at 10 Queen Street, Derry BT48 7EX, Northern Ireland, and at 27 Clarendon Street, Derry BT48 7EX, Northern Ireland, and in the matter of the *Solicitors Acts 1954-2015* [2017/DT25; 2017/DT48; 2017/DT49; 2017/DT50; and High

Court record 2017 91 SA]

Law Society of Ireland (applicant)
John Mark McFeely (respondent solicitor)

2017/DT25

On 20 September 2017, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of professional misconduct in that he:

- 1) Failed to ensure that there was furnished to the Society a closing accountant's report, as required by regulation 26(2) of the *Solicitors Accounts Regulations 2001* (SI 421 of 2001) in a timely manner or at all, having ceased practice on 31 December 2012,
- 2) Failed to respond to the Society's queries in relation to the balance of client funds held by him since he ceased practising.

2017/DT48

On 20 September 2017, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of professional misconduct in that he:

- 1) Failed to comply with an undertaking dated 19 June 2007 furnished to Permanent TSB on behalf of his named clients and property at Newtowncunningham, Co Donegal, in a timely manner or at all,
- 2) Failed to respond to the Society's letter of 7 October 2016 in a timely manner, within the time prescribed, or at all,
- 3) Failed to attend the meeting

NOTICE: THE HIGH COURT

In the matter of John Mark McFeely, a solicitor previously practising as Hegarty & McFeely Solicitors, 10 Queen Street, Derry BT48 7EX, Northern Ireland, and at 27 Clarendon Street, Derry BT48 7EX, Northern Ireland, and in the matter of the *Solicitors Acts 1954-2015* [2017 no 91 SA]

Take notice that, by order of the President of the High Court made on 5 February 2018, it was ordered that the name of John Mark McFeely be struck from the Roll of Solicitors.

John Elliot, Registrar of Solicitors, Law Society of Ireland, 19 February 2018

of the Complaints and Client Relations Committee on 29 November 2016, despite being required to do so by letter dated 22 November 2016.

2017/DT49

On 20 September 2017, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of professional misconduct in that he:

- 1) Failed to comply with an undertaking furnished to named complainants on 30 December 2004 in respect of his named clients and property at Castlefinn, Co Donegal, in a timely manner or at all,
- 2) Failed to comply with the direction made by the Complaints and Client Relations Committee at its meeting on 19 July 2016 that he furnish a full report to the Society by 29 July 2016, which decision was communicated to him by letter dated 20 July 2016,
- 3) Failed to respond to letters from the Society dated 12 January and 29 January 2016 in a timely manner or at all.

2017/DT50


On 20 September 2017, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of professional misconduct in that he:

- 1) Failed to comply with an

undertaking dated 20 September 2007 furnished to Permanent TSB in respect of his named client and property at Newtowncunningham, Donegal, in a timely manner or at all,

- 2) Failed to respond to the Society's correspondence of 7 October 2016 and 2 November 2016 within the time provided, in a timely manner, or at all,
- 3) Failed to attend the meeting of the Complaints and Client Relations Committee on 29 November 2016, despite being required to do so by letter dated 22 November 2016.

The tribunal sent all four matters forward to the High Court and, on 5 February 2018, in High Court proceedings 2017 no 91 SA, the High Court made an order that:

- 1) The respondent solicitor's name be struck off the Roll of Solicitors,
- 2) The respondent solicitor pay a cumulative sum of €5,500 as a contribution towards the costs of the disciplinary proceedings within six months of the order,
- 3) The respondent solicitor pay the whole of the costs of the applicant, such costs to be taxed by a taxing master of the High Court in default of agreement. 



TRADEMARK FOUND TO BE 'CONTRARY TO PUBLIC POLICY'

A Spanish pizza chain was prevented from registering its name as a trademark on the grounds that it was offensive and against 'European values'.

