

“

Intense media scrutiny is not going to go away. And the reality for everybody in Leinster House is that their zone of privacy is considerably less than that of the ordinary citizen



Taoiseach Brian Cowen promised at the weekend to be more cautious in his social life after the controversy that followed his interview on Morning Ireland, realising perhaps that the line between the 'public' and 'private' realms is becoming increasingly blurred.

THE POLITICS OF PRIVACY

THE fallout from the furore over the Taoiseach's Morning Ireland interview, and whether or not Mr Cowen was drunk or hungover, has wider and worrying implications for all politicians, whether in or out of government.

Whether at work or play, they live now in a very changed and changing media environment, where what may be termed the "rules of engagement" are akin to a moveable feast.

But if the rules have changed for politicians, the changes brought about by intense competition, the tabloidisation of politics, and the impact of celebrity culture also have ramifications for the mainstream media, in particular.

In an age of 24-hour news cycles, succumbing to the pressures and temptations to be "first" with some story or other is inherently dangerous.

The changes wrought primarily (though by no means exclusively) by the new media have created a new and enticing ballgame, though it is an enticement freighted with new pitfalls.

Picking up and running with a tweeted allegation — especially in circumstances where, because of time, distance or immediacy of transmission, the tweeter cannot possibly vouch for its veracity — is a very dodgy exercise indeed.

In today's celebrity-obsessed culture, which puts a premium on gossip, rumour, tittle-tattle and prurience, there is also at times an inability or even an indifference to any distinction



The furore over the Taoiseach shows how the environment has changed and the rules of celebrity culture now apply, says **TP O'Mahony**

between what is genuinely in the public interest and something merely of interest to the general public.

Looming over all this is — or should be — the realisation that, irrespective of changes in the media landscape and perhaps even in media ethics, the law remains a constant, and an ever-threatening one at that.

We may have a new, more liberal (though as yet untested) Defamation Act now in this country, but the onus of "proving" the truth of an allegation or claim still rests on the newspaper or radio or television station.

The one thing the new defamation legislation has not done is reverse the burden of proof. "The defendant bears the legal burden of showing that the statement is substantially true," according to Dario Milo in his new book, *Defamation and Freedom of Speech*.

This is a salutary reminder of the limits of legal reform in Ireland. We live now in a society where, because

of new technological innovations, a compromising or embarrassing photograph taken at a private party can be instantly transmitted to any one (or a number) of sites, with perhaps deeply distressing consequences for the person or persons photographed by a mobile phone camera.

The front page British tabloid photograph of supermodel Kate Moss, apparently sniffing cocaine at a private event, and published under the headline "Cocaine Kate", is a telling example of the perils all public figures now face.

For them, the "zone of personal privacy" is considerably smaller than it was 20 or even 10 years ago. Add to this a level of media intrusiveness (about which the Ombudsman Emily O'Reilly, herself a former political journalist, complained recently) that goes hand-in-hand with celebrity culture, and it becomes all too apparent that "privacy" is an increasingly elusive reality for public figures,

including politicians.

Without revisiting the right or wrongs of what happened last week in the controversy surrounding the Taoiseach Brian Cowen, or reopening the blame game, it can be readily acknowledged that there is undoubtedly a basis for the Tánaiste's concerns about the extent to which politicians today can enjoy personal freedom.

Speaking to Paddy Clancy for a Sunday newspaper, Mary Coughlan said that, clearly, if politicians must now account for every aspect of their lives, then they face a very unsatisfactory situation.

"If we as politicians and as human beings are not allowed to live in this country with the freedom that every person has, it's a very sad day."

And she went on: "If we are going to be asked what time we went to bed, what time did we get up, what did we eat, where did we go, who did we talk to? Then I think we are taking politics too far".

One presumes it was this realisation also that prompted the Taoiseach himself to promise at the weekend to be more cautious in his social life after the controversy that followed his interview on Morning Ireland earlier in the week. He said he would have to be more careful about his behaviour in future.

