

Annual Review of Irish Employment Law 2022 – Full Programme

Day 1: Ireland’s Annual Review of Employment Law 2022 30th November 2022

| Time | Session | | |
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| 9.15 | Get to Know Us: Familiarise yourself with the functions of our online event to ensure you maximise return on your investment. Rolanda Markey of Legal Island’s Knowledge Team welcomes delegates to our 2022 event. | | |
| 9.30 | Introduction and Welcome from your Chairs: Becky Jones, Consultant and Coach and Louisa Meehan, Woodview HRM. | | |
| 9.40 | <p>Review of the Year (Part 1 – 2022 – Looking Back) with Jennifer Cashman, Partner, RDJ</p> <p>This has been a massive year, largely free from Covid-19 restrictions and with many legislative and case law developments in the employment world. So much has happened and Jennifer Cashman is here, as ever, to give her assessment of what’s important for Ireland’s employers.</p> <p>Jennifer delivers her annual round-up of the key employment law developments in 2022 not covered elsewhere in detail in this programme and sets out the trends that have emerged since November last year. This year her review Part 1 includes:</p> <ul style="list-style-type: none"> • The new world of work post Covid – including remote and hybrid working • Payment of Wages (Amendment) (Tips and Gratuities) Act 2022 and other legislative enactments in 2022 • Retirement case law update incorporating auto enrolment. <p>NOTE: The contents of this session may change to reflect what have been the most important and latest developments at November 2022. Part 2 of Jennifer’s review of the year closes this conference tomorrow and looks forward to what you should expect to happen in 2023.</p> | | |
| 10.20 | Q&A with Jennifer Cashman – Jennifer answers queries from the audience. | | |
| 10.30 | Networking and Refreshment Break | | |
| 11.10 | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; vertical-align: top;"> <p>Harassment and Bullying Codes of Practice – What’s So Different?</p> <p>In December 2020 a new combined WRC/ HSA Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work was published. It brought greater focus on the initial classification of complaints and a greater emphasis on early and</p> </td> <td style="width: 50%; vertical-align: top;"> <p>Essential Comparative Employment Law for Irish Business</p> <p>We’ve been keeping you informed all year with our updates and webinars on the Comparative Employment Law Table prepared in association with Lewis Silkin LLP. But where are we now?</p> </td> </tr> </table> | <p>Harassment and Bullying Codes of Practice – What’s So Different?</p> <p>In December 2020 a new combined WRC/ HSA Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work was published. It brought greater focus on the initial classification of complaints and a greater emphasis on early and</p> | <p>Essential Comparative Employment Law for Irish Business</p> <p>We’ve been keeping you informed all year with our updates and webinars on the Comparative Employment Law Table prepared in association with Lewis Silkin LLP. But where are we now?</p> |
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| | <p>informal resolution. More recently (March 2022) the IHREC published its Code of Practice on Sexual Harassment and Harassment at work, which mirrors relevant EU Directives on equality issues. Both codes aim to provide guidance on handling allegations of misconduct in the workplace, but it is relatively easy to become confused with which code might apply and when and how to ensure you are managing any allegations in line with the appropriate policy and are proactive in protecting the company to be compliant and foster a culture of dignity and respect in your organisation.</p> <p>In this session, Caroline Reidy, Managing Director of the HR Suite, outlines the key similarities and differences between the codes and provides clarity on the distinctions between dealing with complaints of bullying or harassment in the workplace.</p> | <p>Síobhra Rush, Lewis Silkin takes you through the essential similarities and differences that all Irish organisations with business interests in Northern Ireland or Great Britain should be aware.</p> |
| 11.40 | Q&A with Caroline Reidy | Q&A with Síobhra Rush |
| 11.55 | Networking and Comfort Break – Send in your questions for the roundtable discussions | |
| 12.05 | <p>Roundtable Discussion: Mental Health And The Law: The Do's And Don'ts</p> <p>The Covid crisis has sparked a dramatic rise in the numbers of people experiencing mental health problems In Ireland - 30% of respondents to the Health Ireland Survey <u>reported</u> that their mental health had worsened since the beginning of the Covid-19 pandemic, with only 5% saying their mental health had improved. Four in ten respondents whose mental health had declined “a lot” had discussed the problem with a mental health professional. Many of these respondents are employees and colleagues who need support and, in some cases, reasonable accommodations to help them attend or return to work. In this session, Seònaid Ó Murchadha, leads a panel including David Casey, Wellness and Health Promotion Manager at DeCare Dental,</p> | <p>The Ghost in the Machine – How to Stop Your Recruitment Processes Turning into a Horror Show!</p> <p>Ghosting, a phenomenon more akin to online dating has spooked its way into recruitment processes, leaving prospective employers and employees at their wits’ end and occurs when a recruiter or a candidate completely stops returning calls, emails or texts. But what causes it and is there anything that can be done to prevent it?</p> <p>In this session led by Emer Hinphey Co-Founder/Director of Think People and including Ryan Calvert, Head of HR Recruitment, UK and Ireland at MCS Group, Gary Ludgate, Talent Manager, Phorest the panel discusses the reasons why ghosting occurs and what organisations can do to engage candidates in the process to prevent them getting the spooks!</p> |