Jeanne Kelly serves it cold

JEANNE KELLY IS A PARTNER AT [LK SHIELDS](#), SPECIALISING IN IT AND IP LAW

THOSE CRIMINAL ACTIVITIES BREACH THE VERY VALUES ON WHICH THE EU IS FOUNDED, IN PARTICULAR THE VALUES OF RESPECT FOR HUMAN DIGNITY AND FREEDOM, WHICH ARE INDIVISIBLE AND MAKE UP THE SPIRITUAL AND MORAL HERITAGE OF THE EU

It is a feature of most trademark systems that certain marks can be refused registration on public-policy grounds. In this case, pizza chain La Mafia had applied in 2006 for an EU-wide trademark with the European Union Intellectual Property Office (EUIPO). The chain had no operations in Italy. The trademark featured a Godfather-themed white-on-black font design and a red rose, above the words (in Spanish) 'Take a seat at the table'.

The overall look and feel of the mark was similar to Mario Puzo's famed book, and the publicity material for the Francis Ford Coppola films that were inspired by it, although no element of the contested mark referred explicitly to the book or the films. The mark was registered in 2007.

The EUIPO later revoked the trademark after the Italian government argued it cheapened the seriousness of the Mafia and glamorised the criminal organisation. Italy said that granting the trademark was "contrary to public policy and to accepted principles of morality".

Both the EUIPO Cancellation Division and its board of appeal agreed with the Italian government's position and invalidated the mark. This resulted in an appeal by the catering company



to the General Court – *La Mafia Franchises SL v EUIPO* (Case T-1/17, 15 March 2018) – which was ultimately unsuccessful.

In particular, the General Court rejected the company's arguments that its theme restaurants were a reference to the *Godfather* films rather than to the actual Cosa Nostra. The court outlined the applicable test for assessing the absolute ground of refusal on the ground of public policy/morality. It is well settled, and repeated by the court, that the test for offensiveness is a median, not an extreme.

The assessment of the existence of a ground for refusal under article 7(1)(f) of [Regulation 207/2009](#) cannot, it found, be based on the perception of the part of the relevant public that does not find anything shocking, nor can it be based on the perception of the part of the public that may be very easily offended, but must be based on the standard of a reasonable person with

average sensitivity and tolerance thresholds.

The court listed the numerous crimes of the mafia, such as racketeering, money laundering and drugs trafficking, achieved through the techniques of murder, intimidation and physical violence. It said: "Those criminal activities breach the very values on which the EU is founded, in particular the values of respect for human dignity and freedom, which are indivisible and make up the spiritual and moral heritage of the EU."

It added, that "the mafia's criminal activities are a serious threat to security throughout the EU" and that "the word element 'La Mafia' manifestly brings to mind, for the public, the name of a criminal organisation responsible for particularly serious breaches of public policy".

Crucially, it found that the word element 'La Mafia' had deeply negative connotations in Italy, due to the serious harm done by that criminal organisation to the security of that member state.

Finally, it found that the tagline 'Se sienta a la mesa' ('Take a seat at the table') trivialised mafia activities.

The La Mafia chain argued that several marks that included the word 'mafia' had been regis-



PIC: REX FEATURES



An offer they could easily refuse...

tered in the past in Italy. It failed to convince the court on this ground, too. The EU trademark regime was, it said, an autonomous system, made up of a set of rules and pursuing objectives specific to it – its application being independent of any national system. Accordingly, the registrability of a sign as an EU trademark was to be assessed on the basis of the relevant legislation alone.

The court found that the contested mark, considered as a whole and in line with exist-

ing jurisprudence, referred to a criminal organisation (and not the films, contrary to the Spanish company's assertions). It conveyed a globally positive image of that organisation and, therefore, trivialised the serious harm done by that organisation to the fundamental values of the EU.

The contested mark was, therefore, likely, in the court's view, "to shock or offend, not only the victims of that criminal organisation and their families, but also any person who, on EU territory, encounters that mark

and has average sensitivity and tolerance thresholds".

