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Beyond a reasonable doubt

A special report by Francesca Comyn

If proof beyond a reasonable doubt is the cornerstone of securing a criminal conviction, fostering doubt is the lifeblood of a good criminal defence strategy. Doubt wrenches a hole in the prosecution evidence. Doubt causes a hesitation, a creeping sense of unease. It lodges a niggling concern in the mind of a juror that to convict would be wrong.

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“The woman has a lasting entitlement not to be identified. But her name began to proliferate on social media, in breach of her rights. Photographs purporting to be her were recklessly shared online”

from page 1

Last Wednesday, Ireland rugby stars Paddy Jackson and Stuart Olding were acquitted of raping a young woman at a house party in the early hours of June 28, 2016.

They emerged from Belfast Crown Court to face uncertain futures after a gruelling 42-day trial in the lurid glare of the media. Nothing in their sporting careers could have prepared them for the onslaught of the past nine weeks.

Their co-accuseds, Blane McIlroy and Rory Harrison, walked free on lesser charges. McIlroy was acquitted of exposing himself; Harrison of perverting the course of justice and withholding information.

While Jackson was greeted outside with cheers and honking car horns, the fact that a couple of thousand people attended rallies in Belfast, Cork and Dublin under the “I believe her” banner showed just how divisive the trial had been.

At the very least, it had thrown an unedifying spotlight on a toxic laddish culture within Irish rugby, where bragging blokes referred to women as “sluts” and “brasses” to be “pumped” and “spit roasted”.

The jury returned unanimous not guilty verdicts in under four hours. The speed of the delivery belied the difficulty of the task, but also strongly suggested that, as far as the 11 jurors were concerned, the prosecution case fell well short of the mark.

In the soup of alcohol, hazy memories and clashing evidence served up in Court 12, doubt went to the very heart of the issue.

Cavalier disregard

“RAPE IS A GAME OF POWER AND CONTROL, and they rely on your silence,” the woman, who was 19 at the time of the incident and is now aged 21 and in third-level education, told the jury in her evidence for the prosecution in week one of the trial.

Reporting it to the police was a way of possibly preventing it from happening to someone else. “It was the best decision I ever made,” she added.

Bravely, perhaps, it is a decision she stands by post-conviction, according to the PSNI.

As a rape complainant, the law classified her as a vulnerable witness entitled to certain protections. That meant she testified from behind a blue curtain so she did not have to look at the four accused men sitting in the large glass dock towards the rear of the court.

The men’s families, members of the media and the daily crowds of onlookers who sat in the soundproofed public gallery were also out of her line of vision.

However, she was able to see the judge, jury and lawyers directly, and they in turn could see her in the flesh. Everybody else could watch her giving evidence on a TV monitor in the courtroom.

The woman also has a lasting entitlement not to be identified. In reality, however, the trial was open to the public and her anonymity ended at the courtroom door. The curious came in their droves to court, at times vying for the limited number of seats.

The woman’s name was mentioned every few minutes in the course of proceedings. Unsurprisingly, it began to proliferate on social media, in total breach of her rights – an issue the PSNI has promised to tackle in the wake of this trial. Photographs purporting to be her were recklessly shared online.

Lines were quickly drawn on social media for and against her. Volleys of tweets rallying behind the woman were posted with cavalier disregard to the accused men’s right to due process.

In the media frenzy that gripped the trial, there was even a short-lived crowdfunding campaign calling for flowers to be sent to the woman every day, care of the prosecution, as a show of support.

> *The last thing I want is a girl crying and leaving my house. I would’ve been completely freaked out*
>
> **Paddy Jackson**

The Best of intentions?

BY TURNING UP TO THE COURTROOM ON the woman’s first day of evidence, Ireland and Ulster rugby captain Rory Best fanned the flames. His presence was greeted with opprobrium by many.

It wasn’t just Best. Craig Gilroy, who would later be identified in court as “CG” in the WhatsApp group where the accused men went to brag about their sexual exploits, also showed up along with Ulster teammate Iain Henderson. But it was Best who was under the greatest pressure to justify his decision to attend his friends’ rape trial.

Interviewed the following Saturday after Ireland’s win over France in the Six Nations, he confirmed he was a potential character witness in the case.

The jury was told the following week that Best had been instructed by the defence lawyers to attend court in order to hear the woman’s testimony.

The reason for issuing such an unusual direction was never explained. Given that the role of a character witness is essentially limited to delivering benign blandishments about an accused, why would he have needed to hear the woman’s evidence?

Best, who was busy leading the Ireland team to a Grand Slam, was not seen again inside the courtroom.

‘Please, no, not him as well’

IN TOTAL, THE WOMAN SPENT EIGHT days in the witness box, six under cross-examination. Judge Patricia Smyth made sure there were frequent breaks.

In her evidence for the prosecution, the court heard that the then 19-year-old Belfast woman had gone out to celebrate the end of her A-level resits with friends on Monday, June 27, 2016.

She told Toby Hedworth QC that she ended up in the VIP area of Ollie’s nightclub. Afterwards, she went to a party in Paddy Jackson’s house.

She didn’t really know the crowd going back. There were four women including herself, and the four male rugby players. She said she had expected others to join them.

While she was hazy about the details, she agreed at some point she wound up consensually kissing Jackson in an upstairs bedroom. The court heard he tried to undo her trousers but, when she rejected his advances, they went back downstairs.

She took a gut dislike to McIlroy who was having pictures of himself taken with the other female partygoers sitting on his knee. She said the mood of the party had shifted and she decided to go home.

When she went back up to the bedroom to look for her bag, she claimed that Jackson followed her upstairs, pushed her onto the bed, pulled her trousers down and raped her face-down. She said he was strong and she couldn’t move. She was frozen, she said it was almost like an out of body experience.

She claimed that when Olding entered the room, she said to Jackson: “Paddy, please no, not him as well.” She claimed Olding forced her to perform oral sex on him and, at one point, ordered her to take her top off.

By her account, after the intercourse Jackson tried to put his whole hand inside her. She said she was in pain, and when she started to bleed, one of the men began to laugh.

She said her instincts to flee only kicked in when McIlroy appeared at the door completely naked, holding his penis in his hands. She put on her trousers and ran from the room with her underwear shoved into her pocket.

As she pushed her way past McIlroy, he allegedly said: “You fucked the other guys, why not me?” The court heard she replied: “How many times does a girl have to say no for it to sink in?”

The jury heard that, having fled from the house, the woman realised she had left her phone behind and had to return to the bedroom to get it so she could call a taxi.

Leaving a second time, she said that Rory Harrison followed her out and offered to share a taxi home with her.

Harrison did “absolutely nothing wrong”, she later told police. “He didn’t touch me. I was crying. I can’t remember what I said to him, I was so upset.”

She recalled Harrison walking her to the door of her home and asking her if she was going to be okay. She thinks she told him something like: “It doesn’t happen to girls like me.”

She went into her home and, a minute later, Harrison sent her a WhatsApp message: “Keep the chin up you wonderful young woman.” She thanked him and he replied with “a song to calm you down before bed”.

Taxi driver Stephen Fisher would later give evidence that the woman was “sobbing throughout the journey”. He said Harrison comforted the woman, but he could also hear him “speaking in code” on the phone about how “he was with her now” and was “leaving her home”.

The next day, around midday, Harrison texted her asking if she was feeling better.

She replied: “To be honest no. I know you must be mates with those guys, but I don’t like them. And what happened was not consensual which is why I was so upset.” It was a key text in the prosecution case against all of the men, but against Harrison in particular, who was accused of covering up for his friends.

In her first police interview on June 30, she said she was worried about what was going to happen to her because of the people involved. “I’m so reluctant to do anything. They are probably not as important as I think they are. But they are big names here.”

The poisoned chalice of a sober witness

THE WOMAN’S DIRECT EVIDENCE lasted half a day, then the cross examination started. Brendan Kelly, the high-profile London-based barrister hired by Jackson, led the way. Described as a “charismatic” operator in legal circles, Kelly previously represented Hazel Stewart, the Sunday school teacher convicted of the 1991 joint murder of her policeman husband and the partner of her former lover, dentist Colin Howell in Derry.

In cross-examination, Kelly deployed several tactics to chip away at the woman’s evidence, at times it seemed everything was fair game, including a momentary drunken stumble captured on CCTV at Ollie’s nightclub earlier in the night, she was surrounded by members of the Northern Ireland football team, who had just returned from France after being knocked out of Euro 2016 by Wales.

She could be seen putting her hand on a man’s knee and later touching the arm of Northern Ireland striker Will Grigg outside the club at closing time.

The woman accepted she was drunk, but said she felt “with it” after three double vodkas and around a glass and a half of white wine.

> *I would have been pretty drunk, but still coherent . . . Everything that happened that night was entirely consensual*
>
> **Stuart Olding**

She rejected Kelly’s contention that she was fixated with celebrities. She said she didn’t know who these men were. She also denied that, having failed to score an invite to the Northern Ireland team’s after-party, she had settled for going back to Jackson’s.

The next morning, the woman texted her close friends, telling them she had been raped.

“I don’t want to get the police involved. You know how that will turn out, their word against mine. Ulster Rugby will vouch for them and I will just look like a stupid little girl,” she wrote in one message.

In another text, she noted that nine out of ten rape cases do not lead to convictions.

However, as she was not sure if a condom had been used the night before, she was persuaded by a friend to attend the Brook sexual health clinic for the morning-after pill. From there, she was sent forward to the Rowan Sexual Assault Referral Centre to undergo a forensic examination.

“Can you explain why, on that evening, given that you were there to set in stone the forensics, there was a record indicating there was no oral penetration?” Kelly asked.

Her initial interview at the Brook clinic noted that there were “two assailants, vaginal penetration, no condoms”. While it was clearly meant as a rough sketch of what had allegedly transpired in an upstairs bedroom at Jackson’s house, there were inconsistencies between this and later accounts that Kelly was keen to exploit.

The woman had made no mention of oral sex or digital penetration, key ingredients of the charges subsequently brought against the two rugby players. These would not be raised until her first police interview two days later on June 30, 2016.

In her evidence to the jury, the woman said there was nothing sinister about the omissions. She had presented herself at the clinic in great distress after a sleepless night tossing and turning. She said she had not made up her mind about going to the police at this point, and she didn’t know whether oral sex or digital sex could even amount to rape.

