

Annual Review of Employment Law

Long Programme

Day 1

Time	Session
9.15	<p>Get to Know Us</p> <p>Familiarise yourself with the functions of our online event to ensure you maximise return on your investment.</p> <p>Scott Alexander, Head of Learning & Development, Legal Island</p>
9.30	<p>Introduction and Welcome</p> <p>Seònaid Ó Murchadha, Disability Employment Specialist and Pat Brady, Director, Workplace Solutions, and WRC Adjudication Officer.</p>
9.40	<p>Review of the Year (Part 1 – 2020 Vision) with Jennifer Cashman, Partner, Ronan Daly Jermyn</p> <p>This has been a massive year, where employers have had changes forced upon them due to Covid-19. Government requirements to reduce the spread of coronavirus undoubtedly saved lives but no policy lives in a vacuum – every law has unintended consequences. For employers, lockdown and self-isolation, social distancing, cocooning etc has created new employment problems, such as:</p> <ul style="list-style-type: none"> • Employees working from home – at home and abroad • Lay Off and Short Time Issues • Annual Leave Concerns • Working Hours • Returning to Work – or not – and associated issues <p>There are many other Covid-related issues, such as employer liability for infections, that are covered elsewhere in this conference. Employment law developments in Ireland not related to Covid-19 have continued in 2020. Jennifer delivers her annual round-up of the key employment law developments in 2020 not covered elsewhere in detail in this programme and sets out the trends that have emerged from the lockdown onwards.</p>

	<p>NOTE: The contents of this session may change to reflect what have been the most important and latest developments at November 2020.</p>	
10.20	<p>Q&A with Jennifer Cashman – Jennifer answers queries from the audience.</p>	
10.30	<p>Networking and Refreshment Break</p>	
11.10	<p>Employer Liability in a Covid-19 World</p> <p>In this session, Deirdre Crowley, Partner in the Employment, Technology and Innovation Groups in Matheson, will discuss what an employer’s duty of care looks like in a global health pandemic.</p> <p>Deirdre will outline the likely types of action in scope and will provide an overview of Health and Safety Authority workplace inspection issues. You will leave the session with</p> <ol style="list-style-type: none"> 1. practical information on how to deal with a HSA inspection; and 2. guidance on how to defend Covid-19 related employment, health and safety, protected disclosure and privacy litigation. <p>A taster of the issues to be addressed in this session include:</p> <ul style="list-style-type: none"> • An outline of employers’ legal obligations in Covid-19, to include an overview 	<p>Mind Your Language: Tools to Help Navigate the New Contours of Workplace Conflict During the Pandemic</p> <p>We all have choices when it comes to the words we use, but most of us speak without actively considering the impact they might have on others.</p> <p>However, with many of us working remotely, we can lose out on the body language messages that indicate feeling and emphasis. Taking things in the wrong way, or putting your message across in the wrong way, is so much easier to do when all you have to go on is a voice on the end of a phone or a head in a Zoom call.</p> <p>Some words and phrases can have a 'greenhousing' effect on conflict, allowing open discussions to flourish without rancour, in an atmosphere of positivity. Others cause people to shrivel up or become aggressive. For example, suppose your boss or a colleague has a great idea that you think is, well, not so great.</p> <p>Could some words or phrases help get your point across, without rancour? Could others almost guarantee a fall out?</p> <p>Michelle Halloran, Principal Consultant, Human Resource Management Services, focuses on language that reduces conflict and defensiveness and will help you get your message across without causing an argument.</p>

	<p>of obligations in the remote working context.</p> <ul style="list-style-type: none"> • Government issued guidelines and advice – what are they and to what extent do they apply? • Will employers be held liable for outbreaks of Covid-19 in the workplace? • What are the HSA's new inspection and enforcement powers, what do they mean for business and how do we prepare for an inspection? <p>What actions do employers need to take to best prepare for protected disclosures where employees blow the whistle on alleged poor safety practices.</p>	
11.40	<p>Q&A with Deirdre Crowley – Deirdre answers queries from the audience. (Includes 2-min video: Roundtable and Panel Discussion: Our two session leads explain why you should attend their session, as they pitch for your presence in their roundtable discussion.)</p>	<p>Q&A with Michelle Halloran – Michelle answers queries from the audience. (Includes 2-min video: Roundtable and Panel Discussion: Our two session leads explain why you should attend their session, as they pitch for your presence in their roundtable discussion.)</p>
11.55	Networking and Comfort Break	
12.05	<p>Roundtable Discussion</p> <p>How to Engage & Motivate Home, Hybrid and Remote Workers</p>	<p>Roundtable Discussion</p> <p>Rethinking Your Employer Brand: Attracting and Retaining Business-critical Talent in a New Age of Work</p>

