



FLAC Annual Report 2018

FLAC (Free Legal Advice Centres) is an independent legal and 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 does FLAC do?

- Operates a legal information and referral telephone line.
- Runs a nationwide network of legal advice clinics where volunteer lawyers provide basic free legal advice.
- Is an Independent Law Centre that engages in strategic litigation and takes on cases in the public interest.
- Provides specialist legal advice to advisers in the Money Advice and Budgeting Service (MABS) and in Citizens Information Services (CISs) on social welfare, personal debt and consumer credit law.
- Engages in research and advocates for policy and law reform in areas of law that most affect disadvantaged and marginalised people.
- Through Public Interest Law Alliance (PILA), operates a Pro Bono Referral Scheme and engages 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 early 2018 FLAC was an associate partner of and facilitated the JUSTROM programme which promoted access to justice for Roma and Traveller women.
- Runs a Roma Legal Clinic, which began in June 2018.

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FLAC C.E. Eilis Barry, Chairperson Peter Ward and EPIC President Marc Rotenberg at the 2018 Dave Ellis Memorial Lecture

FOREWORD

During 2018 the demand for our services remained as strong as ever. We received 25,164 requests for legal information and advice on our telephone information and referral line and in our network of legal advice clinics at 71 locations around the country. Our first-stop service is one way of ensuring people know their legal rights. In addition, 115 social justice NGOs received legal assistance through PILA's Pro Bono Referral Scheme.

FLAC also engages in case work in the public interest. Housing and discrimination case were the predominant areas of work in the 108 casefiles. FLAC secured one of the highest awards given by the RTB to date in a case concerning an unauthorised eviction by a landlord against a couple and their three children. The landlord was ordered to pay €13,766.15 to the family. In another case, a young pregnant woman with a serious health condition who was living on the side of the road, had been served with a 48-hour eviction notice and had been removed from the housing list. She was reassessed as homeless and provided with emergency accommodation. We also secured a number of significant outcomes and settlements in cases involving social welfare, employment discrimination and discrimination claims against health service providers by people with HIV. A Roma woman who was refused a job in a hotel because she was wearing a traditional Roma skirt received compensation in a settlement of an employment discrimination claim.

A number of matters of concern arise from the casefiles. Firstly we are concerned about the use of strict confidentiality clauses in the settlement of proceedings against the State. These clauses prohibit us revealing not just the terms of settlement but the fact of the settlement of proceedings. These clauses effectively act to inhibit discussion of allegations of wrongdoing by the State and we fail to see how such clauses can be in the public interest.

Secondly we are concerned about the imprecise nature of the legislation dealing with Garda vetting prior to the allocation of local authority housing and the nature of certain disclosures being made by An Garda Síochána. Guidance needs to be provided to members of An Garda Síochána about their vetting role. We are also concerned about the accessibility of the INIS office and have written to the Minister of State at the Department of Justice and Equality asking for an increase in the capacity of INIS.

FLAC made 15 detailed policy proposals and submissions to state departments and bodies advocating for important and necessary legal reforms. The areas covered included legal aid, access to the courts, legal education, social welfare, racial profiling, debt and credit and the review of the Gender Recognition Act. A significant focus of our work was a proposed amendment to the Land and Conveyancing Law Reform Act, which, if enacted, would have given greater powers to the Courts to refuse to grant possession orders. We also drafted

an amendment to the Civil Legal Aid Act 1995 to ensure that legal aid would be available in such cases.

We were delighted to welcome Justice Edwin Cameron of the Supreme Court of South Africa to launch “A story of great human proportions - Lydia Foy and the struggle for transgender rights in Ireland”. We were also very pleased to host the first conference on the legal implications of the public sector duty on equality.

We very much appreciate and depend upon the work of all the FLAC volunteers over the past year who used their professional skills and expertise to promote access to justice. This includes the hundreds of lawyers around the country who volunteer at FLAC clinics, who are part of the PILA Pro Bono register, the lawyers who support our case work, 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 Centres and the Citizens Information Board who facilitate and host the FLAC clinics all around the country.

We thank FLAC staff for their enormous contribution to the goals of this organisation. The work that is recorded in this annual report is the result of their energy, commitment and expertise.

During 2018 we moved offices to a historical site, the birthplace of Sean O’ Casey, at 85/86 Dorset Street Upper. We are extremely grateful to Atlantic Philanthropies for the assistance which they granted to FLAC in obtaining and renovating this premises and providing us with a large modern headquarters of which we can be justly proud.

Finally, we thank all our funders and donors – philanthropic, Government Departments, statutory bodies, the Law Society, the Bar Council, law firms, solicitors, barristers and individuals. This funding is even more critical at the present time when we face significant difficulties in securing alternative sources of funding to replace philanthropic funding which is no longer available. We look forward to working together over the coming year with all our partners and supporters in our diverse and challenging projects - all of which combine to improve access to justice in Ireland.



Peter Ward, FLAC Chairperson



Eilis Barry, FLAC Chief Executive

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Legal Information, Advice, Advocacy & Training

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

2018 HIGHLIGHTS



TELEPHONE INFORMATION & REFERRAL LINE

FLAC's telephone information and referral line provided 11,486 callers with legal information in 2018.

What were the calls about?

24.2 % FAMILY LAW

Of these

- 38% related to divorce and separation
- 26% concerned custody/access/guardianship issues
- 18% were about maintenance
- Civil partnership queries rose by 12%
- Domestic violence queries rose by 11%

10.7% EMPLOYMENT LAW

Of these

- 34% related to contract terms
- 16% were about dismissal
- 11% included grievance procedures
- 8% related to redundancy
- 8% were about bullying/harassment

- 4% involved discrimination
- Maternity leave queries rose by 68%

7.7% HOUSING RELATED

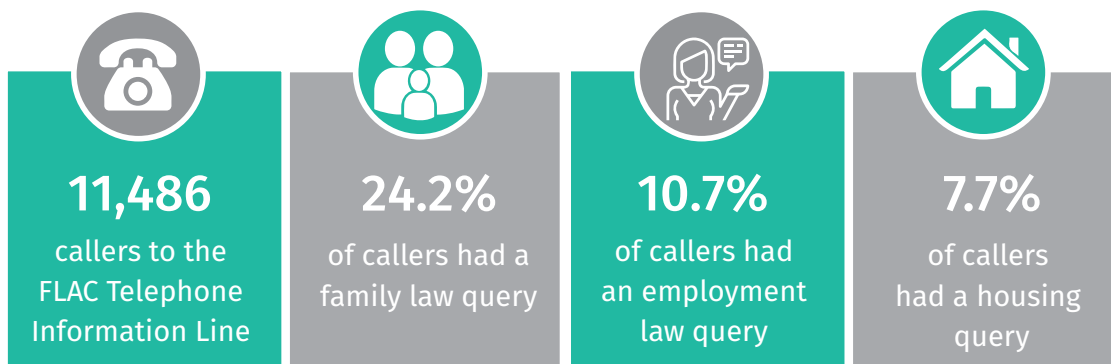
Of these

- 50% of calls came from tenants
- 43% of calls came from landlords
- 2% from a lodger
- With the remainder from letting agents and management companies

LAY LITIGANTS

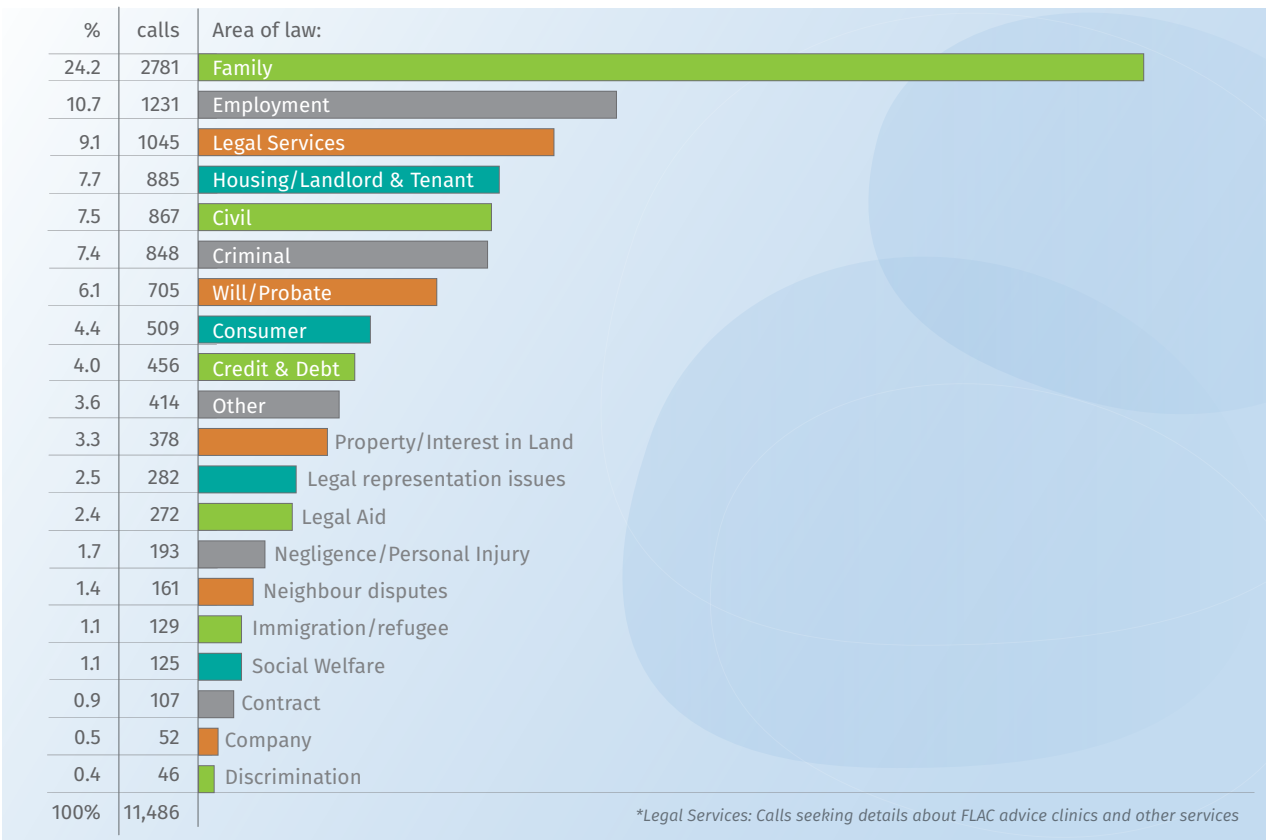
FLAC's information line regularly receives calls from lay litigants who are endeavouring to represent themselves in complex court cases and who are desperately in need of advice and representation which FLAC does not have the resources to provide.

