



FLAC Annual Report 2017

FLAC (Free Legal Advice Centres) is an independent human rights organisation which exists to promote equal access to justice. Our vision is of a society where everyone can access fair and accountable mechanisms to assert and vindicate their rights.

What FLAC does

- Operates a telephone information and referral line.
- Runs a nationwide network of legal advice clinics where volunteer lawyers provide basic free legal advice.
- Is an Independent Law Centre that takes on cases where this is in the public interest.
- Provides specialist legal advice to advisers in the Money Advice and Budgeting Service (MABS) and in Citizens Information Services (CISs).
- Engages in research and advocates for policy and law reform in areas of law that most affect disadvantaged and marginalised people.
- Operates the Public Interest Law Alliance (PILA) which seeks to engage the legal community and civil society in using the law to advance social change.
- Provides administrative, communications, statistical and legal support to the Child Care Law Reporting Project.
- During 2017 FLAC was an associate partner of and facilitated the JUSTROM programme which promoted access to justice for Roma and Traveller Women.

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Peter Ward, FLAC Chairperson, Emily O'Reilly, European Ombudsman and Eilis Barry, FLAC Chief Executive at the Eleventh Annual Dave Ellis Memorial Lecture, 27th November 2017.

FOREWORD

As FLAC approaches its 50th anniversary, the demand for our services remains as strong as ever. In total during 2017 we dealt with 25,817 requests for free legal information or advice from our telephone information and referral line and the network of legal advice clinics at 66 locations around the country. Our focus on first-stop services is one of the primary methods of enabling people to assert their rights.

FLAC also engages in litigation as a means of enforcing rights, challenging unjust laws, increasing public awareness of legal need and bringing about effective change in law and practice. During 2017, we secured a number of significant judgments, outcomes and settlements in cases involving social welfare, direct provision, debt and homelessness. In one instance, FLAC secured the release of a man who had been unlawfully jailed for failure to pay debt. FLAC also represented a seriously ill homeless man who had been denied emergency accommodation and the proceedings we instituted were settled on the basis that he would be provided with that emergency accommodation. In another case, the Workplace Relations Commission awarded compensation to three tenants who had been discriminated against when the landlord refused to facilitate their access to the Housing Assistance Payment (HAP). In yet another example, the High Court awarded compensation to a mother in direct provision for the excessive delay in determining her application for subsidiary protection, resulting in the loss of child benefit.

As part of its strategic litigation programme, FLAC has continued to represent EPIC, a small American privacy rights NGO as an *amicus curiae* (“friend of the court”) in *Data Protection Commissioner V Facebook Ireland & Schrems*. This is a case which concerns the rights to privacy and data protection of people throughout Europe and has been referred by the Irish High Court to the Court of Justice of the European Union.

FLAC’s Public Interest Law Alliance, (PILA) has continued to develop. Throughout 2017 PILA assisted 110 NGOs and community organisations through its Pro Bono Referral Scheme. The impact of PILA’s innovative work was evident in March 2017 when the High Court vindicated the right to a secret ballot for people with a visual impairment in *Sinnott vs the Minister for the Environment*. FLAC and PILA also played a facilitative role in a successful collective complaint to the European Committee of Social Rights, which found that Ireland had failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for many families living in local authority accommodation.

It is gratifying to see the impact of FLAC’s advocacy and campaigning work reflected in policy and legislative change. During 2017, two of FLAC’s longstanding policy and advocacy campaigns were successful. In December 2017, FLAC welcomed the decision of the Minister for Justice and Equality, Charlie Flanagan TD, to abolish the financial contribution requirement for civil legal aid for people affected by domestic violence. FLAC, the Law Society and a number of domestic and international human rights groups had been campaigning for some time for its abolition.

A number of recommendations from FLAC’s 2014 report “Redressing the Imbalance” formed the basis for provisions in the Central Bank and Financial Services Authority of Ireland (Amendment) Act 2017, which improve the redress mechanism and strengthens the position of consumers making complaints against financial services providers.

We acknowledge and appreciate the work of all FLAC volunteers over the past year who used their professional skills and expertise to promote equality and social justice. This includes the hundreds of lawyers around the country who volunteer at FLAC clinics; the lawyers who support our case work; the lawyers who give of their time and talent through the PILA Pro Bono Register; the members of the student FLAC societies; and all of the volunteers and interns in FLAC’s office. We also wish to acknowledge and thank all of the staff in the Citizens Information Services and the Citizens Information Board who facilitate and host the FLAC clinics all around the country.

Most importantly, we wish to acknowledge the enormous contribution of FLAC staff. This annual report is a testament to all of their tireless work and commitment.

Finally, we thank all our donors and funders – philanthropic, Government Departments, statutory bodies, the Law Society, the Bar Council, law firms, solicitors, barristers and individuals – who continue to make this work possible. We look forward to your continued ongoing assistance and support in our work in the year ahead together.



Peter Ward, FLAC Chairperson



Eilis Barry, FLAC Chief Executive

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Legal Information, Advice & Training

FLAC provides legal information and advice in a number of different ways to enable people to assert and enforce their rights

2017 HIGHLIGHTS





TELEPHONE INFORMATION & REFERRAL LINE

FLAC's telephone information and referral line provides people with first-stop legal information over the phone.

In 2017, there were 12,003 callers to this service.

What were the calls about?

- **Over a quarter related to family law.**
Just over one-third (38%) of family law calls related to divorce and separation, followed closely by custody/access/guardianship issues at 31%. Questions about maintenance made up another 20% of family law queries.
- **9.9% employment law.**
More than one-third (37%) of employment law calls were about contract terms, 19% were about

dismissal, followed by a wide range of other topics including grievance procedures, bullying, harassment, redundancy, discrimination and maternity leave.

- **7.1% housing related.**
Of the housing/landlord and tenant calls, 45% of calls came from tenants, 22% from landlords, with the rest made up of letting agents, management companies and lodgers.
- FLAC's information line regularly receives calls from lay litigants who are endeavouring to represent themselves in complex court cases and who are desperately in need of assistance, advice and representation which FLAC does not have the resources to provide.

— KEY TELEPHONE INFORMATION LINE STATISTICS —



FLAC INFORMATION LINE 1890 350 250 or 01 874 5690,
Mon -Thurs: 9am - 5.30pm, Fri 9am - 5pm



FLAC Interns Stephen Bourke and Aoife McVerry on the telephone information line.

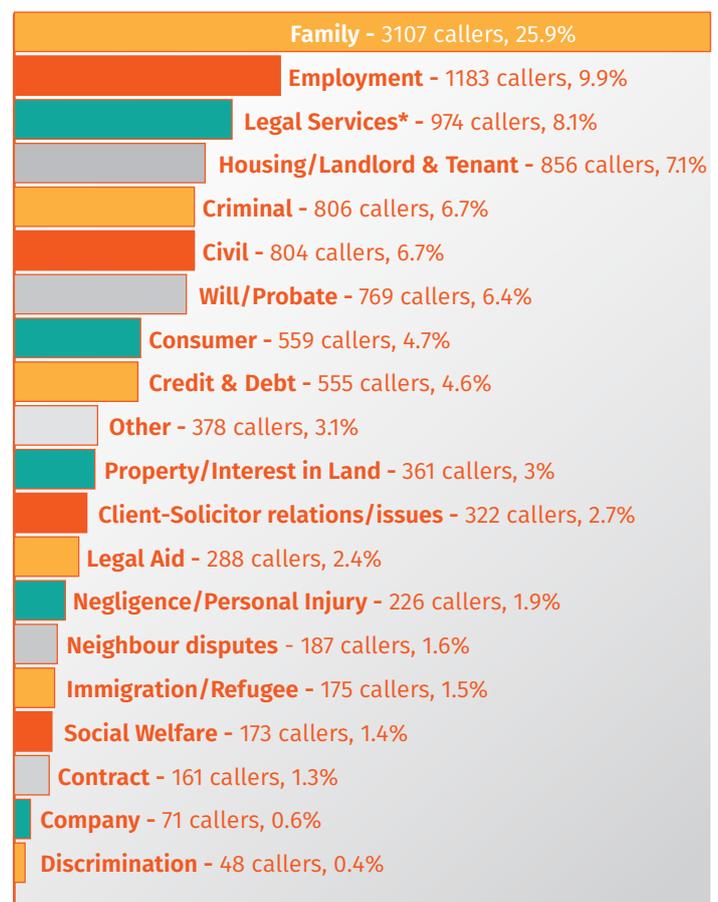


Jacqueline Heffernan, FLAC Information Line Co-ordinator and Aisling Kerins, FLAC Intern.

“Working on the telephone information line has been such a great experience. For many people I am the first person that they have sought help from for their legal problems. We try to give our callers as much legal information as possible, enabling them to take further action and not be hindered by the fact that they may not be able to afford their own solicitor. The variety of legal issues that are dealt with on the information line ensures that I get the opportunity to help people with every type of legal problem.”

Maria Saracut, FLAC intern on the Telephone Information and Referral Line

QUERIES TO FLAC'S TELEPHONE INFORMATION AND REFERRAL LINE 2017



*Legal Services: Calls seeking details about FLAC advice clinics and other services

LEGAL ADVICE CLINICS

FLAC operates legal advice and information clinics where volunteer lawyers provide basic free legal advice. The clinics are mostly located in Citizens Information Centres throughout the country. We would like to particularly acknowledge the staff and management of the Citizens Information Board and especially the local Citizens Information Services who work to facilitate and coordinate these clinics.

In 2017, FLAC further developed its relationship with the local Citizens Information Services and started to roll out a greater level of support for volunteers outside of Dublin and Cork with the support of the Citizens Information Board.

Specialist advice clinics: There are specialist advice clinics at a number of locations providing family law, immigration law and employment law advice.

Accessible clinics: The FLAC clinic at Cabra CIC offers Irish Sign Language Interpretation.

An tSeirbhís Saor-Chomhairle Díl: In association with Conradh Na Gaeilge, free legal advice services are now available through Irish by appointment in Cork, Dublin and Galway.

