

flacNews

FREE LEGAL ADVICE CENTRES

State must honour commitments to human rights, not just IMF/EU

On 16 September 2011, Minister for Social Protection Joan Burton TD hosted a Pre-Budget 2012 Forum for voluntary sector organisations in St Andrew's Resource Centre, Dublin 2. Representing FLAC at the forum were Noeline Blackwell, FLAC's Director and Saoirse Brady, Policy and Campaigns Officer. Our submission focused on how even in recessionary times the Government can respect, protect and promote human rights in a budgetary context.

Minister Burton opened the forum by stressing the importance of an enhanced and reformed social welfare system for the 21st century to ensure that assistance is targeted at the people who most need the support. She spoke of "larger solutions" and stated the budget was not just about cuts to social welfare but was a "whole of government" issue and that decisions had not yet been made. She underlined the role of taxation and said that people with resources need to contribute their fair share through tax contributions.

More than 30 organisations made contributions at the forum, including Threshold, the Society of St Vincent de Paul, One Parent Family Network

Continued on page 8



© Photo by James Horan/Collins Photos

Writer and campaigner Orla Tinsley joins rights activists to launch the "Your Rights Right Now" campaign's 25m-high banner, on Dublin's Liberty Hall on 22 September to mark the countdown to Ireland's first ever full hearing on its human rights record under the UN's Universal Periodic Review in Geneva on 6 October.

in this edition...

State must honour human rights commitments 1, 8-9

DPP would welcome deaf jurors 2

Getting help in the recession 3

FLAC responds to GRAG 4

Demand rising for FLAC information & advice 5

Some stark facts on troubled mortgages 6

The *Gabriel* case - some relief for hard-pressed hirers 7

Competition recognises creativity of young people on human rights 9

FLAC Fellowships 2011 10

Court to rule on access to social welfare decision 11

Hammarberg on rights in austerity 11

Report to examine social welfare appeals system 12

Best interests of child must guide social welfare spending 12

trESS seminar 12

PILA Update:

Unlocking lawyers' *pro bono* capacity PILA & PILS co-host ECHR event 13

Focus on FLAC:

Lianne Murphy, PILA Project Officer 14

Lucan FLAC celebrating 30 years 15

Tributes paid to Mr Justice Lavan 16

Dave Ellis Memorial Lecture 16

FLAC NEWS is published quarterly by Free Legal Advice Centres Ltd., 13 Lower Dorset Street, Dublin 1.

Editors: Aine Walsh & Yvonne Woods

Layout and Printing: Printwell Co-operative, Dublin 1

Contributors: Noeline Blackwell, Saoirse Brady, Emer Butler, Larry Donnelly, Michael Farrell, Gillian Kernan, Paul Joyce, Colin Lenihan, Karen McLoughlin, Aine Walsh, Kim Watts, Yvonne Woods.

ISSN 07914148

The views of individual contributors do not necessarily represent the views of FLAC.

DPP would welcome deaf jurors but bound to apply existing law

The Director of Public Prosecutions, James Hamilton, has written to FLAC saying that he would like to see deaf people serve on juries. But he said that so long as the law appeared to prevent this, he was obliged to see that courts were informed of that and to see that trials were conducted according to the existing law.

In a recent letter to FLAC Mr Hamilton said:

...I would very much like to see a situation where deaf people could participate in juries. I have in the past publicly expressed the view that juries should be as representative of the community as is possible and ideally this should include the participation of persons who despite having a physical disability would be able to carry out the work of a juror with appropriate assistance.

However, regardless of any personal opinion I might have, my duty to the court is to ensure that relevant case law is drawn to their attention...

Mr Hamilton was explaining his position after he had written to prosecuting lawyers last December telling them to inform trial courts that deaf persons were still prohibited from serving on juries.


He referred to the judgment by the High Court last year in the case of *Joan Clarke*

v Galway County Registrar, where FLAC represented Ms Clarke. Judge Dan O’Keeffe held that Ms Clarke, a deaf woman, was wrongly excluded from a jury panel in Galway but went on to say that in his view having a sign language interpreter in the jury room with a deaf juror would breach the principle of jury confidentiality. Mr Hamilton said he regarded that view as binding on courts hearing criminal trials.

FLAC does not agree that Judge O’Keeffe’s view is necessarily binding on other courts as that was not the issue on which the Clarke case was decided. And High Court Judge Paul Carney took a different view when he agreed to empanel a deaf juror, also last December, although the defence then objected to the man in question, who had to step down. However, the state of the law can be debated in other fora.

We welcome Mr Hamilton’s frank and open explanation of his position and we particularly welcome his strong support in principle for deaf persons sitting on juries. And since the DPP agrees that it would be a good idea to allow deaf persons to serve on juries, the real issue now should be how to remove the obstacles to this happening.

One way forward would be to speedily remove the ban on deaf people serving on civil juries and at coroners’ inquests, where none of the special concerns applying to criminal trials would arise.



FLACsheet
Meeting Rights in a Recession

In this issue, we concentrate on the first ever examination of how Ireland is meeting its human rights obligations under the the United Nations’ innovative Universal Periodic Review (UPR). You can read more on pages 1, 8 & 9, but there are links to human rights in most articles this issue. This reflects the reality of FLAC’s work – respect for human rights underpins all we do.

Getting help in the recession: support is out there

For people who are being put under pressure by the current recession, it is key to note that there is help out there. There are a host of state and voluntary bodies offering practical help and/or advice in a range of areas, from relationship breakdown to over-indebtedness to housing problems.

FLAC understands that people who are stressed and disoriented by their current situation are primarily concerned with fixing the immediate problem. Our aim in providing legal guidance is to assist them with that course of action. However we also want to change the underlying framework that allowed this crisis of over-indebtedness to develop. That is why we are campaigning, for example, to change the personal insolvency laws, to move debt matters out of the courts as far as possible and to ensure that there are clear, viable and respectful options for people who can no longer afford to keep up repayments.

Below we list some of the resources we have developed to help people tackle issues on which we campaign. More information is available from our website or by calling us at 1890 350 250.

As a voluntary organisation, FLAC can provide first-stop information on your legal queries through our telephone information line and you can access basic legal advice from a solicitor or barrister in one of our centres. You can find a list of our legal advice centres nationwide on our website or you can phone our LoCall information line at 1850 350 250 to get some basic guidance on your situation.

www.flac.ie/gethelp/

For information on how to access the state system of civil legal aid, which offers legal advice and representation on non-criminal law matters, you can read the FLACsheet on Legal Aid. It is a comprehensive guide to the service provided by the state Legal Aid Board.

www.flac.ie/publications/legalinformation.html

If you have been refused a social welfare payment but feel that you still have a case to make, you can learn about your options to appeal the decision in FLAC's Guide to the Social Welfare Appeals Process. FLAC has also prepared a Factsheet on the Habitual Residence Condition which is used to determine whether foreign residents or returning Irish nationals are entitled to social welfare payments.

www.flac.ie/publications/social-welfare-flacs-guide-to-sw-appeals-process/

www.flac.ie/publications/habitual-residence-condition-guide/

FLAC has also submitted its proposals in the lead up to the next Budget 2012.

www.flac.ie/publications/prebudget-2012-submission/

People who have acquired goods using the hire-purchase system and who are struggling to make payments are advised to read FLAC's *Factsheet on Terminating Hire-Purchase Agreements*, which is based on our work in the recent *Gabriel* case.

www.flac.ie/publications/factsheet-on-terminating-hire-purchase-agreements/

As part of FLAC's ongoing work on addressing the crisis of over-indebtedness in Ireland, FLAC has prepared a Factsheet breaking down the most recent Central Bank figures on mortgage arrears (the year to June 2011). There is also our *Factsheet on the Code of Conduct on Mortgage Arrears* which explains what banks must do when people fall behind on their payments.

www.flac.ie/publications/flacsheet-analysis-of-latest-mortgage-arrears-figures/

www.flac.ie/publications/mortgage-arrears-flacs-factsheet-on-the-code-of-conduct-on-mortgage-arrears/

FLAC is also keen to stress the overarching issue of human rights in all our work. Every person, by virtue of being a human being, deserves to live with respect and dignity, whether that be through having basic shelter, enough money to survive or vital access to justice.

