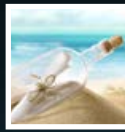




Moya Quinlan RIP
Beloved first woman president of the Law Society passes away



Communicative ethics
The single biggest challenge in business is the ability to communicate purposefully

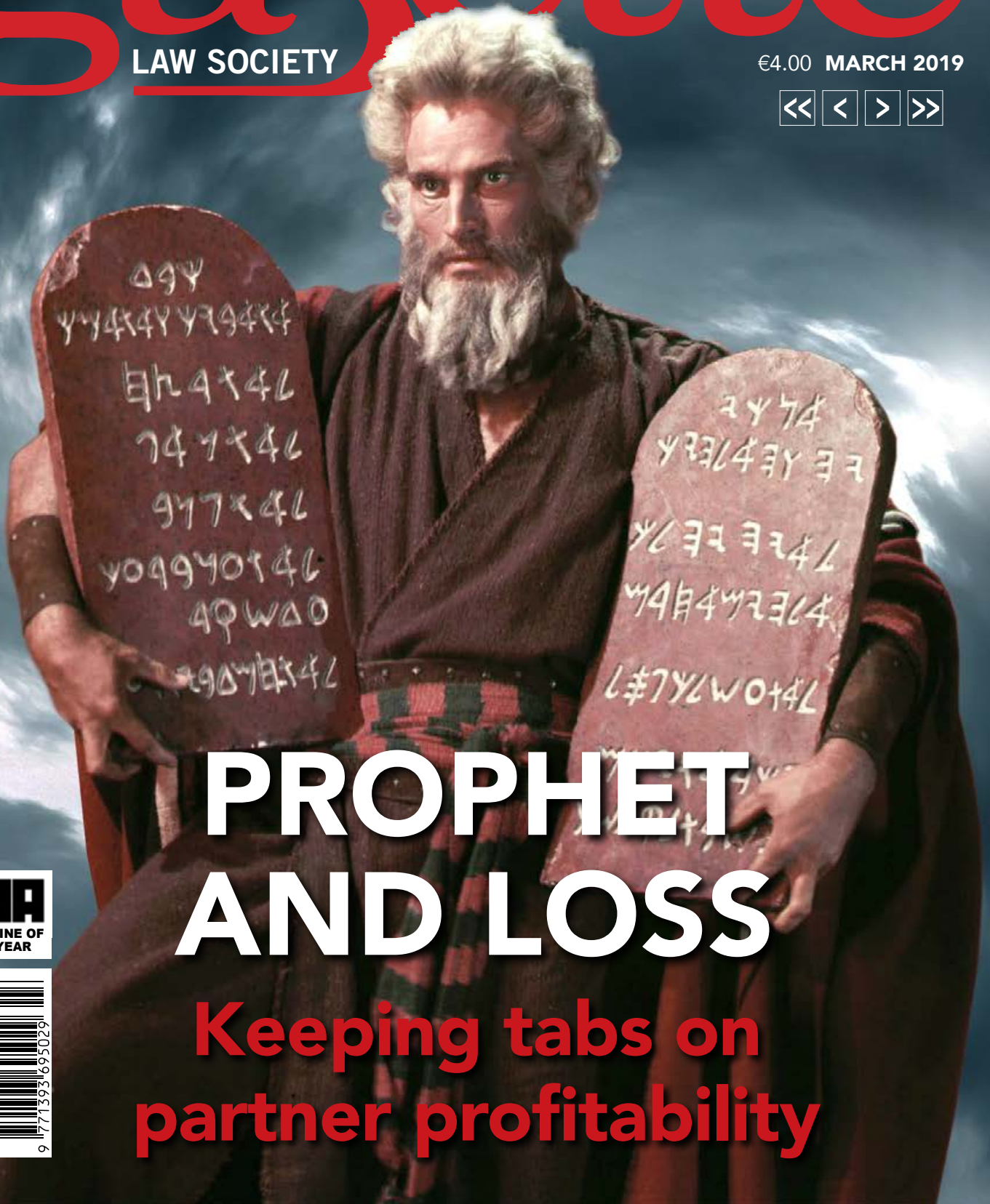


The final frontier
Perhaps a little later than some, law firms are now exploring the digital space

gazette

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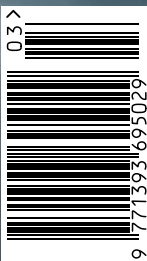
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PROPHET AND LOSS

**Keeping tabs on
partner profitability**

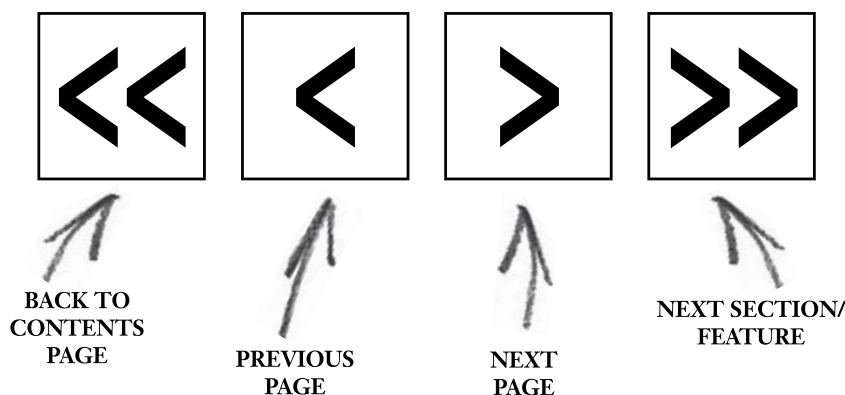
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For further information, or to discuss settlement of any eligible claim, please contact McCann FitzGerald (DFH/RJB) on 01 829 0000 or email hipadr@mccannfitzgerald.com



A BELOVED ICON

I have to start this president's message on a sad note. You will have heard the news of the passing of Moya Quinlan peacefully in her 99th year. She was the first woman president and a beloved icon of the Law Society and, indeed, the profession. It is difficult to overemphasise the scale of her achievements, and her influence on the profession will be long lasting.

You will have read the many obituaries and tributes paid to her but, on a personal level, she was always warm and supportive to new Council members and, indeed, anybody else who crossed her path. She will be greatly missed by her sons Michael and Brendan, their family, and the entire profession.

Diversity and inclusion

Diversity and inclusion is one of the main themes of the year. The Council mandated a task force to devise policies for the Council and its committees, and also to devise tools for the wider profession. Work on this has just begun.

We had the opportunity recently to look at the outputs from a similar project carried out by the Law Society of England and Wales, which is most impressive. It is expected that the preliminary outputs from this project will be available in July.

Brexit

As you read this, Brexit (or something like it) is looming – or maybe not. The presidents, vice-presidents and CEOs of the law societies of Ireland, Northern Ireland, Scotland, and England and Wales met in Belfast on 19 February. All of us are keeping a very close eye on developments, but the uncertainty of outcome is the biggest problem.

The most immediate impact to date has been the well-publicised influx of England and Wales solicitors onto the Irish roll. We all wait with bated breath to see what the eventual outcome will be, but the only certainty is that the effects will be dramatic and, almost certainly, challenging.

Limited liability partnerships

The Law Society has been campaigning for many years for some form of limited liability for solicitors. There is no reason why – almost uniquely among business or the professions –

solicitors should have their personal assets, homes and pensions exposed to the vicissitudes of business. I'm glad to be able to report that regulations to provide for limited liability appear to be on the cusp of being signed off by the board of the Legal Services Regulatory Authority. Unfortunately, under statute, these regulations can only apply to partnerships, and not sole practitioners. This is something over which the Society has no control, but we will continue to campaign for full limited liability for solicitors in their practices, as there is no reason why sole practitioners should be excluded in this regard.

Street Law

I had the great pleasure recently of attending the conferring ceremony for the Street Law Programme 2018. This is a fantastic programme, now in its fifth year, under which 42 trainees from the PPC1 course teach over 500 transition year pupils in 14 schools the basics of law and justice, with social justice at the heart of its activities.

Pupils learn about how the law affects them, and the role of the solicitor. A related programme is taking Street Law to certain



ALL OF US ARE KEEPING A VERY CLOSE EYE ON BREXIT DEVELOPMENTS, BUT THE UNCERTAINTY OF OUTCOME IS THE BIGGEST PROBLEM

prisons, in tandem with the charity Solas (see this *Gazette*, p17), while others work with the [Mercy Law Resource Centre](#), which advocates for the homeless.

The project has attracted much positive feedback and publicity for the profession, and is a great credit to all involved.

As ever, if you have any queries, comments or issues, I can be contacted at president@lawsociety.ie. [G](#)

PATRICK DORGAN,
PRESIDENT



gazette

LAW SOCIETY

PIC: REX FEATURES



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Determining the profitability of a law firm in total is straightforward; assessing the components that add up to firm profitability is more challenging. Hugh A Simons offers some commandments

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The *Employment (Miscellaneous Provisions) Act 2018* provides far greater protections for 'casual workers'. Melanie Crowley and Orla O'Leary reset the clock

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Perhaps a little later than most business sectors, law firms are undertaking their own journey into the digital space. David Cowan analyses the acronyms

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Acting as a trustee imposes significant fiduciary duties, foremost of which is the duty to carry out the terms of the trust diligently and honestly. So what criteria should be considered when appointing one? Pauric Druhan has the answers

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The biggest challenge in business and corporate life now is the ability to communicate purposefully, powerfully and persuasively. Communication mastery is the new competitive advantage, writes Pádraic Ó Máille

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Content of interest to in-house and public sector solicitors in this month's *Gazette*: Message in a bottle

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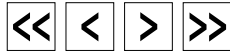


THE BIG PICTURE



ON THE ROAD AGAIN

Civilians flee fighting in Bagouz – the last village held by ISIS in Syria – by boarding trucks on 9 February 2019, following screening by the Syrian Democratic Forces (SDF). After weeks of fighting, SDF began its final operation to oust ISIS from the village



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STREET LAW CONFERRAL CEREMONY

ALL PICS: CIAN REDMOND



At the conferral for trainee solicitors in the Law Society's Street Law initiative on 19 February in Blackhall Place were John Lunney (Diploma Centre), Mr Justice Max Barrett, Law Society President Patrick Dorgan and Freda Grealy (Diploma Centre), with recipients Nonhlanhla Banda, Steven Colgan, Jamie Desmond, Nadia Desmond, James Dowling, Ruth Egan, Lumi Fahey, Carl Grenville, Áine Haberlin, Jacintha Hopkins, Robin Hyde, Niamh Kearney, Conor Keegan, Katie Keegan, Ciara Keenan, Katie Linden, Anne Lyons, Aisling Malone, Elaine Marum, Avril McCrann, Sarah McNulty, Nicole Mitchel, Rory Newsholme, John O'Leary, Philip O'Leary, Éanna O'Donnell, Kris O'Shea, Tara O'Donoghue, Ellen Reid, Hazel Riordan, Therese Ryan, Anna Somsen, Julie Sheridan and Gary Thompson. Also pictured are solicitors Mairin Heslin and Mary Ann McDermott, who were conferred with the Certificate in Public Legal Education, which enables them to be Street Law trainers



Mr Justice Max Barrett



Freda Grealy speaking at the Street Law conferral ceremony

DIPLOMA IN AVIATION LEASING AND FINANCE

ALL PICS: CIAN REDMOND



The Diploma in Aviation Leasing and Finance has been awarded the Gradireland Postgraduate Course of the Year in Law 2019. Pictured with the award are Claire O'Mahony (Diploma Centre), Nikki Foley (Matheson, course consultant) and Freda Grealy (Diploma Centre)





HUGE SUPPORT FOR OFFICIAL LAUNCH OF OUTLAW



ALL PICS: CLIAN REDMOND

There was a large attendance at the official launch of OUTLaw, a networking and lobbying group for LGBT+ people working in the legal sector, which took place at Dublin's National Gallery on 23 January



Maeve Delargy, Chief Justice Frank Clarke, Patrick Dorgan, Ms Justice Aileen Donnelly, Mícheál P O'Higgins SC and Chris Murnane



Ms Justice Aileen Donnelly



Chris Murnane



Derarca Dennis, Peter Ryan, Glenn Rogers, and Ms Justice Aileen Donnelly



Sarah Twohig, James Phelan and Catherine O'Flynn



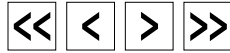
Colin Fives, Kieran Birrane, Leiha Shrubsall and Christian Korbos



Fiona Sharkey and Daniel Harrington



Chris Murnane, Patrick Dorgan and Mary Keane



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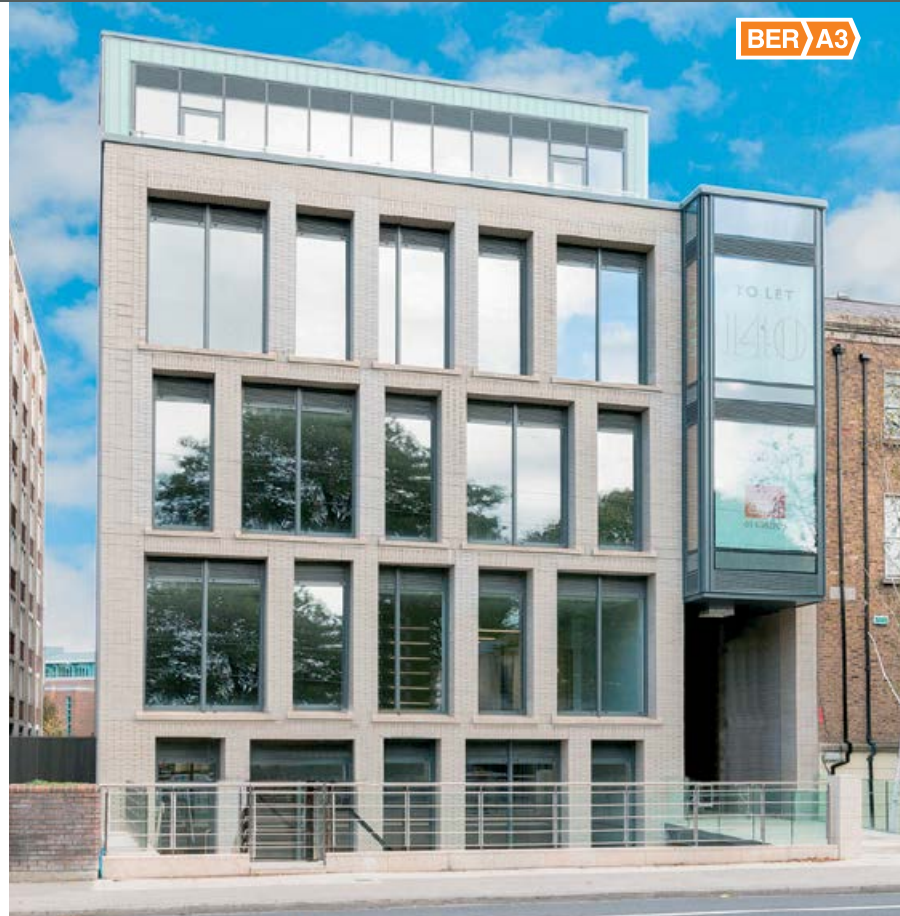
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SEVEN FLOORS OF NEW OFFICE ACCOMMODATION IN THE HEART OF DUBLIN 4



FAMILY COURTS SYSTEM 'IN CRISIS'

The Law Society's Family and Child Law Committee was before the Oireachtas Committee on Justice and Equality on 20 February 2019 to discuss reform of the family law system.

The delegation called on the Government to prioritise the modernisation of the family courts infrastructure, including the creation of a specialist division of family courts and judges.

Keith Walsh (chair) told the Oireachtas committee: "The



family courts system is in crisis. It is chronically underfunded, lawyers and judges are over-stretched, and our clients are often highly vulnerable – children and adults are in need of urgent assistance, specialised care and dedicated facilities."

NOTICE – SBA AGM

The 155th annual general meeting of the Solicitors' Benevolent Association will be held at the Law Society, Blackhall Place, Dublin 7, on Monday 8 April 2019 at 12.30pm to:

- Consider the annual report and accounts for the year ended 30 November 2018,
- Elect directors,
- Deal with other matters appropriate to a general meeting.

NEW BILL AIMS TO TOUGHEN MEDICAL REGULATION

The just-published *Regulated Professions (Health and Social Care) (Amendment) Bill 2019*, which toughens regulatory requirements for medical staff, amends the *Dentists Act 1985*, the *Health and Social Care Professionals Act 2005*, the *Pharmacy Act 2007*, the *Medical Practitioners Act 2007*, and the *Nurses and Midwives Act 2011*.

The key amendments include:

- An onus on applicants to declare any previous convictions or sanctions imposed by



any regulatory body inside or outside the State,

- Disciplinary inquiries in other jurisdictions can now be used as admissible evidence in fitness-to-practise proceedings in this country,
- Full publication of all disciplinary sanctions on doctors, nurses, midwives and pharmacists,
- A new right to appeal to the High Court when minor sanctions of advice, admonishment or censure have been imposed.

TORTURE-PREVENTION CANDIDATE SOUGHT FOR EUROPE

Justice Minister Charlie Flanagan is seeking expressions of interest for a candidate to represent Ireland on the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

The primary objective of the CPT is to prevent the ill-treatment of persons deprived of their

liberty in Europe. Staffed by lawyers, medical doctors, and policing and prison specialists, the CPT carries out periodic, unannounced visits. It has the right of unimpeded access at any time of the day or night to any place of detention.

Further details are available at www.justice.ie/en/JELR/Pages/CPT.

LAWYER ATTACKS INCREASING, EU HEARING IS TOLD

Attacks on lawyers are intensifying around the world, the Council of Bars and Law Societies of Europe (CCBE) told the European Parliament's Human Rights Subcommittee on 19 February.

The Brussels hearing was informed about attacks against the legal profession, including the different types of persecution perpetrated against lawyers.

Every day, lawyers are harassed, threatened, prosecuted, imprisoned or even murdered, simply for carrying out their professional activities, the hearing was told.

The CCBE has published a [brochure](#) on the threats to the legal profession, available at www.ccbe.eu (search for 'Threats on the legal profession').



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SOCIETY URGES 'EXTREME CAUTION' ON RECALIBRATION OF INJURY AWARDS

The Law Society has noted its disappointment with the lack of progress in establishing a Judicial Council. Responding to reports on 14 February of correspondence between Justice Minister Charlie Flanagan and Chief Justice Frank Clarke, the Society said it had welcomed the findings of the Personal Injuries Commission (PIC) that the proposed Judicial Council should draw up appropriate personal injury awards guidelines. This remained the appropriate way for any review of the level of awards in this jurisdiction to be carried out.

"It is disappointing to note that the Judicial Council has made no progress. However, the failure to progress this important legislation should not result in a knee-jerk reaction that could have unintended and unforeseen negative consequences," the Society said.

Media reports have suggested that an interim *ad hoc* committee made up of judges, Courts Service and Department of Justice staff has been proposed by the minister, and that it would preside over the recalibration of current guidelines in the *Book of Quantum*.

In a letter to the Chief Justice, seen by certain media, Mr Flanagan asked whether it would be possible for a small number of judges with expertise in personal injuries to participate in a group with a view to revising guideline award levels. The group would include representatives of the Personal Injuries Assessment Board and, possibly, the Department of Justice.

The minister wishes the judges to consider recent Court of Appeal rulings and part of a 2018 report by the PIC, which found [awards for minor injuries](#) were almost five times the level of those in Britain.



Minister Flanagan: judges with personal injuries expertise could revise guideline award levels

The Law Society has advised that "such proposals, if correct, should be approached with extreme caution". It is important to preserve the separation of powers, it said. "In particular, given

that the State is a defendant in many compensation claims, it cannot be impartial when assessing the appropriate level of damages," the Society warns.

"The constitutionality of such a practice will also come into view if damages in a *Book of Quantum* today are much higher than those, say, in six months, as claimants, who [reject a PIAB award](#) and who relied on the original book, will inevitably receive less damages than they had refused, and will fall foul of the existing statutory rules, which do not allow costs awards in those circumstances.

"Injury victims are entitled to be treated fairly by the courts, and the *Book of Quantum* cannot create fundamental injustice.

"Many medical practitioners hold the view that, in some cases,

soft-tissue injuries can be more difficult to treat than, for example, a fracture. In addition, different people are affected in so many diverse ways, even by injuries that are not chronic. It simply is not possible to generalise about the effect of soft-tissue injuries."

The Society believes there is absolutely no evidence that reducing damages will result in lower premiums. Insurance premiums in Britain, where damages have always been much lower, have been consistently higher, on average, than in this country.

"The effect of reducing damages will merely be to take from the pockets of injured victims of negligence and place into the pockets of an increasingly profitable insurance industry," the Society concluded.

NALA COMMENDS LAW SOCIETY'S CLEAR LANGUAGE LEAFLETS

The Law Society's client care leaflets have been highly commended at this year's National Adult Literacy Agency (NALA) Plain English Awards. The awards were held at Blackhall Place on 11 February.

NALA campaigns for the use of plain language in everyday life. The Law Society currently offers 11 NALA-approved client care leaflets, including *Administering an Estate*, *Anti-Money-Laundering*, *Buying a Home*, *Capital Acquisitions Tax*, *Cohabiting Couples*, *Divorce*, *Employee Rights*, *Employing Staff*, *Making a Will*, *Selling a Home* and *Starting a Business*.

The leaflets are available in Irish, English, French, Lithuanian, Polish and Romanian.