Statistics from Legal Advice Clinics

In 2017, 13,814 service users attended FLAC clinics in 66 locations participating in FLAC's Data Collection Programme.

What were the queries about?

- Over a third of callers had a family law query
- Almost **16%** of callers were concerned about employment law
- Over **9%** related to will/probate issues
- **7%** were related to housing/ landlord and tenant issues
- **Family law** queries were the most frequent. Just over half (51%) of the 4772 queries in 2017 related to divorce

KEY LEGAL ADVICE STATISTICS



13,814
individuals received
basic legal advice
at a FLAC clinic



83
services around Ireland,
mainly in partnership
with CICs, based
in 66 locations



Main areas of enquiry
family, employment,
wills/probate
& housing



115
advocacy files for
members of the Traveller and
Roma community via the
JUSTROM programmes



“Many thanks for your expertise last night and good counsel with regard to my current situation. You definitely helped clarify this matter for me and fortunately I am now beginning to understand more as a result. ...I have great respect for barristers and solicitors who are part of FLAC and give their time to people who need it... ”

Letter received from Adrian, caller to FLAC Clinic

and separation; custody, access and guardianship issues were the next most common areas, followed closely by maintenance. There were 445 callers to FLAC clinics with queries relating to domestic violence in 2017.

- **Employment law** queries covered a broad range of topics, with the most commonly discussed issues being dismissal, contract terms, followed by redundancy and discrimination.
- **Mortgage arrears** made up one third (33%) of the 647 credit and debt queries, with 29% being focused on debt collection procedures.

A full list of all the FLAC clinics, including their location, opening hours and whether an appointment is required, is available on the FLAC website. There are a number of other legal advice clinics that are run locally but whose statistics are not reflected in the totals shown in this report. We have included them on the map above and on our website to show the full extent of clinics available to people who need legal assistance around the country and to acknowledge the work of the volunteers and all those involved in coordinating and delivering these services.

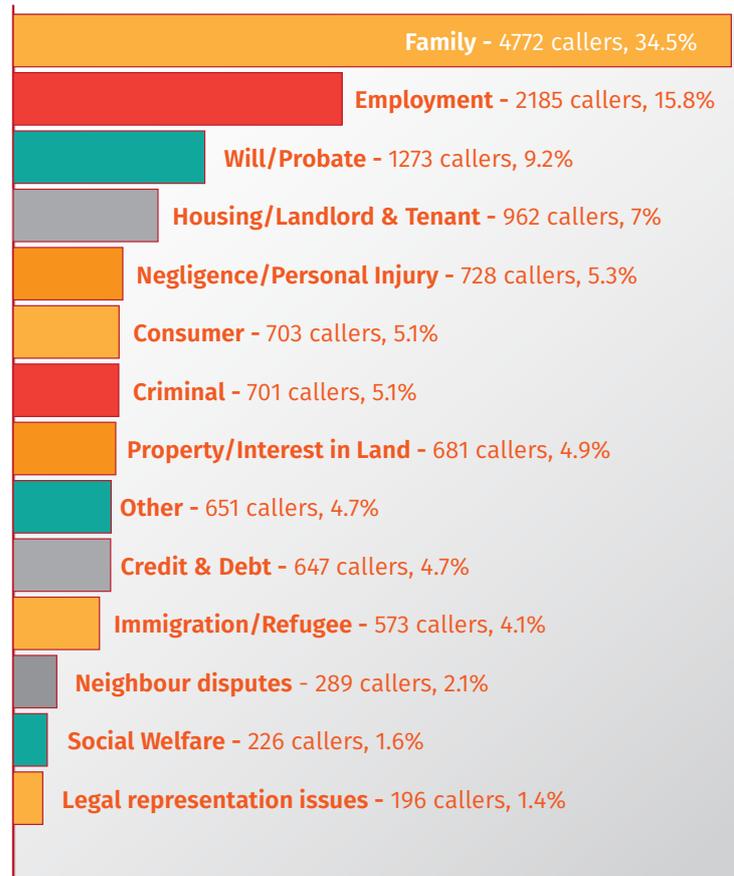


FLAC visit to Cavan CIC in June 2017. Back row (L-R) Fiona Conroy, Anne Mulvey and Gillian Kernan, FLAC Research Officer. Front row (L-R) Zsé Varga, FLAC Volunteer Development Manager, Clare Cunningham and Cecilia Smith, Development Manager, County Cavan CIS.

“I have loved volunteering at the advice clinics. I have met such amazing clients who have been so gracious and appreciative of the advice given.”

Sabrina Sullivan, Solicitor and FLAC Volunteer at Finglas and Ballymun Clinics

QUERIES IN LEGAL ADVICE CLINICS 2017



Callers to FLAC clinics often have queries that fit into more than one area of law



Sarah E Lipsett @@Sarahlipsett • 13 March 2017

@flacireland Thank for you for the acknowledgment towards my commitment to Flac. Access to a fair legal system is a basic human right #flac

JUSTROM Programme

FLAC was invited to be an associate partner in the JUSTROM Programme, a joint programme of the Council of Europe and the European Commission, which aims to improve the access to justice for Roma and Traveller women.

Throughout 2017 FLAC facilitated the operation of legal advice clinics aimed at the Traveller and Roma communities, which provided legal advice and advocacy services. In total there were 115 advocacy files and 54 case files opened.

Advising the Advisors: Specialist advice

FLAC supports advisors working in Citizens Information Services (CIS) and in the Money Advice and Budgeting Service (MABS) who are themselves assisting their clients at a local level. There were 235 queries from CIS advisors in 2017 on a range of issues.

Technical support for MABS advisers

FLAC handled 110 detailed technical queries across a wide range of debt and credit and social welfare cases.

FLAC Managing Solicitor, Sinéad Lucey and Roma Outreach Officer, Rodica Lunca at the Tallaght clinic.



LEGAL ADVICE FOR SOCIAL JUSTICE NGOS – PILA PRO BONO REFERRAL SCHEME

What is PILA?

PILA (the Public Interest Law Alliance) is a project of FLAC that promotes the use of law in the public interest in Ireland, by engaging the legal community and civil society in using the law to advance positive social change.

What does PILA do?

In addition to working on barriers to public interest litigation and clinical legal education, PILA operates a Pro Bono Referral Scheme for social justice organisations that gives them access to pro bono:

- **Legal advice** – on organisational issues or in line with policy and campaign work;
- **Law reform working groups** – where lawyers and NGOs come together to work to implement social change;
- **Strategic litigation support** – including pre-litigation advices and casework;
- **Legal education sessions** – to better equip NGO staff in navigating the law; and
- **Signature projects** – ongoing partnerships between a law firm and NGO filling a particular unmet legal need.

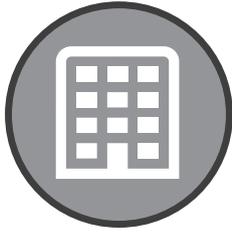
Throughout the year, almost a quarter of new referrals were related to organisational matters (governance, data protection, contracts and leases etc.) with the remainder related to campaigning work

and issues relevant to NGO clients and service users (e.g. housing and homelessness, disability, immigration, mental health). PILA also held a number of roundtables namely on the licensing of alcohol, direct provision and homelessness, restraint and seclusion of children with intellectual disabilities and cross-jurisdictional knowledge exchange for Independent Law Centres.

Some pro bono support from 2017:

- **Family Reunification:** Assistance in drafting a bill to widen the definition of ‘family member’ in the International Protection Act 2015.
- **Disadvantaged socio-economic status:** Drafting of a bill to amend the Equal Status and the Employment Equality Acts to include a new ground of disadvantaged socio-economic status.
- **Gender pay gap:** Legal analysis of proposed gender pay gap legislation.
- **Brexit & Children’s Rights:** A&L Goodbody produced a detailed report on the potential legal implications of Brexit for children and young people on the island of Ireland for the Children’s Rights Alliance and the Children’s Law Centre NI. The report outlined potentially unforeseen consequences particularly in the areas of health, child protection and education.
- **Accessible public consultation:** Representation in an equality complaint over accessibility of the planning process.

KEY PILA STATISTICS



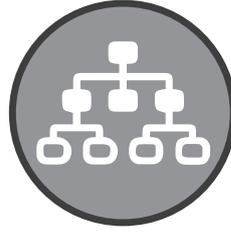
110

social justice organisations assisted through PILA's Pro Bono Referral Scheme



115

new legal advice and litigation referrals facilitated, along with 4 law reform working groups and 5 legal education sessions for over 100 NGO staff



18

new social justice organisations joined the pro bono referral scheme, to bring PILA's NGO partners to over 135



25

law firms, **350** barristers and **5** in-house legal teams provided their services free of charge

- **Victims of Domestic Violence:** McCann Fitzgerald partnered with Women's Aid in setting up a legal clinic for victims of domestic violence who are representing themselves in family law proceedings.

“Given the cross border nature of the work and the fact that we are a small team operating in only one of the jurisdictions involved, we did not have the in-house legal capacity to complete this challenging piece of work and produce a detailed report to inform our work on Brexit. It was great to have PILA and the PILS Project coordinate the piece of work as this greatly reduced the amount of time we would have had to oversee the process.”

Saoirse Brady, Legal and Policy Director with the Children's Rights Alliance.

“Barristers can make a significant contribution by providing support to civil society groups via the Scheme and at the same time develop their own skills and abilities. It was incredibly interesting to be involved with the Irish Sign Language Bill and to be in a position to provide assistance to the Irish Deaf Society through the legislative process. Being present with the deaf community in the Dáil as the Bill passed was a privilege and an honour and certainly one of my highlights of 2017.”

John Kenny BL, PILA Pro-bono Barrister.

PILA Bulletin

PILA publishes and distributes the fortnightly PILA Bulletin with a roundup of human rights and public interest law news, events and jobs from around the world. Over 2,800 people in the legal profession, NGO sector and academia in Ireland and overseas receive the PILA bulletin.

You can check out the latest PILA Bulletin at www.pila.ie/resources/bulletin or get it straight into your inbox by subscribing to bulletin@pila.ie.

