



Virtual Litigation: Remote and Hybrid Hearings in Courts and Quasi-Judicial Decision-Making Bodies

Online conference on Tuesday 13 April 2021

From 2 pm to 5.30 pm - 3 General CPD hours*

**A seminar devised and developed by Frank Flanagan,
Tricia Sheehy Skeffington BL and Úna Tighe SC
and presented in conjunction with La Touche Training**

Seminar chaired by The Hon Mr Justice David Barniville and
Geraldine Clarke, Partner, Gleeson McGrath Baldwin Solicitors

Remote hearings will be a feature of Irish litigation long after public
health measures relating to COVID-19 have lifted.

That much is clear from the provisions of the Civil Law and Criminal
Law (Miscellaneous Provisions) Act, 2020, and the Courts' Service
Strategic Plan envisaging a "future of 'hybrid courts', blending
the old traditions of physical courtrooms with digital courts as
appropriate".

Fifty courts are to be fitted out for remote hearings this year alone.

This interactive seminar will assist you in the preparation for and
conduct of virtual hearings, including hybrid hearings. The seminar
will be of interest to those practising in civil and criminal litigation
and appearing before quasi-judicial decision-making bodies.

** Please note that there will also be bonus CPD credit for active
participation in the workshops.*

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About the seminar

The seminar will begin with a pre-recorded video consisting of:

- An exposition of how to access and effectively participate in remote or hybrid hearings, addressing practical matters (obtaining access codes, logging on and preparing for the unexpected) and, at a basic level, technological matters (how camera, sound (mic) and lighting have the potential to enhance effective participation).
- A “mock” remote hearing with counsel and solicitors in attendance virtually on the Pexip platform. The mock hearing will identify errors, mix-ups and mishaps that regularly occur in remote hearings so as to help you avoid them and respond to them promptly when they do occur.

The seminar will then proceed to a live, interactive remote session where participants will undertake anonymous polls and exercises, in a mix of plenary session and break-out rooms, aimed at drawing out questions of principle, practice and procedure and ethics that virtual hearings raise. The polls and exercises will build on the topics covered in the video. The objective of the break-out rooms is to encourage free debate and an exchange of ideas between professionals in private. Each break-out group will have an opportunity to report back their conclusions at plenary session.

The interactive CPD will be supported by a paper on *Access to Justice in a time of Pandemic: Justice, Professional Ethics and Privacy*, Tighe, Ú., and Sheehy Skeffington, T., addressing the Civil and Criminal Law (Miscellaneous Provisions) Act, 2020 and access to justice generally and for the vulnerable, unrepresented and digitally excluded. The constitutional imperative that justice be administered in public for justice, the requirement for procedural guarantees of fairness and effectiveness and the possibility that the mode of hearing may impact both participation in and the outcome of the hearing are also addressed. The paper also draws on empirical studies and experience of other jurisdictions.

To participate fully and effectively in the seminar, participants should read the paper, which will be circulated to registered participants in the days leading up to the seminar.

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Key Learning Points

After the seminar, participants should:

- Understand the substantive law that underpins remote hearings
- Appreciate that remote hearings are now the default for many quasi-judicial decision-making bodies
- Be equipped to properly assess, by reference to relevant legal principles, whether a particular case is unsuitable for remote or hybrid hearings or whether particular adjustments might resolve any difficulties
- Know how to access and participate in remote hearings, including checking what Practice Directions and other protocols apply to particular courts and tribunals
- Be equipped to deal with technical issues, understand how to test technology in advance and have a back-up plan in case of connection or similar issues
- Appreciate the impact on preparation and comprehend the need for all parties – judge, counsel, witnesses and solicitors – to have access to all potentially relevant materials
- Have a system for communicating with and between counsel and solicitors during hearings
- Recognise the need to protect the integrity of the hearing and the particular issues that may arise in witness trials
- Be alive to difficulties that can arise for colleagues and cognisant of related privacy and confidentiality issues



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Meet the Panel



The Hon Mr Justice David Barniville The High Court

David Barniville was appointed a judge of the High Court of Ireland in December 2017. He is currently the judge in charge of the Commercial Division of that Court. Prior to taking up that position he was the judge in charge of the Strategic Infrastructure Development list in the High court. He is also designated as the Arbitration Judge to hear all arbitration related matters in the High Court. In July 2018 he was appointed as a member of Ireland's National Group on the Permanent Court of Arbitration in The Hague. In December 2019, he was appointed as a member of the Board of Trustees of the Academy of European Law (ERA). He is a Bencher of King's Inns in Dublin and of Middle Temple in London and is a Governor and member of the Board of the National Maternity Hospital. Prior to his appointment to the High Court, David was in practice at the Irish Bar and was Chairman of the General Council of the Bar of Ireland (2014-2016).