Ireland as a state has commitments under several international human rights treaties. In preparation for the State's imminent examination by its peers under the UN's Universal Periodic Review (UPR) process on 6 October, FLAC has produced a bundle of resources that serve to point out gaps in the State's human rights record and propose ways of addressing them, particularly in the context of recessionary times:

FLAC Submission to the UPR:

www.flac.ie/publications/flacs-submission-to-the-upr/

Joint Stakeholder Report to UPR (coalition of 17 organisations):

www.rightsnow.ie

FLAC's response to Ireland's National UPR Report:

www.flac.ie/publications/flac-response-to-national-upr-report_july-2011/

FLAC paper on 'Respecting Rights in a Recession':

www.flac.ie/publications/respecting-rights-in-a-recession/

FLACsheet on Realising Rights in a Recession:

www.flac.ie/publications/flacsheet-on-realising-rights-in-a-recession/

FLAC responds to gender recognition report

Nearly four years after the High Court ruled that Ireland was in breach of the European Convention on Human Rights for not providing for legal recognition of transgender persons, a Government-appointed Advisory Group on Gender Recognition published its report in July. Minister for Social Protection Joan Burton promised to introduce legislation as soon as possible.

FLAC, which had represented Lydia Foy in the case that led to the High Court judgment, issued a detailed response to the Advisory Group Report in September. We welcomed the Report's unequivocal call for full legal recognition of transgender persons in their acquired gender for all purposes, including the right to marry or enter into a civil partnership. It also recommended the establishment of a fairly simple no-cost procedure for granting gender recognition.

We welcomed in particular the Report's recommendation that applicants should not be required to undergo gender reassignment surgery before they could be recognised in their acquired gender. Gender reassignment surgery is highly invasive and traumatic and could be dangerous and even life-threatening for some people. Most countries that have introduced gender recognition in recent years, including the UK, have not insisted on surgery as a pre-condition.

However, FLAC was disappointed at some aspects of the Report by the Advisory Group, which was made up of civil servants and contained no representatives of the transgender community, the people about whose welfare it was advising. The most controversial issue in the Report was a proposal that any transgender person who was already married must divorce before applying for recognition so that the relationship would not turn into a same-sex marriage. A similar provision



Dr Lydia Foy with Minister for Social Protection Joan Burton TD at the launch of the GRAG report.

© Photo by Damien Eagers

has already caused hardship in the UK, where elderly couples, who have been married for years and want to stay together, have been told they must choose between their marriage and the transgender partner obtaining legal recognition.

The position here would be even worse, because in the UK there is provision for a speedy divorce and entering into a civil partnership instead, whereas in Ireland a couple must live apart for four years before applying for a divorce and then convince the court that their relationship has irretrievably broken down. The Advisory Group acknowledged that all the submissions they had received on this issue opposed any such requirement but said they had received legal advice that to do anything else would be unconstitutional. However, in Germany and Austria, the constitutional courts have recently said the opposite, holding that a compulsory divorce requirement would infringe the couple's basic constitutional rights. FLAC suggested that to require people to dissolve their marriage against their wishes would violate the strong protection of marriages in the Irish Constitution.

Another disappointing aspect of the Report was that it rejected FLAC's

proposal that the Equality Acts be amended to specifically outlaw discrimination on the basis of gender identity so as to protect transgender persons in the course of transition.

We also criticised the use throughout the Report of the term 'transsexual', which many transgender persons dislike, and more centrally the requirement of a diagnosis by a psychiatrist that the applicant is suffering from 'Gender Identity Disorder'. Many transgender persons resent this because they feel it suggests that they suffer from some mental illness. Unfortunately, the term 'Gender Identity Disorder' is used in international medical texts, but there is a growing lobby to change this.

We suggested that the legislation should use a less controversial description, such as saying that an applicant's perceived gender identity is not congruent with her/his currently assigned gender.

We also recommended that when the legislation was passed, the Minister should issue regulations or protocols particularly to govern the situation of young transgender persons in the education system and to enable schools to facilitate them and protect them from bullying and harassment.

FLAC has made these criticisms and suggestions in a constructive spirit. We welcome the long overdue proposal for a Gender Recognition law, but we want to see it improved and to avoid problems and mistakes made in other countries when we have the chance. The transgender community, which has suffered so much prejudice, hostility and discrimination over the years, deserves no less. And we want to see this legislation introduced quickly. It is 14 years since Lydia Foy began her legal battle to secure legal recognition. She should not have to wait any longer.

Read FLAC's submission at:
www.flac.ie/publications/policy

Demand rising for FLAC information and advice

Telephone information line

FLAC's telephone information and referral line is busier than ever. With 6495 calls received by the end of June 2011, this is a marked increase on the same period last year. Almost one in four callers to FLAC's telephone information line seek advice on family law matters, reprising the trend in 2010.

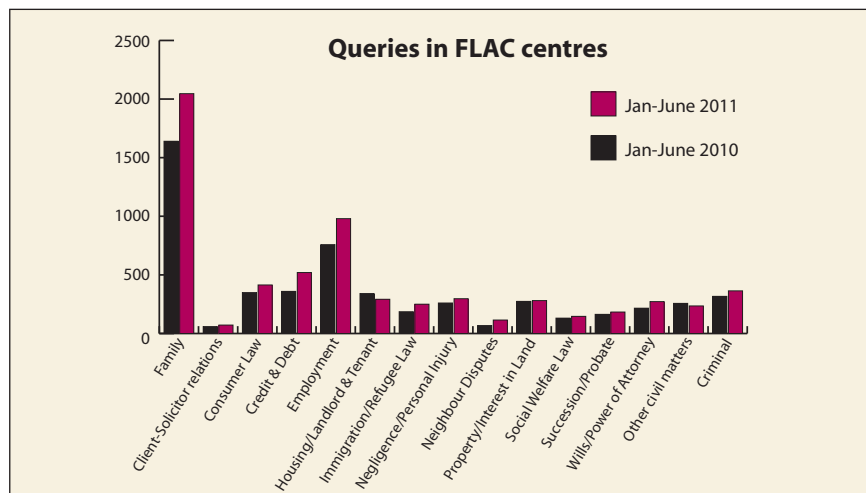
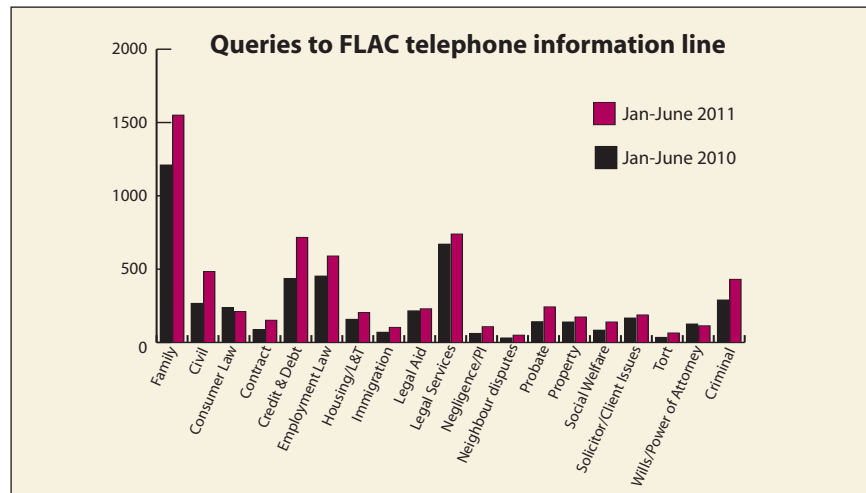
Debt-related queries have now become the second most frequently requested area of inquiry, with 11% of all calls relating to a debt issue. This is a 64% increase over the same period last year. There has been a marked increase in the number of calls around mortgage arrears along with credit card debt and personal loans. It is notable that callers often site a combination of distressed loans, which impairs their ability to honour short-term sources of finance or pay utility bills.

