

# ARMS RACE

## What you need to know to combat cyber-attacks



**HAIL TO THE CHIEF**  
The Gazette talks to  
outgoing president  
Maura Derivan



**LIFE OF PII**  
The annual PII deadline  
approaches. Here's  
what you need to know



**HOT TIN ROOF**  
Rectifying fraudulent or  
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LAW SOCIETY



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# gazette

LAW SOCIETY

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# Tempus fugit – time flies!

**T**his time last year, I wrote my first President's Message. I outlined to you my vision for the future in bringing the Law Society to the forefront as a respected and enthusiastic body, committed to the development and improvement of the justice system. I set out my presidential themes for the year and commenced the work.

It has been a busy year. As your elected president, I am not only the president and leader of the Council of the Law Society of Ireland and the president and leader of the profession, but also the president for all members of the Law Society as an organisation.

You will have noticed, in photographs in the *Gazette*, the president wearing the robes and chain of office. This is not simply because they are elegant and stylish and signifiers of the office but, rather, they serve to remind the individual that they act as president, with the interests of the profession always of paramount importance – rather than the wishes and interests of the individual wearing the chain and the robes.

## Strategic vision

The Law Society's president has always been the leader who steps forward to voice the concerns of the profession and the Law Society, particularly in the public interest. They also drive the vision, purpose, and ambition of the profession, which coincides with and supports the interests of society in general.

After significant consultation with members of the profession and stakeholders, the Law Society has set its purpose, ambition and vision for the future:

- Our purpose is to support and shape a just and accessible legal system that works for all as a foundation for a modern, thriving and progressive society.
- Our ambition is for the Law Society to be the

influential voice on law and justice in Ireland, enabled by a dynamic solicitors' profession acting in the public interest.

- Our vision is to be a solicitors' profession of unparalleled excellence in shaping a legal system that is a model of justness, fairness, and accessibility, serving the needs of all.

This strategy has been developed after wide consultation with the profession and stakeholders, and the considerable work carried out by the Council of the Law Society. I wish to extend my thanks, as president, to everyone involved.

## Centenary year

This year, we also commemorated and celebrated the centenary of the admission of the first two women to the Roll of Solicitors, namely Mary Dorothea Heron and Helena Early, and we celebrated the first 100 women admitted to the Roll. We salute them and remember the pathway, laneway, and highway they have made for all of us.

The Law Society has moved into a new era of openness, transparency, and communication – which will continue into the future. Considerable work has been undertaken in relation to access to justice and, particularly, in seeking and lobbying for an increase in criminal legal-aid fees to ensure fair and equal access for all.

Finally, I wish to thank all of my colleagues who attended the President's Conference in May at Mount Juliet, Kilkenny. It highlighted the need for all of us to meet and engage with each other as colleagues, and to assist each other in the trials and challenges of professional life.

And so, as recited in song, poetry and film, 'Fare thee well!' It has been a great honour for me to promote our esteemed profession and to carry the torch for all of you throughout 2022/23.



IT HAS BEEN  
A GREAT  
HONOUR FOR  
ME TO CARRY  
THE TORCH  
FOR ALL OF  
YOU

*Maura Derivan*

MAURA DERIVAN,  
PRESIDENT

# THE BIG PICTURE

## FOR PEACE COMES DROPPING SLOW

Palestinians search for victims and survivors in the rubble of a residential building levelled in an Israeli airstrike in Khan Younis refugee camp in the southern Gaza Strip on 26 October 2023. At least 1,300 Israelis and more than 6,500 Palestinians have been killed to date, according to the Israel Defence Forces and the Palestinian health authority, since Hamas militants launched an attack against Israel from the Gaza Strip on 7 October and the Israeli operations in Gaza and the West Bank that followed it

PICTURE: SHUTTERSTOCK/EPA-EFE/HAITHAM IMAD







# Dinner in honour of AG Rossa Fanning SC



PIC: CIAN REDMOND

The Law Society held a dinner in honour of Attorney General Rossa Fanning SC on 11 October 2023. (Front, l to r): Barry MacCarthy (senior vice-president, Law Society), David Barniville (President of the High Court), Chief Justice Donal O'Donnell, Maura Derivan (President of the Law Society), Attorney General Rossa Fanning SC, Mark Garrett (director general, Law Society), and Maria Browne (Chief State Solicitor); (back, l to r): Susan Martin (DSBA president and Law Society Council member), Stephen Holst (managing partner, McCann FitzGerald), William Carmody (managing partner, Mason Hayes & Curran), Jamie Olden (managing partner, Ronan Daly Jermyn), Marion Berry (Deputy Director of Public Prosecutions), Patrick Spicer (chair, Matheson), Mr Justice George Birmingham, and Joe O'Malley (managing partner, Hayes Solicitors)

## *La dolce vita*



Thanks to Law Society President Maura Derivan for providing this photo to the *Gazette*, which demonstrates how a robe and chain can instantly make you the star attraction! The president was invited to northern Italy by the Milan Bar Association (Ordine degli Avvocati di Milano) for the opening of their legal year last February. Maura wishes to express her thanks to bar president Antonino La Lumia, vice-president Francesca Maria Zanasi, and the council members of the Milan Bar Association for their kind invitation

# YMC conference focuses on early-career skills



ALL PICS: GIAN REDMOND

The Younger Members Committee (YMC) held its annual conference on 5 October, in conjunction with Law Society Professional Training. The conference focused on the key skills required for solicitors during the first seven years of practice. The guest speakers included Sara Phelan SC (chair of the Bar Council), Barry McLoughlin (The Communications Clinic), and Annalisa Murphy (triple Olympian), all of whom engaged with attendees on a broad range of topics, including negotiation, communication skills and the lessons learned during their early careers. Committee chair Fiona McNulty moderated the event. Máille Brady Bates (committee member), Barry McLoughlin (speaker), Sara Phelan SC, Fiona McNulty (chair, YMC), Rachel Hession (LSPT), Tarisai May Chidawanyika (committee member), Luke Staines (committee member), Annalise Murphy (Olympian), Maeve Delargy (vice-chair, YMC), Michael Quinlan (committee member), and Frank McNamara (committee member)





# HEAD OF GOVERNANCE



The Law Society of Ireland is the professional body which regulates, educates and advocates on behalf of the solicitors' profession. Established almost 200 years ago and committed to providing the highest standard of service and support to its growing membership, students and the public. We are seeking to appoint to a new role a Head of Governance. Reporting to the Director General, the post holder will advise the Council on matters of Corporate Governance and support the Council, Committees and Senior Executives in carrying out their responsibilities.

## KEY DUTIES AND RESPONSIBILITIES WILL INCLUDE:

- Providing a comprehensive company secretarial service to the Council and Committees of the Law Society in an efficient, effective and high quality manner.
- Providing advice and support to the Council, Committee and Executive team members on corporate governance, statutory and regulatory responsibilities.
- Ensuring full compliance on relevant ethical, legal and regulatory matters across the organisation.
- Fostering professional and supportive working relationships between Council and Committee members and members of the Executive.

The ideal candidate will have a demonstrable track record advising and supporting board level stakeholders, providing all relevant training for elected officers / members and leading board level election processes. In addition, the Head of Governance will ensure high levels of trust in all relevant process and procedures within the Law Society, maintaining its reputation as an effective and compliant professional body, entrusted with the development and promotion of the profession and ensuring confidence with the broader public.

---

It is anticipated that this appointment will be made by December 2023.

As the first time post holder in this role at the Law Society, this is a wonderful opportunity to shape and co-create this function working with the most senior levels in the organisation. For a confidential discussion and further information on this role, please contact PwC Executive Search, Pauline McAlester on +353 87 913 8474.

To make an application for this role, please send a comprehensive curriculum vitae and a personal statement outlining your interest and how your experience and leadership approach represent a fit for the role to [ie\\_corpgovlawsoc\\_mailbox@pwc.com](mailto:ie_corpgovlawsoc_mailbox@pwc.com).

The Law Society of Ireland is also seeking to appoint a **Director of Policy**. Please see the Law Society of Ireland and PwC websites for further information or email [ie\\_pollawsoc\\_mailbox@pwc.com](mailto:ie_pollawsoc_mailbox@pwc.com).



# Past-president Michele O'Boyle honoured as SC



PIC: CIAN REDMOND

Law Society past-president Michele O'Boyle received her Patent of Precedence during a formal ceremony held at the Supreme Court in Dublin on 5 October. Presiding was Chief Justice Donal O'Donnell and judges of the superior courts. The ceremony was followed by a lunch at Blackhall Place. Pictured are Law Society director general Mark Garrett, Dervilla O'Boyle (solicitor), Michele O'Boyle SC, Nano O'Boyle (Michele's mother), and Law Society President Maura Derivan

## Law Society of Hong Kong visits Blackhall



A delegation from the Law Society of Hong Kong paid a visit to Blackhall Place on 25 October 2023, where they met with the Law Society president and the director of regulation and Registrar of Solicitors. (From l to r): Dr Niall Connors (director of regulation), Heidi Chu (Secretary General, Law Society of Hong Kong), Maura Derivan (Law Society president), and Christopher Yu (vice-president, Law Society of Hong Kong)

## FBE general secretary meets president



Patrick Dillen, general secretary of the Fédération des Barreaux d'Europe (FBE) paid a visit to Blackhall Place on 25 October, where he met with Law Society President Maura Derivan. At the annual conference of the FBE on 16 June 2023, the president applied for Ireland to become a member of the organisation

# Sligo CPD seminar is a sell-out success



Sligo Solicitors' Bar Association hosted its inaugural CPD day at the Sligo Park Hotel on 29 September. Tom MacSharry, Caroline McLaughlin, Fiona Gallagher and John Anderson



Elisa McHugh and Kieran Madigan

ALL PICS: DONAL HACKETT



Declan Hegarty poses a question during a Q&A



Emma Kelly and Marie Cullen



Eamonn Gallagher, Fiona Gallagher and Michael Butler



Joanne Irwin and Amy Langan



Ita Lyster and Noelle Galvin



Gemma Costello and Edel Sheerin



Claire Gilligan, Katie Lee and Aisling Lupton



Liam Sheridan, Cathal Deacy and Kenneth McDonnell



Noel Kelly, Declan Gallagher and Maurice Galvin



Karina Carty and Michele Timon

## New court division practice direction



● The High Court has published a **draft practice direction** on the court's new Commercial Planning and Environmental Division List.

The draft direction sets out the categories of cases that will fall under the list. It states: "The purpose of the list is to provide as efficient a processing as is consistent with justice of such planning and environmental cases, and related cases ... as are assigned or admitted to the list."

It also details how the list will operate, and what the court requests and expects from parties and practitioners.

The Government approved the dedicated division with specialist judges last year. The court will operate in a similar manner to the Commercial Court.

## Seven solicitors for District Court

● Ten new judges of the District Court made their declarations of office at the Supreme Court on 11 and 19 September – the largest number of District Court judges to be appointed together in the history of the State.

Seven of the ten judges are solicitors: William Aylmer, Fiona Brennan, Stephanie Coggans, Michael Connellan, Adrian Harris, Catherine Hayden, and Philip O'Leary.

Barristers Nicola Jane Andrews, Monika Leech and Michael Ramsey also made their declarations as judges of the District Court.

Eight of the ten nominations arose due to Government investment following the work of the Judicial Planning Working Group. The number of District Court judges will increase from 63 to 71.

William Aylmer was educated at UCD and qualified in 1994. He practised at a medium-sized commercial firm in Dublin and was a partner in a practice in Smithfield, Dublin. He was a Law Society Council member from 2011-2017.

Fiona Brennan was educated at the University of Galway (1988) and qualified in 1993. She worked for 20 years in the



Newly appointed judges of the District Court on the day of their declarations on 11 September. Pictured are Judge Fiona Brennan, Chief Justice Donal O'Donnell, Judge Philip O'Leary, President of the District Court Paul Kelly, and Judge William Aylmer

ALL PICS: SAUL PHILBIN BOWMAN, COURTS SERVICE



Judge Adrian Harris, Judge Michael Ramsey (barrister), and Judge Michael Connellan

law firm Michael J Staines. At the time of her appointment, she was a self-employed sole practitioner in criminal law.

Stephanie Coggans was educated at Trinity (1985) and qualified in 1992. At the time of her appointment, she was managing solicitor at the Legal Aid Board's Monaghan Law Centre.

Michael Connellan was educated at the University of Wales (1995) and qualified in 2000. At the time of his



Judge Catherine Hayden and Judge Stephanie Coggans

appointment, he was general manager solicitor at the Child and Family Agency (Tusla).

Adrian Harris was educated at the University of Galway (1992) and qualified in 1997. He was senior associate solicitor at Padhraic Harris and Co, Galway, at the time of his appointment.

Catherine Hayden was educated at TCD (1998) and qualified in 2006. At the time of her appointment, she was a senior associate in litigation and dispute resolution at A&L Goodbody.

Philip O'Leary was educated at UCC (1982) and qualified in 1985. He was chair of the Property Services Appeal Board at the time of his judicial appointment.

## Practising certificate renewal approaches

● With the next practising certificate renewal period firmly on the horizon, practitioners are reminded that all 2024 applications must be submitted *online only* through the Law Society website. This requirement includes all applications for PCs, qualifying certificates, memberships, applications by solicitors in the

full-time service of the State, certificates of good standing, and certificates of attestation for solicitors based outside the jurisdiction.

This is the fourth year that the PC renewal will be fully online.

Members should review their online 'dashboard' to ensure that their records are up to

date in advance of the renewal period.

If you have any queries, please contact the Practice Regulation team at [pc@lawsociety.ie](mailto:pc@lawsociety.ie) or tel: 01 672 4800. If you have trouble logging into your dashboard, email [webmaster@lawsociety.ie](mailto:webmaster@lawsociety.ie). You can also visit the Society's [website](#) for additional guidance and resources.

# Makeover for Four Courts rooms



PIC: CIAN REDMOND

● The Law Society is committed to always providing the highest standard of service to members who attend its Four Courts Consultation Rooms. For over 40 years, it has provided a responsive, courteous, and efficient service while our members attend court on behalf of their clients.

The Law Society's Four Courts office provides a number of services to assist members. Whether they're attending a trial, mediation, settlement talks, or a consultation with clients, its rooms can become a member's base.

The rooms were refurbished back in 2012, with a complete modernisation of the facilities. Due to the ever-growing demand for modern business cloud applications and high-speed internet, members' requirements have shifted more towards 'digital-first' and flexible communication tools.

The Law Society is constantly striving to understand and meet the

needs of its members. With this in mind, it has partnered with Vodafone to update the Wi-Fi network in the rooms in order to create a modern digital centre that offers seamless connectivity, robust security, and efficient collaboration tools for members.

Its latest investment now delivers fast, reliable, and secure internet connectivity. The consultation rooms now enjoy 100% Wi-Fi coverage in all meeting rooms and in the reception area. The newly implemented high-speed LAN ports now deliver up to 20 times the previous speed, to enable best-in-class connectivity.

The Law Society is now focusing on refurbishing all 26 consultation rooms to provide modern, comfortable spaces that meet members' needs. The first fully refurbished consultation room is serving as a showcase for future room refurbishments. It has a contemporary aesthetic that combines both the modern and minimalist. The colours employed are more neutral,

with a pop of colour to create a warmer, more welcoming ambience for members and their clients.

The Law Society welcomes feedback from its members and will work collaboratively with them to ensure that future transformations deliver the best in technology in the most inviting and comfortable surroundings.

Bookings for the consultation rooms can be made by calling 01 668 1806, emailing [fourcourts@lawsociety.ie](mailto:fourcourts@lawsociety.ie), or using the online booking system at [lawsociety.ie](http://lawsociety.ie) (visit the 'Business and career resources' section to find the link for 'Book meeting rooms').

## Planning watchdog legal bulletin



● The Office of the Planning Regulator (OPR) has launched a new quarterly legal bulletin called *Legal Digest*. The first issue is dedicated to 'learning from litigation'.

The bulletin is intended as a new resource to share knowledge from planning-and-environmental case law. It provides information on important precedents, court decisions, and emerging trends. It also includes a concise overview of noteworthy planning cases. It is expected to be published on a quarterly basis.

The OPR adds that it appreciates any feedback, as it continues to enhance the publication.

The case summaries are provided by solicitors from Fieldfisher Ireland LLP, whose team includes Zoe Richardson, a member of the Law Society's Environmental and Planning Law Committee.

## Executives' competency framework launched

● The Institute of Directors in Ireland has launched a new competency framework for directors, senior executives, and

boards. The framework aims to help produce higher standards in corporate governance in Ireland. For more, see [www.iod.com](http://www.iod.com).



## ENDANGERED LAWYERS

**YULIYA YURHILEVICH, BELARUS**



● On 16 October, Yuliya Yurhilevich was awarded the Ludovic Trarieux human-rights prize.

Yurhilevich (43) is a lawyer with 18 years' experience in Grodno, Belarus. She was a defence lawyer in many 'political' cases brought after the 2020 elections. She is well-known for representing political prisoners, such as the dissident artist Ales Pushkin, who died in prison last July.

Following a complaint from the Grodno region deputy prosecutor, questioning her 'professionalism', on 23 February 2022, the regional bar association of Grodno disbarred Yuliya Yurhilevich for "systematic violation of the law". Subsequently, she was accused of publicising her disbarment and providing Pavel Mazheika, an independent journalist and leader of a local independent group (City Life Centre), with information on political prisoners in Belarus, notably on Pushkin. Authorities claim that "by prior conspiracy" sharing this publicly available information, Mazheika and Yurhilevich collaborated in "extremist activity" and "invalidated the values and goals of [Belarusian] society and the state" by "knowingly spreading false information".

In July 2023, Yurhilevich was sentenced to six years in a general-security penal colony. Mazheika (45) was also sentenced to six years for "complicity in extremist activity" by covering the activities of the political opposition.

Journalists and activists in Belarus have faced large-scale repression since the August 2020 vote that handed a sixth term to President Alexander Lukashenko. Following the election, which was rejected as fraudulent by the opposition and the West, Belarus was swept by massive protests, some of which drew more than 100,000 people. Authorities responded with a brutal crackdown. More than 35,000 people were arrested, thousands were beaten by police while in custody, and dozens of NGOs and independent media outlets were shut down.

Created in 1984, the Ludovic Trarieux prize is awarded to "a lawyer, regardless of nationality or Bar, who throughout his career has illustrated, by his activity or his suffering, the defence of human rights, the promotion of defence rights, the supremacy of law, and the struggle against racism and intolerance in any form".