Accordingly, the court found that the board of appeal, therefore, did not err when it found that the contested mark was contrary to public policy, within the meaning of article 7(1)(f) of the (then in force) Regulation 207/2009, and therefore confirmed that that mark was to be declared invalid, in accordance with article 52(1)(a) of that regulation.

Costs were awarded against the La Mafia group. [G](#)

ITALY SAID
GIVING THE
TRADEMARK
WAS 'CONTRARY
TO PUBLIC
POLICY AND
TO ACCEPTED
PRINCIPLES OF
MORALITY'



RATES

PROFESSIONAL NOTICE RATES

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- **Title deeds** – €300 per deed (incl VAT at 23%)
- **Employment/miscellaneous** – €150 (incl VAT at 23%)

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

NEW RATES
FROM JANUARY 2018

WILLS

Barry, Oliver (deceased), late of 88 Millbrook, Johnstown, Navan, Co Meath, formerly of 10 Delbrook Park, Ballinteer, Dublin 16, and 58 Broadhill, Ballinteer, Dublin 16, who died on 22 January 2018. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Julie G O'Connor, Joseph T Deane & Associates, St Andrew's House, 28/30 Exchequer St, Dublin 2; D02 R721; tel: 01 671 2869, email: julieoc@joedeane.ie

Brennan, Peter (deceased), late of Carrickahogue, Shercock PO, Co Monaghan. Would any person having knowledge of a will made by the above-named deceased, who died on 1 December 2017, please contact G Jones & Co, Solicitors, Main St, Carrickmacross, Co Monaghan; tel: 042 966 1822, email: clynch@gjones.ie

Cooney, Thomas (deceased), late of 49 Garnish Square, Waterville, Blanchardstown, Dublin 15, and formerly of 59 The Maltings, Watling Street, Dublin 8, who died on 14 February 2018. Would any person having knowl-

edge of any will made by the above-named deceased please contact Masterson Sammon & Co, Solicitors, 93C Monkstown Road, Monkstown, Co Dublin; tel: 01 230 3472, email: info@mastersonsammon.ie

Corrigan, David (deceased), late of 3 Oakley Park, Blackrock, Co Dublin, who died on 7 September 2017. Would any person having knowledge of the whereabouts of any will executed by the said deceased please contact Delahunt, Solicitors, 357 North Circular Road, Phibsborough, Dublin 7; tel: 01 830 4711, email: delahuntsolicitors@eircom.net

Donohoe, Peter (deceased), late of Drumbrawn, Cloverhill, Co Cavan, who died in or around 27 December 2017. Would any person having knowledge of a will made by the above-named deceased please contact Gemma Stack, P&G Stack, Solicitors, Main St, Maynooth, Co Kildare; DX 98008; tel: 01 629 0900, email: gstack@stack.ie

Doran, Francis (deceased), who died on 28 March 1976, late of 8 Barrack St, Carlow. Would any person having

knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased please contact Charlotte Egan, AB Jordan, Solicitors, College St, Carlow; DX 18001 Carlow; tel: 059 914 1257, email: reception@abjordan.ie

Harlowe, James (otherwise Jim) (deceased), late of 6 Booterstown Avenue, Booterstown (otherwise Blackrock), Co Dublin. Would any person having knowledge of a will made by the above-named deceased, who died on 28 January 2018, please contact Maurice E Veale & Co, Solicitors, 6 Lower Baggot Street, Dublin 2; tel: 01 676 4067, email: c.keane@vealesolicitors.com

Holbrook, Anthony (deceased), formerly of 40 Clarkes Road, Ballyphehane, Cork, who died on 6 February 2018. Would any person having knowledge of the whereabouts any will made by the above-named deceased, or if any firm is holding same, please contact Mary Buckley, Patrick Buckley & Co, Solicitors, 5/6 Washington St West, Cork; tel: 021 427 3198, email: mbuckley@pbuckley.ie

