



Boyce Kelly Solicitors LLP
LEGAL UPDATE
Summer 2020

Welcome to our Summer newsletter. Firstly, we hope you are staying safe and well. We are all for sure in strange and uncertain times right now. Secondly, a lot of clients have been enquiring as to whether we are fully open and if their legal affairs can be looked after at this time. So, we wanted to reach out to let you know that we are operating as normal, behind closed doors, as legal firms are deemed to be an essential service.

We are contactable as always by phone on **074 9890190** and of course also by email **info@boycekelly.ie**. Our working hours have not changed, and we continue to progress

your legal affairs as normal. We can have appointments with you as necessary by phone, Facetime, WhatsApp and Zoom and can help you in setting up any of these arrangements on your phone or ipad. We have set out, below, some articles on legal issues that we hope you find helpful and informative. As always, we are here to help our clients so if we can be of assistance to you in any way during this difficult time, please let us know.

Kind Regards,
Etain and Catherine Anne.

DATA PROTECTION

Asking for a friend

Issues can arise when somebody phones an organisation on behalf of a family member, friend, patient, or someone else who is unable to do so or would prefer someone speak on their behalf.

The representative phoning on the individual's behalf is sometimes asked to provide a much higher level of proof that they have permission to speak on the account-holder's behalf, than the actual account holder would be

asked to provide their own identity. In other cases, the representative is simply told that the organisation will not speak with them about someone else's account.

This results in the strange situation that it may be easier to phone in and pretend you are the account holder than to honestly explain that the account holder has given you permission to speak on their behalf. Similar issues can also arise when people are making contact through another medium, such as contact forms, emails, or letters.

Organisations do have an obligation to keep personal data safe and secure and not to divulge it to third parties in line with the law.

Any data owner should consider issues such as the nature and sensitivity of any personal data concerned, the potential harm if personal data is disclosed to the wrong person, and the likelihood that people may be legitimately speaking on behalf of the account holder.

Organisations should also consider the action being requested by the caller - the proportionate security steps (if any) for a request such as re-issuing a bill to the address listed on the account, may be much less onerous than those where account deletion or release of sensitive information is sought by the caller.



EMPLOYMENT LAW

Assault at Work - Retail Businesses

An employer has a legal duty to ensure the safety, health and welfare

of employees and is obliged to limit, in so far as is reasonably practicable, an employee's exposure to any risk of injury. This includes injuries to both an employee's physical and mental health. If the employer has failed to take appropriate steps to comply with these responsibilities, which would have prevented the assault from taking

place, this will result in an employee being successful with a personal injury claim for compensation and financial loss. There may also be certain employment law cases for breaches of employment rights legislation.

This duty of care can apply to security staff in retail outlets where contact with the public is part of the job.

For employers to reduce this risk there are several options

- Implementing appropriate policies and procedures in the workplace dealing with exposure to violence and communicating these policies to employees.
- Providing task specific training to employees so that they can deal with an incident of violence in such a manner that will minimise their exposure to injury or limit the severity of the assault.
- Providing functioning panic buttons so that employees can seek help quickly
- Installing security screens where appropriate

DIVORCE

Before a court can grant a decree of divorce in Ireland, the following conditions must be met:

The parties must have been living apart from each other for a period of two out of the previous three years prior to the application being commenced.

There must be no reasonable chance for reconciliation.

Proper arrangements need to be made for the spouse and any depen-

dent members of the family, such as children, of either party or other relatives.

Separation Agreement

If a married couple in Ireland wish to separate they can agree the terms upon which they wish to live separately and enter into a Separation Agreement.

Both parties must give their consent to the terms of Separation.

Both parties set out their income and outgoings and need to be honest in disclosing this.

The Separation Agreement can provide for such matters as:

- Custody/Access in relation to children and any dependent members of the family.
- Maintenance
- The family home and any other property
- Succession rights
- Liabilities and or debts of both parties
- Income of both parties
- Tax

Pensions are outside the scope of Separation Agreements but where the parties are of pension age or close to, it needs to be taken into consideration under 'income'.



INJURY AT WORK

An employee of Ryanair was filing documents into boxes and placing them in a shelf where she had to stretch out to place them. Her employer had provided a stool to stand on to reach the high shelves. The employee opted not

to use the stool as it appeared unsafe to her. While stretching to reach a high shelf she injured her shoulder. The accident occurred in January 2016 and she took out the action in June 2017 hoping her injury would improve but it did not. Her doctor said her injury was known as 'frozen shoulder'. She has restricted movement in the shoulder

and cannot carry out routine jobs like brushing and washing her hair or carry shopping bags.

The Circuit Court judge found that the airline failed in its duty to provide the employee with a safe place to work and awarded €10,000 in damages.

MAKING A WILL

When making a Will an executor is named in the will by the person making the Will. The role of the executor is to make sure everything is done to ensure the will is acted upon properly and all the deceased's property and assets are distributed according to the instructions of the Will. The executor can be a family member or a friend or often it can be the solicitor.

Spouses, Civil Partners and Children
Spouses. Civil Partners and Children

are normally the immediate beneficiaries of Wills. By law, where there is a Will, a spouse or civil partner has the legal right to half of the estate of the deceased if there are no children. If there are children, then the spouse/civil partner has the legal right to one-third of the estate.

Dying with no Will

This is called dying Intestate.

The law has strict rules here that apply, even against the wishes of the deceased's family. If a Will is not made and where there are no children, the spouse/civil partner is entitled to all

the estate and where there are children the spouse/civil partner receive two-thirds of the estate.

Changing your Will

You can change a Will at any time. Updating a Will makes sense if a person's circumstances have changed. On death, the most recently made Will is be the valid Will.

Invalid Wills

Changes cannot be made on a Will and if so, that will make the Will invalid and the consequences of that is the Will is treated as Intestate.

ABOUT BOYCE KELLY SOLICITORS LLP

We are a modern, friendly and dynamic practice with a client centred approach - our motto is that 'we are here to help' and that is what we strive to do each day for our clients.

Etain Boyce is the managing partner and partner in charge of litigation. She has 17 years of experience as a qualified solicitor, dealing with personal injury* cases, employment law cases, family law and other general court cases. She specialises in helping people who have been genuinely injured getting the compensation that they deserve*. Etains clients say that she is approachable and empathetic towards them but tough in securing the best outcome and that she works tirelessly for her clients. Etain is from and lives in Downings, Co Donegal. She is married to Brian and they have two daughters. She enjoys reading and yoga.

Catherine Anne Kelly is the partner in charge of conveyancing, wills and probate. She qualified as a solicitor in 2008 and since then she has developed a reputation for excellence in conveyancing. She deals with buying and selling houses and sites, transferring farms, rights of way and easement problems, claims for adverse possession, drafting wills and extracting Grants of Probate. Catherine Anne specialises in fixing complicated title problems and her clients say that she is patient, that she listens to her clients and is understanding of their needs, they say she is persistent in solving her clients issues. Her clients are extremely satisfied with the service she provides. Catherine Anne lives in Carrigart, Co Donegal with her husband Pete and her two sons. She enjoys walking and reading.



Etain Boyce
Litigation Partner



Catherine Anne
Conveyancing & Probate Partner

We handle the following areas of law:

**Personal Injury* / Commercial law /
Employment law* / Property /
Family Law / Wills and Probate /
Conveyancing**

*In contentious business, a solicitor may not calculate fees or other charges as a percentage or proportion of any award or settlement, nor is it our practice to do so.

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Main Street, Carrigart, Letterkenny, Co Donegal. 074 989 0190 Eircode: F92 FF6D