Employment law is the third most common area, with changing the terms of employee contracts and unfair dismissal complaints dominating the agenda. However FLAC has still seen a 30% increase in the number of employment queries compared with the same period last year.

Statistics from the telephone information line reflect the current economic climate, with an 11% decrease in the number of consumer-related queries and a 66% rise in the number of social welfare queries.

Legal information centres

Family law, employment law and debt law queries respectively also dominate in our legal advice centres around the country. During the first half of 2011 the number of FLAC centres participating in our Data Collection Programme rose from 54 centres across the country to 59. By the end of June 6467 forms were returned to FLAC head office, compared with 5378 in the same period last year. This shows roughly a 20% increase in the number of people



attending FLAC centres, and the programme gives us an important insight into the legal needs of our callers.

In the centres family law continues to account for roughly one-third of all visits. Of the 2046 family law queries discussed in the centres, 47% related to divorce/separation, 32% to custody/access/guardianship, 27% to maintenance, 15% to family home, 8% to domestic violence and 4% to other family law issues.

Employment law continues to be the second most commonly discussed area, accounting for 15% of all queries. Of the

980 employment queries discussed in the centres in the first half of 2011, 27% related to contract terms, 27% to dismissal, 21% to redundancy, 8% discrimination, 8% payment of wages, 7% bullying in the workplace and 12% other employment law queries.

The number of debt-related queries in the centres rose by 44% compared with the same period last year. Of the 520 debt related queries discussed in the centres 41% were related to mortgage arrears, 30% debt collection procedures, 24% personal loans, 4% hire purchase, 3% utility bills and 7% other debt-related queries.

DEBT CRISIS UPDATE:

Some stark facts on troubled mortgages

The latest quarterly figures on the extent of residential mortgage arrears released by the Central Bank on Monday 29 August are deeply worrying and confirm an accelerating upward trend in the incidence of both arrears and restructures. Conversely, levels of new repossession cases being lodged and Possession Orders being granted in the courts are by and large holding steady.

However, the comparatively low level of repossessions should not be allowed to disguise the fundamental deterioration in the personal financial circumstances of so many families in this country. Mortgage lenders are generally not suing borrowers but not out of generosity. Faced with a combination of depressed property prices and negative equity, many appear to be 'tolerating' arrears – for the moment.

Put simply, at the end of 2010, one in ten mortgages was in trouble. By March 2011, it was one in nine. Now almost one in every eight mortgages is struggling, amounting to 95,158 of the total number of 777,321, comprising 55,763 mortgages in arrears and 39,395 'restructured' mortgages. Of the mortgages in arrears, 72% have been in arrears for more than six months and the average amount of arrears in this category is over €21,000 per household. Coming back from a deficit of this order is likely to be very difficult without a major transformation in the borrower's financial circumstances.

In turn, although mortgages in the restructured category are described as 'fully performing', they are only performing according to the terms of the restructuring arrangement. It is worth noting that the Central Bank itself states that "the data collected


on restructures relate solely to those principal dwelling house mortgages restructured due to financial distress" - in other words, the 'restructures' figure is about people who can no longer afford to pay the mortgage on their homes and have negotiated with their lender.

Despite the relatively low level of repossession cases, mortgage lenders now hold a stock of 809 repossessed properties up from 692 in March 2011. The number of houses returning to lenders – whether as a result of a court order or a voluntary surrender/abandonment by the borrower – has steadily increased quarter upon quarter.

More houses therefore come back to lenders in each quarter than they are able to sell on the housing market. For example, in the quarter from April to June 2011, 173 properties came back to lenders (54 repossessions, 119 surrenders) but only 56 of the existing stock of repossessed houses were sold.

It is also clear that the number of Possession Orders granted by courts over two years since the Central Bank started to gather figures (July 2009 to June 2011) substantially exceeds the number of cases that have ended in a forced repossession by the lender. Some 909 Possession Orders have been granted during this time, with 263 actual repossessions taking place. There is evidence here that lenders are obtaining orders in a number of cases but not executing them and again, the depressed state of the property market and the spectre of negative equity may well explain this.

Those inclined to minimise the extent of the personal debt crisis would do well to examine these figures a little



Latest mortgage arrears figures - some facts

8 September 2011

The latest quarterly figures on the extent of mortgage arrears and the level of court proceedings and repossessions in relation to such arrears, released on Monday 29 August by the Central Bank, seem to have been interpreted in different ways by different commentators. For the record, we set out below FLAC's interpretation of these figures, which we have consistently tracked since the first set was released for the third quarter of 2010.

1. Firstly, these figures refer only to mortgages on principal private residences, that is, where the mortgage holder is living in the property in question. It must be added however that arrears on mortgages/housing loans from local authorities are not included in these figures.
2. At the end of 2010, one in ten mortgages was in trouble. By March 2011, it was one in nine. Now we see almost one in every eight mortgages is struggling - 12.24 per cent of the total number of residential mortgages from commercial lenders.

This calculation is arrived at by adding the number of mortgages in arrears to the number of restructured mortgages that are not in arrears¹.

	Arrears	Restructured (but not in arrears)	Total	Percentage of existing mortgages
December 2010	44,508	35,205	79,713	10.14% (of 786,184)
March 2011	49,600	36,662	86,271	11.03% (of 782,429)
June 2011	55,763	39,395	95,158	12.24% (of 777,321)

These restructured mortgages that are not in arrears have been described by some as 'fully performing'. However, they are only performing according to the terms of the restructuring arrangement. It is worth noting that the Central Bank in its own figures states that "the data collected on restructures relate solely to those principal dwelling house mortgages restructured due to financial distress". It is hardly overstating the case, therefore, to describe these mortgages as being in trouble.

¹ Note that if the number of restructured mortgages said to be in arrears was also added to this figure, 15% would be double-counting. Note also that a figure for non-secured mortgages was only produced for the first time at the end 2010. Thus, we have only three quarters to compare – Quarter four 2010 and Quarters One and Two 2011.