While initially the woman claimed that Olding had intercourse with her, the court heard a charge of vaginal rape was withdrawn by the Crown prosecution late last year. By her own account she was face-down on the bed and could not say for certain if he had actually had sex with her. This fact emerged under cross-examination by Olding’s barrister, Frank O’Donoghue.

She said she was 100 per cent certain that Jackson had had sex with her, a claim he vigorously denied. He agreed that he had used his fingers to penetrate the woman, but insisted it was with consent.

Jackson’s assertion was complicated by the evidence of another partygoer, Dara Florence, who walked in on them in the bedroom by mistake. Kelly made much of the fact that the woman failed to mention the existence of this crucial eyewitness in her first account to the police, which she gave in tears two days after the alleged rape.

The evidence of Florence, the only partygoer who was not drinking, had elements of a poisoned chalice for both the prosecution and the defence. By her account, she saw Jackson having intercourse with the woman, which he denied, but, , to her it looked consensual.

In her testimony to the jury later in the trial, Florence said she had laughed with a friend about seing a threesome. Jackson even invited her to join in with them, but she turned down his offer.

Because Florence and the other partygoers had been taking photos and posting Snapchat stories earlier in the night, the complainant said she turned her face away from the door when Florence entered, “mortified” in case she would be identified or photographed.

What it boiled down to, Kelly put it to the witness, was that she had engaged in group sex in an intoxicated and excited state, but was petrified that either the rumour or proof of this sexual activity would find its way to her friends. “That’s what drove you on as far as running with this lie, is it not?” he asked.

She replied: “No, this is not a lie, Mr Kelly.”

Strained emotions in the public gallery

AT TIMES DURING THE WOMAN’S cross-examination, a febrile atmosphere took hold in the public gallery as some of the younger relatives and friends of Jackson and Olding struggled to keep their emotions in check. Once or twice, during the more pointed exchanges, anger spilled over into critical commentary. This would not have been audible in the main body of the courtroom.

For her part, the woman maintained her composure as she forged through the numerous lines of attack thrown at her by the four defence counsels.

The only flare-up came on her penultimate day in the witness box, under interrogation from Arthur Harvey QC, for Blane McIlroy. He repeatedly accused her of stringing together a contradictory and self-serving narrative of the night in question. He said she had an easy habit of “moving from truth to untruth and self-delusion”.

Seven times, Judge Patricia Smyth interrupted his cross-examination to clarify what, if any, question he was putting to the witness.

“What happened is, you had regrets,” he suggested as he questioned why she had spent the best part of an hour having non-consensual sex in a bedroom at a party, when there were three other women at the party downstairs who would have heard her cry out.

“That’s not how you react when you’ve been raped,” the woman answered. She said she was so scared that, instead of screaming and shouting, she felt numb and tried to block out what was happening. Later in the trial, Dr Janet Hall, a forensic medical expert with extensive experience of sexual crime, confirmed that this was a very common reaction among victims.

At times, Harvey’s strident approach felt like a risky strategy likely to push the vulnerable witness into the arms of the jury. But some of his blows landed. The timings, in particular, were problematic. A photo taken at 3.50am downstairs at the party showed the woman in the background putting on her shoes. This was just before the alleged rape.

The court heard it was around 4.10am when Florence walked in on the “threesome”.

Harvey stressed that “whatever happened in that room happened for at least 40 or 45 minutes” after Florence left.

“I’ve absolutely no recollection how long I was in that room being raped,” was her reply.

The complainant got into a cab with Harrison at around 5am, and was seen on CCTV arriving home at 5.15am. There was evidence that she had accessed the Uber taxi app on her phone at 4.43am.

When the woman’s evidence was complete, the judge made arrangements for her to listen to the rest of the trial in a separate room.

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As the trial progressed, there was evidence from the woman’s friends and the other partygoers. The court also heard from Dr Philip Lavery, a forensic medical officer who examined the woman at the

“Jackson described being in shock when he was first arrested on suspicion of rape. ‘I was just going through the motions in the police station. It was really weird,’ he said on the witness stand”

> ***Paddy’s the last person who would rape someone. I thought she maybe had done something and regretted it***
>
> **Rory Harrison**

> ***I just went to the police station and told the truth***
>
> **Blane McIlroy**

> ***Rape is a game of power and control, and they rely on your silence . . . Reporting it was the best decision I ever made***
>
> **The woman**

Rowan Clinic. He said there was no way of saying whether the sexual contact had been consensual or not, despite a small laceration to the wall of her vagina.

There was further forensic evidence that Olding’s semen had been found on the woman’s clothing and underwear.

However, detectives from the PSNI’s Rape Crime Unit found themselves in the firing line over the quality of the investigation they conducted. Olding’s lawyers, in particular, questioned why police seized clothes from his apartment but failed to retrieve the outfit he was wearing on the night of the alleged offence.

There were also delays in interviewing witnesses, and in capturing CCTV footage relevant to the case.

Brendan Kelly, for Paddy Jackson, was critical of the police for not clarifying with the complainant “clear as day” inconsistencies in her account. The PSNI had used a special protocol for vulnerable witnesses called Achieving Best Evidence. The court heard that, instead of asking lots of questions, the witness was meant to feel comfortable about telling her own account in their own words. Police did not feel it necessary to put the woman through a third interview, inconsistencies would have to be ironed out in court.l

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‘We are all top shaggers’

ONE OF THE MOST STRIKING ASPECTS OF the prosecution’s case was the boastful text messages exchanged by the four men the morning after the alleged rape.

Hedworth, for the prosecution, alleged that these exchanges, found when police seized and analysed the men’s phones, gave a “true flavour” of their attitudes.

At 11.17am, Olding texted: “We are all top shaggers.” He then added: “There was a lot of spit roasting going on last night fellas.”

Jackson responded: “There was a lot of spit.” Olding replies: “It was like a merry-go-round at a carnival.”

The jury heard that another friend who was not at the party joined in the texts around lunchtime asking about “spit roast brasses”.

“Legends. Why are we all such legends?” the friend asked, to which McIlroy responded: “I know it’s ridiculous.”

McIlroy had already been on to Harrison, texting: “What the fuck was going on? Last night was hilarious.” Harrison’s response no longer exists. McIlroy texted again in succession saying: “Really fuck sake. Did you calm her. Where did she live?”

The reply was: “Mate no joke. She was in hysterics. Wasn’t going to end well. Aye just threw her home and went back to mine.”

The prosecution claimed that Harrison’s texts to his friends the next day showed that his “gallantry” and concern towards the woman were two-faced.

He texted McIlroy: “Mate the scenes last night were hilarious.” This was followed by the message: “Walked upstairs and there were more flutes than 12th July.”

Not hammered, but pretty drunk

PADDY JACKSON WAS THE FIRST OF THE four defendants to enter the witness box at Belfast Crown Court. As the best known of the four defendants, a man who posts YouTube videos of himself lip-synching to songs was not all ego or entitlement. He said it could be awkward signing autographs for fans with his friends around and denied the woman’s claim he had used his fame to secure someone else’s taxi outside Ollie’s. He described being in shock when he was first arrested on suspicion of rape. “I was just going through the motions in the station. It was really weird,” he said.

Jackson, who has played 25 times for Ireland, was ordering breakfast at Town Square on Thursday, June 30, 2016, when he got a call from Ulster director of rugby Les Kiss telling him to get a solicitor and attend Musgrave police station over a “pretty grave” matter.

He said his heart sank. “I didn’t know what to think. It was very confusing.”

By his account, everything that had happened with the woman at the party was entirely consensual. He had drunk several cans of beer, pints of Guinness, gin and tonics and some shots.

“I wouldn’t say hammered, but I was pretty drunk,” Jackson told the court. He had not slept since he had flown home from Ireland’s rugby tour of South Africa the day before.

Jackson said he first noticed the woman at the party when she began flirting with him and following him around. “It seemed very innocent, very normal,” he told the jury.

By his account, she followed him upstairs to the bedroom twice, where they kissed. He denied lunging at her, or that she said “no” to him.

He told the jury that their kissing became more passionate second time round, and they fell onto the bed. She began playfully biting his lip before performing oral sex on him.

When asked if she appeared to be enjoying what was happening, he told the jury: “She was doing it to me, she must, she was enjoying it.”

Dara Florence, the witness who said she saw them having intercourse, was “mistaken”, Jackson said.

He said it was a bit embarrassing when his co-accused Stuart Olding walked in on them, but he kind of smiled and waved at his friend, who joined them.

He agreed that he used his fingers on the woman, but denied using his whole hand.

By his account, Olding left the bedroom, and he and the woman lay on the bed naked. At some point, he said, he lifted his head and she was getting dressed.

He said the woman did not appear distressed and that, if he had known she was upset, he would have gone to help her. “The last thing I want is a girl crying and leaving my house. I would’ve been completely freaked out. For fear of this.”

“Stupid immature conversations” was how Jackson described the WhatsApp messages mentioning “spit roasts” and “brasses” the next morning between him and his friends. “We were kind of egging each other on a bit,” he said.

When asked to explain the term “spit roast”, Jackson said it could be sexual activity involving oral, vaginal or digital penetration between two men and a woman or a threesome.

In the days that followed, Jackson did not wash his bloodstained bedsheets. Instead, he went with Olding, McIlroy and Harrison for lunch at the Soul Food cafe and then went out drinking. He denied that, over food, they had concocted a plan to lie about the night before.

A huge volume of alcohol

ONE OF THE MOST STRIKING ASPECTS OF Stuart Olding’s evidence was the sheer volume of alcohol that he admitted to consuming on the night. Like Jackson, he had just returned from Ireland’s tour of South Africa. Having dumped his bags, he met up with his friends in the afternoon to watch Euro 2016 on television, and began to get through eight cans of Carlsberg.

Later in the evening, he would put away four pints of Guinness, two gins and tonics, five vodka lemonades, three shots and another beer.

When asked if he would have been inebriated leaving Ollie’s nightclub with his friends after 2am, Olding said: “I would have been pretty drunk, but still coherent.”

Back at the party, he said, he walked into Jackson’s bedroom looking for a place to sleep. He said he saw the woman fully clothed, lying on top of Jackson and kissing him.

