

Legal innovator of the year: strong contenders

By Michael Skapinker

Veteran judges on the panel choosing the FT Legal Innovator of the Year agreed that this year's shortlist was the strongest they had seen. All 10 finalists had vivid stories to tell.

In the end, the eight judges – five outsiders and three from the FT – whittled down the list to the three top contenders from an outstanding group.

Barney Reynolds, partner at Shearman & Sterling and head of its financial institutions and regulatory group, provided a submission well suited to these times of financial crisis. Mr Reynolds led the team that advised ICE Clear Europe, the European clearing house, on creating its clearing service for credit-default swaps. His team also helped LMAX, the financial trading platform, set up the world's first retail-derivatives exchange.

The judges were taken, too, by the submission of Natalie Elphicke, partner and head of structured housing finance at Stephenson Harwood. Her work setting up a new structure for social and affordable housing in the UK hugely impressed the panel. Given that ill-considered attempts to provide mortgages to low- or no-income borrowers in the US helped trigger the financial crisis, her work also had a strong contemporary resonance.

Ms Elphicke came very close to winning this year's award. In the end, however, the judges felt it was too soon to see how widely her innovative proposals would be taken up. Crucially, at the time of judging, her legal structure, incorporating elements of Islamic law and combining rental with purchase, was still awaiting approval from the UK Financial Services Authority.

The panel then considered the third outstanding submission – from Richard Tett, partner at Freshfields Bruckhaus Deringer, who specialises in complex cross-border corporate restructurings. His biggest achievement of this year was the restructuring of La Seda de Barcelona, a large Spanish packaging manufacturer that was in danger of being dragged down by its huge debts.

Mr Tett put in place a scheme of arrangement in the style of English law that allows a majority of creditors to prevail over a recalcitrant minority. The concept was unknown in Spain but the country has now amended its law to allow it. Germany and the Netherlands have done so too, and France is expected to follow.

His submission was groundbreaking, it had been put into effect, it had had a wide take-up and, in its crossing of legal and national borders, it was genuinely innovative.

Mr Tett is the brother of Gillian Tett, the FT's US managing editor. Lionel Barber, the FT's editor, decided Mr Tett's application should be considered on its merits. In the event, the non-FT judges, who formed the majority and did not know of the family connection, plumped overwhelmingly for Mr Tett as the FT's legal innovator of 2011.

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WINNER

**Richard Tett, partner, restructuring and insolvency group, Freshfields
Bruckhaus Deringer**

Richard Tett is a leading innovator in the field of complex cross-border restructurings. In the wake of the global credit crisis, Mr Tett has worked on a host of complicated financial restructurings, and has been called on to develop new concepts and techniques, effectively to save some of Europe's largest corporations.

In 2011, Mr Tett's biggest achievement was restructuring La Seda de Barcelona, the large Spanish packaging manufacturer. Faced with huge debts, the company appeared to be in the throes of a terminal crisis. Mr Tett rapidly devised the solution of exporting the English-law technique of a scheme of arrangement to Spain, where no such process existed. This was entirely without precedent, and its success opened the path for the wide-scale transformation of European restructuring law.

Spain has already amended its law to incorporate the idea in the wake of the deal, with the concept now being applied in Germany and the Netherlands. France will follow soon.

In 2010, Mr Tett led the work on restructuring McCarthy & Stone, the UK retirement home builder. In a market-changing development, Mr Tett devised and implemented a combination of a scheme of arrangement with a pre-packaged administration, a move that has been widely copied.

Mr Tett says he has "a light paranoia about not finding the best solution", and his approach to restructuring law is a result of his depth of knowledge combined with being "much more of a risk taker than most lawyers".

One of his clients describes him as "the most innovative restructuring lawyer in the UK. While others tend to 'go looking for the cookie-cutter', Richard Tett stays up at night thinking about new ways to restructure companies. He is a real generator of extraordinary ideas."

Mr Tett studied natural sciences followed by law at Cambridge University, where he was a member of the rowing team. He puts his drive to find creative solutions down to that competitive background.

He joined Freshfields Bruckhaus Deringer as a trainee in 1994 and was elected partner in 2004.