Download FLAC's analysis of the latest mortgage arrears figures from our website.

bit closer, demand more detailed information and ask why no comparable figures are available for unsecured debts in difficulty, such as personal loans, credit cards, credit sales and hire-purchase agreements.

The Central Bank should require this data from all lenders in order to present a picture of where we really stand. For example, how many borrowers are in arrears or, in the case of restructured mortgages, are in negative equity? How many have substantial unsecured debts as well as a mortgage in trouble? We would suggest that the answer in both cases may be the sizeable majority.

FLAC believes, therefore, that any viable solutions to the problems of widespread over-indebtedness across our society must encompass all debts.

In this regard, although mortgage debt has dominated the headlines recently with another 'Expert Group' set to report before the end of September, FLAC sadly notes there is still no sign of personal insolvency legislation.

The *Gabriel* case - some relief for hard-pressed hirers

Large numbers of consumers availed of hire-purchase (HP) arrangements during the boom years, paying quite high rates of interest in many instances to facilitate the purchase of vehicles. HP was sold in the main by garages, which acted as credit intermediaries for the finance houses and received a commission for lining up these deals. A critical point not necessarily understood by many is that ownership of the goods does not pass from the finance provider (or owner) to the borrower (or hirer) until the final instalment payment is made. The hirer is therefore effectively only renting an asset that is losing its value every year. The hirer also has no legal right to sell that asset should he or she run into financial difficulty. A typical HP agreement would be of 60 months duration which is a long time to be paying expensive instalments when in financial difficulty. Levels of default have therefore naturally increased as the recession has worsened, with many consumers unable to continue payments.

Section 63 of the Consumer Credit Act 1995 (CCA), which allows for the early termination of HP agreements by the hirer, offers some light at the end of the tunnel. Colloquially known as 'the half rule', this section states that a consumer hirer wishing to terminate a HP agreement early must notify the owner in writing of the termination. The hirer then has the option to either buy the goods outright for an agreed sum, or return the goods and pay the difference between what has already been paid and half the HP price. If over half the HP price has already been paid at the point the agreement is terminated, the hirer will only be liable for any arrears that may have accrued, if any. Finally, the hirer may also be potentially liable for any failure to take reasonable care of the goods.

Armed with this section, many hard-pressed hirers have been attempting to

exercise the right to terminate and hand back the goods in recent years. However, faced with an increasing number of second-hand cars being returned in a depressed market for vehicles, the finance providers took a different interpretation of S.63 of the CCA, in contrast to consumer advocates such as FLAC and the Money Advice and Budgeting Service (MABS). In brief, this involved arguing that the finance provider was entitled to insist on payment of any shortfall and/or the payment of arrears before it would accept the return of goods. Essentially, this is the same as imposing a pre-condition that many hirers cannot meet because they cannot afford it; a requirement to pay what is often a substantial sum of money up front. It is tempting to suggest that this position was arrived at to deliberately block the return of vehicles and any consequent loss for the finance provider.

A High Court appeal brought by FLAC on behalf of a consumer has, however, recently clarified the rights of hirers when seeking to avail of Section 63. The judgment of Mr Justice Hanna on 27 July 2011, establishes that where a consumer wishes to end a hire-purchase agreement early, finance companies are not entitled to insist upon such a pre-condition. In this particular case, the hirer had obtained a car on HP from GE Money in 2008, but sought to end the agreement in 2009 when she ran into financial difficulty. Working with the support of her local MABS, she gave written notice to terminate the agreement and tried to return the car. However, the company refused to accept the vehicle back until half of the total HP price had been paid. This would have involved Ms Gabriel paying a lump sum of around €2000, which she was clearly not in a position to do. In turn, the company refused to accept her offer of some €65 per month to gradually discharge her liability. The hirer then made a complaint to the Financial Services

Ombudsman, who agreed with GE Money's view that the shortfall must be paid before the car could be returned.

In allowing the appeal, Mr Justice Hanna found that there was no legal basis for GE Money to insist upon this pre-condition prior to the return of the vehicle and held that the Ombudsman had made a "significant error" in insisting that the compensation be paid up front, although the finance company was entitled to be paid what it may be owed by the hirer. He concluded that:

"to insert the precondition of discharge of liabilities, would, in my view, amount to an effective amendment to the legislation, something which neither the respondent nor this Court is entitled to do. If it was the intention of the Oireachtas to render termination of a Hire Purchase agreement contingent upon discharge of liabilities it would have said so."



FLAC Factsheet
Terminating Hire Purchase Agreements

The rights of hirers when terminating consumer Hire Purchase agreements have become clearer following a High Court appeal brought by FLAC on behalf of a consumer. The judgment in this case, *Dr. Myrthia Michael Hanna* in the High Court on Wednesday 27 July 2011, makes it clear that where a consumer wishes to end or terminate a Hire Purchase agreement early, a finance company may not insist on payment of arrears or payment of a shortfall before it accepts the return of goods.

The relevant legislation is contained in Section 63 of the Consumer Credit Act 1995. If you obtain goods on Hire Purchase, they will remain the property of the finance company until you make the final payment under the Hire Purchase agreement. Section 63 provides that a consumer hirer wishing to terminate a Hire Purchase agreement early must notify the owner of the goods (the finance company) in writing of the termination.

If you terminate a Hire Purchase agreement before the end of the contract, you can either:

- buy the goods at the agreed price, or
- return the goods and pay the difference between what you have already paid and half of the amount of the purchase price.

If over half the hire purchase price has already been paid when the agreement is terminated, the hirer will only be liable for any arrears that may have accrued, if any.

Thus it is clear that a hirer may terminate a Hire Purchase agreement at any time after entering into the agreement. This may be for several reasons, for example you may not be able to afford payments any longer and just want to end the agreement and physically return the goods, rather than have the items remaining in your possession and requiring care and maintenance even though you are not using them.

The finance company will then either have to:

- make an arrangement with you about how any shortfall or arrears may be paid, or
- accept the goods through the courts to recover the amount, like any other debt due.

Important issues to note when terminating a Hire Purchase agreement:

- When terminating the agreement, it is very important to keep a copy of your termination letter and to send it by registered post to the letter you should expressly state that you are exercising your statutory rights under Section 63 of the Consumer Credit Act 1995.
- In your letter of termination, you should ask the company when it wants you to return the goods. This is because if they arrange to have the items collected it may end up costing you quite a sum. For example, finance companies may charge up to €200 to collect a car.

Issued by FLAC in July 2011. This document is for information purposes only. It is not to be construed as legal advice. FLAC accepts no responsibility for actions taken on the basis of the information or for the content of external websites or subsequent events referred to within it.

See the FLAC website for the full text of the judgment. We have also prepared a factsheet on what to look out for when terminating HP agreements - download it at: www.flac.ie/publications/factsheet-on-terminating-hire-purchase-agreements

State must honour commitments

Continued from front page

(OPEN), the Wheel and the National Women's Council of Ireland (NWCI). All organisations present called on the Minister to honour the Programme for Government pledge to maintain social welfare rates. Child Benefit was particularly prominent, as the NWCI described it as the "easy target" in recent budgets and others explained how cuts had negatively impacted on children and their families. Fuel poverty was also a recurring theme with a number of organisations representing older people and disabled people depicting the negative effects that the cuts to fuel allowance has had on their client-base.