He said that neither of them showed any sign of distress, and the woman beckoned him over with her hand. When his own barrister asked him how sure he was of that invitation, Olding replied: “100 per cent.”

The jury heard that, without any words being spoken, Olding began kissing the woman open-mouthed. While he couldn’t quite recall how his jeans came undone, he said she began to perform oral sex on him as he lay back on the bed. “I didn’t force her in any way,” he said.

By his telling, the oral sex lasted for five to ten minutes and was interrupted twice: once when she asked him and Jackson if they had condoms, and again when he asked her to take her top off which she did “straight away” without reluctance.

He said nothing happened that made him believe the woman was not consenting. Otherwise, he said, he would not have continued.

In a 90 minute cross-examination, it was put to Olding by the prosecution counsel that he had had “a bit of a skinful” of drink, and that there was a danger in that situation that people would do things that were not only inappropriate, but downright wrong.

Olding said for some people that might be the case, but he had been in complete control of his actions. He said he had not used the woman as a vehicle for his sexual desires.

He denied it was “fanciful” to suggest that he had begun kissing a woman who had just had his friend’s penis in her mouth, or that he had been passively lying on the bed like a “sex toy” while the woman took all the initiative.

As his barrister Frank O’Donoghue continued to read out the texts he had sent, Olding told the court he was not proud of the messages. However, he told the court that the term “spit roast” was an exaggeration of what had really gone on in the bedroom.

He said that, over lunch the next day, Harrison had never mentioned that the woman had been in “hysterics” leaving the party, or that she had claimed the sexual activity was non-consensual.

When asked by the prosecution if he were not furious with Harrison about this, he replied: “Well, yes.” But he added that he didn’t think the omission was intentional.

Olding rejected the prosecution’s suggestion that he and his friends had tried to cover up a drunken night when they had gone “completely beyond what they knew was acceptable”.

“Everything that happened that night was entirely consensual,” he said.

An off-kilter version of events

AND THEN THERE WAS BLANE MCILROY, whose account of the night was bizarrely off-kilter with everybody else’s telling of the story.

To incongruous laughter from the court, Jackson’s lawyers put it to the 26-year-old that even his closest friends would say he talked “shite”.

“Yeah,” McIlroy responded.

McIlroy was accused of exposing himself by turning up naked at the bedroom door, having sent Jackson a text message asking if there was any possibility of a threesome.

The woman’s evidence was that he never touched her. However, McIlroy told police and the court that he had had consensual sexual activity with the woman at the party in the bedroom while Jackson was present.

In police interviews, he said that at one point he had gone to feel the woman’s groin, but found himself touching Jackson’s hand.

According to Jackson, none of this happened.

“Why have you come up with a false story? Has the penny not dropped that even your own friends have to suggest to you that you got it wrong?” asked Toby Hedworth, for the prosecution, when it came to his turn to question the defendant.

But McIlroy maintained that the account he gave to the police had been the truth. It was problematic, even if he was mistaken he seemed to have knowledge of at least some of what had gone on in the bedroom from the prosecution’s perspective.

Did this mean that contrary to their evidence the men had discussed what happened in some detail?

Hedworth asked him if he had thought about how preposterous his account was: that a woman who had just received a painful injury to her vaginal wall had turned from figuratively enjoying a post-coital cigarette with Jackson to perform oral sex on him.

“I just went to the police station and told the truth,” he replied.

It was suggested to him that he had got his lines wrong. “This is the Paddy Jackson version of what Stuart Olding was meant to have been doing,” Hedworth asked.

“No,” McIlroy replied.

Old friends from Methody

“I’VE KNOWN PADDY SINCE I WAS EIGHT or nine. He’s the last person who’d rape someone. I thought she maybe had done something and regretted it,” Rory Harrison told the court when his turn came. “He’s exactly the same guy I’ve known since mini-rugby when we were eight or nine,” he added.

Harrison, McIlroy and Jackson had all gone to the same big Belfast rugby school, Methodist College, known as Methody.

In his evidence, Harrison said he didn’t tell Jackson about the woman’s message about non-consensual sex because he had “no faith it was true”, and he didn’t want to worry his friend.

The jury heard that Harrison had been working in insurance in Dublin in 2016, but was spending a few days in Belfast after a family holiday in Majorca celebrating his father’s 60th birthday.

On the night of the party, he said he didn’t know why the woman came downstairs upset, but he speculated that she might have been rejected by Jackson in the bedroom. He took her home in a taxi.

Under cross-examination, he denied that he had put “misplaced loyalty” towards his friends ahead of the needs of the young woman. He also denied that they had told him to look after her, or that there had been any sort of cover-up.

“If you honestly believed there had been a sexual assault at Jackson’s house, would you have joked about it?” Harrison’s barrister, Gavan Duffy, asked him.

“No, I wouldn’t,” he replied.

A hopeful eye to the future

AT 12.27PM LAST WEDNESDAY, THE FOUR defendants were told to stand in court as day two of the jury’s deliberations came to an abrupt end. Two days earlier, Judge Patricia Smyth had told the jury a woman is entitled to say no, pointing out that the complainant’s account differed from the versions given by the men, she said “it is for you to decide where the truth lies”.

After three hours and 45 minutes the verdicts were in. As the charges were read out, the foreman of the jury of eight men and three women replied to each count: “Not guilty.” There was audible relief among the families in the public gallery, muted by Judge Smyth’s stern warning that she would not tolerate any outbursts in court. Outside in the corridor, the defendants engaged in hugging and backslapping with relatives as the result sank in.

The four men left Belfast Crown Court separately. Jackson and Olding were accompanied by their lawyers, who gave very different statements to the media on their clients’ behalf.

Joe McVeigh, solicitor for Jackson, highlighted the heavy price paid by the out-half, railed against social media, and expressed hope his client could return to the rugby pitch quickly. Slamming the police for what he claimed was investigative bias, he said his client’s star status had driven the prosecution.

Olding’s was a more gracious exit. While maintaining that he had committed no crime, he expressed through his solictor Paul Dougan deep regrets for events on the night and apologised for the hurt caused to the woman.

They walked away, but the case was far from over. Public anger boiled over into public protest as hundreds rallied in cities around the country. One sign read “she didn’t scream, so we will for her.”

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How to spot a takeover target
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Under-resourced and under fire, the new Chief Justice Frank Clarke talks to Legal Affairs Correspondent **Francesca Comyn** about leadership, accountability and reform in turbulent times for the judiciary

HOLDING COURT

Two short months ago, the appointment of Frank Clarke as Chief Justice was met with paroxysms of goodwill in legal circles. As the favourite candidate for the job, the former commercial law barrister from Walkinstown, Dublin, was hailed as a man of the people in possession of one of the finest legal minds of his generation.

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“I’d be very surprised if Paschal Donohoe woke up last night and said: ‘Oh my God, I haven’t given the courts enough money’”

from page 1

It may have been his due, but some of the puffier bursts of praise hid a deeper relief that Clarke, an effective operator and arch-pragmatist, would have his hand on the tiller through a potentially turbulent programme of judicial modernisation and reform.

After all, this may prove a tricky stewardship for the 66-year-old. These are uncertain times for the judiciary, many of whom feel their independence and standing continues to be eroded by political interference. Clarke will need a cool head to navigate the introduction of a controversial new judicial appointments system and the establishment of a judicial council.

There has already been strong kickback within the ranks of the judiciary to Minister for Transport, Tourism and Sport Shane Ross’s crusade to laicise the appointments process and with action in the Oireachtas resumed, expect lobbying, rows and plenty more judicial baiting.

Unsurprisingly, the long vacation has meant that since Clarke’s tenure began, it has been all quiet on the legal front. That is about to change.

Before an audience of Minister for Justice Charlie Flanagan and senior legal figures at the Four Courts last Tuesday, the Chief Justice set out his priorities for the judiciary and the courts at the start of the new legal year. Top of his list was improving access to the courts for those who may be priced out of justice. His second stated priority was beefing up judicial supports.

It was a speech very much of its time, perhaps tailored to appeal to the hearts and minds of a centre-right government. The judiciary is offering increased efficiencies by way of procedural reforms in exchange for more resources (a word that cropped up 24 times during the 30-minute address); more of which later.

Judicial reform was attended to briefly as something the judiciary favours in principle. He defended the right of judges to make their views known on matters that affect their interests and added that the “devil was in the detail”. Then he purposefully and quickly moved on. Clarke exchanged a few words with the minister as photographs were taken afterwards, but there has not yet been substantial engagement between the two men.

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When I turn up to meet the Chief Justice the following afternoon, I am shepherded into the quiet, book-lined conference room attached to the Supreme Court.

Lining the walls of the private corridor outside are group photographs of Supreme Court justices dating back to the foundation of the Free State. In the centre of the room is the historic boardroom table, around which the most important legal cases in Irish history have been decided.

Eschewing a jacket in favour of shirt sleeves, Clarke takes a seat at the top of the table. Sitting to his right is the media relations adviser for the Courts Service.

In person, Clarke is affable, unceremonious and prone to short bursts of boisterous laughter. It can make him come across more like a chief executive than a Chief Justice, but there are telltale signs. For starters, he has the lawyer’s ingrained habit of peppering every sentence with qualifiers such as “I think” “perhaps” and “maybe”.

When asked what it feels like to be in the top position, he says: “Slightly strange. The first time my secretary sent out letters saying ‘the Chief Justice wants to do this’, I kind of read it and said: ‘Who’s that?’”

The strangeness is partly because his appointment in late July meant that his tenure was instantly becalmed by the summer break.

Clarke was one of three names in the running to replace Susan Denham as Chief Justice. The others up for consideration were Supreme Court judge Donal O’Donnell and High Court president Peter Kelly. It may be said O’Donnell was cast as the intellectual heavyweight of the three contenders and Kelly as the outspoken past critic of government, Clarke was seen as efficient, effective and fair.

In the end, his was the only name to go to cabinet following a meeting between Taoiseach Leo Varadkar, Flanagan and Attorney General Séamus Woulfe. New politics, Shane Ross-style, this wasn’t.