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| | <p>Joan Doran, Chair of the Chair of Irish Mental Health Lawyers Association and Barbara Brennan, Programmes Leader at See Change - The National Mental Health Stigma Reduction Partnership</p> <p>to provide some examples of what employers can do to support mental health in the workplace and create a resilient workforce.</p> | |
| 1.00 | Lunch and Networking | |
| 2.00 | Welcome Back and Summary. Introduction to Afternoon Sessions: Becky Jones and Louisa Meehan. | |
| 2.05 | <p>Gender Pay Gap Reporting: The Time is Now</p> <p>Organisations with 250 or more employees must publish a detailed gender pay gap report in December, along with a statement setting out, in the employers' opinion, the reasons for the gender pay gap in their company and what measures are being taken or proposed to be taken by the employer to eliminate or reduce that pay gap. The reporting requirements will apply to organisations with more than 50 employees by 2025 and advance planning is critical.</p> <p>In this session, Maura Connolly, Partner, Addleshaw Goddard LLP, sets out issues that need to be considered and a template reporting structure. If your organisation does not yet have 250 employees, you should still attend this session and find out how action taken now can help reduce your GPG by the time you have to report yours in the next 2-3 years.</p> | <p>Working or Shirking From Home</p> <p>Working from home at least part of the week has become the norm, but many employers are still unsure of whether employees are actually working or sitting in their pyjamas watching daytime television according to one recruitment business owner. But how can you be sure and what can you do about it?</p> <p>Laura Graham, Partner, Reddy Charlton Solicitors discusses the data protection and employee relations implications of employee monitoring and suggests alternatives to getting information to help employers.</p> <ul style="list-style-type: none"> • How can you (lawfully) deal with this problem? • What evidence will you need? • Is it lawful to use information obtained through monitoring or surveillance? • Is this proactive management or snooping? • What are the dangers of getting it wrong? |
| 2.35 | Networking & Comfort Break – Send in Your Questions | |
| 2.45 | <p>New Code of Practice on Pay Inequality</p> <p>This new statutory code of practice was launched in March 2022 to help eliminate pay inequality in Ireland.</p> | <p>Striking Times: Negotiation Tips to Help You Avoid Industrial Action and Reset Employment Relations</p> <p>The cost-of-living crisis and rising inflation are significant drivers for the increased level of workplace discontent and industrial action, or threat of</p> |