*Alma Clissmann was until recently a member of the Human Rights and Equality Committee. With thanks to Lawyers for Lawyers and ABC news.*

## Show me the honey!



PICTURE: GIAN REDMOND

● Not many people know that the Law Society is an award-winning honey producer! Relatively young in beekeeping terms, it started with only one hive, three years ago.

The idea began with beekeeper Bill O'Neill who, following a Culture Night visit to Blackhall Place, spotted the opportunity to site an apiary here. The Law Society enthusiastically embraced Bill's idea.

Since April 2020, the colony

has grown to four hives, producing the award-winning 'Blackhall Honey from the Law Society at Oxmanstown Green'.

As well as third prize and a 'highly commended' award at the South County Beekeepers' Association Honey Show in 2022, Bill's Blackhall Honey Biscuits took the first-place rosette at the Royal County Beekeepers' Association Honey Show in Navan on 3 September 2023. Un-bee-lievable!

## Chief appointed to reform GAL

● Anthony Douglas has been appointed to work on preparations for the planned guardian *ad litem* (GAL) national service. Douglas is the former chief executive of the Children and Family Court Advisory and Support Service, which represents children in family-court cases in England.

The appointment is part of a move to strengthen the voice of the child in court proceedings. Reform of the current model will provide for universal access to a GAL for all children involved in child-care court proceedings.

The *Child Care (Amendment) Act 2022* provides for reform



and creates a presumption in favour of the appointment of a GAL in child-care proceedings before the District Court, and mandatory appointment in special-care cases before the High Court.

# 120 courtrooms now video-enabled

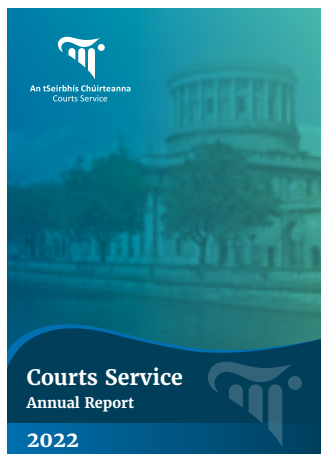
● 120 courtrooms have been enabled for video technology – up almost one-fifth compared with a year earlier – according to the Courts Service [annual report](#). The Prison Service accounted for almost 70% of the 34,355 video-link calls made in 2022.

The annual report also reveals that the amount of court fees collected by the service rose sharply last year, as activity recovered after COVID-19 restrictions. Just under €35.9 million in fees was collected – up from €24.8 million in 2021. This included almost €2.4 million in excise duties on licensing application collected on behalf of Revenue. There were no such payments in 2021 due to the pandemic.

Court fines jumped by 40% to €11.3 million. Fines, fees and other miscellaneous income made up just over 20% of the service’s total funding last year.

The report provided an update on capital projects under the National Development Plan, saying that a legal conveyancing process was underway for the Island of Geese site in Tralee, which Kerry County Council agreed to sell to the service last year.

The acquisition of a site in Naas had been completed, while



a process was underway to identify a new site in Galway.

Total spending rose to €163.6 million. Current spending rose by 5%, while capital spending was 7% higher. Much of the service’s capital spending is accounted for by payments being made for previous construction projects under public-private partnerships (PPPs). Almost 57% of current spending goes towards the operation of the Circuit and District Courts, with 12% going to the superior courts.

Spending linked to COVID-19 dropped from €4.3 million in 2021 to €1.7 million as public-health restrictions were removed. Almost 30% of capital spending was on technology.

## Gambling at a crossroads

● Ireland’s gambling industry is not prepared for new rules, according to a recent survey by Mason Hayes & Curran. The survey was carried out among 145 attendees at the firm’s webinar on gambling

reform in Ireland. Only 17% of respondents feel prepared to implement the proposed *Gambling Regulation Bill 2022*, with just over half still making preparations. Almost 30% have yet to begin.

## IRLI IN AFRICA

### A PRACTICAL TOOL FOR JUSTICE



Clockwise from top: Andy Stephens and Neil Abbott (British High Commission), Oliva Kinabo (Embassy of Ireland), Victoria Mgonela (UNICEF), Caroline Lamba (IRLI), Margaret Gaynor (Embassy of Ireland), Chief Justice Ibrahim Hamis Juma, Justice Gerald Ndika (Court of Appeal and chairman of the IJA Governing Council), and Sean McHale (IRLI)

● **Irish Rule of Law International (IRLI)** is a joint initiative of the Law Society of Ireland, the Bar of Ireland, the Law Society of Northern Ireland, and the Bar of Northern Ireland. Supported by the Department of Foreign Affairs, it promotes the rule of law in countries, including Malawi, Zambia, and Tanzania.

IRLI’s Tanzania programme focuses on improving the handling of child sexual-abuse (CSA) cases. It does this by fostering and strengthening institutional partnerships between the island of Ireland and Tanzania, promoting victim-centric approaches in handling CSA.

At the start of September, IRLI attended the launch of the *Compendium on Child Sexual Abuse Cases in Dar Es Salaam*. A joint venture between IRLI, the Institute of Judicial Administration (IJA), the Tanzanian judiciary, and *pro bono* lawyers at A&L Goodbody, the compendium marks a huge milestone in our Tanzania programme. It will improve knowledge regarding the appropriate handling of CSA cases.

Those in attendance highlighted the compendium’s usefulness. In his welcoming remarks, the principal of IJA, Justice of the Court of Appeal Paul Kihwelo, said the compendium was made possible due to close cooperation between the IJA and IRLI. The Irish deputy ambassador to Tanzania, Margaret Gaynor, commended the approach taken by the Government in Tanzania on actions against gender-based violence, including enactments of laws and capacity building.

In his speech, Chief Justice Ibrahim Hamis Juma encouraged Tanzania to draw best practices from Ireland by allowing video-recording of children’s testimonies in collecting evidence. Justice of the Court of Appeal and chairman of the IJA governing council, Gerald Ndika, said that the compendium would be a valuable resource, not only to judicial officers, but also to legal practitioners, prosecutors, investigators, policymakers, members of the academia, and the public.

The launch has shown the value of international collaboration. It lays the groundwork for strengthened capacity building and education for the justice sector, ultimately protecting victims and survivors.

*Anne-Marie Blaney is IRLI programme manager, Tanzania and Zambia.*

## 'General clearance' Revenue notice



● Effective from Monday 23 October 2023, Revenue has announced that 'general clearance' applies in the following two situations:

- Condition 1 – if the sale price is €350,000 or less,
- Condition 2(A) – if the property was liable for LPT on 1 May 2013.

The sale price does not exceed:

- The upper limit of the valuation band by 125% (or 125% above the actual declared value for properties above Band 19), declared as of 1 May 2013, and
- The upper limit of the valuation band by 15% (or 15% above the actual declared value for properties above Band 19), declared as of 1 November 2021.

Condition 2(B) applies if your property was not liable for LPT on 1 May 2013.

The sale price does not exceed:

- 15% of the upper limit of the valuation band (or 15% above the actual declared value for properties above Band 19) declared as of 1 November 2021.

## First hybrid PPC parchments

● High Court judge Mr Justice Liam Kennedy has told newly qualified solicitors at the Law Society's parchment ceremony on 28 September that professional courtesy should be maintained always between lawyers, clients, and law firms.

The newest cohort of 60 graduates included the majority of the first hybrid PPC trainees to graduate from the Law School.

Mr Justice Kennedy said that courtesy and respect were vital towards clients who had entrusted their affairs to a solicitor, even on what might seem mundane or trivial matters. He also urged the new solicitors to avoid correspondence that

was unnecessarily personal or aggressive: "It really does nothing to advance the case." Mr Justice Kennedy said that solicitors had a "crucial role" in deciding the overall strategy for protecting clients' interests.

Professional undertakings were legally binding and a serious matter, he said. "Never allow yourself to be put in a position where your honesty and integrity is compromised," he told the new solicitors, urging them to be scrupulous when dealing with client monies.

Solicitors were also entitled to be treated with respect and courtesy, and the profession should stand firm against bullying, he added.

He referred to the case of a junior solicitor in England who had left a briefcase on a train containing law-firm documents. This was a sad case of genuine human error that could happen to anyone, the High Court judge said. The junior solicitor was initially expelled from the profession in a question about whether she had been fully candid, he continued – the original mistake was not the central issue.

"All of us will make mistakes – we are human beings. What will define you is how you respond to them," he stated, urging the new solicitors to speak to colleagues whenever difficulties arose.

## Inaugural Sligo CPD is outstanding success

● Sligo Solicitors' Bar Association (SSBA) hosted its inaugural CPD day at the Sligo Park Hotel on 29 September. Over 120 solicitors from Sligo and beyond received updates on litigation, legal costs, regulation, mediation, financial wellbeing, and work/life balance.

Guest speakers at the sell-out event included Damien Higgins SC, Pauric Oates (Oates Breheny Group), Chris Callan (Callan Tansey Solicitors LLP), Sabine Walsh (Mediator Academy), Norah Hughes (Hughes Flynn Legal Cost Accountants), David Colgan BL, and Alan Williams (Alan Williams Coaching).

SSBA president Fiona Gallagher (Rochford Gallagher LLP) told the *Gazette*: "The outstanding turnout to our inaugural CPD event was a testament to the impressive



Fiona Gallagher (president, SSBA), John Anderson (secretary) and Caroline McLaughlin (PRO)

calibre of guest speakers and the hard work of our organising committee, comprising Caroline McLaughlin (PRO), and Callan Tansey Solicitors LLP, John Anderson (Mc Govern Walsh Solicitors LLP), and Noel Kelly (Noel Kelly Solicitors)."

PRO Caroline McLaughlin stated "It was fantastic to bring

colleagues from around the country to Sligo and showcase what the north-west has to offer. Typically, colleagues travel to other locations for CPD events of this nature. We wanted to offer legal education locally to our members. To receive such support from the colleagues who attended is outstanding."

# Society hosts LITEL conference



PIC: CIAN REDMOND

A delegation of 24 lawyers from across the EU met at Blackhall Place for the second LITEL study visit

● The Law Society welcomed 24 lawyers from Belgium, the Czech Republic, Denmark, France, Ireland, Poland, Romania, and Spain to Blackhall Place on 25 and 26 September for the second study visit of the EU-funded LITEL project.

LITEL (Lawyers Initial Training on European Law) is designed to address the lack of uniformity between training institutions in the area of

EU law. The project aims to promote EU law, strengthen links between legal educators across the EU, and design EU-law modules for trainee lawyers.

Four institutions are involved with the project, including the Law Society, École Française du Barreau in France, the Catalan Bar Council, and the Czech Bar Association.

Experts from each of the four training institutions are collaborating on designing and

drafting training materials on EU law, which will be used in the initial training of lawyers across all member states. These materials will be translated and adapted for national settings and made publicly available by the European Commission.

You can find out more about LITEL by downloading its project newsletter at [lawsociety.ie](http://lawsociety.ie) or by following the project on LinkedIn at [linkedin.com/company/litel](https://www.linkedin.com/company/litel).

## Secular ceremony marks new legal year

● For the first time in almost 100 years, a ceremony marking the opening of the new legal year took place in the Four Courts on 2 October.

The start of the legal year has traditionally been marked by two religious ceremonies – a Roman Catholic Mass and a Church of Ireland ceremony in the two St Michan’s churches near the courts. However, Chief Justice Donal O’Donnell has

introduced the new secular ceremony, saying that, while both religious ceremonies provided “a valuable and beautiful opportunity for quiet reflection and challenging thoughts”, in his experience there had been some “discomfort” with the idea that the opening of the year was associated, by default, with religion.

The Chief Justice said that the new ceremony now placed

the courts system “in the constitutional scheme”. The ceremony was attended by Attorney General Rossa Fanning SC, judges from the Court of Justice of the EU, judges and lawyers from England, Scotland, Wales and Northern Ireland, and Law Society President Maura Derivan with representatives of the Law Society Council, among others.

## CSO removes reservations



● The Central Statistics Office has removed a label of ‘under reservation’ on its statistics for recorded crime.

The office has been categorising the statistics in this way since March 2018, due to concerns about the underlying quality of data from the PULSE system used by the gardaí to record crimes.

The lifting of the reservation follows the CSO’s fifth quality review of the data, which found “consistent evidence of high-quality data levels”.

## New Circuit Court judges

● Solicitors Chris Callan and Jonathan Dunphy have been appointed as judges of the Circuit Court.

Chris qualified as a solicitor in 1988 and is a partner at Callan Tansey Solicitors, which has five regional offices and is recognised for its expertise in medical negligence. He has served on the Law Society’s Council for the past 11 years.

Jonathan Dunphy qualified as a solicitor in 2002 and set up his own practice in 2005. He is a member of the Law Society’s Criminal Law Committee and is managing partner at Jonathan Dunphy & Co, Dun Laoghaire, and Dublin city centre.

## A court for ducks



From: Keith Walsh SC, Keith Walsh Solicitors LLP, Dublin 12

● On the first day of the new legal year, we face another year of overcrowded, unsuitable family courts in Dublin. According to recent reports, the new family courts will open in 2028 where a

duck pond now stands. (Thanks to colleague Deirdre Kennedy BL for the short video of the Hammond Lane site, which can be viewed on [LinkedIn.com](https://www.linkedin.com).)

As an associate solicitor commented about the video on social media: “It’s quackers!”

## Stories from the heart

From: Brendan Power, De Paor, Slade, Co Wexford

● What has Cork solicitor Helen Collins got in common with best-selling author Cathy Kelly, broadcaster Joe Duffy, billionaire John Magnier, and Defence Forces chief of staff General Sean Clancy?

The answer is that they are among the 59 people who have donated their time and talent to provide a story of hope and resilience for a new book, *Stories from the Heart of Ireland*, which will raise funds for Make-a-Wish Ireland and help them make dreams come true for young children with life-threatening conditions.

From household names to homemakers, the endearing and sometimes heart-wrenching

stories published in this beautiful book are from the very hearts of our people and, whether funny or sad, small precious moments or big celebrations, they all have one thing in common – they offer hope.

Out now, the book contains 61 inspirational stories from people all over the country compiled by me (a former broadcaster and journalist) in memory of my granddaughter Niamh, who was a beneficiary of Make-a-Wish when, before her untimely passing in 2012 (aged only nine), they made her dream come true by taking her to Lapland to meet Father Christmas – “the real one”, as she later told everybody.

Every year, this wonderful charity – which relies entirely on donations – makes wishes come true for dozens of children with life-threatening illnesses, but they can’t do it without our help, and this book is one way of helping, as the money raised from sales will go directly to Make-a-Wish.

For more information, you can contact me at tel: 087 986 1756, email: [brendan@brendanpower.com](mailto:brendan@brendanpower.com).

## Our youthful, long-serving solicitors!

From: Gene Murphy, Neville Murphy McGarry Solicitors LLP, Bray, Co Wicklow

● I should have made it (class of 1981)! It was heart-warming to see in your *Gazette* (Aug/Sept 2023) all the familiar faces of friends and colleagues at the

24 July reception hosted by our president, Maura Derivan, and past-president James Cahill, whose idea it was.

I was struck by how well everybody looked and, all joking apart, how youthful. We rarely get to meet these days, and our

younger colleagues probably don’t realise that we attended closings and auctions, in person, with bank drafts (what are they?) – and side meetings in the solicitors’ room in the Law Library, or sometimes the local hostelrys. Keep on trucking!



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## PROFESSIONAL LIVES

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

### What is a Balint group?

**“W**hen I have a stressful situation at work, I can park it – I’ll talk about that in the group,” says a member of a solicitors’ Balint group.

Following a Law Society survey in 2018 on mental-health supports, two clear findings emerged: solicitors want to talk to colleagues for help, and they want the Law Society to facilitate access to enhanced supports.

From this, a pilot ‘Balint group’ emerged – a peer-support method already widely used in Ireland within medical and teaching circles but, until now, not for lawyers. Facilitated by Belinda Moller and Sonia McEntee, the group first met in October 2021.

In the late 1940s, Michael and Enid Balint created a peer-group method to train GPs in the NHS. Today, it’s the most widely used professional-development method for medics, and increasingly for other professionals (see [balint.co.uk](http://balint.co.uk)).

The aim is to understand the relationship between the client and the professional. It’s not straightforward, particularly in difficult and upsetting situations. As professionals, we tend to keep doing what we do without taking time to understand what’s really happening. Over time, the relationship can become filled with resentment, frustration, and dread.

“I feel I have a community. This work can be very lonely. Knowing

that you are not alone, not feeling alone, not feeling inundated,” is a comment from another solicitor in a Balint group.

A Balint group is usually eight to 12 peers gathered in a circle, with two co-leaders, and meets fortnightly or monthly as agreed. Our solicitors’ group meets nine times a year, online, for 90 minutes.

Co-leaders remind members about absolute confidentiality, and invite a case – a professional relationship that feels difficult, confusing, even upsetting. It can be current or years old, and is presented in just four to five minutes.

After some factual questions, the ‘presenter’ hands the case over to their colleagues. The group is asked to speculate and imagine what might be happening, but not to give advice, provide solutions or suggestions, or share comparison cases. They wonder aloud and ponder ‘what might the client be feeling and thinking?’, ‘what might be happening for them?’, ‘what impact does this have on the professional colleague?’, ‘what impact on the client?’, and ‘what is really going on here?’


Another member of the group says: “Balint is wonderful, but Balint is also grit. It is hard work.”

The kernel of an effective Balint group experience is discomfort – getting used to not knowing, to feelings of

uncertainty and doubt, to the urge to ‘give the right answer’ and not being able to. This isn’t easy. Lengthy professional training can create a locked-in way of thinking that requires a solution to every problem. This remarkable capacity is the antithesis of what poet John Keats famously called a “negative capability”.

Over time, the Balint group builds this different type of capability – defined as “precisely the ability to tolerate anxiety and fear, to stay in the place of uncertainty in order to allow for the emergence of new thoughts or perceptions” (Ken Eisold).

Sometimes, rather than acting quickly, what is needed is to wait a while, resisting the temptation to act from tried-and-tested positive capabilities.

Balint provides the opportunity to practise these new capabilities and get used to the discomfort evoked by uncertainty. There is relief in listening to peers discuss a case they have no investment in – to hear different perspectives, angles, wonderings about what is going on. A creative mental and emotional space that allows new thoughts to emerge can provide a basis for knowing better how to move forward. 

