

# KEEPING IN TOUCH

THE NEWSLETTER OF RICHARD GROGAN & ASSOCIATES SOLICITORS

## **Rights to a Bonus**

The issue as to the right of an employee to a bonus is now a regular issue which arises in cases.

There is also always the question as to whether an employer can revoke any bonus scheme. The majority of contracts will have a provision where a bonus is going to be paid or might be paid that it is discretionary and that it can be withdrawn. However, the Courts, and in particular the High Court decision in *Cleary and Others –v- B&Q Ireland Limited* 2016 IEHC119, identified an employer’s obligation to exercise discretion reasonably.

In that case Mr. Justice McDermott stated;

“The discretion to withdraw the bonus scheme at any time, in my view, was always intended to apply in futuro and attached to the conferring of bonuses, as yet un-accrued, under the terms of the Scheme. The payment of the bonus crystallised as a contractual obligation once it was earned in accordance with the terms of the Scheme as operated”.

Effectively the decision has held that once a bonus has been earned it cannot be revoked. However, provided a contract is properly drafted an employer, in the future, can suspend or withdraw completely any bonus scheme that has been put in place.