Keane, Gerard (deceased), late of 54 Heytsbury Lane, Ballsbridge, Dublin 4. Would any person having knowledge of any will made by the above-named deceased, who died on 20 January 2018, please contact Fitzsimons Redmond Solicitors, 6 Clanwilliam Terrace, Grand Canal Quay, Dublin 2; tel: 01 676 3257, email: law@fitzsimonsredmond.ie

Lingwood, Gerald (deceased), late of 253 Swords Road, Santry, Dublin 9, who died on 30 January 2018 and resided at 253 Swords Road, Santry, Dublin 9 at the date of his death. Would any person having knowledge of any will made by the above-named deceased please contact Padraig J Sheehan, Solicitors, Village Green House, Douglas West, Douglas, Cork; tel: 021 436 0066, email: info@pjsheehan.ie

O'Keefe, Myles (otherwise Milo) (deceased), late of Tankersley House, Aughrim, Co Wicklow. Would any person having any knowledge of a will executed by the above-named deceased, who died on 5 February 2018, please contact Cooke & Kinsella, Solicitors, Wexford Road, Arklow, Co Wicklow; tel: 0402 32928, fax: 0402 32272, email: fergus@cookekinsella.ie

Redmond, Richard (deceased), late of 171 Inchicore Road, Inchicore, Dublin 8, retired, who died on 14 September 2013. Would any person having knowledge of the whereabouts

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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, email: tina.ennis@matheson.com

Steiner, Ernst Christopher (deceased), late of Shraigh Hill, Bunnahowen PO, Ballina, Co Mayo. Would any person having knowledge of a will made by the above-named deceased, who died on 25 November 2017, please contact Alastair Purdy & Company, Solicitors, Corrib Castle, 1 Waterside, Woodquay, Galway; tel: 091 565 765, email: fiona@alastairpurdyandcompany.ie

TITLE DEEDS

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 property at Fairgreen Service Station, Fairgreen, Limerick, and in particular Lot 2 thereof ('the property') and Lantar Limited ('the applicant')

Take notice that any person having any interest in the freehold estate of the following property: Fairgreen Service Station, Fairgreen, Limerick, and in particular Lot 2 thereof, held under lease dated 1 March 1805 from Michael Maley of the one part and Lott Cunneen of the other part for the term of 900 years from 25 March 1805, subject to yearly rent of £6.

Take notice that Lantar Limited, c/o Dundon Callanan, Solicitors, 17 The Crescent,

Limerick, being entitled to the lessee's interest in the said lease, intends to submit an application to the county registrar for the city of Limerick for acquisition of the freehold interest in the aforesaid property and all intermediate interests (if any) in the said 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 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, Lantar Limited 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 city of Limerick 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: 6 April 2018

Signed: Dundon Callanan (solicitors for the applicant), 17 The Crescent, Limerick

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* (as amended) and in the matter of an application by Henry A Crosbie (in receivership) in respect of a plot

of land situate at the Point Village, Dublin 1

Take notice that any person having any interest in the freehold estate or any intermediate interests in the following property at the Point Village, Dublin 1: all that and those that plot or piece of ground, part of foot lot number 90, which is more particularly delineated and described in and by a map or terchart thereof in the margin of the lease dated 26 July 1864 between Thomas Crosthwait of the one part and Thomas Walpole, William Henry Webb, and John Fredrick Bewley of the other part, and coloured green thereon, and is situate, lying and being in the parish of St Thomas and county of the city of Dublin, held under a lease dated 26 July 1864 between Thomas Crosthwait of the one part and Thomas Walpole, William Henry Webb, and John Fredrick Bewley of the other part from 1 May 1864 for the term of 400 years, subject to the yearly rent of £40.

Take notice that Henry A Crosbie, acting by his joint statutory receivers Stephen Tennant and Paul McCann, being the person now holding the said property, intends to submit an application to the county registrar for the city of Dublin for the acquisition of the freehold simple estate or any intermediate interests in the aforesaid property, and any party asserting that they hold a superior interest in the aforesaid property (or any of them) are called upon to furnish evidence of the title to the aforementioned property 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 city of Dublin for directions as may be appropriate on the basis that the person or persons beneficially entitled to

all superior interests up to and including the fee simple in the aforesaid property are unknown or unascertained.