*Mary Duffy is the Law Society’s professional wellbeing executive. Confidential, independent, and subsidised support is available through LegalMind for legal professionals. A team of qualified professionals can offer advice and support to help you grow personally and professionally and reach optimal potential. Freephone 24/7 on tel: 1800 81 41 77; see [lawsociety.ie/legamind](http://lawsociety.ie/legamind).*

# The only constant is **change**

A new history of Irish barristers finds a pattern of change and adaptation throughout the 20<sup>th</sup> and 21<sup>st</sup> centuries, writes Mary Hallissey

IN THE PAST, IF YOU WERE RELATIVELY SENIOR AT THE BAR AND YOU WANTED TO TAKE SILK, THE CHIEF JUSTICE AND THE ATTORNEY GENERAL PROBABLY KNEW WHO YOU WERE AND KNEW YOUR REPUTATION. THE BAR IS SO MUCH BIGGER NOW

**B**arristers in Ireland: An Evolving Profession since 1921, by UCD's Niamh

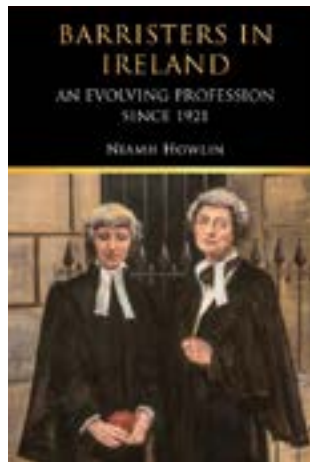
Howlin, describes the barrister profession in a period of vast social and cultural change in Ireland.

Dr Howlin is a legal historian who has previously written about the evolution of juries in Ireland. She conducted interviews with numerous practising barristers, as well as trawling the National Archives and Bar Council meeting minutes for nuggets of information. The author also sourced files from the Department of the Taoiseach, Department of Foreign Affairs, and the Attorney General's Office.

"I really wanted to get the perspective of people who actually had been in practice and to hear those first-person experiences, so I interviewed 29 people who've been in practice at the Bar during the 20<sup>th</sup> century," she says. Her research led her to the conclusion that there is no such thing as a 'typical barrister'.

### Brothers in arms

The Law Society and the Bar Council had cordial relations most of the time, she found: "They collaborated in different ways. Until the late 1960s and the purchase of Blackhall Place, the solicitors' profession



premises was in the Four Courts complex," Howlin says. "Even that physical proximity meant that relationships were pretty good, and people worked in close cooperation if there were areas of mutual interest."

Tensions sometimes arose about fee notes, but mostly matters stayed on an even keel. The two branches of the legal profession together hosted visiting bars and judges and made various submissions to government officials. "They had a lot to say about the redesign of the court system in the 1920s," she adds.

### Walk of life

The Bar changed significantly in the period that Dr Howlin focused on, and this is also true of the solicitors' profession in the 20<sup>th</sup> century.

"The make-up of the profession changed, and it really diversified. We had a lot more women and people from different backgrounds. Technology had a huge impact on legal practice, with the use of databases and other tools for legal research," says Dr Howlin. The oversight environment also began to change by the late 1990s, with increasing pressure from Government to have external regulation of the legal profession.

The question of legal partnerships between barristers and solicitors had been raised from the 1970s onwards.

"The only constant in the legal profession has been change," Howlin comments. "There's constant change, there's always some new change about to happen ... that people either do or don't want to embrace. There's been a lot of incremental change and evolution. If you compare the Bar in the late 1990s to the Bar in the 1920s, actually, they adapted hugely."

Howlin found an interesting file in the National Archives about barrister applications to take silk. "These days, to become a senior counsel is a very formal process, and there are very clear requirements and benchmarks for applicants to



reach. In the mid-20<sup>th</sup> century, there were no requirements laid down. It was very unclear what applicants needed to do,” she says. “The application letters are for the most part really short and also quite vague as to why people think that they should be granted silk – there’s no CV attached, or list of cases.

“In the past, if you were relatively senior at the Bar and you wanted to take silk, the Chief Justice and the Attorney General probably knew who you were and knew your reputation. The Bar is so much bigger now – there are over 2,000 barristers – so those kinds of personal connections don’t exist.”

### Romeo and Juliet

As the centenary of women entering the legal profession is

celebrated this year, Dr Howlin notes that the first women barristers remained very much a minority in the profession for quite some time.

“Once the legal professions opened, certainly at the Bar, there wasn’t really a huge rush of women. That can be overlooked – that not very many came after them. It would have been quite a lonely experience,” she says. “The numbers stayed very low until the 1970s, when there was a lot of social change.”

Those women who joined the Bar didn’t always stay in practice, for various reasons, such as a wish for more job security or a more congenial work/life balance. “It was a very demanding job to be in. Barristers would come in and spend their day between the

Law Library and court, and then go home and do all their paperwork and preparation,” she says.

The work week ran as standard to 60, 70 or 80 hours a week. “The flip side of that was that people really appreciated the long vacations, albeit unfortunately unpaid,” she said.

### Money for nothing

Some interviewees made a very good living at the Bar and were very happy with the life they had as a result. “But even the most successful talked about the stress of never really knowing that the good times would continue.”

Even those winning good cases and fees never knew if they were going to be in the same position in a year or even

a month’s time. Many also spoke of unpaid fees and taking cases, knowing that they would never be paid.

“Some said they just weren’t very good at keeping up with the paperwork. In London chambers, barristers have a clerk to look after the fee notes and the business side of the practice. Obviously here, we don’t have a chambers system, so people have to run their whole practice single-handedly,” Dr Howlin concludes.

*Barristers in Ireland is published by Four Courts Press. The 464-page hardback edition, including 32 pages of colour illustrations, is available in selected bookshops (€49.50).*

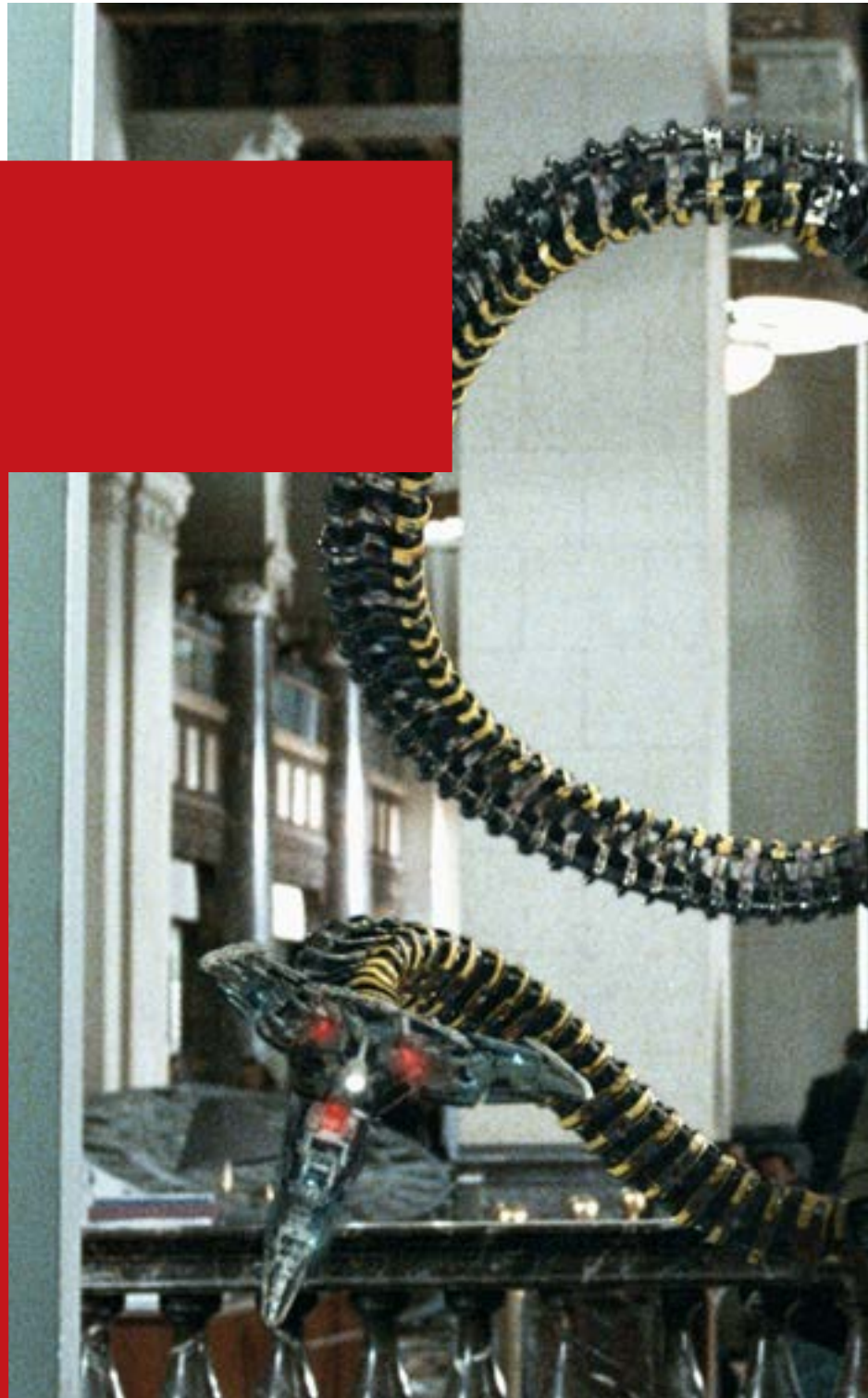
Mary Hallissey is a journalist at the Law Society Gazette.



# EQUALITY OF ARMS

Are you using the safest banking procedures to avoid cyber-attacks? Knowledge is power, say Nicola Kiely, Deborah Leonard and Tanya Moeller

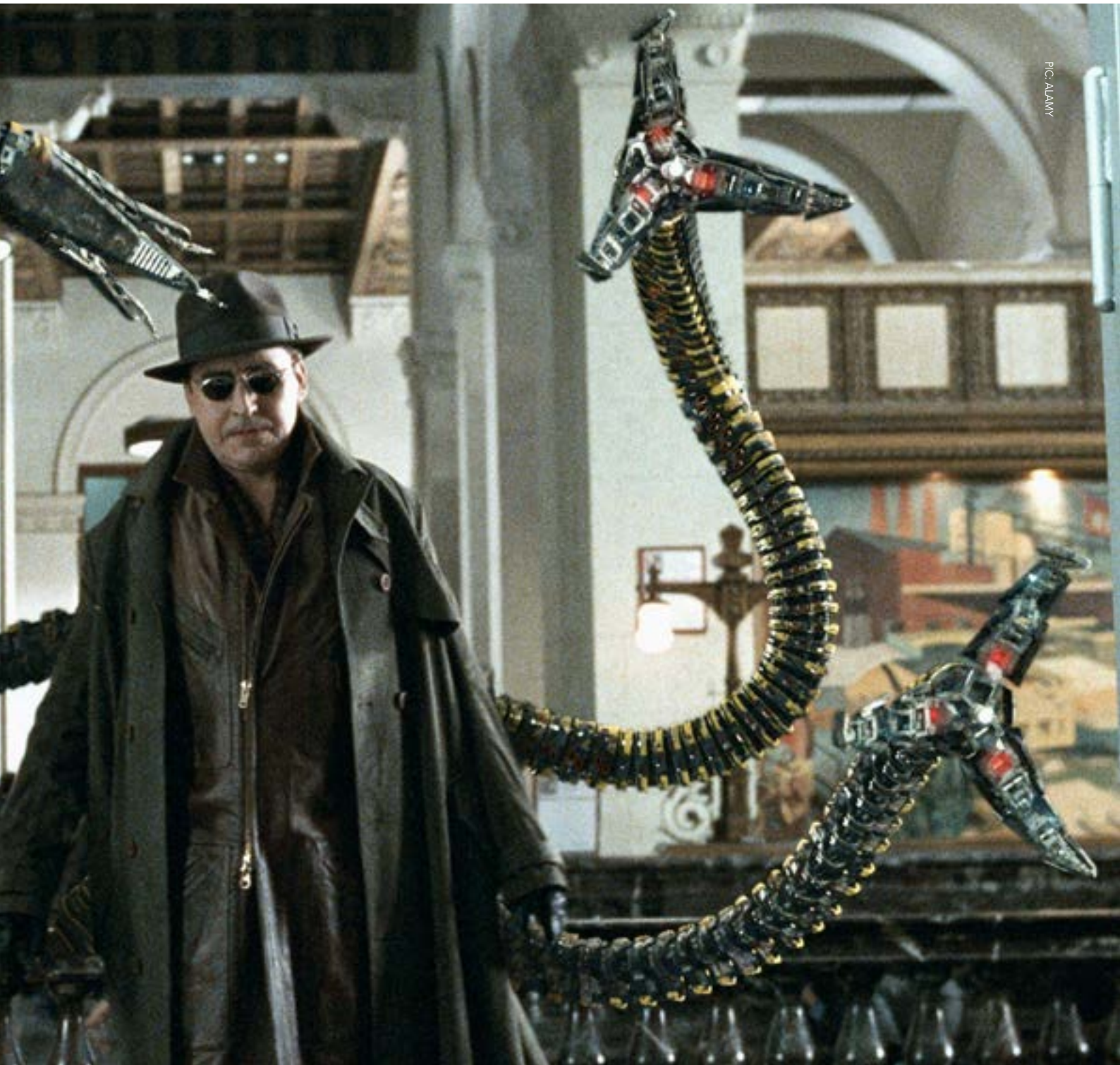




**he COVID pandemic was a catalyst** for the legal industry: remote hearings replaced in-person court hearings, virtual consultations replaced meetings, and collaboration using shared online documents has become the norm. Technology has undoubtedly transformed the sector.

The new online legal world has increased the risk of firms being exposed to cyber-attacks, however, with cybercriminals seeking to exploit every possible weakness to access solicitor accounts.

Of course, law firms have always been vulnerable to cyber-attacks, as they have



always handled large amounts of client funds. However, firms have changed the way they work. Remote/hybrid working has increased our online working activity and this has increased the risk. Cybercriminals have advanced with the same technology. The question is not *if* cybercriminals will attempt to access your accounts – but *when*.

The figures are startling. Smith & Williamson report that 60% of the top-20 firms experienced cyber-attacks on their systems in 2021. Cyber-risk was an increasing

THE FIGURES ARE STARTLING. SMITH & WILLIAMSON REPORT THAT 60% OF THE TOP-20 FIRMS EXPERIENCED CYBER-ATTACKS ON THEIR SYSTEMS IN 2021



## THIS NEW ONLINE LEGAL WORLD HAS INCREASED THE RISK OF LAW FIRMS BEING EXPOSED TO CYBER-ATTACKS, WITH CRIMINALS SEEKING TO EXPLOIT EVERY POSSIBLE WEAKNESS TO ACCESS SOLICITOR ACCOUNTS

concern for one in three firms in the sector, and almost one in two regional practices in 2021. Of note, 62% of smaller firms in Dublin and 74% of regional firms did not report any such activity.

### Accessing the goldmine

Human error continues to be a considerable vulnerability in the defence against cyber-attacks. Fraudulent emails provide a significant threat. Having said that, human behaviour can also provide a great defence. The Law Society has consistently called upon solicitors to be vigilant against cybercrime. Solicitors are advised to mitigate their risk and train themselves and their staff to protect the firm, their accounts, and their clients' sensitive information (*see the safe banking checklist, below*).

We have considered common forms of cyber-threats to law firms in Ireland, based on cyber-attacks reported to the Law Society. This is the reason why it is important to share any suspected or successful cyber-attacks (even [anonymously](#)) with the Law Society, as this benefits the profession as a whole.

**T**he key vulnerability of law firms is the gaining of trust. Cybercriminals will use every method possible to gain the trust of staff members to share confidential information.

*Email modification fraud* is a typical example. Email is a quick and efficient way to communicate. However, cybercriminals can monitor and intercept emails when they have already gained unnoticed access to the email system, or mimic emails if they are not yet in this system. Such mimicking can be subtle – changing an 'O' to a '0' [zero] is very difficult to spot. In England, email modification makes up 72% of the cybercrime reports made to the Solicitors Regulation Authority.

Firms involved in conveyancing and probate appear to be particularly vulnerable to email modification fraud, as it will be known that such firms handle funds at specific intervals. Cybercriminals will particularly target those firms that they understand to be handling such transactions. They are aware that deposits and completion monies will

be changing hands, and will attempt to intercept emails. Once trust is gained, attempts will be made to manipulate the law firm or the client to transfer monies to the wrong account.

'Friday-afternoon frauds' involve the pressure of a transaction to complete. For example, a client/buyer might be anxious to complete the transaction rather than wait to verify financial details with their solicitor.

### Case study: Intercepting emails

A law firm transferred €97,000 after criminals hacked its email system. The fraud occurred after an email sent by a solicitor to the firm's bookkeeper, containing instructions for the making of a payment, was intercepted and respective bank-account details were changed.

**A**nother law firm was instructed to redeem a mortgage for Pepper Finance. The solicitor received an email from a Pepper staff member furnishing Bank of Ireland account details. The solicitor took steps to verify the details before sending an email to the firm's bookkeeper. However, this email was intercepted and the bank account details were changed to a fraudulent bank account at an Ulster Bank branch. The transfer was made, and the money was withdrawn from the account by the cyber-criminals.

### Case study: Intercepting cheque requisitions

The Law Society was notified of a particularly sophisticated cyber-attack on the client account where internal cheque requisitions were compromised and the money sent to fraudulent bank accounts.

The standard practice is for the solicitor to prepare a cheque requisition and, after verifying the bank-account details with the client, enter the requisition into the case-management system. The system automatically generates an email and sends an internal email. A member of the accounts staff has access to this inbox. When the requisition is received, the staff member checks the details and ensures that sufficient funds are held. They then forward the request to the financial controller

for processing. The email to the financial controller is sent from the staff member's work email address, rather than from the internal email address.

It appears that four of the emails sent from the staff member's email to the financial controller were intercepted, and the bank details changed to fraudulent accounts. Unaware of this, the financial controller processed the requisitions.

**T**he bank contacted the financial controller in respect of two of the payments, seeking confirmation that the details were correct, and requested that she contact the client to ensure that the monies were received. Upon investigation, it was noted that the fraudulent emails received by the financial controller were from a very similar but different email address to that of the staff member.