FLAC raised concerns about unfair processes and systemic difficulties within the social welfare system. Noeline Blackwell, FLAC's Director, highlighted to the Minister and her officials the State's international human rights obligations and stressed that these "are every bit as binding as our commitments to the IMF and EU". She spoke of how it was up to Government to determine how to realise human rights in a time of recession, but that it had no choice but to take positive steps to implement these rights whether this is done through poverty impact assessments or otherwise.

FLAC took this opportunity to disseminate its "Respecting Rights in a Recession" FLACsheet; we hope it will be a useful resource to those who seek to understand how the State is committed to human rights in its interactions with people living with disadvantage. The leaflet outlines how international obligations cannot be ignored in times of financial difficulty. Instead, the State must use its resources to maximise impact and ensure that every person in Ireland can live in dignity.

In addition, the Habitual Residence Condition, which remains a key concern for FLAC, came up as a complex piece of law causing problems for a number of groups who are already marginalised due to their social status, including Travellers, victims of domestic violence and migrants. FLAC also called on the Minister to ensure that the Money Advice and Budgeting Service (MABS) is recognised for its important work and given adequate support and resources.

Minister Burton was clear on the harsh realities which Budget 2012 will bring for our social welfare system. However, she wound up the forum by responding to some of the key concerns raised during the course of the day, including

one issue raised by FLAC around the failure to allow people to apply for a payment and have that application processed in line with fair procedures. The Minister stated that anyone could make an application and that officials encourage people to make applications. She spoke about her own interaction with departmental staff on the frontline and stated that she hoped to use the skills of staff – particularly of Community Welfare Officers and FÁS employees recently integrated into her Department – to ensure that people are advised on their tailored options for work, education and training. She also recognised the importance of MABS for people who are negotiating an agreement with banks.

Human rights begin at home: from global commitments to local consequences.

FLAC's focus on the State's human rights obligations in our pre-budget statement comes from the belief that human rights begin at home. This year alone, the State's human rights record has been scrutinised by a number of international mechanisms including the



Pictured L-R at the pre-budget forum are FLAC Policy and Campaigns Officer Saoirse Brady, Threshold Executive Director Bob Jordan and FLAC Director General Noeline Blackwell.



to human rights, not just IMF/EU

UN Expert on Human Rights and Extreme Poverty, the UN Committee on the Elimination of all forms of Racial Discrimination and most recently the Council of Europe Commissioner on Human Rights who issued his report in September 2011.

All of the recommendations made by these experts are clear: human rights cannot be dropped in times of austerity. As the State is about to undergo its examination under the Universal Periodic Review mechanism in Geneva on 6 October, governments from all around the world will question Ireland's commitments to human rights on the ground. These countries will assess whether we are meeting our solemn commitments to the best of our ability. It must be stressed that Ireland's newly diminished resources do not mean we can waive our human rights commitments.

In its National UPR Report, the State failed to address adequately a number of issues that are of particular concern to FLAC. These include the issues of fairness in the social welfare system, over-indebtedness among non-business debtors and the insufficient legal aid for those most in need. Ultimately, FLAC's concerns centre on access to state

systems. If we must have a state system of government – which most people will agree is necessary for a civilised society – then it should be one that is at least fair as well as effective and efficient.

The issues FLAC and other organisations have underlined may now be raised by the State's peers during the UPR examination on 6 October. FLAC has brought its issues of concern to the attention of a number of governments. It is to be hoped that this work will inform the recommendations made by the Human Rights Council. In the end, whether or not the Irish state keeps to its human rights commitments has very clear consequences for the lives of people all over the country - on questions like housing, social welfare, access to legal information and advice and recognition of gender identity and a host of other areas.

This is why 6 October is a very important date for people all over Ireland.

▶ **See the adjoining panel to the right for more information on the UPR and associated resources.**

Competition recognises creativity of young people on human rights

On Tuesday 27 September, the 'Your Rights Right Now' campaign announced the winners of its competition jointly run with the Youthreach programme asking young people to express themselves about the important human rights issues affecting their lives.

First prize was presented by FLAC's Noeline Blackwell to Lauren Donovan from Sherrard St Youth Reach Centre Dublin (see picture left). Lauren created a video montage on Domestic Violence to win the top honour and

will now travel to Geneva to attend the UPR examination on 6 October.

Second prize went to Clare King from Kiltimagh Youthreach Centre in Co Mayo for her compilation of diary entries, written in the voice of her sister, outlining her family's struggle to cope with her infant daughter's illness. Third prize went to Thomas Larkin, also from the Sherrard Street Youthreach Centre in Dublin, who conducted an ambitious and detailed survey of discrimination in his community.

On 6 October 2011, Ireland will be examined for the first time by the United Nations on our human rights record using the Universal Periodic Review mechanism. If you have broadband internet access, you can follow the UPR process live from Geneva on <http://www.rightsnow.ie> from 8am (Irish time) on 6 October.

In the lead-up to this event, 17 leading independent organisations in Ireland came together to submit an analysis of the State's human rights record, involving extensive public consultation and co-operation. This led to a joint Stakeholder Report from civil society: http://www.rightsnow.ie/go/get_involved/read_the_report

The UN has also issued a UPR Stakeholder Report: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/IESession12.aspx>

Further information about the Universal Periodic Review: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

In addition, FLAC prepared its own submission under the UPR to the Office of the High Commissioner for Human Rights. We also issued a response to the Irish government's National Report under UPR.

FLAC's submission to the UPR: http://www.flac.ie/download/pdf/flacs_submission_to_the_upr.pdf

FLAC response to National Report: http://www.flac.ie/publications/flac-response-to-national-upr-report_july-2011/

While acknowledging that it is necessary to reconsider how we handle state funds and resources, FLAC highlights the State's commitments under several international treaties to respect, protect and promote human rights. We have identified some gaps in the State's provision in this respect and suggested some ways in which the government might act to maintain Ireland's human rights standards while budgeting for more austere times.

Paper on Respecting Rights in a Recession: <http://www.flac.ie/publications/respecting-rights-in-a-recession/>

FLACsheet on Realising Rights in a Recession: <http://www.flac.ie/publications/flacsheet-on-realising-rights-in-a-recession/>

FLAC Fellowships 2011

Each year FLAC sends a law student to the University of Washington, Seattle as part of its Thomas Addis Emmet Fellowship programme. We also welcome a UW law student to our offices for the summer as part of UW's William Sampson Fellowship. This year, Trinity College Dublin Law Graduate Fiona McNulty is the Thomas Addis Emmet Fellow, while Thomas Hudson was the William Sampson Fellow. They describe their experiences below.

Thomas Addis Emmet Fellow: Fiona McNulty

I spent nine weeks in Seattle on FLAC's Thomas Addis Emmet Fellowship Program, interning at Washington Appleseed, providing research assistance at the University of Washington and attending classes at the School of Law.

Washington Appleseed is a non-profit which seeks to achieve social justice by working closely with community advocates and utilising *pro bono* resources. I worked from the offices of law firm Foster Pepper on a number of projects. The first concerned 'data mining', which is quite common in the United States. Data processing companies search public records to collect information on as many individuals as possible. This allows them to maintain a private database, and when a prospective landlord or employer requests a background check, the data mining company may provide more information than is intended to be available, as many public records are subject to impingement.