QUERIES TO FLAC'S TELEPHONE INFORMATION & REFERRAL LINE

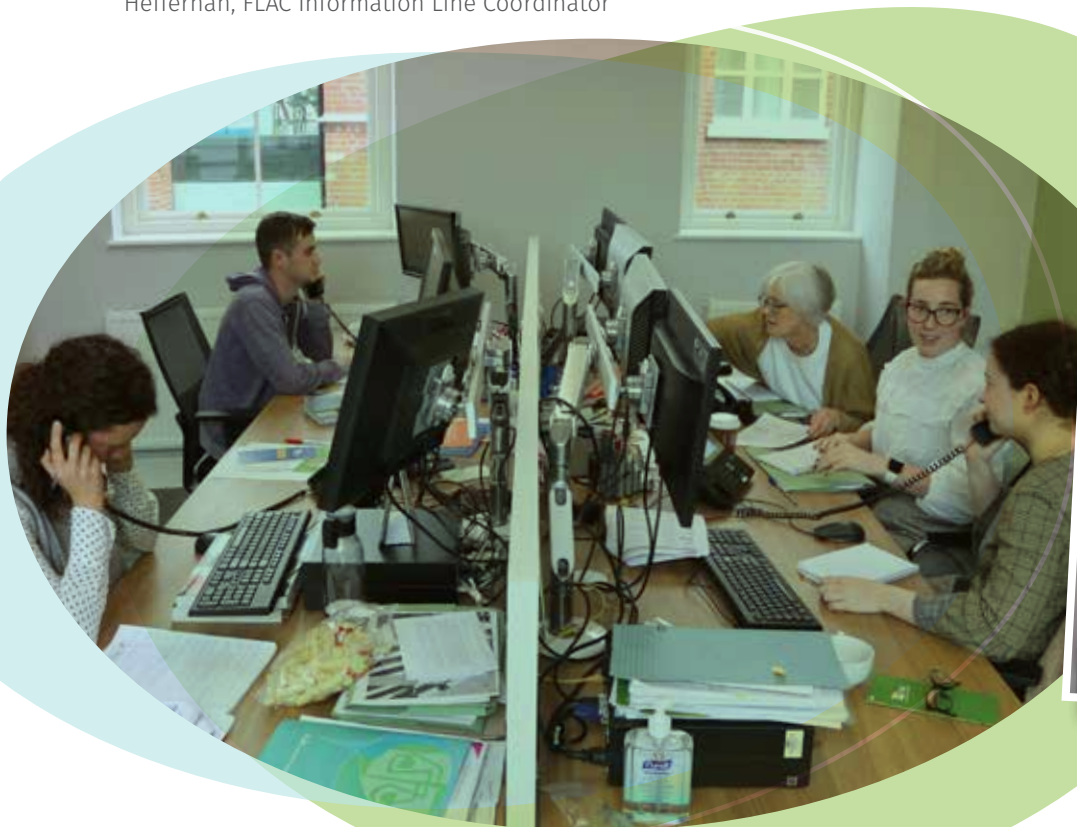


FLAC INFORMATION LINE 1890 350 250 or 01 874 5690,
Mon -Thurs: 9am - 5.30pm, Fri 9am - 5pm

QUERIES TO FLAC'S TELEPHONE INFORMATION AND REFERRAL LINE 2018



FLAC interns Maria Saracut, Stephen Bourke, Catherine Everitt and Elizabeth Quinn with Jackie Heffernan, FLAC Information Line Coordinator



Jackie Heffernan
FLAC Information Line
Coordinator.

LEGAL ADVICE CLINICS

A network of FLAC clinics operate in 71 locations across the country providing basic, free legal information and advice. We would like to acknowledge the support provided by the Citizens Information Board and the staff and management of local Citizens Information Centres who facilitate and coordinate these clinics.

Irish Sign Language Interpretation

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

An tSeirbhis Saor- Chomhairle Dlí

In association with Conradh Na Gaeilge, FLAC Clinics are available through Irish by appointment in Cork, Dublin and Galway.



Katie Dawson BL, Zsé Varga and Grace Mulvey

Pop-up LGBT+ clinic

FLAC held a pop-up LGBT+ clinic in Outhouse as part of Pride week on Monday 25th June.

Pop-up disability rights clinic

We also held a pop-up disability rights clinic in the Central Remedial Clinic (CRC) on 11th June 2018.

What were the main queries about?

- 34.1 % Family law
- 15.6 % Employment law
- 9.6 % Wills/probate
- 7% Housing/landlord and tenant issues

Family law: of 4664 queries

- > Divorce and separation (52%) followed by custody, access and guardianship
- > 418 - Domestic violence

Employment law: of 2129 queries

- > 533 - 25% Contract terms
- > 491 - 23% Dismissal
- > 214 - 10% Discrimination
- > 182 - 9% Redundancy

KEY LEGAL ADVICE STATISTICS



13,678
individuals received
basic legal advice
at a FLAC clinic



71
clinic locations
around Ireland



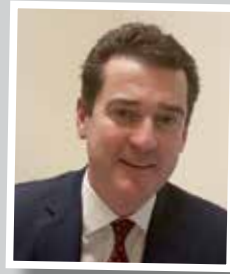
main areas of enquiry
Family, employment,
wills/probate
& housing



30
drop-in clinics
for members of the
Roma community



FLAC Volunteer Development Manager
Zsé Varga visits the FLAC clinic in Cavan



Paul Wynn, Boyle
FLAC Volunteer



Mary Clear, Tullamore
FLAC Volunteer



Martin Hughes,
Thurles FLAC Volunteer



Jim Brennan, Wicklow
FLAC Volunteer



Mary O'Dwyer, Tipperary
FLAC Volunteer



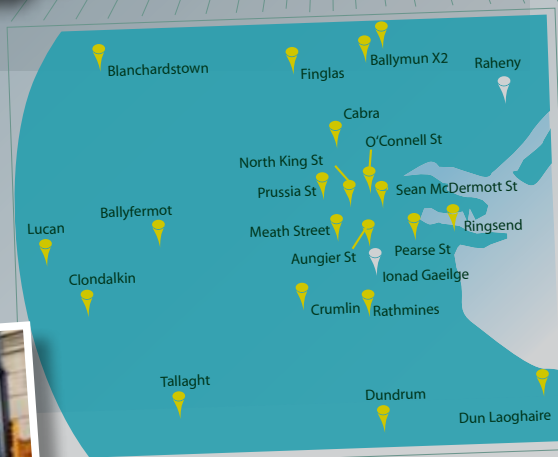
Zsé with Siobhán Dunne,
Wexford FLAC Volunteer



Tralee Volunteers,
Yvonne Kelly and
Mary Corkery at
Tralee Volunteer
event 8 August 2018



Sharon Devereux,
Youghal FLAC Volunteer



Ciaran Moloney, Dublin
FLAC Volunteer

See www.flac.ie for a full list of all the FLAC clinics, including location, opening hours and whether an appointment is required.

JUSTROM:* Access to Justice for Traveller and Roma women

FLAC continued to facilitate the operation of legal advice clinics aimed at the Traveller and Roma communities as part of the JUSTROM Programme until the end of January 2018.

*The JUSTROM Programme was a joint programme of the Council of Europe and the European Commission, which aimed to improve access to justice for Roma and Traveller women.

Roma Clinic

In June 2018 with the assistance of the Department of Justice & Equality, FLAC began the legal clinic for the Roma community.