Practising solicitor members can download and print the



Declan Black (managing partner, Mason Hayes & Curran) congratulates Jean Lanigan (Parole Board), Zoe Forde (online and internal communications coordinator, HIQA), and Teri Kelly (director of representation and member services, Law Society) at the NALA Plain English Awards

leaflets for their clients at www.lawsociety.ie/clientcare.

This year's awards were sponsored by Mason Hayes & Curran

as a way of publicly acknowledging businesses and organisations that communicate using plain language.



RYANAIR CAN BYPASS DELAY-CASE SOLICITORS

The British Court of Appeal has ruled that Ryanair may bypass solicitors and deal directly with passengers seeking compensation. The ruling means that the airline has no liability in the jurisdiction to pay solicitors who have enabled the claims to be brought.

Under EU law, airline passengers are entitled to be compensated by airlines under [Regulation 261/2004](#) if a booked flight is cancelled at short notice or delayed for a substantial period.

Lord Justice Lewison, in his ruling in *Bott & Co Solicitors Ltd v Ryanair DAC*, states that: “Bott & Co Solicitors Ltd is a firm of solicitors which specialises in handling such claims on behalf of passengers. Its business model depends on processing a high volume of such claims, all of which are of low value.

“Ryanair is one of Europe’s largest airlines, and processes



No liability to pay solicitors who have enabled clients to bring claims

many such claims. Almost all of them result in the payment of compensation. Where Ryanair decides to make a direct payment to a customer who has instructed Bott, Bott claims to be entitled to an equitable lien over the payment, which would require Ryanair to hold back part of the compensation in order to cover Bott’s entitlement to fees; or to

make payment of the whole of the compensation direct to Bott.”

In his judgment, the judge said that Bott & Co, which receives around £100,000 a month from flight-delay claims against Ryanair, has no entitlement to an interest in the compensation.

Bott developed an online tool that enables a prospective client to enter their flight details and

then check whether their claim satisfies the basic eligibility conditions.

The judgment clarifies that, while passengers are entitled to use third parties, they must go through the Ryanair claims process initially.

Bott has a 70% success rate in payment requests. The court heard that its business model is now under threat. Bott charges 25% of the total payout in fees, as well as a £25 administration fee per passenger. The firm has handled 125,000 claims since 2013. The judge decided that Bott’s services were not “required in order to promote access to justice”.

Bott has asked leave to appeal and said it welcomed the court’s decision that claimants are free to use third parties, so long as the claim is made in their name. Read the full story at [Gazette.ie](#).

AR MHAITH LEAT A BHEITH CLÁRAITHE MAR ATURNAE A CHLEACHTANN TRÍ GHAEILGE?

The PPC2 elective Advanced Legal Practice Irish (ALPI)/*Ardchúrsa Cleachtadh Dlí as Gaeilge* (CDG *Ardchúrsa*) is open to practising solicitors who wish to be registered on the Irish Language Register (Law Society)/*Clár na Gaeilge* (*An Dlí-Chumann*).

In order to be entered onto the register, a solicitor must take this course and pass all assessment and attendance requirements. A Leaving Certificate Higher Level standard of Irish is a minimum entry standard for this course.

The course will run from 11 April until 12 June 2019. The contact hours (lectures and workshops) will be delivered on Thursday evenings from 6-8pm at the Law Society. Lectures

during weeks one and two will be made available online on the Thursdays of those weeks; therefore, physical attendance for practitioner participants on those particular days is not required. Further online lectures will be made available later in the course. All virtual attendance for online lectures will be recorded and vouched through a comprehension questionnaire.

This course involves ‘blended learning’ – that is, a mixture of online and face-to-face attendance on specific Thursday evenings. Due to the group-work logistics, attendance at all of the face-to-face Thursday evening workshops is essential. Participants will be required to complete

individual and group coursework online in between each session. There will be two coursework weeks built into the timetable to facilitate group collaborations.

Assessment will combine continuous assessment and an end-of-course group project, as well as an individual oral presentation. It is recommended that course participants have a good level of IT skills and be familiar with web browsing, word processing, uploading/downloading files, and watching online videos. Participants who wish to improve their IT skills and/or become familiar with the technology used in the course will be facilitated during IT clinics before the course begins.

The course will fulfil the full practitioner CPD requirement for 2019.

The Advanced Legal Practice Irish Course was awarded the [European Language Label 2012](#).

The fee for 2018 is €625. Further information, including a brochure and an application form, is available on the Law Society website at [www.lawsociety.ie/alpi.aspx](#).

Information on the Irish Language Register/*Clár na Gaeilge* can be found at [www.lawsociety.ie/Find-a-Solicitor/Clár-na-Gaeilge](#).

Contact Maura Butler (solicitor and course manager) at [m.butler@lawsociety.ie](#) or tel: 01 672 4802.



SOCIETY'S REPORT FOCUSES ON NEEDS OF SMALLER PRACTICES

A newly released report has made a number of recommendations to assist sole practitioners and smaller practices to grow their businesses and achieve greater success.

The Law Society's *Crowe Report* grew from an invitation from immediate past-president Michael Quinlan for smaller practices to take part in a review of the unique challenges and opportunities facing their sector. Members who practise in small firms – particularly sole practitioners – can feel isolated and pressured. They're not alone, however, with many of the same challenges being faced by other business owners and SMEs.

Law Society President Patrick Dorgan thanked practitioners for their assistance to date: "The report's findings are robust, and the recommendations have the potential to make a large and lasting impact on the success of

smaller practices," he said.

The report makes 11 strategic recommendations and finds that competitive advantages are not permanent – smaller practices need to continually adapt to changes in the market, client preferences, competitor challenges and internal practice changes.

The Law Society's Representation and Member Services Department is devising a project management plan to implement the full report throughout 2019. The aim is to assist smaller firms to achieve sustained growth and realise their potential.

The study indicates that a successful smaller practice will:

- Be willing to change and adapt all elements of its business model,
- Scan the market for new and emerging practice areas/markets for business development opportunities,



- Develop a growth strategy with a clear vision and short-term goals,
- Diversify business development activities,
- Introduce innovative processes informed by advances in technology, changing client needs and market demands,
- Increase marketing efforts via effective, relevant and frequent client communications,

- Embrace a culture of gathering feedback, both internally and externally, including feedback from staff at monthly meetings, and by circulating client surveys that inform practice improvements,
- Collaborate and network within the sector, including peers and relevant external bodies, and
- Increase engagement with the Law Society and business support networks to avail of bespoke supports based on business sustainability.

Updates on developments relating to the implementation of the report will be covered in the *Gazette*, on *Gazette.ie* and the Law Society's *eZine*.

Feedback on the report, as well as questions about how small firms can begin to implement the recommendations, should be emailed to smallerfirms@lawsociety.ie.

LONDON-BASED SOLICITORS SEEK SUPPORT FOR CHARITY BALL

The Irish Solicitors' Bar Association (ISBA) in London is to hold its Pearl Anniversary Spring Ball at the Royal Automobile Club, Pall Mall, on 5 April.

The last ball organised by the association was its Silver Jubilee Ball in 2014. For 25 years, in her capacity as president of the ISBA, Cliona O'Tuama, with the assistance of her late husband Michael Howell, had organised a charity ball each year. These events raised just over £525,000, helping children and young people in difficult circumstances.

Cliona has been persuaded to step into the breach again, with the help of three other London-



based Irish colleagues, on the 30th anniversary of the first ball. The proceeds from the Pearl Anniversary Ball will go to Solving Kids' Cancer, a charity that is supporting

Mikey, the son of legal practitioner Patrick Harney, who is undergoing neuroblastoma treatment.

Tickets to the ball cost £280 each or a table of ten for £2,800.

Anyone not able to attend is being encouraged to take out an advert in the souvenir programme (at a cost of £1,000 for an A4 advert) or to donate an item for auction or raffle.

For further information and queries, contact Karen Hepworth at email: karen.hepworth@forsters.co.uk. Alternatively, contact any member of the organising committee:

- Cliona O'Tuama, email: info@clionaotuama.com,
- Patrick Harney, email: patrick.harney@forsters.co.uk,
- Peter Dempsey, email: pdd@cubismlaw.com,
- Aoife Walsh, email: awalsh@uk.ey.com.



HOW YOUR CALCUTTA RUN DONATIONS ARE BEING SPENT

The Calcutta Run and Cycle Sportive has raised a jaw-dropping €4 million over the past 20 years. The beneficiaries are the Hope Foundation and the Peter McVerry Trust – both charities have made lifelong commitments to eradicating extreme poverty and homelessness. SHARE, a Cork-based charity helping the elderly poor, also benefited from funds raised by participants of the inaugural Cork Run.

The tagline for the Calcutta Run – ‘fighting homelessness in Ireland and Calcutta’ – illustrates aptly how the funds are spent. For instance, three of the Hope Foundation’s charity’s projects are being completely funded for one year, including:

- The HIVE Emergency Response Unit, which rescues abandoned and trafficked women and children,
- The Bhoruka Protection Home, which provides care and support to HIV/AIDS-infected and affected girls, and
- The Kasba Girls’ Home, which rescues girls below 14 years of age from vulnerable situations in the slums of Kolkata.



Maureen Forrest (founder and director of the Hope Foundation) says: “What the solicitors’ profession has achieved over the past 20 years is a testament to the power of collaboration, commitment and dedication. I can never thank everyone enough for their extraordinary generosity and spirit. We are so proud to be partnered with

this incredible event.”

The Peter McVerry Trust is doing all it can to alleviate homelessness among the 3,500 young people currently homeless in Ireland. It recently opened 13 apartments in Dublin, which were partially funded by proceeds from the Calcutta Run.

The Calcutta Run takes place

on Saturday 18 May – save the date in your diary. Those taking part can walk or run the 5k or 10k route, or cycle either the 50k or 100k routes. The Finish Line Festival allows participants to wind down with family members and friends by enjoying a barbeque, music, and children’s activities at Blackhall Place. Sign up at www.calcuttarun.com.

IRISHMAN ELECTED TO TAKE LEAD ON ASYLUM

Ireland’s chief international protection officer David Costello has been appointed chair of the management board of the European Asylum Support Office (EASO) for a three-year term.

Justice Minister Charlie Flanagan welcomed the appointment to what he said was an important role in the governance of asylum in the EU. “EASO plays a vital role in supporting the asylum processes of EU member states



Dr David Costello – new chair of EASO’s management board

in areas such as common training programmes, operational support, and quality of decision-making in the context of the continued development of a common European asylum system,” he said.

EASO assists in the asylum and reception systems of countries like Italy and Greece, where there are large movements of migrants in the Mediterranean and Aegean regions.

Dr Costello has been deputy chair of the EASO management board since 2015 and has played a significant role in the operation of the single application procedure under the *International Protection Act 2015*. He was formerly the Refugee Applications Commissioner in the governance and decision-making framework of the Irish international protection process.



ENDANGERED LAWYERS

WANG QUANZHANG, CHINA



On 9 July 2015, Chinese authorities launched a major clamp-down on lawyers. Over the course of a few weeks, around 300 lawyers, legal assistants, and other advocates for the rule of law were arrested. One of the most prominent, Wang Quanzhang, disappeared into secret detention, and no information was given as to his whereabouts for nearly three-and-a-half years. He was the last to be tried of those arrested in that sweep. On 28 January, after a closed trial, he was sentenced to another four-and-a-half years in prison on charges of subversion, and deprived of political rights for five years.

Before his detention, Wang worked on issues considered sensitive by the Chinese government, such as defending religious freedom and members of the New Citizens' Movement – a network of grassroots activists who promote government transparency and expose corruption. He also worked with the Swedish human rights activist Peter Dahlin to assist, train and help Chinese lawyers, journalists and small NGOs work to promote the rule of law and protect human rights in China.

Most of the lawyers and activists detained in July 2015

were held for a few weeks; a number were later stripped of their licenses or driven out of business. But at least four besides Mr Wang have been sentenced to prison. In August 2016, lawyer Zhou Shifeng and activist Hu Shigen were given terms of seven and seven-and-a-half years, respectively. In November 2017, lawyer Jiang Tianyong was sentenced to two years. The following month, human rights activist Wu Gan was handed an eight-year term.

Wang's trial may have come last because of his refusal to buckle under pressure – including, according to his wife, physical torture. While some lawyers signed confessions or publicly confessed to plotting against the government, Wang resisted to the end. When his closed trial was held on 26 December, he fired his government-appointed lawyer.

His wife, Li Wenzu, has consistently advocated on his behalf, speaking out about his treatment and publicly shaving her head in protest of the judges' refusal to uphold Wang's rights under Chinese law.

Alma Clissmann is a member of the Law Society's Human Rights Committee.

RETURNER PROGRAMME PROVIDES A HELPING HAND



A new Law Society 'Returner Programme' for solicitors who wish to return to work is due to begin in April.

Returning to work can appear to be a daunting prospect, especially if you have been away for some time. This programme will focus on how you can make the transition back to work by identifying and selling your skills to an employer.

An information session will take place in Blackhall Place on Tuesday 26 March from 10-11.30am.

Workshops

The workshops will run for three full days on 2, 9 and 16 April in Blackhall Place and will include (day 1) achieving balance, understanding the stages of personal transition, and goal-setting and values; (day 2) strategies for progression, re-connecting with your competencies, CV writing, job searching and applications, and networking; and (day 3) how to excel at interviews, interview preparation, and 'STAR' (situation, task, action, result) stories. One-to-one career coaching sessions will also feature and will be scheduled once the programme begins.

On completion, participants

should understand how goal-setting and values can support the job search; how to identify their skills, achievements, knowledge and experience; and the job-search process.

Returner's praise

Sara, a previous participant, says: "I had a meeting with my employer today to finalise the details of my employment with them. It went well and I'm happy with the salary and other terms."

"I just want to thank you for all your support and advice. It was a daunting task to get back to work after seven years at home with my kids, but having the Law Society Career Support services was an enormous help – both from a practical point of view and to boost my self-confidence. The weekly workshops were extremely useful, and it was wonderful to meet other people in the same situation as me."

Free for members

The cost of participation is €120. However, it is free for Law Society members. Membership can be purchased at www.lawsociety.ie/membership.

To take part in April, email: returners@lawsociety.ie.



TRAINEES BRING STREET LAW TO PRISON

The Law Society has expanded its [Street Law](#) Prisons programme to include Wheatfield Prison, Mountjoy, Dóchas and Arbour Hill, as well as the Pathways Centre – a reintegration facility for prisoners, post-release.

The six-week programme teaches prisoners about law in a practical way.

First developed in Georgetown University in the United States, the Law Society has run the Street Law programme in schools since 2013. To date, over 3,000 secondary school students have completed the programme. The Society expanded the Street Law programme to prisons in 2017.

Each year, over 40 volunteer trainee solicitors take part. They attend an orientation weekend that prepares them to teach the course to students in DEIS schools, with the focus on equal opportunities for all students. A number of volunteers teach additional sessions in partnering prison services.

Trainee solicitors Sarah



Ellen Reid and Sarah McNulty

McNulty (Cork) and Ellen Reid (Wexford) were paired for the Prison Law programme and were sent to teach in Wheatfield Prison, in partnership with the Solas charity's Compass Programme, and Dóchas.

McNulty is a trainee solicitor with Cantillons Solicitors and has been involved with the Prison Law programme since September 2018. "Under the ordinary set of circumstances in life, most people do not see the inside walls of prisons. We were law students who would visit prisons to teach prisoners about the practical side of law, how it affects them in everyday life, and engage with them in a positive way," she said.

The trainee solicitors help to raise prisoners' awareness and understanding of human rights law, employment law, refugee rights, and discrimination.

Says Sarah: "We met the prisoners on a weekly basis and spent one hour going through interesting lessons. These topics included human rights, garda powers, civil proceedings, criminal procedure, sports law and consent."

Ellen Reid says that each class finished with a discussion to see how the lesson could be applied to the prisoners' lives: "It was also important to discuss topics that were of relevance and in the news at the particular time. The prisoners were very informed on current affairs topics."

"One of the very few class rules was that it was a safe space where everybody could speak honestly, and everybody would receive respect in return. It seemed to work well. Prisoners who had never engaged in educational services before began attending continuously," she said. "I was always so grateful to see the numbers increase each week and the same faces return."

STAY CONNECTED INITIATIVE

The Law Society's [Career Support](#) service has introduced a new initiative to help solicitors stay connected and keep their skills honed while on a career break or temporarily not practising.

Those taking part in the 'Stay Connected' initiative will be provided with a fortnightly newsletter that will feature articles of direct relevance to those not currently working in law.

Meetings will be held every quarter at Blackhall Place and will feature a keynote speaker and networking opportunities. Speakers will include practitioners with experience of returning to work after several years away from law, as well as experts with



useful insights into flexible working, remote working, and returning to work.

A social media interface is being developed where members

will be able to share information, collaborate, and encourage each other.

To register, email: stayconnected@lawsociety.ie.



PIONEERING FIRST WOMAN PRESIDENT IS LAID TO REST

Moya Quinlan, the first woman president of the Law Society, died on 12 February 2019. Her pioneering spirit and powerful example led to the transformation of the legal profession, writes **Ken Murphy**

KEN MURPHY IS DIRECTOR GENERAL OF THE LAW SOCIETY

MOYA WAS CONTINUOUSLY RE-ELECTED BY THE PROFESSION FOR AN EXTRAORDINARY 45 YEARS AS A MEMBER OF THE COUNCIL OF THE LAW SOCIETY. SHE TOPPED THE POLL FOR MANY YEARS AND WAS ELECTED TO HER FINAL TWO-YEAR TERM AT THE AGE OF 91

When Moya Quinlan qualified as a solicitor in 1946, she was one of just two women in a class with more than 50 men. Nevertheless, she would go on to become the first woman to be elected a Council member of the Law Society of Ireland in 1968, and its first woman president in 1980. When she passed away peacefully at the age of 98 on 12 February, she left behind a transformed solicitors' profession, in which 52% of all practitioners are women.

Although with characteristic modesty she never saw herself as a pioneer in her profession, the quiet power of her example and her gentle encouragement to generations of women solicitors undoubtedly contributed much to that transformation.

She had roots in a revolutionary generation. Her grandfather, Henry Dixon, was solicitor to Arthur Griffith, was interned in Frongoch and, as documents record, gave legal advice to Pádraig Pearse in his purchase of St Enda's School.

Moya Dixon was, herself, born in the revolutionary period, in 1920, to Peggy (née Doorley) and Joseph Dixon. Following school in Sion Hill College in Blackrock, Dublin, near where she lived throughout her life in Monkstown, she began studying law with the Incorporated Law Society. She followed her father into the family solicitors' practice, now Dixon Quinlan solicitors, in Parnell Square, where she spent her entire career.

She balanced her career with a full family life. She met a Kerry man, Michael Quinlan, who was an accountant with the Richmond Hospital, at the Galway Races, and they married in 1952. Their two sons Michael and Brendan arrived within the next few years. She lived to see Michael succeed her as president of the Law Society, completing his term of office in November 2018. Among many firsts, it was the first time both a mother and son had served as president.

Moya was continuously re-elected by the profession for an extraordinary 45 years as a member of the Council of the Law Society. She topped the poll for many years and was elected to her final two-year term at the age of 91. Nowhere else in the world, as far as anyone in Blackhall Place is aware, has there been an example of an elected member contributing actively to the governance of the legal profession in their 90s.

Her interventions in debate became more rare as time went on. But, even to the end, she would rise slowly to her feet and unerringly skewer a point that needed to be made.

Her contributions were always brief, clear and insightful. She



Moya Quinlan (left) with the only other women Law Society presidents to date, Elma Lynch and Geraldine Clarke



MOYA
QUINLAN WAS
EXTRAORDINARY
FOR HER
LONGEVITY,
LEGENDARY
FOR HER LEGAL
CAREER, AND
LOVED FOR
HERSELF





PIC: PAUL SHERWOOD



Moya lived to see her son Michael succeed her as president of the Law Society in 2017/18

PIC: LENS MEN



The Law Society recognised Moya's service to the profession, commissioning a portrait by artist David Hone in 2004, which hangs in the Council Chamber



Moya with her Lifetime Achievement Award in 2012, presented at the inaugural Irish Law Awards

had a very low tolerance for the unnecessary jargon and long-windedness of many lawyers, and she did not suffer such fools gladly.

When she was elected president in 1980, before many of today's Council members were born, it was very rare for a woman to lead a professional body in Ireland, or anywhere. For example, the first woman president of the Law Society of England and Wales wasn't elected until 2002.

But Moya's legacy in the Law Society extends beyond that achievement. She was a key supporter of her great friend Peter Prentice, another former president, in the acquisition of the Blackhall Place building from the King's Hospital School and its extensive refurbishment, which opened as the Society's new headquarters in 1978. This ensured the preservation of one of Dublin's great Georgian buildings, and her passion for Thomas Ivory's 1783 masterpiece knew no bounds. It is, in a way, her monument.

Legal passions

Beyond Blackhall Place, she had other legal passions. She was appointed by Government as a member of the inaugural [Legal Aid Board](#) in 1979, and constantly campaigned for proper funding of the State's obligations to finance the Legal Aid Scheme.

Education minister Mary O'Rourke appointed her as chairwoman of the Primary School Curriculum Review, and her great friend, the late Dr Mary Redmond, appointed her to the first board of the [Irish Hospice Foundation](#).

Perhaps most remarkable of all was her service, from its inception, to the Employment Appeals Tribunal, established in 1977. She was the legal chairwoman of innumerable divisions of the tribunal for some 35 years. Indeed, she sat for the last time as such at the astonishing age of 93.

