

KEY TAKEAWAYS

DISPUTE RESOLUTION

CONFERENCE

*Evidence, fraud and the
changing litigation landscape*

Dublin

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Dispute Resolution Conference 2026

Executive summary

Our third annual Dispute Resolution Conference examined some of the issues reshaping litigation and dispute resolution in Ireland.

The conference opened with a keynote address from Rossa Fanning SC, Attorney General of Ireland, on technology and the justice system. Two panel discussions followed on expert evidence and authorised push payment fraud.

Technology is changing how disputes arise and how they are managed.

Artificial intelligence (AI) can make some legal processes quicker and more cost effective. However, the conference highlighted the need to preserve human judgement and public confidence in the justice system. This is particularly important where AI is used in expert evidence or other material placed before the courts.

The expert evidence panel focused on independence. Experts must assist the court rather than advocate for the party instructing them. Their reasoning must be transparent and their conclusions open to testing.

The conference also examined authorised push payment, or APP, fraud, which is becoming more sophisticated. Deepfakes and convincing investment platforms are making traditional warning signs less reliable. Once fraud occurs, the options for recovering funds can be limited, so speed is critical.

Dispute risk is changing quickly. Organisations need to understand the new risks that technology creates, as well as the safeguards needed when they use technology in response.

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KEY TAKEAWAYS FROM THE EVENT

01

AI can support justice but should not replace judgement

The Attorney General's keynote examined how technology has repeatedly changed legal practice.

Email and digital research have already transformed the volume and speed of litigation. AI is the next stage of that change.

The potential benefits are significant. Routine processes may become quicker and less costly. AI may assist with tasks involving large volumes of information and could support consistency in areas where previous decisions need to be analysed.

However, the keynote drew a distinction between assisting decision-making and replacing it.

Legal disputes often require judgement about contested facts and competing arguments. AI can identify patterns and produce answers that appear reasoned. It cannot take responsibility for the consequences of those answers.

AI will form part of dispute resolution. The practical challenge is identifying where human judgement must remain central.



Rossa Fanning SC, Attorney General of Ireland, speaking at our third annual Dispute Resolution Conference.



KEY TAKEAWAYS FROM THE EVENT

02

Efficiency cannot become the measure of justice

Technology can make dispute resolution faster and more accessible.

That does not mean efficiency should become the overriding objective.

The Attorney General emphasised that courts derive their legitimacy from more than their ability to reach an outcome. Judicial decisions must be capable of explanation and are delivered within a system based on independence and accountability.

Alternative dispute resolution also operates within that wider framework of confidence in the rule of law.

The keynote therefore cautioned against treating an AI-generated answer as equivalent to a legal judgment.

This matters for parties to disputes. Technology can support the process, but it should not obscure who is responsible for key decisions.

KEY TAKEAWAYS FROM THE EVENT

03

An expert's duty is to the court

The first panel focused on one of the central principles governing expert evidence.