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| | <p>The Code of Practice on Equal Pay provides employers, trade unions and employees with practical guidance on the right to equal pay, how to eliminate pay inequality, and how to resolve pay disputes.</p> <p>The new code is legally admissible in evidence in proceedings before the courts, the Workplace Relations Commission and the Labour Court.</p> <p>Deirdre Malone, Partner & Head of Employment, EY Law, takes you through the Code and what you must do now to comply and defend any allegations regarding unequal pay.</p> | <p>same, are very much on the increase in 2022. History tells us that most industrial disputes eventually end in settlement. However, a bad settlement can endanger the profitability or sustainability of an organisation. In this session, Dr Gerry McMahon, Productive Personnel Ltd sets out:</p> <ul style="list-style-type: none"> • The ‘unwritten rules’ of the negotiation process. • The key criteria for successful negotiations. • Getting the stages of negotiation right: preparing, opening, bargaining and closing. • The skill set or attributes of an effective negotiator. • The key roles in the negotiation team. • How to distinguish win: win from win: lose and lose: lose negotiation situations. • Negotiating styles and strategies. • Effective planning for successful negotiations. • Identifying and deploying the right bargaining strategies and tactics. • Adopting a collaborative approach to ensure trust, rapport and long term gains for both parties. |
| 3.15 | Double Q&A with Maura Connolly and Deirdre Malone | Double Q&A with Gerry McMahon and xxxx |
| 3.30 | <p>Statutory Sick Pay – the New Bill, the staged approach and what it means for employers</p> <p>The Statutory Leave Act is expected to come into effect before the end of the summer and, for the first time, provides employees with a statutory entitlement to a minimum period of paid sick leave, if they fall ill or sustain an injury which prevents them from being able to work. In this session Bláthnaid Evans, Partner, Ogier Leman Solicitors, outlines:</p> | <p>EU and International Employment Rights Update</p> <p>Loughlin Deegan, Partner in the Employment Team, ByrneWallace LLP, provides an in-depth analysis of the year’s important international cases in the employment field. Cases and developments include:</p> <ul style="list-style-type: none"> • <i>XXXX v HR Rail SA</i> [2022] CJEU Case C 485/20 (Alternative employment for disabled workers) |

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| | <ul style="list-style-type: none"> • The entitlements provided by the Act • The impact on your current sick pay policy • Medical certification requirements • Record keeping • Increased employee protections and absence management • Penalties for failure to comply and/or penalisation of employees | <ul style="list-style-type: none"> • <i>MG V Dublin City Council [2021] CJEU Case C-214/20</i> (Should "Stand-by Time" be considered "Working Time" for the purposes of the OWTA?) • <i>DS v Koch Personaldienstleistungen GmbH [2022] Case CJEU C-514/20</i> (Precluding time spent on holiday in overtime calculations is incompatible with Working Time Directive) • <i>Kovalkovs v 2 Sisters Food Group Ltd [2022] EAT 4102454/2020</i> (Religious Discrimination; Wearing Crucifix; PCP; Risk Assessment) • <i>Association of Civil Servants and Anor v Germany [2022] ECtHR 815/18 and 4 others</i> (Status of collective bargaining agreements) <p>NOTE: The contents of this session may change to reflect the most important and latest developments at November 2022.</p> |
| 4.00 | Q&A with Bláthnaid Evans | Q&A with Loughlin Deegan |
| 4.10 | Summary and Close: Becky Jones and Louisa Meehan | |
| 4.15 | First Day of Conference Closes | |