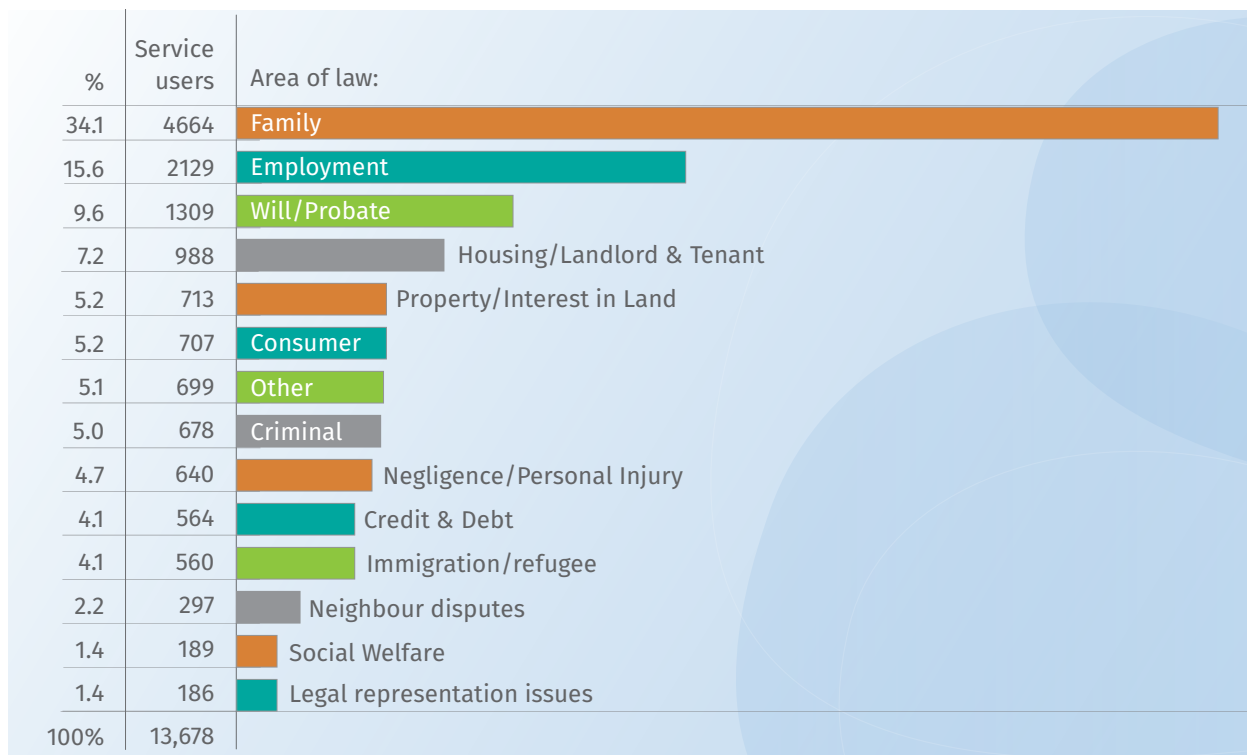
In 2018 FLAC:

- held 30 drop-in clinics for the Roma community
- had 40 active case files for Roma clients
- provided advocacy services for 20 Roma clients

Advising the Advisors: Specialist Advice and technical support

FLAC supports advisors working in Citizens Information Centres (CICs) who are themselves assisting their clients at a local level. There were 222 queries from CICs advisors in 2018 on a range of issues. FLAC also provided written legal technical support for 9 cases.

QUERIES IN LEGAL ADVICE CLINICS 2018





Helen Brady, FLAC intern

Technical support for MABS

FLAC continued to provide legal technical support to the Money Advice and Budgeting Service (MABS) in 2018. A total of 129 cases were considered where a full review and written assessment of the case was provided in the areas of mortgage arrears, repossession proceedings, enforcement of unsecured debts or consumer credit rights and social welfare.

FLAC Website

In 2018 we had:

- 71,753 users
- 280,738 page views
- 6,129 downloads

PILA Bulletin

PILA publishes and distributes the fortnightly PILA Bulletin, a roundup of human rights and public interest law news, events and jobs from around the world. Over 2,300 people in the legal profession, NGO sector and academia in Ireland and abroad 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.



Zsé Varga @zsevarga • 13 August 2018

My @flacireland clinic visit brought me to Ballina, Co. Mayo. It was my pleasure to meet Adrian Bourke solicitor, who started volunteering with Flac in the early 1970's and still is an active supporter of his local clinic giving free legal advice in his local @citizensinfo



Rachel Power, PILA, Eamonn Conlon, A&L Goodbody, Eithne Lynch, A&L Goodbody, Roisin Fitzpatrick, Deloitte, Gearóid Ó Cuinn, Global Legal Action Network, and Sinéad Smith, A&L Goodbody, at the PILnet Global Forum in Berlin, November 2018

LEGAL ADVICE FOR ORGANISATIONS – THE PILA PRO BONO REFERRAL SCHEME

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

The Pro Bono Referral Scheme facilitates access to pro bono legal services for social justice organisations.

The most common area of assistance for organisations was corporate governance, followed by disability law, women’s rights, data protection and immigration.

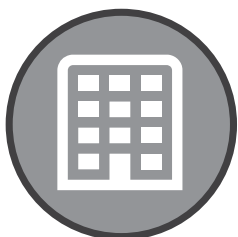
PILA also held a number of roundtables and events on the Council of Europe’s Collective Complaints procedure, the

proposed women’s referendum and EU Treaty Rights.

In 2018 PILA re-convened the Pro Bono Committee of partner law firms which now meets regularly to explore greater collaboration in pro bono development.

In 2018 we also saw the first appointment of a Pro Bono Associate in Ireland, with A&L Goodbody hiring Eithne Lynch (formerly of PILA) to manage their pro bono practice. Arthur Cox has since appointed Carolann Minnock into the role of Pro Bono Associate. This is a significant step within law firms who see pro bono legal work as an important part of their professional and corporate responsibility.

KEY PILA STATISTICS



115

social justice organisations directly assisted through PILA’s Pro Bono Referral Scheme



120

new legal advice and litigation referrals facilitated, along with 4 law reform working groups and 5 legal education sessions for 125 NGO staff



400

individuals received support and representation through new and existing Signature projects

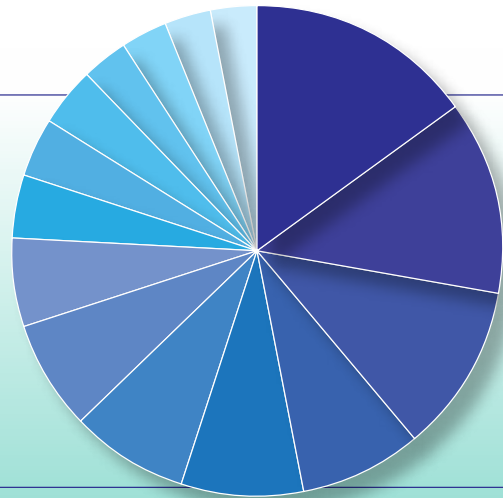


30

law firms, 350 barristers and 6 in-house legal teams provided their services free of charge

REFERRAL FOCUS: JANUARY 2018 – NOW

■ Corporate Governance	■ Housing & Homelessness
■ Disability	■ LGBT
■ Women's Rights	■ Criminal Law
■ Data Protection	■ Contracts
■ Immigration	■ Prison Rights
■ Administrative Law	■ Transparency & Corruption
■ Travellers	■ Older People
■ Family Law	



“In our long quest to improve legal protection for victims of domestic violence, Women’s Aid found the assistance of the PILA pro bono legal advice scheme invaluable.

The Domestic Violence Act 2018 includes a number of significant changes, many of which have been the subject of our work with PILA, such as for example the extension of eligibility for Safety Orders to all partners in an intimate relationship and improved eligibility for Barring Orders for cohabitant partners. The legal advice that PILA provided was a key component of our work and will make a real difference on the ground when the Domestic violence Act 2018 is commenced.”

Monica Mazzone, Policy Consultant with Women’s Aid



Eithne Lynch, formerly of FLAC/PILA, appointed the first Pro Bono Associate in Ireland

PRO BONO REFERRAL SCHEME

PILA’s Pro Bono Referral Scheme give NGO partners 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 that may benefit a wider group;

LEGAL EDUCATION SESSIONS – to better equip NGO staff in navigating the law; and

SIGNATURE PROJECTS – where a law firm and NGO partner collaborate to fill a particular unmet legal need.

Some pro bono support from 2018:

Traveller History: Drafting of the Traveller Culture and History in Education Bill 2018 which provides for mandatory inclusion of Traveller history and culture as part of the school curriculum at primary and post primary level.

Disability Rights: Establishment of the new Disability Rights Lawyers Network that will work to advance disability rights in Ireland.

#MeToo: Working group on the impact of the #MeToo campaign and the legal avenues of redress available to women who have experienced sexual harassment and violence.

Residential Care: Representation for a young deaf woman inappropriately placed in a nursing home with no access to communication.

Homelessness: A&L Goodbody partnered with Mercy Law Resource Centre and Focus Ireland to deliver free legal advice clinics and legal representation to people who are homeless or at risk of losing their homes.