### Case study: Impersonating the client

This cyber-attack involved the administration of an estate. Assets were collected and administered in the usual way. Most of the beneficiaries of the estate were paid from the client account. It would appear that, during the course of distributions, one staff member's emailing system was hacked. The hacker, purporting to be one of the beneficiaries, sent instructions by email to pay his share of the estate, being approximately €20,000, into an English bank account. The amount was then electronically transferred from the solicitor's client account to the English bank account. During a subsequent call with the client, it was then discovered that the client had not provided the email instructions and, instead, the payment had been made into a fraudulent bank account.

### Case study: Fraud on clients

This cyber-attack involved a cybercriminal hacking into the solicitor's email system and creating rules to automatically divert emails from particular clients. The cybercriminal created a new email address very similar to the solicitor's own email address, which enabled the cybercriminal to contact the client directly. The client unknowingly transferred funds to the fraudster's account outside the State.

**E**ven if this involves the client losing money to the fraudster in this instance, the cause of

the fraud can constitute risk to the solicitor, for example, by how the professional indemnity insurance renewal may be affected. It could be a requirement that reasonable preventative cybersecurity defences are installed at the law firm (see 'Safe haven' and 'Potential threats' in the Aug/Sept *Gazette*, pp52-55).

### Attractive targets

Solicitor bank accounts or their sensitive information are attractive targets for cyber-attacks.

Human error is a key gateway into the email system, and emails can be forged in sophisticated ways. Double-checking transactional emails, such as by using a separate communication channel (such as a phone call) are a safe way of verifying correct financial information, but only if the phone number used is taken from a source that is different to the suspicious email.

As financial institutions in Ireland do not verify account names against account numbers, solicitors cannot rely on the banks to flag suspicious transactions. This means that erroneous fraudulent transactions may not be recoverable.

**I**n addition, using two pairs of eyes to input IBAN numbers into the online banking system is key to building a culture of internal checks. This may also help in ensuring that fake banking websites are not used.

Last but not least, please report any suspected or successful attacks to the Law Society, even on an anonymous basis, so that we can collectively remain vigilant.

### Checklist for safe banking

#### 1) Train your staff

- This is extremely important. Cybercriminals target the people in our law firms rather than the firms themselves. Firms must take responsibility for training their staff to understand the many threats they are facing. Staff should be encouraged to report suspicious emails and encouraged to learn ways to work under pressure without succumbing to a cyber-attack. Firms should be encouraged to take the appropriate measures to protect their clients and their client accounts, for example, by instructing bookkeepers and financial controllers to double-check account details sent via email – even if the email seems to come from an internal source (see 'Attack mode', June *Gazette*, p24).

#### 2) Client accounts

- Consider giving your client bank-account information by way of letter during an in-person meeting at the outset of the transaction. Advise your client at the outset that your client-account details are very unlikely to change, and that you will never email bank details.
- Advise your client that solicitors in Ireland are not permitted to operate a client bank account outside the jurisdiction, and that any request to transfer money to a non-Irish bank account should not be acted upon, and the client should contact the solicitor immediately.
- Consider providing your client with a unique PIN by letter, so that you and the client can encrypt and decrypt a document containing sensitive information. Cybercriminals who access the email account will not be able to decrypt the attachments, as they do not have access to this (hard-copy) number.
- Advise your client that you will not email outside of your working hours to request an urgent transfer of funds, and such form of

communication should be treated with suspicion. Clients should be advised to ignore such communications and contact their solicitor immediately upon receipt of any such communications.

- Solicitors transferring monies should verify account details through an alternative communication method, such as by telephone.
- The Law Society recommends that practitioners cross-reference and use the phone numbers of colleagues in the profession from the *Law Directory* and should not rely on law-firm phone numbers contained in an email.

### 3) *Talk to your client!*

- Ensure your client knows what to expect – in other words, what steps are involved in a conveyancing transaction or the administration of an estate where a transfer of funds may be required. Discuss your policy regarding the transfer of funds.
- Advise clients to check solicitor bank details over the phone or in person before making payment. They should be advised to never rely on an email in which account details are sent.
- Advise clients not to update their social-media profiles about buying a new house, as cybercriminals are trawling accounts seeking their next victims and/or law firm to target.
- Advise clients never to use insecure public Wi-Fi when emailing their solicitor with sensitive information.
- Advise clients to use only telephone numbers provided to them on headed notepaper and not to use new phone

numbers received by way of email.

- Advise clients you will never seek an urgent transfer of funds late at night or on Friday afternoons.
- Advise your clients to be alert for unusual email activity regarding their transaction, and to always verify account details before making a payment.
- Remind your client that no transfers will ever occur to a non-Irish bank account.

### 4) *Safe banking habits*

Useful guidelines for safe financial transactions:

- Only provide IBANs and BICs for your accounts or other accounts by letter. This can be handed to clients when taking instructions at the outset of the transaction. It is recommended that a separate page is used (possibly using different coloured paper, so it can be easily found when needed at a later stage by the client), rather than including the details in the body of your letter of engagement. This page could also include some of the advice for clients in respect of being vigilant to frauds and verifying account details before transferring the money.
- If you must send IBAN or BICs by email, do so by sending these in an encrypted document in relation to which you have provided a password. Ensure you are aware of what constitute [safe passwords](#). Match this email with a second, non-email mode of communication (such as a text message or phone call, which also provides an opportunity to send the password).

- Clients should be asked for their bank details by way of a copy statement at the start of a transaction. If a client does not give you copy bank documentation, then you should ask the client to write out the IBAN and BIC in full for you in their own handwriting, and sign it.
- If another solicitor is sending you their account details, then they should do it by letter or password-protected email attachment, where the password is communicated using a second, separate communication channel – and you should still verify same with them. It is common for the fraud to involve only changing one digit or letter.
- If you have to write down bank-account details yourself (for example, because you are getting them over the phone), then you must read the details back to the client for verification, and you must note this on your file. This is important, because if the other person gives you an incorrect number by accident, it may cause the money to go astray.
- If you get an IBAN and BIC by email, including in an attachment, then you must ring the person to verify the details, and you also should memo that on your file. Do not ring the telephone number provided in the email, but use the contact details provided in the client file or *Law Directory* for the sender (if the sender is a law firm).
- If somebody tells you that their account details have changed, this is an instant red flag. You should immediately raise a query and verify the account details through an alternative communication medium, such as by phone, text message, or letter. In addition, let your clients know that your firm does not change its bank-account details (if this is the case). Clients should be advised not to send any money to new account details without confirming the change by talking to someone in the firm.
- Advise your client that it is illegal for Irish law firms to hold a bank account for such transactions outside of Ireland.
- Any internal email asking you to request or effect the transfer of money must be verified by a phone call to the sender of the mail – even if it seems to come from a colleague in the same law firm.
- The obligation on the client to provide accurate bank details and the risk of fraud should be mentioned in the

“ REMOTE/HYBRID WORKING HAS INCREASED OUR ONLINE WORKING ACTIVITY AND THIS HAS INCREASED THE RISK OF CYBER-CRIMINALS SEEKING ACCESS TO FIRMS’ CLIENT ACCOUNTS.

CYBERCRIMINALS HAVE ADVANCED WITH THE SAME TECHNOLOGY. THE QUESTION IS NOT IF CYBERCRIMINALS WILL ATTEMPT TO ACCESS YOUR ACCOUNTS – BUT WHEN



## SOLICITORS ARE ADVISED TO MITIGATE THEIR RISK AND TRAIN THEMSELVES AND THEIR STAFF TO PROTECT THE FIRM, THEIR ACCOUNTS, AND THEIR CLIENTS' SENSITIVE INFORMATION

section 150 letter and letter of engagement. It helps to set out how you interact with clients around changing and communicating bank-account numbers and effecting transactions, for example, by indicating that no email communication concerning money transfers will take place without an accompanying phone call to confirm same.

### 5) *Two pairs of eyes – double check*

- Solicitors in Ireland cannot rely on the financial institution to verify the transaction details. This means that the financial institution does not check the account name of the recipient against the account number provided. If you put in the wrong number, then the money will go astray and may not be recoverable by you. This means that if you are making a significant financial transaction, you should deploy a 'two-pairs-of-eyes' and 'double-check' system. Beware that some fraudsters only change one single digit in a wrong IBAN number.
- Two pairs of eyes – check the recipient's bank account very carefully by asking two people to check that number when involving a large transaction. This also helps you build a culture to ask internal questions: where did you receive this new IBAN number from? How did you receive it? When did you verify it using the double-check method?
- Double-check method – verify the bank-account number through a second communication channel as outlined above, especially if it is supposed to have changed recently. For example, if you received a new bank-account number by letter from a law firm, call the law firm by using the number in the *Law Directory*. If you received it from your client, call your client by dialling the client telephone number in your client-management system. Do not use any of the contact phone numbers provided on the same letter.

### 6) *Safe banking*

- Solicitors should also ensure that cyber-attacks have not left them vulnerable to using online banking. Fraudsters may call to ask you to install software

remotely onto your computer due to a 'banking error', which would allow them to see your online transactions and use this information to make them sound more genuine when they communicate with you next. Pop-up windows may direct you to a fake online banking portal, into which you put the correct log-in details.

### 7) *Help your colleagues*

- In our [previous article](#) (October *Gazette*, p46), we outlined how reporting both suspected and successful attacks can help the profession as a whole to alert members of most recent developments. Constant awareness of latest and sophisticated ways that the profession is targeted can assist solicitors in collectively repelling such attacks. Reporting can be done anonymously through the Law Society's [online report form](#).

*Our next and final article will outline how solicitors in Ireland can spot bogus law firms if they are mentioned in fraudulent correspondence, and tying our series of cybersecurity articles together for best practices.*

*Tanya Moeller is in-house counsel with ServiceNow and vice-chair of the Law Society's Technology Committee. Nicola Kieley is a partner in Comyn Kelleher Tobin LLP and a member of the Technology Committee. Deborah Leonard is secretary to the Conveyancing Committee.*

## LOOK IT UP

- 'Cyber-security and your practice' at [lawsociety.ie](#)
- [Fraud and security site](#) (Ulster Bank)
- [Fraud Prevention Guide](#) (Banking and Payments Federation Ireland, January 2019)
- [iBusiness Banking \(iBB\) Fraud and Security Centre](#) (AIB)
- [Protect Your Business – Business Fraud Prevention](#) (Bank of Ireland)
- [Smith & Williamson Annual Survey of Law Firms in Ireland 2021/2022](#)





# LOVE OVER GOLD

**As she comes to the end of her term as president of the Law Society, Maura Derivan reflects on the current centenary year marking Ireland's first female solicitors on the Roll, access to justice, and the Law Society's strategic vision. Mark McDermott takes the bearings**



Maura enjoys some downtime with her collie 'Truly Scrumptious'



**aura Derivan could certainly be described** as a romantic – she left her native Dublin for Tipperary when she met her husband-to-be, she “adores living history”, and would love to have worked in the antiques business.

In some ways, all very apt, given Maura’s strong desire to celebrate the current centenary year that marks the first women in Ireland to enter the solicitors’ profession and those who blazed a trail for others to follow.

In other ways, though, perhaps incongruous – given her obvious focus during her presidential year on driving forward the Law Society’s strategic vision for the next five years. But then, looking forward, you need to know where you’ve come from!

Originally from Mount Merrion, Dublin, Maura was appointed the 152<sup>nd</sup> president on 11 November 2022. As the sixth female president of the Law Society, she cited her priorities at the start of her year as ‘access to justice’ and ‘renewal of professional standards and courtesy in the legal profession’.

### **Telegraph Road**

Maura has been a member of the Law Society’s Council for 17 years and has served on many of its senior committees. In 2018, she proposed a motion brought to adopt a gender-equality, diversity and inclusion policy for the Law Society. Arising from that motion, which was passed by the Council, the issue of diversity and inclusion was expanded to encompass the profession. Maura served as a member of the task force to implement its strategy and policy.



So where did her legal career begin?

After obtaining a BCL degree in UCD, Maura trained in Mason, Hayes & Curran. After qualifying, she took up a position as a litigation solicitor in Orpen Franks, three years later rising to the ranks of junior partner.

“I was fortunate to obtain a position in Orpen Franks, Burlington Road, Dublin. I worked in commercial litigation and personal-injuries litigation. The partners there were ahead of their time – they sought to encourage and develop the talents of young solicitors in a caring and respectful way. Working there was exciting and challenging.

“I left Orpen Franks only for love when I met my husband, Patrick Derivan. I left Dublin and moved to Tipperary.”

There must have been an element of shellshock for the young Mount Merrion woman heading for the ‘wilds’ of Tipperary?

“Moving from Dublin to Tipperary certainly





Maura and her three collies, with Slievenamon providing the backdrop

opened my horizons and gave me the experience of living outside a city, although clients' anxieties and needs regarding the legal system are the same, regardless of where people live," she responds.

### Why worry?

Does she have any regrets about her career choice?

"That's a firm 'no', but if I were talking to my 18-year-old self, I might be tempted to look at other areas."

**S**he describes every day in a solicitor's life as "having its highs and lows".

"How we approach those highs and lows in a measured manner is how we

survive. The highs come from hard work, achievement and, particularly, in changing case-law or legislation, and in always seeking to vindicate the rights of our people. The lows are the time and effort it takes to achieve the highs!"

One major career high has been her year as president of the solicitors' profession.

"The most overriding emotion when I became president was a sense of a significant responsibility and duty to the profession and the Law Society. All Council members envisage that, someday, they may be president – but the opportunity can arise quickly and, although you may expect it, it still comes as a shock."

### Where do you think you're going?

Has she achieved her priorities during her presidential year?

"I have promoted access to justice and the concerns regarding the rights of our people, and I have also promoted the renewal of professional standards and courtesy in the legal profession. Highlighting these issues, and keeping them to the fore, is a continuing task for the Law Society."

**A**nd what about her 'key priority of promoting gender-equality, diversity, inclusion and increased access to the profession'?

"All of these areas have been highlighted during my tenure and will continue to be a task that the Law Society will focus on."

## SLICE OF LIFE

### ● School around the corner?

I attended Mount Anville secondary school in Dublin, obtained a bachelor of civil law degree from UCD, and qualified as a solicitor.

### ● Must do?

The most immediate quest is to have a period of calm and rest after a hectic and busy year. I would like to paint and write.

### ● Guilty pleasure?

Anything related to history, particularly reading a well-written historical novel on a wet rainy day.

### ● Dogs or cats?

Definitely dogs.

### ● Place in the sun?

Arguineguin, Gran Canaria. It's the best place to de-stress, for R&R, and to soothe the spirit.

### ● Favourite page-turner

The *Celtic Mysteries Sister Fidelma* series. Sr Fidelma was a lawyer in early medieval Ireland. The series is light reading and has good stories, and particularly gives insights to Brehon law.

### ● Listen up!

I have two favourite music-makers – Beethoven and Dire Straits. Beethoven moves your soul. Dire Straits moves your spirit!

### ● Surprise, surprise?

I adore living history. I enjoy a good historical novel or film, provided it is historically accurate. I love museums or anywhere that I can get a glimpse into the past. I was born far too early – I was destined to be a time traveller!

### ● Daydreamer job?

Working in antiques.



## THE LAW SOCIETY'S STRATEGY AND VISION FOR THE NEXT FIVE YEARS IS ABOUT TO BE LAUNCHED TO THE PROFESSION. THESE ARE EXCITING TIMES, AND THE IMPLEMENTATION OF THE PURPOSE, AMBITION AND VISION OF THE LAW SOCIETY WILL RESULT IN IT BECOMING THE INFLUENTIAL VOICE ON LAW REFORM AND LEGAL ISSUES



### Solid rock

How will her year be remembered?

"I have had a very busy year that encompassed highlighting, on an ongoing basis, the rights and needs of our people in access to justice, family law, the issues regarding criminal legal-aid fees and personal injuries. I served on many committees, including the Opening of the Legal Year Committee established to implement the innovation of the Chief Justice to have a secular opening of the legal year for Ireland.

**I** am particularly delighted that, in my presidential year, we celebrated and commemorated the admission of the first two women to the Roll of Solicitors, and we celebrated the first 100 women to be admitted as solicitors.

"On a personal level, I was delighted to reintroduce the annual President's Conference, which was held in Mount Juliet, Kilkenny, last May. The conference was strongly supported by members and was booked out, twice over. I'd like to thank all who supported this year's conference."

### Ticket to heaven

She suspects that one of her major impacts will be the implementation of the Law Society's new strategy for

2024 to 2029, which she has focused heavily on during her presidential term.

Can she give us a sneak peek of the new strategic vision?

"The Law Society is launching its strategy and vision for the next five years, which will encompass, firstly, our purpose – which is to support and shape a just and accessible legal system that works for all. This is the foundation for a modern, thriving and progressive society.

"Second, our ambition is for the Law Society to be the influential voice on law and justice in Ireland. This will be enabled by a dynamic solicitors' profession acting in the public interest.

"Third, our vision is of a solicitors' profession of unparalleled excellence, shaping a legal system that is a model of justice, fairness and accessibility – serving the needs of all."

### The very best

The future for Maura Derivan is to continue in practice as managing partner of Derivan Sexton & Co in Carrick-on-Suir, Co Tipperary.

"As a past-president, I will continue on the Council and will further assist and develop the purpose, ambition and vision set by the profession and the Law Society. I will, of course, be supporting the incoming president and Council in this new era.

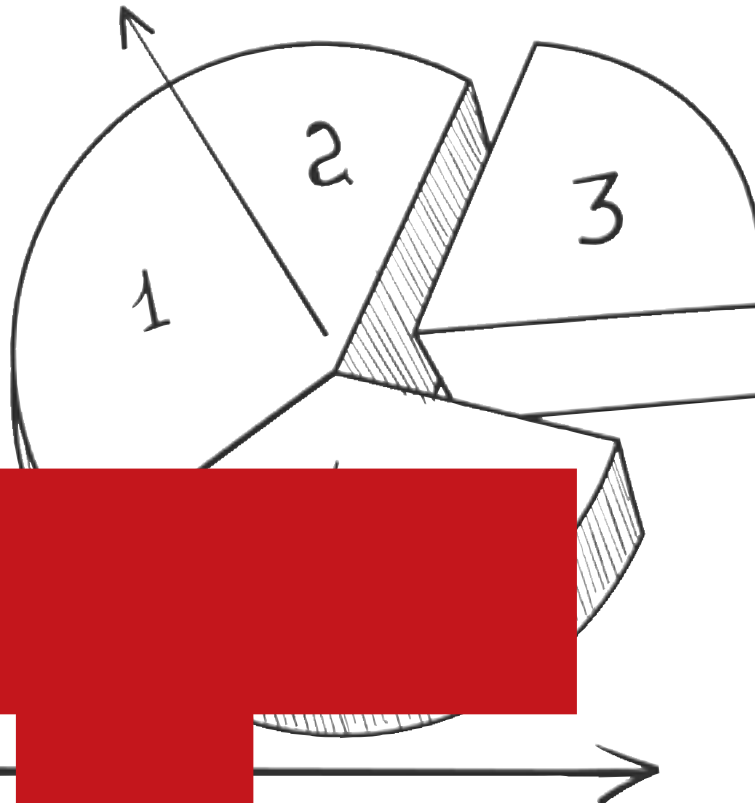
"These are exciting times, and the implementation of the purpose, ambition, and vision of the Law Society will result in it becoming the influential voice on law reform and legal issues. This will place the solicitors' profession at the centre of society, for the good of all.