VOLUNTEERS

We rely on a wonderful team of volunteers around the country.

FLAC Clinics: 81 new FLAC volunteers joined several hundred of their colleagues who regularly provide free legal advice at FLAC clinics all over the country.

PILA Pro-bono register:

The membership of the Pro Bono Register at the end of 2017 was made up of 25 law firms, 350 barristers and 5 in-house legal teams.

Office Volunteers: FLAC also had volunteers helping out in our office throughout the year. In particular we would like to thank Deirdre Curtis and Mimi Goodman.

Michelle Keane, Cork Community Action on Alcohol North Side, Eithne Lynch, PILA Legal Officer, Professor John Mee, UCC law school, Sarah Treacy BL and Paula Leonard, Alcohol Forum at the launch of 'A Community Guide to Alcohol Licensing in Ireland' by The National Community Action on Alcohol Network.



Danielle Kerins' family accept a Golden Pin on her behalf at the Eleventh Annual Dave Ellis Memorial Lecture. Front row (L-R) Zsé Varga, FLAC Volunteer Development Manager, Eilis Barry, FLAC Chief Executive, Jackie Kerins and Prof. Gerry Whyte, TCD. Back row (L-R) Mark Raleigh, David Kerins and Mark Kerins.

Danielle Kerins RIP

We wish to pay tribute to Danielle Kerins, a FLAC volunteer who tragically died during 2017. She was a much loved FLAC volunteer who was very generous with her time and expertise in the FLAC clinics in Maynooth and Ballyfermot. We wish to extend on behalf of FLAC Council and staff our deepest sympathies to her fiancé, her parents and family who attended the Dave Ellis memorial lecture in December 2017 and accepted the Golden Pin on her behalf.



FLAC Volunteer Awards Scheme

FLAC's Golden Pin and a certificate is awarded to volunteers in recognition of long-standing and committed volunteering. 64 volunteers were awarded the FLAC Volunteer Golden Pin in 2017, at a ceremony which took place at the Eleventh Annual Dave Ellis Memorial Lecture.

Summer Squad

Each year, volunteers sign up to the FLAC Volunteer Summer Squad to keep the clinics running over the summer holiday time and make themselves available to attend the clinics often at very short notice. A big thank you to the 2017 Summer Squad for their generosity, time and expertise.

The 2017 awardees were:

Aine Bambrick
Niamh Barry
Teresa Blake SC
Mary Brassil
Amy Cahillane
Adrian Carey
Ben Clarke
Martin Coen
Áine Connor
Joseph Coonan
Claire Cregan
Gerard Cullen
Sharon Devereux
Michael Devlin
Frances Duggan
Niamh Fahey
Nora Fay

Columb Fortune
Clodagh Gallagher
Kulwant Gill
Simon Halpin
Julianne Hayden
Maoiliosa Henry
Mary Heslin
Bonnie Hickey
Jessica Hickey
David Higgins
Emer Joyce
Cliona Kenny
Danielle Kerins RIP
Lyndsey Keogh
Niall Kiernan
Stephen Kirwan
Setanta Landers

Camilla Leigh
Katherine Mahon
Lyn McCarthy
Paul McCarthy
Gerry McGrath
Geraldine McKeon
Stephen McNamara
Jason Milne
Helen Moore
Ruth Morgan
Kevin Morgan
Ronan Murphy
Tommy O'Donoghue
Marissa O'Keeffe
Julie O'Leary
Padraic O'Neill
Karen Pound

David Powderly
Triona Price
Brian Rabbitte
James Reilly
Oliver Ryan
Colleen Sparling
O'Riordan
Bairbre Ryan
Paula Scallon
Nora Pat Stewart
Aine Swift
Diane Treanor
Denise Waldron
Audrey Whyte
Gabrielle Wolfe

Recipients of the FLAC's Golden Pin Award, at the Eleventh Annual Dave Ellis Memorial Lecture, 27 November 2017. Photo by Derek Speirs.





Kuda Mushaya, FLAC Volunteer Development Officer, Liv Wells, William Sampson Fellow and Lorraine Walsh, FLAC Volunteer & Centres Administrator at the training seminar on the Assisted Decision Making (Capacity) Act 2015.

LEGAL EDUCATION AND TRAINING

237 volunteers attended FLAC's volunteer training events in 2017.

Five training seminars were held in 2017, one in Cork and four in Dublin, including our Inaugural FLAC Volunteer Training Conference on 18th November 2017.

Topics covered include: Whistleblowing Legislation; Assisted Decision-Making (Capacity) Act 2015; Family Law Training Seminar; Child Custody Disputes and the Recent Amendments to the Guardianship of the Infants Act, 1964 to 2015; Unfair dismissals Acts 1977 to 2015 and Bullying and Harassment Laws; Update on Housing and Landlord-Tenant Law; and Developments in International Protection and Immigration Law.

A big thank you to all who volunteered their time to deliver the training:

Susheela Math, Managing Solicitor at Transparency Legal Advice Centre; Tom Mallon BL; Patricia Rickard Clarke, Chair of the National Advisory Committee, Sage Support & Advocacy Service; Mary Condell, Legal Advisor, Sage Support & Advocacy

Service; Keith Walsh Solicitor, Katie Dawson BL; Mary O'Toole, SC; Kevin Baneham, BL; Colm O'Dwyer, SC; Owen Keany BL.

We also held induction and meet & greet sessions for volunteers, two in Dublin, one in Maynooth, and one in Longford.



Mary Condell, Legal Advisor, Sage Advocacy; Patricia Rickard Clarke, Chair of the Advisory Committee, Sage Support & Advocacy Service; Grace Mulvey, FLAC Volunteers and Clinics Coordinator, Michelle Rooney, Legal and Financial Coordinator, Sage Advocacy, at the training seminar on Assisted Decision-Making (Capacity) Act 2015.



Ciaran Finlay, FLAC's Legal and Policy Officer and Sinead Lucey, FLAC's Managing Solicitor, delivering a presentation at the Ballyfermot Traveller Action Project (BTAP) Equality in Action Project.

PILA Education Sessions: In order to enable NGOs more effectively navigate the law, PILA runs legal training to upskill staff. In 2017, PILA ran 5 legal education sessions for over 100 participants in topics such as EU treaty rights, housing law, McKenzie friends and licencing law.

PILA also partnered with Ballyfermot Traveller Action Project (BTAP) on a six month 'Equality in Action' programme for residents of Labre Park that was funded by the Irish Human Rights and Equality Commission. The programme provided training to equip the community of Labre Park to effectively challenge the inequalities that Travellers experience and to inform a rights based approach to the redevelopment of Labre Park. PILA

organised a number of sessions on the Equal Status Acts, housing law, estate management, interactions with the Gardaí, collective action procedures, and advocacy and self-representation.

Lorraine McMahon, Coordinator of BTAP, felt the project highlighted the need for accessible legal services for the Traveller community.

“PILA is a vital organisation providing the relevant expertise to communities seeking to challenge discrimination and influence policy to bring about real social change and bodies such as PILA need to be resourced and expanded.”

Lorraine McMahon, Coordinator of BTAP.

MABS training events

FLAC Senior Policy Analyst, Paul Joyce delivered a series of training seminars for staff of the Money Advice and Budgeting Service (MABS) in Dublin, Sligo, Limerick and Athlone. The topics included Consumer Credit Law Induction, Topical legal issues in money advice work, the Credit Servicing Act 2015 and related matters.

Lorraine McMahon, Coordinator of Ballyfermot Traveller Action Project (BTAP), David Fennelly, BL, Eithne Lynch, PILA Legal Officer with FLAC interns Daniel Zagorski, Emma O'Reilly and Jacquelyn Ingrassia.



FLAC STUDENT SOCIETIES

There are currently FLAC student societies in: University College Cork, Trinity College Dublin, NUI Galway, Maynooth University, Dublin City University, Letterkenny IT, Waterford IT and Griffith College Dublin. The newest FLAC society is in Letterkenny IT and was set up in November 2017.

The societies operate information clinics where the student population can receive legal information from law students under the supervision of qualified legal practitioners. They also organise events, campaigns and talks in relation to access to justice and social justice.



Zsé Varga, FLAC Volunteer Development Manager and Gillian Kernan, FLAC Research Officer at 'Friends of The Centre' Family Day at the Mosney Direct Provision Centre on 26 July 2017.



Jim O'Callaghan TD with the FLAC Trinity Student Society at their "Sleep Out" event to raise money for the Peter McVerry Trust and to also raise awareness of the homelessness crisis in Dublin.



Katie Timmins, JUSTROM Project and Caroline Smith, FLAC Media and Communications Assistant at the Migrant Information Day, organised by the New Communities Partnership (NCP) and UN Migration Agency (IOM) on 21 November 2017. Photo by Gustavo Leal.

