

# Legal GUARDIAN



Lorcan Roche is a freelance journalist and award-winning author

Arklow-based Deirdre Burke is co-founder of the Guardian Project, which assists children going through separation or bereavement, and is the Law Society's nominee to the Seanad's Cultural and Educational Panel. **Lorcan Roche** meets a solicitor who is determined to humanise the family law experience

Some people have a heightened sense of the other. Such elevated consciousness was part of the reason that, having being called to the bar in 1994, young Deirdre Burke felt, in her gut, she'd taken a "wrong step".

Having worked for a spell with "wonderful" solicitor Frank Murphy in the Legal Aid Board in Wicklow, Burke began to feel – even more keenly than she had during training – that she needed greater engagement with clients. Operating at a remove just didn't suit. She'd begun to question her choices, indeed the entire ethos underpinning her BCL training at UCD. Where was the emphasis on problem-solving for the greater common good? Where was the social conscience? Was the training fundamentally about maintaining the *status quo*?

Burke was then – and remains – a woman unafraid to ask questions, one who needs to be at the heart of matters. She went back to the Law Society and retrained as a solicitor. She went into private practice, gravitating immediately towards family and child law. She had her third child, a boy, in 2002. In 2004, she opened her own practice (DM Burke) in Arklow, where she still works.

## Heartbreaking

Burke chalked up a lot of experience – separations, divorces and annulments. She did a lot of work in the District Courts with unmarried couples and in the Circuit with those who had more financial clout. Much of what she saw broke her heart. Especially the hurt in children. She wondered, often and aloud, about the deficits in the family law and child-service systems.

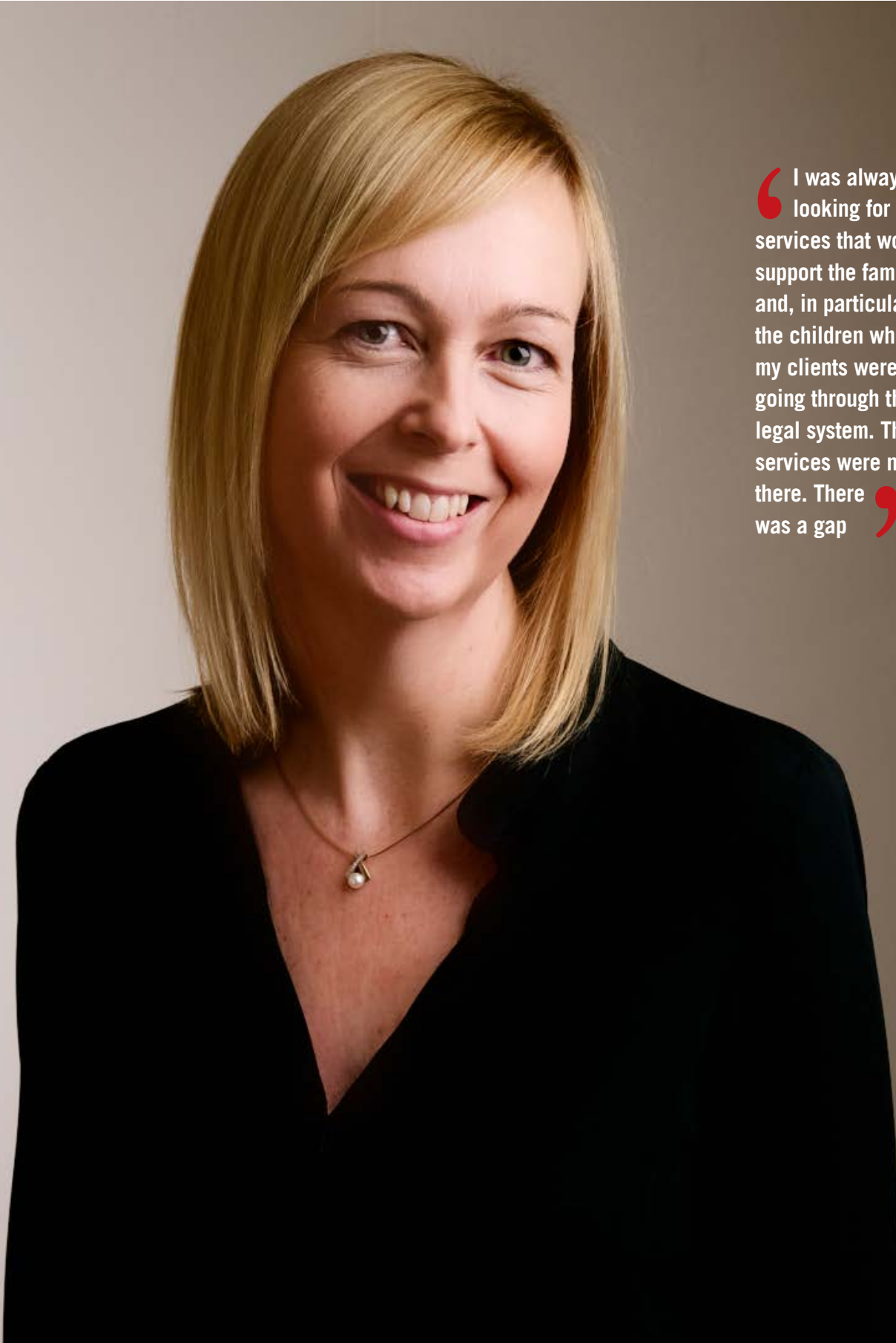
But it wasn't until her boy was diagnosed (aged two) as being "profoundly deaf" that Burke decided to marshal her experience and expertise and step outside the confines of the role of solicitor. In particular, it was the dismissive manner in which the diagnosis was delivered that activated Burke's consciousness.