Intense media scrutiny is not going to go away. And the reality for the Taoiseach and the Tánaiste, and everybody else in Leinster House is that their zone of privacy is considerably less than that of the ordinary citizen of the Republic. It's a fact of life, and one that just goes with the territory.

Of course politicians, and all other public figures, have a right to privacy, just like the rest of us. Article 8 of the European Convention on Human Rights (which is now part of the domestic law of this country) states: "Everyone has the right to respect for his private and family life, his home and his correspondence".

The trouble for politicians is that it is much harder in the 21st century to draw the line between where the "public realm" ends and the "private realm" begins.

We can even say with some precision when the trouble began.

The press, politics and privacy — ever since the Profumo Scandal in Britain in 1963 the inter-relationship between these three has changed very much, and increasingly with toxic consequences.

Last week's controversy was, in part, a telling illustration of this.

Creative thinking needed — and fast

Innovative solutions are needed to enable borrowers in severe financial difficulties to get to grips with their mortgage arrears, writes **Karl Deeter**

THERE are around 36,500 households in mortgage arrears and rising.

Currently people who are about to go into arrears or who are in arrears are already dealt with using a standardised MARP (mortgage arrears resolution process).

It was introduced as an interim measure in the Code of Conduct for Mortgage Arrears this summer, but it doesn't offer new answers. A second set of recommendations has been delayed until next month.

The ways that banks typically deal with borrowers is to extend the term of the loan, renegotiate the rate, put the loan on interest only or grant a moratorium/payment holiday. Under existing code, if the borrower is "engaging" with the lender, the repossession process cannot be initiated for 12 months.

This addresses the symptom, but not the disease which is, for the most part, a story of unemployment and a broken economy. What more can be done to solve the problem?

In a normal market economy, one side or the other goes belly up in soured deals, but the bank doesn't want to be left with property that forces it to take a serious writedown and many borrowers are not willing to wander in credit wilderness for the next 12 years — which is how long the deficiency judgment will last if you can't sell at a profit.

Our debt laws are draconian and don't allow failure, making a short sale — where a person can sell a property for less than the mortgage secured up on it — impossible, because the recourse on the loan is to the person, not just the asset.

In at least 28 US states, the asset is either the main or only recourse and that makes lending more prudent (from a pricing perspective) and also ensures the market adjusts fast when a bubble bursts. We can't do that here, and the regulator has made it clear there will be no magic salvo, so are there any options in Ireland that we have not tried yet?

■ **Sell your tracker:** Trackers are a thorn in the side of banks, and like any valuable asset, it would be great if you could sell it, or part of it, if you needed money. People in arrears don't have just a mortgage, they have several other loans as well. A short-term debt settlement might solve some problems.

Imagine if the bank offered a person €100 in cash for every basis point (0.01%) they gave up on their tracker, and you sold your rate to the tune of 1%. You would have €10,000 in your pocket to sort your other loan problems out with. And your new mortgage rate would go from ECB+1% (the most common tracker) to ECB+2%, which is still a great affordable rate, while some money problems have diminished.

■ **Sell your mortgage:** If you could shift your property by merely letting a different person take on the debt, it might get the initial borrower out of the red, let a potential buyer take the property on at a rate they could no longer get on the open market, the bank get a performing loan in return and the borrower gets out from under a debt they can't afford.

■ **Bank takes equity:** If a borrower has a loan of €200,000 and the property is worth €100,000, the bank might offer to take 50% of the property (€50,000) and reduce the loan by that amount to €150,000.

The bank keeps a maximum upside of €200,000 (€150,000 loan and €50,000 in the property) but the borrower has gone from 200% leverage to 300% leverage (€50,000 vs €150,000 loan), if and when the market recovers they have less participation in the upside so they stay under for longer. These are accounting tricks the banks are willing to use as long as they don't take on properties they don't want.