Trinity Flac @TrinityFlac • 3 Nov 2017

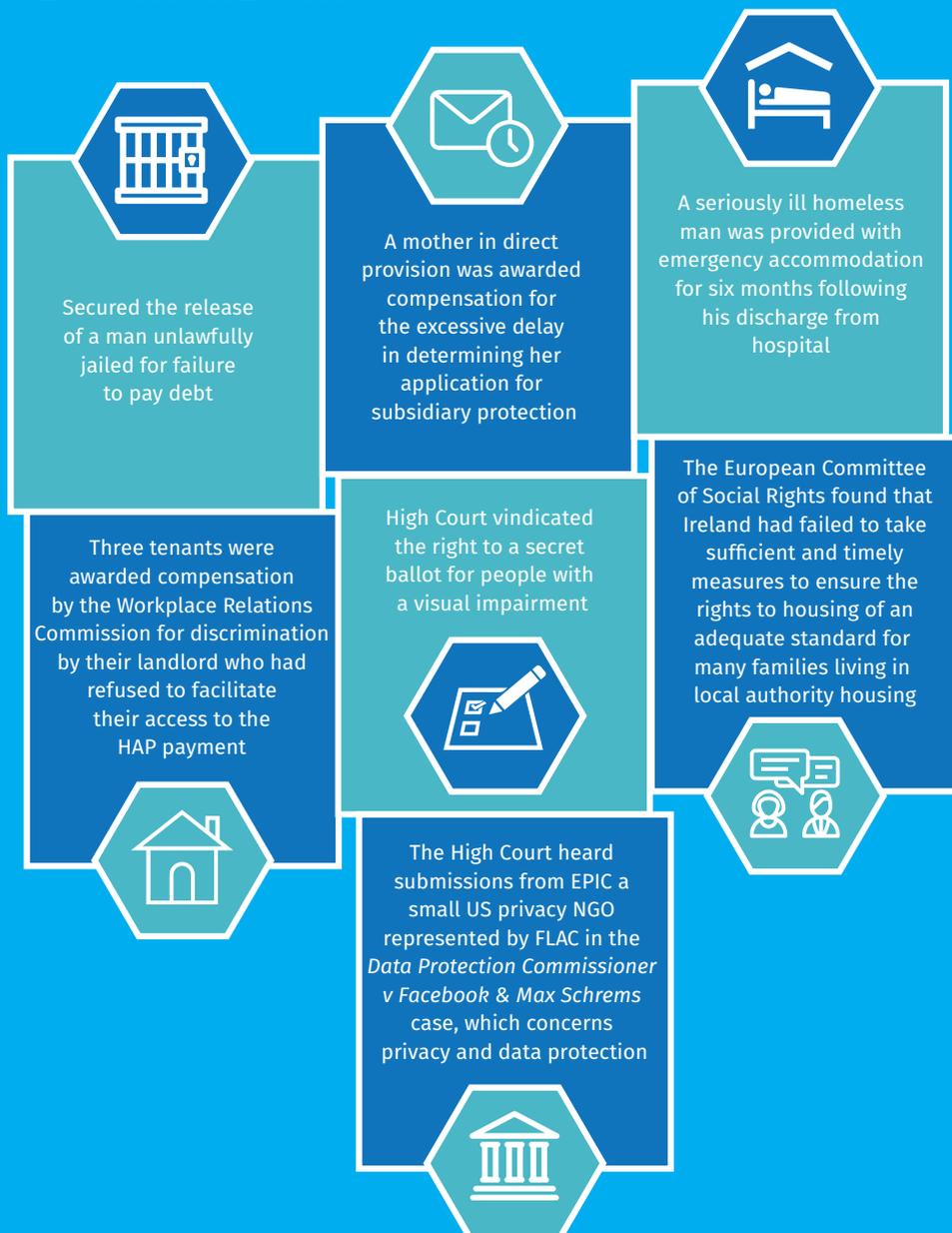
A massive thank you to all the [volunteers @ SenDavidNorris](#) and [@OCallaghanJim](#) for coming out to support [@PMVTrust](#) last night!



Litigation and Casework

FLAC is an independent law centre and takes on a number of legal cases each year as a means of enforcing rights, challenging unjust laws, increasing public awareness of legal need and bringing about effective change in law and practice. These cases may have the potential to benefit a wider group of people as well as being important for the individual client.

2017 HIGHLIGHTS

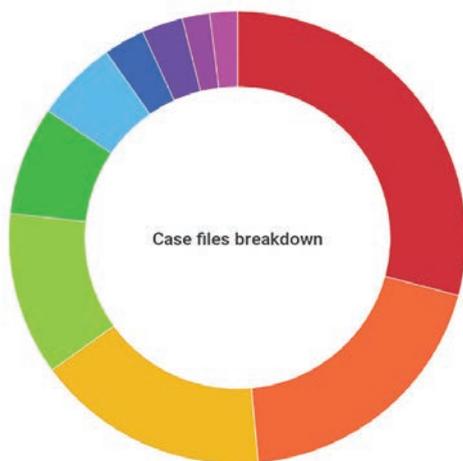


“...I want to say a very big THANK YOU to you and your team in FLAC. You are doing a great and fantastic job. You are the voice to the voiceless, hope to the hopeless, if not for you all there, my case could still be hanging, ongoing and not solved.”

FLAC Client

Case files:

83 case files were opened during 2017 with 20 carried over from 2016. Of these 103 case files the most important issues were as follows:



- Housing/Landlord & Tenant 29%
- Social Welfare 19% ● Discrimination 16%
- Other 12% ● Citizenship 8% ● Debt 6%
- Legal Aid 3% ● Garda Síochána 3% ● Privacy 2%
- Unpaid wages to undocumented workers 2%

JUSTROM:

54 case files were part of the JUSTROM programme.

- 31 case files on behalf of members of the Roma community
- 23 case files on behalf of members of the Traveller Community

A review of these case files and the advocacy work of JUSTROM will be published in a separate report.

OUTCOMES:

These included:

- **High Court:** 3 High Court judgements and 3 settlements of High Court proceedings;
- **Workplace Relations Commission:** 3 successful housing assistance complaints, 7 confidential settlements of discrimination claims under the Equal Status Acts 2000-2016;
- **Social Welfare:** 2 successful social welfare appeals;
- **District Court:** one eviction proceedings, one debt enforcement, and one application in respect of the Child Care Reporting Project.

Emily Logan @CC_IHREC • 21 Aug 2017

Well done @flacireland and Sinead Lucey on @morningireland explaining the positive outcome for tenants in HAP discrimination case in WRC



Below is a reflection of some of FLAC's casework during 2017

DEBT

Unlawful jailing for failure to pay debt:

FLAC successfully brought an application to the High Court in respect of the applicant who had been sentenced to serve a week in prison by the District Court for failure to make court-ordered instalment payments on a judgment debt. The case came to FLAC through MABS, as that organisation was assisting him to deal with his debt issues. The applicant, who had significant health issues, was arrested on the order of the presiding judge, brought to a Garda station and removed to Mountjoy Prison to serve a week. He had spent two nights in Mountjoy before an application to the High Court resulted in his release.

Counsel on behalf of the applicant outlined to the High Court that the presiding judge had failed to apply two safeguards under legislation in circumstances where someone faces prison for failure to meet an instalment order, namely;

- Legal aid must be offered to the debtor, and that
- A judge may not make any order to imprison unless he or she is satisfied that the creditor has shown beyond a reasonable doubt that the debtor failed to pay due to his or her “wilful refusal or culpable neglect”

Counsel also pointed out that the whole hearing in the District Court, resulting in the imprisonment of the man, took no more than three minutes.

After the hearing FLAC called on the Minister for Justice and Equality to sign the statutory instrument which will bring the Civil Debt (Procedures) Act into effect as a matter of urgency which should ensure that this does not happen to anyone else. To date this has not been done.

SOCIAL WELFARE

Subsidiary Protection and Child Benefit

The High Court awarded compensation to a mother in direct provision for the excessive delay in determining her application for subsidiary protection. The woman and her husband applied for international protection in Ireland in 2006 because of the risk faced by them in their home country. Their first child was born in 2007 while they resided in Direct Provision. They made their first application for child benefit in 2008, which was refused. It was not until May 2012, more than six years later, that a final decision was made on their protection application by the Minister for Justice and Equality and they were finally granted child benefit in respect of their son.

The principal issue in these proceedings was whether the delay in deciding their application for subsidiary protection, which also resulted in lack of access to social benefits including child benefit, was so unreasonable that the rights of the mother were breached under EU law and the Constitution. While the Court did not find that the refusal to pay child benefit to families in direct provision was a breach of rights per se, it did find that the delay on the part of the State in finally making a decision on their application for international protection was culpable. Accordingly, the State was liable to pay appropriate compensation. The delay in determining her application for subsidiary protection led to her being refused Child Benefit to which she would otherwise have been entitled.

It ordered that the mother should be awarded compensation for the period of delay in deciding her application.

On foot of this case, FLAC recommended that the Department should seek to identify those in direct provision who have experienced inordinate delay in having their application for international protection determined with consequential delays in obtaining social welfare, in particular child benefit, and compensate them accordingly.

It also has recommended that all persons in direct provision who gain the right to work should have access to social welfare for themselves and their dependents on the same footing as others with entitlement to social welfare supports, including training and reskilling.

Restoration of Rent Supplement

Judicial review proceedings were taken in respect of the summary suspension and delay in issuing a decision concerning entitlement to rent supplement. The case was settled with the restoration of the rent supplement, including arrears due.

Social Welfare Appeals

Two appeals to the Social Welfare Appeals Office were successful. Decisions in relation to an overpayment of €75,000 was overturned on foot of a previous appeal decision and an appeal in respect of disability allowance was successful.



FLAC interns Aisling Kerins and Ali Williams on the telephone information line.

DISCRIMINATION

There were 7 confidential settlements in claims of discrimination under the Equal Status Acts

In one further notable case FLAC acted on behalf of a transgender client who had made an application for Irish citizenship under their recognised gender identity. Some difficulties arose with the Department of Justice and Equality, but the matter was satisfactorily resolved and the department agreed to deal with the application in the preferred gender and name of the person although their national passport reflected their previous identity.

LEGAL AID

Over the year we dealt with a number of cases concerning difficulties experienced by clients seeking to access legal aid. One of the areas of concern included the refusal of a third legal aid certificate in a family law matter, in circumstances where the client had already been awarded two previous certificates in one year. FLAC advocated on behalf of the client and a third certificate was awarded. The case highlighted a perception that the number of legal aid certificates that may be granted is limited to two in any one year.

In a further case the blurring of the availability of state legal aid between the criminal and civil legal aid systems was raised. Again, FLAC successfully advocated on behalf of a client who was seeking civil legal aid in relation to a contempt of court order in respect of a breach of an access order.

PRIVACY

Data Protection Commissioner v. Facebook & Max Schrems

Throughout 2017 FLAC continued to provide representation for EPIC a small privacy NGO that had been permitted to appear as an *amicus curiae* or “friend of the court” in a case that could have a significant impact on the privacy rights of hundreds of millions of Irish and EU citizens, involving the routine business transfer of personal data from Ireland to the US. This case was referred to FLAC through PILA’s Pro Bono Referral Scheme. The case concerns a complaint to the Irish Data Protection Commissioner that an individual’s personal data is being transferred to the US by Facebook in the absence of adequate protections as required by EU law. The case is about the fundamental rights and freedoms of individuals in Europe, in particular the right to privacy and protection of personal data, and raises issues as to the interpretation of the EU Directive on Data Protection and the application of the EU Charter of Fundamental Rights.