I ask Clarke why he thinks he succeeded. He assumes it was probably to do with his prior experience in leadership roles. “The judiciary has perhaps felt a bit beaten up in recent times. I chaired the Bar Council in not too easy times and the King’s Inns, which might not have been quite so difficult,” he says.

“It’s getting a disparate group and getting a reasonable consensus and coming to a reasonable accommodation with those you have to deal with. Perhaps [the fact] that I had that experience in a leadership role might have helped.”

He’s not wrong. There have been convulsive years in the recent past. The 2011 referendum to abolish the constitutional protection afforded to judges’ pay so their six figure salaries could be cut in line with other public servants created huge stress fractures among the profession. For some it was an out and out assault on judicial independence.

It emerged last year, in Ruadhán Mac-Cormaic’s book The Supreme Court, that the late judge Adrian Hardiman had threatened to resign if the poll passed, which it did by an overwhelming majority. He stayed.

The brouhaha was an avoidable own goal. Before the ballot, the judiciary had been asked to volunteer a pay cut, which they didn’t do in droves. Despite all the conflict, a 2014 Council of Europe audit found that the judiciary remains one of the most trusted institutions in the country.

But with more testing times ahead politically, Clarke may need to bring some party whip skills into play. He acknowledges it would be “very naive to think any of it will go away”.

When it comes to overhauling judicial appointments, the presidents of the five courts, from the Supreme Court down to the District Court have already made their position clear to government. They lobbied hard against the introduction of a lay chair and a lay majority on the appointments board.

But it appears to be a losing battle, as Shane Ross had the delivery of these reforms enshrined into the Programme for Government. The bill is to go before the Seanad in the coming weeks.

More recently, it is the lobbying that has gone on in relation to the Judicial Council Bill 2017 that has raised eyebrows. Under pressure from senior judicial figures, the government agreed to introduce a privacy provision relating to misconduct inquiries for judges.

Freedom of Information documents released to the Sunday Times also showed that senior judges, including Susan Denham, unsuccessfully pushed for severe punishments for anyone revealing details of secret disciplinary investigations involving the judiciary, including fines of up to €250,000 and ten years in jail. The submission from 2015 said the proposed maximum fine at that time of €3,000 was “seriously inadequate”.

When I ask whether such draconian and self-interested submissions have a damaging effect on the reputation of the judiciary, Clarke responds by personally distancing himself from previous lobbying on the bill. He says he was not “actively involved” in the interventions that went before.

“I think we are going to have to have an internal discussion about how we feel,” he says. “It seems inevitable there will be a proposed amendment along the lines of removing that ban on publication. We will take a position on that.”

While the judiciary has been calling for a judicial council for 20 years, there is a lot of fear about the planned watchdog on the issue of misconduct. Judges are not used to being held accountable and Clarke says there is a worry they will be unfairly targeted by convicted criminals and aggrieved civil litigants trying to “take them off the pitch”.

One of the chief concerns is whether the threshold for misconduct might be too low, encompassing, for example, mild one-off incidents of rudeness in court.

Clarke is uncertain of what complaints to expect. “It’s very hard to call,” he says. “We’ve no experience of this. Maybe there will be fewer complaints than judges fear. I know District [Court] judges have the greatest fear because they are on the coalface. You get some weird and wonderful complaints being made public that the judge must have been on the take, because he couldn’t possibly have decided the case the way he did if he weren’t. I suspect you’ll get some of that. All sorts of bias. You may well get delay complaints.”

With its future up for some bartering, I ask Clarke if the judiciary plans on hiring a public relations firm to beef up its lobbying skills, which politicians have found lacking in the past. It was a route taken by the Bar Council in recent years. The answer is no – although it was discussed.

“We’re sometimes in a difficult position making our case publicly, but I’m not sure it’s a game we can play because once you start playing it, you have to keep playing it, and I’m not sure that is in our interests,” he says.

Clarke is keen to emphasise that he is part of a team. His job is to run the Supreme Court which currently has seven judges. He has no say in what Peter Kelly does as President of the High Court or Sean Ryan in the Court of Appeal. “There may be a sort of a titular leadership but, in terms of actually speaking for the judiciary, I’ve no more rights than the next person.”

When a judicial delegation does meet face to face with the justice minister or department heads, high on the list of priorities is the 18 month backlog afflicting civil cases in the Court of Appeal. There are ten judges attached to the court, four of whom predominantly handle criminal appeals, which are more or less up to date. But the civil side is creaking under

Sexts, lies and the demise of a power couple

Just a few short years ago, Huma Abedin had it all: a marriage to a rising star of the Democrats, unmatchable connections to the Clintons, and a path to power in Washington DC that was hers for the asking. Now her life and career lie in ruins

Marion McKeone
in the US

Huma Abedin and Anthony Weiner married in 2010; Abedin’s rise to political prominence was as the eyes and ears of Hillary Clinton

In a Manhattan federal court last week, Anthony Weiner, the former Democrat congressman, former New York mayoral candidate and former husband of Huma Abedin, broke down in tears as he was sentenced to 21 months in prison for exchanging lewd messages with a 15-year-old schoolgirl.

Abedin, Hillary Clinton’s longtime aide and closest confidante, who now lives alone in Manhattan with their young son, was nowhere to be seen.

By any standard, the Weiner-Abedin drama, which for once relegates the Clintons to bit parts, is an astonishing and multifaceted Washington DC scandal and a spectacular fall from grace for the former golden couple of the Democratic Party.

Once regarded as future Democrat leaders, Weiner and Abedin were the standard bearers of a supposedly post-ethnic, post-race, post-creed, post-feminist US, two formidable talents who acted as perfect foils for each other, politically and personally.

As late as May 2016, the couple’s places in the political firmament seemed fixed.

Clinton believed her presidency would be a rising tide that would lift all boats and launch Abedin’s political career. Democrats spoke of her as a UN ambassador, even a secretary of state, in a Clinton administration. But in truth, Abedin was more likely to continue her role as Clinton’s gatekeeper, albeit at cabinet level.

She would likely have become Clinton’s chief of staff, arguably the most powerful person in any administration, making history as the first woman – and Muslim – to fill the role.

Meanwhile her husband, the brash, tenacious, yet idealistic streetfighter, notwithstanding the farcical sexting escapades of his alter ego Carlos Danger, was a contender for a senior policy adviser position, perhaps as an under-secretary of Education, Health or Housing and Urban Development; all portfolios where he could roll up his sleeves and go to war on behalf of America’s have-nots.

It’s astonishing now to think that Democrats were so confident of a Clinton victory in November 2016 that this reporter overheard two delegates at the seamlessly choreographed 2016 Democratic convention, predict an Abedin/Weiner ticket for 2024, almost as a benign reimagining of the Netflix series House of Cards.

It seemed fanciful, even then. Now, with Clinton’s presidential ambitions in tatters, it seems absurd, even delusional, the punchline of a cruel cosmic joke. Clinton vanquished, Abedin divorced, jobless and attempting to rebuild her life as single mother and breadwinner while her husband, now a convicted sex offender, prepares to start a 21-month prison sentence. How does anyone come back from this?

It’s hard to tell what Abedin will do next. But she has formidable skills of her own. She is hugely respected in Democratic circles, as much for her discretion and fierce loyalty as her ability.

Brian Fallon, Clinton’s press secretary, told this reporter that Abedin has the “ability to make the impossible seem effortless”. She’ll need it.

Gavin Newsom, the lieutenant governor of California, describes Abedin as a “political Swiss Army knife . . . She’s connecting dots, building bridges, and doing the work of a half-dozen people. I joke with my staff: ‘Can’t you be more like Huma?’” he said.

While undoubtedly meant as a compliment, his assessment is somewhat derogatory, seeming to consign Abedin permanently to the role of loyal underling. Abedin herself has, despite Clinton’s prodding, shown little inclination to transform herself from perennial bridesmaid to political bride.

Now back in New York with her young son, she must ride out the tsunami of scandal that engulfed her and helped to scuttle her mentor’s and closest friend’s presidential ambitions. There is something Shakespearean about the grandiose plans, the broken dreams, the hubris followed by the devastating ignominy.

Manhattan is a brutally intrusive refuge for a former wife of a notorious public figure. Any new relationship or career move will come under microscopic scrutiny.

And of course, there will be much schadenfreude: not just because the irrepressible, egomaniacal, sexually deviant Democratic Congressman from Brooklyn got his comeuppance, but because this post-millennial take on West Side Story imploded with such devastating finality.

Abedin was an important engine within the Clintons’ political machine, helping to propel the juggernaut forward but preferring a behind the scenes role. No Steve Bannon, she shunned the spotlight; always discreet, circumspect, and rarely off her guard. In exchanges with this reporter over the years, she was unfailingly polite, professional but unknowable. Members of the travelling media groused about her aloofness, about the invisible forcefield she threw around Clinton and herself that repelled anyone who sought to penetrate it.

Until the final week of the campaign last year, the two were rarely more than a few feet apart. Abedin would usher Clinton onstage at rallies and events, whispering encouragement and then hover in the wings. As soon as Clinton had finished delivering her wonkish stump speech in that strident but hesitant tone, she would gravitate straight back to Abedin, seeking a reassuring assessment of her performance.

In between, Abedin was always watching anxiously, one eye on Clinton, the other on those in her orbit, ensuring everyone was doing their job, constantly checking her phone, reading emails, sending texts, finalising scheduling details. If it seemed like an impossible amount of work for one woman, it probably was.

Abedin started working for Clinton back in 1996 as a 19-year-old intern fresh from college. There is still something of the intern about her; you sense beneath her composure and professionalism, a certain reticence. Unlike other mother/daughter or mentor/protégé relationships, she seemed to have no interest in forging her own path, or in using the formidable knowledge and contacts she accumulated on her two-decade climb to the pinnacle of power.

But the relationship was more than just boss and employee. And it irked many in the Clinton camp, who found Abedin to be too tenacious a gatekeeper.

The email exchanges between them, which became public as a result of the investigations into Clinton’s use of a private email server while she was secretary of state, provide insight into their relationship. Clinton appeared to depend on Abedin for everything.

Through the past 20 years, through every step of Clinton’s personal political trajectory and the scandals, the infidelities, the impeachment, the final fatal blow dealt to her political ambitions, Abedin has been by her side, inscrutable and irreplaceable. But while no one doubted her fierce loyalty to Clinton, Abedin’s own behaviour sometimes seemed inexplicable and certainly unhelpful to her mistress.