“Working in partnership with PILA enables us to achieve greater impact with our pro bono practice. PILA provides a valuable service connecting the Arthur Cox team with pro bono clients in areas of public interest law yielding results for clients and the communities they serve. By connecting with PILA and its network we benefit from an important know-how exchange and technical assistance.”

Carolann Minnock, Pro Bono Associate with Arthur Cox

Colette Kelleher @ColetteKelleher • 11 July 2018

Thank you PILA for all your help. The Traveller Culture & History in Education Bill passed second stage in Seanad today unopposed by Govt with full cross party support. Looking forward to working with you and others in taking the important next steps [@PILAIreland](#) [@itmtrav](#)



Oein De Bhairduin, James Kane, BL, Senator Collette Kelleher and Catherine Joyce at a briefing of the Traveller Culture & History Bill in Leinster House, July 2018



VOLUNTEERS AND MEMBERS OF THE PILA PRO BONO REGISTER

FLAC relies on a wonderful team of over 500 volunteer advisors and assistants.

PILA Pro Bono Register:

PILA supports an alliance of 135 organisations, 30 law firms, 350 barristers and 6 in-house legal teams.

Golden Pin awards

58 volunteers were awarded the FLAC volunteer Golden Pin awards at a ceremony to acknowledge, thank and celebrate volunteers, which took place at the Twelfth Annual Dave Ellis Memorial Lecture on the 13th December 2018.

“Hi! I met Mary at Ballymun Library. She answered my query and was very helpful. Thank you for your excellent service.”

Caller to FLAC Clinic



FLAC Volunteer Development Officer Kuda Mushaya and FLAC Volunteer Development Manager Zsé Varga celebrate International Volunteer Day

The 2018 awardees were:

Brendan Ahern	William Harvey	John O’Carroll
Margaret Barry	Dara Hayden	Claire O’Doherty
Denise Biggins	Catherine Hickey	Karen O’Donovan
Ken Byrne	Laura Horan	Adrian O’Higgins
Gerard Carthy	Philip Judge	Joan O’Mahony
Mary Clear	Angela Keane	Paul Jeremy O’Reilly
Claire Colfer	Jo Kenny	Rory O’Reilly
Marie Conroy	Caitriona Lanigan	Máire O’Sullivan
Conor Corcoran	Debbie MacLachlan	Gráinne Quinn
Michael Crowley	Niamh Mahon	Ciara Redmond
Deirdre Curtis	Aoife Masterson	Daragh Ryan
Patrick Egan	David McAlinden	Maeve Sharpley
Mark Eiffe	Justin McKenna	Michelle Sheeran
Hazel Fannon	James McSweeney	Michelle Spellissy
Liam R. Fitzgerald	Doreen Mescal	Maura Teahan
James Flynn	Helen Moore	Brian Walsh
Lorcan Gearty	Peter Murphy	Jack Walsh
Patrick Groarke	Pauric Murray	Paul Wynn
Frank Halley	Kuda Mushaya	
Elizabeth Halpenny	John Neville	



Some of the 2018 FLAC Golden Pin recipients at the Dave Ellis Memorial Lecture (Front L-R): Kuda Mushaya, Zsé Varga (FLAC Volunteer Development Manager), Laura Horan, Doreen Mescal, Michelle Sheeran, Jo Kenny, and (Middle L-R): Liam R. Fitzgerald, Margaret Barry, Mark Eiffe, and (Back L-R): Catherine Hickey, Peter Ward (Chairperson of FLAC) David McAlinden

“Volunteering with FLAC allows me to take my qualification and put it to practical use towards a good cause. It has been a real ‘eye-opener’ for me and given me a window into the great need in Ireland for legal assistance.”

Ronan Hickey, Rathmines volunteer

“It is very fulfilling to hear a client thank you for taking the time to explain what next steps they need to take to tackle their issue, and point them in the right direction.”

Peter Hughes, Clondalkin volunteer

Keith Walsh and Beatrice Cronin deliver Family Law training for FLAC volunteers, May 2018



LEGAL EDUCATION AND TRAINING

NGO training

PILA delivered 5 Legal Education sessions to 125 NGO staff on such topics as refugee law, spent convictions and the Residential Tenancies Board.

Training was also provided on company incorporation to participants of the new MRCI (Migrant Rights Centre Ireland) training programme aimed at increasing migrant women's entrepreneurial activity in Ireland.

FLAC Volunteer Training

217 volunteers attended 6 FLAC volunteer training events in Dublin and Cork in 2018 on topics including family law, wills and probate, legal aid and employment.

The Second Annual FLAC Volunteer Conference was held on 17th November 2018 and topics included key human rights judgments, family law with a focus on the LGBT context, RTB legislation and how to deal with difficult situations that arise within the FLAC clinics.

Stephen Bourke, Bláithín Sheil and Clare Lawlor of the FLAC Telephone Information and Referral Line at Family Law volunteer training, May 2018



Anne Leech, FLAC Volunteer, Keith Walsh, Solicitor and Catherine Hickey, FLAC at Family Law Volunteer Training, May 2018



Attendees at a PILA training session for migrant female entrepreneurs on how to incorporate a company

A big thank you to all who volunteered their time to prepare and deliver our events:

- Keith Walsh, Solicitor; Beatrice Cronin, BL; Maeve Carney, Solicitor; Karl Dowling BL; Arron Hall Solicitor; John Hussey, Solicitor; Setanta Landers, Solicitor; Owen Keany, BL; Michael Lynn SC; Katie Dawson BL; Eoin Mac Aodha, Solicitor; Jim Walsh, Training & Development Officer, Irish Advocacy Network.

FLAC Volunteer Human Rights Training Session by Michael Lynn SC



MABS training events

Continuation of the provision of legal training to Money Advice and Budgeting Service (MABS) in 2018. A total of four one day sessions on The Credit Reporting Act 2012 and Consumer Credit Legislation were delivered in Dublin, Sligo and Limerick.

Litigation in the Public Interest and Strategic Casework

2

FLAC is an independent law centre that takes on a number of legal cases each year in the public interest. These cases may have the potential to benefit a wider group of people as well as being important for the individual client. In addition, social justice NGOs may obtain litigation support through PILA's Pro Bono Referral Scheme.

2018 HIGHLIGHTS

The infographic consists of ten interconnected boxes, each containing a case highlight. The boxes are arranged in a roughly circular pattern. Each box features a white icon on a red background at the top or bottom. The text is white on a red background.

- Icon:** House
Text: A tenant receives one of the highest awards made by the Residential Tenancies Board, when a Landlord is ordered to pay €13,766.15 for unlawful termination of tenancy, breach of landlord's obligations and unreturned deposit.
- Icon:** Gavel
Text: A person with a hearing disability who was refused employment on "health and safety" grounds, settles an employment discrimination claim with the payment of compensation.
- Icon:** Person silhouette
Text: A Roma woman who was refused a job in a hotel because she was wearing a traditional skirt, receives financial compensation in the settlement of an employment discrimination claim.
- Icon:** Scales of justice
Text: Two people with HIV receive financial compensation in the settlement of two discrimination claims against health service providers.
- Icon:** Court building
Text: A woman is granted legal aid and waiver of the financial contribution for High Court family law proceedings.
- Icon:** Person silhouette
Text: A woman living in Ireland for 10 years who had been refused child benefit on the basis that she was not habitually resident, wins social welfare appeal and receives child benefit plus arrears.
- Icon:** Court building
Text: EPIC, a small US privacy NGO, represented by FLAC, furnished the CJEU with a submission in *Data Protection Commissioner v Facebook & Max Schrems*, a case which concerns human rights, privacy and data protection.
- Icon:** House
Text: An older Roma woman whose rent supplement had been suspended for over a year placing her at risk of homelessness, has the supplement restored and arrears paid.
- Icon:** Person silhouette
Text: (This icon is at the bottom left and does not have a corresponding text box.)
- Icon:** Person silhouette with scales
Text: (This icon is at the bottom center and does not have a corresponding text box.)

CASEFILES

51 new casefiles were opened during 2018 with 57 carried over from 2017. Of these 108 files a number of legal issues arose which are summarised below by reference to the jurisdiction in which they arose and are discussed in more detail under thematic headings.

Court of Justice of the European Communities:

- A submission was furnished to the CJEU on behalf of EPIC in *Data Protection Commissioner v Facebook & Max Schrems*

High Court:

- Four applications for leave to apply for judicial review were granted: Two citizenship and two housing. The two housing cases were settled in favour of the applicants.
- High Court decides to refer privacy, human rights case *Data Protection Commissioner v Facebook & Max Schrems* to the CJEU. FLAC represented the amicus curiae EPIC.

Circuit Court

- Threatened defamation proceedings by a Roma woman against a shop that refused her access were settled for €7,500.