The Court appointed EPIC, as an *amicus curiae* on the basis that it could offer a counterbalancing perspective from the US government on privacy safeguards in that jurisdiction. The US government is also appearing as an *amicus* in the case.

The High Court heard submissions from EPIC which addressed the inadequacy of privacy safeguards for EU citizens. Counsel on behalf of EPIC stated that US privacy protections are limited in scope;

that personal data and communications of non-US persons are excluded from important US privacy safeguards; and that many privacy rules are subject to Executive Branch modification or repeal.

FLAC provided legal representation for EPIC in the case. Without representation from FLAC it was clear the EPIC might not have been in a position to appear in the case and make submissions. This is one of the rare occasions when an NGO such as EPIC has been granted leave to appear as an *amicus curiae* in an Irish court. EPIC’s legal counsel Alan Butler travelled from the US to Ireland for the case.

(Subsequently on the 31st of July 2018, the Supreme Court granted leave to Facebook to appeal against the decision of the High Court to make a reference to the CJEU for a preliminary reference.)

Childcare Law Reporting Project:

The District Court granted an application on behalf of the Childcare Law Reporting project, represented by FLAC, for permission to publish a report of a case subject to certain edits to protect the interests of the child concerned. The publication of the report was important to highlight the poor coordination in the handling of this child abuse case by An Garda Síochána and Tusla.

HOUSING LANDLORD AND TENANT

Seriously ill man refused emergency accommodation: Circular 41/2012

FLAC acted for a seriously ill man who was refused emergency accommodation. The applicant who was an EU citizen, came to work in Ireland in 2008 and had been living and working here as a painter. He became ill in 2016 and was diagnosed with cancer and had other difficulties with his hearing and sight. Although he was so ill he could no longer work, he was deemed not to qualify for social welfare as he was deemed not to qualify for the Habitual Residence Condition. He had no source of income and was left destitute.

FLAC initiated High Court proceedings challenging the refusal to grant him emergency accommodation and looking for an injunctive relief against Louth County Council. The Minister for Housing was also joined in the proceedings on the basis of an administrative Circular, 41/2012, that purports to provide guidance to local authorities in relation to the provision of housing support to non-Irish nationals. It was argued on behalf of the applicant that the Circular was incorrectly applied and may be ultra vires (exceeding the

powers) conferred on the Minister by the Housing Acts. FLAC also argued that the Circular may not properly reflect aspects of EU law concerning the free movement of workers.

By the time proceedings were initiated, the applicant had been admitted to hospital. Shortly after, Louth County Council indicated that it was not contesting the case and agreed to provide him with emergency accommodation.

FLAC believes this case arose because local authorities were incorrectly relying on the Departmental Circular to restrict access of extremely vulnerable people to emergency accommodation in the midst a housing crisis. In the aftermath of the case, FLAC called for an immediate clarification by the Minister for Housing that the Circular does not apply to the provision of emergency accommodation. To date this has not been clarified. The man's social welfare appeal was also successful, resulting in a significant back payment of Disability Allowance to him.

‘Model tenants’ awarded substantial compensation for discrimination by landlord on housing assistance ground

This case was referred to FLAC by a CIC through PILA’s Pro Bono Referral Scheme. The Workplace Relations Commission (WRC) found that three tenants had been discriminated against by their landlord when the landlord refused to facilitate their access to the Housing Assistance Payment (HAP). The three tenants were all under severe financial pressure and one tenant was borrowing from relatives to meet their rent obligations. They were advised by the local authority that they were eligible for HAP, which would have reduced the impossible financial pressure on each of them as low income families. However, the landlord declined to accept the new arrangement, saying “it was” not required to do so and repeatedly refused to complete the necessary paperwork, although there would be no financial loss to the landlord in doing so, and the rent would, from that point onwards, be paid automatically by the State.

In January 2016, the Equal Status Act was expanded to prohibit discrimination in the provision of accommodation based on a person’s eligibility to housing assistance, including HAP.

The cases were heard together in March 2017 and it was contended

on behalf of the tenants by the CIC and FLAC that the protection under equality legislation extended from the pre-tenancy phase through to the ultimate termination of the tenancy, and that the legislation would be ineffective if it did not protect sitting tenants. The Adjudication Officer found that the discrimination was on the more serious end of the scale, causing considerable financial hardship to each of the tenants who were awarded the sums of €14,977, €13,365 and €14,405 respectively and ordered the landlord to take such steps as were required to enable each of the tenants to participate in the HAP scheme and accept HAP payments from the relevant local authority forthwith.

The WRC adjudication officer had described them as ‘model’ tenants who had always paid rent and honoured the terms of their tenancy agreements.

This decision by the WRC was significant as it clarified not only that landlords cannot reject prospective tenants eligible for the housing assistance payment solely on that basis, but also that the new housing assistance equality ground also applies to existing tenancies.

Return of Deposit

FLAC initiated debt enforcement proceedings in the District Court in respect of a landlord who had failed to return deposits to two prospective tenants. After a number of Court hearings the landlord paid back the deposit in lump sums of €2,400 each.

Eviction Proceedings

In total FLAC had 8 cases relating to eviction cases in 2017.

A local authority brought eviction proceedings pursuant to the Housing Acts 2010 against a family squatting in local authority accommodation. The District Court allowed the family six months to obtain alternative accommodation.

In another case a local authority agreed to withdraw section 10 eviction proceedings in respect of a family living on an unofficial halting site, on foot of High Court proceedings being issued.



Liam Thornton @LTlaw_ • 30 Mar 2017

Well done @flacireland: Man unlawfully jailed for failure to pay debt released by High Court <http://bit.ly/2olf90b> @flacireland

Residential Tenancy Tribunal: time limit

The High Court found in relation to time limits for bringing appeals from the Residential Tenancy Tribunal to the High Court, that the 21 day time-limit stipulated in section 123 of the Residential Tenancies Act 2004 is an absolute one and the High Court does not have jurisdiction to extend it. While this case provided important clarification of the law in this area, FLAC has some concerns as to whether such absolute time limits can be constitutional in circumstances where a potential appellant may have strong justification for not bringing an appeal within the time limit and where many parties going to the Residential Tenancies Board are not legally represented.

Sinéad Lucey, FLAC Managing Solicitor, Maureen Gourley, FLAC Solicitor and Mary Johnson former FLAC Solicitor.



PILA: PRO BONO LITIGATION REFERRALS

HOUSING:

Collective complaint: Ireland in breach of European Social Charter

The European Committee of Social Rights found that Ireland had failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for many families living in local authority housing across the country. The Committee found Ireland in violation of Article 16 of the Revised Social Charter, which protects the right of the family to social, legal and economic protection, including the provision of family housing.

The Committee recognised that the conditions advanced by the complaint go to the core of adequate housing. In particular, it found that frequent sewage invasions, persistent dampness, mould and contaminated water experienced by

tenants raised serious concerns as to both habitability and access to essential services. The Committee also raised the impact on tenants of delays and stalling of regeneration programmes.

The decision is a result of a collective complaint, the evidence for which was gathered over five years through the work of Community Action Network working with tenants from 20 local communities, closely supported by The Centre for Housing Law, Right and Policy at NUI Galway and Ballymun Community Law Centre. It was lodged in 2014 against Ireland on behalf of local tenants by FIDH, the International Federation for Human Rights, with the support of affiliate member FLAC along with PILA.



Cecilia Forrestal, Community Action Network (CAN), Debbie Mulhall, Resident, Lena Jordan, Resident and Eilis Barry, FLAC Chief Executive at the Collective Complaint Press Conference in the GPO.



ChambersIreland @ChambersIreland • 7 Sep 2017

@ESgloballaw wins the CSR Marketplace award for the pro-bono Robbie Sinnott case #CSRAwards2017

Traveller family win equality case relating to lack of sanitation facilities

Ballyfermot Travellers Action Project (BTAP) supported a claim in relation to access to services under the Equal Status Acts 2000- 2016, following a significant delay by Dublin City Council (DCC) in repairing the applicant’s sanitation facilities at Labre Park, Ballyfermot, Dublin. BTAP was supported in this case by PILA and Kevin Brophy Solicitors provided pro-bono legal representation.

A fire had destroyed the sanitation unit adjacent to the applicant’s mobile accommodation. It was 6 months before the applicant, who was pregnant, and her young family were provided with adequate sanitation facilities. The WRC found that the delay in providing proper access to a sanitation unit was discriminatory and would not have occurred in similar circumstances for a person from the settled community. DCC were ordered to pay €6,000 in compensation for the distress caused.



Secret Ballot-Tactile voting

Robbie Sinnott of the Blind Legal Alliance, which is supported by PILA, took proceedings against the Minister for the Environment, Community and Local Government asking the State to introduce measures that would enable him as a blind person to vote in secret. Despite the constitutional protection afforded to the right to a secret ballot, if a person with a visual impairment wished to vote, they had to do so through a ‘trusted friend’ or presiding officer.

The High Court made an order that the State has a duty to provide voting arrangements “where there are no disclosed reasonably practicable economic or effective reasons not to vindicate the right to mark ballot papers without assistance”. It also ordered the State to pay costs.

For their work on the case, Mr. Sinnott’s pro bono legal team at Eversheds Sutherland won the ‘*Excellence in the Marketplace*’ at the Chambers Ireland Corporate Social Responsibility Awards 2017.

Eoin MacAodha, Eversheds Sutherland, Eithne Lynch, PILA Legal Officer, Robbie Sinnott and Rachel Power, PILA Co-ordinator at the Chambers Ireland Corporate Social Responsibility Awards ceremony in Dublin’s Clayton Hotel. Eversheds Sutherland won an award on the night for its pro bono work on Mr. Sinnott’s case.