Pioneering

Her life was touched by great sadness with the untimely death of her husband Michael in 1981, in the month following the completion of her term as Law Society president. But she carried on, both with her family and career commitments, without complaint. She adored her home-away-from-



FLAG FLIES AT HALF MAST FOR MOYA



PICT: CIAN REDMOND

The tricolour flew at half-mast at Blackhall Place on 15 February as a mark of respect for the late Moya Quinlan, past-president of the Law Society.

An immense congregation turned out to pay their last respects to a beloved icon of the Law Society at her funeral Mass at St Patrick's Church in Monkstown, Co Dublin, followed by burial in Deansgrange Cemetery, Co Dublin.

The requiem Mass was celebrated by Fr Kevin Rowan PP. Warm tributes were paid to the first woman president of the Law Society of Ireland (1980/81), marking her remarkable life of service to the legal profession and Irish society.

Readings from the *Book of Ecclesiastes* and the *First Letter of St Paul to the Thessalonians* were given by director general Ken Murphy and deputy director general Mary Keane.

Law Society President Patrick Dorgan read a prayer of the faithful, alongside Quinlan family members mourning their beloved mother, grandmother and great-grandmother.

Moya's sons Brendan and Michael (past-president of the Law Society, 2017/18) paid warm tributes to their late mother, with Michael telling the congregation: "We all know Moya the solicitor, who many people have called a trailblazer for the profession, and, in particular, the women members of the profession.

"She was quoted in an *Irish Times* interview in 2012 as saying: 'In all my years of practice, I have never felt that I was either special or that I was in any way unique; I was just a solicitor who happened to be a woman, that's basically it'."

He continued: "She qualified in 1946 with only one other woman in her year. Today, in a vastly expanded profession, over half the practising solicitors are women. She wouldn't like to take credit for this, but there is no doubt she would be delighted this is now the case."

Moya Quinlan died peacefully in her 99th year in the care of the Glengara Park Nursing Home, Glengary, Co Dublin, on 12 February 2019.

home in Ardmore, Co Waterford, and loved her walks there as much as she loved her walks on Dún Laoghaire pier.

Moya Quinlan was extraordinary for her longevity, legendary for her legal career, and loved

for herself. She leaves behind her two sons, Michael and Brendan, daughter-in-law Sarah, grandchildren Emma, Michael, David, Pippa Kate, Daniel and Julieanne, great-grandsons Reg and Eric, and a solicitors' profession

changed by a pioneering woman who never saw herself as such.

Moya Quinlan was born on 28 June 1920, and died on 12 February 2019. [G](#)

Ar dheis Dé go raibb a b-anam dílis

THIS ENSURED THE PRESERVATION OF ONE OF DUBLIN'S GREAT GEORGIAN BUILDINGS, AND HER PASSION FOR THOMAS IVORY'S 1783 MASTERPIECE KNEW NO BOUNDS. IT IS, IN A WAY, HER MONUMENT



A GIRL NAMED SUE

Coolock-based solicitor Susan Martin has bounced back after a challenging start to her legal career. **Mary Hallissey** reports

MARY HALLISSEY IS A JOURNALIST AT GAZETTE.IE



BEFORE PEOPLE GO OUT TO PRACTICE ON THEIR OWN, THEY SHOULD HAVE TO TAKE A CLASS ON CASH FLOW, BILLING, TURNOVER, PROFIT, VAT, EXPENSES ... WHAT'S ALLOWED, AND WHAT ISN'T

Solicitor Susan Martin was 29 years old and eight months pregnant with her second child. She had borrowed a very large sum to buy into partnership at the practice where she was working. Then she discovered that there was a large hole in the accounts and that clients' money had gone missing. Suddenly her world fell apart.

She reported her suspicions to the Law Society where, she says, she got great support and initial advice.

"There's no way you can ever prepare for this kind of scenario," she muses. "It all escalated within a couple of weeks."

But, 14 years later, she says that that part of her life is in the past.

Sue puts her resilience in the face of adversity down to the fantastic support of her husband and family – as well as her military training as a reservist in the Defence Forces.

"I got a great training. It helped me to compartmentalise my difficulties. It enables you to stop the anxiety about things that are beyond your control. I got back on my feet pretty quickly. Clients rowed in behind me, and I've had my own business since then" [late 2004].

Sue points out that, like a lot of people, she didn't actually choose to be a sole practitioner: "Circumstances led to that situation, and that happens to a lot of people. But I've been really happy with my life since that unpleasantness. Maybe I got the

bad luck out of the way early," she surmises.

"One of the things I would tell my 29-year-old self is that it would all work out. I've also gained a ton of confidence."

Sweet spot

The unpleasant events also propelled Sue to get very involved in the Dublin Solicitors' Bar Association (DSBA) because she realised that, as a sole practitioner, she needed the support of friends and colleagues. Now she is on the DSBA's management committee and is the association's CPD director. Separately, she spent six years on the Law Society's Guidance and Ethics Committee.

Sue now runs a highly successful litigation practice in Coolock, on Dublin's northside. She cleverly situated her office within walking distance of 900 houses. Most of her loyal employees are local people.

"I'm at the sweet spot in terms of the size of the practice. I have a great team and I'm really enjoying it."

The practice never has to market itself, running entirely on referrals, but Sue understands that the firm is only as good as her last successful case.

Last year, she completed training as a notary public and is planning to complete a master's in maritime law in the future. She describes having to change her priorities with the birth of her third child, who has special needs, though this was not finally

diagnosed until he was three.

"The realisation that your son is different dawns on you slowly. Intellectual disability is not something you discover immediately. The worst bit was before he was diagnosed – we had been to doctor after doctor because I knew that there was something wrong from when he was eight months."

Life was easier once he was diagnosed, aged three, Sue says. Her son's needs led to a new involvement with the [L'Arche Ireland](#) community for those with intellectual disabilities – Sue is chair of the Dublin branch. The arrival of a special needs assistance dog called Ruby has also had a transformative effect on the family.

But stress and anxiety are never far from the door for a sole practitioner. Sue points out that the clients that solicitors meet in general practice are, in general, "stressed off their heads" and dealing with problematic situations, such as a personal injury or matrimonial difficulties.

As a seasoned practitioner, she has often had to unpick messes caused by clients failing to take proper legal advice. She worries that people conducting their own litigation can end up with permanent consequences they didn't intend, particularly in relation to 'DIY divorces' and pension-adjustment orders.

Now, with her passionate interest in legal education, Sue is very excited to be on the Law Society's Curriculum Development Unit. She wants to bring her love of legal rules to the role.

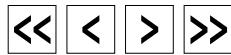


ALL PICS: CIAN REDMOND



Sue Martin and staff

SHE HAS OFTEN HAD TO UNPICK MESSSES CAUSED BY CLIENTS FAILING TO TAKE PROPER LEGAL ADVICE – PEOPLE CONDUCTING THEIR OWN LITIGATION CAN END UP WITH PERMANENT CONSEQUENCES THEY DIDN'T INTEND



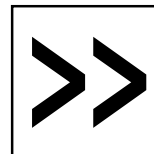
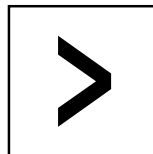
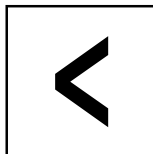
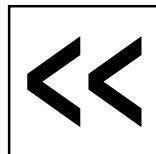
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LAW SOCIETY



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Sue describes herself as “ruthlessly practical” in pushing for clear explanations of court rules. She co-authored the third edition of *Civil Procedure in the Circuit Court* with barrister Karl Dowling, a reference book that clearly indexes all the key points practitioners need.

“It’s always astonishing to me about how little colleagues, and even counsel, know about the rules of court. There is a lacuna. The rules aren’t taught as a distinct subject, whereas the New York Bar exam is all procedural.

“If practitioners are aware of the rules and are applying them, cases go more smoothly – they are quicker, cheaper and more efficient to run, because the rules provide us with a structure and a frame. So, rather than fighting them, embrace the rules!” she urges.

She worries about the isolation experienced by many solicitors, adding that “law is a stressful and highly responsible occupation”.

She brings her trainees to hear disciplinary cases against solicitors being heard by High Court President Peter Kelly. “I make them sit there and listen,” she says. “And they are horrified.”

It’s probably a little bit cruel, she concedes, but she encourages her trainees to reflect on how bright, well-trained young solicitors can go from qualification to being struck off with a few wrong moves – and, often, in only a few short years.

Sue comments that Mr Justice Kelly, who is charged with strike-offs, is a person of great humanity: “I’m always moved by how he treats people with compassion and humanity and politeness,” she says.

Why do things go wrong for solicitors?

“Solicitors are not business people,” Sue says, “and they often fail to understand the cash-



flow cycle. There’s no shame in a business failing. It happens all the time. But, for some reason, solicitors think that it shouldn’t happen to them, and they won’t seek help.”

Sue has learned the value of collegiality in the profession: “If you’re connected to the rest of the profession, you will maintain high standards. It rubs off on you, being around other people.”

It grieves her to see many sole practitioners running into trouble: “I think it’s down to isolation. But lack of business training is a big part of it. A solicitor’s practice is different to any other kind of business, because we are dealing with fiduciary issues, with other people’s money.

“Before people go out to practice on their own, they should have to take a class on cash flow, billing, turnover, profit, VAT, expenses ... what’s allowed, and what isn’t. I’m not aware of any formal training for solicitors in these matters. If solicitors understood the process of billing and legal costs, they would run their cases more efficiently.

“Clients have a gratitude curve and if you don’t get your bills out promptly, people won’t pay them promptly,” she advises.

“I’ve created my own identity,” she concludes, “and I’ve really enjoyed it all. It’s interesting, rewarding work. People trust you with their troubles and it’s my privilege to serve them.”

SUE PUTS HER RESILIENCE IN THE FACE OF ADVERSITY DOWN TO THE FANTASTIC SUPPORT OF HER HUSBAND AND FAMILY – AS WELL HER MILITARY TRAINING AS A RESERVIST IN THE DEFENCE FORCES



SEND DOWN THE LADDER

As the Law Society prepares to launch its 'Law and Women' mentoring programme for solicitors, **Mary Hallissey** discovers how female practitioners can finesse their work circles to achieve their full potential

MARY HALLISSEY IS A JOURNALIST AT GAZETTE.IE



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If you are searching for career success, organisational psychologist and DCU academic Dr Maelrona Kirrane advises that you observe other people who are good at what you want to do.

Dr Kirrane was the main speaker at a recent talk for women lawyers at the Distillery Building in Dublin. She urged the lawyers present to "visualise who you want to be. Find a role model and see them a lot."

Women routinely underestimate the importance of a mentor or sponsor, she added. The difference between the two? "A sponsor does something for you. A mentor, on the other hand, guides you in what to do."

And being sponsor- or mentor-worthy demands both loyalty and

ability, she said. It requires intense interaction and valuable, meaningful and purposeful conversation: "Ask your mentor how they think you are doing."

Female careers tend to be labyrinthine rather than linear, she said. And women must never forget that, if they are to achieve career success, networking is, in fact, work.

Networking is a valuable tool in the arsenal for discovering a professional identity, Kirrane advised, but first you have to figure out the type of person you wished to become.

Addressing the topic of networks, she distinguished between three types:

- Operational networks that help you do your job,

- Personal networks of people who re-energise you, and
- Strategic networks of those who have done it before you, but are still on the circuit and available to give a high-level overview.

Law and Women programme

And the Law Society is now taking a major lead in assisting women to network more effectively. It is organising a solicitor-specific mentoring programme as part of its relaunched 'Law and Women' mentoring programme.

The Society is inviting applications for both mentors and mentees on a countrywide basis for this year's mentoring programme. In addition, it is in the process of hiring a dedicated trainer to drive the programme. Training will start in early April 2019. (To find out more, email LW@lawsociety.ie.)

Proactive

Kirrane urged women to be proactive in progressing their careers. She brought valuable insights from academia and applied them to 'real life' in her talk, which examined the ebb and flow of women's careers.

She recommended elevating your public profile by attending events and following up afterwards with the people you meet. It is a good idea to mix with people of all ages.

"Capitalise on your network, but diversify," she advised, "because we are drawn to people



PIC: REX FEATURES



P.C. REX FEATURES

who are the same as ourselves, but we can end up in an echo chamber.”

Balancing demands

She explained that the idea of evenly spaced steps on a career ladder was something of a misnomer. Women encounter dif-

ferent phases in their lives, so shouldn't hold on to a 'male' model of career, since men, generally, have fewer breaks in service or gaps in delivery of performance.

When women established their work identities, she said, accomplishment and achieve-

ment were central features. If those women subsequently had children, their focus might shift to balancing competing demands, rather than exclusively focusing on professional presence.

A fulfilling career has four strands, she said: competence,

THE PEOPLE I
HAVE LEARNED
THE MOST FROM
AREN'T ALWAYS
THE PEOPLE AT
THE VERY TOP

SAVE THE DATE



LAW SOCIETY
OF IRELAND

LAW SOCIETY GALA 2019

SUPPORTING THE SOLICITORS' BENEVOLENT ASSOCIATION

Friday 11 October 2019

SHELBOURNE HOTEL, DUBLIN.



SPECIAL GUEST:

Oliver Callan

Star of 'Callan's
Kicks', Ireland's
top impressionist
and satirist

This October, the Law Society Gala 2019 will take place in the historic Shelbourne Hotel in the heart of Dublin. This black-tie dinner raises funds for the Solicitors' Benevolent Association (SBA) and is a social highlight for the solicitors' profession.

Guest speaker Oliver Callan is back by popular demand to entertain guests for the evening.

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

To book your place, visit **www.lawsocietygala.ie**

Law Society Gala profits will be donated to the SBA, which provides assistance to members or former members of the solicitors' profession in Ireland and their wives, husbands, widows, widowers, families and immediate dependants who are in need.



Q FOCAL POINT

The Society's 'Law and Women' mentoring programme is attempting to put all this solid advice into practice. The programme started in 2015, with 11 mentee/mentor pairs, which has increased to 25 pairs over the past 12 months

LK Shields' partner **Jeanne Kelly** is a mentor. She got involved because she wanted to figure out why women weren't advancing to a career level that made the sacrifices of private practice worthwhile. As a senior lawyer, the programme gave her valuable insights: "In some ways, I think I gained more from it than my mentees did, but I hope they benefitted too," she offers. "Younger women now take real ownership of their careers, pretty constantly measuring where they are versus where they want to be."

"There is good and bad in that, for sure, but I think it's mostly positive," she said. Too much focus on the speed of advancement, however, could mean missing out on what she terms "accidental good fortune".

"The people I have learned the most from aren't always the people at the very top," she reflects.

Aideen Ryan from DAC Beachcroft is also an accredited trainer to public and regulatory bodies. She finds that one of the challenges of the 'Law and Women' programme is striking the right balance between giving advice and allowing the mentee to reach their own conclusions.

"A mentor's purpose is not to solve all of a mentee's challenges,

but to support and guide," she says. "Discretion and good communication are the key skills."

Aideen O'Reilly, who was a senior lawyer in both the National Treasury Management Agency and the National Asset Management Agency, says that she feels a duty to 'send down the ladder' to the next generation of women.

"To offer yourself as a personal resource to a colleague is hugely rewarding in itself. Seeing the 'Aha!' moments that happen from time to time is truly life-affirming," she says.

"To be a mentor is to have the opportunity to tell the mentee that thing they need to know at that particular point in their career," she says. "I tried to recall a mentor in my own career, and there wasn't one."

SIRO general counsel **Audrey O'Sullivan** was fortunate, however, to have good mentors and she wants to give something back through her involvement in the programme. She says that the time commitment is a challenge, but the process is its own reward.

Empathy and confidentiality are the key traits to bring to the table, Audrey believes.

"I constantly learn from my mentees, and they always challenge me to be better at what I do," she says.



Jeanne Kelly, LK Shields



Aideen Ryan, DAC Beachcroft



Aideen O'Reilly, solicitor



Audrey O'Sullivan, SIRO

self-efficacy, authenticity and influence. Happiness emerges from living a meaningful life, complete with competence and self-efficacy, and these come from knowledge and practice.

Authenticity is underpinned

by an internalised moral perspective, and women lawyers should interact with people from a solid, unchanging platform: "A thread of uniformity should permeate all your interactions with people," Kirrane said. [g](#)

The Law Society is now inviting applications for both mentors and mentees for this year's 'Law and Women' mentoring programme. Training begins in early April. For more information, email LW@lawsociety.ie.

THE SOCIETY IS SEARCHING FOR BOTH MENTORS AND MENTEES ON A COUNTRYWIDE BASIS AND IS IN THE PROCESS OF HIRING A DEDICATED TRAINER TO DRIVE THE PROGRAMME



INDEPENDENCE DAY

The centenary of the Irish Declaration of Independence was in January – and the same day a century ago saw the first action of the War of Independence, writes **Ben Mannering**

BEN MANNERING IS A SOLICITOR AND SENIOR CLAIMS MANAGER AT THE STATE CLAIMS AGENCY



ADOPTED BY THE DÁIL AT ITS FIRST MEETING IN THE MANSION HOUSE ON 21 JANUARY 1919, THE DECLARATION WAS THE FIRST POLITICAL AND, ARGUABLY, LEGAL RATIFICATION OF THE PRINCIPLES AND VIRTUES PRONOUNCED IN THE PROCLAMATION

The 1916 Proclamation was a defining moment in Irish history, akin to the American Declaration of Independence. However, there also exists an Irish Declaration of Independence, whose centennial anniversary was on 21 January 2019 – yet, compared with its proclamation predecessor, it receives little focus, legally or otherwise.

Written in Irish, English and French, the declaration claimed jurisdiction over the entire island of Ireland and ratified the Proclamation in the name of the people of Ireland, as opposed to just the 1916 rebels. The Irish Declaration of Independence was delivered as part of a message to the Free Nations of the World to support “the Irish Republic by recognising Ireland’s national status and her right to its vindication at the Peace Congress [in Versailles]”.

The declaration stated: “The Irish people is, by right, a free people” and “has never ceased to repudiate and has repeatedly protested in arms against foreign usurpation”. Further, the “Irish people is resolved to secure and maintain its complete independence ... to ensure peace at home and goodwill with all nations ... with equal right and equal opportunity for every citizen”. Also, “the Irish people alone has power to make laws binding on the people of Ireland”. Finally, “we claim

for our national independence the recognition and support of every free nation in the world”.

Adopted by the Dáil at its first meeting in the Mansion House on 21 January 1919, the declaration was the first political and, arguably, legal ratification of the principles and virtues pronounced in the 1916 Proclamation.

Assertions of statehood

Declarations of independence have long been used as assertions by a territory that it is independent and constitutes, in itself, a state. While the American Declaration of Independence is one of the most well known – starting with the eloquent: “We hold these truths to be self-evident” – declarations of independence have a long history under Celtic tradition.

The Scottish Declaration of Arbroath in 1320 may be very well ‘redeclared’ as Brexit stumbles into being. The Irish Confederation of Kilkenny had, in fact, already achieved independence from England (with *de facto* recognition from the papacy) between 1641 and 1649.

Declarations are, however, neither creatures of statute nor constitutional law. Therefore, is there any legal basis for them?

Built on the concept of natural law, such declarations are “a document performed in the discourse of *jus gentium* [law of nations] rather than *jus civil*

[civil law] – and, hence, [are] a statement of the powers and capacities of states, as much as of the rights and duties of individuals (see JGA Pocock, “Political thought in the English-speaking Atlantic” in Pocock (ed) *The Varieties of British Political Thought, 1500-1800* (Cambridge, 1995), p281).

The requirements of statehood, according to article 1 of the 1933 *Montevideo Convention on the Rights and Duties of States*, are:

- A permanent population,
- A defined territory,
- A government, and
- The ability to enter into relations with other states.

There are, however, two theories of recognition of a state by other states:

- ‘Constitutive theory’, where the political act of recognition is a precondition to the existence of legal rights. Thus, recognition itself is necessary for the state to come into being.
- ‘Declaratory theory’, where recognition is no more than formal acknowledgement of existing circumstances. Thus, the existence, or indeed disappearance, of the state is a question of fact.

Unfortunately, the prevailing theory at the time of the Irish declaration was the constitutive theory, which led to its lack of



P.C. WIKIMEDIA

The Irish Declaration of Independence was adopted by the Dáil at its first meeting in the Mansion House, Dublin, on 21 January 1919



P.C. WIKIMEDIA

The boys of the old brigade

traction for the recognition by other states.

Such declarations do not, however, violate international law, as there is no prohibition on declarations of independence, as per an [advisory opinion](#) of the UN International Court on Kosovo's declaration of independence in 2010.

The recognition of such declarations is, essentially, one for

the political domain. Interestingly, Britain's political domain voted as part of the majority that recognised the Kosovo declaration as not being a violation of international law (which would have differed from Lloyd George's response to the Irish declaration some 90 years previously).

The same day as the Irish dec-

laration was made in Dublin, however, another fatal declaration of war was made in Soloheadbeg, Tipperary. Two members of the RIC were shot, in the beginning of what became the War of Independence, which itself would see little regard for familial relationships, never mind esoteric theories of statehood and natural law. [g](#)

DECLARATIONS OF INDEPENDENCE ARE NEITHER CREATURES OF STATUTE NOR CONSTITUTIONAL LAW

A dramatic background image showing a hand reaching out from the right side of the frame. The hand is wearing a brown sleeve and a dark, studded wristband. The background is a dark, turbulent sky with swirling clouds, suggesting a storm or a dramatic scene.

The profit motive

Determining the profitability of a law firm in total is straightforward; assessing the components that add up to firm profitability is more challenging.