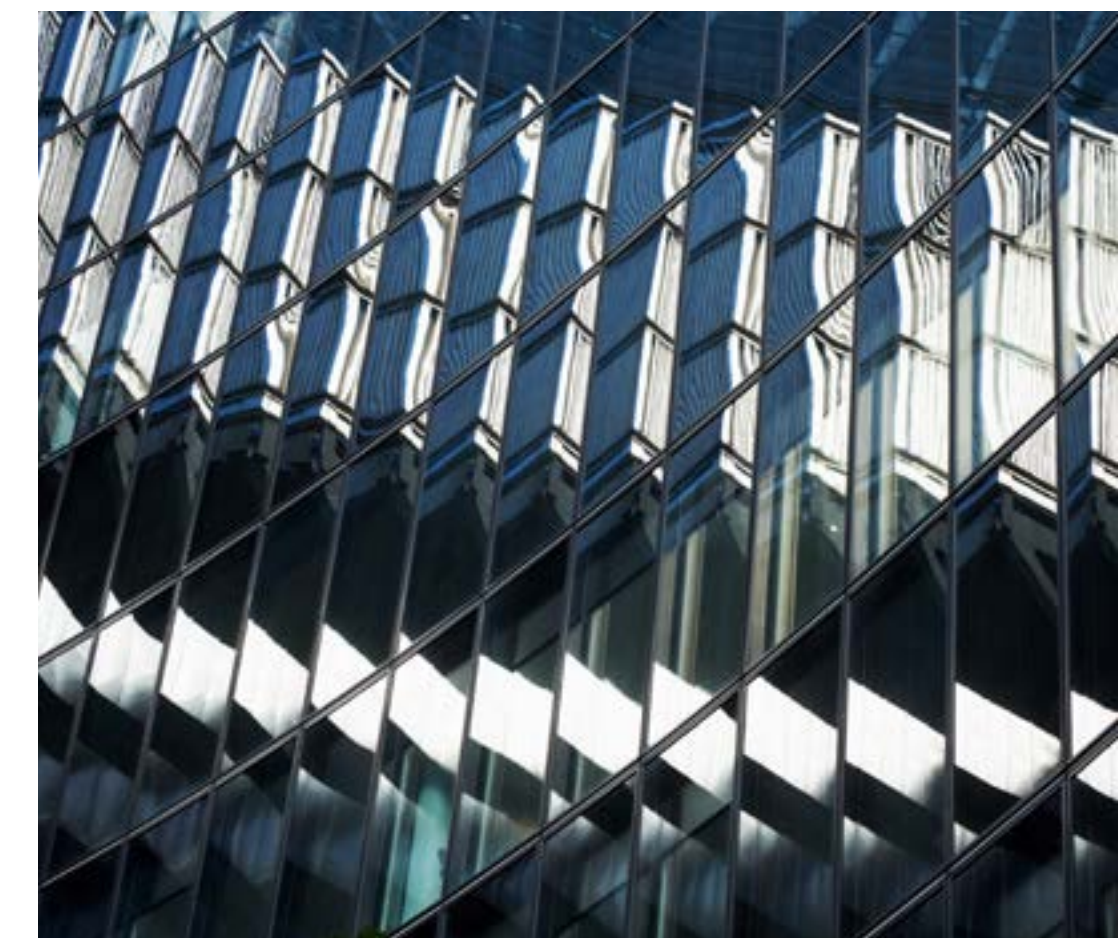
An expert is engaged by a party, but their primary duty is to assist the court.

They are not an advocate for the party paying their fee, nor are they the decision-maker. Their role is to give an independent opinion within their area of expertise.

That independence must be apparent from both the expert report and the evidence given at hearing.

Experts should consider competing arguments and explain how they reached their conclusions. They should also disclose any relevant conflicts.

Where an expert becomes too closely aligned with the case of the party instructing them, their credibility can be significantly damaged.





KEY TAKEAWAYS FROM THE EVENT

04

Independence needs to be tested early

The panel stressed the importance of carrying out proper checks before an expert is formally instructed.

Practitioners should check whether the proposed expert has any connection with the parties or the issues in dispute. The question is whether that connection could affect, or appear to affect, their independence.

That enquiry should extend beyond obvious financial conflicts.

The panel noted that an expert's previous public statements or professional relationships may become relevant when their impartiality is tested in cross-examination.

Expert selection should therefore involve more than confirming technical qualifications.

Organisations and their legal teams should also consider whether the expert understands the obligations of an expert witness. They should be satisfied that the expert can demonstrate the necessary independence.

KEY TAKEAWAYS FROM THE EVENT

05

A good expert report must show its workings

Courts need to understand how an expert reached their conclusion.

Reports should clearly set out the reasoning behind the opinion, including the assumptions made and the material relied on.

Any source material should be identified. The panel noted that documents, and even hyperlinks, relied on by an expert may need to be available for scrutiny.

Clarity is also important. A highly technical report is of limited help if the judge cannot readily follow the issue or the reasoning behind the expert's conclusion.

Experts should therefore aim to explain complex matters in a way that is accurate but accessible.



Shelley Horan SC, Commercial & Regulatory Law, speaking during our first panel.

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KEY TAKEAWAYS FROM THE EVENT

06

Experts must be able to change their mind

Independence also means being prepared to revise an opinion.

New evidence may emerge during proceedings or an expert may reconsider their position following discussions with another expert.

The panel considered that this need not be a weakness. An expert who identifies uncertainty or properly qualifies an opinion can enhance their credibility. An expert who takes an absolute view on incomplete information may create difficulties later if the evidence changes.