Public Interest Law Support Fund

With the support of the Atlantic Philanthropies, FLAC established a three-year Public Interest Law Support Fund in 2015. The fund offers grants to Independent Law Centres who provide expert free legal services within their communities, and private law firms who are members of PILA in need of financial assistance to support the cost of outlay in public interest litigation. The Fund, which is managed by PILA, also commissions research into systemic obstacles to using the law in the public interest.

In the final year of the fund, FLAC provided grants to eight Independent Law Centres around the country. The funding assisted the development of litigation strategies and legal advocacy in areas such as homelessness, immigration and social welfare.

Eilis Barry, FLAC Chief Executive, Peter Ward, FLAC Chairperson and Minister for Justice and Equality, Charles Flanagan TD at the launch of FLAC's 2016 Annual Report, 31st July 2017.



3

Policy, Advocacy & Law Reform

FLAC seeks to use evidence-based research and analysis to advocate for change either through legislation or public policy

2017 HIGHLIGHTS



ACCESS TO JUSTICE

In March 2017 FLAC welcomed the announcement by the Tánaiste and Minister for Justice & Equality Frances Fitzgerald TD that a Group was to be set up to review and reform the administration of civil justice in the State, in particular as ‘improving access to justice’ is the first aim on the review group’s agenda. The ongoing review is being chaired by the President of the High Court, Mr. Justice Peter Kelly and FLAC has made two submissions to this review.

In September 2017 FLAC also welcomed the comments of the newly appointed Chief Justice, The Hon Mr. Justice Frank Clarke, in particular his commitment to making the issue of access to justice the centrepiece of his tenure and his call for the reform of the civil justice system.

FLAC’s submissions to the Courts Service Statement of Strategy and National Traveller and Roma Inclusion strategy also contained recommendations to include “Access to Justice” as a theme in the strategies.

Courts Service Statement of Strategy 2018-2020:

FLAC’s submission on the Courts Service Statement of Strategy included the following recommendations:

- ◆ The Courts Service should establish a widely drawn working group to examine access to justice for litigants in person as well as
 - ◆ Prepare and publish a “nutshell” guide for lay litigants.

- ◆ Publish accessible printable guides on how to represent yourself in court.
- ◆ Publish accessible guides on the areas of law where there are the most lay litigants, with direct links to printable and downloadable versions of the various forms as well as basic instructions on how they should be filled out.
- ◆ Publish guidance for court staff when dealing with lay litigants.
- ◆ Introduce a guide and code of conduct for McKenzie friends explaining the Practice Directions of the High Court and the Court of Appeal.
- ◆ Improve accessibility and content of the Courts.ie website.
 - ◆ Information guides and forms on the Courts Service website should be amended so that they can be accessed by people with disabilities.
 - ◆ Provide accessible summaries of the judgements of the Superior Courts.
- ◆ Improve access for court users with disabilities
 - ◆ Court documentation during proceedings should be provided in an accessible format for people with disabilities.
- ◆ Wi-Fi should be available in all courtrooms.

LEGAL AID

Legal aid was a common theme in FLAC's policy and advocacy work in 2017

CEDAW

In advance of Ireland's examination under the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW), FLAC actively participated in the reporting process, providing a submission and also lobbied individual members of the Committee to ensure that issues of particular concern to FLAC were raised during the dialogue with the state delegation and in the Committee's subsequent recommendations. It also contributed recommendations on legal aid to Irish civil society's Shadow Report, prepared by the National Women's Council of Ireland. FLAC also attended the Committee hearings as part of a civil society delegation.

In March 2017 FLAC welcomed the inclusion of our primary concerns in the UN CEDAW Committee's observations, in relation to Ireland's equality infrastructure, the Public Sector Duty and the requirement that women affected by domestic violence pay for civil legal aid when seeking court protection.

FLAC Legal and Policy Officer, Ciaran Finlay at the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW) review in Geneva.



Spark Ireland @SparkIreland • 16 Feb 2017

We made great alliances with like-minded groups in Geneva #CEDAIRL solidarity way forward @PaveePoint, @flacireland @NWCI @Sos_Ireland

The text of the Committee's recommendation in relation to legal aid reads:

'28. The Committee is concerned at barriers facing victims of domestic violence in accessing civil legal aid services due to, inter alia, long waiting lists, restrictive financial eligibility criteria and the requirement to pay financial contributions where safety, protection or barring orders are sought, consequently denying low income women access to justice.

29. The Committee recommends that the State party increase funding for civil legal aid services, review the financial eligibility criteria and end the requirement for victims of domestic violence to make financial contributions for civil legal aid when seeking court protection under domestic violence legislation to ensure access to justice to all women without sufficient means.



Restrictions to private practitioners scheme

FLAC wrote to the Legal Aid Board and the Minister for Justice and Equality in July 2017 seeking an urgent reversal of decision of the Legal Aid Board for budgetary operational reasons, effective Monday the 31st of July 2017 to restrict referrals to the District Court private family law solicitors to “priority matters only” for at least the remainder of 2017. FLAC stated that the decision would cause distress, confusion and uncertainty for the applicants and their families and disruption for the courts, The Legal Aid Board took on board the concerns that had been expressed by FLAC and other bodies and deferred the decision to allow time to re-examine alternative options.

Other recommendations on legal aid from FLAC’s submissions in 2017 included:

- ◆ The Department of Justice and Equality review the provision of civil legal aid in repossession cases involving family homes and, as a minimum proposes that a less strict merits test for civil legal aid should be applied in repossession cases.
- ◆ Ensure that civil legal aid is available to Travellers facing eviction proceedings.
- ◆ The consideration of whether and how to introduce multi-disciplinary practices the Legal Services Regulatory Authority should assess the potential impact on access to justice and should be considered against the backdrop of a civil legal aid system that remains inadequate.
- ◆ In the context of the review of the Defamation Act 2009, the provision in relation to civil legal aid should be brought in line with Article 6 of the ECHR and Article 47 of the EU Charter of Fundamental Rights, and that the exclusion of defamation from the Civil Legal Aid Act, 1995 be removed.
- ◆ The Social Welfare Appeals Office and Workplace Relations Commission should be designated as “prescribed” tribunals for the purposes of Section 27(2)(b) of the Civil Legal Aid Act 1995.
- ◆ Increase funding for civil legal aid services in order to ensure that women have access to adequate and timely legal aid.
- ◆ Require the Legal Aid Board to review the financial eligibility criteria and adjust disposable income and capital limits and the amounts of all allowances stipulated as part of the means test for civil legal aid to realistic levels in order to take account of increases in the cost of living.
 - ◆ Provide adequate human and financial resources to the Legal Aid Board on foot of such a review.
- ◆ Review the allocation of financial and human resources to the Legal Aid Board on the introduction of any new legislation which is likely to impact on civil legal aid services, such as the Domestic Violence Bill.
- ◆ Require the Legal Aid Board to carry out annual reviews of its financial eligibility criteria.
- ◆ Grant the Legal Aid Board discretion to provide legal services to applicants who establish legal need but do not satisfy the means test.

Abolition of financial contribution requirement for civil legal aid for people affected by domestic violence

A major campaign success in 2017 was the very welcome decision of the Minister for Justice and Equality, Mr. Charlie Flanagan TD, in December 2017 to abolish the financial contribution requirement for civil legal aid for people affected by domestic violence from 1 January 2018. FLAC, the Law Society and a number of domestic and international human rights groups had been campaigning for some time for its abolition. It was FLAC's view that the requirement for financial contributions in cases of domestic violence created a wholly unnecessary extra barrier for those



Law Society Ireland @LawSocIreland • 31 Jul 2017

#FamilyLaw Committee chair @KWSolicitors endorses @flacireland's call for free #LegalAid in #domesticviolence cases <http://ow.ly/NKf130e2zev>

seeking the necessary legal supports to escape violence and access protection and justice. These costs disproportionately affected people who were already experiencing financial disadvantage and could have been a significant barrier to legal representation. They were particularly onerous for anyone on the minimum rates of social welfare. The abolition of the requirement to pay fees in domestic violence cases removes a barrier to receiving protection from abuse through the court.

PERSONAL DEBT, CREDIT AND FINANCIAL SERVICES LAW REFORM

Analysing current developments in the resolution of mortgage arrears and related issues and the review of the Personal Insolvency Act 2012

FLAC's detailed submission to this review applied a wide lens to the analysis of current attempts to resolve problems of indebtedness in Ireland, with a particular emphasis on mortgage arrears. It included critical reviews of the limited statistical data available; the progress of the Abhaile scheme; obstacles to the delivery of Personal Insolvency Arrangements (PIA) and the comparative lack of access to advice and effective solutions for those with unsecured debt only. It examined the

lack of progress made on the programme for Government proposals in the area of debt law, as well as the range of Private Members bills in the legislative process.

In total, the submission made 31 recommendations relating to

- ◆ Data collection
- ◆ The 'Abhaile' scheme and civil legal aid
- ◆ The Personal Insolvency Act 2012
- ◆ Repossession proceedings
- ◆ Specialist Court/Tribunal
- ◆ Mortgage to rent scheme

Great work by @PearseDoherty as TDs vote to end 6-year-rule on financial complaints-based on FLAC research <http://www.rte.ie/news/2017/0524/877479-fso/> ... @rte



- ◆ Debt enforcement
- ◆ Mortgage interest supplement
- ◆ The introduction of a network of free to access public insolvency practitioners for MABS clients.

The ISI's Consultative Forum on the Personal Insolvency Act 2012

FLAC participated in the ISI's Consultative Forum on the Personal Insolvency Act 2012. The forum reviewed the operation and effectiveness of the Personal Insolvency Act 2012 in delivering solutions for over-indebted borrowers and a submission from the group was furnished to the Minister.

