

## Free Legal Advice Centres (FLAC)

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# UPR Factsheet 4: Racial Discrimination in Ireland

FLAC is an independent human rights organisation based in Dublin, Ireland which is dedicated to the realisation of equal access to justice for all.

We promote the use of law as a tool for social change and the right of equal access to justice, with a focus on economic, social and cultural rights and on protecting marginalised and disadvantaged groups. To this end we formulate policy and law reform proposals, principally in our core areas of social welfare law, personal debt law, consumer credit law and civil legal aid. As an Independent Law Centre, we take a small number of public interest cases each year. We advance the use of law in the public interest, particularly through our [PILA project](#). Finally, we deliver confidential and free basic legal information and advice to the public, both directly and in cooperation with key partners.

## 1. Anti-racism training for Department of Social Protection frontline staff

In January 2015, five organisations, including FLAC, launched a report, *Persons or Number? 2*, which examined issues faced by migrants in accessing social protection. In particular, it looked at interactions between migrants and frontline staff employed by the Department of Social Protection, which deal directly with members of the public on social welfare issues.

Out of a random sample of 35 cases, eight cases were identified where an official used inappropriate behaviour and / or language. These included situations where officials of the Department of Social Protection made racist comments and disparaging remarks about people of a particular nationality.

Although anti-racism training is available to frontline staff, it is optional and is not comprehensive.

### **Recommendation:**

*1.1 Provide mandatory and comprehensive anti-racism training to all Department of Social Protection frontline staff.*

## 2. The impact of the Habitual Residence Condition

The Habitual Residence Condition is a qualifying condition for means-tested social welfare payments and Child Benefit, whereby a person must show that they have an adequately strong connection to Ireland. The test involves consideration of five factors such as employment history, residency history and future interests. In its application, the Habitual Residence Condition disproportionately affects groups such as migrants and Roma, who experience considerable challenges in terms of establishing a connection to Ireland.

In addition, legislation introduced in 2009 precludes asylum-seekers as a group from ever satisfying the Habitual Residence Condition. As a result, asylum-seekers are not entitled to regular social welfare payments until they gain refugee or immigration status. While awaiting a determination on international protection, adult asylum seekers are granted a weekly allowance of €19.10 and children receive €16.60.

During her 2011 visit to Ireland, former UN Independent Expert on Extreme Poverty Magdalena Sepúlveda Carmona noted with “utmost concern” that the Habitual Residence Condition represents a considerable obstacle for vulnerable groups to access services to which they are entitled.

In July 2015, the UN Committee on Economic, Social and Cultural Rights expressed concern at the discriminatory effect of the Habitual Residence Condition on disadvantaged and marginalised individuals and groups in accessing social security benefits. The Committee recommended that Ireland review the Habitual Residence Condition so as to eliminate its discriminatory impact on access to social security benefits.

In February 2016, the UN Committee on the Rights of the Child called on Ireland to make child benefit a universal payment that is not contingent on the fulfilment of the Habitual Residence Condition.

**Recommendation:**

*1.2 Review the Habitual Residence Condition so as to eliminate its discriminatory impact on access to social security benefits, particularly among vulnerable and marginalised individuals and groups.*