Hugh A Simons offers some commandments

HUGH A SIMONS IS A STRATEGY CONSULTANT AND PROFESSIONAL SERVICES FIRM LEADER





etting partner profitability right is hugely important, but it isn't easy. However, there are certain approaches that can ensure the link between compensation and profitability is accurate, and that matters are managed effectively for improved profitability.

An important principle in determining the profitability of a partner's practice is that one should include in the measurement only those factors that partners control. If you do otherwise, then partners simply get frustrated and disregard the result, thereby undermining the reason to measure profitability in the first place – namely, to guide partners on how to improve it.

There are only three profitability drivers that partners truly control:

- Revenues realised from a client for a particular matter,
- Time of lawyers of different seniorities deployed in delivering on the matter, and
- At firms where partners have specific lawyers dedicated to their practices, how busy they keep their dedicated lawyers.

Note that, because client-serving partners do not control overhead expenses, such as rent and administrative compensation, these should not be included in the measurement.

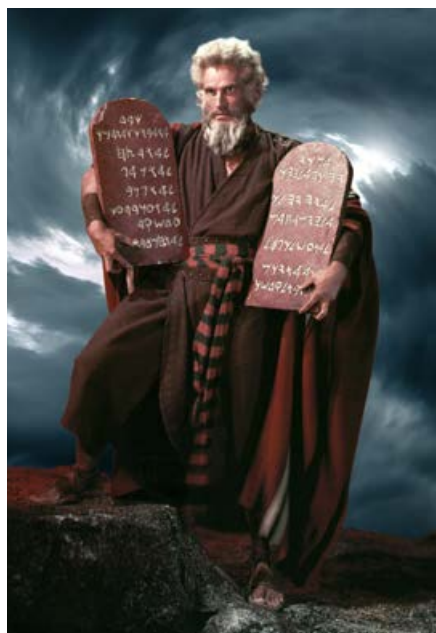
Theory and praxis

Table 1 (*over*) shows how this principle applies to three examples of partner practice profiles. It starts with partner hours (line 1) and leverage (that is, associate hours per partner hour, line 2); together these define associate hours (line 3). Multiplying these hours by 'rate card' billing rates (assumed in this example to average €480/hour and €240/hour for partners and associates respectively) yields the gross revenue (line 4).

Most firms have reasonably robust ways of assigning revenues by partner. That said, it's not without issues. The sharing of

AT A GLANCE

- An important principle in determining the profitability of a partner's practice is that one should include in the measurement only those factors that partners control
- There are only three profitability drivers that partners truly control: revenues realised from a client for a particular matter; the time lawyers of different seniorities deploy in delivering on the matter; and, at firms where partners have specific lawyers dedicated to their practices, how busy they keep their dedicated lawyers



Moses Jobs, with the first generation tablets

revenues between partners who source and execute (that is, 'finders' and 'minders') can be controversial. I've seen firms leave this to negotiation between individual partners, while others lay out guidelines (for example,

origination receives a percentage that declines over time), and yet others allow partners who collaborate to bring in business to share credit for more than the actual revenue generated. One thing I'd discourage is giving credit in perpetuity for beginning a client relationship: it dissuades partners with the necessary skills for this critical activity from continuing to establish new relationships.

The next step is to apply a realisation rate (line 5) to these gross revenues to get to net revenues or cash receipts (line 6). There is a timing challenge with this, as cash receipts lag the recording of hours by some months. Most firms find using a 12-month trailing average to be an effective workaround.

Following the principle above, we subtract only the compensation cost associated with the lawyer time that generated these revenues (line 7) to arrive at partner contribution (line 8). In traditional accounting, these compensation costs are referred to as 'direct costs' (as they directly relate to the revenues), and partner contribution is referred to as 'contribution margin', as this is the amount these revenues 'contribute' to coverage of the firm's overhead costs and, thereafter, to creation of the firm's profit pool.

The lawyer time encompasses that of all lawyers and other timekeepers, except for equity partners. The lawyer cost is determined as the sum (for all lawyers involved) of their billed hours times their annual compensation cost (base and bonus), converted to an equivalent cost per hour. For partners who staff their matters from a dedicated pool of lawyers, the cost-per-hour should be based on the individual lawyer's billing history; this is because, in this circumstance, partners have control over the lawyer's hours and hence their hourly cost. For partners who can exert no such control (for example, where staffing is done centrally from a large pool), then a standard cost-per-hour by lawyer cohort (such as by associate year) should be used. In the example calculations, the hourly compensation cost is approximated as one-third the billing rate.

The difference principle

This approach diverges from many in use today in two areas. First, it's common to subtract an allocation of overhead to get to

PROFITABILITY MEASURES SHOULD
FOCUS ON HOW MUCH WE GET
FROM USING A PARTICULAR LIMITED
RESOURCE



FOR LAW FIRMS, THE RESOURCE WE ARE TRYING TO GET THE MOST FROM IS PARTNER TIME. HENCE, WE SHOULD MEASURE PROFITABILITY RELATIVE TO THE AMOUNT OF PARTNER TIME INVOLVED

partner profitability. Firms are drawn to doing this so they have a full accounting of all their costs.

I'd propose that, rather than allocate overhead, which always begets a battle, firms instead compare the partner contribution margin (line 8) with a target amount that covers overhead and the desired profit pool. This can be determined as revenues, less lawyer comp, per partner from the firm's financial plan for the year. This target amount is assumed in this example to be €1 million (line 9); each partner's margin is then translated to a percentage of this target (line 10).

The second divergence is that many firms include as a 'cost' the compensation of equity partners. They do this to capture any disconnects between the economics of a partner's practice and their compensation. This is problematic primarily because partner compensation is profit, not cost. It's also tricky because it muddles together two very distinct things: how much a partner contributes to the profit pool through their practice, and how much they are allocated from the profit pool, as decided upon by the compensation committee.

A better way to get at how well the economics of a partner's practice align with their compensation is to compare two numbers: each partner's contribution margin as a percent of the sum of contribution margin for all partners, and each partner's compensation as a percent of the total compensation of all partners. If the former exceeds the latter, the partner is being undercompensated relative to their economic contribution.

Note that the examples shown yield the same level of partner practice profitability, despite the wide variation in partner hours and realisation rate. This is to highlight an important point: high leverage practices can be very profitable even with low realisation and modest partner hours. It's a

TABLE 1: PARTNER PROFITABILITY

EXAMPLE CALCULATIONS OF PARTNER CONTRIBUTION MARGINS

NO	LINE ITEM	PARTNER A	PARTNER B	PARTNER C
1	Partner hours	1,600	1,400	1,200
2	Partner leverage	1.0	2.2	4.2
3	Associate hours	1,600	3,080	5,040
4	Gross revenue, €K	€1,152	€1,411	€1,786
5	Realisation, %	95%	85%	75%
6	Net revenue, €K	€1,094	€1,200	€1,339
7	Associate cost, €K	€115	€222	€363
8	Partner contribution margin, €K	€979	€978	€976
9	Firm target, €K	€1,000	€1,000	€1,000
10	Percent of firm target	98%	98%	98%

TABLE 2: MATTER PROFITABILITY

EXAMPLE CALCULATIONS OF MARGIN PER PARTNER HOUR

LINE		MATTER A	MATTER B
1	Partner hours	500	275
2	Associate hours	500	825
3	Leverage	1.0	3.0
4	Gross revenue, €K	€360	€330
5	Realisation, %	100%	80%
6	Net revenue, €K	€360	€264
7	Associate cost, €	€36	€59
8	Matter contribution margin, €	€324	€205
9	Margin per partner hour (MPH), €	€648	€744
10	Target MPH, €	€625	€625
11	MPH as percent of target, %	104%	119%



EU & INTERNATIONAL AFFAIRS COMMITTEE

STAGE INTERNATIONAL À PARIS 2019

OCTOBER – NOVEMBER 2019



Every year, the Paris Bar organises an International Stage in Paris and invites a limited number of lawyers from each jurisdiction to participate. The stage is a fantastic opportunity for lawyers to discover and practice French law in the heart of Paris.

The stage takes place during the months of October and November and entails: one month attending classes at l'École de Formation du Barreau and one month of work experience in a law firm in Paris. The programme also includes a visit to Brussels to the European institutions.

The Irish participant will be selected by the EU & International Affairs Committee of the Law Society of Ireland.

Candidates must:

- Be qualified in Ireland and registered in the Law Society
- Have a good knowledge of French
- Be under 40 years old
- Have insurance cover (for accidents and damages).

Tuition is fully covered by the Paris Bar. Candidates must be willing to cover other expenses (travel, accommodation, meals)¹

INTERESTED?

To apply, please send your CV and a letter explaining your interest in the Stage (in both English and French) to Deirdre Flynn (d.flynn@lawsociety.ie).

APPLICATION DEADLINE: Friday 19 April 2019

¹ The EU & IA Committee will sponsor the participant with €2,500.



GETTING PARTNER PROFITABILITY RIGHT IS HUGEY IMPORTANT, BUT IT ISN'T EASY

strength of this approach that it consistently captures the profitability of such varying practices.

Possessive individualism

To extend this approach to assessing the profitability of individual matters, another principle comes into play. That is, that profitability measures should focus on how much we get from using a particular limited resource. For example, investors don't look at the appreciation of an asset as an absolute amount; rather, they look at it as a percent of the capital invested. For law firms, the

resource we are trying to get the most from is partner time. Hence, we should measure profitability relative to the amount of partner time involved. Integrating this principle and the contribution margin approach leads to measuring matter profitability on a margin-per-partner-hour (MPH) basis. It is noteworthy that MPH is the matter-level counterpart of the ubiquitous profit-per-partner (PPP) measure of overall firm performance.

To see how this works, consider two idealised matters: matter A is low leverage, and the client pays full billing rates; matter B

is relatively high leverage, but the client gets a 20% discount. Table 2 (*previous page*) shows the calculations of the matters' MPH, with lines 1 to 8 determined as in Table 1. Matter contribution margin (line 8) is divided by partner hours (line 1) to yield MPH (line 9), which is then converted to a percent of target MPH (line 11).

There are a number of reasons to look at MPH as a percent of target rather than as an absolute number. It indicates directly how well the matter is contributing to covering the firm's fixed costs and to meeting the firm's profit expectation, making it easy to assess if a given level is 'good' or not.

Another is that it allows what constitutes a strong MPH to rise naturally over time with inflation and increased firm expectations. Note that the examples shown again indicate the power of leverage – the high-leverage, high-discount matter has the stronger profitability. [g](#)



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Down to zero

The *Employment (Miscellaneous Provisions) Act 2018* comes into force in March 2019. It provides far greater protections for ‘casual workers’. **Melanie Crowley** and **Orla O’Leary** reset the clock

MELANIE CROWLEY AND ORLA O’LEARY ARE, RESPECTIVELY, HEAD AND SENIOR ASSOCIATE IN THE EMPLOYMENT LAW AND BENEFITS TEAM AT [MASON HAYES & CURRAN](#)



In 2015, the University of Limerick delivered its *Study on the Prevalence of Zero Hours Contracts Among Irish Employers and their Impact on Employees*. The report raised concerns that these forms of contracts provide little, if any, security for workers. In particular, they offer no guarantee of working hours and reduce the ability of employees to secure loans or to plan for family life.

The *Employment (Miscellaneous Provisions) Act 2018* seeks to “improve the security and predictability of working hours for employees on insecure contracts and those working variable hours”.

The act was signed into law at the end of December 2018 and is due to come into force in March.

Until now, casual working was not an area that received much attention from legislators in Ireland. There was no statutory definition of casual employment, and there were very few references to casual work in Irish employment legislation. ‘Casual worker’ was an all-encompassing colloquialism that applied to a range of atypical working-hour arrangements. The term included:

- Those required to work without fixed hours,
- Those required to make themselves available at certain times to be called upon to work,

- Those required to make themselves available on an ‘as-and-when’ required basis, and,
- Those with the option to take on work irregularly.

Although the 2018 act still does not define ‘casual workers’, it provides far greater protection than was previously the case to employees with no normal hours of work.

Who is affected?

The act affects all employees, including casual, ‘as-and-when’ required, and low-hours employees. The 2018 act sees the introduction of an obligation to inform employees in writing, within five days of commencement of employment, of certain

core terms of employment. Regardless of whether an employee is taken on indefinitely, or on an *ad hoc* basis, these provisions apply. This means that, once the ‘casual worker’ has agreed to work, the obligations under the 2018 act are triggered. The employer must now inform employees of:

- The full names of the employer and the employee,
- The address of the employer in the State or the address of the employer’s principal place of business in the State,
- In the case of a temporary contract, the expected duration of the contract,

AT A GLANCE

- The *Employment (Miscellaneous Provisions) Act 2018* is due to come into force in March
- The act affects all employees, including casual, ‘as-and-when’ required, and low-hours employees
- Once the ‘casual worker’ has agreed to work, the obligations under the 2018 act are triggered
- Employees who exercise their rights under the 2018 act cannot be penalised



PICTURE: REX FEATURES

WORKERS ON LOW-HOUR CONTRACTS WHO CONSISTENTLY WORK MORE HOURS THAN PROVIDED FOR IN THEIR EMPLOYMENT CONTRACTS WILL BE ABLE TO ASK TO BE PLACED IN A ‘BAND OF HOURS’ THAT REFLECTS THE REALITY OF THE HOURS THEY HAVE WORKED OVER THE PREVIOUS 12 MONTHS



- The rate/method of calculating pay and the pay-reference period, and
- The number of hours the employer reasonably expects the employee to work per day and per week.

Employers failing to comply with this obligation within one month of commencement of employment, or deliberately providing false or misleading information, are liable to a fine of up to €5,000 and/or 12 months' imprisonment.

This new obligation is in addition to an employer's existing obligation to provide employees with details of certain terms and conditions of employment, in writing, within two months of the commencement of their employment.

Zero-hour demise

Employers will no longer be allowed to provide zero-hour contracts to employees, except in cases of emergency cover or short-term relief work. However, in cases of emergency cover or short-term relief work, the requirement to furnish the core terms of employment (as outlined) still apply.

Where an employer requires an employee to remain available to work, but then does not actually require the employee to work, the employee is entitled to be paid for at least 25% of their contracted work, or 15 hours, whichever is the lesser (the guaranteed hours). This is not a new requirement, although it is restated in the 2018 act.

What has changed is that there is now a minimum payment payable to employees. There is some confusion among practitioners as to whether the minimum payment is:

- a) The normal hourly rate for pay for each of the guaranteed hours, subject to a minimum payment of three hours (that is, a minimum payment of €29.40 – three

hours x €9.80, which is the current minimum wage), or

- b) Whether the guaranteed hours are calculated using an hourly rate of three times the national minimum wage, which for an employee entitled to 15 hours would equate to a payment of €441.00 for the week (that is, 15 x [€9.80 x 3]).

Only time will tell as to how the Workplace Relations Commission and civil courts will interpret the 2018 act. If the former interpretation is correct, then, in reality, the minimum payment will only benefit employees whose contracts of employment or comparators work less than 12 hours per week, as otherwise the 25% rule would prevail. However, if the latter interpretation is correct, then it means that employers will be required to pay at least €29.40 per guaranteed hour.

Once the act comes into force, workers on low-hour contracts who consistently work more hours than provided for in their employment contracts will be able to ask to be placed in a 'band of hours' that reflects the reality of the hours they have worked over the previous 12 months.

Employers may refuse this re-banding in certain circumstances. These circumstances may include:

- Where there have been, or will be, significant adverse changes to the business,
- In emergency or unforeseeable circumstances, or
- Where the hours were due to a temporary situation that no longer exists.

This new provision is entirely independent to the provision on zero-hour workers and, in reality, will affect any organisation that employs part-time workers.

Finally, the 2018 act provides for protection from penalisation for an employee who exercises their rights under the legislation.

Interns and work-experience

One area of casual work not captured by the 2018 act – and which is still untouched in terms of regulating legislation – is that of internships and periods of 'work experience'. As with casual work generally, there is no legal definition of an intern or work-experience candidate. An intern or work-experience candidate will only be covered by the 2018 act to the extent that an employment relationship is created.

Usually, irrespective of the title or label attributed to an individual, an intern or an individual on work experience will be deemed to be an employee if he/she is performing work that is of value to an organisation. Where an intern or individual on work experience is effectively shadowing another employee, and the internship or work experience is predominantly educational in nature, the intern or individual on work experience is less likely to be deemed an employee.

Contractors and self-employment

Sometimes, casual employment relationships are set up in an attempt (usually misguided) to avoid the laws that govern the traditional employer/employee relationship. Other times, businesses seeking to keep casual workers at arm's length engage them as self-employed contractors.

The Workplace Relations Commission, the civil courts, the Office of the Revenue Commissioners, and the Department of Employment Affairs and Social Protection have all been very clear in their approach to attempts to miscategorise employees as self-employed contractors.

ALTHOUGH THE 2018 ACT STILL DOES NOT DEFINE 'CASUAL WORKERS', IT PROVIDES FAR GREATER PROTECTION THAN WAS PREVIOUSLY THE CASE TO EMPLOYEES WITH NO NORMAL HOURS OF WORK



EMPLOYERS WILL NO LONGER BE ALLOWED TO PROVIDE ZERO-HOUR CONTRACTS TO EMPLOYEES, EXCEPT IN CASES OF EMERGENCY COVER OR SHORT-TERM RELIEF WORK

There are a range of tests that can be applied in arriving at a determination as to the nature of a relationship. While the label attaching to a relationship will be taken into account, it is only one of several factors that will be considered in determining whether someone is, *de facto*, an employee or a self-employed contractor.

Interestingly, one of the earlier drafts of the 2018 act included a provision to the effect that an incorrect designation of an employee as a self-employed contractor would amount to a criminal offence. The draft section contained a detailed assessment on how proper self-employment would be determined.

Ultimately, the section was removed from the bill at Seanad Committee Stage, shortly before the final text of the bill was passed by both houses of the Oireachtas. The reason given for this late withdrawal was that the bill was not the appropriate place to deal with the issue of designation – so watch this space.

Developments in Britain

Although Britain has not legislated for casual working in the same way as Ireland has, there exists far more case law there dealing with the area. Given that a great deal will depend on how the Workplace Relations Commission and the Irish civil courts interpret and enforce the 2018 act, analysing how Britain's courts have dealt with casual working would be a useful exercise.

One of the most fundamental of these cases was Britain's [Employment Appeals Tribunal \(EAT\)](#) decision in *Drake v IPSOS Mori UK Ltd*. This case concerned a telephone interviewer engaged on a casual basis who sought to bring an unfair dismissal case as an employee, even though IPSOS denied that he was an employee at all. At the outset of the relationship, he was not given any contractual documentation, he was told there was no obligation on him



to accept work, and no obligation in favour of him to be provided with work. He was explicitly told he was 'a worker' rather than an employee.

This is significant, because Britain has certain employment law protections for 'workers', for which there is no Irish equivalent. He was also told that, once he accepted an assignment, there was no obligation on him to complete the assignment. However, the EAT found that, on each occasion that Mr Drake accepted an assignment, he was effectively entering into a separate contract of employment, and there was sufficient mutuality of obligation between the parties. On this basis, the EAT found that Drake could be considered an employee.

Certainty to precariousness

While the regulation of casual working will make things difficult for employers already engaging these types of workers, the 2018 act brings certainty to casual working and will provide necessary protection to workers in precarious situations.

A potential result, too, is the possibility that casual working will become more attractive to a wider pool, given the increased regulation and more worker-friendly environment. [g](#)

LOOK IT UP

CASES:

- [Drake v IPSOS Mori UK Ltd](#) [2012] UKEAT/0604/11/ZT

LEGISLATION:

- [Employment \(Miscellaneous Provisions\) Act 2018](#)

LITERATURE:

- [Study on the Prevalence of Zero Hours Contracts Among Irish Employers and their Impact on Employees](#), Kemmy Business School, University of Limerick (2015)



Finding the NORTH STAR

Perhaps a little later than most business sectors, law firms are undertaking their own journey into the digital space. This is driving law firms to introduce new leadership roles. **David Cowan** analyses the acronyms

DR DAVID COWAN IS AN AUTHOR, JOURNALIST AND TRAINER



he world of technology is filled with acronyms, right down to the alphabet soup of job titles: CDO, CIO, CAO, CTO, CDAO, CSO, CISO – and the list goes on. These are all titles that overlap or duplicate what is essentially a key role in any business today: leading technology transformation and disruption.

Back in 2014, with bold enthusiasm, the international consultancy firm Gartner estimated that 90% of all large organisations would have a chief data officer (CDO) by 2019. However, a more recent New Vantage survey revealed that, while a majority of firms report having appointed a CDO, it is still only 55.9% – significantly short of Gartner's prediction. The early driver has been regulation and governance concerns around data, but this is changing.

"Today's data and analytics leaders are becoming impactful change agents who are spearheading data-driven transformation," says Valerie Logan, research director at Gartner.

Mirror in the bathroom

Arguably a little later to the party than most business sectors, law firms are mirroring this change and undertaking

their own journey into the digital space. The same dynamics are driving law firms to introduce new leadership roles, though not necessarily using the CDO designation – and they come from diverse backgrounds.

In the US, for instance, a trawl through AmLaw 100 law firm websites reveals that just seven have official CTOs. When US employment and labour law giant Littler hired Text IQ's general counsel, he became the firm's first CDAO. Dentons hired their

first-ever global CIO in 2017, a former assistant secretary of commerce under President Obama. In London, DLA Piper's former CIO joined DWF in the newly created role of CIO. His predecessor had the title of CTO and joined Freeths as its first-ever CTO.