South Mayo MABS mortgage arrears report update

A follow up study to the 2016 report by South Mayo Money Advice and Budgeting Service, 'An Analysis of Mortgage Arrears among South Mayo MABS clients', was launched on November 30th 2017, in association with Dr Stuart Stamp, Social Policy Researcher & Research Associate, NUI Maynooth and FLAC. This study charted the limited progress that had been made on finding sustainable solutions for this group of borrowers over the 16 month period from April 2016 to September 2017. The findings of this follow-up report call into question what many borrowers in difficult mortgage arrears situations

get in return for substantive engagement with their lenders.

The Central Bank's quarterly statistics

FLAC continued to provide comment and analysis on developments in the area of debt, particularly upon the publication of each of the Central Bank's quarterly statistics on mortgage arrears, repossessions and restructures.

The Central Bank and Financial Services Authority of Ireland (Amendment) Act 2017

Pearse Doherty TD, published a Private Members Bill in September 2014 proposing some much needed reforms to the complaints mechanism for consumers to the Financial Services Ombudsman arising from the FLAC's 2014 Report '*Redressing the Imbalance – A study of legal protections available for consumers of credit and other financial services in Ireland*'. This Bill was enacted on 18th July 2017.

A key reform in this new Act is a potential widening of the time to bring a complaint. Up to now, a person had six years from the date of the financial services conduct complained of, regardless of whether they were aware that they actually had a complaint. This Act introduces a new alternative time limit of three years from the date the person making the complaint 'became aware, or ought reasonably to have become aware of the conduct concerned'. The new time limit applies to pensions and 'long term' financial products and may be particularly relevant to the mis-selling of products like mortgages and payment protection insurance policies.

“I am delighted that this Bill has passed both Houses of the Oireachtas. It would be wrong of me not to point out the work the Free Legal Advice Centres, FLAC has done on this legislation, in particular by researcher and analyst, Paul Joyce.

FLAC produced a report a number of years ago, entitled *Redressing the Imbalance*. It has provided a huge service to the State down through the years. The legislation comes from this report. There has been great co-operation across the political divide and support from departmental officials to bring this Bill to the point where it can pass into law.”

Pearse Doherty, TD in Dáil Éireann 14 July 2017 referring to FLAC’s work during the passage of the Central Bank and Financial Services Authority of Ireland Bill

General Scheme of the Financial Services and Pensions Ombudsman Bill 2016

Key recommendations:

- ◆ Ensure that it’s clear to the user how the complaints mechanism works at every stage of the process.
- ◆ Consumers should be entitled to access free advice and assistance to formulate and pursue their complaints.
- ◆ Resolving a complaint via mediation should be an option but not an obligation.
- ◆ A complainant should be entitled to have his/her complaint investigated and adjudicated upon, should he or she so desire.
- ◆ There should be a *de novo* appeal route either to the circuit court or an independent quasi-judicial body to replace the current limited high court appeal.



Paul Joyce, FLAC, Senior Policy Analyst speaks to RTE’s The Week in Politics.

SOCIAL WELFARE LAW

Pre-budget submission

FLAC's pre-budget submission to the Department of Social Protection contained recommendations on the right to good administration and social welfare rates. These included:

- ◆ The Department should provide adequate human and financial resources to the Appeals Office to ensure further reductions in processing times for social welfare appeals and timely access to essential payments;
- ◆ Robust standards for first tier decision making should be identified, established and maintained;
- ◆ Payments should only be terminated/ suspended after a thorough investigation of the claim and where the claimant has the full benefit of fair procedures before a final determination is made;
- ◆ Amend Schedule 2 of the Social Welfare Act 2016 to provide for equal treatment for under 25s in relation to Job Seekers Allowance and Supplementary Welfare Allowance.

- ◆ There needs to be a comprehensive review of the scope and administration of the SWA scheme, including how vulnerable claimants can access exceptional needs payments, to ensure that it operates as a safety net and that claimants do not have to rely on charity for basic essentials. The budgetary allocation in respect of ENPs needs be resourced and restored to meaningful levels as a priority.

Habitual Residence Condition

A number of FLAC's submissions contained the recommendation to

Undertake a review of the Habitual Residence Condition so as to establish whether it has a discriminatory impact on access to social welfare, particularly among Travellers and Roma.

Migrant Consultative Forum

FLAC continued to participate in the Migrant Consultative Forum which provides an opportunity for NGO representatives to work with officials from the Department of Social Protection. FLAC contributed to a comprehensive Q & A document to address the information gap on the department's website.



Kate Butler, BL, Dr. Carol Coulter, Paul Joyce, FLAC Senior Policy Analyst and former Circuit Court Judge Donagh McDonagh at the Alternative Careers in Law Talk, Trinity FLAC. Photo by Niamh Carroll.



Michelle Hennessy @michellehtweet • 31 Jul 2017
FLAC is calling on the government to ensure there is "efficiency and transparency" in the social welfare review process

Paul Joyce speaking at the Alternative Careers in Law Talk, Trinity FLAC. Photo by Niamh Carroll.

FLAC's response on a proposal to require employers to reimburse welfare payments arising in cases of unfair dismissal

The Minister for Social Protection sought FLAC's views on a proposed amendment to the Social Welfare code to require employers to reimburse welfare payments arising in cases of unfair dismissal. FLAC submitted that the proposal was unfair, unreasonable, and would undermine one of the basic principles of the social system in Ireland, the contributory principle. We also argued that it may not be constitutionally valid nor in compliance with the State's obligations under the European Convention of Human Rights, and if enacted would result in the diminution of social security rights and entitlements.

Following consideration, FLAC was pleased to learn that the proposal did not proceed.

Public Sector Duty

One common theme in FLAC's submissions during 2017 concerned the positive duty imposed by Section 42 of the Irish Human Rights and Equality Commission Act 2014 on a broad range of public bodies including government departments, state bodies and local authorities. This duty requires public bodies to have regard, in carrying out their functions, to the need to eliminate discrimination, promote equality of opportunity and treatment for staff and service users, and protect human rights of staff and service users. The Public Sector Duty provides one of the most important national mechanisms for mainstreaming equality and protecting human rights. FLAC made recommendations in relation to the positive duty in its submissions on the National Women's Strategy, National Traveller and Roma Inclusion Strategy, the Review of the Defamation Act 2009, Pre-budget submission and CEDAW.

IMPROVEMENTS TO EQUALITY LEGISLATION.

Amendments to the Equal Status Acts

The Submissions on the new National Women’s Strategy and National Traveller and Roma Inclusion Strategy, and the Review of the Defamation Act, contained recommendations on legal aid, the positive duty and improvements to the Equality legislation. These included:

- Broadening the scope of the Equal Status Acts 2000 – 2015 to include the functions of public bodies;
- Amending Section 14 of the Equal Status Acts 2000 – 2015 to ensure that an effective remedy is available for discrimination that has a legislative basis.

The Review of the Defamation Act 2009 in addition contained a recommendation to

- Conduct a review in tandem with the ongoing review of the Incitement to Hatred Act 1989, to ensure that a complimentary approach is taken to regulating hate speech, including the provision of accessible civil remedies to those targeted by such speech

All of Flac’s submissions are available at <https://www.flac.ie/publications/category/policy/>

Brexit

On 1 December 2017 a Joint letter from a collective of human rights organisations was signed by Eilis Barry on behalf of FLAC. The letter was sent to Simon Coveney and the Brexit negotiators, Michel Barnier, European Commission Chief Brexit Negotiator and The Rt Hon. David Davis MP, British Secretary of State for Exiting the European Union. The letter called on the parties to ensure that human rights and equality principles are maintained throughout the Brexit negotiations.

“At this critical moment in the Brexit negotiations, with the focus on the island of Ireland, fundamental questions about human rights and equality are at stake. As activists and organisations working in the area of human rights and equality across the island, we call on all parties to the present negotiations to give written guarantees that the core principles of rights and equality set out in the Belfast Agreement of 1998 are respected.”



FLAC Interns Ellen Hayes, Erin Dunleavy, Jane Holian and Lilly Flam at the Law Reform Commission’s Annual Conference.

4

FLAC's Annual Lecture and Fellowship

About Dave Ellis: The late Dave Ellis was a community activist who dedicated his career to working with community groups in areas including welfare rights, legal aid, legal education and legal entitlements generally. Dave was Community Law Officer at Coolock Community Law Centre (now Community Law & Mediation) for more than 20 years. He subsequently established Community Legal Resource to provide information, training and support for the not-for-profit and community sector. He was a great friend to FLAC. He sadly died in 2007 and FLAC organised the first lecture in his honour that year and it has taken place annually since then.



Eleventh Annual
Dave Ellis Memorial
Lecture



Thomas Addis
Emmet
Fellowship



Publication of latest
Childcare Law
Reporting Project

ELEVENTH ANNUAL DAVE ELLIS MEMORIAL LECTURE

FLAC held its eleventh annual Dave Ellis Memorial Lecture on 27th November 2017. The annual event celebrates the memory of Dave Ellis, a community activist who dedicated his career to promoting access to justice in Ireland. We welcomed Emily O'Reilly to deliver the keynote speech. Ms O'Reilly was elected European Ombudsman in 2013. She became Ireland's first female Ombudsman and Information Commissioner in 2003. Prior to this, she was an acclaimed author, journalist and broadcaster.

During her speech, Ms O'Reilly explored the perceived disconnect between the two supposedly similar concepts– law and justice. She argued that justice can mean different things to different people at different times. She outlined that while the law can often be administered rapidly, justice frequently operates on time delay. She cited examples from this country such as industrial schools, Magdalen laundries and mother and baby homes where work for retrospective justice was still ongoing.

The theme of delayed justice was prevalent throughout her thought-provoking address. She contended that in Ireland, justice is often delivered retrospectively when *“the coast is clear, when old political sensitivities are long forgotten, when the perpetrators are either dead or irrelevant, when we can blame old ghosts, old systems.”*

Ms O'Reilly's role as European Ombudsman has given her scope for dealing with systemic unfairness. This disparity between the law and justice is a space where public service ombudsmen can promote fairness in ways that are not usually open to a court.

Specifically, she referred to her ombudsman colleagues in both France and Greece and their responses to the arrival of refugees and asylum seekers in these countries. Both office holders in these nations had published reports which at least reminded governments of the values and principles we are supposed to espouse.