Richard Cohen, executive chairman and group counsel, Epoq Group

Richard Cohen's role in Epoq Group has been that of lawyer-turned-technologist, transforming the company into an online legal service in the early days of the dotcom boom when it developed its basic platform of document automation. Epoq is poised to take advantage of the developments in the consumer legal market that will follow the introduction of the UK Legal Services Act.

The group, whose chief executive is Mr Cohen's brother Grahame, won the CBI Growing Business Award and an information technology award from the Society for Computers and Law in 2000.

Although the dotcom bust then hit the company hard and the legal market was not yet ready for a comprehensive, internet-based legal services system, Epoq flourished, expanding into the banking, finance and insurance markets. In the wake of the LSA, the company is positioned to serve two key markets: big banks and retailers, which are aiming to cash in on the opportunity to offer legal services; and the legal market, including medium-sized law firms that are under pressure to reduce costs in order to meet increased competition.

Mr Cohen's experience extends well beyond his management responsibilities at Epoq. He served at the Legal Services Institute at the College of Law, working on the LSA proposals, and joined the Solicitors Regulation Authority working party to look at the implementation of new alternative business structure rules under the LSA. He was on the Consumer Legal Services Panel during its will-writing investigation, and is currently assisting the panel in its statutory duties in the regulation of will-writing.

Mr Cohen was a founding partner of Landau & Cohen Solicitors, where he was a full-time partner from 1981 to 1998 and a part-time managing partner until 2006.

Natalie Elphicke, partner and head of structured housing finance, Stephenson Harwood

Natalie Elphicke specialises in social and affordable housing in the UK and has worked on a number of firsts in the sector. Her work with the Gentoo housing group to develop an affordable home-ownership scheme was one of the most original ideas featured in this year's FT Innovative Lawyers finance category.

Ms Elphicke drew on Stephenson Harwood's Islamic finance expertise

to make the product work under English law.

By unpicking sharia-compliant lease-style structures, she adapted their risk-sharing, flexible and no-penalty characteristics to the conventional housing market.

This was a highly unusual way to approach Islamic financial law, as it was usual practice to use sharia to mimic western financial structures, with the aim of attracting Islamic sources of financing.

Ms Elphicke's lateral thinking and creative ideas were crucial to the development of the "Gentoo Genie", a form of housing tenure that allows people to part-rent and part-buy their homes without a mortgage.

The scheme was pioneered in north-east England, where it was heavily oversubscribed, and properties have been identified to roll it out nationally over the next year. At a time when many people face insurmountable difficulties in securing mortgage finance, the wider social impact of this work is palpable.

Some of the other firsts Ms Elphicke has worked on include the creation of the affordable housing perpetual reinvestment foundation to provide low-cost home ownership and to capture proceeds for reinvestment in the local community.

Luis de Carlos, managing partner, Uría Menéndez

Luis de Carlos has been a driving force behind the development of Spanish capital markets, and is best known for his work on groundbreaking capital markets and finance transactions.

He worked on the introduction of the book-building system for Spanish initial public offerings and Spain's first mortgage securitisation. He has played a key role in the country's main privatisations, including high-profile companies such as Repsol, Telefónica and Endesa, and has advised on the IPOs of large private companies based in Spain, such as Inditex, Ferrovial and Telecinco, guiding them throughout their international expansion.

He has also been involved in the consolidation of Spain's secondary markets through the creation and subsequent IPO of Bolsas y Mercados Españoles, following the merger of the Madrid, Barcelona, Valencia and Bilbao securities exchanges.

Perhaps most significant was Mr de Carlo's role during and after the global financial crisis in rescuing the Spanish savings banks. He led the reorganisation of La Caixa, Caja Madrid and six other savings banks, heralding a new era in the country's financial system. The work culminated in the successful listings of newly formed Caixabank and Bankia in July 2011. Mr de Carlos's leading reputation and experience was crucial to winning the instruction on these two highly complex and critical transactions.

He joined Uría Menéndez in 1983, became a partner in 1991 and was appointed managing partner in 2005.