Eileen Burns, head of legal technology at Arthur Cox, asks: "CIOs, CDOs – what's in a title? Question is, what is the work? What is the service we need to deliver?"

In the past, the lead technology role tended to comprise a mixture of a complaints department ("The server's down again!") and a policing function ("Change your password!") – but times have changed. Nicholas Eustace (IT director at Eversheds Sutherland) says: "We've created a bridge between IT and the client, changing the language

AT A GLANCE

- It is increasingly important for law firms to embrace a range of disciplines and functions as the profession restructures how services are delivered
- Irish firms are focusing on technology to deliver to clients through collaborative approaches. This is changing the way firms operate
- There is much speculation about commoditisation of the legal industry, but there are good reasons why lawyers will always be needed. What may be happening, though, is a lawyer evolution, raising them to new levels of service, with the labour-intensive tasks taken out of the equation



THE RISK OF CYBERATTACK, OF HACKS, IS INCREASING – AND THE BIGGEST RISK IS THE PEOPLE RISK. PEOPLE WANT CONVENIENCE. THEY GET FRUSTRATED BY PROCESSES. BUT, THERE HAVE TO BE CHECKS AND BALANCES IN THE SYSTEM



Q FOCAL POINT

TRANSFORMERS

There is much speculation about commoditisation of the legal industry, but there are good reasons why lawyers will always be needed. What may be happening, though, is a lawyer evolution, raising them to new levels of service, with the labour-intensive tasks taken out of the equation.

Certainly, we will see more client cases like JPMorgan Chase, which reduced some 360,000 billable hours (at an average of \$200 an hour), resulting in \$72 million of legal fees evaporating.

Legal-process outsourcing firms like Axiom and Riverview Law are providing alternate legal services to clients with different models, but there are limits to commoditisation.

Most Irish firms are not in that business, and they don't need to be. There are ample opportunities to use technology, such as predictive analytics, to identify new business opportunities, be more effective in bringing new clients on board, leverage data use within the firm, cross-sell and upsell existing clients, and reduce their

own operational costs.

Creating better metrics, enhancing partner profitability, matching lawyers to client need, and using 'gig' lawyers or other consultants and more creative fee structures can all be advanced by effective use of legal technology and innovation.

Julian Yarr (A&L Goodbody) explains: "Law firms present themselves to the market, and we need to understand the service we deliver, ensure we provide sophisticated legal advice and strategy, which is secondary to managing efficiency. And when we speak to the client, we ask: 'What do you want to achieve?'"

"Any process that is consistent, repetitive and cost sensitive will work for certain types of business, but not for us. That's not our kind of business."

Yarr adds: "You can't just pursue costs. There are those who will offer cheaper, faster services as commodity suppliers, but there is still a difference between smart people with machines, and average people with machines."

from technical language to asking: 'Is this possible – what is the potential here?' We can give a positive answer in language clients want to hear."

He elaborates: "There is a lot more analysis done in today's law firm. Firms are more process driven. There is more project management, more tools. This mirrors the client business."

The test

This created a paradigm change since, traditionally, law firms have been cautious, risk-averse and conservative. Julian Yarr

(managing partner at A&L Goodbody) quips: "The challenge is that law firms have been led by leaders using the same operating models for the last 2,000 years!"

The traditional structures have divided the legal world into partners and associates, lawyers and non-lawyers. Yarr adds: "The term 'non-lawyer' is banned here. We are hiring in people from 'non-traditional backgrounds'."

It is increasingly important for law firms to embrace a range of disciplines, functions and titles as the profession restructures how services are delivered. This is happening

in Ireland, and law firms are innovating leadership and client delivery within their firms through a collaborative approach.

Declan Black (managing partner at Mason Hayes & Curran) leads the firm's steering group, formed to look at addressing client needs and finding ways to innovate meeting those needs. He explains that the group is tasked "to look at what lies two-and-half to three years down the road – and identify opportunities".

He says: "A collaborative approach is best – working collaboratively with product developers and working collaboratively with clients," but the test is "what is the utility for our clients? What are they trying to do?"

Black uses the analogy of high-end restaurants and hotels: "We must meet our client needs and exceed them. The trick is to anticipate their next requirements before they do."

Yarr explains: "A&L Goodbody has been, I would say, an early adopter. And, like others, we thrashed around, made mistakes – but 24 months ago, we had a complete rethink and made significant investment in resources in an organised way, and we now see the fruits of it."

Tom Connor (innovation manager at Matheson) says that the emergence of legal technology around 2013 and 2014 was "the innovation trigger". He notes: "Formalisation of an innovation function doesn't surprise – it's important to do that, but the question begs itself, where does that responsibility fall? We've adopted the approach – not the title." He adds: "Our partners are very engaged. It is part of the DNA now to implement innovation. Everyone should be innovative – it is a shared responsibility."

Moving on

The digital transformation at Arthur Cox has occurred in the same time frame as other firms but, in their case, it was helped by an office move. Partner Rob Corbet says: "It gave us the opportunity to think [about] the future and undertake IT delivery with some bold steps. It also created a deadline."

Eileen Burns, an Accenture veteran, was brought into Arthur Cox in the newly created role of 'head of legal tech' at partner level. She comments: "It was a big investment to the firm to create the role at partner level."

THE CHALLENGE IS THAT LAW FIRMS HAVE BEEN LED BY LEADERS USING THE SAME OPERATING MODELS FOR THE LAST 2,000 YEARS



TECHNOLOGY REDUCES COMPETITIVE ADVANTAGE. THE GAP IS CLOSED, BUT IT IS NOT JUST ABOUT ADOPTING TECHNOLOGY – IT IS ABOUT GETTING THE RIGHT PEOPLE

Her task is “to look at the evolving parts of the business, think about the future role of the lawyer, and embed this into the day-to-day”.

The team has “diverse skill-sets, which would have been unusual in a law firm five years ago. They are technologists, with different kinds of thinking, working with lawyers, with clients – and this is when the magic happens.”

Charles Carroll (partner at A&L Goodbody) explains: “Technology reduces competitive advantage. The gap is closed, but it is not just about adopting technology – it is about getting the right people. I do the tech piece, but there is a lot of crossover.”

Joe O’Sullivan (chief technology officer at A&L) concurs: “It’s not a magic box. The client is at the heart, and we bring in people with non-traditional and lawyer backgrounds. We have people doing the role of CIO and head of knowledge. We have the parts, but we are going about it in a different way that works best – not creating silos, but bringing people together to deliver a service to the client.”

Black hole sun

Eileen Burns says that, in one sense, “tech is the easy bit”. While there are many complexities and challenges involved in the technology, she states that the key is “to address the questions of what business problems I am trying to solve. What is my ‘North Star’? How do I monitor this?”

She says that the cost, which has been a barrier to entry for law firms in the past, has gone down significantly, making investment more feasible. “Clients are demanding solutions, and this is fuelling investment.”

Have law firms lagged behind? Burns comments that she prefers to explain the timing as “later in law than in other sectors”.

Nicholas Eustace (Eversheds Sutherland) suggests that, “historically, we’ve been behind the curve in Ireland, sitting and



PICT: SHUTTERSTOCK

watching the UK, seeing what they’re doing and then leaping in as long as it’s successful. We’re now leading the way. We don’t wait – we try and get ahead of the curve.”

As the technology moves on, what comes into focus is the human element, creating a changing communication landscape. Gerard Ryan (partner at Eversheds Sutherland and chair of the firm’s IT steering committee) says that while “there is overload of information and over reliance on emails”, it brings the benefit of “consistency of language and style”.

He adds that technology has also brought more empowerment: “There is a self-serve approach now. Things that used to be done for us, we now do ourselves through iPhones and apps.”

However, Eustace warns that self-serve and ease of access bring their own risks, and that the technology-policing function remains. He notes: “The risk of cyberattack, of hacks, is increasing – and the biggest risk is the people risk. People want convenience. They get frustrated by processes. But there have to be checks and balances in the system.”


The handling of escrow funds is a good example of this trade-off problem, he suggests: “There are gaps in the system,

but some manual processes are still needed, especially in handling funds. Our agenda is to enhance protection, but remove processes.”

Take it to the top

Irish law firms are focused on technology to deliver to clients through collaborative approaches. This is changing the way firms operate. Tom Connor says: “Matheson was established in 1825. It has a tradition of excellence, and facilitating digital transformation is replicating that same level of excellence in the digital arena to deliver new value to clients. Traditional excellence becomes a new digital excellence.”

This excellence, Julian Yarr notes, is “not about information or volumes – it’s about the quality of the data. The clients want to know what the data is; how to use it; what are the risks and opportunities?”

Law firms, he says, are selling information, knowledge and experience as a package. Law firms in Ireland are confident in their approach to innovation and in their response to perceived threats to the industry – and that is primarily for one reason, articulated by Declan Black: “Lawyers may charge time, but they sell judgement” – and that tradition stretches back centuries. 

Trust in me

Acting as a trustee imposes significant fiduciary duties, foremost of which is the duty to carry out the terms of the trust diligently and honestly. So what criteria should be considered when appointing one? **Pauric Druhan** has the answers

PAURIC DRUHAN IS A SOLICITOR WITH [PEARSE TRUST](#)



Are you a solicitor involved in providing advice on, or preparing, wills? Are you on occasion confronted with a situation where the assets of a potential recipient might be better managed through a trust structure? Have you considered the merits of the appointment of one potential trustee over another, one family member over another? How was the decision to appoint the chosen trustee reached?

In deciding who to appoint, a settlor should be cognisant that whomever they choose will have to:

- Comply with fiduciary duties imposed on a trustee by law,
- Avoid conflicts of interest and,
- Achieve a high standard of care in the administration of a trust.

Fiduciary duties

A fiduciary duty is a legal obligation binding on one party to act in the best interests of another party. The fiduciary appointed in respect of a trust is the trustee and is responsible for the administration of the trust. This is an onerous responsibility to accept. When selecting a trustee, a settlor ought to consider these factors and determine whether the proposed trustee has the requisite knowledge, experience, and time to carry out the duties and responsibilities.

A trustee must know and adhere to the terms of the trust deed. On accepting appointment, the trustee should carefully inspect the trust instrument to ascertain and understand the powers conferred and the obligations imposed. The trustee must identify the property subject to the trust and ensure that such property is properly transferred to it and registered in its name. The trustee has

a further duty to safeguard those assets and, where appropriate, ensure that the property is insured. Trust assets must be held separately from any assets the trustee holds in its own capacity. They must also respect beneficiaries' rights with regard to requests for trust information.

A trustee must administer the trust solely in the interest of the trust beneficiaries and cannot place their own interest in conflict with the beneficiaries. Trustees have a duty to act personally, and they must be familiar with the terms and purpose of the trust and be involved in decision-making in respect of the trust. While trustees are typically permitted to engage advisers, such as lawyers and financial advisers, the final decision on trust matters should be made by the trustee.

Effective administration systems should be in place to ensure that the appropriate trust decisions are made and documented in a timely manner. Trustees should communicate with related parties and maintain clear and accurate financial records and accounts, which must be made available to beneficiaries.

This also applies to corporate trustees or private trust companies with more than one director. The holding of trustee meetings ensures proper management of the trust's affairs and demonstrates effective control and management of the trust by the trustees. The frequency of meetings depends on the size, activity, and complexity of the trust.

AT A GLANCE

- Settlers should give considerable thought to whom they choose to appoint as trustee
- They should consider the skills, knowledge, and experience of their choice of trustee
- They should also carefully consider the nature and extent of the trust assets and any potential for conflicts of interest

Conflicts of interest

Appointing trustees who are also beneficiaries is not ideal. While there are no specific provisions to prevent a beneficiary of a trust from being appointed as a trustee, conflicts of interest can arise between their duties as a trustee and their entitlement, if any, under the trust.

The 2013 British High Court case *Wild v Wild* demonstrates this point.



A TRUSTEE MUST ADMINISTER THE TRUST SOLELY IN THE INTEREST OF THE TRUST BENEFICIARIES AND CANNOT PLACE THEIR OWN INTEREST IN CONFLICT WITH THE BENEFICIARIES

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TRUSTS



A TRUSTEE SHOULD ADMINISTER A TRUST WITH THE SKILL AND CARE THAT A REASONABLY PRUDENT BUSINESS PERSON WOULD EXTEND TO THEIR OWN AFFAIRS AND APPLY ANY SPECIAL KNOWLEDGE THEY MAY HAVE

Two of the trustees, Mr Wild's wife and daughter, applied to court to have the third trustee, Mr Wild's son, removed as a trustee by reason of the fact that he refused to consent to a distribution to his mother.

Mr Justice Arnold made no finding of bad faith against Mr Wild's son, but ruled in favour of his wife and daughter and ordered that the son be removed as a trustee. He noted that the son had become conflicted by his concern that, should a distribution be made from the trust to his mother, he would receive little or nothing of his parent's wealth. The court ruled that a distribution from the trust to Mrs Wild was to be released immediately, and legal costs were awarded against the son. It was clear to the court that Mr Wild's son had allowed his personal interests to influence his decisions as a trustee. It is prudent, therefore, to select a trustee that is not related to the settlor or beneficiaries and who can act impartially, without conflict, and with independence.

Standard of care

A trustee should administer a trust with the skill and care that a reasonably prudent business person would extend to their own affairs and apply any special knowledge they may have. *Bartlett v Barclays Bank Trust Co Ltd (No 1)* (1980) extended the principle established in *Speight v Gaunt* that a higher standard of care is expected from trustees acting in a professional capacity with greater knowledge and experience. The court held that Barclays Bank Trust Company was the sole trustee of a settlement, which consisted of a 99.8% shareholding in a private company. The bank did not actively or regularly seek information on the management of the company from the company's board, which had entered into speculative investments – one of which succeeded, and one which



PICTURE: SHUTTERSTOCK


did not, and resulted in a large loss to the company. The beneficiaries took action against the bank for breach of trust and loss of funds. The court held in favour of the beneficiaries, in that the bank had, owing to the size of the shareholding in the company held by the trust, failed to supervise the business of the company. The bank was found to be liable for the loss caused by its failure to exercise the special care and skill that it claimed to have, with the court noting that “a higher duty of care is due from someone like a trust corporation which carries on the specialised business of trust management. A trust corporation holds itself out in its marketing materials as being above ordinary mortals.”

In *Stacey v Branch* (1995), the plaintiff beneficiary brought a claim against the defendant trustee, alleging a breach of trust on the grounds that the latter had not managed a trust property with the necessary

degree of care, and claimed specifically that, if a house that formed part of the trust had been rented over a period of 14 years rather than maintained by a caretaker, it would have yielded a substantial rental income.

The trust deed conferred on the trustee the power to deal with the trust “as he in his absolute discretion shall think fit” pending the attainment of 21 years by the plaintiff. While the words ‘absolute discretion’ would not necessarily relieve a trustee from his duty to exercise reasonable care and prudence, the court was satisfied that the defendant's decision to place the caretaker in occupation of the premises was one made *bona fide* in the exercise of his discretion, and dismissed the plaintiff's claim.

Choose your trustee wisely

Owing to the onerous and time consuming duties and obligations imposed on a trustee, settlors should give considerable thought to whom they choose to appoint as trustee. They should consider the skills, knowledge and experience of their choice of trustee. They should consider carefully the nature and extent of the trust assets and any potential for conflicts of interest. In short, is a family member, friend, or other connected party a suitable person to act as the trustee? If, after careful consideration, the answer is ‘no’, then the appointment of a professionally qualified and regulated trustee should be considered. 

LOOK IT UP

- *Bartlett v Barclays Bank Trust Co Ltd (No 1)* [1980] EWHC Ch 515
- *Speight v Gaunt* (House of Lords, [1883] EWCA Civ 1)
- *Stacey v Branch* [1995] 2 ILRM 136
- *Wild v Wild* [2013] EWHC



Message in a bottle

The single biggest challenge in business and corporate life now is the ability to communicate purposefully, powerfully and persuasively. Communication mastery is the new competitive advantage, writes **Pádraic Ó Máille**

PÁDRAIC Ó MÁILLE IS AN EXECUTIVE COACH, A MOTIVATIONAL SPEAKER AND A BESTSELLING BUSINESS WRITER



surgeon saws the wrong leg off a patient. A marriage splits up. An applicant doesn't get a job for which they are more than qualified. What went wrong?

The communication. Someone didn't tell someone else. Someone didn't listen. Someone didn't convey the information they thought they were conveying.

"Bad communication is at the root of every badly managed crisis, every unmet challenge, every corporate failure, every accident, every failed relationship." So says communications guru Terry Prone in her book *Talk the Talk*. If you think she's being melodramatic, think again.

The reality is that you're always communicating. You cannot not communicate. Even when my dog says nada and avoids eye contact, he's communicating a message, an energy, an impact.

The question is: how effective is that communication?

Unfortunately, for many of us, our communications are aimless, mindless and sloppy. They lack focus, engagement and incitement to action.

Bill Clinton's campaign manager James Carville famously coined the electioneering slogan, 'It's the economy, stupid', as a rallying cry and a focus for the campaign team. The message advantageously used the

then-prevailing recession in the US as one of the campaign's means to successfully unseat George HW Bush. We would do well to adopt the war cry, 'It's the communication, stupid' for ourselves, our businesses and our families.

Because the single biggest challenge in business and corporate life now is less the economy, which is working quite well – and you have little or no control over it anyway – but more our ability to communicate purposefully, powerfully and persuasively. Communication mastery is the new competitive advantage. In person. On the podium. In print.

The good news is that this communication prowess is achievable, and can be accomplished by anyone who chooses to, and has the discipline to master certain attitudes, techniques and strategies. Clinton himself, regarded by many as the consummate communicator, was not a great communicator to begin with. As a young man, he failed abysmally to make any marked impact on either his high-school or university

colleagues. That would change dramatically as he began to study and model the communication traits of John F Kennedy.

The Odyssey

To begin your communication mastery odyssey, let me bring you back west to Connemara. They have a *sean fhocal* there that says: '*Aithníonn ciaróg ciaróg eile*'. In English, this translates to 'Birds of a feather flock together',

AT A GLANCE

- Communication matters
- Begin by being mindful of your own communication style
- Then become aware of the communication styles of those you are communicating with, and modify and adapt your behaviour accordingly



THE REALITY IS THAT YOU'RE ALWAYS COMMUNICATING. YOU CANNOT NOT COMMUNICATE. THE QUESTION IS: HOW EFFECTIVE IS THAT COMMUNICATION?



or in science: 'Like attracts like.' The same obtains in psychology. The bottom line is that we like people who are like ourselves.

So, if we intend to engage and influence and persuade others to do what we want, we must first connect with people at a deep personal level. I can still hear the sonorous tones of my marketing lecturer Dr Aidan Daly – himself an ace communicator – induct us into the secret of impactful communication, selling and marketing: "People buy people first, and your product or service or message second."

It would be fine and dandy, however, if we were all like each other. The problem is, we're not. Psychology throws a spanner in the works by proclaiming that, universally, there are four different communication styles. This implies that, naturally, we get on swimmingly with 25% of the human population, while we are at odds with the remaining 75%. It explains perfectly why some people:

- Give you time and attention,
- Value you and like you,
- Make allowances for you,
- Focus on your strengths,
- Willingly assist you, and
- Make themselves readily available for you.

It also indicates why challenges arise in organisations when people:

- Think differently,
- Arrive at decisions differently,
- Work at a different pace,
- Manage time differently,
- Handle emotions differently, and
- Deal with stress differently.

Wouldn't it be great if we could identify how a person wanted to receive information, and then modify and adapt that message in a way that was best understood?

You can. It's called 'iMA' (identify, modify and adapt) and is the brainchild of James Knight. It's a free online tool, a language, and a worldwide community that can genuinely be a game-changer in the way you communicate and, ergo, get better results.

Down by the water

Science teaches us that when we combine two unique elements, such as hydrogen and oxygen, a combination reaction occurs that produces an entirely different compound

– in this case, water. The same is true in psychology. When you combine two communication elements – assertiveness and openness – you produce four separate combinations or communication styles.

From the diagram (*below*), it's clear that those with a higher red colour are both assertive and self-contained, or in layperson's language, 'direct and closed.'

'High yellows' are also direct but very open.

'High blues' are open but non-assertive.

'High greens' are self-contained and non-assertive.

Simplistic and all as it sounds, there are only four communication styles in the world. The first great feature of iMA is that it easily and scientifically helps you identify your dominant communication style. Visit www.padraicomaille-ima.com to take a simple ten-question diagnostic that will reveal your colour in less than five minutes. Remember, there is no right or wrong colour.

So how do you put iMA to work for you, your business and your family?

Firstly, do iMA for yourself by taking the questionnaire and then studying your colour description (above).

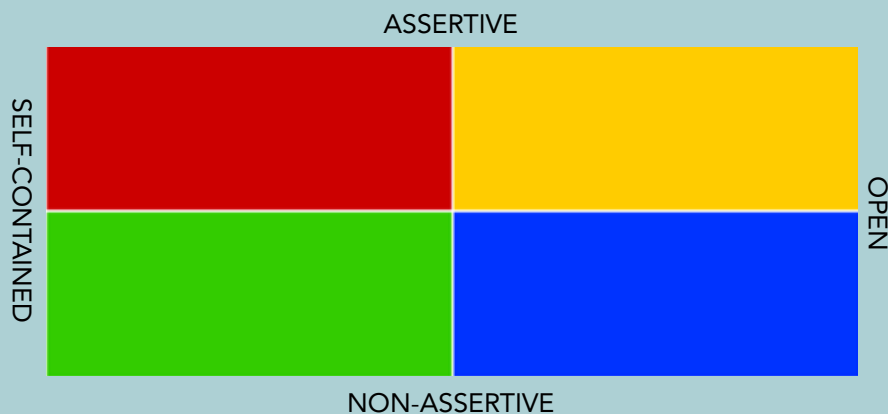
I have personally found iMA to be a wonderful platform from which to begin a personal SWOT analysis. For example, I'm a 'high yellow' (which essentially means that, although I have aspects of all the other colours, I have more yellow). One of my core strengths is that I'm high-energy, optimistic and persuasive. I enjoy nothing more than motivating and inspiring people.