	<p>Many employees, particularly those providing non-physical services, will continue to work from home or a remote location, and at times to suit their domestic circumstances, for the foreseeable future.</p> <p>Engagement and motivation are so important to organisational development and, when done properly, they can be incredibly powerful and effective in promoting the employer brand, recruiting and retaining employees and building sustainable organisational growth.</p> <p>Emer Hinphey, Managing Partner, ThinkPeople, sets out the results of our survey into employer actions that have been used to motivate remote workers since lockdown began in March and discusses the results and options with our panel of experts.</p> <p>Is it now time for every HR Department to have a Working from Home Facilitator?</p> <p>Panel: Louisa Meehan, Woodview HRM and President for Network Ireland and Kathryn Whyte, Head of People & Culture, Office of Government Procurement.</p> <p>Employment Law Expert: Dermot Casserly, Partner, DWF</p>	<p>How your business can emerge from the downturn as an employer of choice. Sustaining a positive employer brand in these uncertain times is a challenge facing many recruiters. Now more than ever attracting and retaining business-critical talent is essential for employers.</p> <p>Claes Peyron, MD of Universum, the global employer branding experts, is joined by a panel of leading HR specialists who embrace employer branding and the value it brings to their employee value proposition.</p> <p>Claes and the panel will discuss how the downturn has impacted on employer branding and the talent attraction and retention strategies that will see your organisation through this crisis to emerge as the employer of choice for key talent.</p> <p>Panel: Orla Heffernan, HR Business Partner & Organisational Development Manager, Coca Cola HBC</p> <p>Employment Law Expert: Ciara O’Kennedy, Partner, LK Shields</p>
1.00	Lunch and Networking	
2.00	Welcome Back and Summary	

	<p>Introduction to Afternoon Sessions</p> <p>Seònaid Ó Murchadha, Disability Employment Specialist, and Pat Brady, Director, Workplace Solutions and WRC Adjudication Officer.</p>	
2.05	<p>Regulating Home and Remote Working – Top Tips from a Leading Employment Lawyer</p> <p>Remote and homeworking are here to stay for many of us, regardless of a return to work.</p> <p>A consultation seeking the public’s views on flexible working as part of Future Jobs Ireland was launched in December 2019 and a further consultation was launched in July 2020.</p> <p>The programme for government in June 2020 included a proposal to mandate public sector employers, colleges, and other public bodies to move to 20% home and remote working in 2021 and provide incentives for private sector employers to do likewise.</p> <p>Regardless of anyone’s opinion on flexible working last year, the lockdown from Covid-19 let the homeworking genie out of the bottle and it is not going back in. But homeworking and other remote working brings risks, for employers and employees alike, along with benefits.</p> <p>In this session, Bláthnaid Evans, Partner, Leman Solicitors, discusses four key issues of homeworking for employers - Equality; Health and Safety/Wellbeing; Data</p>	<p>Redundancy and Helping Employees Move On: Exit Questions and Outplacement Options</p> <p>How to Compile the Best Exit Interview Questions and Maintain Return on Investment in Employees. All organisations need some employee turnover to stay healthy and many of us have had more employee turnover than we had hoped for this year. It’s much better that employees leave for positive reasons, but we know that, for many of us, the reason this year will be redundancy.</p> <p>Exit interviews – if you ask the right questions and create the right conditions to encourage openness and honesty – can give you valuable information for the future, even if the reason for leaving is, unfortunately, redundancy.</p> <p>Outplacement – helping employees move on through career guidance, re-training, counselling and more reduces the fall-out from redundancies and improves employer brand. Our speaker considers:</p> <ul style="list-style-type: none"> • Which questions elicit the most valuable information • Why you should create an ‘alumni’ network of former employees • Why you should hold staying in touch days for former employees • Why you should inform former employees of developments and opportunities in your organisation, if not offer them first refusal • How to respond to negative online reviews by former employees • The value of outplacement and assisting employees to find new jobs or re-focus their career