"Finally, may I say that it has been a great honour and privilege for me to serve my solicitor members and colleagues as president of the Law Society. Thanks to everyone for their support, courtesy and kindness."

*Mark McDermott is editor of the Law Society Gazette.*

The annual PII renewal period once again looms on the horizon. Sorcha Hayes provides guidance on the renewal process

# PII CHARTS



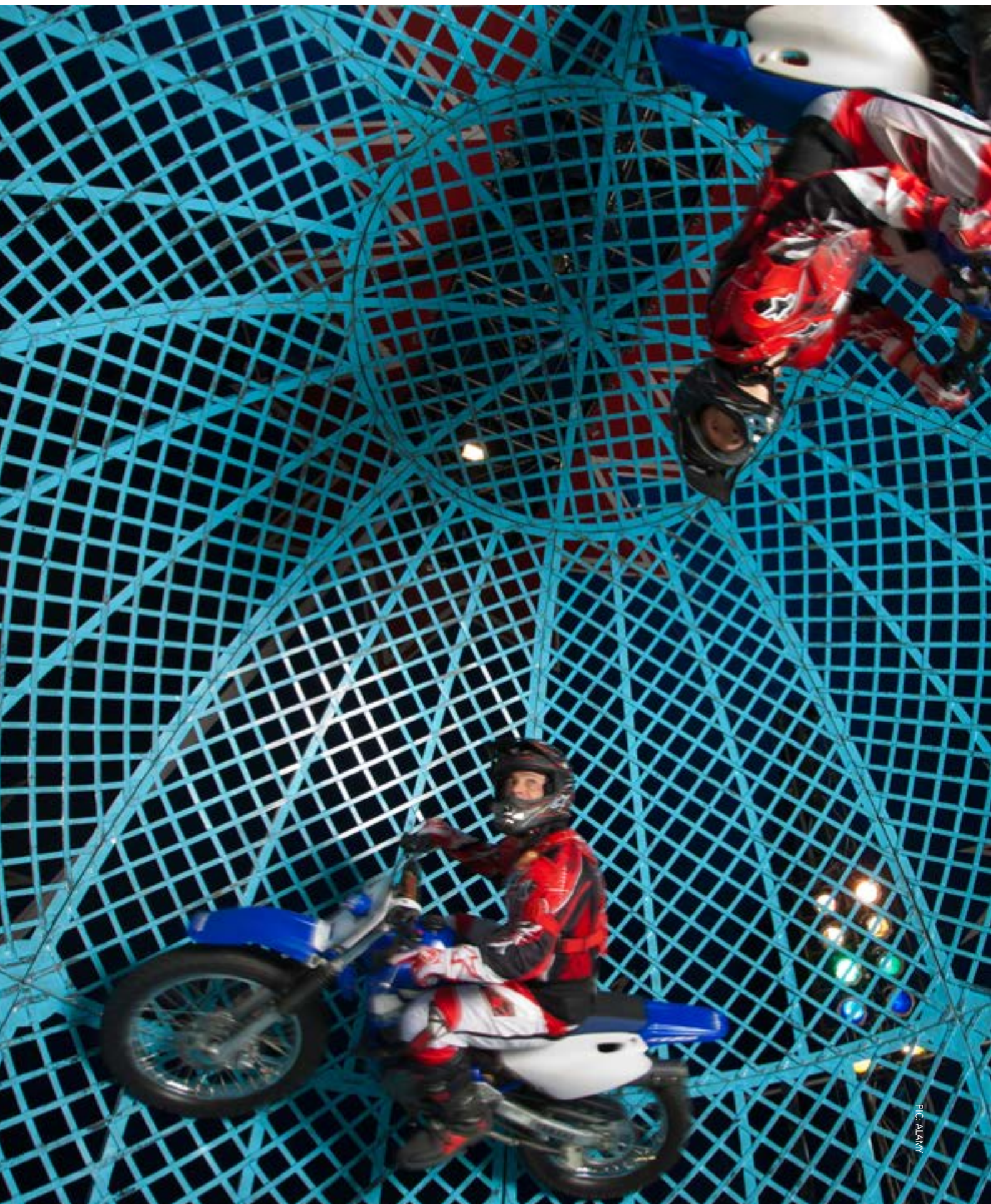
**he last few years** first saw increases in professional indemnity insurance (PII) premiums due to the ever-hardening markets arising from global issues in insurance markets, then a plateau in premium-rate increases, followed by a reduction in premiums last year. While insurers continue to be cautious, it is hoped that we will see further reductions with the anticipated entry of a new insurer this year, as well as increased capacity by existing insurers.

## Causes of increases

What caused the premium increases and reduction in recent years?

*Premium = base rate + risk.*

Premium levels are calculated by an insurer by combining insurance base rates with risk markups. Insurance base rates tend to be based on global issues for the insurer, such as their loss ratio across their entire book of business worldwide, increasing claims due to COVID-19 and other high loss events, solvency requirements, and the poor performance of PII markets worldwide. Risk levels depend on the performance of the





domestic solicitors' PII market, minimum terms and conditions, and individual risk factors for each firm, such as claims experience, areas of work, turnover, etc.

In a soft market, the base rates decrease and risk decreases or stabilises, resulting in a decrease in premiums. This decrease is accelerated through competition between insurers to gain clients by lowering prices.

**O**n a hard market, either the base rate or the risk (or both) increases, causing an increase in premiums. The usual cause for a hard market is a substantial increase in the quantity or *quantum* of claims, as we saw during the last downturn with conveyancing claims. This increases the 'risk' end of the equation, causing an increase in premiums, and so is called a risk-based hard market. In such cases, the Society and firms themselves can take action to reduce risk and premiums, either by changing the minimum terms and conditions and/or implementing robust risk-management procedures. The hard market experienced by solicitors in the last few years is not caused by a poorly performing Irish solicitors' PII market, but rather global losses being experienced by insurers that cause an increase in the base-rate end of the equation. This is called a base-rate hard market. This is why insurance premiums increased across all types of insurance in the market, and also why premiums can increase when you do not have any claims or increases in other risk factors. Because the increase in premiums was predominantly caused by global issues outside the control of the

**THE LAW SOCIETY HAS FOCUSED ON BUILDING THE REPUTATION OF THE PROFESSION AND OF OUR PII MARKET AS A LOW-RISK MARKET, STABILISING THE MARKET, AND FOSTERING STRONG RELATIONSHIPS WITH EXISTING AND POTENTIAL NEW INSURERS**

Society, changes to minimum terms and conditions and improvement in risk management can only minimise premium increases, but cannot stop them.

The Irish solicitors' PII market predominantly saw a rise in premiums due to base-rate increases, as our market is performing well with regards to claim levels (risk), which acted to minimise premium increases. Other PII markets saw much higher premium increases due to increased base rates and increased risk (due to increases in claims).

### Capacity v premium

In a hard market, insurers seek to maintain or increase their profitability in order to deal with increasing loss ratios and solvency requirements, including for events that would not have been factored into their underwriting criteria – such as a worldwide pandemic.

Usually, an insurer increases their profitability by increasing their capacity. Capacity is the number of clients, or solicitor firms in our market, that insurers cover. Increasing capacity usually results in premium levels staying stable. However, in a base-rate hard market, insurers become conservative and seek to limit or decrease capacity. As such, they maintain or increase profitability by increasing premiums.

### Reduction in premiums

The Law Society has put a significant amount of effort into combating the increases in premiums in recent years, despite the limited avenues available to do so in a base-rate hard market. The Society has focused on building the reputation of the profession and of our PII market as a low-risk market, stabilising the market, and fostering strong relationships with existing and potential new insurers.

**T**his strategy has been successful, with the total PII premium pool reducing by over €3 million last year, existing insurers increasing their capacity, and the entry of new insurers focused on smaller firms. It is hoped that this downward trend in premiums will continue for the 2023/2024 indemnity period.

### Tips for renewal

- 1) *Finance your premium* – you should put financing your PII premium at the top of your to-do list, including using savings or obtaining the necessary loan facilities. The Law Society partners with Bank of Ireland on an annual basis to provide a finance facility for members who wish to finance payment for their PII premium, income tax, pension contributions, or practising certificates. Information on premium financing can be found on the Society's website at 'member benefits'. Some insurers offer the ability to stagger the premium payment over the year, using either monthly or quarterly payments. You should ask your broker for assistance negotiating such staggered payments with your insurer.
- 2) *Make your broker work for their commission* – you should keep in mind that brokers are providing you with a service, are being paid a fee for it, and you are their client. Your broker should pay due regard to the interests of your firm, treat you fairly, and provide you with good-quality service. Your broker should be acting as your advocate, advisor and champion in the market. A good broker will not redirect you to the Law Society for assistance in obtaining insurance, as this is the role of the broker, not the Society. As such, you should ask your broker what fees they get for placing your insurance and what services they will provide you for that fee, and agree acceptable service levels with your broker in advance of the renewal. Remember,



## IT IS THE RESPONSIBILITY OF EACH FIRM TO ENSURE THAT IT HAS PII IN PLACE BEFORE THE MANDATORY RENEWAL DATE OF 1 DECEMBER 2023

as the client, you are entitled to demand good-quality service from your broker.

- 3) *Do not rely on just one broker* – brokers usually have access to only two or three insurers in the market. In order to maximise the number of quotes you obtain and your chances of affordable cover, you should send your common proposal form to all insurers in the market, with the exception of insurers that do not cover your type of firm. Even if you have been with an insurer for years, they could change their underwriting criteria, leaving you without cover unless you have a back-up. The firms that reported the greatest reduction in premiums last year were those that shopped around. As such, if your broker does not have access to the entire market, you should use more than one broker.
- 4) *Apply early* – as mentioned before, insurers have limited capacity and so will have a maximum number of firms that they are willing to cover. You should apply as early as possible to ensure that you obtain a quote before the insurers close their books, even if you have been with your insurer for a number of years. The common proposal form and guidance have been published on the Law Society’s website ([lawsociety.ie/PII](https://lawsociety.ie/PII)).
- 5) *Variable renewal dates* – variable renewal dates have been available since 2011, and you should discuss with your broker whether they are right for you, with the caveat that you may receive a higher quote outside of the downward pressure of the renewal, and insurers

may not be willing to write cover mid-year due to limited capacity.

- 6) *First-party cyber-cover* – your PII provides third-party civil liability cover and, as such, it does not provide first-party cover for your losses in the event of a cyber-attack. You should discuss the possibility of obtaining separate first-party cyber-cover with your broker, as it should act to protect you from such losses and also give you access to experts to rectify IT gaps and PR issues after a cyber-attack. Such cover also makes your firm much more attractive to insurers, as it is seen as good risk management.
- 7) *Deadline* – it is the responsibility of each firm to ensure that it has PII in place before the mandatory renewal date of 1 December 2023. Confirmation of cover must be provided by your broker through the Law Society’s online PII portal within three working days of 1 December 2023 (on or before close of business on 6 December).

### Further information

Further information on premium-calculation tips for renewal, guidance, and helpful documentation can be found in our guide to PII renewal on the Law Society’s website at [lawsociety.ie/PII](https://lawsociety.ie/PII). You can contact the Society’s PII helpline by email at [piihelp@lawsociety.ie](mailto:piihelp@lawsociety.ie) or tel: 01 879 8707.

*Sorcha Hayes is head of practice regulation at the Law Society of Ireland.*



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### Don't miss Stephenson Burns' 44th Seminar:

## “BENEFICIARIES ARE NOT YOUR CLIENT, BUT...”

9:15 – 17:15 Friday 17<sup>th</sup> November 2023

As well as the usual updates and Q & A session, the seminar will provide a very practical guide from a tax and legal perspective in dealing with myriad types of beneficiaries including how interest, indemnities and accounts pertain to same together with the issues arising with foreign beneficiaries and precedent letters.

EPA’s – no theory, just what are our duties, responsibilities and choices post April 2023

Solicitors Accounts Regulations – in general and how same effects probate practitioners.

ADMCA – No, it was not all about EPA’s – the “three tier system” from a practical viewpoint with precedents including how, now, extract a Grant when a person with priority lacks capacity.

More detail can be obtained from their website but be aware places are limited so book now or email [office@stephensonburns.com](mailto:office@stephensonburns.com) for a booking form.

Further details from Stephenson Burns Website

Please note: This event is being streamed live and is available for viewing to registrants only.

# SITTING PRETTY?

How do you rectify fraudulent or mistaken entries in the Land Register and deal with unregistered ownership claims by adverse possession, land-ownership issues for lenders and acquirers in good faith, compensation rights, and time limitations? Duncan Grehan proposes some answers in the second of this two-part series



## he courts' judicial sovereignty

is honoured by section 31(1) of the *Registration of Title Act 1964*: the court, when an adversarial hearing of all evidence offered to it is concluded, can decide that an entry has been made due to an “actual fraud”, with the statutory power to “make an order directing the register to be rectified in such manner and on such terms as it thinks just”. A consequence of such a finding of fraud (which can be the result of concealment of relevant facts or documents) is that the transaction and the entry is void (section 30).

Another penalty, as per section 119(1) of the 1964 act (as substituted by section 55(2)(1) of the *Registration of Deeds and Title Act 2006*), is that the fraudulent parties, found to have behaved, or so behaving, offensively in proceedings before





PG: ALAMY

PG: ALAMY



the Land Registrar or the court, are guilty of a crime for which they face a fine (of not more than €3,000) or imprisonment (of not more than five years).

**T**he process of examining whether the register is to be rectified because of a fraud and whether the system of registration is open to misleading, inaccurate, or invalid entries because of forgery or criminal intentional conduct was the task of Mr Justice Brian O'Moore in his judgment on 30 June 2023 in *Curran and Ors v Hamilton Holdings LLC*.

Mr and Mrs Curran had mortgaged their unregistered property to their bank, the co-plaintiff Permanent TSB, which the court held had become, by contract in 2015, the property's legal but unregistered owner. However, in 2018, the PRA registered the defendant US company (which failed to appear at the hearing) as the owner of that property due to what the judge held to be a "fraudulent transaction" based on an alleged deed of conveyance of July 2014 between it and a West Indies company.

The solicitor who made the registration application for the defendant was, in the judge's view, "fundamentally mistaken in certifying to the PRA that the Ballsbridge property was free from any adverse rights, restrictive covenants, or encumbrances".

### Rectification of mistakes

Clerical errors occur, and the law does permit them to be rectified, either by the registrar or by court order.

The Land Register, like all public registers and filed application documents, cannot be assumed to be error-free, and our statute law, as interpreted by the courts, admits this by allowing the rectification of a Land Register entry if satisfied it is an "actual mistake" (as per section 31(1) of the 1964 act).

It is also the law, as per section 85 of the 1964 act, that drawings and Land Registry maps merely describe the outline and boundaries of the registered property, but they are not conclusive, nor binding. Required is state-of-the-art digitalisation of registers, their maintenance, and their secure online service provision.

The PRA's website ([www.prai.ie](http://www.prai.ie)) reckoned that 15% of applications involving a deed of charge are rejected each year as inadmissible due to common errors. It states: "The authority may rectify the error after giving such notices as may be prescribed under section 32(1)(b) [of the 1964 act] ... if of the opinion that the error can be rectified without loss to any person. The court can rectify the error under section 32(1)(c) of the act ... or the provisions of section 120 of the act may be appropriate."

### Adverse possession

Acquisition of good title to land in good faith is "possible" but also is challengeable: '*nemo dat quod non habet*'. By section 49(2) of the 1964 act, a claimant to land-ownership entitlement, to land he is not registered as owner, must prove to the satisfaction of the court *animus possidendi* and *actus possidendi*, exclusive,

uninterrupted possession and occupation of the land claimed for in excess of 12 years, whether the land is registered in another’s name or never has been registered in anyone’s name. Proven must be factual uninterrupted possession (*actus possidendi*) (by, for example, installing fencing around its boundaries) and the intention to possess (*animus possidendi*) that land.

A 2017 High Court judgment (*Údarás Eitíochta na hÉireann*) illustrates the proofs and highlights prudent due-diligence tests to be taken to establish non-abandonment of ownership and non-acquisition by possession. It concerned the Dublin Airport Authority (DAA) and an objection by the registered owner of the affected land to the construction by the DAA of an air-traffic visual control tower.

### Dangers under Irish law

Entries in some public registers can be more conclusive and valid than in others, and so require court intervention before rectification. The 1964 act (section 72, ‘Burdens which are without registration to affect registered lands’) even permits and recognises the validity of a range of unregistered burdens that may affect the registered owner’s interest.

**F**raud and mistakes will undermine third parties’ (such as banks or assignees) reliance on the register entries. The valid registration of a charge and the securing of its priority ranking, particularly when the applicant is a company, is technically complex and fraught with error risk (see my note at 11.6.2. at [www.vdpmortgage.com](http://www.vdpmortgage.com)). A corporation’s application to enter a charge in the Land Register must include a certificate of registration of a charge issued by the Registrar of Companies per the *Companies Act 2014*, section 409 (for a judicial analysis of this law, see *Diamond Rock Developments Limited*).

Securing or injuring the interests of third parties by encumbrance entries with priority ranking, or by the late- or retro-dating of the deed, or by not making the application for registration as required within 21 days of its creation date (see *Re Investment Options and Solutions Ltd*), or misunderstanding categories of charges, fixed and floating via crystallisation, de-crystallisation and re-crystallisation, all can cause loss and litigation and are obstacles to title certainty (see *In the matter of Latzur Limited*). Registered creditors’ rights are considered in my lengthier article published elsewhere.

The High Court has emphasised, in connection with aspects of security enforcement applications, that registry entries of encumbrances or securities, whether mortgages, judgment mortgages or liens, cannot be undermined and are conclusive: “The decision of this court in *Tanager v Kane* ... makes clear that in hearing an application for possession of registered land, the High Court may not entertain a challenge to the correctness or conclusiveness of the register” (*Pepper Finance Corporation*).