Geraldine Clarke Partner, Gleeson McGrath Baldwin Solicitors

Geraldine is a Partner in the Litigation and Dispute Resolution, Department of Gleeson McGrath Baldwin Solicitors, 29 Anglesea Street, Dublin 2.

She has practised in all aspects of commercial and general litigation for many years in particular in the areas of intellectual property, professional liability, personal injury, and contract law. Geraldine is a Past President of the Law Society of Ireland.

She is a member of the Law Society panel of Arbitrators and regularly acts as Arbitrator of disputes in commercial, property and contract issues.

She has served as Chairperson of the Property Services Regulatory Authority and is currently a member of the Board of the Legal Services Regulatory Authority.



Frank Flanagan Partner, Mason Hayes & Curran

Frank Flanagan is a Partner in the Dispute Resolution team in Mason Hayes & Curran.

Frank specialises in complex insolvency and litigation advising a broad range of clients, including lenders, State bodies and insolvency practitioners. His expertise in litigation strategy is particularly engaged in non-contentious advice to sellers and purchasers of portfolios of loans.

Frank's regulatory law practice focuses on the sectors of non-food products, communications and energy where he advises State bodies and corporates.

Frank originally qualified as an electronic engineer. Frank has a unique perspective on remote hearings, as a practitioner who, in a former life designed the audio subsystem in some early video-conferencing systems and worked for a time in the stage lighting industry.

Frank is a chartered engineer and a member of The Institution of Engineers of Ireland. He is also a member of The Irish Computer Society and The Irish Society of Insolvency Practitioners.

Frank is the author of the Irish chapter of *Retention of Title in and out of Insolvency*, published by Globe Law, 2015 and the co-author of the Irish chapter of *Cash Pooling and Insolvency*, 2nd Ed. Globe Law, 2016.



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Meet the Panel



Tricia Sheehy Skeffington

B.L.

Tricia Sheehy Skeffington is a practising barrister with a broad civil practice spanning intellectual property, employment, defamation, landlord and tenant, housing and regulatory/administrative law.

Tricia has a particular interest in administrative decision-making processes as an advocate, decision-maker and adviser to various non court adjudicative bodies. She established the Advanced Diploma in Quasi-Judicial Decision-Making in the King's Inns and her book *The Law and Craft of Quasi-Judicial Decision-Making in Ireland* is due for publication by Clarus Press in 2021.

Tricia is a member of the Criminal Injuries Compensation Tribunal and also sits as a Chair of the Mental Health Tribunal. She is a former member of the Residential Tenancies Board, its Tenancy Tribunal and the Rent Tribunal.



Úna Tighe

Senior Counsel

Úna Tighe SC, BCL, LL.M, AITI, Advanced Diploma in Quasi-Judicial Decision-Making (King's Inns)

Úna's principal practice areas include commercial law (such as banking and insurance law and taxation and pensions law where her experience includes appearances before the Court of Justice of the European Union), chancery (including company law and trusts) and judicial review. As a junior counsel Úna was a prosecutor for the Director of Public Prosecutions.

Prior to commencing practice at the Bar in 2000, Úna held a variety of legal and tax positions in both private practice and industry in the banking and finance department of one of Ireland's leading law firms, as an in-house lawyer in one of Ireland's main banking groups and in the taxation department of one of the "Big 4" accountancy practices.

A member of Arbitration Ireland, Úna frequently acts in arbitrations. She also has extensive experience of mediation.

Úna is a member of The Irish Financial Services Appeals Tribunal.

A mentor on the successful pilot established in 2016 by Law & Women, Úna continues to act as a mentor on the programme. She is also a mentor on the Bar of Ireland's pupil mentor scheme.

In addition to frequently lecturing on litigation and commercial law topics, she assisted on the second edition of *Finucane, Buggy with Tighe, Irish Pensions Law and Practice*. She has acted as Examiner and Moderator for various professional bodies.

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