Kevin Doolan, partner and head of client relations, Eversheds

Perhaps no other individual has had a hand in so many of the innovations that have featured in the FT Innovative Lawyers report since its inception.

Eversheds has maintained a position at or near the top of the overall innovation ranking each year in no small part thanks to initiatives led by Kevin Doolan.

Before changing to law, Mr Doolan studied polymer engineering, which he feels may have left him "wired a bit differently" from most lawyers. Early in his career, he introduced

technological solutions to handle high-volume work and online services to improve client and lawyer communication.

On joining Evershed's national management team in 2001, Mr Doolan took on a two-year project to develop an online presence for the firm. To make sure that the right online services were developed, he persuaded eight of the firm's largest clients to form a technology board. It led to the creation of an online services platform in partnership with technology providers and publishers, which continues to have more than 30,000 paying users.

Technology is a recurrent feature in Mr Doolan's innovations, but the development of client services and relationships has been their hallmark. In 2004, he established the first law firm client advisory board. He also led the development of a proposal that saw Eversheds appointed as sole legal adviser to Tyco International, the manufacturing and services group, in place of 200 previous legal providers. In 2007, it was a landmark deal for the global legal market.

Most recently, Mr Doolan spearheaded a project to create benchmarks for in-house legal departments to help general counsel show the value their legal teams provide to the business.

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Louise Pentland, vice-president and chief legal officer, Nokia

Since becoming chief legal officer at Nokia, Louise Pentland has been tested by the mobile phone maker's litigation with Qualcomm, the chipmaker, and by the economic downturn that forced a substantial reorganisation. She presides over a multidisciplinary global team of more than 360 lawyers, intellectual property experts and professionals, paralegals and assistants, located in more than 40 countries.

Ms Pentland became acting chief legal officer when Nokia's CLO died suddenly in September 2007. After grappling with the Qualcomm litigation, she had to reduce headcount. Determined to keep the senior people, whom Ms Pentland describes as the best in the business, she chose the original solution of combining Nokia's legal and intellectual property teams into one department.

One of her first innovations was to gather the legal and IP team together for a weekend away. Breaking with the tradition of a formal conference, she devised a creative programme on a remote Finnish island – a stand-out event that succeeded in galvanising the team at a difficult time.

Besides IP and legal, Ms Pentland has responsibility for legal governance compliance, privacy and ethics. She has reinvented and empowered the Nokia team, recognising that the combined contribution of legal and IP are crucial to the success of the business.

Some of her innovations have included setting up an internal task force designed to stimulate ideas and thinking in the group, and "boldness" sessions, in which staff are encouraged to share some of their outside work experiences or other ideas they may have to encourage different types of personnel interaction and teamwork.

Michael O’Kane, partner and head of business crime team, Peters & Peters

Michael O’Kane has acted on many of the UK’s high-profile business-crime cases, and has been recognised in the FT Innovative Lawyers report for leading two of the country’s most groundbreaking cartel cases. Both involved negotiating between US and UK prosecutors, and Mr O’Kane’s work stood out for what referees described as an unusually proactive approach and expert judgment.

This year, Mr O’Kane’s representation of two of the four defendants in the British Airways-Virgin Atlantic price-fixing case was one of the stand-out entries in the dispute-resolution category.

Mr O’Kane and his team flew to the US to negotiate with the Department of Justice. At the same time, he worked with the UK Office of Fair Trading to ensure the case would be heard in that country. The strategy paid off: the clients were acquitted and avoided extradition to the US, where plea-bargaining would have put the defendants under pressure to plead and where the sentences are more severe.

The team were helped in their US negotiations by the trust and relationships they had built in previous cases. In 2008, Mr O’Kane represented two clients arrested in the US for cartel offences in the marine hose industry. They were also the first ever to be charged with a criminal cartel offence in the UK. Mr O’Kane led the team that negotiated a plea agreement between the US and UK authorities. It was the first time a US court had been persuaded to have its sentence passed by a UK court, and set an important precedent for collaborative enforcement across the Atlantic.

Mr O’Kane joined Peters & Peters in 2002 and became a partner in 2004. He has led the business crime team since 2009.