	Protection; and Training – and how to minimise risks from same.	Trayc Keevans, Global FDI Director, Morgan McKinley sets out her checklists of great exit interview questions and useful options for helping employees recover more quickly after being told their position is becoming redundant.
2.35	Networking & Comfort Break – Send in Your Questions	Networking & Comfort Break – Send in Your Questions
2.45	<p>Remote Workplace Investigations and Disciplinary Hearings: Getting it Right</p> <p>Top trainer, expert investigator, mediator, WRC Adjudication Officer and MD of The HR Suite, Caroline McEnery, discusses Remote Workplace Investigations and Disciplinary Hearings.</p> <p>There are now new challenges presented to investigators by the new work environment and, as a result, many hearings are now being conducted remotely or via a blended approach. We discuss the likely challenges you may encounter to ensure you achieve natural justice and policy compliance for all parties remotely.</p> <p>Caroline delivers her expert insights and provides a useful checklist for running remote investigations and hearings.</p> <p>Caroline also discusses the practicalities of conducting remote workplace investigations and provides some takeaway tips on how to avoid the common pitfalls.</p>	<p>Personal Resilience – How to be a Well Being</p> <p>Covid chaos and a global recession is enough to dampen the spirits of even the very best of optimists. Neuroscience tells us that our brain is a certainty seeking organ, and it does not like change, frequently assessing it as a threat. Over recent months and for many more to come we face significant uncertainty and change in all aspects of our personal and professional lives. However, there is some good news; we can teach our brains to be more adaptable, and as resilience is mainly supported by learnt behaviour, we can take steps to raise this too. This brief but richly informative session will explain how and is presented by Niamh Sheills, MD Advance Coach Ltd, an Accredited Professional Executive and Systemic Team Coach, with nearly two decades experience of supporting local and global leaders to navigate change and build personal resilience.</p>

3.15	Q&A with Bláthnaid Evans and Caroline McEnergy	Q&A with Trayc Kevans
3.30	<p>Covert Recording in the 'Workplace' - When Might it be Lawful?</p> <p>In July 2020, the CIPD published an extensive report into workplace technology. Amongst its key findings were:</p> <ul style="list-style-type: none"> • 45% of employees believe that monitoring is currently taking place in their workplace - wherever that might be. • 86% believe that workplace monitoring and surveillance will increase in the future. • 73% of employees feel that introducing workplace monitoring would damage trust between workers and their employers. <p>Of course, the other side of the coin is that it has never been easier in these days of remote working for employees to covertly record private and confidential meetings from wherever they are based.</p> <p>In this session, Adrian Twomey, Partner, Jacob and Twomey Solicitors, sets out when it will (and will not) be lawful for employers and employees to covertly record each other's activities or interactions, wherever the 'workplace' might be located.</p>	<p>EU and International Employment Rights Update</p> <p>Almost all employment equality rights in Ireland are derived from EU legislation, as are many non-equality rights, such as working time. Therefore, employment cases decided at the CJEU have a huge influence on our domestic laws and often set a precedent that must be followed by courts in Ireland.</p> <p>Even the UK's Supreme Court can have a persuasive impact on Ireland's courts. And the European Court of Human Rights didn't close down either this year.</p> <p>Michelle Ní Longáin, Employment Law Partner, ByrneWallace, provides an in-depth analysis of the year's important international cases in the employment field. Cases include:</p> <ul style="list-style-type: none"> • <i>NH v Associazione Avvocatura per i diritti LGBTI [2020] CJEU (C-507/18)</i> (Equality & Recruitment) <ul style="list-style-type: none"> ○ <i>VL v Szpital Kliniczny et al [2020] CJEU (C-16/19)</i> AG Opinion: (Discrimination against one group of disabled employees by comparison with the treatment of other disabled employees) ○ <i>Ryanair Designated Activity Company v Országos Rendőr-főkapitányság [2020] CJEU (Case C-754/18)</i> (residence card and visa requirements) ○ <i>UO v Készenléti Rendőrség [2020] CJEU (C-211/19)</i> (on-call duties) ○ <i>QH v Varhoven kasatsionen sad na Republika Bulgaria [2020] CJEU (C-762/18)</i> and <i>CV v Iccrea Banca SpA [2020] CJEU (C-37/19)</i> (Accrual of annual leave when reinstatement ordered)