The fly-on-the-wall documentary she and her husband made was released in US cinemas just six months ahead of the 2016 election. It was hard to guess the motives behind the public airing of her humiliation by her philandering, sexting husband and the implosion of his 2013 bid to become Mayor of New

Frank Clarke: 'Certain categories of litigation have become too expensive for ordinary people' Picture: Fergal Phillips

the weight of delay.

Clarke knows exactly what he wants as a long-term solution, four extra Court of Appeal judges. Assuming the current complement of High Court judges is maintained, that would cost the taxpayer an extra €700,000 per annum adding to the overall judicial pay bill of €24 million. It is a big ask. Nothing has been promised.

"This isn't asking for that which you know you'll get," he says, laughing.

"I think realistically in appellate courts, it's not a good idea to have judges sitting more than three days a week because they need reading time and they need writing time." The idea would be to have two panels of three judges sitting every day, which requires ten judges.

The Court of Appeal was created in 2014 in order to allow the Supreme Court to focus on cases of exceptional public or Constitutional importance. Now as a short-term, stopgap measure, it is the turn of the Supreme Court to help out with the lower court's workload.

Court reform

There are other drums to beat. Right at the top of Clarke's to-do list in his address last Tuesday was "practical access to justice". It is a beast of a topic, one that is all too often deemed intractable and left to hand-wringing legal academics to worry about. Frankly, it seems brave to get stuck in.

"A speedy court hearing is part of it, but I think money is the single biggest issue. Certain categories of litigation have become too expensive for ordinary people."

The diagnosis is easy; the cure is a lot more difficult. The brushstrokes used by Clarke in his speech were broad. As money is a finite resource, he has focused on modernising procedures that fall within the control of the judiciary.

He tells me that in his chambers, he has a book of laws called Wiley's Judicature Acts which date from the 1870s. The legislation was responsible for creating the High Court structure of today. "If you look at the rules in Wiley's Judicature Acts and if you look at the rules today there is in many areas a very striking resemblance. I sometimes comment that one of the biggest differences is in Wiley the numbers are Roman and we use Arabic, a very radical change."

Noting the success of experiments such as the Commercial Court, which drastically reduced court waiting times, he is hopeful a root and branch review of civil procedures could eradicate some outdated practices that are no longer fit for purpose. His ambitions tie in with the review work on civil procedure currently being undertaken by a committee chaired by his High Court colleague Peter Kelly.

"I think it needs a root and branch review but, as I said yesterday, some things that you could change would take up back up resources to be able to do them right as well. It's not just a matter of changing the rules. For example, I made the point that in the North, they have six masters of the High Court who can do administrative things before cases get to court to make sure they run smoothly. We have one."

> **The judiciary has perhaps felt a bit beaten up in recent times**

While satisfied that the dark days of retrenchment are happily over, just how much extra money will be invested in the Courts Service is another matter. Last year, gross expenditure was €112 million.

"I'd be very surprised if Paschal Donohoe woke up last night and said 'Oh my God, I haven't given the courts enough money. We'll put an extra 10p on the cigarettes and give them another €100 million'."

Elites

The perception of the bar and by extension the judiciary is of an elite. Clarke is not of that mould. Born in 1951, he grew up in the Dublin suburb of Walkinstown and attended a nearby Christian Brothers school. He feigns offence when I describe his background as ordinary.

"The three senior court presidents are all Christian Brothers boys. Sean Ryan is O'Connells [North Richmond Street, Dublin], Peter Kelly is O'Connells, I'm Drimnagh Castle. Of course, the cohort from whom judges are chosen tend to be from a slightly better off background than average, but I think the extent to which that is so is exaggerated," he says.

Clarke says he fell into law. He had no idea what he wanted to do with his life when he left school. He just knew he wanted to attend university. He was the first person in his family to do so.

Being numerate, he chose to study Maths and Economics at University College Dublin. While there, he became involved in debating and was drawn to the law. In second year, he started attending Law lectures and passed the King's Inns entrance exams to study to become a barrister.

"Personally, I never felt in any way disadvantaged," he says. "Maybe I was lucky and around at the right time. The legal business was expanding in the 1970s when I was called to the Bar."

He believes it was a gentler and more optimistic era. Most of the students who went to the Bar lasted the distance. Today, the attrition rate is notoriously high, as it can take years before a young barrister makes a red cent.

Double-jobbing is common, and so is hanging around the Law Library pretending to look busy. It can be soul-destroying for young men and women who have the luxury of an affluent background with financial supports. Whip away that safety blanket and the risk can seem too much to take.

The Denham fellowship was an initiative by Clarke's predecessor to address the barriers to entering the profession. It is one he wholly supports.

Three other legal titans who took the same path as Clarke, from Arts in UCD to the Bar in the early 1970s, were barrister and senator Michael McDowell and judges Adrian Hardiman and Kevin Feeney. The last-named pair both died unexpectedly in recent years.

Clarke toyed with Fine Gael politics for a while, campaigning for Dublin South West TD Jim Mitchell and writing speeches for Garret FitzGerald. He also had an unsuccessful run at the Seanad in 1980. Instead, he went into law. He became a leading senior counsel practising commercial and constitutional law until 2004 when he was selected for the bench under the Fianna Fáil/PD coalition.

In that role, he primarily oversaw cases in the commercial division of the High Court before he was elevated to the Supreme Court in 2012. He presided over IBRC's battle to stop the family of Sean Quinn moving assets beyond the bank's reach, as well as the long-running Thema action relating to investors burned by the Ponzi schemes of fraudster US stockbroker Bernie Madoff.

Seen as socially liberal, Clarke was the lone dissenter in a panel of seven judges in a surrogacy action before the Supreme Court three years ago. The majority found the woman who gave birth to the child was legally entitled to be registered as the infant's mother rather than the woman who had provided the genetic material.

Will these tendencies come to the fore in the court under his leadership?

Calibre of judges

Clarke shares what is a common view among lawyers these days: that prestige appointments to the bench have been somewhat lacking in the past decade. While he offers the usual platitudes about front-rank barristers and solicitors not automatically making the best judges, he admits the recent inability to reel in the legal elite is a concern.

"I think there has been a problem recruiting from the very top of the practising professions. I think there is no point pretending that isn't so," he says.

No prizes for guessing why. Pay was cut after the 2011 referendum, and pensions were changed to mature after 20 years, rather than 15 years as they had been previously. "I also think the fact that people perceived rightly or wrongly that judges were sort of being beaten up by the political system hasn't helped," Clarke says.

After the referendum, the salary of a newly-appointed Supreme Court judge was set at €178,608, a High Court judge at €168,000, a Circuit Court judge at €127,908 and a District Court judge at €111,698. The salary of the Chief Justice was set at €227,168.

Yet Irish judges, along with their counterparts in Norway and Britain, remain the highest paid, according to a Council of Europe study last year.

Clarke is hopeful that the rowing back of Fempi (Financial Emergency Measures in the Public Interest) cuts and perhaps a quieter political climate may encourage some of the front-rank talent back to the bench.

He seems unfazed by some of the more lurid attacks on the judiciary by Shane Ross, including his outburst last year about the need for a register of interests in case judges might forget their oath to administer justice without fear or favour.

"I suppose the one thing judges come to realise is that things get said in politics that maybe we are better off keeping out of," he says.

However, when it comes to the controversial appointment of outgoing attorney general Maire Whelan to the Court of Appeal last June, Clarke clams up. "People who are judges are part of our system, and I think we all need to stand together," he said.

The process of judging

Former Rehab chief Angela Kerins' case against the Public Accounts Committee and the never-ending fallout from the Moriarty Tribunal are among the cases listed this term in the Supreme Court's diary. It may be some time before any landmark constitutional case puts a stamp on Clarke's time as Chief Justice.

As we are sitting in the conference room of the court, it seems apt to ask how the judges go about the collective decision-making process. Clarke noticeably livens up. "It's funny there has been very little said about the process."

In the US Supreme Court, the tradition is that the senior judge, the chief justice normally, expresses their views first and it goes around the table in order of superiority, Clarke says.

In Ireland, it is the direct opposite. The most junior member of the Supreme Court speaks first, in case they may be swayed or intimidated by more senior colleagues. Once everyone has had a turn, it becomes "fairly freestyle".

Judgments are then assigned to specific judges. When the drafts are ready they are circulated internally to allow for comments. This sparks a paean to an old colleague, Ms Justice Mary Laffoy, who retired from the court earlier this year and chaired the Citizens' Assembly on abortion.

"One of the great reasons, of many, for missing Mary Laffoy was she had an eagle eye for finding things that you might have missed. In fact, if you got an email back from Mary saying she had no comments, it wasn't because she hadn't read it: you actually felt a slight glow of pride that you'd actually written something that even Laffoy couldn't find a mistake in. It didn't happen often, I have to say."

When the court is split, some decisions really are a knife-edge thing.

"Certainly, there have been cases where people had second thoughts," says Clarke. "I think it would be a bad thing if you didn't. There are cases where everyone knows the arguments and either side is evenly matched.

"I've said to colleagues on occasion, in cases: 'I probably could have almost as easily have written the judgment on your side.' It's a close-run thing but, on balance, I take this view."

Getty/AP

York courtesy of a second sex scandal.

Why would this intensely private and previously unknowable woman allow the world to witness her finding out in real time, about her husband's further betrayals? What Clinton thought of her protégée's decision to reveal all is unclear, but it was an unhelpful and tawdry distraction at best.

Shortly after Weiner's first sexting scandal broke in 2011, Abedin took a sabbatical and, with Clinton's support, returned to New York and tried to save her marriage. But after the birth of her son, she also ill-advisedly took a job as a consultant with Teneo, a private consulting firm which has since fallen out of favour with the Clintons.

Clinton has been guilty of many lapses of judgment during her career; a mentor with better-tuned political and ethical antennae would have advised Abedin against it. Given the extensive contacts that Teneo co-founders Declan Kelly and Doug Band enjoyed with Bill and Hillary Clinton, it was inevitable that Abedin's overlapping jobs and the potential for multiple conflicts of interest would return to haunt the Clinton campaign.