"I suppose my son's diagnosis reinforced a sense inside me of human-based needs. For information. For support. The way we were told about his diagnosis was horrendous. I remember the words: 'Well, yes, it does appear he is deaf. Here is the date for your next appointment.' We were literally shoved out of the room. No support, no information, nothing. That whole experience influences the way I work and influences my desire to support people and to give them as much information as possible ... so that they are not venturing into the unknown at a really peak, terrible time of their lives."

She explains further: "I had just turned 40 ... it was an idea that had sat with me for a good few years, primarily because of the type of work I did and what I learned doing it. You see, in supporting clients and bringing them through, you

## at a glance

- Life as a barrister – and a solicitor
- The foil that spurred her social consciousness
- Human-based needs for information and support
- Setting up the Guardian Project
- The horrendous set-up of family law courts
- Resourcing the system to reduce conflict

A portrait of a woman with shoulder-length blonde hair, smiling. She is wearing a black top and a necklace with a small pendant. The background is a plain, light-colored wall.

“ I was always looking for services that would support the family and, in particular, the children while my clients were going through the legal system. Those services were never there. There was a gap ”



Happy days – supporters of the Guardian Project visit a local school on the Camino fundraising walk

are never doing a proper job unless you deal with the family unit – most especially if you are supporting children. I was always looking for services that would support the family and, in particular, the children while my clients were going through the legal system. Those services were never there. There was a gap.”

In truth, it was more of a gaping hole. In any event, the Guardian Project was born (see panel, p49).

Burke is open, honest, and unafraid to speak her mind, whether discussing ex-*Irish Times* columnist John Waters’ views on fatherhood and separation (“I would not be a fan of his opinions because, obviously, in my work, I see the other side of things, and I do not agree with the theory that men do not get a fair deal in court”) or when describing the grim reality of our family law courts: “Dolphin House is a horrendous set-up. You can feel the tension in the air when you walk in. It is a toxic place”.

She warms to the theme: “The buildings and the set-up inside them foster adversarial attitudes. The very environments and structures need to be changed. Look at Dolphin House – there are no adequate consultation rooms for people to have privacy. You have people thronging the foyer, trying to get up and down stairs ... the mediation service is not adequately presented as an option.

“Look at Arklow District Court. There is a courtroom – and that is it. You don’t even have an indoor foyer in which to wait. Last week, I was outside, under my umbrella, holding a pad

in one hand and a pen in the other, trying to take instructions and negotiate an agreement while everyone was looking on.” She rolls her eyes, and laughs.

You get the feeling Burke doesn’t take herself too seriously, too often. But she has a vision, wrought from years of working at the coalface. This she takes very seriously.