		<ul style="list-style-type: none"> López Ribalda and Others v Spain [2019] ECtHR (Video Surveillance) <p>NOTE: The contents of this session may change to reflect the most important and latest developments at November 2020.</p>
4.00	Q&A with Adrian Twomey	Q&A with Michelle Ní Longáin
4.10	<p>Summary and Close</p> <p>Seònaid Ó Murchadha, Disability Employment Specialist and Pat Brady, Director, Workplace Solutions and WRC Adjudication Officer.</p>	
4.15	First Day of Conference Closes	

Day 2

Time	Session
9.15	<p>Welcome Back</p> <p>To ensure you maximise return on your investment, Scott Alexander, Head of Learning & Development, Legal Island, discusses key lessons from yesterday's sessions.</p>
9.30	<p>Introduction and Welcome</p> <p>Marian Jennings, Law Lecturer, Technological University, Dublin, and Clive Byrne, Director of the National Association of Principals and Deputy Principals, discuss the options for you to look forward to on the first day of our conference.</p>

9.40	<p>The Ireland Case Review 2020 and Key Next Steps</p> <p>Ireland has a very active workplace adjudication and appeal system and those ‘judges’ now issue detailed and reasoned decisions. The superior courts have had to contend with a number of employment-related cases this year.</p> <p>Duncan Inverarity, Head of A&L Goodbody’s Employment Group, sets out why those cases are important for Ireland’s employers and what action should now be taken as a result. Cases include:</p> <ul style="list-style-type: none"> • <i>Donal O’Donovan –v- Over-C Technology Limited and Over-C Limited [2020] IEHC 291</i> (Dismissal during Probation) • <i>Desmond -v- Dunnes Stores Unlimited Company [2020] IECA 125</i> (Personal Injury) • <i>Ryanair DAC & anor v Van Zwol & ors [2020] IECA 105</i> (Workplace Defamation, Trade Union Membership) • <i>Doolin v The Data Protection Commissioner [2020] IEHC 90</i> (CCTV footage in disciplinary proceedings) • <i>C.D. v The Board of Management of a National School [2019] IEHC 819</i> (Adequacy of Reasons for Disciplinary Action) • <i>Patrick J. Kelly v The Minister for Agriculture, Fisheries and Food and others [2019] IECA 299</i> (Objective Bias in Disciplinary Proceedings) • <i>Daly v Ardstone Capital Limited [2020] IEHC 200</i> (Discovery of Documents) • <i>Balans v Tesco Ireland Limited [2020] IEHC 55</i> (Deductions from Wages) • <i>Baranya v Rosderra Irish Meats Group Limited [2020] IEHC 56</i> (Whistleblowing / Protected Disclosures) • <i>Ryanair DAC v Peter Bellew [2019] IEHC 907</i> (Restrictive Covenants and Restraint of Trade) • <i>Zalewski v The Workplace Relations Commission [2020] IEHC 178</i> (Lawfulness of WRC Hearings) • <i>A Worker v Bus Eireann [2020] LCR 22196</i> (Internal Selection Process) • <i>North Tipperary School Completion Programme v A Worker [2020] LCR22175</i> (Unfair Dismissal, Poor Performance) • <i>Macrea Takeaway Limited v Mr Ioan Alin Andrei [2020] DWT201</i> (Working Time - Hours, Breaks and Holidays) • <i>Alteration Centre v Ms Renata Uryn [2019] UDD1963</i> (Bias in Disciplinary Proceedings) • <i>RCI Call Centre (Ireland) Ltd v Salah [2020] UDD202</i> (Unfair Dismissal) <p>NOTE: Subjects covered in this session may vary from those shown and will focus on the most important Irish cases by November.</p>
10.20	Q&A with Duncan Inverarity – Duncan answers your questions