A recurring weakness in my life, however has, ironically, been discipline, or *smácht*.

I have discovered the hard way that, while I'm an effective mentor and coach to CEOs, I'm not particularly effective CEO material myself. I simply don't sweat the small stuff that's an essential prerequisite of any successful CEO.

The opportunity for me is to have a highly organised schedule of courses and meetings where I get to spend 80% of my time doing what I do best, and which comes easily and effortlessly to me. Like Oscar Wilde,

FOCAL POINT COMMUNICATION STYLES



SIMPLISTIC AND ALL AS IT SOUNDS, THERE ARE ONLY FOUR COMMUNICATION STYLES IN THE WORLD



IF WE INTEND TO ENGAGE AND INFLUENCE AND PERSUADE OTHERS TO DO WHAT WE WANT, WE MUST FIRST CONNECT WITH PEOPLE AT A DEEP PERSONAL LEVEL



FIG: SHUTTERSTOCK

the greatest threat to my performance and results is that I have difficulty resisting temptation, and need to be vigilant not to chase too many rabbits. As Socrates pointed out, the unexamined life is not worth living, and you should 'know thyself'.

Secondly, identify the communication style of your audience, whether one or many. You've likely heard or taken one of the many excellent psychometric tests that determine your inner core personality traits? Tests such as Belbin, DISC and Myers-Briggs are great in helping you to 'know thyself.' The big advantage of iMA, however, is that it enables you to see yourself as others see you. Rabbie Burns memorably quipped:

*'O wad some power the giftie gie us
To see ourselves as ithers see us!'*

That's the power of iMA. It gives you an insight into how others see you. And, armed with that data, you can begin to identify, modify and adapt your behavior to match that of your audience.

For example, I coach a highly successful 'red' CEO each Monday morning via a video-conference. The time allocated for the call is 30 minutes. In three years' coaching,

I have rarely ever spent more than 20 minutes on that call. 'Reds' value when the call finishes early. To achieve that, I have to restrain and modify my 'yellow' tendency to talk and avoid all social chit-chat and focus laser-like on results. It is a perfect example of me identifying my client's colour, modifying my communication style to match his, and adapting my behaviour to provide him with the results he wants.

If you're communicating to a larger group, it's perfectly safe to assume that there will be a fairly equal distribution of colours. In this case, it's critical to appeal to all colour types.

Thirdly, do iMA for your team. You cannot build a successful team with just one or even two colour types. Diversity of colour is critical to effective team working.

Earlier this year, I was asked to identify the source of underperformance in a very elite team in the private sector. A 'high red' auditor had audited the performance of the team and concluded that their results were significantly off the mark. It was expected that I would engage in a series of long consultations with each of the

14-strong team and then provide a long and detailed report.

On the contrary, I had each of the team spend five minutes completing the iMA diagnostic via email. The result was illuminating. Of the 14, a total of 13 were 'green', and one was 'yellow.' It quickly transpired that, while 'high greens' make great researchers (the purpose of the job), they are also prone to being perfectionists and were procrastinating on getting reports out that were needed by their customers. I simply added an additional 'high red' and 'high blue' to the team and the results tangibly improved within one quarter.

You may understandably ask how 13 of one colour ended up in a team of 14. Once again I refer you to *'Aithníonn ciaróg ciaróg eile.'* The people doing the interviewing were all 'high green' and favoured someone of their communication style.

Communication matters. Begin by being mindful of your own communication style. Then, become aware of the communication styles of those you are communicating with, and modify and adapt your behavior accordingly. [G](#)



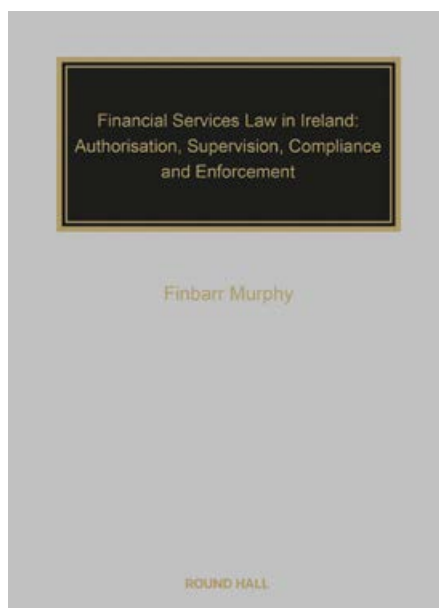
FINANCIAL SERVICES LAW IN IRELAND: AUTHORISATION, SUPERVISION, COMPLIANCE AND ENFORCEMENT

Finbarr Murphy. Round Hall (2018), www.roundhall.ie. Price: €395 (incl VAT).

Mr Murphy's book is an excellent exposition of the framework for credit institutions, insurance undertakings, and investment business firms in Ireland, and the key regulatory, supervisory and enforcement issues involved. It will be an essential reference resource for legal practitioners, other professional advisers, financial service managers and compliance officers, and students of Irish financial services law.

The book has 55 chapters, with additional appendices of significant relevant EU and Irish legislation. Its impressive scale and breadth means that it is possible only to give a brief sense of its scope and usefulness by highlighting some of its key content.

The book is broken into four parts: part I explains the importance of financial services institutions, the context for regulation, and the roles of the main national and international agencies. Part II examines the regulation of credit institutions. It outlines the regulatory framework for building societies, mortgage banks, securitisation, credit unions, credit institutions and trustee savings banks. Part III focuses on regulated markets and the Central Bank of Ireland's and ESMA's roles. It examines *MIFID I* and *MIFID II*, the Irish



Stock Exchange's role as competent authority, the relevant directives, and the various forms of investment vehicles, UCITs and alternative investment fund managers. Part IV is dedicated to insurance and occupational pensions.

This is a very comprehensive, thoughtful

and well-written work that sets out the principles and the framework of the regulation of financial services undertakings in Ireland.

As with all significant texts, while certain aspects will be of more interest for specialist practitioners, there is plenty to attract the more general practitioner and students. Throughout his book, Murphy explores the key supervisory and regulatory issues and features that have become a significant part of our vernacular since the 2008 financial crisis.

The author brings together and draws upon his years of experience as an academic and as a leading financial services practitioner to deliver clear analysis, insightful commentary, and a colossal work that will become a cornerstone for commentary and understanding of Irish financial services regulation.

To repeat Mr Justice MacMenamin's conclusion in the foreword: "A book is often viewed as a 'monument' to the author's industry. Murphy on financial regulation will itself be more than that: it will be a national resource."

High, but fitting praise.

Ken Casey is a partner in Hayes Solicitors, Earlsfort Terrace, Dublin 2.

PROCUREMENT LAW IN IRELAND

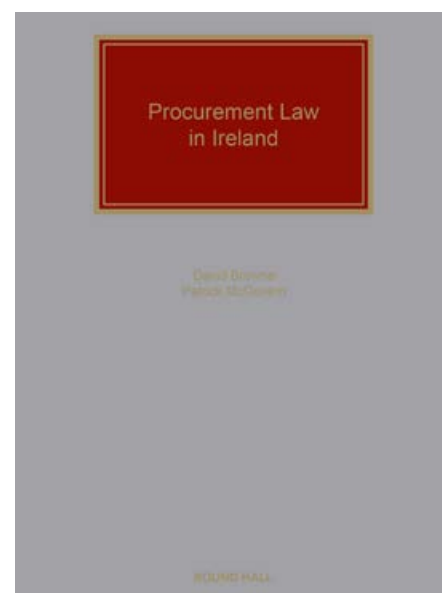
David Browne and Patrick McGovern. Round Hall (2018), www.roundhall.ie. Price: €369 (incl VAT).

Procurement law may sound mundane and straightforward, but the reality is far from that. Practitioners must master a complex layer-cake of four EU directives running to over 600 pages, four Irish ministerial regulations transposing the directives, countless Government circulars, and a body of case law that is arguably growing faster than in any other area. Add to this the tight limitation period with which claimants must contend, and the need for an Irish textbook needs no explaining.

The authors of this book faced a difficult choice and, admirably, declined the easy

option. Irish procurement practitioners have an old friend in the celebrated textbook of University of Nottingham Professor Arrowsmith. Rather than producing a short 'Irish supplement', the authors created a standalone textbook running to over 1,300 pages, and this choice is to our benefit, as their textbook has all the ingredients needed to become the 'bible' for Irish procurement practitioners.

With engaging style, the authors cover an impressively wide scope, which should appeal to a number of audiences. All practitioners will benefit from their summary of





the principles on implementing EU directives into Irish law, which fills a gap left by other Irish textbooks.

The authors must also be commended for providing an overview of every nitty-gritty procurement issue that is both comprehensive and helpfully distilled into bite-sized chunks, such that it is accessible to lawyers

and procurement professionals alike.

This book's release could not be more timely. With fast growth in Irish procurement case law, and Brexit-related uncertainty as to whether Ireland can continue to leverage off English scholarship and jurisprudence in this area, an Irish guide to the complex procurement

law landscape is most welcome.

This book is a valuable addition to Irish law libraries. The authors deserve the highest praise for making a significant contribution to a neglected area of scholarship.

Kate McKenna is a partner in the EU, competition and regulatory law group at Matheson

CONSTITUTIONAL LAW IN IRELAND

Jennifer Kavanagh. Clarus Press (2018), www.claruspress.ie. Price: €39 (incl VAT).

Dr Jennifer Kavanagh is a lecturer in law in the Waterford Institute of Technology, and this concise book is presented with the student reader as its target audience.


I would suggest, however, that it would be a very valuable addition to any practitioner's library, containing as it does a comprehensive review of the evolution of the Irish Constitution (from the initial inception of the 1919 Constitution ratified by Dáil Éireann during its first sitting on 21 January 1919, to the current amendments – up to and including the eighth amendment on 25 May 2018).

In between, it provides a fascinating insight into how the Constitution has been pivotal in defining the relationship between the various organs of the State. Landmark decisions regarding the separation of powers are covered in meticulous detail.

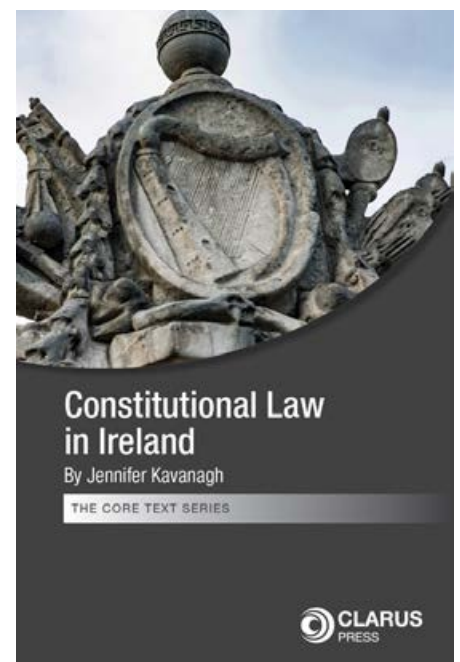
Younger practitioners may be particularly

interested in the judgment of the late Chief Justice Ó Dálaigh in the seminal decision of the Supreme Court in *Re Haughey* ([1971] IR 217), which reaffirmed the tripartite separation of powers. This is the very bedrock of the individual citizen's ability to assert their legal rights against the State.

One of the most interesting chapters deals with the ability of the courts to interpret the Constitution and, specifically, to do so in line with the prevailing ideas of the time, in order to be consistent with the common good. This was the thrust of the decision of the court in *McGee v Attorney General* ([1974] 284).

This is a highly accessible book and one I am happy to recommend to all readers of the *Gazette*. 

Kate McMabon is principal of Kate McMabon & Associates, The Capel Building, Mary's Abbey, Dublin 7.



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UPHOLDING JUDICIAL INDEPENDENCE

The CJEU has emphasised the importance of judicial independence – and that judicial review is intrinsic to the effective legal protection of individuals' rights. **Cormac Little** states his case

CORMAC LITTLE IS A PARTNER IN WILLIAM FRY AND VICE-CHAIR OF THE LAW SOCIETY'S
EU AND INTERNATIONAL AFFAIRS COMMITTEE

THE EU IS BASED ON VARIOUS COMMON VALUES, INCLUDING THE RULE OF LAW. MEMBER STATES AND THE TRUST BETWEEN MEMBER STATES ARE BASED ON THESE SAME VALUES

The EU's Court of Justice (CJEU) has recently highlighted the importance for member states of upholding the principle of judicial independence. In its 27 February 2018 judgment in Case C-64/16 *Associação Sindical dos Juizes Portugueses (ASJP) v Tribunal de Contas* (the Portuguese Court of Auditors), the CJEU also emphasised that the possibility of judicial review is intrinsic to the effective legal protection of the rights of individuals under EU law. In order to ensure such protection, an independent judiciary is essential. While the facts of the case relate to Portugal only, the CJEU is clearly mindful of the current threats to the rule of law elsewhere in the EU.

Judges' salaries

Like Ireland, Portugal was granted assistance by the EU with a view to remedying its excessive budget deficit resulting from the financial crisis of the latter half of the last decade. As part of the EU programme, Portugal was required to introduce various measures with a view to reducing, at least on a temporary basis, its public sector pay bill.

In a 2014 statute, therefore, Portugal adopted a series of temporary cuts to the salaries of senior office-holders (including the president, the prime minis-

ter and senior judges – including members of the Court of Auditors – plus other public-sector employees. These reductions took effect on October of that year. Ultimately, these pay cuts were gradually abolished as and from 1 January 2016, with full salaries being restored on 1 October of the same year.

The ASJP, a trade union of the Portuguese judiciary acting on behalf of the judges on the Court of Auditors, challenged the implementation of the 2014 law before the Portuguese Supreme Administrative Court (PSAC) on the basis that the relevant salary reductions infringed the principle of judicial independence under both the Portuguese constitution and EU law.

The PSAC stayed the proceedings and, in January 2016, referred a question to the CJEU for preliminary ruling under article 267 of the *Treaty of the Functioning of the EU* (TFEU). In essence, the PSAC requested the CJEU to rule on whether article 19(1), second subparagraph, of the *Treaty on European Union* (TEU) means that the principle of judicial independence prevents the imposition of pay cuts on national judges.

Treaty on European Union

Article 2 TEU provides that the EU is founded on various common values, including respect for both democracy and the rule

of law. Article 7 TEU aims at ensuring that all member states respect these common values. Specifically, article 7(1) TEU contains a preventative mechanism that would only be activated in case of a 'clear risk of a serious breach' by a member state of one of the relevant common values, whereas the sanctioning mechanism enshrined in article 7(2) TEU may only be actioned in case of a 'serious and persistent breach' by a member state.

Broadly speaking, article 19 TEU provides for the establishment of the EU judicial system, including the CJEU and the general courts. Specifically, article 19(1) TEU, first subparagraph, stipulates that each member state shall provide remedies to ensure effective legal protection in the fields covered by EU law.

EU charter

The *Charter of Fundamental Rights of the EU* enshrines certain civil, political, social, and economic rights for EU citizens and residents into EU law. The charter is split into various titles containing the main categories of rights, including dignity, freedoms, equality, solidarity, citizen's rights, and justice. For example, article 47 of the charter guarantees everyone the right to a fair and public hearing, within



COURTS SHOULD BE ABLE TO TAKE THEIR DECISIONS WITHOUT ANY EXTERNAL INTERVENTIONS. MOREOVER, JUDGES SHOULD ENJOY CERTAIN PROTECTION AGAINST REMOVAL FROM OFFICE



THE COURT ELABORATES ON WHAT JUDICIAL INDEPENDENCE ENTAILS. IT FOUND THAT THIS PRINCIPLE PRESUPPOSES THAT ANY COURT IN THE EU SYSTEM SHOULD EXERCISE ITS ADJUDICATORY ROLE AUTONOMOUSLY, WITHOUT BEING SUBJECT TO ANY HIERARCHICAL CONSTRAINTS

a reasonable time, by an independent and impartial tribunal established by law. The charter took full legal effect as and from the entry into force of the *Treaty of Lisbon* on 1 December 2009.

Under the charter, the EU must act and legislate consistently with each of the seven titles. Indeed, the European courts should annul the relevant provisions of any EU regulations, directives or decisions that contravene the charter. In addition, article 51 of the charter stipulates that these titles are relevant to member states when they are implementing EU law. For example, the charter applies when member states adopt or apply a national law implementing a directive. National legislation that conflicts with the charter is subject to the doctrines of supremacy and direct effect of EU law, and national courts therefore must disapply any national laws that conflict with the charter. However, in purely national situations, the charter is not justiciable – it is only binding on a member state when the latter acts within the scope of EU law.

Effective judicial protection

After rejecting the argument of the Portuguese government that the request for preliminary ruling should be declared inadmissible, the court considered whether the principle of judicial independence prevented the October 2014 to October 2016 salary cuts.

Focusing on the substance, the court stated that the second subparagraph of article 19 TEU applies to the “fields governed by [EU] law”, irrespective of whether member states are implementing EU law. In short, this means that the material scope of article 19 TEU is broader than that of the charter. Accordingly, a case under national law may fall under the jurisdiction of the CJEU if the relevant court may potentially apply EU law. (The fact that the CJEU’s

judgment suggests that the scope of EU law is wider than that of the charter has been met with some surprise by commentators.)

Referring to article 2 TEU, the CJEU stated that the EU is based on various common values, including the rule of law. Member states and the trust between member states are based on these same values. The court noted that, throughout the EU, justice should prevail. This means that any legal or natural person may seek to challenge the legality of any national measure based on EU law. Considering that article 19 TEU makes flesh of the value of the rule of law contained in article 2 TEU, the CJEU held that the responsibility for ensuring the availability of judicial review in the fields covered by EU law falls not only on the CJEU/General Court but also on national courts and tribunals. In other words, any national court or tribunal that may be called upon to adjudicate on a matter of EU law is part of the EU’s judicial system. Accordingly, member states, by virtue of their duty of sincere cooperation contained in article 4(3) TEU, must ensure effective judicial protection in the fields covered by EU law, including the establishment of a system of legal remedies and procedures.

The CJEU stipulated that the existence of effective judicial review is of the very essence of the rule of law. The court found that, since the Court of Auditors may, under national law, rule on questions of the use of the EU’s financial resources and/or on EU public procurement issues, Portugal must ensure that it meets the requirements essential to effective judicial protection.

Judicial independence

Noting article 47 of the charter, which provides that an independent tribunal is key to the fun-

damental right to an effective remedy, the CJEU found that the guarantee of independence of the European courts, as enshrined in article 19(2) TEU, also applies to national courts (when they operate in the fields governed by EU law.) However, article 19 TEU is entirely silent regarding the independence of national judges. The CJEU thus looks to other EU law provisions to support its reasoning, including the provisions of article 267 TFEU, whereby a court or tribunal must satisfy various criteria (including independence) before it can make a reference to the CJEU. However, independence is a condition that a court/tribunal must meet, not a generalised obligation on member states. Moreover, it is again curious that the CJEU finds support in the charter for the independence of judges, notwithstanding the fact that this body of law was sidelined for the purposes of its overall reasoning.

The court elaborates on what judicial independence entails. It found that this principle presupposes that any court in the EU system should exercise its adjudicatory role autonomously, without being subject to any hierarchical constraints. Such courts should be able to take their decisions without any external interventions. Moreover, judges should enjoy certain protection against removal from office and, also, be remunerated commensurate with the importance of their function. (The former finding sends a clear and unambiguous message to all member states.)

Focusing on the challenge by the ASJP, the court found that the temporary salary cuts for members of the Court of Auditors were broadly applied to senior office-holders/staff across the Portuguese political class/public service. Accordingly, the court held that these reductions



cannot be considered to undermine the independence of the relevant judges.


Broad application

The CJEU's reasoning in *ASJP* can best be understood by shifting attention from the south-west to the east of the EU. While Poland is not mentioned in the judgment (indeed, there was no intervention before the court by it or other any third-party member state), the deterioration in the rule of law (in particular the reform of the national judicial system) in that member state is clearly at the forefront of the CJEU's mind. The court is also undoubtedly aware that the European Commission has initiated article 7(1) TEU proceedings against Poland. However, there are significant hurdles in

this process, not least in reaching the requisite majority of 80% of member states.

The threat to the rule of law in Poland has also been examined by the Irish courts. In a recent case, Poland sought the extradition of a Mr Celmer to face trial on drug-trafficking charges. Celmer contested this request, grounding his plea on the risk of an unfair trial due to the apparent lack of independence of the Polish courts. In its 25 July 2018 judgment on a preliminary ruling in Case C-216/18 *PPU – LM*, the CJEU advised that the High Court must assess whether there was a real risk to the proposed defendant's fundamental right to a fair trial. On 19 November last, Donnelly J rejected Celmer's application, stating that, although there appeared to be deficiencies

in the Polish judicial system, they did not amount to a real risk to his right to a fair trial. (Celmer has since appealed this decision to the Supreme Court.) In its *Celmer* judgment, the CJEU relied heavily on its reasoning in the *ASJP* case, again stating that independence is essential to effective judicial protection.