### One-stop shop

“What I would love to see in our family-court structure is a one-stop shop, where people can get support, individual counselling, family systems counselling, mediation, collaborative law, child experts who can support the children, who can deal with access and parenting arrangements, and financial people to advise. Within that one-stop-shop, the court and the judges would be the very last option, so that you actually carry the family through a process and see them out the other end, rather than have them at loggerheads from the very beginning. Because as I have said, the very nature of our system is adversarial.”

How would such a system be funded?

We have a serious problem at the moment in that the current, outmoded structure is already under-resourced. As a consequence, the voice of the child is absent.”

Doesn’t the new act take care of that?

“There are wonderful provisions in it for hearing the voice of the child, but there is no funding. So, in effect, it is mere tokenism.

Because without the resources, nothing changes. Technically, yes, we are complying with all of our UN obligations, but we have yet to resource the will to change. What I would like to see is a structure that would turn on its head and take a different approach and adapt an entirely non-adversarial approach. If you resource a system that reduces conflict, then ultimately you will make a saving in the long run.

“You save by reducing the impact of breakdown on the children. You save by reducing the impact on the adults. And the beauty of keeping people outside of courts and away from judges is that they can come up with flexible situations that work for their particular family. Because every family is different. And every child is different. You go into a courtroom and judges have very strict parameters. That is where flexibility is lost, and then, more often than not, on appeal, the whole expensive, time-consuming process starts over.”

### Consequences of choices

Both the Australian and Canadian models, she says, are designed to reduce the conflict. Both offer the “softer support mechanisms” within the broader public service. A huge influence on the Australian courts was the Aboriginal family structure and wider culture, which places a premium on the extended family, in particular the entitlements of grandparents.



## FOCAL POINT

## the guardian project

The Guardian Project – co-founded with Michelle Gaffney and Johanne Kenny – opened its doors in Arklow in October 2010. The project allies itself with, among other initiatives, the **Rainbows** peer support programme, which assists children going through separation or bereavement.

Burke trained as a Rainbows counsellor: “It is, most commonly, feelings of shame and isolation that children of separating families experience. They often believe strongly that they are the only one going through it, and therein lies the beauty of this kind of support network. It allows the children to share the experience, feel less alone, and it equips them to deal with things so much better. To be in the room with children having those ‘light-bulb’

moments – of realising they are not alone – is a privilege.”

The project offers counselling services for children and young adults aged from five to 21, including play therapy. It also offers family law mediation, parenting courses, supervised (if requested) access, and contact facilities.

Almost entirely volunteer-based (there are two administrators on 19-hour-per-week CE schemes), it currently has more than 30 “very active” volunteers. It has an operating budget of approximately €25,000 and receives an annual grant of approximately €2,000 from Tusla. Local fundraising initiatives make up the shortfall.

For more information, see [www.facebook.com/guardianproject](http://www.facebook.com/guardianproject).

Burke is a pragmatist. As she says, you can’t afford not to be in family law. But she is not afraid to dream: “In an ideal world, I would love to be able to catch people just prior to the point of separation. And to educate and inform them as to the consequences of the choices they may make as they move forward – and of the benefits of choosing the non-confrontational way.”

Burke prizes individuality. She believes people – rich and poor – should be offered choices and that, in order to make those choices, they must be armed with all the necessary information. She instils this philosophy, this belief-system about decision-making processes, into her own children, one of whom is being home-schooled after falling foul of a nun who didn’t believe 17-year-olds had the right to dye their hair. Or to speak up about it at assembly, especially in front of a visiting school inspector.

Like mother, like daughter – the Burke women challenge the received wisdom. Burke is liberal, but not in an affected, trendy way. This is, after all, Arklow – not Greystones! Nor is it the *faux* ‘D4’ liberalism of one born with a silver spoon in her gob. Burke, whose father worked at sea for Irish Lights, is the youngest of six and the only one in her family to attend college.

She has secured the Law Society’s nomination to the Seanad’s **Cultural and Education Panel**. If elected, she says she will work hard, legislatively and practically, to make the voice of the child heard.

Oh, and her son had a cochlear implant, aged four. He is 13 now  and doing very well.



Deirdre Burke, Mary McAleese (then President of Ireland) and Martin McAleese at the opening



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