Furthermore, the public record may be poorly recorded; for example, it shows an arrest for an individual, but if the arrest was a case of mistaken identity, this will not be clarified. The most



Thomas Addis Emmet Fellow for 2011, Fiona McNulty, with Prof. Walter Walsh of the University of Washington, Seattle.

significant consequence of this practice is that low income individuals and families are excluded from potential jobs or housing due to inaccurate background checks. My task was to explore the ways in which the Washington legislature could tackle this problem, given restrictive federal laws in this area.

The second project concerned the issue of substandard housing in Seattle and the problems for low-income and marginalised tenants caused by negligent landlords. I examined issues such as the procedures for seeking state relief, how landlords may retaliate against tenants if they try to enforce their rights and more specific housing issues like mould.

I enjoyed the classes at the university, where I heard from a range of legal professionals, from Supreme Court judges to law librarians to prosecutors and defence attorneys, gaining a valuable insight into the workings of the American legal system. I also assisted Professor Walter Walsh with research on the Lisbon Treaty. Lastly, I volunteered at a food bank in Seattle, where I felt I was able to put into perspective the summer's work.

William Sampson Fellow: Thomas Hudson

The University of Washington School of Law awarded me the William Sampson Public Fellowship in Comparative Public Interest Law, which provided an opportunity to complete a summer internship with the Public Interest Law Alliance (PILA) division of FLAC in Dublin, Ireland. The organisation has a strong commitment to helping the disadvantaged assert their rights and I was honoured to assist them in their endeavours.

The work I did for PILA surrounded researching class actions lawsuit



Thomas Hudson

procedures in Europe, Ireland, and America. Contrary to the United States, which has a strong (if threatened) class action procedure, Europe is new to the idea of class actions. Ireland has yet to adopt such a procedure. The class action provides a powerful tool for society's disadvantaged individuals to receive redress against those entities more powerful than themselves. PILA wished to gain a better understanding of how importing a class action procedure would benefit public interest law in Ireland. I have also been contributing to the *PILA Bulletin*, which is an invaluable and non-partisan resource for up-to-the-minute public interest law news and information. Through contributing to the *Bulletin*, I learned how to write about the law for publication, which I had not previously had the opportunity to practice.

Working with PILA and FLAC, I learned a great deal about the differences between European, Irish, and American Law. While Ireland and America come from a similar common law tradition, there are large differences in terms of the law and legal culture of these two societies. Learning about these differences greatly increased my understanding of the world's legal diversity, which will be invaluable as I continue my legal education in America.

Court to rule on access to social welfare decision

Judgment is expected shortly in a judicial review case taken by a FLAC client seeking access to previous decisions by the Social Welfare Appeals Office (SWAO) in cases similar to hers. The applicant has been recognised as a refugee and wanted to see other decisions by Appeals Officers on when refugees qualify for social welfare payments.

The SWAO had refused her request, saying they do not keep copies of decisions by Appeals Officers but send them back to the relevant section of the Department of Social Protection, which is the respondent in social

welfare appeals. The Department in turn says it does not maintain a database of the appeal decisions.

The SWAO does put a sample of decisions on its website in summary form, but these do not cover the issue the applicant in this case was looking for and even if they did, applicants have no way of knowing how representative the selected decisions are.

The SWAO argued that previous decisions would be of no assistance to the applicant because they are not legally binding, but the applicant said that knowing how other similar cases

were dealt with would help her present her case more effectively; further, she was entitled to know whether the Appeals Officers were consistent in their decisions.

The SWAO also said it had recently begun to record appeal decisions on an internal database but this would not be made available to appellants or the Department.

The case was heard in the High Court in June and judgment was reserved. The outcome could have a significant effect on other SWAO appeals as well as the applicant's.

Hammarberg calls for state to respect human rights in austere times

Following his follow-up visit to Ireland in June 2011, Thomas Hammarberg, the Council of Europe Commissioner for Human Rights, has released his report focusing on the human rights of vulnerable groups in times of austerity.

The report builds on comments by the Commissioner following his last official visit in 2007. He notes cuts to the human rights and equality infrastructure, which is especially relevant given the recent announcement by Justice Minister Shatter of a planned merger of the Irish Human Rights Commission and the Equality Authority. Commissioner Hammarberg stresses that “enhancing the effectiveness and independence of existing human rights bodies is core to human rights protection in times of budget cuts”, noting the lack of a national human rights action plan which could “provide guidance for decision makers and society alike”.

Commissioner Hammarberg calls on the government to strengthen the national system for protecting and promoting human rights, in particular calling for the IHRC to be made accountable directly

to the Oireachtas. He also welcomes the step to expand the Ombudsman's remit to all public bodies and recommends that this important mechanism be given constitutional status.

The report addresses some issues raised in FLAC's submission to the Commissioner. While he “notes with appreciation the commitment expressed by the authorities to introduce legislation based on the report of the Gender Recognition Advisory Group”, he expresses concern that Lydia Foy has still not received her birth certificate in her female gender.

The application of the Habitual Residence Condition also alarmed Commissioner Hammarberg. He remarks on the problems which “seem to have increased greatly since the economic recession” and the “lengthy appeal procedures”, hoping that the new HRC guidelines will offer a remedy.

In terms of direct provision for people seeking State protection, the Commissioner comments on criticisms of the system put forward by the Dublin office of the UN High Commissioner for

Refugees and cites FLAC's report, *One Size Doesn't Fit All*. During a meeting with Minister Shatter, he discussed the prolonged period of time people spend in the process and the “negative consequences regarding mental health, family relationships and integration prospects”. In this context he welcomes the Minister's assurances that work on legislation to introduce a single procedure will continue, which will offer greater transparency and reduce the length of time people have to wait for a decision on their claim for protection.

While the Government has responded to some issues in the report, FLAC is sorry to note that it has not commented on the urgent need to introduce Transgender legislation, nor on steps taken to ensure the correct application of the Habitual Residence Condition nor on any plans to review and improve the system of direct provision for asylum seekers and others seeking another form of protection.

**Read the Commissioner's full report at: <http://url.ie/d88k>
FLAC's submission is at www.flac.ie/publications/policy**

Report will examine system of social welfare appeals

FLAC is currently working on a report that explores the process for appealing social welfare decisions in the State. Our aim is to assess whether it offers an accessible, fair and independent means of reviewing such decisions. FLAC hopes to build on the 2005 report published by Northside Community Law Centre, as

many of its recommendations remain unimplemented and are even more relevant in 2011, when the social welfare system is under even greater strain.

Through its social welfare appeals casework, FLAC has encountered a number of issues in the administration of the current appeals process which create problems for both appellants and advocates using this mechanism. FLAC intends to use its own experience as well as that of other colleagues and partners to identify any potential improvements or changes which could be made.

FLAC will consult with other advocates and representatives in autumn 2011 and will publish this report in early 2012.

FLAC: Best interests of the child must guide social welfare spending

The Department of Social Protection recently advertised for expressions of interest to make submissions to a newly established Advisory Group on Tax and Social Welfare. The Group will examine a number of priority areas, the first of which relates to child and family income supports.

FLAC made a submission to the Advisory Group outlining the State's human rights commitments with a particular focus on the rights of the child as well as the right to family life which must be taken into account when considering any changes to current child and family income supports.

FLAC highlighted the rights contained in the UN Convention on the Rights of the Child which prohibit any discrimination on the basis of a parent's status as well as guaranteeing that the child's best interests are taken into consideration in all decisions relating to him or her. The EU Charter of Fundamental Rights which is legally binding on the State also protects the best interests of the child and promotes the right to family life.