Quentin Poole, senior partner, Wragge & Co

Quentin Poole started championing innovation in the legal sector long before the concept was fashionable. He became managing partner at Wragge & Co in 1995, and in his time in leadership roles he has overseen the transformation of the Birmingham-based law firm from a turnover of £18.8m in 1995 to the current £113m.

He believes his biggest achievement has been the creation of Wragge’s “Single Team”, a workplace culture dedicated to creating an open and motivating environment. Wragge is the only law firm in the FT Top 50 Best Workplaces, and is one of only two businesses to appear in the ranking every year since it began in 2001.

Mr Poole has also overseen the development of the firm’s client relationship management programme, and, according to the firm, he is responsible for its ranking among the top 10 legal advisers to FTSE 100 and 250 companies.

Over the past three years, he has led Wragge’s internationalisation strategy, under which it has established offices in China, Germany, Paris and the United Arab Emirates. His management approach is to encourage local autonomy.

Mr Poole believes that a culture of innovation means encouraging ownership in the firm. “Some of the best ideas I’ve had about how we can improve the business have come from our secretaries,” he says. “It’s my job to keep those channels open and those ideas coming.”

In the FT Innovative Lawyers report, Wragge has often been ranked among the top seven firms in the FT Law 50 and continues to put in submissions relating to innovations that other, larger firms would envy.

Mr Poole joined Wragge & Co in 1979. He was made a partner in 1985 and became senior partner in 2003.

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Barney Reynolds, partner, head of global financial institutions advisory and financial regulatory group, Shearman & Sterling

Barney Reynolds is a global leader in developing new exchanges, clearing houses and settlement systems. His work in this relatively obscure area of law has become increasingly significant as regulatory authorities try to provide greater transparency and stability for some of the most volatile elements of the financial sector.

Mr Reynolds has led the work on most of the new clearing houses and repositories developed since the global credit crisis. Politicians have been pushing to move many over-the-counter transactions on to exchanges and to track trades with repositories. His work has involved significant cross-border elements, given the global purview of the entities involved, as well as complex negotiations with international regulators and financial institutions.

In 2011, Mr Reynolds helped create the Depository Trust & Clearing Corporation repository for European OTC derivatives. This required a mixture of geopolitical negotiating skills and complex property law expertise.

Most of the more than \$6,000bn-worth of European derivatives are now being recorded by the system, a key element of plans by the Group of 20 nations to make financial markets safer and more transparent. It was the first time a system for recording OTC derivatives trades had been developed, and Mr Reynolds took a leading role in negotiating the political and legal dimensions.

He also helped create LMAX, the world’s first derivatives exchange, allowing direct access to institutional derivatives pricing for the first time. Again, this required his unique blend of negotiating skills and technical know-how.

In 2009, Mr Reynolds devised and executed the legal structuring for the first clearing services for credit-default swaps in Europe and the US. His work shows the significant role that lawyers can play at the centre of political, financial and regulatory issues.

Philip Wood, special global counsel, head of global law intelligence unit, Allen & Overy

Philip Wood combines the roles of practitioner, academic, professor and writer. His work on many of the first euromarket loans for sovereign countries, including those for Argentina, Mexico, Brazil, Nigeria and Iran, combined with his writing of the authoritative texts on banking law in the 1980s, has earned him the moniker of father of modern banking law.

Mr Wood has applied his expertise to developing creative techniques and graphics to classify and compare financial law across the globe. He founded Allen & Overy's global law intelligence unit, which publishes global surveys comparing law and financial practice across the world. The surveys are pioneering in their global scale and depth of analysis.

Mr Wood's writing and teaching has been driven by a career-long desire to communicate how international financial law works and its importance in a world increasingly dominated by financial assets.

From 1992 to 2002, he headed A&O's banking department and helped develop it into one of the leading practices globally. He retired as a partner in 2002 to teach, but returned to A&O in 2008 as special global counsel and to found the global law intelligence unit.

His expertise means he is still called on to act on highly complex deals. He is currently co-leading a team advising the three banks co-ordinating the private sector involvement in the aid package for Greece