CASEFILES BREAKDOWN

Files Carried Over	New Files	Total Active Files	% Total Active Files	Area of Law
19	13	32	30	Housing
12	12	24	22.4	Discrimination/Defamation
10	10	20	18.7	Social Welfare
10	3	13	12.1	Citizenship
2	3	5	4.7	Data Protection
-	3	3	2.8	Legal Aid
-	2	2	1.9	Employment
4	4	8	7.4	Other
57	50	107	100%	

Workplace Relations Commission

- Five Equal Status discrimination claims were settled on a confidential basis with clients receiving a total of €50,000, one claim on the Traveller Community ground in relation to discrimination in education was unsuccessful.
- Ten new claims were made to the WRC in 2018: eight Equal Status and two Employment Equality cases.
- Of the eight Equal Status claims, three were on the Disability ground, four were on the Race ground and one was on the Housing Assistance ground.
- Two cases of alleged discrimination on the Race ground and one case on the Disability ground concerned access to public transport.
- Two of the three claims on the Disability ground were on behalf of children with intellectual disabilities in relation to access to the “July Provision” scheme.
- Two Employment Equality discriminations claims lodged in 2018 were settled. One claim was based on the Race ground and the other on the Disability ground.

Residential Tenancies Board

- FLAC secured one of the highest awards of compensation given by the RTB to date in a case concerning an unauthorised eviction carried out by a landlord against a couple and their three children who became homeless on foot of the illegal eviction. The landlord was ordered to pay €13,766.15, being €10,000 in damages for the unlawful termination of the tenancy, €3,000 in damages in respect of breaches of landlord’s obligations and €766.15 in respect of unreturned deposit. The quantum of damages awarded reflected the seriousness of the landlord’s actions in forcing the family concerned to leave the property without notice and without availing of the appropriate dispute resolution procedure under the Residential Tenancies Act 2004 (as amended).

Social Welfare Appeals Office

- Four new appeals to the Social Welfare Appeals Office. No appeal lodged in 2018 received a hearing date within that calendar year.
- One appeal lodged in 2017 was heard. The appeal was successful and the client’s claim for Child Benefit was awarded along with over a year of arrears.



FLAC staff and interns at the 'Raise the Roof' rally, October 2018

Use of strict confidentiality clause in settlements of proceedings with State

One issue of concern that has arisen from FLAC casefiles is the use of strict confidentiality clauses in the settlement of proceedings against the State. FLAC has dealt with a number of cases in 2018, where the State body will settle a claim on terms favourable to the client but only on the basis that both the terms and the fact of the settlement are confidential. Both the clients and their legal advisors are bound by such settlement terms and cannot even reveal that a particular case has in fact been settled. This is despite the fact that the initiation of proceedings may already be in the public domain.

Legal Aid Board:

- Two appeals to the Legal Aid Board Appeals Committee, one successful.

Office of the Information Commissioner

- FLAC made one complaint on behalf of a client to the OIC in relation to how a Local Authority had handled a client's FOI request for their full housing file. In the course of the OIC's investigation, the Local Authority conceded that they had been incorrect in refusing access to the housing file on the basis that it was a "public document" and that such files should be released under FOI.

The settlement of such claims may be of interest to a wider group of vulnerable people, other legal advisers and the public in general. There is a significant power and resources imbalance between the parties to these settlements and the issue at stake may be of great importance to the applicants. Strict confidentiality clauses prevent legitimate discussion of action or inaction by the State and also make it more difficult for other victims to obtain supporting evidence for similar complaints.

FLAC fails to see how settlement agreements which include a term that the fact of the settlement of proceedings must remain confidential can possibly be in the public interest.

HOUSING

Casefiles on housing, homelessness and landlord and tenant issues constituted the largest category of total casefiles dealt with in 2018 (30%) and new files opened (33%). The issues concerned included access to social housing, failure to be assessed as homeless, failure to provide any, or appropriate emergency accommodation, arbitrary removal from the housing list, lack of regulation of provision of emergency accommodation, conditions of social housing and the validity of a notice of termination.

Two judicial review cases in the area of housing were settled. One case concerned a young woman with serious illness who, pregnant and living on the side of the road in a caravan, was served with a 48-hour eviction notice. After correspondence from FLAC the local authority agreed not to forcibly evict her but subsequently removed her from the housing list. Judicial review proceedings of the decision to remove her from the housing list without

a proper examination of her full circumstances were settled on the basis of her being reassessed as homeless and being provided with emergency accommodation and to make a proposal regarding long term housing.

The second judicial review case concerned a young Traveller family with two children who were living in a small unserviced caravan. The judicial review of the local authority's failure to assess them as homeless settled on the basis of the local authority agreeing to carry out a further assessment of their situation. The couple and children remain homeless.

EU Treaty rights

Two files opened during the year concerned the refusal of social housing supports to EU citizens where they owned properties of negligible value in their home country. The Crosscare organisation which referred the cases, had engaged in considerable

FLAC at the 'Raise the Roof' rally, October 2018
(L-R) Catherine Hickey, Elizabeth Quinn, Stephanie Lorde,
Rachel Power, Maureen Gourley, Caroline Smith,
Miah Phelan Sweeney



advocacy on their behalf. In both cases the relevant local authority agreed to provide social housing supports to the families concerned after representations were made in relation to the relevant Social Housing (Assessment) Regulations and possible breaches of EU law arising from the refusal of social housing supports.

Garda vetting prior to allocation of housing

Section 14 of the Housing (Miscellaneous Provisions) Act 1997 allows a local authority to refuse or defer an allocation of local authority housing or halting bays where the local authority considers that a member of the household is engaged in anti-social behaviour or that the allocation is not in the interests of good estate management. Section 15 of the same Act makes provision for the exchange of information between local authorities and a number of specified bodies including An Garda Síochána in relation to anti-social behaviour in the context of the allocation of social housing. A concern that FLAC has identified from its case files concerning Travellers and housing (but which may impact other housing

applicants) is the vague and imprecise nature of the legislation dealing with Garda vetting prior to the allocation of local authority housing and the huge disparity between local authorities in relation to the assessment of disclosures made by Gardaí and more worryingly the nature of certain disclosures being made by An Garda Síochána itself.

There are no specific regulations made under either section 14 or 15 to define further the information that is relevant or to indicate what constitutes “good estate management”. The two case studies below are just two of a number of files where the issue of information exchange between An Garda Síochána and local authorities appears to have strayed beyond the purpose of the statutory regime, and where better guidance should be provided to members of An Garda Síochána about their role in vetting applicants for local authority housing. In addition, FLAC believes that An Garda Síochána and local authorities should review their practices in light of the GDPR to ensure that the information being shared is not in breach of the General Data Protection Regulation.

Two cases illustrate this problem:

CASE STUDY 1

The case concerned a judicial review of Council's refusal to assess a family as homeless. On foot of a Freedom of Information request it emerged that An Garda Síochána was providing extensive information to the Council in relation to the family. Most of the stated information was inaccurate and largely based on hearsay, and went far outside the particular knowledge of the Garda members concerned. The filing and contents of an Affidavit by An Garda Síochána on behalf of the Council in the court proceedings in support of the Council's position indicated that they lacked objectivity in how they engaged in the dispute between the client and the Council. The Affidavit contained information in relation to parking offences and locations where the clients were picked up by traffic cameras as they were driving, which was not relevant in relation to whether the clients were homeless or not, and went outside the purpose for which the data was collected in the first place.

The case ultimately settled with the family being assessed as homeless by the local authority.

CASE STUDY 2

The case concerned a Traveller woman with a number of children who became homeless. The local authority agreed to allocate her a particular house. Local residents became aware of the allocation and went to An Garda Síochána stating they had concerns about the family as they had a bad reputation. The woman concerned had a common surname among Traveller families but was not part of the family with the stated "bad reputation". Local Gardaí then contacted the Council by email to express concern regarding the allocation. The offer of housing to her was withdrawn without explanation. The contact between An Garda Síochána and the local authority only emerged on foot of an FOI request, and in the course of adjudicating on a subsequent complaint. The email contained significant hearsay in relation to the family concerned and passed through many email accounts within An Garda Síochána and the local authority before causing what appeared to be a wholly unjustified denial of access to housing and considerable hardship to the woman and her children.

This exchange was without any statutory basis as the information requested by the local authority pursuant to section 15 of the Housing Act 1997 indicated that the woman concerned had no history of criminality or anti-social behaviour.

SOCIAL WELFARE

Social Welfare issues constituted the third largest area of FLAC's casework in 2018.

Delay and fair procedures

A particular concern is delays in resolving issues around payments, particularly in circumstances where clients are not in receipt of any payment, where their payments have been suspended or where significant overpayments have been assessed against them.

As an example, two social welfare appeals lodged in 2017 only received hearing dates in 2019, and two social welfare appeals lodged in early 2018 still have not received hearing dates as of August 2019.

CASE STUDY - Suspension of rent supplement

FLAC acted on behalf of an older Roma woman whose Rent Supplement payment had been suspended in October 2016 without notice to her, pending an investigation. The woman had engaged with the Department and had provided documents they requested from her, but her payment remained suspended and she faced becoming homeless due to the rent arrears she was accruing. In December 2017 after no response to correspondence, FLAC initiated High Court proceedings seeking an Order for the Department to make a determination in relation to the investigation arguing that the inordinate delay was unlawful. Four days after proceedings were initiated, the investigation into the woman's payment was concluded. In January 2018, the woman's Rent Supplement payment was restored and arrears were paid in respect of the period of the suspension. FLAC believes that the Department should never stop a primary payment to a claimant unless it has carried out a full investigation beforehand.