One of the key concerns highlighted by

FLAC is the issue of Child Benefit, which should be restored to its former universal status. It was noted that since the introduction of the Habitual Residence Condition in 2004 an inequality had arisen between children living in the State, as those whose parents are awaiting a determination on their claim for protection cannot satisfy the condition and therefore are ineligible for the payment. Given that there are only 2100 children living in direct provision, if the payment was extended to this small group the cost would be about €3.5 million per year.

While the Advisory Group has been instructed to consider proposals in a "cost-neutral or cost-reducing context", it is paramount that the State does not take any steps to roll back on its human rights obligations. It must make sure that it maximises its resources to realise the human rights of the most vulnerable groups reliant on social welfare payments.

Information on the Advisory Group can be found at www.welfare.ie and FLAC's submission is available at www.flac.ie/publications/policy

Seminar on coordinating social security in Europe

On 15 September 2011, the EU-funded trESS (training and reporting on European Social Security) network hosted a seminar in Dublin on the 'Coordination of social security in Europe – guidance and support for migrants on entitlements and on access to them'.

During the morning session, visiting trESS expert Professor Jean-Philippe Lhernould outlined the administrative challenges for officials involved in the coordination of European social security regulations and Rob Cornielson of the European Commission highlighted some recent developments in EU legislation and case-law.

The focus of the seminar shifted in the afternoon to the practical application of EU social security regulations in the national context and the experiences of migrants accessing their entitlements. In that respect, Wayne Stanley of Focus Ireland (formerly of Crosscare) highlighted problems with the application of the Habitual Residence Condition as well as a lack of transparency in the social welfare appeals process.

A number of Government officials from the Czech Republic, Poland and Lithuania attended the seminar as well as officials from the Department of Social Protection.

Read more at <http://www.tress-network.org/>



PUBLIC INTEREST LAW ALLIANCE UPDATE

Unlocking lawyers' capacity for *pro bono*

PILA recently spoke with Nicolas Patrick, who is a full-time *pro bono* partner at DLA Piper's Sydney office, and its Head of Pro Bono in the UK, Europe, Middle East and Asia-Pacific. Nicolas sets the strategic direction of the firm's *pro bono* program and leads the firm's thinking on community investment through *pro bono* in these regions.

Nicolas is keen to emphasise that commitment to *pro bono* – doing legal work free of charge for the public good – is part of the culture of DLA Piper, both philosophically and practically. Identifying law firms in domestic markets with a similar culture to the parent is a key component of the firm's continued expansion. DLA Piper's commitment in all its offices worldwide to *pro bono* is impressive when you consider the scale of the firm's operations – 4,200 lawyers in 76 offices, across 30 countries. In 2009, the firm invested more than 164,000 hours of corporate responsibility and *pro bono* work.

Nicolas is very clear about what law firms need to do to “unlock the capacity” of their fee-earners to do *pro bono* work – firms need to integrate *pro bono* into their working procedures and systems. Some examples include:

- ✦ the firm's client management systems allow *pro bono* matters and clients to be entered and managed in the same way as billable clients;
- ✦ *pro bono* work is given equal status to paid work, and this is practically implemented by way of fee credits. This means that for an individual lawyer's budget, there is no distinction between *pro bono* and other types of work;
- ✦ in each DLA Piper office, a senior partner – who has a real personal interest in *pro bono* – is designated as the corporate responsibility/*pro bono* partner; and
- ✦ the firm's financial systems enable disbursements to be paid for *pro bono* matters.

When asked why lawyers should do *pro bono*, Nicolas stressed that lawyers have special skills and a privileged position in society. “As lawyers we have a monopoly on the provision of legal assistance,” he says, “and access to the law should not be reserved for those who can pay.”



Nicolas Patrick

Nicolas also spoke of the ever-increasing client demands for law firms to seriously commit to *pro bono* and corporate social responsibility. Whereas ten years ago, the question posed to law firms in a tender was, “what *pro bono* work does your firm do?”, the question now is “what specific *pro bono* work has each of the named partners in this bid undertaken in the past twelve months?” The firm actively welcomes that kind of interrogation, and even encourages it at the other end of the spectrum – recruitment. He tells law students that if a law firm is not giving specific details about its *pro bono* programme, “that's a warning sign that there may not be a serious commitment to *pro bono* in that firm.”

We also asked Nicolas why *pro bono* should happen in a structured way, rather than on an informal or impromptu basis. He said that a structured approach to *pro bono* is necessary to identify unmet legal need, and understand where lawyers can have the most impact. Without structure, according to Nicolas, “you're dependent on what comes through the door!”

✦ Read more about DLA Piper's *pro bono* work globally:
www.dlapiperprobono.com

✦ For more on PILA's thriving *pro bono* register - including our protocol to help firms adapt internal systems & procedures for *pro bono* work, see:
www.pila.ie/lawyers/probono.html

PILA & PILS to co-host ECHR conference

On Friday 11 November, PILA and the Belfast-based PILS Project will host an inaugural joint annual conference at Croke Park Conference Centre on “Political Commitment, Practical Protection: Using the ECHR North & South.”

The conference focuses on the political commitment to and practical implementation of the European Convention on Human Rights (ECHR) in Northern Ireland and the Republic of Ireland since 1998's Good Friday

Agreement. Shami Chakrabarti, Director of UK human rights organisation Liberty, will deliver the keynote address. The event will be chaired by Donncha O'Connell, Law Lecturer at NUI Galway, and will feature a range of other speakers from Northern Ireland and the Republic. The afternoon session considers the use of the ECHR in relation to specific people and issues, like children, housing, mental health, prisoners and Travellers.

Registration is free; further details from:
www.pila.ie/events

FOCUS ON FLAC:

Lianne Murphy, PILA Project Officer

Lianne's involvement with FLAC began as an intern in 2007 and has since evolved to that of Project Officer with the Public Interest Law Alliance (PILA) team, aiding in its work to lay the foundations for a more active use of law as a tool to achieve progressive social change.

Lianne did an undergraduate degree in History and Politics at University College Dublin followed by a Masters in International Human Rights Law with the Irish Centre for Human Rights in NUI Galway. She pursued this interest in human rights law working at the Human Rights Law Network, an organisation based in Delhi, India involved in public interest law cases. On her return to Ireland, Lianne wanted to deal more substantively with domestic human rights issues. The mixture of legal and human rights work being done by FLAC greatly appealed to her and she joined the organisation as a legal intern in 2007. The internship gave Lianne an insight into legal and human rights work in Ireland and led her to a position with Amnesty International as Advocacy Officer. After a year gaining experience in the NGO community with Amnesty, Lianne returned to the FLAC fold when a position became available within PILA as Project Officer. Given her work in Delhi and her insight into how the work of NGOs can be enhanced through public interest law, she knew it was the job for her.

Lianne's typical day consists of managing the *pro bono* referral scheme, which is where the legal needs of NGOs are matched with legal expertise on PILA's lawyers' register. She liaises with organisations to identify their specific legal needs. Part of the referral scheme involves organising legal education seminars on different areas of law. Lianne particularly enjoys this direct working relationship with NGOs and being able to find solutions to practical issues facing them and, more importantly, their clients: "We are getting feedback from NGOs at the moment showing a positive impact from our work – that they would not

have been able to achieve what they did without obtaining legal advice or attending a legal education session. We hope that will continue and become stronger."