Where an expert changes their view, the change should be disclosed promptly.

The focus should remain on giving the court the expert's genuine opinion. An earlier conclusion should not be preserved simply because it appears to support the client's case.





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07

Expert witness experience matters

Technical expertise and expert witness expertise are not the same thing.

A person may be highly regarded in their profession but have limited understanding of what is expected of an expert giving evidence in litigation.

The panel emphasised that experts need to understand how their duty to the court affects the preparation of their report and their conduct under cross-examination.

That makes preparation important.

Practitioners should consider whether a proposed expert has given evidence before and understands the procedural and ethical requirements involved.

The strongest expert is not always simply the person with the longest CV. The ability to communicate a complex opinion clearly and defend it objectively can be just as important.

KEY TAKEAWAYS FROM THE EVENT

08

Joint expert meetings can narrow disputes

Joint expert meetings can be valuable where opposing experts disagree.

They may identify areas of agreement and isolate the issues that genuinely need to be determined by the court.

That can reduce hearing time and help the parties focus their evidence more effectively.

The panel also considered that a joint meeting can be useful even where agreement is limited. It tests the reasoning of each expert and forces areas of disagreement to be explained more clearly.

An expert's willingness to acknowledge that another opinion has some validity may also strengthen their credibility.

The conference polling reflected support for this approach. 88% of respondents said they would use a court-appointed joint expert if doing so reduced costs.

KEY TAKEAWAYS FROM THE EVENT

09

Instructions to experts require care

The initial letter of instruction is a critical document.

It should define the questions the expert is being asked to address and explain their duty to the court.

Experts should also be reminded to disclose relevant interests and identify their sources. They should notify the legal team if their opinion changes.

Where others assist with the preparation of a report, the nature of that assistance may also need to be made clear.

Practitioners should assume that instructions and communications may later be examined during proceedings.

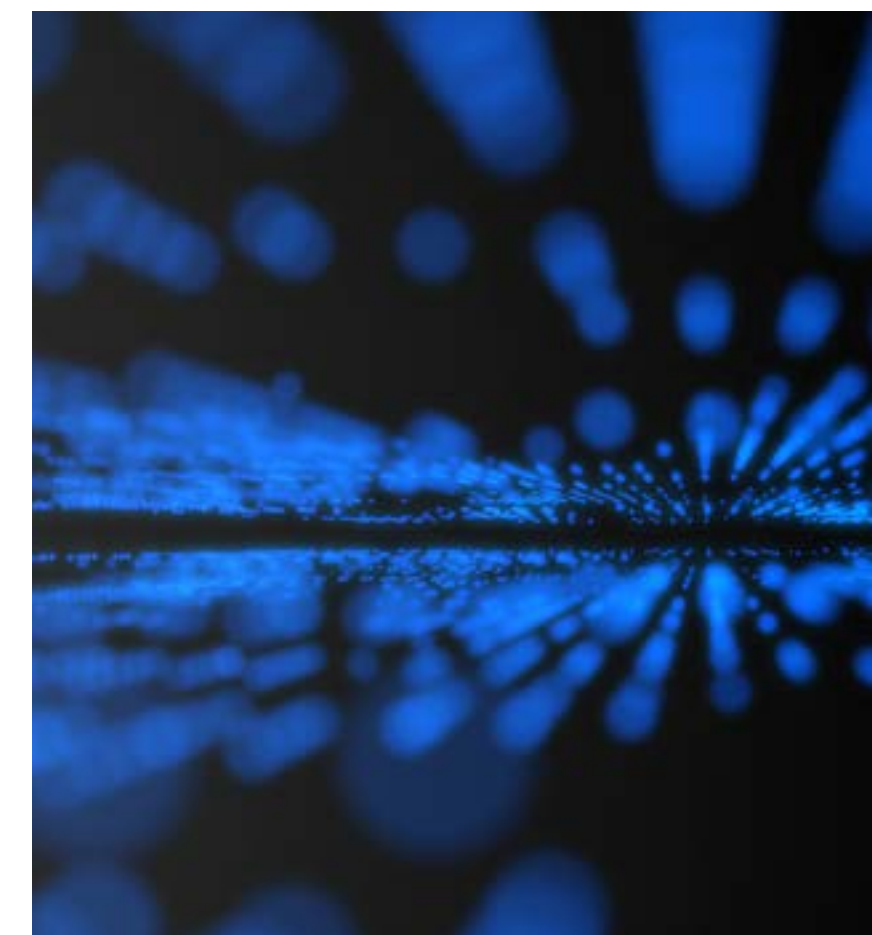
The safest approach is to make sure the instruction is balanced and consistent with the expert's independent role from the outset.