Indeed, given its justiciability, *ASJP* is likely to serve as a bedrock for other referrals from national courts under article 267 TFEU on matters arising from threats to the rule of law. Moreover, it could also provide the legal basis for the European Commission to initiate infringement actions against Poland, Hungary (and other errant member states) in the event of continuing threats to this core EU value. 

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REPORT OF THE LAW SOCIETY COUNCIL MEETING

25 JANUARY 2019

Diversity and inclusion

The Council approved the terms of reference and composition of the Gender Equality, Diversity and Inclusion Task Force, and noted that its first meeting would be held on 12 February 2019.

Strategy Statement

The Council approved the Law Society's Strategy Statement 2019-2023 and noted that it

would be published on the Society's website, together with the departmental operational plans for 2019.

Meeting with minister


The president and director general briefed the Council on a meeting with the Minister for Justice and Equality on 21 January, at which a number of issues had been discussed, including criminal legal aid, the *Legal Ser-*

vices Regulation Act, Brexit, the *Judicial Appointments Commission Bill*, the *Judicial Council Bill* and electronic conveyancing.

High Court practice direction

The Council discussed concerns about a recent High Court practice direction in relation to asylum, immigration and citizenship proceedings, aspects of which would place additional onerous obligations on appli-

cants and their solicitors, and could result in barriers to access to justice for migrants and their families.

The view was expressed that the proposals should have been discussed at the appropriate Rules of Court Committee, in consultation with the legal professional bodies. It was agreed to seek a meeting with the President of the High Court as a matter of urgency. 

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DATA RETENTION AND DESTRUCTION OF PAPER AND ELECTRONIC FILES

This note provides general guidance for solicitors on the retention and destruction of client paper and electronic files. As an update to the last retention practice note published in 2005, it repeats and, where required, revises the position in relation to adequate periods of retention following the completion of a transaction on behalf of the client, as well as the effective deletion of a file.

Data security is of paramount importance to solicitors, their clients and third-party institutions. Cyber-breaches, together with the implementation of the *General Data Protection Regulation* (GDPR) in May 2018, have raised the profile of data storage. Clients are now actively concerned with how long their data is held. Banks are reluctant to maintain custody arrangements. As a result, solicitors need to implement retention policies to establish how long each category of file should remain open.

A solicitor is not required to retain a file indefinitely. At the start of a matter, it is worth explaining to your client that you operate a retention policy; this can be set out in your written terms and conditions. Clients can also be notified about a retention policy via an online privacy policy. Clients should be advised if they will be charged a search/retrieval fee for taking up files from storage.

In all situations, documentation being retained or stored solely in an electronic storage format should be retained for at least the same period as a paper version would. Where documentation is properly stored

in an electronic format (and subject to any specific statutory or regulatory limitations on storage or retention in electronic format), the paper version (if one existed) need not be retained. Conversely, where documentation is retained or stored in a paper format, then the electronic version need not be retained. It should be noted that hard copy files will need to be retained to comply with some legislation; for example, the *Solicitors Accounts Regulations* require originals of documents to be held (see below).

The Law Society's *Guide to Good Professional Conduct for Solicitors* (3rd edition) provides: "In order to protect the interests of clients who may be sued by third parties and also to protect the interests of a solicitor's firm which may be sued by former clients or by third parties, a solicitor should ensure that all files, documents and other records are retained for appropriate periods."

'Appropriate periods' refer to the relevant statutory period for the issue of legal proceedings. The table (*opposite*) is intended to provide general guidance to solicitors in assessing appropriate periods for retention.

Statute of Limitations requirements (not less than appropriate limitation period)

It is recommended that files should be retained for at least the duration of the appropriate limitation period as set out for specific actions under the *Statute of Limitations 1957* (as amended).

The purpose of this file retention

is twofold:

- *Protection of solicitor* – period of limitation within which clients can bring proceedings relating to the solicitor/client contract. Files should remain available for the solicitor's professional indemnity insurers.
- *Protection of the client* – periods of limitation within which the client can be sued by third parties arising out of a transaction. Clients may require that files are placed on litigation hold; in these circumstances files are preserved at the client's request.

It should be borne in mind that a summons remains valid for six months after it is issued (whether or not it has been served) and may be renewed for a further six months prior to service.

Conveyancing files (not less than 13 years)

Solicitors should retain conveyancing files for 13 years; as a rule, time should run from the time the file is closed. Pending further clarification from the PRA with regard to the obligation to provide an indemnity in circumstances where an error on a *Form 3* comes to light, solicitors are advised to indefinitely retain copies of relevant title documentation pursuant to a first registration application by way of Land Registry *Form 3*. This caveat does not apply to applications for first registration by way of Land Registry *Form 1* or Land Registry *Form 2*, as all title documents underpinning such applications will have been provided to the Land Registry.

Infant cases

Time does not begin to run against infants until they reach the age of majority. Accordingly, infant files must be identified and retained for the appropriate period.

Mentally incapacitated persons

A solicitor cannot accept instructions from a mentally incapacitated person. Occasionally, following the completion of a matter, there may be a suggestion by third parties that instructions should not have been accepted. In any such case, the file should be retained indefinitely.

Probate files

Prior wills should be kept in the probate file and destroyed when the file itself is being destroyed.

Drafting of wills

When a solicitor drafts a will for a client, the solicitor should consider whether the attendance notes from the file should be retained with the original will and then be retained indefinitely.

Investigation of complaints

The *Solicitors (Amendment) Act 1994*, as amended by the *Legal Services Regulation Act 2015*, provides that the Law Society may not investigate complaints of inadequate services or excessive fees that relate to matters arising more than five years previously.

Solicitors Accounts Regulations (not less than six years)

SI 516 2014 (*Solicitors Accounts Regulations 2014*) sets out the minimum accounting records



Q FOCAL POINT

MANDATORY PERIODS FOR RETENTION

Category of file	Statutory regulatory reference	Retention period
All files	<i>Statute of Limitations Act 1957</i> , as amended, and other relevant legislation	Seven years minimum (six years' liability period plus one year for service of proceedings)
All files	Sections 8 and 9, <i>Solicitors (Amendment) Act 1994</i>	Five years
All files	<i>Section 91</i> of the <i>Finance Act 2014</i>	For a period of six years or where a transaction, act or operation is the subject of an investigation, inquiry, claim, assessment, appeal or proceedings, which has already commenced within the six-year period, then the relevant books or records must be retained until such time as the investigation, inquiry, claim, assessment, appeal or proceedings has concluded
All files	<i>Data Protection Acts 1988-2018</i>	Personal data shall not be kept for longer than is required by the relevant statutory provision
All files and account records – the file forms part of accounts records	Section 25(2) of SI 516 2014 – <i>Solicitors Accounts Regulations 2014</i>	Six years
Conveyancing files	<i>Statute of Limitations Act 1957</i> , as amended, for title matters	13 years minimum (12 years' liability period for documents executed under seal, plus one year for service of proceedings). *Practitioners should be aware of the impact of ongoing case law on the running of limitation periods. See, for example, the recent decision of <i>Mark Smith v Mark Cunningham, Kevin Sorahan, Anne Marie Sorahan and Paul Kelly</i> and the Supreme Court decision in <i>Bradley v Deane</i> [2017 IESC] regarding professional negligence
Files of infant minor	<i>Statute of Limitations Act 1957</i> , as amended, and other relevant legislation	Relevant period of limitation after child has reached majority
Files of mentally incapacitated persons	Various	Indefinite
Probate files	Various	12 years – but for trusts, see below ("Trust files")
Trust files	Various	The lifetime of the trust plus 12 years
Notes relating to drafting of will	Various	Indefinite
AML documentation evidencing client identity (original documents or admissible copies of transactions)	<i>Criminal Justice (Money Laundering and Terrorist Financing) Act 2010</i>	Five years
File records and linking documents of persons with a taxable interest in land	Sections 84 and 85 of the <i>VAT Consolidation Act 2010</i>	Period of taxable interest plus six years



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7 March	Law Society Finuas Skillnet Fintech Symposium – Law & Regulation in Ireland	4 General plus 1 Regulatory Matters (including AML & Accounting compliance (by Group Study))	€150	€176
7 & 14 March	Practical Legal Research for Practitioners	2 General plus 4 M & PD Skills (by Group Study)	€572 (iPod included in fee)	€636 (iPod included in fee)
Starts 20 March	Certificate in Professional Education (20 March, 23 March, 10 April, 13 April, 8 May, 11 May, 22 May)	Full M & PD Skills plus Full General requirement (by Group Study) for 2019	€1,450 (iPod included in fee)	€1,550 (iPod included in fee)
21 March	International Issues in Sports Law – in partnership with the EU & International Affairs Committee	2 General (by Group Study)	Complimentary	
21 & 22 March	Certificate in English and Welsh Property Law Online Assessment – 4 April	9 General (by Group Study)	€411	€588
26 March	GDPR in Action – Guidance for Legal Practitioners on How to Deal with Subject Access Requests - Kingsley Hotel, Cork	2 Regulatory Matters (by Group Study)	€100	
28 March	Mediation in the Civil Justice System – in partnership with the ADR committee and CEDR and GEMME	2.5 General (by Group Study)	€150	€176
5 April	Employment Law Masterclass: Termination of Employment	6.5 General (by Group Study)	€210	€255
12/13 April	Planning & Environmental Law Masterclass for Conveyancers Radisson Blu Royal Hotel, Dublin 8	8 General plus 2 M & PD Skills (by Group study)	€350	€425
8 May	The Older Client: the Role of the Solicitor in Resolving Disputes – in partnership with Solicitors For the Elderly	3 General (by Group Study)	€160	€186
16 May	In-house Panel Discussion - in partnership with the In-house & Public Sector Committee	3 M & PD Skills (by Group Study)	€65	

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that a solicitor must maintain and keep in connection with his or her practice. Solicitors must retain accounting records for at least six years. 'Accounting records' includes the original file. The regulations require that the original of each paid cheque drawn on each client account must be retained (as opposed to a copy cheque), together with the corresponding cheque stubs or requisition dockets.

Anti-money-laundering requirements

Section 55 of the *Criminal Justice (Money Laundering and Terrorist Financing) Act 2010* sets out the requirements for designated persons to keep records. Records evidencing the identity of a client, together with the original documents or admissible copies relating to the relevant client, should be retained for a period of at least five years following the date on which the practitioner ceases to provide any service to that client or the date of the last transaction (if any) with the client, whichever is the later.

Data protection

The *Data Protection Acts 1988-2018* (DPA) provide that 'personal data' must only have been obtained for one or more specified, explicit and legitimate purpose(s). The DPA stipulates that personal data shall not be kept for longer than is necessary for that purpose or those purposes. In circumstances where data is being retained to comply with a statutory requirement, then a solicitor may retain data beyond the closing of the client file, as this would qualify as a legitimate purpose. To comply with the DPA, clients should be advised at the outset:

- That their details or personal data may be held for such

periods as required to comply with legislation, and

- The purpose behind the retention of their data.

Revenue and tax requirements (not less than six years)

A general obligation to keep certain records for tax purposes is imposed by section 886 of the *Taxes Consolidation Act 1997*. Section 91 of the *Finance Act 2014* amended the six-year rule. This section provides that, where a transaction, act or operation is the subject of an investigation, inquiry, claim, assessment, appeal or proceedings, which has already commenced within the six-year period, then the relevant books or records must be retained until such time as the investigation, inquiry, claim, assessment, appeal or proceedings has been concluded.

Sufficient records must be kept as will enable full tax returns to be made, and the section does not qualify the period for which they must be kept. While the definition of records is specifically related to accounts and books of accounts etc, certain other supporting documents must be retained by the person obliged to keep the records for six years after the completion of the transaction to which they relate. It appears that linking documents and returns do not have to be retained where an inspector notifies the person concerned that retention is not required.

Companies Acts requirements

There are a number of requirements imposed under the *Companies Act 2014* relating to the retention of company books and records. It should be noted that these requirements are imposed on the company itself and are not considered directly relevant to this guidance note. Section 112

of the *Companies Act* provides that companies should keep documents wherein it acquires its own shares until the expiration of ten years after the date on which the contract has been fully performed. Section 285 of the *Companies Act* requires that accounting records should be kept for a period of six years after the end of the financial year containing the latest date to which the record, information or return relates.

Electronic storage

Electronic storage encompasses file data stored in practice management systems, in the cloud, in emails, and on external devices such as USB keys and CD-ROMs. It is important that documents on all forms of electronic storage be deleted, for example, in a shared scan folder.

When a matter is complete, emails should be archived and, where possible, stored in a practice management system. Scan folders should be cleansed regularly.

Material in an electronic storage format should be secured and safeguarded against destruction or theft in the same way as that in paper format. It should also be stored in a secure physical location to ensure protection against fire, theft, destruction, etc. Electronic devices should be password protected, and these passwords should be changed frequently.

As a further precautionary measure, solicitors should consider restricting access to client files. IT departments can arrange to 'silo' file access through permissions, which should be reviewed regularly. It is recommended that files held on shared drives be password protected, especially when sensitive data is involved.

Destruction of files

Electronic and paper files should be destroyed once the relevant statutory or regulatory periods for retention or periods of limitation have elapsed and the solicitor is satisfied that there is no further purpose in retaining them. Firms should record the end of retention period (often called the 'shred date') in respect of each file in their file registers as part of the firm's file closing procedure. Where storage facilities are used, physical files should be grouped with files with similar shred dates to ensure that it is not unduly burdensome or costly to retrieve files for the purposes of destruction.

Care should be taken to dispose of electronically stored material in a manner that preserves client confidentiality. Hard copy files should always be shredded. Practitioners should also implement a destruction policy with regard to PCs, hardware, and electronic devices. Hardware should be physically destroyed to ensure data security.

Key points

- Draft a retention policy: establish a protocol by which you manage the retention and destruction of data,
- Restrict access to client files,
- Use office-management systems to diary dates for document destruction,
- Consider each medium where data is stored.

Caveat: This note offers general guidance but may not be suitable for particular situations. It is always a matter for individual solicitors to make their own professional judgement with regard to ongoing retention of files and documents following the expiry of the statutory periods for retention.



SOLICITORS DISCIPLINARY TRIBUNAL

REPORTS OF THE OUTCOMES OF SOLICITORS DISCIPLINARY TRIBUNAL INQUIRIES ARE PUBLISHED BY THE LAW SOCIETY OF IRELAND AS PROVIDED FOR IN SECTION 23 (AS AMENDED BY SECTION 17 OF THE *SOLICITORS (AMENDMENT) ACT 2002*) OF THE *SOLICITORS (AMENDMENT) ACT 1994*

In the matter of Donal Taaffe, solicitor, of Donal Taaffe & Co, Solicitors, Malthouse Square, Smithfield Village, Dublin 7, and in the matter of the *Solicitors Acts 1954-2015* [2017/DT69]

Named client (applicant)

Donal Taaffe (respondent solicitor)

On 11 October 2018, the Solicitors Disciplinary Tribunal found the respondent solicitor guilty of misconduct in respect of the following complaint as set out in the applicant's affidavit: failure to communicate with client.

The tribunal ordered that the respondent solicitor stand advised and admonished.

In the matter of Aisling Maloney, a solicitor practising as AM Maloney & Company, Solicitors, Harbour Street, Tullamore, Co Offaly, and in the matter of the *Solicitors Acts 1954-2015* [2018/DT15]

Law Society of Ireland (applicant)

Aisling Maloney (respondent solicitor)

On 4 December 2018, the tribunal found the respondent solicitor guilty of professional misconduct in that she:

- 1) Failed to comply with a direction of the Complaints and Clients Relations Commit-

tee made at its meeting on 6 June 2017 to return the purchase moneys paid on behalf of a named company, totalling €234,000, to the named complainant within seven days or at all,

- 2) Failed to reply adequately or at all to the complainant's correspondence, in particular, letters dated 30 November 2015, 18 January 2016, 24 February 2016, 7 April 2016 and 21 April 2016 respectively,
- 3) Failed to respond adequately or at all to the Society's correspondence, in particular, letters dated 2 September 2016, 26 September 2016, 7 October 2016, 20 December 2016, 3 March 2017, 23 March 2017 and 29 March 2017 respectively,
- 4) Failed to attend a meeting of the Complaints and Client Relations Committee on 6 June 2017, despite being required to attend,
- 5) Failed to attend a meeting of the Complaints and Client Relations Committee on 18 July 2017, despite being required to attend.

The tribunal ordered that the respondent solicitor:

- 1) Stand censured,
- 2) Pay the sum of €3,000 to the compensation fund,

- 3) Pay a contribution of €2,250 towards the whole of the costs of the Law Society of Ireland.

In the matter of Aisling Maloney, a solicitor practising as AM Maloney & Company, Solicitors, Harbour Street, Tullamore, Co Offaly, and in the matter of the *Solicitors Acts 1954-2015* [2018/DT20]

Law Society of Ireland (applicant)

Aisling Maloney (respondent solicitor)


On 4 December 2018, the tribunal found the respondent solicitor guilty of professional misconduct in that she:

- 1) Failed expeditiously, within a reasonable time, or at all to register the interests of her former named clients onto the title of a named property at Claremorris, Co Mayo, when first instructed in the purchase of the said property in or around 2007,
- 2) Failed to reply adequately or at all to the correspondence of the complainant solicitor and, in particular, letters dated 29 September 2014, 12 February 2016, 21 June 2016, and 20 September 2016 respectively,
- 3) Failed to reply adequately or at all to the correspondence of the Law Society of Ireland and, in particular, letters dated

25 October 2016, 16 November 2016, 29 November 2016, 2 February 2017, 28 February 2017, 30 March 2017, 9 May 2017, 1 June 2017, 19 July 2017, 26 July 2017, 20 September 2017, 12 October 2017, 2 November 2017, 4 December 2017, 14 December 2017 and 24 January 2018,

- 4) Failed to attend meetings of the Complaints and Client Relations Committee on 12 September 2017, 24 October 2017, 11 December 2017 and 8 February 2018, despite being required to do so,
- 5) Failed to comply with the direction of the Complaints and Client Relations Committee made at its meeting on 11 December 2017, whereby she was to clarify immediately the position regarding the professional fees charged to her clients and confirm to the Society the status of the dealing number provided by her in respect of the transaction.

The tribunal ordered that the respondent solicitor:

- 1) Stand censured,
- 2) Pay the sum of €3,000 to the compensation fund,
- 3) Pay a contribution of €1,750 towards the whole of the costs of the Law Society of Ireland. 



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WILLS

Braddish, Teresa (deceased), late of 20 South Claughan Road, Garryowen, Limerick, who died on 11 September 2017. Would any person having knowledge of the whereabouts of the original will made by the above-named deceased, dated 21 December 1989, or any will executed by the above-named deceased, please contact John Hickie, solicitor, 3A Old Clare Street, Limerick V94 N512; tel: 061 316 454, email: hickie@eircom.net

Bradley, James (deceased), late of Strawberry Hill, Belmont, Birr, in the county of Offaly, who died on 8 August 1984. Would any solicitor holding or having knowledge of a will made by the above-named deceased please contact Sheelagh Doorley, Devitt Doorley Solicitors, The Valley, Roscrea, Co Tipperary; tel: 0505 21176, email: devtdoorley@eircom.net

Cash, Thomas (deceased), late of Ballina Upper, Blackwater, in the county of Wexford. Would any person having knowledge of a will made by the above-named deceased, who died on 28 May 2017, please contact Ensor O'Connor, Solicitors, 4 Court Street, Enniscorthy, in the county of Wexford; tel: 053 923 5611, email: info@ensoroconnor.ie

Dickens, Cheryl (deceased), late of 41 Callery Road, Mount Merrion, Co Dublin. Would any person having knowledge of the whereabouts of any will made by the above named in this jurisdiction please contact Sherlock & Company, Solicitors, 9-10 Main Street, Clondalkin, Dublin 22; tel: 01 457 0846, email: info@sherlocksolicitors.ie

Doran, Kathleen (deceased), late of Padre Pio Nursing Home, Thurles, Co Tipperary; 19 and 21 Sue Ryder Homes, Holycross, Thurles, Co Tipperary; 28 Marian Court, Clonmel, Co Tipperary; and 6 Upper Cork Street,

RATES

PROFESSIONAL NOTICE RATES

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- **Title deeds** – €300 per deed (incl VAT at 23%)
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Deadline for April 2019 *Gazette*: 11 March 2019. For further information, contact the *Gazette* office on tel: 01 672 4828.

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*.