Conversely, this has also highlighted for Lianne the importance of ensuring that there are enough lawyers and law firms on board to maintain the balance between the needs of the NGOs and the work of the law firms: "We are working on increasing the amount of law firms involved with the *pro bono* referral scheme and we are making progress with that."

Indeed progress can be seen in the last year alone in terms of the number of NGOs familiar with the scheme, the number of referrals to PILA and the number of legal education sessions that are being provided. Significantly, Lianne notes that people are now linking all of this progress back to public interest law, a concept which is increasing in importance and becoming a more regular part of our national dialogue.

Beneficially for NGOs, public interest law can be used to tackle systemic issues and even help them spot gaps in the first place. "So they might notice something and think 'oh, there might be a legal challenge there' or maybe 'we need to do a campaign or a law reform submission on this'. It is important to try and get NGOs thinking about public interest law and how it can benefit their clients and their work," says Lianne.

From the legal sector perspective, PILA is also keen to continue its awareness-raising work, such as its practitioner seminars on human rights and public interest law in general. Says Lianne, "for example, we are having a big conference in November on the European Convention on Human Rights. That awareness-raising function is very



important; for lawyers, NGOs, students and academics – everyone, to know more about public interest law in Ireland and how it can amplify the effect of all the work already being done for marginalised and disadvantaged people."

Lianne enjoys the variety of issues she encounters through working with different groups. As PILA doesn't campaign directly for the issues of the organisations, Lianne says "it is great to go out and hear about the different issues that are occurring and to see that so much work is going on. It gives you a great perspective of current issues and the progress that is being made."

An area Lianne sees as important for the future is the development of more public interest law courses in Irish universities, whether through existing human rights courses or new clinical legal education programmes. She cites a course starting in UCD this year where PILA has had input: "I think it is a growing area and the FLAC centres in the colleges are great – they are in most of the universities at this stage. Working with the students and universities to try and encourage them to have clinical legal education programmes with that public interest law aspect to them will be important."

FOCUS ON FLAC:

Inside the Centre: Lucan FLAC – Celebrating 30 Years

Lucan Citizens Information Centre (CIC) celebrated thirty years of service this past July, commemorating the anniversary with an Open Day for the community, associated organisations, local representatives, staff and all volunteers past and present. Founded in 1978, it has helped thousands of local people access their rights and entitlements.

Donal Costello, Development Manager of the centre, noted the valuable work of those involved and in particular some long-serving volunteers, two of whom were rewarded this year for more than 20 years of service. Lucan CIC now operates five days a week and provides a diverse range of services, their main area being the provision of citizen information. This involves providing information, advice and advocacy on a range of issues such as social welfare, health board payments, employment rights and consumer complaints.

Aside from providing citizens information, Lucan CIC also facilitates the operation of other services, such as that of FLAC and MABS, both of whom operate clinics from the centre one evening a week.

“The last few years have been incredibly busy. It has gotten to the stage where we could do with an extra room here!” says Donal, who also manages the Clondalkin CIC. Between the two centres, staff have dealt with over 15,000 queries in the last year alone. “When I started back in 1998 it was only a few hundred queries, there is a complete difference now. That could be down to the fact that we have more resources and that we have been open longer and people know about us more,” he adds. This also reflects perhaps a growing population in Lucan and that the CIC has evolved from being a completely volunteer-run service, operating a few mornings a



Pictured L-R are Kevin O’Gorman, Salma Paryani and Donal Costello.

week, to opening full time with a staff of four employees and fifteen volunteers. Donal himself has been working with the CIC for fourteen years and says that what he enjoys most is the passion and dedication of the people that work with the CIC.

The FLAC service in Lucan operates every Thursday evening, from 7pm to 9pm, on a drop-in basis. In the first seven months of this year the FLAC volunteer solicitors, Kevin O’Gorman and Salma Paryani, have seen about 250 clients. Most legal queries were in relation to family law, followed by employment law and debt-related issues.

Kevin has been a volunteer solicitor with Lucan FLAC for more than seven years and has seen the centre develop from him seeing two people of an evening to the present day, where there could be twenty people waiting for legal advice. He feels that FLAC is an important first port of call for people needing legal help. “I think people just need a sounding-board and information on what step is best to take next. Often what is needed is some guidance, for example if it is an

employment law issue they might need some help negotiating the revenue system,” he says.

Salma has been volunteering for FLAC for more than three years. Like Kevin, what she enjoys most about volunteering is simply being able to help people. Not originally from Ireland, Salma also appreciates being able to connect with people from the local community. “As a foreigner it has given me more confidence and knowledge. There are no negatives, only positives. Volunteers gain so much – you keep learning and you are up-to-date with any changes in the law. I would recommend it for anyone,” she says.

After 30 years, Lucan CIC has become a vital resource to the local community and one that will hopefully grow with demand. As Kevin says, the CIC “has been very important for the community, it has become essential.”

Lucan CIC is located in Ballyowen Castle Community Centre, Lucan, Co. Dublin. For a list of FLAC centres see: www.flac.ie/gethelp/

Tributes paid to Mr Justice Lavan

All at FLAC were saddened at the death in August of Mr Justice Vivian Lavan. He was an important figure in Irish law circles and particularly in the development and establishment of FLAC.

In 1969, alongside three other law students, Mr Justice Lavan founded what is now the Free Legal Advice Centres with the ambitious aim of influencing the government into establishing a comprehensive plan that afforded civil legal aid to those who needed it. In the interim, these law students started to offer legal representation and advice to the public, a service which rapidly expanded to supply the demand.

This culminated a mere five years later in the first community law centre being established and with over sixty law students volunteering at eighty centres around the country, supported by over fifty solicitors and forty barristers all working towards the common cause of



© Photo by Derek Speirs

Mr Justice Vivian Lavan (R) with FLAC co-founder Denis McCullough SC

providing legal advice to those in need.

Mr Justice Lavan demonstrated a lifelong commitment to public service and the rule of law. As President of the High Court Mr Justice Nicholas Kearns noted, Mr Justice Lavan's "humanity, sense of humour and his empathy with the frailty of others" was his greatest asset.

He was appointed to the High Court in 1989, became the sitting judge for the High Court family law division in 1997, was President of the Law Reform Commission from 1998 to 2000 and served for 21 years in total on the High Court bench.

Our sympathies go to his family and friends.

Dave Ellis Memorial Lecture 2011 – Save the Date

FLAC is delighted to announce that the 5th Annual Dave Ellis Memorial Lecture will take place on Thursday, 1 December in Dublin. This year's lecture will be given by Baroness Nuala O'Loan, former Police Ombudsman for Northern Ireland, who will speak on the theme of 'Access to Justice'. We particularly encourage our volunteers from all around the country to attend the lecture as it is a great opportunity to gather and acknowledge the important work done by volunteers in supporting people to understand their legal issues and access justice.

Further information about the exact time and venue for the lecture will be available on the FLAC website and in the *PILA Bulletin* closer to the time.

FLAC intern awarded certificate in housing law



© Photo by Frank Sciarzo

At the recent presentation of Certificates in Housing Law at Ballymun Community Law Centre, L-R: Evelyn Hanlon, Chairperson of Ballymun Community Law Centre; Councillor Andrew Montague; Lorna McDonnell, participant in FLAC's FÁS LTI scheme; and Dr Padraic Kenna of NUI Galway.