Gearoid Carey, Partner, Dispute Resolution, speaking during our first panel.

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Experts should also be reminded to disclose relevant interests and identify their sources.



KEY TAKEAWAYS FROM THE EVENT

10

Lawyers can review expert reports but cannot direct the evidence

Practitioners have an important role in ensuring that expert reports are clear and complete.

They can point out typographical errors and suggest structural improvements. They can also ask an expert to address an issue that appears to have been missed.

What they cannot do is influence the substance of the expert's opinion.

The evidence must remain the expert's own.

This distinction becomes particularly important where a report contains a conclusion that is unhelpful to the instructing party.

The appropriate response is not to remove or soften the opinion because it creates difficulty for the case.

Legal teams should approach every interaction with the expert on the basis that it may later be scrutinised in court.



KEY TAKEAWAYS FROM THE EVENT

11

AI use in expert evidence requires transparency

AI is already becoming relevant to expert evidence.

The panel considered that responsible use of AI can produce efficiencies, particularly when experts are identifying or analysing source material.

The risk arises where material is accepted without independent verification or where AI-generated content becomes a substitute for the expert's own judgement.

The panel highlighted the disclosure requirements in the relevant court practice directions. Where AI has been used, the expert may need to explain the extent of that use. This allows the court and the opposing party to assess the reliability of the evidence.

Whatever tools are used, the expert must own the contents of the report and be able to defend the opinion it expresses.

KEY TAKEAWAYS FROM THE EVENT

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APP fraud is becoming easier to execute and harder to detect

The second panel demonstrated how rapidly payment fraud is evolving.

Traditional warning signs, such as poor spelling or unusual branding, can no longer be relied on.

Fraudsters can now use AI-generated voices and realistic video to impersonate trusted individuals, often backed up by convincing websites.

The conference illustrated this with an AI-generated avatar of the firm's Managing Partner, created from a limited amount of publicly available material.

Organisations should not rely on appearance or familiarity when verifying sensitive instructions.

Payment controls need to assume that any communication channel, including video, can be convincingly impersonated.



Elizabeth Corcoran BL, Barrister, The Law Library, speaking during our second panel.



KEY TAKEAWAYS FROM THE EVENT

13

APP scams exploit trust rather than technology alone

Many APP scams succeed because the victim authorises the payment themselves.

Common examples discussed by the panel included safe account scams, investment fraud and business email compromise.

Fraudsters often create urgency and reinforce credibility through several different communications.

In a business email compromise, an attacker may gain access to an email account and observe internal payment processes. They then intervene at the point where bank details are changed.

The practical response should therefore combine technical safeguards with robust payment processes.

Sensitive changes should be independently verified through a trusted channel rather than relying solely on the communication that requested the change.

KEY TAKEAWAYS FROM THE EVENT

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Recovery from banks can be difficult

The legal position can be challenging where the victim personally authorised the fraudulent payment.

The panel examined the *Quincecare* duty¹. This can require a bank to refrain from executing an instruction where it has reasonable grounds to believe that an agent is attempting to misappropriate a customer's funds.

However, the UK Supreme Court's decision in *Philipp v Barclays UK plc*² held that the duty does not apply in the context of APP fraud where the customer personally instructs the bank to make the payment.

¹ [1992] 4 All ER 363

² [2023] UKSC 25

There is currently no reported Irish decision applying the doctrine in this context.

The panel also noted that pursuing the receiving bank can be difficult because there is usually no direct contractual relationship between it and the victim.

Future obligations to reimburse victims may therefore be more likely to emerge through regulation than through a major expansion of existing common law duties.

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All our speakers for the second panel of our conference, chaired by Conor O'Leary, Partner, Dispute Resolution

KEY TAKEAWAYS FROM THE EVENT

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Speed is critical when fraud is discovered

Where an APP fraud succeeds, the immediate priority is to locate and preserve the funds.