Day 2: Ireland's Annual Review of Employment Law 2022 1st December 2022

| Time | Session | | |
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| 9.15 | Welcome back: To ensure you maximise return on your investment, Rolanda Markey of Legal Island's Knowledge Team , discusses key lessons from yesterday's sessions and what to expect on day 2 with today's chairs Marian Jennings, Law Lecturer and Researcher and Michelle Halloran, Principal Consultant at MH Human Resource Management Services . | | |
| 9.30 | <p>The Ireland Case Review 2022 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 also had to contend with a number of employment-related cases this year. Duncan Inverarity, Partner, A&L Goodbody 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"> • Foy v University of Limerick [2021] IEHC 87 (settlement agreements) • Hennessy v Ladbrokes Payments (Ireland) Limited [2022] IEHC 60 (Settlement agreements) • Baranya v Rosderra Irish Meats Group [2021] IESC 77 (whistleblowing and individual H&S claims) • Barrett v Commissioner for An Garda Síochána [2022] IEHC 86 (Protected disclosures and causal link with penalisation) • Lally v Board of Management of Rosmini Community School [2021] IEHC 633 (Need for balance in investigation reports) • Infosys Limited v Shaikh [2022] UDD2224 (Jurisdiction for employment rights and the implications of this decision for employers) • Joseph Coughlan v Kerry Ingredients (Ireland) Limited [2022] IEHC 195 (Injury sustained during course of employment) • Paula Reid v Teagasc [2022] ADJ-00028084 (Equal Pay; Gender Pay Gap; Like Work; Discrimination and equality) • McCormack v Ashford Castle Hotel Ltd [2022] IEHC 188 (Incapability dismissal) • Doolin -v- The Data Protection Commissioner [2022] IECA 117 (CCTV footage cannot be used for unspecified purposes) <p>NOTE: Subjects covered in this session may vary from those shown and will focus on the most important Irish cases at November 2022.</p> | | |
| 10.20 | Duncan Inverarity Answers Your Questions | | |
| 10.30 | Networking and Refreshment Break | | |
| 11.10 | <table border="1"> <tr> <td>Employment law gets Transparent and Predictable – What Will the EU Directive on Transparent and Predictable Working Conditions Mean for Employers?</td> <td>Protected Disclosures (Amendment) Act 2022: Prescribe, Designate and Protect – key requirements for employers</td> </tr> </table> | Employment law gets Transparent and Predictable – What Will the EU Directive on Transparent and Predictable Working Conditions Mean for Employers? | Protected Disclosures (Amendment) Act 2022: Prescribe, Designate and Protect – key requirements for employers |
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| | <p>Directive 2019/1152 (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union aims at improving working conditions by promoting more transparent and predictable employment while ensuring labour market adaptability. The Directive was due to be introduced in the summer of 2022.</p> <p>Ciara O’Kennedy, Partner, LK Sheilds Solicitors LLP takes you through the main changes you are likely to need to implement in your organisation, including:</p> <ul style="list-style-type: none"> • what to provide to employees on the essential aspects of their work in writing, and when; • setting limits on and good practice in managing probationary periods; • a ban on exclusivity clauses and limits on incompatibility clauses; • giving reasonable notice of when work will take place, for those with unpredictable working schedules; • anti-abuse legislation for zero-hour contract work; • providing written replies to requests to transfer to another more secure job; and • providing mandatory training cost-free where you have a duty to provide it. | <p>Despite the Protected Disclosures Act 2014 being one of the strongest whistleblowing laws in Europe it has been strengthened further to give effect to the European Whistleblowing Directive.</p> <p>The Protected Disclosures (Amendment) Bill 2021 was published on 9th February 2022 and broadens and enhances the 2014 Act. In this session Dr Lauren Kierans BL, University of Maynooth, explains:</p> <ul style="list-style-type: none"> • How to tell a protected disclosure from a grievance • Who is protected and who is not protected by the new law • What must be included in a policy and key protections for whistleblowers • The role of persons ‘designated’ to receive complaints • The role of the Protected Disclosures Office within the Office of the Ombudsman • Deviation from Normal Procedures: Disclosures to prescribed persons and disclosures concerning security, defence, international relations and intelligence <p>The session includes a summary of the main areas of concern, pitfalls and costs.</p> |
| 11.40 | Q&A with Ciara O’Kennedy | Q&A with Dr Lauren Kierans |
| 11.55 | Networking and Comfort Break – Send in your questions for the roundtable discussions | |
| 12.05 | <p>Roundtable Discussion: Women in Leadership</p> <p>In 2021 the UK Spencer Stuart Board Index found that women now</p> | <p>Roundtable Discussion: What is your sustainability IQ?</p> |