We need creative thinking that gets results, and fast. The likelihood is that the expert group on mortgage arrears will copy ideas from other jurisdictions, but the downside is that banks are terrified of trying innovative solutions for fear of a regulatory backlash, in particular around the area of tracker mortgages. The best solution is about results, not who comes up with them or the product affected.

■ Karl Deeter is a manager with Irish Mortgage Brokers

Banking on Brussels' support

IRELAND'S economic future is in the hands of the markets right now, and the message from the EU is to stay calm and don't say or do anything that makes these latter-day world rulers nervous.

The Union is playing a strategic role in the whole thing on a number of levels. But it all goes back to our decision to join the euro.

As a result we signed up to a pact to help keep the currency safe from speculators. The main rule was to keep government budgets in check and not to run deficits of more than 3% of GDP.

For a number of years this was no problem to Ireland, but now with a huge drop in revenue the country is exceeding all previous EU budget deficits and is heading for a massive overspend by about 24% of GDP.

The usual practice is that the Commission talks with the Government to reach an agreement on how to bring the budget back to more normal rates within a specific timeframe — normally three years.

Last year the over-run amounted to 14.3% and the country was given an unprecedented five years to get it back to the magic 3% figure. But then it was expected to be reduced to 11.7% this year, instead of being double that, thanks mainly to Anglo Irish.

Economics Commissioner Olli Rehn has been very careful not to suggest that the Government can or cannot achieve the reduction in the time allotted, on the basis that the situation is evolving and that to suggest a change might make markets nervous.

He continuously expresses confidence in the Government's capacity to manage the situation and to "act on financial repair and restructuring of the banking sector" — as he said yesterday at a conference in Tallinn.

The EU is closely monitoring Irish efforts to rein in our budget deficit, fearing market meltdown, says

Ann Cahill
Europe
Correspondent



The banking sector and Ireland's decision — unique among member states — to guarantee all their debts is the defining factor in the country's current financial situation. And because the banks are a business that must be allowed to compete with one another, if they receive any funds from the state, they become subject to the EU's competition rules.

The Government submitted a number of plans to the Commission on what they want to do with Anglo Irish Bank but none of these was viable, according to the Brussels experts. Finally in a discussion with the Finance Minister Brian Lenihan — described by the Commission as a meeting about the Irish financial system — they agreed to wind up Anglo over time with an arrangement that will allow them hold on to the €50 billion of deposits for as long as possible.

The details are being worked on and when complete — in the next few weeks — it will be formally handed to Brussels. They will do an

in-depth probe on its viability and on whether it meets with common market competition rules.

The Economics Commissioner is also waiting on the outcome, and more specifically, the cost of resolving Anglo's future, as this will determine our budget over-run this year and whether it is still possible to reduce the deficit in the current timeframe of 2014.

Whatever he decides must be agreed also by the finance ministers from the other countries. The circle is completed by the European Central Bank. It has been providing the country with money when it can't get it anywhere else. And the hope is that it will also provide the funds for the Anglo Irish resolution.

Provided Ireland continues to appear to be able to manage the situation this is what will happen. However if the situation gets out of control — for instance if Ireland has to pay even higher rates than the record rates of last week to borrow on the markets, then this may no longer be an option.

At that stage Ireland may ask the EU finance ministers for funding from the EU-IMF €750 billion joint fund. But nobody should be in any doubt that this is little different than bringing in the IMF as they will be in a position to dictate what the Government's budget will be and that could mean cuts across the board.

On top of that the country will lose its much-vaunted credibility and give a negative signal to investors thinking of setting up business in the country. Something the Government is desperate to avoid.

None of the EU's finance ministers want to see this happen — it undermines the currency and it means they will have to cough up whatever money Ireland needs despite many of them being in poor circumstances also.



European Commissioner for Economic Affairs Olli Rehn has been very careful in his pronouncements on Ireland's efforts to cut its massive budget deficit.