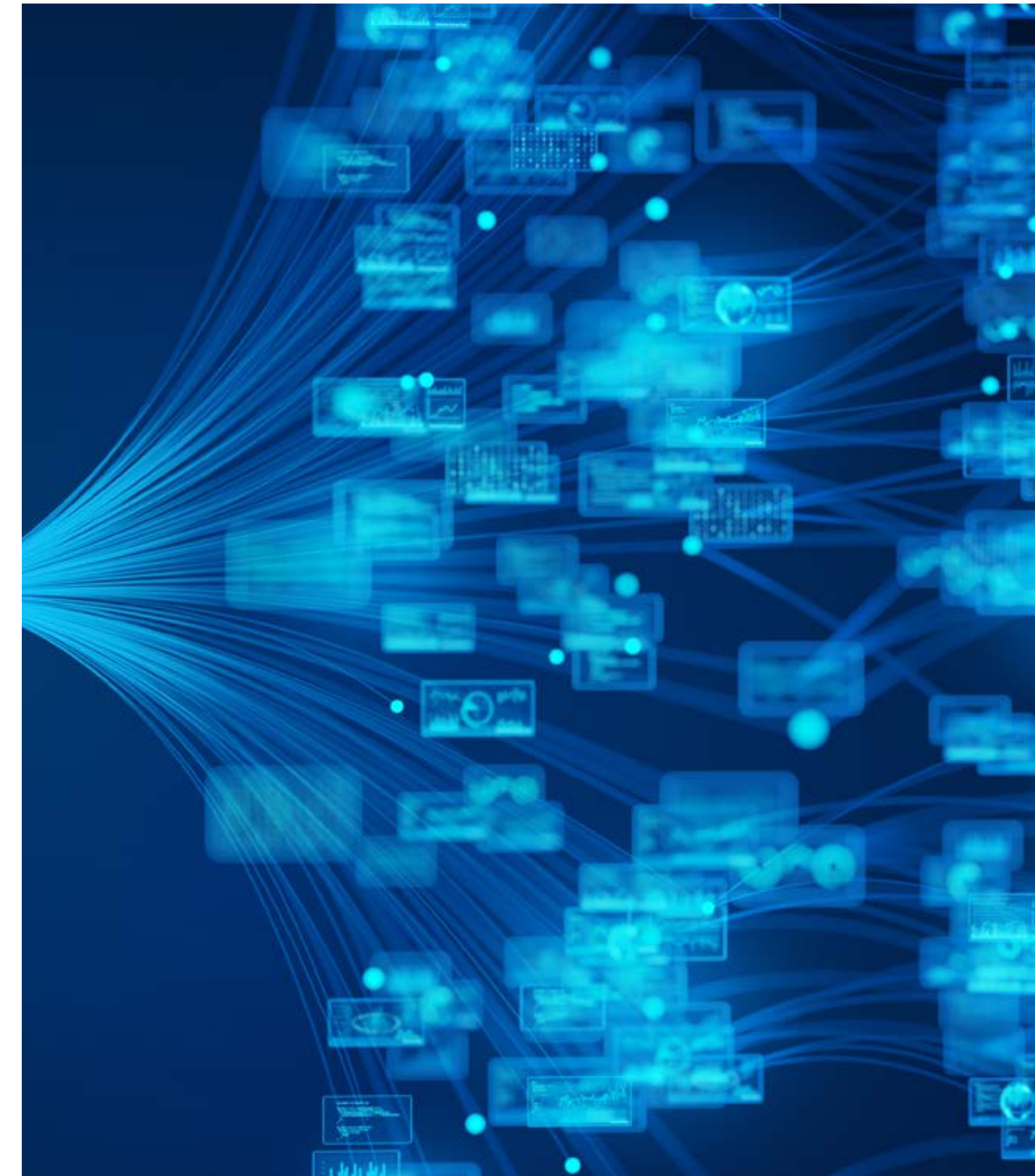
Money can move rapidly through different accounts or jurisdictions.

Potential remedies include freezing orders and disclosure orders. Disclosure can be particularly important where the victim needs information to identify the fraudster or trace where the money has gone.