Chuck Grassley, the Republican chair of the Senate Judiciary Committee, led a lengthy and ultimately futile attempt to prove that Abedin's work within the State Department, for the Clinton Foundation and for Teneo, violated conflict of interest rules. With hindsight, his campaign seems almost quaint, but it triggered frustration within the Barack Obama administration that Clinton's maternal relationship with Abedin blinded her to the political optics of employee favouritism.

The bigger torpedo was fired just days before the election, and it was the one that many, including Clinton herself, believe scuttled her presidential ambitions.

Abedin's failure to delete Clinton's emails from a laptop she shared with her husband was her most catastrophic lapse. Podesta puts it simply: she was working 20 hours a day on the campaign trail, and something had to give. A careless oversight had disastrous consequences. When her husband's pornographic sexting of the schoolgirl was revealed, the FBI swooped on the New York apartment she shared with her husband and seized their laptop in search of Weiner-related criminal activity.

In an unexpected twist, they found some old Clinton emails on the machine. Without pausing to determine whether they were duplicates or just benign exchanges between Abedin and Clinton, FBI director James Comey announced just 11 days before Americans went to vote in the most brutally divisive presidential campaign in memory that he was reopening the criminal investigation into Clinton's use of a private email server. By the time he closed it again nine days later after it transpired the emails contained nothing of interest, the damage was done. Clinton's lead in the polls had crumbled and Donald Trump became president.

Abedin blamed herself for the Comey bombshell. "She's more prone to melancholy introspection than Hillary Clinton, so I would say absolutely she did and probably still does," a senior campaign staffer told this newspaper. "She was completely flattened by it, by the thought that she or her husband could have cost [Clinton] the White House."

According to this source, Abedin stayed off the trail for the final week of campaigning, and arrived in Clinton's Brooklyn campaign HQ after the Comey bombshell "like a ghost . . . it was like someone had died".

In her recent book What Happened, Clinton recounts how Abedin burst into tears upon discovering that Weiner was the casus belli for Comey's re-declaration of war on Clinton. "That man is going to be the death of me," Clinton recalls her saying.

According to Clinton, she never blamed Abedin. "She had done nothing wrong and was an invaluable member of my team," she wrote in her book. "I stuck by her the same way she has always stuck by me."

In a way, Clinton had only herself to blame. She pushed Abedin and Weiner together, concerned that her dedicated young aide lacked a personal life, urging "you young people" to go out for dinner or drinks after a long day in Clintonland. At the time, Weiner was a young congressman and a rapidly rising star within the Democratic Party.

Like a mother who thought she had found a good catch for her daughter, Clinton encouraged Abedin to revise her initial assessment of Weiner as "a total jerk". When they married in July 2010, Bill Clinton officiated at the wedding.

Weiner was brash, tough and ultra-confident. His appearances on the floor of Congress and his altercations with reporters were legendary. Long before Trump came to Washington and threw the rulebook of political decorum in the shredder, Weiner was cheerfully ripping pages out of it.

During a congressional debate over health funding for 9/11 first responders, he excoriated his GOP opponents for their cowardice in hiding behind procedural rules to stall it.

Of all the congressional performances I have ever witnessed in Washington DC, it was easily the most memorable: part showmanship, part playing to the gallery and the cameras. But beneath the verbal pyrotechnics, it was hard to doubt Weiner's fearless commitment to providing help to New York police and firemen who were permanently debilitated by the toxic fumes they inhaled on 9/11.

Those who know Weiner say his relentless ambition, energy and outsize ego was never going to be contained by a seat in Congress. Notwithstanding the disgrace of his 2011 sexting scandal, in 2013 the mayorship of New York beckoned. It seemed this would be the first step in his political rehabilitation. Then by his own calculation, the governor's mansion, and possibly the White House where they would certainly make history as America's First Couple, a Jewish man and a Muslim woman.

Weiner's political career is as dead as his marriage. He will emerge from prison in 2019 as a registered sex offender and a political and social pariah. Abedin's future is less certain, but she is likely to remain in the Democratic political orbit. "She [Clinton] had great ambitions for Abedin, still does," former Clinton adviser Sheryl Mills said recently.

Another source close to the Clintons put it more succinctly. "Huma is Hillary's legacy. She must survive."

MoneyPlus

The Sunday Business Post
July 9, 2017
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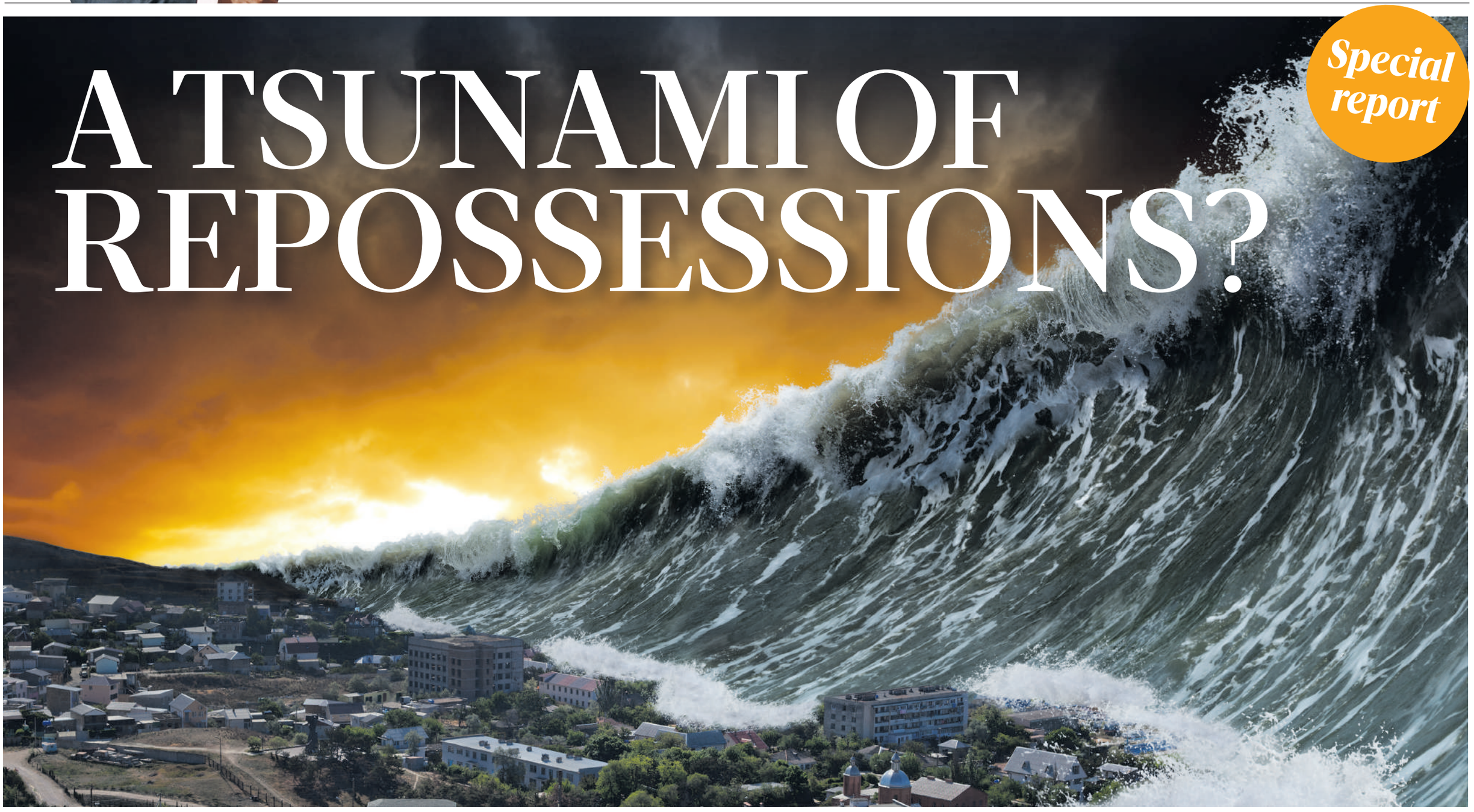
Special report

A TSUNAMI OF REPOSSESSIONS?



For the past three months, Francesca Comyn has travelled Ireland examining the coalface of a looming repossessions crisis. This is her report

Francesca Comyn
Legal Affairs Correspondent

Maureen (not her real name), a woman in her late 50s, has just caught sight of a neighbour and it is causing her some discomfort. She is standing in the foyer of Portlaoise courthouse, several minutes before the callover of housing repossession cases. As someone who has tried to shield her children from the extent of her mortgage woes, she is keen to avoid familiar faces and potentially awkward conversations.

Maureen's offspring are all adults. They know their parents are in debt, but they do not know that the bank has taken the matter to court, or that she and her husband are at risk of losing their home because they used it as security against a business loan. She may come clean at some point but, for now, she is loath to worry them.

There are thousands of homeowners in a similar position. Central Bank figures for the first quarter of 2017 showed that 53,000 residential mortgages were in arrears of more than 90 days, representing 7 per cent of all accounts. In addition to this figure were 14,367 buy-to-let mortgages, with an outstanding balance of €4.2 billion.

Throw in the husbands, wives and children of account holders, and you're talking about a lot of people.

Portlaoise Circuit Court on a given day is just a taster of the chaos embroiling so many lives. When county registrar Paul Fetherstonhaugh enters the packed court just after 10am, he immediately puts the repossession cases back until midday, in order to prioritise family law matters.

The crowd thins out. Maureen leaves the building for a while. As is usual in any court sitting, there is plenty of hanging around to be done. The neighbour is left behind.

When noon arrives, Fetherstonhaugh rattles through the callover of property cases. There are 62 repossession matters on the list. Nine have been brought by Permanent TSB, 15 by KBC Bank, 12 by Bank of Ireland, 11 by EBS, five by AIB, two by Shoreline Residential, two by Pepper Finance, one by ACC Bank, three by Mars Capital and one by Home Funding Corporation.

The county registrar either grants a hearing date to the fund or financial institution seeking repossession or adjourns the matter (for the umpteenth time in some instances) to allow the mortgagors a bit more time to get their affairs in order. Full hearings are sent before a Circuit Court judge.

In some cases, adjournments are made on consent between the parties.