Catherine Hickey, FLAC Director of Funding and Development, Paul Joyce, FLAC Senior Policy Analyst, Emily O'Reilly European Ombudsman and Michael Farrell, former FLAC Senior Solicitor.



Chief Justice Frank Clarke, The Hon. Mrs. Justice Catherine McGuinness, Donncha o'Connell and Carol Coulter.

Her address concluded on a positive note when she acknowledged the vast majority of people who work in state or government institutions do understand that no government, no state and no union will ultimately survive if the people they serve do not believe that what they do is – as a child might say - fair.

Peter Ward, SC Chairperson of FLAC, reflected on the work of FLAC in 2017 at the event and stated that FLAC was particularly pleased that the Chief Justice identified access to justice as an area of priority for the judiciary over the next year, in his speech to mark the beginning of the legal New Year.

Mr Ward stated that *"It is a statement of fact that the legal profession is not reflective of our society as a whole. We must ask how and why it is that access to third level education is as unequal as it is in our country. This inevitably means that we have a legal profession that simply doesn't mirror the society it seeks to serve."*

Mr Ward added: *"It has been extremely difficult to secure political support for adequate funding of civil legal aid. It is quite simply not a compelling political issue. Politicians do not feel any need to prioritise or champion the civil legal aid scheme or access to legal services."*

He also stated that a *"better decision-making first instance across the legal system would represent a major advance in securing equal access to justice. We do need better and more transparent decision making for example in social welfare decision making and in social welfare appeals."*



Kate Heffernan and The. Hon. Mrs. Justice Catherine McGuinness.



Donncha O'Connell, Liam Herrick and Peter Tyndall, Ombudsman.



Eilis Barry, Peter Ward and Chief Justice Frank Clarke.

THOMAS ADDIS EMMET FELLOWSHIP

Each year, FLAC in conjunction with the University of Washington sends an Irish law student as the Thomas Addis Emmet Fellow to Seattle to get first-hand experience in human rights and public interest cases

The 2017 Emmett Fellow was Kate Heffernan. Kate is a graduate of law in TCD and is preparing to sit her Law Society exams. While in Seattle, Kate worked with Washington Appleseed on a research project which examined the disproportionate rates of criminality and incarceration amongst children who had spent time in foster care.

She also spent time conducting legal research under the guidance of Professor Walter J Walsh of the University of Washington Law School. Here Kate particularly focused on the practice and procedure of filing *amicus curiae* briefs in the US.

Of her experience, Kate says *'It was a privilege to work alongside a group of US attorneys, academics and law students who were passionate about converting visions of a socially just society into concrete campaigns for change. Overall, the Fellowship was entirely energising and educative.'*

FLAC reciprocated by hosting Liv Wells, a student at the University of Washington who was the William Sampson Fellow.

More at: www.flac.ie/about/fellowships/

Child Care Law Reporting Project

In 2017, FLAC continued to provide administrative, technical and communications support to the Child Care Law Reporting Project which is led by Dr Carol Coulter. In 2017 it published one volume of 22 lengthy and complex cases.



Kate Heffernan, Thomas Addis Emmet Fellow and Liv Wells, William Sampson Fellow.



FLAC Chief Executive, Eilis Barry meets President Michael D Higgins after she spoke at an event in Áras an Uachtaráin to mark International Women's Day 2017.



Carol Coulter, Child Care Law Reporting Project.

STAFF, GOVERNANCE & FUNDING

FLAC is committed to the principles of transparency and accountability and works hard to ensure that all funding is put to the best possible and most efficient use in our efforts to maximise impact and promote equal access to justice.

FLAC (Free Legal Advice Centres) is a company limited by guarantee, not having a share capital. It is registered in Dublin, Ireland (Company Reg. No. 49413).

FLAC is compliant with the Governance Code for community and voluntary organisations. More at www.governancecode.ie.

FLAC is fully registered with the Charities Regulatory Authority (Registered Charity

Number 20010256). It is recognised by the Revenue Commissioners for charitable purposes (CHY No. 6097).

FLAC is an independent law centre under the terms of the Solicitors Acts 1954-2002 (Independent Law Centres) Regulations 2006, SI 103/2006.

As a campaigning organisation, FLAC is registered as a Lobbyist in line with Regulation of Lobbying Act 2015 and makes returns to the Lobbying Regulator every four months. You can read more on www.lobbying.ie

Number of meetings of FLAC Council held in 2017: 10

FLAC COUNCIL



Peter Ward
(Chairperson)



Don Crewe



Julie Herlihy



Joanne Hyde



Jo Kenny

STAFF



Eilis Barry,
Chief Executive



Christopher Bowes,
Legal Assistant (from
November 2017)



Corina Byrne,
Finance Officer



Emer Butler,
Organisational Development
Manager (to July 2017)



Ciaran Finlay,
Legal & Policy Officer
(to May 2017)



Liz Lee,
Receptionist &
Administrative Assistant



Sinead Lucey,
Managing Solicitor



Eithne Lynch,
PILA Legal Officer



Nijole Matiukiene,
Housekeeper



Grace Mulvey,
Volunteer & Clinics Coordinator
(from January 2017)

Staff Changes

In 2017 we said farewell to three very valued members of FLAC staff.

In May, Ciaran Finlay, Legal and Policy Officer, left to join the Irish Human Rights and Equality Commission after two years of excellent service. In July, Emer Butler left FLAC after seven years of exceptional service to join the Department of Employment Affairs and Social Protection. In September, Yvonne Woods, Communications Manager, after more than 14 years of dedicated service left FLAC to pursue post graduate education .

We wish Ciaran, Emer and Yvonne every success in their future careers.

FLAC Interns at the Eleventh Annual Dave Ellis Lecture - Caroline Smith, Aisling Kerins, Rebecca Bolger, Ellen Hayes, Erin Dunleavy, Christopher Bowes and Jane Holian.

Interns

FLAC very much appreciates the hard work and dedication of all our interns. Over the course of 2017, they were; Caroline Smith, Kuda Mushaya, Gemma Caesar, Fatima Aydin, Claire Bulman, Senan Coughlan, Rebecca Bolger, Christopher Bowes, Lorna Muddiman, Erin Dunleavy, Georgina Forde, Ciara Doris, Niall O'Connor, Aisling Kerins, James Egleston, Elizabeth Gill, Ellen Hayes, Jane Holian, Kean Kavanagh, Ali Williams, Olivia Wells, Daniel Zagorski, Emma O'Reilly, Lilly Flam and Jacquelyn Ingrassia.





Maureen Gourley,
Solicitor (from May 2017)



Jacqueline Heffernan,
Information Line
Co-ordinator



Catherine Hickey,
Director of Funding &
Development



Paul Joyce,
Senior Policy Analyst



Gillian Kernan,
Research Officer



Rachel Power,
PILA Coordinator



Caroline Smith,
Media and Communications
Assistant (from October 2017)



Zsé Varga,
Volunteer Development
Manager



Lorraine Walsh,
Volunteer Development
Officer



Yvonne Woods,
Communications Manager
(to September 2017)

Funders:

FLAC is deeply grateful to all our funders and supporters who have shown their commitment to access to justice through donations and grants. This support enables FLAC to provide vital services and to campaign for better systems that enable people in Ireland to access the law and legal system, when they need to, to vindicate their rights.

In 2017, FLAC's funders were:

- The Atlantic Philanthropies
- Citizens Information Board
- Department of Justice and Equality
- Individual donors
- The Ireland Funds
- Irish Human Rights and Equality Commission
- MABS

- Members of the Bar Council of Ireland
- Members of the Law Society of Ireland
- Scheme to Support National Organisations (SSNO) 2016 – 2019, from the Department of Rural and Community Development, administered through Pobal.

In addition, PILA was supported by a number of law firms who demonstrated their commitment to pro bono and law in the public interest by becoming Sustaining Partners. The Sustaining Partners in 2017 were:

- A&L Goodbody
- Arthur Cox
- McCann Fitzgerald
- William Fry

FLAC Income & Expenditure 2017

FLAC's accounts are prepared in accordance with FRS102, the Financial Reporting Standard applicable in the UK and Republic of Ireland. The accounts are audited by KPMG and are made available in full on www.flac.ie/about/finances/.
FLAC's financial year runs from 1 January to 31 December. The following extracts are from FLAC's audited accounts for the year ending 31 December 2017:

INCOME	2017	2016
Philanthropic Funding	514,000	536,578
Bar Council & Law Society Members' Contributions	295,799	156,629
Statutory Funding	330,400	278,775
Fundraising and Donations	175,313	148,555
Legal costs received	0	48,544
Income received for Child Care Law Reporting Project	95,000	81,000
Total	€1,410,512	€1,250,081
EXPENDITURE	2017	2016
Staff costs	782,666	754,106
Programme of work	116,375	195,118
Overheads, equipment & depreciation	283,581	215,034
Public Interest Law Support Fund	122,000	128,738
Child Care Law Reporting Project	116,184	89,917
Total	€1,420,806	€1,382,913

FLAC Annual Report 2017

ISSN: 0791-7775

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Graphic design: Gráinne Murray.



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www.flac.ie
www.pila.ie



“ While I want to focus in particular on the issue of access to the courts, there is the related issue of the accessibility of the law itself. It is difficult to get justice if you do not know what your rights and obligations are. The law in many areas that concern the bread and butter issues that matter to ordinary people is frequently, as I discovered as Irish Ombudsman, a morass of primary and secondary legislation, added to each year with little by way of consolidating legislation and written in language that most definitely could not be described as plain. ”

Emily O'Reilly, European Ombudsman, at FLAC's Eleventh Annual Dave Ellis Memorial Lecture, November 2017.

“... there is little point in having a good court system, likely to produce fair results in accordance with law, if a great many people find it difficult or even impossible to access that system for practical reasons. [...] it has increasingly become the case that many types of litigation are moving beyond the resources of all but a few. ”

Chief Justice Frank Clarke in his statement for the New Legal Year 2017