The panel referred to the Irish High Court decision in *Boulbet v SumUp*³, where disclosure of account opening and identification material was ordered to assist the claimant.

Suspected fraud should be escalated immediately. Banks, law enforcement and legal advisers may all need to become involved quickly if there is to be a realistic prospect of recovery.

³ [2025] IEHC 285



KEY TAKEAWAYS FROM THE EVENT

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Prevention must start before the payment

The APP fraud discussion repeatedly returned to prevention.

By the time a fraudulent payment is authorised, the deception may have been developing for weeks or even months.

The fraudster may already have established trust and conditioned the victim to disregard warnings.

This means effective fraud prevention cannot sit with the payment provider alone.

The wider ecosystem includes banks, technology platforms, telecommunications providers, businesses and law enforcement.

Timely intelligence sharing between those participants can help identify where fraud is beginning and where intervention may be possible.

The panel's view was that prevention should start further upstream. Relying mainly on recovery once funds have left the victim's account is not enough.

KEY TAKEAWAYS FROM THE EVENT

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Shared responsibility is likely to remain central

There was strong support at the conference for spreading responsibility across the payment and communications ecosystem.

The discussion considered whether reimbursement schemes alone are sufficient.

Refunding a victim provides important consumer protection, but it does not prevent the criminal from retaining the proceeds.

The panel therefore argued for an approach that creates incentives to prevent fraud at each stage of the process.

Conference polling reflected that view. 54% of respondents said responsibility for APP fraud losses should be shared, while 82% supported the introduction in Ireland of a reimbursement scheme similar to the UK model.

The challenge for policymakers will be balancing reimbursement with measures that reduce the opportunity for the fraud to occur in the first place.



Gerard Kelly SC, Partner, Co-Head of Dispute Resolution and Head of Intellectual Property, delivering the closing remarks of the Dispute Resolution Conference 2026.



KEY TAKEAWAYS FROM THE EVENT

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What this means in practice

The conference identified several practical priorities for organisations managing dispute and fraud risk:

01

Choose experts carefully

Assess independence and expert witness experience as well as technical expertise.

02

Give clear instructions

Define the expert's role and the scope of their work from the outset.

03

Make expert reasoning transparent

Ensure reports set out the basis for the opinion and any limitations affecting it.

04

Use joint expert processes strategically

They can narrow the issues and reduce the cost of hearings.

05

Ask about AI use

Experts should explain whether AI has assisted their work and how any resulting material has been checked.

06

Keep human judgement central

AI can support legal processes, but responsibility for important decisions should remain clear.

07

Strengthen payment verification

Assume that any instruction, including one given by video call, could come from an impersonator.

08

Build layers of protection

Fraud controls should not depend on any single safeguard working perfectly.

09

Have an incident plan

Know who should be contacted internally and externally as soon as suspected fraud is identified.

10

Act quickly

Delay can materially reduce the prospect of tracing and recovering stolen funds.

11

Monitor regulatory change

The law on who bears APP fraud losses is still developing. Future reimbursement obligations may increasingly be driven by regulation.

12

Look beyond reimbursement

Effective fraud strategies should also focus on prevention and on sharing intelligence across sectors.

Trust was a recurring theme throughout the conference.

Courts depend on trust in the independence of experts and the judgement of those making decisions. Payment systems depend on people being able to distinguish genuine instructions from fraud.

As technology changes both litigation and fraud, strong processes and clear accountability will matter more.

ABOUT US

Mason Hayes & Curran is a business law firm with about 124 partners and offices in Dublin, London, New York and San Francisco. Our Dispute Resolution team has unrivalled experience in acting for clients in all types of high value and complex disputes.

Our legal services are grounded in deep expertise and informed by practical experience.

We tailor our advice to our clients’ business and strategic objectives, giving them clear recommendations. This allows clients to make good, informed decisions and to anticipate and successfully navigate even the most complex matters.

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“Displayed a remarkable ability to quickly grasp the ‘big picture’ holistic overview of complex commercial situations whilst simultaneously retaining meticulous attention to detail.”

LEGAL 500, 2026

“Every single one of the team is fantastic.” “The team is exceptionally hard-working and dedicated. It is always looking for ways to streamline the litigation process.”

CHAMBERS & PARTNERS, 2026

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