### Rectification compensation

The international human-rights compensation standard for loss arising from register-entry rectification is per the ancient maxim ‘*restitutio in integrum*’. The right and its measurement is stated at sections 82 and 120 of the 1964 act, and the latter provides: “All compensation payable under this section shall be paid out of moneys provided by the Oireachtas.”

### Time delimits

A claim for compensation for any Land Register entry or rectification causing loss must be made to the registrar within six years of the right

to compensation accruing (section 120(5)(c) of the 1964 act).

The law does not attenuate the State’s acquisition of abandoned property or of unadministered testate or intestate estates of deceased property owners or of dissolved companies. It expressly confirms it (see section 127): “Nothing in this act shall affect the right of the State to any property as *bona vacantia*.”

**A** person’s right to recover land expires 12 years from the date the right of action accrued (section 13(2)(a), *Statute of Limitations Act 1957*). The right of action of the State to recover land expires after 30 years from the date the right accrued – for example, from the date of the dissolution of a company for omission to comply with its annual filing duties in the Companies Registration Office (section 13(1)(a) of the 1957 act). By section 13(1)(b), the State’s right to recover the maritime foreshore expires 60 years from it first accruing.

### Comparative international law

While in Ireland the claimant of land ownership by adverse possession must prove standard exclusive uninterrupted possession for at least 12 years, the comparable law in Norway requires at least 20 years and, in Scotland, at least only one year of possession (for more detail, see [www.vdpmortgage.com](http://www.vdpmortgage.com)).

Relevant to this is the European Court of Human Rights case *JA Pye (Oxford) Ltd and JA Pye (Oxford) Land Ltd v UK*. During it, the Government of Ireland made submissions (leave having been granted by

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## IVOR FITZPATRICK & CO ANNOUNCE THE APPOINTMENT OF NEW PARTNER

Ivor Fitzpatrick and Company Solicitors are very pleased to announce the appointment of Sandra Casey, previously a senior associate, as a Litigation Partner with the Firm. Sandra joined the Firm in 2001 and has been a valued, dedicated and hardworking member of our Litigation team. Sandra's clients will continue to benefit from her specialised skill and knowledge in the areas of Civil and Commercial Litigation, Dispute Resolution, Probate & Estate Administration and Family Law. She has extensive complex litigation experience. Her appointment further strengthens the firm's commitment to the highest level of client service.

Ivor Fitzpatrick, Managing Partner, expressed his congratulations to Sandra on becoming a Partner in the Firm and is looking forward to her involvement with the other Partners in assisting the Firm in its continued growth and development into the future.



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the president of the Grand Chamber pursuant to rule 44 and as summarised at paragraphs 50 and 51 of its judgment).

The applicant lost land with development potential to a neighbouring landowner and claimed that the English law permitting acquisition of land by possession breached protocol 1, article 1 of the *European Convention on Human Rights*. The ECtHR rejected the claim on the basis that there must be a “fair balance ... between the demands of the general interest and the interest of the individuals concerned”.

### Fair balance

So, what is a ‘fair balance’? The Irish Government offered five reasons justifying the law permitting title acquisition by possession: “the desirability of clarifying title where land, whether registered or unregistered, had remained abandoned and was occupied by another person; in cases of failure to administer estates on intestacy; in pursuance of a policy of using land to advance economic development; in perfecting title in cases of unregistered title; and in dealing with boundary disputes”.

**T**he Grand Chamber’s answer was: “In determining whether a fair balance exists, the court recognises that the state enjoys a wide margin of appreciation, with regard both to choosing the means of enforcement and to ascertaining whether the consequences of enforcement are justified in the general interest for the purpose of achieving the object of the law in question.”

This ruling, 16 years ago, is in support of Ireland’s outdated law. It requires law as applied to be balanced and reasoned. So, any unreasoned laconic court order would be arbitrary and non-compliant with the international rule of law and of human-rights standards. Statutory laws must be precise to make them certain so that their daily application can conform with democratic standards and investors’ expectations.

### Future reform

Ireland’s old law requiring registration for valid property ownership and to secure contract duties requires modernisation, calibration, complete digitalisation, free electronic accessibility, and exception-free conclusiveness of all of its administrative registers – for all.

**I**reland’s future reformed law should provide a State guarantee for all register entries and register documents, including accurate boundary delineations and register maps.

It requires a solution to the non-administration of intestate and testate estates, to land remaining unregistered, and the termination of the Registry of

ENTRIES IN SOME PUBLIC REGISTERS CAN BE MORE CONCLUSIVE AND VALID THAN IN OTHERS AND SO REQUIRE COURT INTERVENTION BEFORE RECTIFICATION. THE 1964 ACT EVEN PERMITS AND RECOGNISES THE VALIDITY OF A RANGE OF UNREGISTERED BURDENS THAT MAY AFFECT THE REGISTERED OWNER’S INTEREST

Deeds, so that the Land Register is the sole verifier of ownership of land and its encumbrances.

The updated Land Register law is to render certainty for all of the rights of all owners (whether natural or legal persons), of third parties (such as chargees and mortgagees), and of claimants. This will ensure its compatibility with the international law principle of subsidiarity, and guarantee its application by the courts of Ireland.

Certain property ownership and rights is what is desired.

---

*Duncan Grehan is a solicitor and member of the Law Society’s EU and International Affairs Committee.*

## LOOK IT UP

### CASES:

- *Curran and Ors v Hamilton Holdings LLC* [2023] IEHC 380
- *In the matter of Latzur Limited (in receivership) and in the matter of the Companies Act 2014* [2023] IECA 60
- *JA Pye (Oxford) Ltd and JA Pye (Oxford) Land Ltd v United Kingdom* (European Court of Human Rights, 30 August 2007, application no 44302/02)
- *Murphy, Gerard (Liquidator of Diamond Rock Developments Limited (in liquidation) v Leddin, Joseph* [2023] IEHC 65
- *Pepper Finance Corporation (Ireland) DAC v Moloney* [2023] IECA 161 (Allen J, para 43, 23 June 2023)
- *Re Investment Options and Solutions Ltd* [2010] IEHC 107
- *Tanager v Kane* [2018] IECA 352; [2019] 1 IR 385
- *Údarás Eitfíochta na hÉireann (Irish Aviation Authority) and DAA plc v Monks and Anor* [2017] IEHC 440

### LEGISLATION:

- *Companies Act 2014*, section 409
- *European Convention on Human Rights*, protocol 1, article 1
- *Registration of Deeds and Title Act 2006*, section 55(2)(1)
- *Registration of Title Act 1964*
- *Statute of Limitations Act 1957*, section 13(2)(a)



# First **woman** president Moya Quinlan honoured

The Law Society has marked the enduring legacy of its first female president, Moya Quinlan, by naming its main lecture theatre in her honour. Mary Hallissey reports



MOYA SERVED ON COUNCIL UNTIL THE AGE OF 91, REGULARLY TOPPING THE POLL. THIS IS THE ONLY INSTANCE OF A PERSON IN THEIR 90s ACTIVELY CONTRIBUTING TO THE GOVERNANCE OF A LEGAL PROFESSION ANYWHERE IN THE WORLD

The Law Society Education Centre's main lecture theatre has been dedicated to its first woman president and trailblazing solicitor Moya Quinlan, at an unveiling ceremony on 11 October.

Council member and chair of the Education Committee Richard Hammond SC said that it was an honour to be present at the naming ceremony – the first by the Law Society to memorialise a woman prominent in the profession.

It was fitting that the Law Society's keynote lecturing space should be dedicated to its first female president, he said, and his proposal had been adopted unanimously by the Education Committee: "It is absolutely essential that we mark the significance of Moya Quinlan in such a manner."

Director general Mark Garrett commented that it had been 100 years since women had first entered the solicitors' profession. Since that time, women had played a significant role. Moya Quinlan had been instrumental in the purchase of the Blackhall Place building and campus, he reminded the gathering, and had been responsible for many other initiatives in the legal-education sector.

It was appropriate, the director general said, to welcome the Chief State Solicitor, Maria

Browne, as keynote speaker at the dedication ceremony. Browne responded by saying she was honoured to celebrate the contribution of Moya Quinlan to the Law Society and to the country at large.

## Pinnacle

An individual woman who made it to the pinnacle of the legal profession deserved to be celebrated, she said, because so much of the contribution of women in history had been unwritten for so long.

She commended the Law Society for its initiative in recording the stories of the first women solicitors and revealing their hidden histories – thus raising awareness and "filling in some of the blanks".

"We might take a moment to reflect on the blanks that remain for all those women who never

got to achieve their ambition – those who did not have a father, brother, or an uncle in a firm where they could become apprenticed, and those who had no connections or access to higher education," she said.

Browne commented that she herself had been discouraged from studying law during recessionary times due to a dearth of family connections in the legal profession. "I was almost stopped in my tracks of becoming a solicitor because it was so difficult to secure an apprenticeship," she added.

## Honour to serve

The Chief State Solicitor said that she now had the honour of serving in her current role – only the second woman to hold the position following Eileen Creedon, who is now a High Court judge.



ALL PICS: CIAN REDMOND



Past-presidents of the Law Society (front l to r): Geraldine Clarke, President Maura Derivan and Elma Lynch; (back, l to r): John D Shaw, Stuart Gilhooly SC, Michael Quinlan, Michelle Ní Longáin, Donald Binchy, and James MacGuill SC



Past-president Michael Quinlan addresses the audience at the room-naming ceremony in honour of his mother, Moya



President Maura Derivan unveils the tribute to Moya Quinlan

The ratio of females to males in the Chief State Solicitor's Office is now 62% to 38%, with that ratio rising to 67% to 33% in the professional-solicitor grades. The board comprises five women and two men. "In fact, we sometimes get complaints that there aren't a lot of men around," Browne commented.

Law Society President Maura Derivan said that the late Moya Quinlan had been "a wonderful first woman president, a fantastic Council member, and a friend and colleague".

"Moya was my sponsor when I went on Council – she

nominated me, encouraged me, advised me, and gave me the benefit of her experience in how to deal with certain sticky situations.

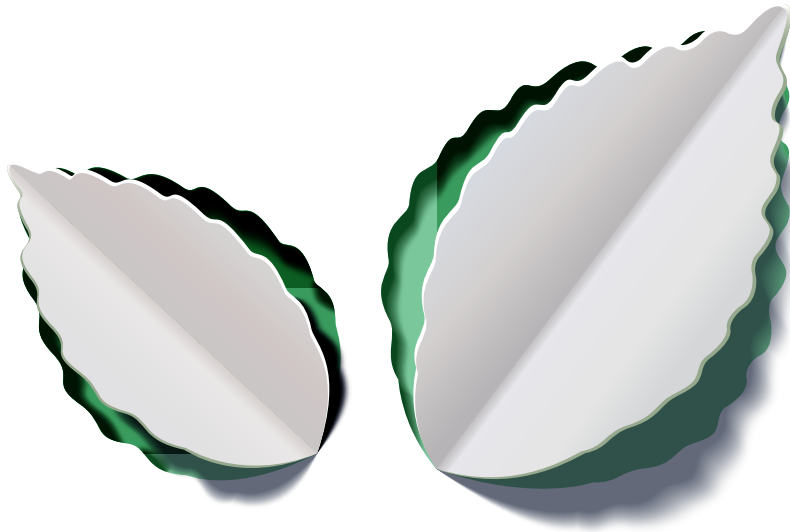
"She was a font of wisdom and knowledge," the president said. "She considered herself to be nothing really special, but she was very special to all of us – and she was a dear friend," she added.

### Trailblazer

When Moya Quinlan first qualified in 1946, she was just one of two women in a class of 15 men, Maura Derivan continued. "She would go on to become the



The three DGs! Director general Mark Garrett (right) welcomes Michael Quinlan (second left) and former directors general Ken Murphy and Mary Keane to the room-naming ceremony



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first woman ever to be elected to the Council of the Law Society in 1968, and its first woman president in 1980,” she said.

Moya served on Council until the age of 91, regularly topping the poll: “This is the only instance, I think, that a person in their 90s was actively contributing to the governance of a legal profession anywhere in the world,” the president said.

Quinlan also served on the Employment Appeals Tribunal from its inception in 1977 until she was 93. She was appointed by Government as a member of the Legal Aid Board in 1979. She also chaired a primary schools curriculum review and served on the first board of the Irish Hospice Foundation.

Her son, Michael Quinlan, was also subsequently elected Law Society president – to date, the first and only mother and son to hold that position.

“When she passed away peacefully at the age of 98, on 12 February 2019, she left behind a transformed solicitors’ profession, in which over half of all practitioners were women,” Derivan said.

### Quiet power

The quiet power of her example and her gentle encouragement contributed much to the profession, the president added.

“I would like to thank Moya Quinlan for all she has done for women in law – in the past, present, and for future lawyers,” she concluded.

Michael Quinlan spoke with some emotion about how important the occasion was for the entire Quinlan family. He warmly thanked all those involved for the tributes paid to his mother, and joked that it was somewhat ironic that a lecture theatre had been named after Moya, who was known to like to keep things brief and succinct.

The Law Society and the legal profession were



A proud day for the Quinlan family at Blackhall Place, where the Education Centre’s main lecture theatre was named in honour of Moya Quinlan

extremely dear to his mother’s heart, he added, and being elected president had been her greatest honour. The eventual appointment of solicitors as judges also gave her great pleasure, he said.

“She had a particular interest in the wellbeing of the profession and its future,” he continued. “She was once asked, in her 63<sup>rd</sup> year of practice, what kept her going and why she hadn’t yet retired, and she said, ‘I don’t regret one day I spent in the legal profession’.”

### Following her dream

After the purchase of the Blackhall Place building from the King’s Hospital School, his mother toured the country to raise money for its refurbishment from “unconvinced colleagues”, Michael added. “The story goes that this caused fear in many a town, as the colleagues thought there were mass audits on the way!”

Michael continued: “She was always very appreciative of all those colleagues who contributed at the time – they were brave because they had to follow her dream.”

Moya Quinlan desired solicitors to have a base, and she was very protective of Blackhall Place and was its custodian in the true sense of the word, he commented. It was wonderful to see the building being widely used for parchment ceremonies, dinners, CPD, and other events, he said.

The Law Society had an education facility that was the envy of most professional bodies, adding: “It all started with a dream to have a home for the solicitors’ profession.”

Moya Quinlan’s legacy endures in the many colleagues she guided and mentored, Michael concluded.

*Mary Hallissey is a journalist at the Law Society Gazette.*

SHE WENT ON TO BECOME THE FIRST WOMAN EVER TO BE ELECTED TO THE COUNCIL OF THE LAW SOCIETY IN 1968 – AND ITS FIRST WOMAN PRESIDENT IN 1980

# 'I drank to relieve the noise'

The 'Business of Wellbeing' summit on 3 October touched on previously taboo topics and discussed how to reduce stigma so that all aspects of mental ill-health are treated in the same way as physical ill-health. Mary Hallissey reports

SOME COLLEAGUES EXPRESSED THE VIEW THAT A SENIOR PARTNER SHOWING VULNERABILITY WAS ONE THING, BUT A MORE JUNIOR PERSON MIGHT RISK THEIR CAREER

This year's Law Society Skillnet 'Business of Wellbeing' summit featured interviews and panel discussions on building a welcoming legal community for all.

No topic was off the table, including the high levels of addiction among lawyers and the staggering rates (one in two women, and one in four men) of self-reported sexual violence experienced by Irish people in the wider population.

The summit was moderated by Michael Quinlan (past-president of the Law Society and chair of the Professional Wellbeing Committee).

## Addiction experiences

Chris Parsons (chair of the India practice of Herbert Smith Freehills) spoke powerfully about his own experiences of depression and alcohol addiction, saying that it took a lot of illness for him to accept that he needed to make radical change in his life: "I had to change my role fairly radically within the firm to address the struggles that I was having."

Parsons said that, while he has made a significant recovery, he initially hesitated to tell his story of using alcohol to self-medicate for anxiety and stress.

However, the positive feedback after his disclosure made him realise that being vulnerable connects us to people in a way that nothing else does. "Vulnerability gives permission to other people to share their stories as well," he said.

"Addiction is almost always a way of coping with underlying difficulties," he added. "I drank pretty much every evening just to relieve the noise, the fear, the anxiety, the stress of the day," he said, before eventually becoming dependent on alcohol.

## 'More monstrous'

This is his reason for talking about addiction. "Unless more light can be shone on that, it will exist in the dark – and stuff in the dark just gets bigger and more monstrous, and kills people," he said. "The stigma can be so silencing."

Parsons said he wants people to look after themselves better, and for legal workplaces to think much more seriously about how to look after their staff.

Some colleagues expressed to him the view that a senior partner showing vulnerability was one thing, but a more junior person might risk their career. Parsons was unable

to answer that question, he admitted, though other colleagues at his large 'magic circle' firm have since disclosed mental difficulties, and it has not impeded their progression to partnership.

"I can now genuinely stand up and say that, not only I, but others have been able to tell their stories in a way that has not impacted on their career," he said.

## Falling into the trap

Parsons said he is still conditioned to fall into the trap of viewing legal-career success as modelled by those who are both highly-driven and highly remunerated. However, he is adamant that "there's just so much more to a career and what you can get out of it".

He prefers to see compassionate, genuine people who are excited by their work, but also well-rested and efficient. The use of the billable hour rewards those who sacrifice themselves for their firm, he said. "I would love firms to seriously think about how they can reward output, rather than timing input."

Other professions find different ways to measure how they charge clients, he added. Firms are locked into and



'Addiction is almost always a way of coping with underlying difficulties'

competing using a US model, he suggested, but a radical change could be a wonderful competitive advantage in an era of talent-retention challenges and younger solicitors with different expectations of their careers.

Supervisors should try to understand their staff at an individual level, knowing what

is important to them, as well as their need for proper sleep and exercise, Parsons said.

### Performing better

In a later panel session, Mason Hayes & Curran partner [Peggy Hughes](#), who is a former nurse and has an acquired brain injury, told the summit that organisations that embrace

diversity in all its forms perform better.

She pointed to research that legal workplaces employing best practice on inclusion achieve higher revenue and profit margins. "The growth of ESG will give added impetus to law firms to think again about how they deal with diversity," she said.

Newly appointed IHREC commissioner Noeline Blackwell commented that lawyers could be slow in recognising and fully understanding the impact of trauma on their clients' lives, and on their ways of communicating and behaving.