Date: 6 April 2018

Signed: McCann FitzGerald (solicitors for the applicant), Riverside One, Sir John Rogerson's Quay, Dublin 2

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of part II of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of an application by Joseph Gilmartin: premises at 28 Revington Park, North Circular Road, in the parish of St Munchin and city of Limerick contained in Folio LK198L

Take notice any person having any superior interest (whether by way of freehold estate or superior leasehold estate) in the above premises that Joseph Gilmartin, of 60 Pearse Street, Nenagh, Co Tipperary, intends to submit an application to the county registrar sitting at The Courthouse, Merchant's Quay, Limerick, for the acquisition of the freehold interest and all intermediate interests in the premises, and any person asserting that they hold a superior interest in the premises are called upon to furnish evidence of their title to the premises to the below named within 21 days of the date hereof. In particular, any person having an interest in the sublessors' interest under indenture of lease dated 25 February 1935 between Edmond Loftus Wickham of the one part and Daniel Egan of the other part, which lands are therein described as "all that and those a plot of building land situate at Little Kilrush in the parish of Saint Munchin and city of Limerick, more particularly delineated and shown on the plan drawn hereon and thereon edged pink" for a term of 900 years from 1 January 1935, subject to the yearly rent of £12 therein reserved, should provide evidence to the below named

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within 21 days of the date hereof.

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

Date: 6 April 2018

Signed: David Scott & Co (solicitors for the applicant), 56 O'Connell Street, Limerick

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 lands and store situated at Dun Laoghaire, Sallynoggin East, Co Dublin, formerly known as houses 1-8 inclusive, Mount Belton, Dun Laoghaire, Co Dublin, and in the matter of an application by Lidl Ireland GmbH

Any person having any interest in the freehold estate or intermediate interests of the following property: the lands and store forming part of the lands in the townland of Thomastown, barony of Rathdown, electoral division of Dun Laoghaire, Sallynoggin East and county of Dublin, described in Folio 198663F of the register Co Dublin, being all of the property demised by an indenture of head lease dated 3 May 1951 made between Richard Belton of the first part, Richard Belton and others of the second part, and Our Lady's Public Utility Society Limited of the third part, and being all of the property demised by eight subleases, the title to which subleases is registered in Folio 143609L of the register Co Dublin, and which lands and store were formerly known as houses 1-8 inclusive,

Mount Belton, Dun Laoghaire, Co Dublin.

Take notice that Lidl Ireland GmbH (external company number 904141), having its registered office at Great Connell Road, Newbridge, Co Kildare, intends to submit an application to the county registrar for the city of Dublin for acquisition of the freehold interest and intermediate interests in the aforesaid premises, 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, Lidl Ireland GmbH 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 Dublin for directions as may be appropriate on the basis that the persons (or some of the persons) beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid premises are unknown or unascertained.

Date: 6 April 2018

Signed: ByrneWallace (solicitors for the applicant), 88 Harcourt Street, Dublin 2; DO2 DK18

In the matter of the *Landlord and Tenants Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) Act 1967* and in the matter of an application made by Thomas J Anderson

Take notice that any person having any interest in the freehold estate or any intermediate interest in the following premises:

- i) 6a Malahide Road, Fairview, Dublin 3, being a single-storey commercial unit now known as 'Barber Shop',
- ii) 8 Malahide Road, Fairview, Dublin 3, being the ground floor part of the property now known as 'Glamorous Dogs',
- iii) 8a Malahide Road, Fairview,