Mitchelstown, Co Cork. Would any person having knowledge of the whereabouts of any will made or purported to have been made by the above-named deceased, or if any firm is holding same, please contact MJ O'Callaghan & O'Keeffe, Solicitors, New Square, Mitchelstown, Co Cork; tel: 025 24500, email: info@ocok.ie

Doyle, Nora (otherwise Noreen) (deceased), late of 22 Main Street, Kilcoole, Co Wicklow. Would any person having knowledge of a will made by the above-named deceased, who died on 21 November 2018, please contact Frank Murphy, Solicitors, Priory House, 19 Priory Office Park, Stillorgan, Blackrock, Co Dublin; tel: 01 283 5252, email: sbyrne@fmlaw.ie

Dunne, David (deceased), late of 16 Rathbeale Court, Swords, Co Dublin, and formerly of 124 Betaghstown Wood, Bettystown, Co Meath, who died on 12 September 2018. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact McKeever Taylor, Solicitors, 31 Laurence Street, Drogheda, Co Louth;

tel: 041 983 9639, email: info@mckeevertaylor.ie

Fleming, Patrick (deceased), late of Brownstown, The Curragh, Co Kildare, who died on 30 May 2006. Would any person having knowledge of the whereabouts of a will executed by the above-named deceased please contact O'Callaghan Legal, Solicitors, Mounttown House, 62-63 Mounttown Road Lower, Dun Laoghaire, Co Dublin; tel: 01 280 3399, email: info@ocslegal.ie

Heffernan, John, (deceased), late of Drakeslands Middle in the county of Kilkenny, who died on 23 October 1983. Would any person having knowledge of the whereabouts of a will executed by the above-named deceased please contact Thomas A Walsh & Company, Solicitors, 23 James Street, Kilkenny; tel: 056 776 4355, email: info@thomasawalsh.com

Lyons, Bridget (deceased), late of Kilmacow, Kilfinny, Adare, Co Limerick, who died on 21 December 2018. Would any person having knowledge of the whereabouts of any will executed by the said deceased please

contact Plunkett Hayes & Co, Solicitors, Croom Mills, Croom, Co Limerick; tel: 061 600 851, email: plunketthayessolicitor@eircom.net

McGuire, Terence (deceased), late of 91 The Chandler, Arran Quay, Dublin 7, who died on 14 January 2019. Would any person having knowledge of the whereabouts of a will executed by the above-named deceased please contact Terence F Casey & Co, Solicitors, 99 College Street, Killarney, Co Kerry; tel: 064 663 251, email: info@tfc Casey.ie

Nolan, Ray John (deceased), late of 21 Yale Ardilea, Clonskeagh, Dublin 14, who died on 19 March 2018. 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 his will, please contact Noel Smyth & Partners, Solicitors, 12 Ely Place, Dublin 2; tel: 01 632 1000, email: solrs@nspartners.ie

Nugent, Seamus (also known as James) (deceased), late of 67 Avondale, Trim, Co Meath. Would any person having



knowledge of the whereabouts of any will made by the above-named deceased please contact Malone & Martin, Solicitors, Market Street, Trim, Co Meath; tel: 046 943 1256, fax: 046 943 6409, email: info@maloneandmartin.com

O'Brien, Margaret (otherwise Gertrude) (deceased), late of 22 Newlands Park, Clondalkin, Dublin 22. Would any person having knowledge of a will made by the above-named deceased, who died on 24 July 2010, please contact Patrick Buckley & Co, Solicitors, 5/6 Washington Street West, Cork; tel: 021 427 3198, email: dcrawe@pbuckley.ie

O'Dea, James (deceased), late of Retreat Heights, Athlone, in the county of Westmeath. Would any person having knowledge of the original will dated 1 September 2003, or any will executed by the above-named deceased, who died on 9 April 2016 at Mayo University Hospital, Castlebar, Co Mayo, please contact Melotte O'Carroll, Solicitors, 11 Pearse Street, Athlone, Co Westmeath; tel: 090 649 2692, email: info@mocsolicitors.ie

O'Dwyer, John Joseph (deceased), late of 15 McDonagh Court, Cashel, Co Tipperary, who died on 27 November 2018. Would any person having knowledge of a will made by the above-named deceased, or if any firm is holding same, please contact John M Spencer, Solicitors, Cudville, Nenagh, Co Tipperary; DX 20007; tel: 067 31622, fax: 067 31973, email: info@jmspencer.ie

Smith, Desmond (deceased), late of 3 Millbourne Avenue, Drumcondra, Dublin 9. Would any person having knowledge of the whereabouts of any will made by the above-named deceased please contact Niall Corr & Company, Solicitors, 32 Malahide Road, Artane, Dublin 5; tel: 01 831 2828, email: info@ncs.ie

MISCELLANEOUS

High Court

Between: Ulster Bank Ireland DAC (plaintiff) and Liam Moran (defendant) [record no 2018/464SP]

To Liam Moran, having his last known address at 4 St Ives Road, Bisset Strand, Malahide, Co Dublin

Please take note that a special summons has issued, which requires you to attend before the Master of the High Court at the Four Courts, Dublin 7, on 19 March 2019 at 10.30 in the forenoon, at the hearing of this special summons, which issued on 18 September 2018.

And if you do not attend in person or by solicitor at the time and place aforesaid, such order will be made and proceedings taken as the court may think just and expedient; and take note that, if you wish to attend and to be heard, you should first enter an appearance.

Date: 1 March 2019

Signed: Maples and Calder (solicitors for the plaintiff), 75 St Stephen's Green, Dublin 2

TITLE DEEDS

In the matter of the Landlord and Tenant (Ground Rents) Acts 1967-2005 and in the matter of an application by Joy Elizabeth Gafson and Geoffrey Gafson, both of 20 Holmwood Grove, Mill Hill, London NW7 3DT, England, and in the matter of the property known as 90 Terenure Road East, Terenure, Dublin 6W

Take notice any person having an interest in the freehold estate of the property known as 90 Terenure Road East, Terenure, Dublin 6W, held under an indenture of lease dated 25 July 1890 and made between Charles Robert Whitton of the one part and Anne Theresa Cahill of the other part for the term of 200 years from 29 September 1904, subject to the annual rent of £150 (former currency), that the applicants, Joy Elizabeth Gafson and Geoffrey Gafson, intend to submit an application

to the county registrar for the county of Dublin for the acquisition of the freehold interest in the aforementioned properties, and that any party asserting a superior interest in the aforementioned properties (or either of them) is called upon to furnish evidence of such title to the aforementioned properties to the undermentioned solicitors within 21 days from the date of this notice

Take notice that, in default of 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 for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest or interests, including the freehold reversion, to each of the aforementioned properties is unknown or unascertained.

Date: 1 March 2019

Signed: Rutherford (solicitors for the applicants), 41 Fitzwilliam Square, Dublin 2

Landlord and Tenant (Ground Rents) Act 1967: notice of intention to acquire fee simple

To the successors in title of the assignees of Robert Fowler as the trustee of the estate of the Right Honourable John Charles, Earl of Blessington/successor in title to the Earl of Blessington/the person entitled to the fee simple interest in the premises at 381 North Circular Road, Dublin 7/the person holding the lessors' interest in the lease dated 2 May 1860, made between Robert Fowler on the one part and Seamus Farlow on the other part for a term of 193 years from 29 September 1858 for a yearly rent of £12.18.0, and any mortgagee or person holding any incumbrance on the fee simple interest in the premises at 381 North Circular Road, Dublin 7/the person holding the lessors' interest in the lease dated 2 May 1860, made between Robert Fowler on the one part and Seamus Farlow on the other part for a term of 193 years from 29 Sep-

tember 1858 for a yearly rent of £12.18.0.

Description of land to which this notice refers: all that and those the premises situate at 381 North Circular Road, Dublin 7.

Particulars of applicant's lease or tenancy: the applicant holds the premises under indenture of lease dated 2 May 1860 made between Robert Fowler on the one part and Seamus Farlow on the other part for a term of 193 years from 29 September 1858 for a yearly rent of £12.18.0.

Part of lands excluded, if any: whereas the indenture dated 2 May 1860 refers to a plot of land being demised to the lessee and upon which two substantial dwellinghouses were built, the applicant excludes all other lands contained in the indenture of lease dated 2 May 1860, save the premises now situate at 381 North Circular Road, Dublin 7.

Take notice that we, Philip Colgan and Dorothy Colgan, being persons entitled under the above act to acquire the fee simple in the land described above, require you to give us, within one month after the service of this notice on you, the following information:

- The nature and duration of your reversion in the land,
- The nature of any incumbrance on your reversion in the land, and
- The name and address of:
 - a) The person entitled to the next superior interest in the land, and
 - b) The owner of any such incumbrance.

(State here the nature of any other information reasonably necessary for the purpose of securing the joinder of all necessary parties in the conveyance of the fee simple.)

Date: 1 March 2019

Signed: Seamus Maguire & Company (solicitors for the applicants), 10 Main Street, Blanchardstown, Dublin 15

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 an application by St Ann (Holdings) Limited in respect of the premises known as 30 South Anne Street, Dublin 2

Take notice that any person having an interest in the freehold estate of 30 South Anne Street, Dublin 2, the subject of an indenture of lease dated 1 April 1748 between John Evans and William Evans of the one part and John Ensor of the other part, for a term of 999 years from 25 March 1748 at a rent of £5.11.3, and therein described as "all that plot, piece or parcel of ground situate, lying and being in Ann Street in the parish of St Ann and suburbs of the said city of Dublin, containing in front to Ann Street aforesaid 22 feet and 3 inches, be the same more or less in depth from front to rear about 100 feet, be the same more or less, and in the rear of said piece of ground, 22 feet, 3 inches, bounded on the east by a

house then in the possession of Harriet Saurin, widow, on the south by a stable lane, on the west by a house lately built by the said John Ensor, and on the north by Ann Street aforesaid".

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

In default of any such notice being received, St Ann (Holdings) Limited intends to proceed with the application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the City of Dublin for direc-

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tions 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: 1 March 2019

Signed: O'Connor Solicitors (solicitors for the applicants), 8 Clare Street, Dublin 2

In the matter of part III of the Landlord and Tenant (Amendment) Act 1980 and in the mat-

ter of the premises known as 3A Rostrevor Terrace, Macken Street, Dublin 2

Take notice that Ferngate Designs Limited, a private company limited by shares, having its registered office at 3A Rostrevor Terrace, Macken Street, Dublin 2, intends to apply to the Dublin Circuit Court for an order determining that it is entitled to a reversionary lease in the lands and premises known as 3A Rostrevor Terrace, Macken Street, Dublin



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2, being part of the lands demised by a lease dated 14 January 1863 and made between Charles Lennon of the one part and Edward Mellon of the other part, and for an order fixing the terms of such reversionary lease and appointing an officer of the Circuit Court to execute such reversionary lease on behalf of the unknown and unascertained owners thereof.

Take notice that any party claiming to be a successor in title of the original lessor, Charles Lennon, or claiming to hold any other interest in the aforesaid property superior to that of Ferngate Designs Ltd, is hereby requested to furnish evidence of their title to such interest to the below-named solicitor within 21 days of the date of publication of this notice, and take notice that, in default of any such evidence of title being received within the said period, Ferngate Designs Ltd intends to issue proceedings in the Dublin Circuit Court by way of landlord and tenant civil bill seeking the said orders, on the basis that the person or persons entitled to the interest in the said property immediately superior to that held by Ferngate Designs Ltd is or are unknown and unascertained.

Date: 1 March 2019

Signed: O'Leary Maher Law Firm (solicitors for the applicant), 191 Howth Road, Killester, Dublin 3

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of part II of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978*, and in the matter of an application by Liam Ryan: premises known as Bonners Bar, O'Briensbridge, Co Clare

Take notice any person having any superior interest (whether by way of freehold estate or superior leasehold estate) in the above premises that Liam Ryan of O'Briensbridge, Co Clare, intends to submit an application to the county registrar sitting at the Courthouse, Ennis, Co Clare, for the acquisition of the free-

hold interest and all intermediate interests in the premises, and any person asserting that they hold a superior interest in the premises are called upon to furnish evidence of their title to the premises to the below named within 21 days of the date hereof.

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

Date: 1 March 2019

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

In the matter of the *Landlord and Tenant Acts 1967-1994* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Acts 1978-2005* and in the matter of an application by Xerico Limited, and in the matter of the property now known as 271 Clonliffe Road, Drumcondra, Dublin 7

Take notice that any person having an interest in the freehold estate or any intermediate interests of that part of the property now known as 271 Clonliffe Road (formerly known as 263 Clonliffe Road), Drumcondra, Dublin 7, held under an indenture of lease made on 13 July 1900 between Daniel Daly of the first part, Irish Civil Service Permanent Building Society of the second part, and Peter Aloysius Kearney of the third part, for a term of 173 years from 25 March 1900, at the annual rent of £5 and subject to the covenants and conditions therein contained.

Take notice that Xerico Limited intends to submit an application to the county registrar for the county of Dublin at Áras Uí

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Dhálaigh, Inns Quay, Dublin 7, for the acquisition of the freehold interest and all intermediate interests in the aforesaid property, and that any party asserting that they hold the fee simple or any intermediate interest in the aforesaid property are called upon to furnish evidence of title to the said property to the below-named solicitors within 21 days from the date of this notice.

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

Date: 1 March 2019

Signed: ByrneWallace (solicitors for the applicants), 88 Harcourt Street, Dublin 2

In the matter of the *Landlord and Tenant (Ground Rents) Acts 1967-2005* and in the matter of the *Landlord and Tenant (Ground Rents) (No 2) Act 1978* and in the matter of the property known as 'Capri', Whitechurch Road, Dublin 16: an application by Cashwood Poles Limited

To any person having an interest in the freehold estate or any superior interest in the following property: all that and those the property known as 'Capri', Whitechurch Road, in the parish of Rathfarnham, Dublin 16, which

said property is registered at Folio 156096L in the register of leaseholders in the county of Dublin and is a portion of the property demised by an indenture of lease dated 25 September 1924 and made between George Newett of the first part and Patrick Daniel Reavy, John Henry Corbally and Michael Boland of the second part, for a term of 700 years commencing on 1 June 1924.

Take notice that Cashwood Poles Limited, being the person currently entitled to the lessee's interest in the aforementioned property, intends to apply to the county registrar for the county of the city of Dublin for the acquisition of the freehold interest and all intermediate interests in the aforesaid premises, and any party asserting that they hold a superior interest in the aforementioned 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 evidence being received, Cashwood Poles Limited intends to proceed with this application before the county registrar at the end of 21 days from the date of this notice and will apply to the county registrar for the county of the city of Dublin for such directions as may be appropriate on the basis that the person or persons beneficially entitled to the superior interest including the freehold reversion in the aforesaid property are unknown and unascertained.

Date: 1 March 2019

Signed: Redmonds Solicitors (solicitors for the applicants), Bridge Point, Abbey Square, Enniscorthy, Co Wexford; ref: DJ/BD/C571



DE MINIMIS NON CURAT LEX

ROOM WITH A VIEW

A top-floor terrace at London's Tate Modern gallery is to remain open after neighbours lost a privacy case, *The Guardian* reports.

More than half a million visitors a year take the lifts up to the tenth floor of the gallery to enjoy the spectacular 360-degree views of London – and the luxury interiors of expensive apartments in the Neo Bankside development about 30 metres away.

Four apartment owners complained of “near constant surveillance” because of endless peering, waving, photographing, and even obscene gestures from people on the gallery's terrace. They went to court, alleging their rights to privacy were being breached under nuisance and human rights laws.

Mr Justice Mann rejected the claim, stating that residents



could put up net curtains, “lower their solar blinds”, “install privacy film” on the windows, or consider some well-placed tall plants.

Lawyer Natasha Rees said: “The limited steps taken by the

Tate to prevent visitors viewing into my clients' apartments are ineffective,” she said. “Both my clients and their families will have to continue to live with this daily intrusion into their privacy. We are considering an appeal.”

LAWYER ITCHES FOR HIS DAY IN COURT

A US court building was evacuated after a lawyer turned up covered in bed bugs, *Legal Cheek* reports.

The incident occurred at the Rogers County Courthouse in Oklahoma when the lawyer entered a courtroom with the blood-sucking insects “falling out of his clothing”.

According to the county sheriff, a court user spotted the bugs crawling around the lawyer's neck: “I was told the individual that had them also shook his jacket over the prosecutor's files,” he added.

Keen to avoid a full-blown infestation, officials evacuated the building at lunchtime and called in pest control to exterminate the bugs.

The lawyer, however, seemed unfazed by the itch-inducing incident. The court's head of security, Mike Clarke said: “I don't even think he cared.”

GATOR ALLEGATIONS GONE IN HUSBAND HOMIE HOMICIDE

A Florida woman has been jailed for life for killing her husband, who had been thought to have been eaten by alligators,

reports *NBC News*. Denise Williams (48) was sentenced to life without parole after a court found in December that she had

conspired 18 years ago with her then lover to kill husband Mike Williams.

In December 2000, Williams vanished after he went out hunting with Brian Winchester, his best friend, whom Denise later married. Investigators assumed that Williams had fallen from his boat and been eaten by alligators, as he was reported missing and his body never found.

Then, in 2017, his body turned up in mud in a lake north of Tallahassee, with a shotgun blast to the head. Prosecutors concluded that his wife had him killed for the \$1.75 million in life insurance.

Winchester was granted immunity as a key witness.

ENGLISHMAN 'SQUIDS' INTO A DITCH

An Englishman who crashed his car into a ditch swerved “to avoid an octopus”, the *BBC* reports. The 49-year-old, who escaped major injury, was arrested on suspicion of driving under the influence of drugs after police found no sign of a cephalopod at the scene on the A381 in Devon.

An octopus would have had to crawl more than three miles over hills and fields to find itself in the path of the vehicle, the *BBC* said.





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WORLD RUGBY LEGAL COUNSEL



Keane McDonald has been exclusively retained to source a new Legal Counsel for World Rugby

World Rugby is the world governing and law-making body for the sport of Rugby Union based in Dublin. The new Legal Counsel will report to the Senior Legal Counsel and will be involved in a broad range of commercial legal work, supporting the operational needs of World Rugby and the various World Rugby tournaments.

Principal accountabilities

- Assist in the drafting and negotiation of high value complex commercial agreements with an international element across several areas, including, but not exclusively – sponsorship, broadcasting, merchandising and licensing and tender arrangements.
- Provide legal guidance and input into specific tournament areas such as accreditation, commercial activations and other tournament initiatives.
- Advise on general trademark, design, copyright and domain name issues and manage the protection and enforcement of IP rights on World Rugby's international trademark portfolio.
- Provide accurate and timely advice to all areas of the organisation on generic and complex legal matters including liaising with external counsel.

Key skills and attributes

- Qualified lawyer/solicitor (up to 3 years' PQE) in a common-law jurisdiction with strong academic credentials.
- Solid training and commercial experience gained either in-house or in a leading Irish/international law firm.
- Proven ability to deal with all aspects of contract law, as well as working knowledge of IP rights.
- Data protection experience and project management skills would be an advantage.
- Excellent negotiation skills and the ability to work in a pressurised, fast-paced environment.
- Team player with enthusiasm for the sports sector.

Interested applicants should contact Mared Roberts at Keane McDonald on +353 1 6087713 or alternatively please email your CV to mroberts@keanemcdonald.com. Absolute discretion is assured.

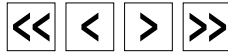
ANY CVS SUBMITTED DIRECTLY TO WORLD RUGBY WILL BE FORWARDED TO KEANE MCDONALD

World Rugby is an equal opportunities employer



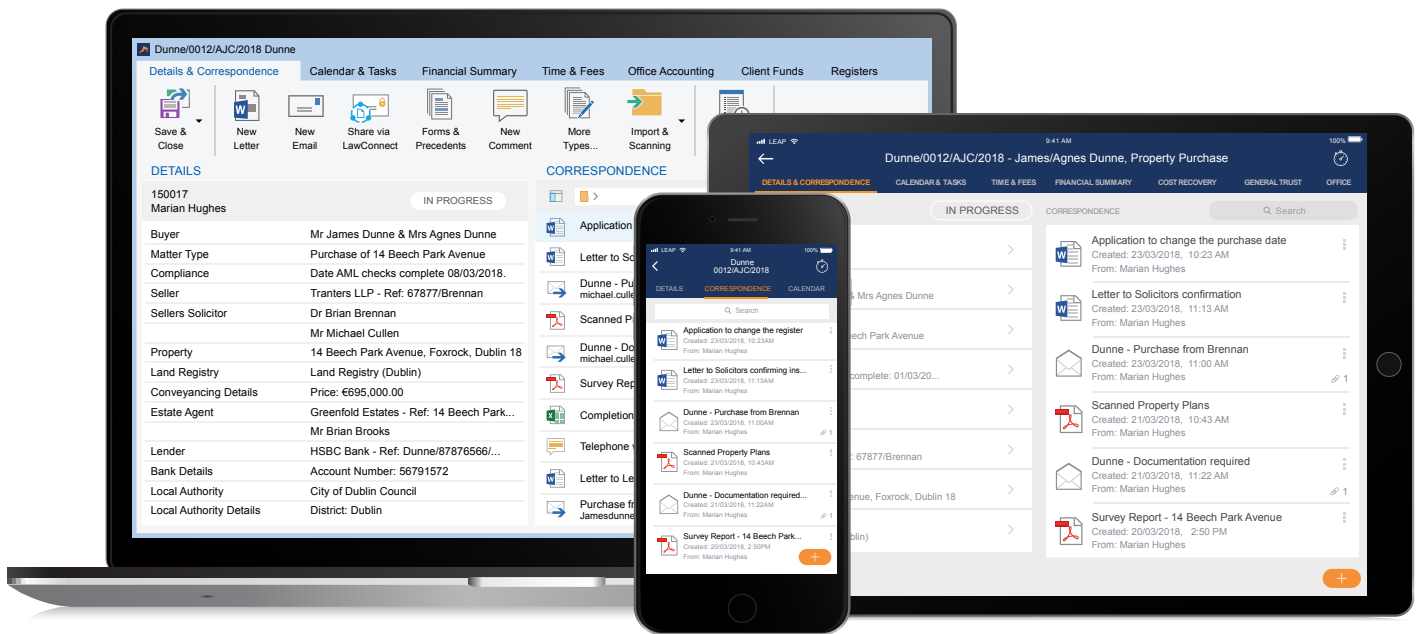
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