Alongside the more recognisable forms of trauma,



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PIC: CIAN REDMOND

Michael Quinlan moderated the 'Business of Wellbeing' summit, and is seen here speaking at the recent Law Society Psychological Services Festival in September

forced marriages and female genital mutilation were forms of gender-based violence that were now part of life in Ireland, and many lawyers did not know how to deal with them, Blackwell said.

### Boxing things off

Michael Quinlan commented that solicitors might hear traumatic things that a client mightn't even tell a priest. "One of the things that the profession hasn't done very well is to look after the recipient of that information," he said. "There are ways of establishing your boundaries, of boxing it off. Lawyers are good at boxing things off, once they're given the mechanisms."

The willingness to speak about mental wellbeing is an indicator of how the legal profession has evolved, solicitor Barry

Creed said. In a panel exploring creating a sense of community and belonging in the legal profession, Creed commented that the law could be a tough and lonely profession, but that the Law Society provided significant supports to its members, particularly where small firms might not be able to give such back-up.

The regulatory function of the Law Society might have led to a fear of engagement in the past, but the recent roll-out of Law Society Psychological Services was changing matters, the summit heard.

### Value in reflection

Law Society Council member Sonia McEntee, who facilitates an online peer-support group for principal solicitors, said it was encouraging to see such

change, and the growing willingness to listen to the truth about negative cultures. Solicitors might be trained to reach for a quick answer, but there was also value in reflection and a longer perspective.

"Asking for help can quickly nip many problems in the bud," the Law Society's head of Psychological Services, Antoinette Moriarty, concluded. "No solicitor should suffer feelings of dread, resentment, or frustration in doing their work."

She reminded those present of LegalMind, the subsidised counselling service for all members of the Law Society. Information about the supports available can be found at [lawsociety.ie/legalmind](https://lawsociety.ie/legalmind).

*Mary Hallissey is a journalist with the Law Society Gazette.*

SOLICITORS  
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# Brexit: the gift that keeps on giving

The CJEU has ordered Britain to pay a penalty of €32 million for failing to fulfil its obligations under Council Directive 95/60/EC, even though it is no longer an EU member state – but was at the time of its breach. Duncan Grehan reports

THE UK HAS BREACHED ITS 'PACTA SUNT SERVANDA' DUTY AND HAS NOW BEEN ORDERED BY THE CJEU TO PAY A €32 MILLION LUMP-SUM PENALTY

EU member states will be penalised for any breach by them of their EU law duty. This is part of established international law. Article 26 of the *Vienna Convention on the Law of Treaties 1969* (headed '*Pacta sunt servanda*') provides that "every treaty in force is binding upon the parties to it and must be performed by them in good faith".

The UK has breached this duty and has now been ordered by the Court of Justice of the European Union (CJEU) to pay a lump-sum penalty.

In Case C692/20, the CJEU states that the Brexit *Withdrawal Agreement* entered into force on 1 February 2020, and that article 86 of that agreement – entitled 'Pending cases before the Court of Justice of the European Union' – provides that "the Court of Justice ... shall continue to have jurisdiction in any proceedings brought by or against the United Kingdom before the end of the transition period" (see paragraphs 2-3).

## Failed

Britain was found by the CJEU on 17 October 2018 to have failed to fulfil its obligations under Council Directive 95/60/EC of 27 November 1995 on

the fiscal marking of gas oils and kerosene.

The EU Commission, complying with the procedural duty under article 260(2) of the *Treaty on the Functioning of the European Union* (TFEU), did its job of bringing an action against the UK before the CJEU (on 21 December 2020), having beforehand, in its notice of the deadline to have dealt with the infringement before further court proceedings in default, also proposed a penalty on the UK of €38,743,056.

Within the prescribed fixed time limit, the UK then filed its defence submissions, which included its qualified admission of the breach. It submitted that no financial penalty should be imposed on it or, at worst, a consequential paltry penalty of only Stg£250,000. That amount was only 0.78% of the lump sum of €32 million that the CJEU has now, on 28 September 2023, ordered the UK to pay for its breach of the rule of international law (see paragraph 64 of the judgment).

Paragraph 119 of the judgment in September 2023, explaining the law and process on quantifying the penalty sum, states that "the ability to pay is taken into account

in order to fix penalties that are sufficiently dissuasive and proportionate, with the aim of effectively preventing the repetition of similar infringements of EU law in the future".

It rejected the UK's submission that only the GDP of Northern Ireland, still subject to certain EU laws (per Brexit) – and not of the entire UK – should be taken into account. The breach is by the UK – not by a part of it.

## Next step

The next step was when Advocate General Anthony Collins opined to the court (on 8 December 2022) that the penalty sum should be €17 million, having taken account of all submissions at the court hearing on 28 September 2022.

Now at last, on 28 September 2023, in open court, after the full hearing a full year earlier, the CJEU – noting that it had already found that the UK had failed to fulfil its obligations under the treaties of the EU (judgment of 17 October 2018 in Case C503/17) – found the UK to be in yet further breach of its duty.

Although the UK had the treaty duty "to take the



necessary measures to comply with” the 2018 judgment of the court (as per article 260(1) of the TFEU), it had failed to do so – in further disregard of its clear duty under the EU treaties.

While article 260 does not fix any timeline by when the (former) member state must implement measures to comply with a CJEU judgment, in the opinion of Advocate General

Collins: “Settled case-law is to the effect that the importance of immediate and uniform application of EU law requires the process of compliance to be initiated at once, and to be completed as soon as possible” (see paragraph 17).

**Time limit**

The CJEU has highlighted that it is for the commission to give the offender state a

time limit to have complied with the CJEU judgment in its notice to it, per article 260, of further CJEU proceedings in default, and also a proposed penalty sum (see paragraph 43 of this CJEU judgment of 28 September 2023, specifically paragraph 44). Furthermore, it should be recalled that the infringement procedure is based on the objective finding that a member state has failed

**THE PROCESS OF COMPLIANCE SHOULD BE INITIATED AT ONCE, AND BE COMPLETED AS SOON AS POSSIBLE**

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16 November	<b>Practitioner Update Cork 2023</b> The Kingsley Hotel, Cork	Total 6 hours (by group study)			€150
23 November	<b>General Practice Kilkenny 2023</b> Hotel Kilkenny, Kilkenny	Total 6 hours (by group study)			€150
06 December	<b>Practice and Regulation Symposium 2023</b> The College Green Hotel, Dublin 2 (formerly The Westin Hotel)	Total 6 hours (by group study)			€150
<b>IN-PERSON AND LIVE ONLINE</b>					
08 November	<b>Employment &amp; Equality Law Annual Update</b>	3 general (by eLearning)	Zoom webinar	€198	€175
15 November	<b>Business Law Annual Update</b>	3.5 general (by group study)	Law Society of Ireland	€198	€175
21 November	<b>PI Litigation in Europe: Examining a factual scenario</b>	1.5 general (by eLearning)	Zoom webinar	€125	€110
01 December	<b>Family &amp; Child Law Annual Conference 2023</b>	4 general (by eLearning)	Zoom webinar	€175	€150
05 December	<b>Time Management for Lawyers</b>	3 management & professional development skills (by group study)	Law Society of Ireland	€175	€150
12 December	<b>Assisted Decision Making: where are we now?</b>	1 General (by eLearning)	Zoom webinar		€65
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07 & 21 March	<b>Environmental, Social and Governance – ESG Masterclass</b>	6.5 general and 3 management & professional development skills	Law Society of Ireland, Moodle & Zoom webinar	€325	€275
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\*This Law Society Skillnet discount is applicable to all practicing solicitors working in the private sector. For a complete listing of upcoming courses visit [www.lawsociety.ie/CPDCourses](http://www.lawsociety.ie/CPDCourses) or contact a member of the Law Society Professional Training or Law Society Skillnet team on Tel: 01 881 5727 Email: [lspt@lawsociety.ie](mailto:lspt@lawsociety.ie) or [www.lawsociety.ie/Skillnet](http://www.lawsociety.ie/Skillnet)



to fulfil its obligations under the treaty or secondary legislation (judgment of 12 November 2019, *Commission v Ireland*, paragraph 92).

The CJEU noted: “In the present case, it must be observed that 1,079 days and, therefore, almost three years, elapsed between the delivery of the judgment establishing the infringement and the United Kingdom’s compliance with that judgment” (see paragraph 114).

The CJEU, on 28 September 2023, ordering “the United Kingdom of Great Britain and Northern Ireland” to pay a lump-sum penalty of €32 million, declared that, “by failing to adopt all the measures necessary to comply with the judgment of 17 October 2018, *Commission v United Kingdom* (C503/17), by the expiry of the period prescribed in the letter of formal notice sent by the

European Commission, namely 15 September 2020, the United Kingdom of Great Britain and Northern Ireland has failed to fulfil its obligations under article 260(1) TFEU:

- 1) Orders the United Kingdom of Great Britain and Northern Ireland to pay to the European Commission a lump sum of €32 million,
- 2) Orders the United Kingdom of Great Britain and Northern Ireland to pay the costs.”

### Costs order

Through article 38(1) of the *Rules of Procedure of the Court of Justice*, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party’s pleadings. The CJEU has, therefore, now also ordered the UK to pay the costs.

The next stage of this drawn-

out penalty process for breach of international law by ‘the UK’ will be debt collection.

*Duncan Grehan is a member of the Law Society’s EU and International Affairs Committee.*

ALTHOUGH THE UK HAD THE TREATY DUTY ‘TO TAKE THE NECESSARY MEASURES TO COMPLY WITH’ THE 2018 JUDGMENT OF THE COURT, IT HAD FAILED TO DO SO – IN FURTHER DISREGARD OF ITS CLEAR DUTY UNDER THE EU TREATIES

## LOOK IT UP

### CASES:

- *Commission v Ireland (Derrybrien Wind Farm)* (C261/18, judgment of the Grand Chamber, 12 November 2019)
- *Commission v United Kingdom (Marquage fiscal du gazole)* (Case C692/20, 28 September 2023)
- *Commission v United Kingdom of Great Britain and Northern Ireland* (Case C503/17, 17 October 2018)

### LEGISLATION:

- Council Directive 1995/60/EC of 27 November 1995 on the fiscal marking of gas oils and kerosene
- *Rules of Procedure of the Court of Justice*, article 138(1)
- *Treaty on the Functioning of the European Union*, article 260(1) and (2)
- *Vienna Convention on the Law of Treaties 1969*, article 26

## PRACTICE NOTES

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

CONVEYANCING COMMITTEE

# NEW GENERAL CONDITION IN 2023 GENERAL CONDITIONS OF SALE

● Practitioners will note the addition of a General Condition 48 in the recently launched *General Conditions of Sale* (2023 edition).

General Condition 48 is being introduced in recognition of the general move to digitalisation and the ever-increasing use of electronic signatures. While electronic signatures are not currently capable of being used for deeds or declarations, they may be used, where desired, in the execution and exchange of a contract for sale. The *Electronic Commerce Act 2000* provides the statutory basis for the legal recognition of e-signatures in Ireland.

General Condition 48 creates an express confirmation and consent by the parties to electronic exchange of contracts, the use of counterparts, and the potential to use electronic signatures, or even a mix of electronic signatures and wet-ink signatures.

This change does not in any way alter the current position in relation to the formalities for execution and exchange of a simple contract for the sale and purchase of land, and the parties are free to elect to use electronic signatures, as appropriate, in keeping with legislative requirements.

The wording of General Condition 48 incorporates the suggested wording refer-

enced at Clause 14 of the *Updated Guidance Note Regarding e-Signatures, Electronic Contracts and Certain Other Electronic Transactions*, issued by the Law Society of Ireland, and is available through the link referred to at Appendix 3 to the explanatory memorandum issued with the release of the 2023 *General Conditions of Sale*.

Practitioners should be careful when making use of electronic signatures and make themselves familiar with the legal position, as set out in the updated guidance note referred to above. In particular, practitioners will need to be aware that, as it currently stands, all that is necessary to execute a contract for the sale of land is a ‘simple electronic signature’, which is described as “data in electronic form which is attached to or logically associated with other data in electronic form, and which is used by the signatory to sign”. Put simply, an electronic signature could be as simple as typing a name as a signature (or other mark) on the page, and there is no specific requirement for any witness to the signature.

As is the case with any of the general conditions, the general condition can be deleted or amended by special condition. For example, if it is not intended to have the option of using e-signatures for execution, General Condition 48 might be amended by way of

a special condition requiring the use of ‘wet-ink’ signatures, duly witnessed. There is, of course, a risk that by being too specific as to requirements, through simple oversight or inadvertence, a formal requirement for execution and exchange may be overlooked and call into question the binding nature of the contract. Primarily, for this reason, General Condition 48 has been drafted to reflect the default position, which is quite familiar to many practitioners.

If desired, General Condition 48 could be amended by special condition to provide for the use of an ‘advanced electronic signature’ (which is more secure than a ‘simple electronic signature’) or even a ‘qualified electronic signature’, which is currently the most secure form of electronic signature.

Execution of documents by electronic signature is becoming ever more commonplace, including for purchases by auction and, generally, for contracts for residential and commercial real-estate transactions, as well as short-term lettings.

Guidance on the *Electronic Commerce Act 2000* and the use of e-signatures can be found at [www.lawsociety.ie/globalassets/documents/committees/business/e-signatures-electronic-contracts-other-electronic-transactions.pdf](http://www.lawsociety.ie/globalassets/documents/committees/business/e-signatures-electronic-contracts-other-electronic-transactions.pdf).

CONVEYANCING COMMITTEE

# GENERAL CONDITION 32 AND DECLARATIONS RE NO DEVELOPMENT AND NO PLANNING BREACHES

● It has come to the attention of the committee that solicitors acting for the purchaser of a property are often requiring that the vendor provide a statutory declaration confirming that the vendor has not carried out any ‘development’ to the subject property and, further, that the vendor has not received any warning letters or enforcement notices from the planning authority. Such declarations are being requested even in circumstances where General Condition 32 of the Law Society *Conditions*

*of Sale* has not been altered.

Practitioners are reminded that General Condition 32 provides as follows:

- “1) *The vendor warrants that there has not been during the vendor’s period of ownership any development which would require planning permission or in the alternative that all planning permissions required for the development were obtained and have been complied with.*
- 2) *The vendor is required to disclose any breach of or non-compliance with planning of which the*

*vendor is actually aware in respect of the period prior to the vendor’s ownership. This includes, but is not limited to, any matter disclosed to the vendor at the time of purchase (for example, in the contract or replies to requisitions).”*

Where General Condition 32 remains unamended, the committee considers that it is not appropriate for the purchaser’s solicitor to insist on the vendor furnishing a declaration that merely verifies the matters already war-

ranted by General Condition 32. In circumstances where General Condition 32 is not amended, such planning declarations should not as a matter of practice be sought or provided.

The committee would like to remind the profession that General Condition 32 should not be amended without reason and, where

there is a reason why a vendor might wish to amend General Condition 32, the reason(s) for any such amendment should be disclosed to the purchaser.

The committee further reminds practitioners that it is good conveyancing practice to carry out planning searches before the date of sale.

CONVEYANCING COMMITTEE

## ISSUING CONTRACTS FOR SALE WITHOUT COMPLETE COPY TITLE

● One of the objectives of moving to a pre-contract investigation-of-title system is that the purchaser's solicitor can review the title as part of a single workflow.

The Conveyancing Committee wishes to remind practitioners to refrain from issuing land contracts where the copy title would be furnished to the purchaser's solicitor in a piecemeal fashion, including where the vendor's solicitor awaits a particular document(s).

The committee recognises that, at times,

it may make practical sense for copy title to travel in more than one batch; however, that should only arise in rare circumstances, for example, where a roads and services letter remains awaited from a local authority.

If a solicitor is required to issue a draft land contract before all the copy title is readily available, any omitted document should be clearly marked 'to follow' in the cover letter or in the document schedule to the draft contract, and also indicating its status (for example, it has been requested).

CONVEYANCING COMMITTEE

## SPECIAL CONDITIONS AND SECTION 115 OF THE REGISTRATION OF TITLE ACT


● The Conveyancing Committee continues to receive queries from practitioners regarding certain special conditions in land contracts, particularly in relation to receiver contracts, notwithstanding the publication of a number of practice notes on the issue.

The committee recently received a query in respect of a special condition in a contract, which provided that: "A Section 72 Declaration shall not be furnished on closing or at any other time by the Vendor or Agent and General Condition 10(d) is hereby deleted. Nothing further shall be given and the Purchaser shall raise no further enquiry, objection, rejoinder or requisition in relation thereto."

The committee is of the view that such a condition is not only bad practice, but is almost certainly unenforceable pursuant to the provisions of section 115 of the *Registration of Title Act 1964*, which provides that: "Every stipulation in a contract for the sale or charge of registered land or for the transfer of

*a registered charge whereby the purchaser or intending chargeant or the intending transferee (as the case may be) is precluded from making requisitions in relation to burdens generally or any particular burden which, by virtue of section 72, may affect the land shall be void."*

The committee is cognisant of the fact that receivers, given the nature of their role, have limited knowledge in relation to the property in sale and wish to exclude personal liability.

The committee has previously expressed the view that the contract for sale furnished by a receiver should be reasonably balanced between the protections provided to the receiver in the context of the sale, and the rights afforded to a purchaser. Receiver should, on closing, furnish statutory declarations, such as section 72 declarations and, indeed, other declarations, such as family-law declarations, made on the basis of their actual knowledge, information and belief, having made the appropriate enquiries. 

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**WILLS**

**Cronin, Matthew Joseph (Matty) (deceased)**, late of Crohane, Fossa, Killarney, Co Kerry, who died on 2 September 2023. 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 Mary Cahill & Co, Solicitors, Digital Office Centre, 12 Camden Row, Dublin 8; tel: 01 479 0559, email: [mcahill@marycahillsolicitors.eu](mailto:mcahill@marycahillsolicitors.eu)

**Crossan, Ciaran (deceased)**, late of Mourne View, Dublin Road, Dundalk, Co Louth, who died on 19 August 2023. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased please contact MacGuill & Co, Solicitors, 5 Seatown, Dundalk, Co Louth; tel: 042 933 4026, email: [info@macguill.ie](mailto:info@macguill.ie)

**Cunningham, James (deceased)**, late of 93 Silversprings Court, Tivoli, Cork, and Kiltulhan, St John's Point, Co Donegal, who died on 25 May 2023. Would any person holding or having knowledge of any will made by the above-named deceased please contact Tracie Nolan, Anne L Horgan & Co, Solicitors, 2-3 Convent Road, Blackrock, Cork; tel: 021 435 7729, email: [tnolan@alh.ie](mailto:tnolan@alh.ie)

**Griffin, Martin (deceased)**, late of Ballyegan, Lisselton, Co Kerry, who died on 8 October 1991. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Joseph M Jordan LLP, Solicitors, Main Street, Ballinasloe, Co Galway; DX 62 001 Ballinasloe

**Kelleher, Ellen Marie (deceased)**, late of 14 Bishopstown Road, Bishopstown, Cork. Would any person having knowledge of the whereabouts of any will executed by the above-named deceased, who died on 29 April 2022, please contact Sarah Pierce, solicitor, McCormack Solicitors, 4 McElwain Terrace, Newbridge, Co Kildare; tel: 045

**RATES****PROFESSIONAL NOTICE RATES****RATES IN THE PROFESSIONAL NOTICES SECTION ARE AS FOLLOWS:**

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

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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 that indicates that such references may be in breach of the *Employment Equality Acts 1998 and 2004*.