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The explosion of repossession cases is a depressing aspect of modern Irish life that has been going on for almost a decade. If the mix of court cases is currently weighted in favour of banks over vulture funds, that is partly because there is a time lag between what happens in the economy and what happens in court.

The big tranches of non-performing residential loans snapped up by private equity giants Lone Star, CarVal and Goldman Sachs are beginning to trickle through the system, but most have yet to be reconciled. And the process, once it hits court, can drag on for years.

The Central Bank figures reveal a steady decline in long-term arrears since the peak of the crisis in 2013, when more than 99,000 residential mortgage accounts were over 90 days in arrears. Restructuring targets were imposed on lenders to address non-performing loans. Already, some of these 120,894 restructured loans are creaking with 13 per cent failing to meet the revised terms.

There is a real fear of an aftershock. The European Central Bank is turning the screw on Irish banks to resolve the to page 4

> **The explosion of repossessions is a depressing aspect of modern Irish life that has been going on for almost a decade**

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Mortgage crisis

> "They'll sell to the people with the Hiace vans who won't have any compunction about sending out the sheriff. I think there'll be a tsunami of repossessions"

Lee Wellstead pictured at his former home in Castletown, Co Laois: 'There are good people in Ireland' Picture: Dylan Vaughan

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open sore of impaired mortgages. KBC announced last month that it was considering a partial sell-off of distressed loans to clean up the books as its restructuring process draws to a close. AIB sold a portfolio of non-performing buy-to-let property loans to Goldman Sachs last April for a reported €200 million; it has several billion more on its books. Permanent TSB appears to be holding back on a sale, for now.

For those in hock to the banks, the time to negotiate may be nearing an end. It seems it is only a matter of time before the remaining mortgage loans will be bundled up and sold on.

This may well lead to a secondary explosion of repossession cases as the buyers, most likely vulture funds, move in to ensure quick and hefty returns on their investments. Throw into the mix an escalating housing and homelessness crisis, plus skyrocketing rents in urban areas, and the result is overwhelming human misery.

If there is another wave of repossession actions, another batch of poorly-equipped debtors will once again find themselves mired in complex legal processes which leave them literally at the mercy of a court. Because of budgetary constraints, litigants must have less than €18,000 disposable income per annum to qualify for civil legal aid, and they must have some prospect of winning their case.

Borrowers in trouble are seen as a lost cause and, in the vast majority of cases, they simply do not qualify. They have to fight alone.

The lay litigants

Bar one or two exceptions, the distressed borrowers who appeared in Portlaoise Circuit Court in recent weeks were without legal representation. By contrast, half a dozen solicitors acted directly, or on some form of proxy basis, for the various funds and banks.

When cases hit court, this inequality of resources is so blatant that it unintentionally serves to infantilise the debtors and gives the proceedings a bizarre classroom quality.

In Portlaoise, as their names were called in turn, the lay litigants approached the bench and did their best to set out their circumstances. Most were fairly seasoned, but a few were new to court and looked a bit baffled by the proceedings.

The cursory nature of the callover meant that only fragments of people's stories emerged.

A woman in her 40s claimed that she had been making monthly payments of €1,000 to EBS for the past three and a half years, including an extra €100 to work off arrears of €24,000. The court heard the arrears had accrued at a time when her partner was out of work, but that he was now back in employment. The solicitor acting on behalf of EBS was not in a position to affirm or contradict her claims.

Fetherstonhaugh opted to take "the lady at face value". "She's doing everything she can to rescue this," he asserted, before warning her that if the bank could show contrariwise at a later date he would take a dim view of it.

A lay litigant in his 30s, dressed in a suit, complained bitterly that Bank of Ireland refused to engage with his parents, one of whom is ill, in their efforts to settle or restructure various debts under a personal insolvency arrangement. Fetherstonhaugh directed "meaningful engagement" from the bank, and called the case on for hearing in October.

There were a few debtors, more stubborn and defiant in their attitude, who raised points of law, waved High Court judgments or sought adjournments without evidence they had been tackling their mortgage arrears. They appeared to receive a less sympathetic ear.

One man in his 40s, his voice quavering, declared that KBC had failed to file the requisite forms, meaning that the jurisdiction of the Circuit Court had not been invoked. "We'll remedy that for you," Fetherstonhaugh replied quickly, and set a hearing date for October.

A man bringing a High Court action over claims that he and his wife were allegedly hoodwinked by Bank of Ireland sought an adjournment of his case, and was told that his voice was "bouncing off the court speaker". Again, a hearing date was promptly set.

High arrears were the most commonly cited aggravating factor used to secure a quick hearing date. "It's an awful lot," was Fetherstonhaugh's response to one woman who was behind by €138,000 over three accounts.

"I'm making payments," she said, explaining that she was seeking a personal insolvency arrangement.

"They would want to be significant," he replied.

In the course of the list, the county registrar referred several debtors for engagement with a representative from the Money Advice and Budgeting Service (Mabs), sitting in a pew at the side of the court.

The Abhaile scheme, launched last year, also provides for a duty solicitor to be in court to afford debtors in risk of losing their homes, some basic free advice about their legal situation. A voucher system entitles the borrower to a couple of consultations with a lawyer, but it does not afford legal representation.

On this occasion, there was no lawyer present to fulfil this limited role.

By lunchtime, the callover was over. It had taken Fetherstonhaugh just under an hour to sift through the case load. He had kicked a good few down the road, giving debtors breathing space.

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Solicitor Julie Sadlier is one of the few lawyers working at the coalface for mortgage debtors. As a member of the Phoenix Project, she gave professional support to families at risk of repossession. She has since returned to private practice in Limerick, but her commitment to helping distressed mortgage holders remains strong.

For her, the proceedings witnessed in Portlaoise court are par for the course. Maureen, who met Sadlier through the Phoenix Project, is one of her clients. They talk over a cup of coffee.

In Sadlier's view, the lack of legal representation afforded distressed borrowers has had an enormously detrimental impact in repossession cases. Arguments and defences which could have been raised and developed over time, with the appropriate legal backing, have fallen by the wayside. Nearly a decade into this crisis, she is of the view there is a dearth of relevant expertise in the legal profession.

By way of example, Sadlier refers to revelations last year that thousands of mortgage customers were wrongly denied the right to a tracker or denied the option of one.

"I got a call from somebody who is through the other side of repossession and has now found if they had not been penalised in their tracker, the way so many other people have been, they'd have been able to pay their mortgage," she says.

But it is too late now. They have lost their house. In Maureen and her husband's case, Sadlier claims there was interest overcharging on the mortgage loan. Their side is embroiled in an affidavit battle with the bank at the moment.

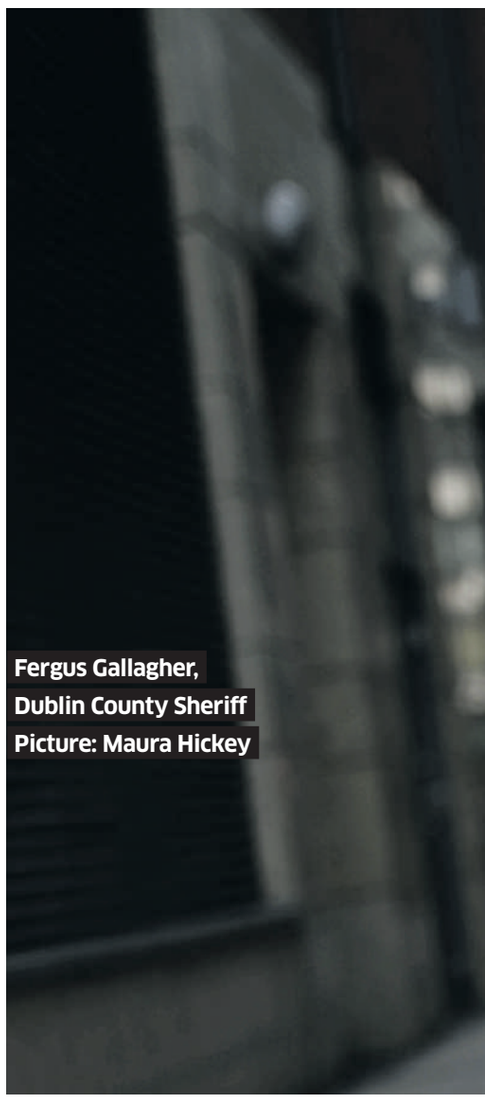
All other avenues were explored, including a proposed personal insolvency arrangement (PIA) to restructure and write down the couple's debts. The PIA did not pass muster with their creditors, including creditors of their failed cleaning business.

"I was going to give them everything, including my [private pension] lump sum which would have left me with nothing, but we were prepared to do it. They still turned it down. We would have been living on fresh air the rest of our lives," Maureen said.

Sadlier believes the value of their home worked against them. "It's unfortunate. If you were another hour south, your property would be a lot less valuable and you'd get the deal," she said to her client.

PIAs were introduced under 2012 legislation as a less nuclear alternative to bankruptcy for debtors facing at least five years of insolvency. When successful, they offer legal protection to distressed borrowers. Not everyone can qualify. At least half of a debtor's creditors, secured and unsecured, representing at least 65 per cent of the total debts, need to agree to the deal in the first place.

> "I got a call from somebody who has found that if they had not been penalised in their tracker, the way so many other people have been, they'd have been able to pay their mortgage



Fergus Gallagher, Dublin County Sheriff Picture: Maura Hickey

Also, the arrangement requires debtors to have reasonable living expenses to avoid living at a subsistence level, which typically works out about €1,500 a month for a couple with no children.

Ironically, there are people with a mountain of debt trouble who do not earn the requisite income to qualify for personal insolvency. These people face repossession and bankruptcy and they have very little legal aid – two consultations with a solicitor, maximum – to assist them. But full legal aid is available, under the Abhaile scheme to borrowers looking for court reviews of personal insolvency arrangements that have been rejected by creditors.

As for the banks, the sands keep shifting. Commercial imperatives change, mortgage loans are restructured, then they are sold to big funds. Borrowers, constantly told to engage and not bury their heads in the sand, can be left in no-man's land.

"It's impossible for an ordinary person to understand it because there isn't a logic at this end. It isn't about trying to help you out, it's about some set of market criteria," Sadlier said.