CASE STUDY - Assessment of overpayment

In 2017, an overpayment exceeding €20,000 was assessed against a client in respect of a Jobseeker's Allowance's claim dating back to 2008 and 2010. FLAC sought an internal review of this decision in March 2018 which highlighted how difficult it was for the client to challenge a decision in respect of an almost decades-old claim that had long been closed. The Department only replied in August 2018 stating that they would not provide an internal review of the decision. They then refused a request from FLAC to provide reasons for refusing to engage with the new evidence and legal submissions. It was only after FLAC sought reasons under FOI that the Department stated that they were refusing to internally review the decision because "the most appropriate avenue in the circumstances was an independent appeal by the Appeals Office". FLAC then lodged an appeal in August 2018 and, as of August 2019, our client is still waiting a hearing date.

Issue of concern: Application of Habitual Residence Condition

The application of the Habitual Residence Condition (HRC) continues to feature in casework and has been a source of complaint by FLAC, other NGOs and international human right bodies. The complexity of the HRC gives rise to very variable results across deciding officers in the Department, and is often applied in an overly rigid manner, without regard to “all the circumstances of the case” as required by section 246 of the Social Welfare (Consolidation) Act 2005.

This problem is experienced by a number of cases of Roma clients who have resided in the State in excess of five years, but find it difficult to establish the documentary evidence necessary to prove such residence. FLAC considers that there should be an onus on the Department to assist applicants in relation to establishing compliance with the HRC and better guidance as to how residence in the State can be evidenced.

CASE STUDY – Habitual Residence Condition

Roma woman living in Ireland for 10 Years refused Child Benefit on the basis that she did not satisfy the Habitual Residence Condition

A Roma woman’s application for Child Benefit in respect of two infant children had been rejected on the basis of a finding that she was not habitually resident in the State.

The woman had been living in Ireland for ten years, had a fixed address in the State and the children concerned had only ever lived and attended school in Ireland. The woman, a mother of eleven, did not have a significant employment record.

The Appeals Officer found that in the circumstances where the woman could provide evidence of her children attending school in Ireland, evidence of her attendance at a GP in

Ireland over a ten year period and a statement from an advocate who knew her throughout her residency in Ireland, he was satisfied that she was habitually resident in the State. Her appeal succeeded on that basis and Child Benefit was awarded resulting in a back payment to the date she made her original application.

PRIVACY AND FUNDAMENTAL RIGHTS OF IRISH AND EU CITIZENS

Data Protection Commissioner v. Facebook & Max Schrems

Throughout 2018 FLAC continued to provide representation to EPIC, the Electronic Privacy Information Center, a small privacy NGO, permitted to appear as an amicus curiae or ‘friend of the Court’ in a case concerning a complaint to the Data Protection Commissioner that an individual’s personal data is being transferred to the US in the absence of adequate protections as required by law. The High Court appointed EPIC as an amicus to offer a countervailing perspective to the US government which had also been appointed as an amicus in the case. In July 2018 the Supreme Court granted leave to Facebook to appeal against the decision of the High Court to make a preliminary reference to the Court of Justice of the European Union (CJEU) (EPIC did not

participate in this appeal to the Supreme Court. In May 2019 the Supreme Court dismissed the appeal).

In 2018 EPIC furnished a written submission to the CJEU outlining the absence of legally enforceable protections for EU citizens whose personal data is targeted or accessed by surveillance authorities in the US, and the lack of any meaningful remedies, therefore supporting the conclusion that the transfer of personal data from the EU to the U.S. under the ‘standard contractual clauses’ (SCC) decisions violates the essence of the rights of individuals under Articles 7, 8 and 47 of the Charter of Fundamental Rights of the European Union. A hearing took place in 2019 and a decision of the CJEU is awaited.



Marc Rotenberg, President of EPIC, speaking at the Twelfth Annual Dave Ellis Memorial Lecture, December 2018



FLAC's Legal Team – Legal Officer Christopher Bowes, Solicitor Maureen Gourley and Managing Solicitor Sinéad Lucey

CITIZENSHIP

Citizenship queries arose frequently during 2018, particularly in FLAC's Roma clinic.

There are no published guidelines in relation to proving residency in the State in order to qualify for citizenship. Clients were required to provide extensive documentation in relation to several years of residence, with any perceived gaps in such information leading to their application being closed. Clients are often unable to afford to make a fresh application. In many cases, requests for additional documentation create lengthy delays in the application process and are far in excess of what they are deemed to be reasonable.

Also of concern to FLAC is the accessibility of the INIS offices to service users. The telephone line for the INIS office is only open for a total of 5 hours per week;

FLAC has found that even during these allocated times the contact numbers are not operable. In our experience emails to INIS for a simple update on an application also go unanswered.

FLAC wrote to the Minister of State at the Department of Justice and Equality in 2018 outlining our concerns and asking for an increase in the capacity of INIS. We outlined that the delay in processing citizenship applications causes hardship to those who have no travel documents and effectively become prisoners within the State. We received no substantive reply to our correspondence and are not aware of any improvements to the current system. We note that Irish Naturalisation & Immigration Service (INIS) does not come within the remit of the Ombudsman meaning that there is no outside scrutiny of its administrative processes.

PILA LITIGATION SUPPORT

First use of tactile voting: *“I’d been looking forward to this moment for years”.*

The constitutional referendum on the Eighth Amendment to the Constitution was the first opportunity for people with a visual impairment to cast their vote in secret using a new tactile voting template. In previous votes, people with a visual impairment had to vote with the assistance of a ‘trusted friend’ or get help from the presiding officer.

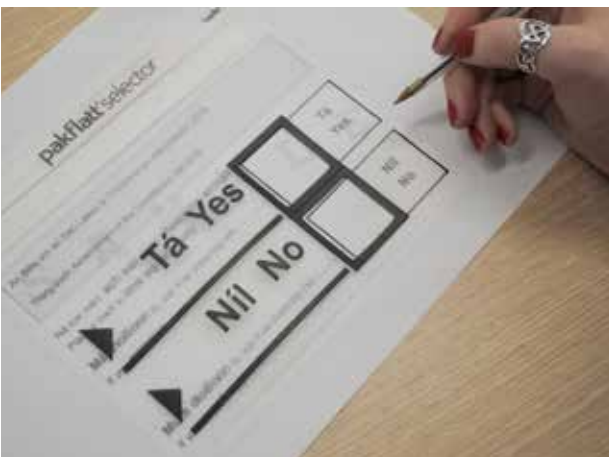
In 2017, Robbie Sinnott, who is visually impaired, won a landmark High Court case which found that the Minister for Planning and Local Government had a duty to provide arrangements to guarantee a secret ballot as far as is reasonably practicable. The Minister subsequently made the arrangements for the referendum. FLAC through its Public Interest Law Alliance (PILA) facilitated getting legal support for Mr Sinnott. Eversheds Sutherland Solicitors represented Mr Sinnott during a nine day hearing which spanned several months and throughout the three year legal battle.

Speaking after the referendum Robbie said:

“Using the tactile voting ballot in the recent referendum was a huge moment for me and for people who are blind or vision impaired. I’d been looking forward to it for years. Previously when voting, I had to compromise my privacy which was never acceptable to me. I have a constitutional right to vote in secret and just because I’m visually impaired shouldn’t alter this.

For the first time in my life, I no longer felt that my entitlement to vote was lesser than somebody else’s who just happens to be able to see.

This case also shows how the law can be used to fight injustice and exclusion for disadvantaged groups in society. Every day, people from marginalised groups must overcome serious obstacles to access even our basic rights. However, with the right guidance, you can use the legal system to ensure that you enjoy the same fundamental rights as everyone else.”



Chambers Ireland @Chambers Ireland • 10 May 2018

Great to see independent, secret voting rights for the visually impaired introduced. Robbie Sinnott’s case was a winning entry in our 2017 Corporate Social Responsibility Awards by @ESlawIE. Well done to all involved in championing this progress @CSRHubIrl @DeptRCD @robsorobbie



3

Policy, Research & Law Reform

2018 HIGHLIGHTS



Legal aid in repossession cases-draft amendment to the Civil Legal Aid Act 1995



Access to the Courts: recommendations in relation to lay litigants and people with disabilities

Draft amendment to improve remedies for people in mortgage arrears



Multi-Party Actions Bill



FLAC ENGAGEMENT WITH STATE CONSULTATIONS

In 2018 FLAC made 15 detailed policy proposals/submissions to advocate for change either through legislation or public

policy to a number of government departments and state bodies.

ACCESS TO JUSTICE

FLAC requested that Access to Justice be a central focus in the following :

- > The Law Reform Commission's fifth programme of Law Reform;
- > The Review of the Administration of Civil Justice;
- > The Legal Services Regulatory Authority's review on the Legal Practitioners Education and Training;
- > The Department of Justice and Equality's consultation on the National LGBTI Inclusion Strategy.