Dublin 3, being part of the property now known as 'Crescent Interiors',

iv) 10a Malahide Road, being part of the property now known as 'Quick Fitness' and comprising the first-floor apartment,

v) 2 Marino Crescent, Clontarf, Dublin 3, being a residential premises,

vi) 3 Marino Crescent, Clontarf, Dublin 3, being a residential premises,

vii) 4 Marino Crescent, Clontarf, Dublin 3, being a residential premises,

viii) 5 Marino Crescent, Clontarf, Dublin 3, being a residential premises,

ix) 6 Marino Crescent, Clontarf, Dublin 3, being a residential premises, all held under a lease dated 31 October 1933 and made between Edward Kingston Vernon of the one part and Henry T Jennings of the other part for a term of 150 years from 29 September 1933 and subject to the rent therein reserved and to the covenants and conditions contained therein.

Take notice that the applicant intends to submit an application to the county registrar for the county/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 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 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 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 the aforementioned premises are unknown or unascertained.

Take notice that the applicant, Seabren Developments Limited, being the person currently entitled to the lessee's interest, intends to submit an application to the county registrar for the city and county 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 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.

Date: 6 April 2018

Signed: Malone and Martin Solicitors (solicitors for the applicant), Market Street, Trim, Co Meath

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 premises situate to the rear of number 89 Cromwellsfort Road, Walkinstown, in the city of Dublin, formerly part of the commons of Crumlin, situate in the parish of Crumlin, in the barony of Uppercross, and in the county of Dublin: an application by Seabren Developments Limited

Take notice that any person having any interest in the freehold estate or any superior interest in the following property: all that and those the lands, hereditaments, and premises situate to the rear of the premises known as no 89 Cromwellsfort Road, Walkinstown, in the city of Dublin, being the lands comprised in an indenture of assignment dated 18 October 1994 and made between Dermot Farrell of the one part and James Whelan and Noel Whelan of the other part, and being part of the lands held under an indenture of lease dated 15 April 1905 and made between Samuel Jameson of the one part and Michael Morris of the other part for a term of 150 years from 25 March 1905.

Take notice that the applicant, Seabren Developments Limited, being the person currently entitled to the lessee's interest, intends to submit an application to the county registrar for the city and county 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 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 city and county 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: 6 April 2018

Signed: Brian Crowe & Co (solicitor for the applicant), 177 Harold's Cross Road, Dublin 6

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 **Hatch Copley Limited**

Take notice that any person having any interest in the freehold estate of the following property: 10 Copley Street, Cork, held under indenture of lease dated 19 May 1964 made between (1) W Marsh & Sons Limited and (2) Daniel Cullinane and William Cullinane for the term of 99 years from 29 September 1963, subject to the yearly rent of IR£10.

Take notice that Hatch Copley Limited (the applicant) intends to submit an application to the

county registrar for the county of Cork for the 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 of Cork for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 6 April 2018

Signed: Crowley Millar (solicitors for the applicant), 2-3 Exchange Place, Georges Dock, IFSC, Dublin 1

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of an application by **Stephanie Walsh and Brian O'Dowd (applicants)**

Take notice that any person having any interest in the fee simple estate or any intermediate interest in the lands and premises now known as 'Maddens Garage', situate in the townland of Dunshaughlin, barony of Ratoath, in the county of Meath, being the lands initially occupied by Mr Bernard Carolan by way of a tenancy from year to year, subject to the yearly rent of £4.

Take notice that the applicant, Ms Stephanie Walsh, intends to submit an application to the county registrar sitting at the Courthouse, Trim, in the county of Meath, for the acquisition of the fee simple estate and all intermediate interests (if any) in the aforesaid premises, and any party asserting that they hold a superior interest in the aforesaid premises is called upon to furnish evidence of their title to the aforementioned premises to the below named within 21 days from the date of this notice.

In default of any such notice being received, the said applicant intends to proceed with the application before the said county registrar at the end of 21 days from the date of this notice and will apply to said the county registrar for directions as may be appropriate on the basis that the persons beneficially entitled

to the superior interest including the freehold reversion in the aforesaid premises are unknown or unascertained.