438 305, email: [sarah@mcormack.solicitors.ie](mailto:sarah@mcormack.solicitors.ie)

**McEntee, Patrick (otherwise known as Paddy) (deceased)**, late of Mount Temple, Grange, Co Sligo, and formerly of Tullyherim House, Monaghan, who died on 20 July 2023 at Drum-bear Lodge Nursing Home, Monaghan. Would any person having knowledge of a will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact Galvan Solicitors, 63-64 John Street, Sligo; tel: 071 915 0555, email: [info@galvan.solicitors.ie](mailto:info@galvan.solicitors.ie)

**Moran, Andrew (deceased)**, late of 32 Bullock Park, Carlow, and formerly of Woodford, Co Galway, who died on 30 August 2023. Would any solicitor holding or having knowledge of the whereabouts of any will executed by the above-named deceased please contact Cuddy and Company, Solicitors, Main Street, Loughrea, Co Galway; tel: 091 882 122, email: [info@cuddy.ie](mailto:info@cuddy.ie)

**Morrogh, Joan Christina (deceased)**, 22 Mill Grove, Delgany, Co Wicklow. Would any person having knowledge of the whereabouts of any will executed by the above-named and the original deeds to the property

known as 22 Mill Grove, Delgany/Greystones, Co Wicklow, please contact Cullen Tyrrell & O'Beirne, Solicitors, No 3 Prince of Wales Terrace, Bray, Co Wicklow; tel 01 274 6700, email: [info@cullentyrrell.ie](mailto:info@cullentyrrell.ie)

**O'Leary, Martin (deceased)**, late of Cloneygowan, Tullamore, Co Offaly, who died on 17 January 2023. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact O'Sullivan and Hutchinson, Solicitors, Main Street, Portlinton, Co Offaly; tel 056 862 3182, email: [info@osholicitors.ie](mailto:info@osholicitors.ie)

**Sargent, William (deceased)**, late of Boherboy, Saggart, Co Dublin, who passed away on 24 April 1988. He was born in

Kilteel, Co Kildare. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same, please contact John Smith, 152 Forest Hills, Rathcoole, Co Dublin, D24Y28W; email: [karen.coby15@gmail.com](mailto:karen.coby15@gmail.com)

**Shaughnessy, Francis (deceased)**, late of 82 Ramleh Park, Milltown, Dublin 6, and formerly of Corrandulla, Co Galway, who died on 20 May 2023. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same, please contact Horan & Son, Solicitors, First Floor, Woodquay Court, Woodquay, Galway; DX 4572 Galway Mary Street; tel: 091 567 091, email: [info@horansolicitors.ie](mailto:info@horansolicitors.ie)

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**Smith, Patrick Noel Francis (deceased)**, who died on 12 July 2023, a resident at Cairn-hill Nursing Home, Herbert Road, Bray, Co Wicklow, and formerly of 'Lavarna', Dublin Road, Shankill, Co Dublin. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same, please contact Jean Connors & Co, Solicitors; tel: 01 276 4725, email: [reception@jeanconnorsolicitors.ie](mailto:reception@jeanconnorsolicitors.ie)

**Tuohy, Patrick David (deceased)**, late of No 1 Father Kitt Court, St Agnes Road, Crumlin, Dublin 12, and formerly of 1A Beechfield Court, Whitehall Road West, Dublin 12, who died on 6 July 2023. Would any person having knowledge of any will made by the above-named deceased please contact Frank Kennedy, 24 Dangan Park, Perrystown, Dublin 12, preferably by email: [frankjkckennedy@gmail.com](mailto:frankjkckennedy@gmail.com)

**Wall, Patrick Joseph (deceased)**, late of 7 Whitehall Close, Lower Abbeygate Street, Galway. Would any solicitor holding or having knowledge of a will made by the above-named deceased, who died on 24 August 2023, please contact Rolleston McElwee Solicitors, 4 Wesley Terrace, Portlaoise, Co Laois; tel: 057 862 1329, email: [dholland@rmclaw.ie](mailto:dholland@rmclaw.ie)

**Williams, Elizabeth (deceased)**, late of 30 Carrigwood, Firhouse, Dublin 24, who died on 2 April 2023. Would any person having knowledge of the whereabouts of any will made by the above-named deceased, or if any firm is holding same or was in recent contact with the deceased regarding her will, please contact RM Solicitors, Unit 10, Old Bawn Shopping Centre, Old Bawn, Tallaght, Dublin 24, D24 R5WK; DX 104003 Tallaght; tel: 01 635 4601, email: [info@rmlaw.ie](mailto:info@rmlaw.ie)

**TITLE DEEDS**

**Dawson, Philomena (deceased)**, late of 37 The Paddocks, Hybreesal, South Circular Road, Dublin 8. Would any person having knowledge of the whereabouts of the title deeds of the above-named property, or of any firm holding same, please contact VP McMullin Solicitors, Port Road, Letterkenny, Co Donegal, F92 VK20; DX 28005; tel: 074 912 3033, email: [info@vpmcmullin.ie](mailto:info@vpmcmullin.ie)

**In the matter of the Landlord and Tenants Acts 1967-2019 and in the matter of the lands at 16 Talbot Street, Dublin 1**

Take notice that Stephen McGrath of 13 Duke Street, Dublin 2, intends to submit an application to the county registrar for the county of the city of Dublin for the acquisition of the fee simple and all intermediate interests in the land described in the schedule hereto, which said

lands he holds under a lease dated 7 August 1912 made between Rev Henry Harkness Streeten of the one part and Michael Keating of the other part, and take notice that any party asserting that they hold a superior interest in the said lands or any part thereof and, in particular, that they are the successors in title of the said Henry Harkness Streeten, late of Pulteney Road, Bath, England, or of his widow, Rosa Winifred Streeten, are hereby called upon to furnish evidence of their title to such interest to the below named within 21 days from the date of this notice.

Take notice that, in default of any such evidence being received, the said Stephen McGrath intends to proceed with the said intended application at the end of 21 days from the date of this notice and to apply to the county registrar for the county of the city of Dublin for such directions as may be appropriate on the basis that the persons entitled to the reversion expectant on the determination of the aforesaid lease of 7 August 1912 and any interests superior thereto are unknown and unascertained.

*Schedule:* all that and those the premises known as 16 Talbot Street in the parish of St Thomas and city of Dublin.

*Date:* 3 November 2023

*Signed:* McDonald Solicitors (solicitors for the applicants), 5 Railway Terrace, Dublin Road, Naas, Co Kildare

**In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2019 and in the matter of the Landlord and Tenant (Ground Rents) (No 2) Act 1978: lands comprising a family home and workshop situate on Main Street, Upper Aghada, Imokilly, in the county of Cork**

Any persons having an interest in the freehold or intermediate estates in the above property: take notice that Margaret Hennessy, as legal personal representative in the estates of Joseph Brice and Margaret Úna Brice, deceased, intends to submit an application to the county registrar of the county of Cork for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and any persons asserting that they hold any superior interest in the property are called upon to furnish evidence of title to the premises to the below named. In particular, any persons having an interest in: (1) a lease or contract of tenancy bearing any date whatsoever made between Mary Isabella Blood and/or Mary Roche White-side of the first part and William Wall of the second part wherein, *inter alia*, the above properties were demised unto the said William Wall, subject to the yearly rents and covenants described therein; (2) an assignment of the said lease or contract of tenancy

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bearing any date whatsoever made between the said William Wall of the first part and Michael Joseph Brice of the second part, whereby the interest of the said William Wall in the above properties was demised unto the said Michael Joseph Brice, subject to the yearly rents and covenants described therein, should provide evidence of their title to the below-named solicitors.

Further, any persons having any estate or any interest superior to that of the grantors of the said lease, contract of tenancy, or assignment as aforesaid, and any of them, and/or the fee simple interest in the above properties, should provide evidence of their title to the below-named solicitors.

In default of any such information being received, the applicant intends to proceed after the expiry of 14 days from the date of this notice with the application before the county registrar for the county of Cork to purchase the fee simple and any intermediate interests in the said properties and for such directions as may be appropriate on the basis that the person or persons entitled to the superior interests, including the freehold interest, in the said property are unknown and unascertained.

*Date: 3 November 2023*

*Signed: De Búrca Greene (solicitors for the applicant), 1<sup>st</sup> Floor, Classic House, 11/12 Washington Street, Cork*

**In the matter of the *Landlord and Tenant Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of premises known as Lamartine Fireplace Showroom, Lower Ballymount Road, Walkinstown, Dublin 12, D12 KR79: an application by Frank Martina and Catriona Martina**

Take notice that any person having a freehold interest or any intermediate interest in all that and those the property known as Lamartine Fireplace Showroom, Lower Ballymount Road, Walkinstown, Dublin 12 ('the property'), held by the applicant under a lease dated 8 December 1961 made between Munster Simms & Company (Dublin) Limited of the one part and Thomas Wilkinson of the other part for a term of 150 years, subject to a yearly rent of £52; also subject to a lease dated 14 December 1964 and made between Munster Simms & Company (Dublin) Limited of the one part and Thomas Savage and Irwin Savage of the other part for a term of 145 years, subject to yearly rent of £52; also subject to lease dated 7 March 1961 between Austin F Hastings of the one part and Munster Simms & Co (Dublin) Limited of the other for a term of 150 years, subject to yearly rent of £50, together with a lease dated 20 July 1964 made between Austin F Hastings of the

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one part and Munster Simms & Co (Dublin) Limited of the other part for a term of 150 years, subject to a yearly rent of £52.

Take notice that Frank Martina and Catriona Martina intend to submit an application to the county registrar for the county of Dublin for acquisition of the freehold interest 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 with 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 of Dublin for directions as may be appropriate on the basis that the persons beneficially entitled to the superior interest including the freehold reversion in each of the aforesaid

premises are unknown or unascertained.

*Date: 3 November 2023*

*Signed: McKenna and Co, Solicitors (solicitors for the applicants), 115 Lower Baggot Street, Dublin 2*

**In the matter of the *Landlord and Tenant Acts 1967-2019* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of an application by Brian Rahill and Ann Rahill**

Any person having a freehold estate or any intermediate interest in all that and those the property 16 Townhall Street, Cavan, registered in Folio 546L, Co Cavan, being a portion of the property the subject of an indenture of lease dated 14 November 1903 between James Hartley of the one part and Co Cavan Stores Limited of the other part for the term of 200 years from 1 May 1902 at the yearly rent of £30, the property the subject of the lease being therein described as follows: "all that and those houses and premises in Market Square, Cavan,

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measuring in front to Market Square 83 feet, 10 inches; and in the rear 78 feet; and from front to rear on the east side 53 feet, 10 inches; on the west side 57 feet, 2 inches; bounded on the north by the garden in the occupation of Messrs JJ Cole and Andrew Leonard, on the south by Market Square, on the east by premises owned by Mr Philip McDonald, and on the west by the Farnham Gardens, which said premises are particularly described on the map endorsed on these presents and are situate in the parish of Urney, barony of Upper Loughtee and county of Cavan”.

Take notice that Brian Rahill and Ann Rahill, the persons being entitled to the lessee's interest in the said lands, registered in their names in Folio 546L Co Cavan, intend to apply to the county registrar of the county of Cavan to vest in them the fee simple and any intermediate interests in the said premises, and any party asserting that

they hold a superior interest in the said premises is called upon to furnish evidence of title to same to the below-named within 21 days from the date of this notice.

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

*Date: 3 November 2023*

*Signed: Mercantile Solicitors (solicitors for the applicants), No 1 Aghalackan, Killygarry, Cavan, Co Cavan, H12 DX82*

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

Any person having a freehold estate or any intermediate interest in all that and those 40, 41 and 42 Lower Stephen Street, Dublin 2, being the entirety of the premises the subject of an indenture of lease dated 24 February 1921 between the Right

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Honourable Frederick Oliver Baron Ashtown of the one part and James Bowe of the other part, whereby “all that and those houses and premises known as 41 and 42 Lower Stephen Street and the site whereon the house and premises known as 40 Lower Stephen Street formerly stood, situate in the parish of St Bride and city of Dublin, as more fully described in the map annexed hereto” were demised to James Bowe for a term of 150 years from 29 September 1923 at a rent of £50, and which premises is currently held by Hairy Lemon Limited as lessee under the said lease.

Take notice that Hairy Lemon Limited intends to apply to the county registrar of the county of Dublin to vest in it the fee simple and any intermediate interests in the said property, and any party asserting that they hold a

superior interest in the aforesaid property is called upon to furnish evidence of title to same to the below-named within 21 days from the date of this notice.

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

*Date: 3 November 2023*

*Signed: ME Hanaboe Solicitors (solicitors for the applicants), Sunlight Chambers, 21 Parliament Street, Dublin 2, D02 TW99*

### STAFF ISSUES?

Share Resources  
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Replies to PO Box 01/09/23



We want you to write letters. To us. For the magazine. Because we like our members to engage with us! Please do, or they'll dock our banana allowance.

**There's talk of a 'best letter' prize. We don't know. Bottle of bubbly, bottle of Bucky, or a book token? Who knows?**

**Whatever, we want to hear from you.**

**Write to:** The Editor, Law Society Gazette, [gazette@lawsociety.ie](mailto:gazette@lawsociety.ie)





## PRO BONOBO

## Spot the difference

● Polish police have nabbed an alleged thief who stayed behind at shopping centres at closing time, even concealing himself as a mannequin in a shop window, the [BBC](#) reports.

Police in Warsaw released a photo of the unnamed 22-year-old standing still, with an outstretched arm holding a shopping bag, in front of a row of mannequins behind glass at a clothing store.

When the centre closed, he went on the hunt for merchandise to nab. In one incident, he ate at a restaurant, waited for the shopping centre to close, then slipped under the shutters of a clothing store. He “exchanged his clothes for new ones”, then returned to the restaurant.



## A lesson for us all

● A law student's dad reportedly paid a Czech football team €20,000 to sign his son.

FK Usti Nad Labem signed 22-year old Martin Podhajsky, who is said to be an avid fan of the FIFA video game, but has never played real football before, according to [Legalcheek.com](#).



Martin's dad offered the donation if the club agreed to sign up his son to play a minimum of ten minutes as captain in a league game.

The club president said: “You don't just see [€20,000] rolling on the floor every day. If someone gives me this type of money, I'll let anyone play.”

## The worst of all deceptions

● “The *Oxford Dictionary* defines ‘cliché’ as... no, wait... Em, as the great philosopher Socrates once said, ‘don't believe everything you read on the internet’. Nuts.” Sound familiar? If you've ever been stumped to steal something original for that closing address or inspirational speech, the new

‘Greek Philosopher’ app rolls to the rescue.

The app gathers more than 600 words of wisdom from major schools of ancient Greek thought and delivers them straight to your desktop. Based on original sources, the app compiles selected quotes from the sixth century BC to the

first century AD. Top brains from Stoicism, Cynicism, and Epicureanism are among the 36 philosophers featured.

The app can be found at <https://app.thegreekphilosopher.com>. For, as the great philosopher Plato once said, “The worst of all deceptions is self-deception.”

## Those darn alligators

● Joie Henney and his six-foot ‘emotional-support alligator’ Wally were denied entry to a baseball game recently. The story went viral, but Henney said, “We weren't there to go to the game. We were there to meet the players”, according to [NPR.org](#).

Wally – the first reptile legally certified as an emotional-support animal – has a significant social media following, and the team invited them to Philadelphia. By the time they got to the stadium, the players were already preparing for the game, so they bought tickets, but forgot to ask about the park's rules for emotional-support animals: no animals other than “guide dogs, service animals or service animals in training”. [g](#)



# DIRECTOR OF POLICY



The Law Society of Ireland is the professional body which regulates, educates and advocates on behalf of the solicitors' profession. Established almost 200 years ago and committed to providing the highest standard of service and support to its growing membership, students and the public. We are seeking to appoint a Director to lead the Policy Department and be a member of the Executive Leadership Team. Reporting to the Director General, the role supports the President, Council and Committees of the Law Society.

## THE NEW APPOINTEE WILL:

- Lead, develop and promote policy and law reform activities on matters of interest to the profession and broader public interest at national, EU and international levels.
- Play a critical role in the development and delivery of the Law Society's strategy.
- Implement the organisation's proactive engagement strategy across key stakeholder groups, including the membership and the Law Society Committees.
- Advocate for and raise awareness of the profession's role in shaping the law reform agenda in Ireland.

The ideal candidate will have a deep knowledge of the Irish legal and policy system and have the ability to develop and articulate a vision for the future of the solicitor's profession in Ireland. With the credibility to influence at the highest level, the new appointee will be a skilled advocate for the Law Society and its role in protecting the rule of law nationally and internationally. The new Director will have the strategic leadership, people and relationship management expertise required to manage a dynamic and complex environment involving a range of internal and external stakeholders.

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**It is anticipated that this appointment will be made by December 2023.**


**This is an exciting leadership position and for a confidential discussion and further information on this role, please contact PwC Executive Search, Adrienne Harten on +353 87 247 2896. To make an application for this role, please send a comprehensive curriculum vitae and a personal statement outlining your interest and how your experience and leadership approach represent a fit for the role to [ie\\_pollawsoc\\_mailbox@pwc.com](mailto:ie_pollawsoc_mailbox@pwc.com).**

*The Law Society of Ireland is also seeking to appoint a **Head of Governance** - a new role at the organisation. Please see the Law Society of Ireland and PwC websites for further information or email: [ie\\_corpgovlawsoc\\_mailbox@pwc.com](mailto:ie_corpgovlawsoc_mailbox@pwc.com).*





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