10.30	Networking and Refreshment Break	
11.10	<p>Minimising Risks and Costs from Redundancy Selection</p> <p>Coronavirus killed many people. The policy of lockdown saved lives but led to a recession, the likes of which none of us have seen in our lifetime.</p> <p>Although some organisations have grown during the crisis, most organisations, if they haven't closed completely, have had to make a number of staff redundant or have reduced their hours of work.</p> <p>Claims to the WRC will have increased at a seemingly exponential rate.</p> <p>Any redundancy selection process will have problems, but some are inherently riskier than others. And certain approaches and management styles can increase or reduce the number of challenges to the process.</p> <p>In this session, Ger Connolly, Partner, Mason Hayes & Curran, recommends specific actions designed to minimise the risks and costs of redundancy selection processes.</p>	<p>Discrimination by Association – The Latest Equality Battleground in the New Normal</p> <p>A hitherto little-known (and little used) provision under the Employment Equality Acts is 'discrimination by association'. Discrimination by association happens when a person is treated less favourably simply because they are associated with or connected to another person who comes under the nine grounds.</p> <p>In this session we will discuss what is and what isn't discrimination by association, when it may be another form of discrimination or not discrimination at all. For example, we will consider scenarios such as where;</p> <ul style="list-style-type: none"> • An employee can't return to work because they have child-caring responsibilities • An employee says they cannot return to work because they have a family member who is cocooning/shielding • The employee has a family member who had Covid-19 but is now recovered <p>Colleen Cleary, Founder CC Solicitors, explains why, in the light of lockdown, homeworking options and the risks to health from Covid-19, claims of associated discrimination are likely to arise when employers refuse to allow flexible working or dismiss employees, or even threaten to dismiss employees based on their personal circumstances. Colleen also sets out how best to minimise risk and respond to allegations.</p>
11.40	Q&A with Ger Connolly – Ger answers queries from the audience. (Includes 2-min video: Roundtable and Panel	Q&A with Colleen Cleary – Colleen answers queries from the audience. (Includes 2-min video: Roundtable and Panel Discussion: Our

	Discussion: Our two session leads explain why you should attend their session, as they pitch for your presence in their roundtable discussion.)	two session leads explain why you should attend their session, as they pitch for your presence in their roundtable discussion.)
11.55	Networking & Comfort Break	
12.05	<p>Roundtable Discussion:</p> <p>Cultivating ethical cultures Businesses that focus on the long term, commit to doing business with integrity, and invest in their communities outperform their peers that do not. Behaving ethically (particularly during a crisis) can become a company’s defining characteristic. If a company is perceived to not operate ethically, employees, customers and investors are less inclined to work or do business with them. We all like to work and do business with organisations who behave ethically and with integrity. Unfortunately, however, there is no shortage of recent corporate and individual examples of unethical behaviour and scandals.</p> <p>The panel will explore how to build a culture that encourages and rewards ethical behaviour and practices. More specifically, the panel will explore how ethics impact organisations, teams and individuals. Sample questions that will be explored:</p> <ul style="list-style-type: none"> • Why bother with ethics during COVID? Don’t we have enough to worry about? • How does a business benefit by being recognised as an ethical business? 	<p>Roundtable Discussion:</p> <p>D&I in 2021 & Beyond...</p> <p>Join an internationally recognised panel of experts to discuss the most important 12 months ever in the D&I space. Subjects covered will include: the impact of Covid19 on equality & employment issues; the #Metoo campaign, Black Lives Matter; JK Rowling's fight against censoriousness and closing down opposing views, plus lessons from 20+ years of the Equality Acts</p> <p>Panel Discussion Facilitator: Barry Phillips BEM Legal Island CEO and Chairman of The Diversity and Inclusion Discussion Forum</p> <p>Panel: Mark Fenton, CEO & Founder of MASF Consulting Ltd, Furkan Karayel CEO, Diversein.com</p> <p>Employment Law Expert: Ciara Ruane, Senior Associate, Pinsent Masons</p>