The fightback

When it comes to the legal fight, there are very few chinks in the system's armour. In 2013, the Central Bank revised its code of conduct on mortgage arrears to provide a "strong consumer protection framework to ensure that borrowers struggling to keep up mortgage repayments are treated in a fair and transparent manner by their lender and that long term resolution is sought by lenders with each of their borrowers".

In Irish Life & Permanent v Dunne, the High Court found a breach of the code would be a reason to deny a bank an order of possession, but the case was overturned on appeal to the Supreme Court in 2015 which found the code was not binding.

The ruling has left very little wriggle room for litigants. If it was considered, as a matter of policy, the law governing the circumstances in which financial institutions may be entitled to possession was "too heavily weighted" in favour of the lenders, it was for the Oireachtas "to recalibrate those laws", Mr Justice Frank Clarke said.

Sadlier was involved in drafting the Keeping People In Their Homes bill in-

troduced by Independent Alliance TD Kevin 'Boxer' Moran last February.

The idea is to change how the courts go about making decisions in repossession cases, by giving greater discretion around the proportionality test, a strong tenet of EU law. The bill allows a judge or county registrar to consider the impact of home loss on a family, both physically and mentally.

The bill is still kicking about, but Sadlier is fighting on other fronts. There are legal challenges in the pipeline which she is trying to push forward through a choked system. They revolve around fluid interest rate clauses; tracker rates; a European directive which obliges courts to assess contracts for unfair terms (a David and Goliath measure to protect the small buyer), but is not being applied in Ireland; and proportionality tests for human rights to family life under the EU charter.

Sadlier has experienced difficulties getting financial experts on board to review the figures, as it is a costly process.

The enforcer

The granting of an order of possession for a privately owned house is not the day of reckoning. It is customary for a court to grant a stay against the bank or fund cleaning up bad debts from its books.

The knock on the door for the mortgage holder comes later, when a court grants a separate order of execution allowing the bank or receiver to move in. But not always. While banks want to secure their entitlements with a possession order, they are not so keen to shove the little guy out on to the street.

It is a reprieve from eviction and the ultimate limbo.

Fergus Gallagher has been the sheriff for Dublin county since January 2014 covering Fingal, South Dublin County Council and Dun Laoghaire Rathdown. Property repossessions, both rental and mortgage related, make up a significant portion of his workload.

Dublin and Cork are the only counties where the sheriff is not also the county registrar. Everywhere else, there is an uncomfortable overlap where the county registrar may sign off on a possession order which he or she is then later paid to enforce. This apparent conflict of interest has led to a perception of bias among some debtors.

So far this year, 49 execution orders have been lodged with Gallagher, 34 of which have been executed.

Nearly four years into the job, 2015 was by far the busiest year in Dublin county. The number of evictions executed soared from 58 in 2014 to 111 the following year, before dropping last year to 50.

Approximately 20 to 30 per cent of execution orders filed with his office are subsequently withdrawn. The very fact of the order can be enough to bring a distressed borrower to the table for a late round of negotiations with the bank. Execution orders are valid for a year and can be renewed for a number of years.

Speculation about a possible future blitz of possession orders is beyond Gallagher's purview. The role of his office is to get vacant possession, get any bodies off the premises and immediately hand it over to the bank or receiver who has instituted the action. They pay him for the job, including any extra licensed security operators that may be required.

Most evictions run smoothly. An Garda Síochána is alerted only if a breach of the peace is anticipated. Gallagher makes sure to attend in person if a repossession is likely to be difficult or contentious. He believes in getting the job done in one visit, even if it takes the best part of the day. "Generally speaking, we go once and do it, no matter how long it takes, because going back is never going to be easier than the first time," he said.

Gallagher says it is not his position to ask questions about the background to a repossession, the quantity of the debt or the history of the parties. However, he has a modicum of discretion in terms of how quickly he executes the order.

"It's never nice to see people, especially with families, having to leave what they thought was a secure home," he said.

He tells of how a woman contacted him recently to inform him that her two children finished school at the end of June and they had a new place to move into on August 1. He was happy to hold off moving on the property until then.

Some are victims of rogue borrowers who sublet their properties. Tenants who presume they have a 12-month lease and dutifully pay the rent every month get the shock of their lives when an eviction letter addressed to the occupant arrives from the sheriff's office. It is a recurring problem.

"They receive the letter in a panic, and I explain to them I can give them a little time but not very much. They generally manage to make their arrangements, but it's not ideal for them obviously," he said. "They are dealing with a crook."

Homelessness is a reality of Gallagher's job. "Often, they know they are going to be homeless, and we'll advise them to contact the local authority," he said.

But, other than provide evictees with a letter that will enable them to apply for social housing, there is nothing more the sheriff can do.

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Lee Wellstead knows all too well what it is like to go through repossession. He was evicted from his secluded country house five years ago.

The first unsuccessful attempt to oust him from his home in Co Laois went viral on YouTube. The video shows the sheriff and Land Leaguer Ben Gilroy, backed by about 40 supporters, arguing it out at the gates of Wellstead's former residence.

The crew arrived minutes before the sheriff did, and Wellstead says he had no idea they were going to turn up.

"There were a couple of guys living in a derelict building in the arse-end of Mayo," he says. "They'd got up that morning, walked I don't know how many miles to get a bus to Galway, and then a bus to here. They got up about 20 minutes after the sheriff had gone. For someone you've never met before! There are good people in Ireland."

While the sheriff left on that occasion, he returned three weeks later when Wellstead was out. Gardaí blocked off the lane leading up to the house and the property was secured on behalf of Ulster Bank.

Wellstead had defaulted on an €80,000 mortgage which was called in 18 days after the last payment was due. An order for repossession was made in 2009. The €100,000 deposit he had put down on the property was gone with his home.

Efforts to negotiate with the bank, including an offer to rent out stables and sell a site field, had failed to bear fruit.

The passage of time has not healed the scars. The former mechanic, who is from England originally, finds the YouTube footage of the aborted eviction almost unbearable to watch.

While Wellstead has a place to live, his woes are far from over. The proceeds from the sale of the property did not cover all of his bank loans, and he is still being pursued through the courts for around €54,000 in unsecured debt and legal costs.

"They're trying to get money off me and I'm on the social," he said. The legal fight goes on, including a recent unsuccessful attempt to have the possession order deemed void on jurisdiction grounds. As a lay litigant, he finds it hard to wade through the complex legal system and be taken seriously in court. He feels his house was stolen from him.

"It's disgusting, actually, that they can gain all these orders and compel people to do this. It affects your mental health, your financial wellbeing, every aspect of your life," he said.

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Music blares from the office of Edmund Honohan, Master of the High Court. A highly animated presence, he switches it off and gets stuck into a wide-ranging discussion about the housing crisis.

As a senior counsel turned court official who handles preliminary, procedural matters in High Court actions, he has witnessed the sharp end of the mortgage crisis and has been an outspoken critic of the government's failure to protect vulnerable people facing repossession.

Honohan is seen as something of a debtors' champion. He has been equally critical of court processes and the refusal by judges and county registrars to apply EU consumer law to mortgage contracts, the irregular legal paperwork sometimes put forward by the banks in repossession cases and the shoddy way lay litigants are at times treated.

"I hear the most distressing stories of people being told to shut up and sit down," he said. "The right to effective participation. That's a phrase used, not specifically in the European Convention on Human Rights, but it's what the European court has said is your entitlement under Article 6, not just participation but effective participation."

When he asked one woman in his court why she had not appealed a repossession order sooner, she told him with some embarrassment that her former solicitor had said there was nothing more she could do, other than find a rich man.

Honohan agrees with Sadlier that the legal expertise in this area of law, essentially an offshoot of conveyancing, leaves a lot to be desired.

He is also astonished at the dearth of sociological data exploring the reasons why thousands of mortgage holders have fallen into deep arrears.

"I go into a supermarket or shopping mall and I look around and ask: 'How many of these are hanging by a thread?' I don't know. The ones who come into my court seem normal enough," he said.

Honohan has, however, been making suggestions to government for many years on how to alleviate the crisis.

In a letter to the late Brian Lenihan jr in 2010, he proposed that the regulated banks should club together, like the Motor Insurance Bureau of Ireland which deals with claims from uninsured drivers, buy out sub-prime mortgages and allow distressed mortgage holders to stay on in their homes as caretakers. He has also previously urged the state to nationalise repossessed homes.

In Honohan's view, we have reached a cliff and the near future is bleak.

"The answer is in the realms of accountancy. The banks have been writing off the bad loans. They have got a load of junk mortgages at the bottom, and now they are saying: 'The ECB is telling us to get these off the books.' So they are going to sell to the people with the Hiace vans who won't have any compunction about sending out the sheriff. I think there may be a tsunami of possession orders."

The "people in the Hiace vans" are, of course, the vulture funds which currently hold around 6 per cent of residential mortgages.

In recent months, Honohan has helped draft a bill to create a sort of friendly fund, which will buy up distressed mortgages from the bank in an open sale supervised by a court.

The National Housing Co-Op Bill has been put forward by Fianna Fáil's John McGuinness and independent TD Mattie McGrath in a bid to find an effective and fair solution for debtors and the banks.

The model is different from David Hall's new I Care housing scheme, but the aim is similar, in that it wants to provide a humanitarian business model to keep debtors in their homes.

The alternative is spending millions more from the public purse tackling the housing and homelessness crisis.

The bill proposes to give the co-op, based on crowdsourced funding, first dibs on mortgages when banks or vultures are willing to sell. The offer will match the value of the property on the balance sheet of the vendor.

Anticipating a struggle, Honohan told the Oireachtas Committee on Finance last month: "They'll say we've written it down to very little, and I say you've got the tax breaks accordingly."

The mortgage holder would become tenants of the co-op with an option to buy if their circumstances changed. If the vendor refuses the offer, the matter goes into compulsory purchase order territory, with an arbitrator deciding the price.

Honohan again stresses that with the ECB heaping pressure on the banks to get their houses in order, this is the time to strike. "I'm told on good authority we have 15 months from now to do it, and that means the banks are desperate," he said.

Edmund Honohan, Master of the High Court Picture: Bryan Meade

> **It's never nice to see people, especially with families, having to leave what they thought was a secure home**