Legal aid continued to be a common theme in FLAC's policy and advocacy work throughout 2018

Legal aid: root and branch review

FLAC requested that the Review of the Administration of Civil Justice Group recommend that the provision of civil legal aid, which is a fundamental part of the administration of justice, be adequately resourced. It further requested that the Review and the Joint Oireachtas Committee on Justice and Equality¹ would recommend, as a matter of urgency, a root and branch

review of the scheme of civil legal aid and advice including eligibility criteria, means tests, contribution requirements and exclusion of areas of law. FLAC recommended that the Law Reform Commission² would be an appropriate body to conduct such a review.

Legal aid and repossessions: Draft amendment to the Civil Legal Aid Act 1995

We are aware that many defendant borrowers and local authority tenants facing family home repossessions do not receive legal aid due to a number of factors, including the exclusion from legal aid of disputes concerning rights and interests over land, and the rigid application of the merits test. In 2018 FLAC furnished to the Minister for Justice and Equality a draft amendment to the Civil Legal Aid Act 1995 which, if enacted, would ensure that legal aid would be available in repossession cases.

¹ *In its submission on the Multi-Party Actions Bill 2017*

² *Submission to the LRC on its fifth programme of Law Reform*



FLAC C.E. Eilis Barry and Senior Policy Analyst Paul Joyce appearing before the Justice Committee regarding the Multi-Party Actions Bill on 21 February 2018

FLAC believes that this amendment is necessary if the substantive amendments contained in the Land and Conveyancing Law Reform Amendment Act 2019 are to be made really effective. However this amendment was ruled out of order when it was tabled during the course of the consideration of this Bill.

Legal aid and legal education

FLAC also recommended to the review of the LSRA on Legal Practitioners Education and Training that legal education should be concerned with the inability of so many people to vindicate their rights given the inadequacies of the provision of legal aid.

Legal aid for discrimination claims and social welfare appeals

FLAC continued to advocate that the Workplace Relations Commission and the Social Welfare Appeals Office be designated as a “prescribed” tribunal for the purposes of the Civil Legal Aid Act 1995 to ensure that civil legal aid is available in claims of discrimination under the Employment Equality Act, the Equal Status Acts and in social welfare appeals.⁴

⁴ Department of Justice and Equality’s consultation on the national LGBTI Inclusion Strategy - see also FLAC ICERD submission and FLAC’s pre budget submission.

Legal aid and multi-party actions

One of FLAC’s recommendations to the Oireachtas Joint Committee on Justice and Equality regarding the Multi-Party Actions Bill 2017 was that civil legal aid be reviewed to include multi-party actions.⁵

External Consultative Panel to the Legal Aid Board

FLAC continued advocacy on legal aid through our participation in this external consultative panel in relation to the availability of waivers of fees applicable for legal aid, the operation of the means test, the number of legal aid certificates available to an applicant in any year, and the need for improved data collection.

Review of the Legal Services Regulatory Authority on Legal Practitioners Education and Training

The focus of FLACs submission was that the LRSA should seek to ensure a diverse and inclusive legal profession which should mirror the society it serves and that the terms and conditions of access to professional legal education be equality proofed.

⁵ The Law Reform Commission Report in Annex B contained a draft amendment to the Civil Legal aid Act 1995 providing that multi-party actions were not excluded matters.

ACCESS TO THE COURTS

FLAC submissions to the Review of the Administration of Civil Justice in 2018 included recommendations in relation to making the courts more user friendly, in particular, for lay litigants and people with disabilities.

Multi Party Action Bill 2017

FLAC recommended that the Law Reform Commission⁶ conduct a comprehensive review of barriers to public interest litigation including but not limited to:

- Multi-party and class actions;
- Protective Costs Orders;
- Developing the laws on standing;
- Increasing the discretion of a judge to award costs to an unsuccessful litigant in a public interest case.

Effective remedies for breaches of human rights:

The Equal Status Acts: 2000-2015

In its submission on the National LGBTI Inclusion Strategy, the ICERD and to the Commission on the Future of Policing in Ireland, FLAC made a number of recommendations on improvements to the equality legislation, including that Section 14 of the Equal Status Act 2000-2015 should be amended to ensure that an effective remedy is available for discrimination that has a legislative basis. It also recommended that there should be an effective remedy made available in relation to discrimination by public authorities including An Garda Suíochána in the exercise of their functions.⁷

Racial Profiling, Hate Crime and Hate Speech

FLAC also highlighted in these submissions the need for legislative provisions to provide effective remedies for racial profiling and in relation to hate speech.

⁶ as part of its fifth programme of Law Reform

⁷ FLAC also requested the LRC to examine this issue. Arising from its work on the Foy case, it asked the Law Reform Commission to examine the operation and effectiveness of the European Convention on Human Rights Act 2003 on the accessibility of any such remedies and any gaps in protection.

Mike Allen @MikeAllenFI • 10 April 2018

Paul Joyce @flacireland expertly challenges @centralbank_ie on treatment of people who opted for split mortgages and on their high figure for non-engaging borrowers @morningireland





First and second-tier quasi-judicial decision-making

FLAC also asked the Law Reform Commission to review the current system of first and second-tier quasi-judicial decision making bodies.

We were pleased to note that the Law Reform Commission intends to examine, as part of their Fifth Programme of work, protective costs orders and the reform of non-court adjudicative bodies and appeals to courts.



FLAC Director of Funding and Development Catherine Hickey as part of The Wheel's civil society group in Brussels



Sr Stan @susanwebstersol • 28 Nov 2016

It was an honour to receive the Trinity Flac Advocacy Award today, TCD's branch of the Free Legal Advice Centres Ltd. Fantastic work being done by FLAC in the area of social justice, promoting equal access to justice for everyone @TrinityFlac @flacireland

Brexit

FLAC continued to be part of a collective of human rights and civil society organisations and academics on the island of Ireland seeking to ensure that human rights and equality are to the forefront of discussions about Brexit and that the core principles of rights and equality set out in the Belfast Agreement are respected.

The Eighth Amendment

FLAC supported the repeal of the Eighth Amendment as necessary to achieve a framework for access to abortion which complies with human rights standards.

SOCIAL WELFARE

FLAC continued to advocate for essential reforms to the social welfare system in Ireland. FLAC as part of the Migrant Consultative Forum continued to raise these matters directly with the Department of Employment Affairs and Social Protection.

Pre-Budget Submission

FLAC called for adequate human and financial resources to be allocated to the Social Welfare Appeals Office to ensure further reductions in processing times for social welfare appeals and timely access to essential payments. The submission included recommendations that:

- 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;
- Ensure the Department informs claimants in cases of overpayments that they can apply to have it varied or reduced, and introduce clear, fair procedures to deal with overpayments;
- Consideration should be given to a cut-off point where if the Department has not attempted to recover overpayments they cannot do so because of the resulting unfairness in to claimants arising from significant delays;

- The Department should ensure when recovering social welfare overpayments that a person's income is not reduced below a figure which would have a negative impact on their fundamental rights to an adequate standard of living and social security, in this instance the basic rate of 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 so-called exceptional needs payments and urgent 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 to be resourced and restored to meaningful levels as a priority.

Habitual Residence Condition

In its submission on ICERD, its pre-budget submission and at the Migrant Consultative forum, FLAC continued to make recommendations that the Government undertake a review of the Habitual Residence Condition so as to establish whether it has a discriminatory impact on access to social welfare, particularly for Travellers and Roma.

PERSONAL DEBT, CREDIT AND FINANCIAL SERVICES LAW REFORM

Mortgage Arrears

The intractable nature of the problem of people in long-term mortgage arrears and the significant number of repossession cases in train in the Circuit Court continued to be a major focus of FLAC's policy analysis, with regular analysis throughout the year on the release of the Central Bank's quarterly figures on mortgage arrears, restructures and repossession activity and an opinion piece on mortgage arrears and loan sales.

Draft amendment to the Land and Conveyancing Law Reform Act to give greater powers to the Circuit Court to refuse to grant Possession Orders

FLAC, with the assistance of Senior and Junior counsel, drafted an amendment to the Land and Conveyancing Law Reform Act 2009 which if enacted would have enhanced the powers of the Circuit Court to decline to grant possession orders in arrears cases where it is satisfied that a mortgagor has made reasonable efforts to reach an appropriate agreement with the mortgagee through a personal insolvency agreement and where it is fair and reasonable to do so, subject to specific criteria. The amendment together with a detailed legal opinion was furnished to the Department of Justice and Equality in May 2018.



Paul Joyce appearing on RTÉ Six One News on February 23rd, 2018 discussing the sale of Ulster Bank mortgages in arrears

A draft amendment to the Civil Legal Aid Act 1995 was also furnished to ensure that legal aid would be available in such cases. The Land and Conveyancing Law Reform (Amendment) Act 2019 reflects a number of provisions in FLAC's draft but does not address the need for Legal Aid.

“Where to now for the hard cases?”

The first in a proposed series of events entitled; ‘Where to now for the hard cases?’ was hosted by FLAC and the Irish Mortgage Holders Organisation (IMHO) was held in the Ashling Hotel, November 26th 2018.