Date: 6 April 2018

Signed: Patrick J Carolan & Co (solicitors for the applicant), Market Square, Kingscourt, Co Cavan

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NE ULTRA CREPIDAM JUDICARET ALIVE, ALIVE-NO!

A Romanian court has rejected a man's claim that he is alive, after he was officially registered as dead, *The Guardian* reports.

Constantin Reliu (63) went to Turkey in 1992 for work and lost contact with his family in Romania. Hearing no news from her husband for over two decades, his wife managed to get a death certificate for him in 2016. When Turkey deported him back for having expired papers, he discovered he had been declared dead.

A court spokeswoman said that he lost his case because he appealed too late. The ruling is final.

Reliu was quoted as saying: "I am officially dead, although I'm alive. I have no income and, because I am listed dead, I can't do anything."



ARTFUL AMBUSH IN RECORD SETTLEMENT

A Russian oligarch's ex-lawyer has lost his appeal over a hidden art collection, in the largest-ever British divorce settlement case, *Legal Cheek* reports.

London senior partner Anthony Kerman had been ordered to appear as a witness as part of proceedings linked to a mammoth settlement between Russian oil-and-gas oligarch Farkhad Akhmedov and his former wife Tatiana.

The 2016 legal battle over Akhmedov's £1 billion assets had ended with the oligarch being ordered to hand over £453 million. This was believed to be the largest-ever divorce settlement in Britain.

Kerman – a long-time adviser to the businessman – was ordered to appear in court after the conclusion of the main hearing to give information regarding Akhmedov's assets, par-



ticularly his multimillion pound art collection. His testimony revealed that Akhmedov had moved both his collection and £434 million in business assets from a central European country to another European country shortly before the trial.

Kerman was ordered to produce documents regarding the collection and assets. He appealed against the "ambush" of the order for him to appear as a witness and against having to disclose information that he

said was subject to legal professional privilege, and also against what he called "gagging orders" preventing him telling anyone (including Akhmedov) about the disclosures.

The appeal was dismissed on all grounds. In relation to privilege, the court concluded that information on the assets was not legal advice between

client and advisor.

The £453 million that Tatiana Akhmedova was awarded (amounting to a 50:50 split of the assets) comprised a lump sum of £350 million, the modern art collection worth around £90 million, the family home in Surrey (worth around £2.4 million), and an Aston Martin.

DOUBLE TROUBLE

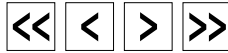
An inmate at a Peruvian prison in Peru drugged his identical twin, took his clothes, and walked out – leaving his brother behind bars, the New York *Daily News* reports.

Alexander Delgado was serving a 16-year sentence for child sexual abuse and robbery when his brother Giancarlo visited him. They met in a common area, and later went back to his

cell, where Alexander offered his sibling a sedative-laced soda.

Giancarlo woke up several hours later and told security guards what had happened, who then verified his identity by his fingerprints.

Alexander was on the run for 13 months before he was caught. He told authorities that he devised the scheme because he was desperate to see his mother.



Brightwater Recruitment

LEGAL ROLES

Senior Associate

Offshore Litigation Firm /
Hong Kong
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Ref: 914705

Financial Regulation Solicitor

Top 10 Firm
€70,000 - €100,000
Ref: 916914

Senior / Commercial Litigation & IP Associate

Top 10 Firm
€75,000 - €100,000
Ref: 916711

Property Solicitor (Fixed Charge Receivership)

Top 10 Firm
€60,000 - €85,000
Ref: 916977

Newly Qualified Banking Solicitor

Top 5 Firm
€60,000 - €65,000
Ref: 916751

Funds Associate / International Law Firm Dublin / Market Rate

Our client, a new entry into the Irish market, is seeking Junior & Senior Funds Associates to join their well-established group. The firm has been ranked a Tier 1 group and recognised for their excellence through numerous awards. They have also been recognised for 'Top Employers for Working Families', 'Top 50 Employers in the UK', and 'One of 12 Best Performing Employers' in a global workplace equality index. The role will afford the chance to assist with growing the practice in the Irish market. Successful candidates must be familiar with UCITs, Irish domiciled funds and possess excellent academics.
Ref: 917100