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| | <p>represent 51% of all non-executive directors, up from 18% a decade ago. Ireland is backing an EU move to make listed company boards at least 33pc female by 2027. Under the rules, listed companies whose boards have less than 33% female representation - or 40% for non-executive directors - would have to give priority to women when choosing between equally qualified candidates for future posts.</p> <p>It's clear that the number of women in positions of authority is on the rise, but Hedwige Nuyens, CEO of the International Banking Federation and Chair of European Women on Boards, leads a panel including Gillian Harford, Senior HR Executive and Country Executive Ireland for the 30% Club, Peter Cosgrove, Founder of Futurewise and Margaret Sweeney, Executive Director and Chief Executive Officer of IRES REIT to discuss what more needs to be done to help increase the number of women in senior leadership positions within organisations. This panel will explore the impact of unconscious bias, social media and what has been referred to as 'office housework' – tasks that are generally undertaken by women in the workplace but are not valued, such as tea-making, note-taking and many administrative tasks.</p> | <p>Environmental, Social and Governance (ESG) topics are important for job applicants, investors, customers and employees alike. Key <u>ESG HR issues</u> concern how a company engages with its workforce, with a strong focus on a culture incorporating inclusion and diversity, and how it looks at issues of pay and equality. While the spotlight has been on environmental issues so far, the coronavirus pandemic has turned the focus firmly on the 'S' in ESG, with Covid-19 having the greatest impact on people and employment. This roundtable discussion addresses the following:</p> <ul style="list-style-type: none"> • What is ESG? • What impact will the Corporate Sustainability Reporting Directive have for companies in Ireland? • Why does it matter? • What does it mean for HR Professionals? • How do you measure or score it? <p>Bob Semple, Member of Governance Advisory Council at The Corporate Governance Institute, leads this panel along with Liam McEvoy Co-founder of Sustain IQ and Laura Wadding, Partner, Risk Advisory/Sustainability Leader Deloitte, and Conor Buckley, Founder of Human Collective who answer the above questions and more.</p> |
| 1.00 | Lunch and Networking | |
| 2.00 | Welcome Back and Summary. Introduction to Afternoon Sessions: Marian Jennings and Michelle Halloran. | |
| 2.05 | <p>Social Media and the Impact of External Pressure to Dismiss</p> <p>From Premier League footballers kicking cats to UK Prime Ministers attending drink-fuelled 'work events' and Irish judges going to golf functions during lockdown, many incidents involving employees or office holders are now played out on social media (and 'the' media) to the extent that customers, suppliers, sponsors, or simple public</p> | <p>Do You Really Care About Your Employees? Then Prove It – The Case for a Workplace Financial Wellbeing Policy</p> <p>In February 2022, the CIPD joined with the Joseph Rowntree Foundation in calling on all employers – large and small – to put in place a financial</p> |

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| | <p>opprobrium, bring pressure on employers to part company with employees caught on camera doing inappropriate things. Where does an employer stand on this issue? Is an employer permitted to refer to external pressure in the disciplinary process? What statutory reason and standards must apply? Denise Moran, Senior Associate at Matheson looks at case law and precedent in this entertaining session. Maybe we should post it online?</p> | <p>wellbeing policy that sets out their commitment to tackling in-work poverty, after research found that 1 in 8 working people were trapped in poverty. They urged employers to not only ensure they pay a fair and liveable wage, but to also explore how they can support financial wellbeing through employee benefits and financial education, and how they can help low-paid workers progress into higher paid roles. Charles Cotton, Senior Adviser For Performance And Reward from the CIPD argues that this is not a socialist pipe dream but simply good business sense and the right thing for everyone in society, as well as the workplace.</p> |
| 2.35 | Q&A with Denise Moran | Q&A with Charles Cotton |
| 2.45 | Networking & Comfort Break | |
| 3.00 | <p>Review of the Year (Part 2 – Looking Forward to 2023) with Jennifer Cashman, Partner, RDJ</p> <p>In her second presentation at this event, Jennifer considers the likely employment law developments and trends that we'll see in 2023 and what we can do now to mitigate risk and maximise opportunities. We don't just look at the bad stuff – there are some positives out there, if you care to look with Jennifer, such as:</p> <ul style="list-style-type: none"> • Employment Equality Acts 1998 – 2015 – update on ongoing review • Other employment legislative enactments we expect to see in 2023 • Corporate Sustainability Reporting Directive and other compliance requirements that will need HR input <p>NOTE: The contents of this session may change to reflect the most important and latest developments that are expected for 2023 at November 2021 and that are not covered elsewhere in detail at this event.</p> | |
| 3.45 | Q&A with Jennifer Cashman | |
| 3.55 | Summary and Close: Marian Jennings and Michelle Halloran. | |
| 4.00 | Conference Closes | |

Register your place(s) now via <https://www.legal-island.ie/events-ie/annual-review-of-employment-law/>