	<ul style="list-style-type: none"> • What the role of an organisation’s culture and values in ethics? • How do we develop and ethical culture and ethical leadership at all levels? • What’s the role of the leader in cultivating an ethical culture? • How do we promote group norms that promote ethical norms and values • How important is psychological safety in developing and sustaining an ethical culture at team level? • What obstacles get in the way of ethical behaviour and decision-making? • How do we remove these obstacles and make it easier for people to behave ethically? <p>Pedro Angulo, Organisational Effectiveness HR/Business Partner, Head of Performance Mgmt, Head of Leadership Development at AIB, leads discussions. A bank official leading discussions on ethics? Yes, we do get the irony!</p> <p>Panel: Maurice Kelly, Global HR Director, Kerry Group; Billy Byrne, Executive Coach at KinchLyons; and Mary Connaughton, Director, CIPD Ireland.</p> <p>Employment Law Expert: Breda O’Malley, Partner, Hayes Solicitors</p>	
1.00	Lunch and Networking	
2.00	Welcome Back and Summary. Introduction to Afternoon Sessions:	
2.05	Data Protection Update for Employers 2020	Onboarding and Induction Training for New WFH Employees

	<p>This has been a busy year for data protection issues and the lockdown has only added to the list.</p> <p>Assistant Commissioner David Murphy, Data Protection Commission highlights a number of issues of importance to employers, including:</p> <ol style="list-style-type: none"> 1. Updates from the DPC and enforcement action during/after the pandemic 2. Working from home: risks associated with employee behaviour, employee monitoring, managing supplier contracts; 3. Returning to work: health monitoring, contact tracing, adjustment on a phased basis, and mission creep as the emergency eases; 4. Cyber risks: increase in COVID-19 related scams, and risks in employee behaviour; 5. International Transfers and Brexit: transferring personal data to third countries, including the US, following the Schrems II decision. 	<p>Lockdown, and the many restrictions imposed since March, led many organisations to require their staff work from home until the end of 2021. But the move to almost 100% homeworking brings challenges in relation to onboarding and training new staff. Our speakers, Karl O'Connor, Director of OCN Coaching Champions Ltd and CIPD (Irl) Associate Trainer and Coach, and Ashling O'Connor, Sales Enablement Program Manager at Zendesk, Dublin, believe that WFH has created many opportunities to transform induction and onboard training for the better. It is now very easy to have the CEO welcome all new staff, for example. Virtual onboarding enables blended learning, pulse-checking through real time polls and quizzes; engagement through chat box and bespoke non-linear learning options that chime with the way individuals learn.</p> <p>There aren't many benefits from Covid-19 and lockdown but being able to utilise the full range of online learning tools available is definitely one of them. Ashling, who has moved since Covid-19 from face to face onboarding to 100% remote global onboarding, discusses how Zendesk transformed their onboarding processes to accommodate new employees who are working from home and therefore lose out on the, previously normal, workplace experiences. She discusses how Zendesk uses new creative approaches to online learning and how they pick up on issues, such as generational support requirements.</p> <p>All of us who manage to manoeuvre our way through these uncertain times will face similar problems. New employees will need new skills and those employees</p>
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		who will most likely be working from home will need a different kind of training to bind them to your organisation's values. This requires a paradigm shift in thinking and this case study should interest all delegates.
2.35	Q&A with David Murphy	Q&A
2.45	Networking & Comfort Break	
3.00	<p>Review of the Year (Part 2 – Looking Forward to 2021) with Jennifer Cashman, Partner, Ronan Daly Jermyn</p> <p>In her second lecture of the day, Jennifer considers the likely employment law developments that we'll see in 2021 and what we can do now to mitigate risk and maximise opportunities. Brexit is an obvious, existential threat to many of us, as might be a new surge in Covid-19 cases, but there are some positives out there, if you care to look with Jennifer.</p> <p>NOTE: The contents of this session may change to reflect the most important and latest developments expected for 2021 at November 2020.</p>	
3.45	Q&A with Jennifer Cashman	
3.55	Summary and Close: Marian Jennings and Clive Byrne	
4.00	Conference Closes	

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