Pro Bono Associate / Top Tier Law Firm Dublin / €80,000 - €90,000

This role is the first of its kind in Ireland and is a result of the firm's commitment to corporate social responsibility. The role will ideally be on a full time basis however a part-time arrangement may also be considered. The role will involve identifying opportunities for pro bono in Ireland & NI, helping to implement them, winning work from key clients, coordinating and delivering existing projects and undertaking a pro bono case load. The ideal candidate will have experience in a commercial law firm and have an understanding of the legal needs of people who are disadvantaged.
Ref: 917105

Should you require further information about any of these roles or have any other legal recruitment requirements, please contact Michael Minogue, Manager of Brightwater Legal on m.minogue@brightwater.ie in the strictest confidence.

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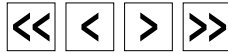
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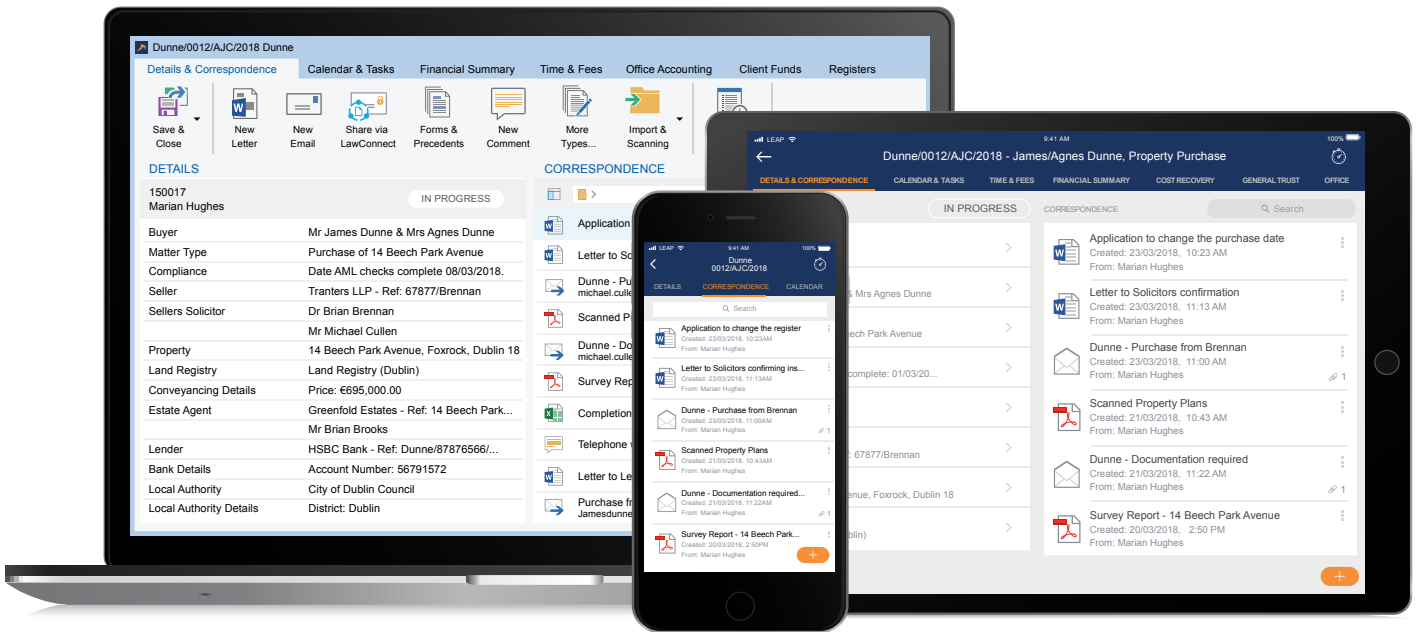
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