Written Submission to Finance Joint Oireachtas Committee on Bill to amend the Consumer Protection (Regulation of Credit Servicing Firms) Act 2015, May 2018

FLAC put forward a number of proposals designed to protect borrowers whose mortgage loans have been sold on to third parties, in particular when such loans are sold to vulture funds. FLAC'S proposals covered scenarios both where the borrowers have been meeting the terms of a long-term alternative repayment arrangement (ARA) before the sale and where they have not, as well as where the agreement is the subject of a short-term ARA or where it is not the subject of any repayment arrangement whatsoever. Alongside several other recommendations including a 'Charter of Rights' for borrowers whose loans have been sold, FLAC also proposed changes to the Code of Conduct on Mortgage Arrears (CCMA) that would make the decision-making process of lenders more transparent and that this Code be put on a statutory footing and made expressly admissible in legal proceedings.

Justice Joint Oireachtas Committee presentation on 21 February 2018 on multi-party actions - tracker mortgages

In addition to recommending that the scheme of civil legal aid be reviewed to include multi-party actions, FLAC's submission examined whether multi-party actions are a viable way of dealing with tracker mortgages.

Submission on Central Bank of Ireland – Strategic Plan 2019-2021

FLAC's submission underlined the importance that the Central Bank should place on Equal Status legislation, EU anti-discrimination directives and the EU Charter when implementing its primary objectives as well as being informed by the need to protect individuals against human rights abuses involving banks. It emphasised the need for dialogue between the Bank and civil society so that policies harmful to consumers are avoided. FLAC submitted a variety of recommendations revolving around the need for improved transparency in how the Bank handles its consumer credit remit and how it proposes to carry out its supervision, inspection and complaints handling functions under the Consumer Credit Act 1995 and evaluation of consumer protection measures being taken by the Central Bank. The submission also made recommendations in relation to the Code of Conduct and Mortgage Arrears, including reviewing and amending it and the effect of sales of portfolios of loans on borrowers' rights under the code.

4

Access to Justice Events



GENDER IDENTITY
Lydia Foy
Report Launch



FLAC CONFERENCE
The legal
implications
of the Public
Sector Duty
in Irish law



**New FLAC
Offices**



**Twelfth
Annual Dave
Ellis Memorial
Lecture**



**Oireachtas
Briefing on
Privacy and
Access to
Justice in the
Digital Space**

GENDER IDENTITY: LYDIA FOY REPORT LAUNCH

“A story of great human proportions” – Lydia Foy and the struggle for Transgender Rights in Ireland

On the 8 June 2018, Justice Edwin Cameron of the Constitutional Court of South Africa launched “A story of great human proportions” – Lydia Foy and the struggle for Transgender Rights in Ireland’, along with presentations from Michael Farrell, Sara Philips, Chair of TENI, Professor Donncha O’Connell and Lydia Foy.

The report details Lydia’s journey of complex and difficult litigation which resulted in radical reform of the law

on gender recognition and fundamental changes in how the State and society view gender and identity.

Speaking at the event, Lydia said she believed that her case had resulted in “*great progress*” in Irish society, not just through the legislation that followed it but in her personal life. She remarked: “*Looking back now, the case helped me explain being transgender to people.*”

Michael Farrell, Donncha O’Connell, Broden Giambrone (former CEO of TENI) and Lydia herself all made contributions to the report.

BeLonG To Youth Services @flacireland • 7 June 2018

Lydia Foy is a true hero for her brave and resilient struggle for gender recognition. @flacireland will launch a report tomorrow detailing her case which transformed the law on gender recognition.



Launching the report, Edwin Cameron stated: “*We are here today to not only honour Lydia Foy, but to also honour transgender and non-binary people everywhere currently experiencing struggle.*”



Michael Farrell, Lydia Foy, FLAC Chief Executive Eilis Barry, Justice Edwin Cameron and FLAC Chairperson Peter Ward launch the Lydia Foy Report



Justice Edwin Cameron addresses the audience, watched on by Sara Philips, Chair of TENI, Lydia Foy, Michael Farrell, Prof. Donncha O’Connell and Eilis Barry

GENDER IDENTITY: REVIEW OF THE GENDER RECOGNITION ACT 2015

Michael Farrell added: *“At its simplest, no-one should have to wait 22 years for her first application of what we now recognise as a basic human right as Lydia finally did in 2015, after first applying for a birth certificate in 1993.”*

“When Lydia began her case, there were no other trans people who were visible and willing to stand up and support her. Lydia fought this case alone, obviously with the help of FLAC, but the trans community were nowhere to be seen. From 1993-2007 she withstood attacks on her person, in the media and on her family life. I’ve met many people throughout my life who’ve been brave and forthright, but I’ve never met anyone like Lydia Foy.” Sara Philips, chair of the Transgender Equality Network (TENI)

Also at the launch, FLAC CE Eilis Barry described Lydia as *“an incredibly strong, brave and resilient person”*.

FLAC made a submission to the Department of Employment Affairs and Social Protection on the review of the Gender Recognition Act 2015. The final report of the group reflected some of the recommendations proposed by FLAC. FLAC recommended that children ages 16 and 17 should be able to avail of gender recognition as if they were 18. It also recommended that children under 16 should be able to avail of gender recognition through a simplified process in the District Court based on an application made by a parent or guardian, with the Court being required to hold the best interests of the child as the paramount consideration. FLAC also recommended the introduction of a third gender option such as “X” for non-binary and intersex persons on identity documents including passports and the provision of recognition for intersex and non-binary persons.



Michael Farrell speaking at the Lydia Foy Report Launch



Yvonne Woods, Caroline Smith, Peter Ward, FLAC Chairperson and Karl Hayden, Co-Chair Labour LGBT

THE LEGAL IMPLICATIONS OF THE PUBLIC SECTOR DUTY IN IRISH LAW

On Friday 19th October 2018, FLAC hosted the first conference to look specifically at the legal implications of the public sector duty, in Irish Law. Section 42 of the Irish Human Rights and Equality Commission Act 2014 imposes a positive duty on a wide range of public bodies, including government departments, state bodies and local authorities, to have regard to, in carrying out their functions, the need to: eliminate discrimination, promote equality of opportunity and treatment for staff and service users and protect the human rights of service users and staff.

The aim of the conference, which was chaired by journalist Vincent Browne, was to enhance awareness and understanding of the public sector duty amongst lawyers, NGOs, trade unions and the public sector.

FLAC Chief Executive, Eilis Barry, stated that the duty provides one of the most important national mechanisms for mainstreaming equality and protecting human rights. An analysis of the equality duty in the UK system was then provided by Colm O’Cinneide, Professor

of Constitutional and Human Rights Law at University College, London. Professor Aileen McColgan, King’s College London, outlined what litigation in the UK around public sector duty has achieved to date.

Koldo Casla, Policy Director at Just Fair in London, spoke regarding the case for a socio-economic duty and Rainer Hiltunen from the Office of the Non-Discrimination Ombudsman, Finland offered an alternative perspective of implementation of the Positive Duty in Finland.

In the afternoon session, IHREC Public Sector Duty Manager Deirdre Toomey provided delegates with an introduction to the Public Sector Duty and the role of IHREC. David Fennelly BL, from Trinity Law School, Dublin gave a presentation on the Irish context and potential legal implications.

The presentations were followed by a panel discussion chaired by Laurence Bond, IHREC Director. The speakers were joined by Damien Walshe, Independent

The panel at the FLAC Public Sector Duty Conference, October 2018



FLAC:Access2Justice @flacireland

@flacireland • 7 June 2018

Our #FLACpsdCon speakers have now been joined by Damien Walshe of @ILMIreland, @NiallCrowley_, @donnchanuig and FLAC’s Sinéad Lucey for a panel discussion of the #PublicSectorDuty. We believe this is one of the largest panels of this kind ever assembled.



Living Movement Ireland; Niall Crowley, Independent Equality Expert; Professor Donncha O’Connell, NUIG and member of the Commission on the Future of Policing in Ireland and Sinead Lucey, FLAC Managing Solicitor.

There was a great turnout for the conference, with representatives from across the different NGOs and relevant public bodies in attendance. It was also FLAC’s first time to broadcast an event on Facebook Live, allowing those unable to attend to view the speakers’ presentations online in real-time.

Public Sector Duty in FLAC submissions

A common theme of FLAC’s submissions in 2018 was the need to make the public sector duty a core consideration.

Recommendations in relation to this duty were included in FLAC’s submissions to:

- The Central Bank of Ireland on its Strategic Plan 2019-2021;
- Inform the proposals of the Commission on the Future of Policing;

- The Legal Services Regulatory Authority on the Legal Practitioners Education and Training Review;
- The Review Group on the operation of the Gender Recognition Act 2015;
- The Department of Justice and Equality’s consultation on the National LGBTI Inclusion Strategy;
- The Irish Government on the preparation of Ireland’s combined fifth, sixth and seventh periodic reports to the UN Committee for the Elimination of Racial Discrimination;
- The Review of the Administration of Civil Justice;
- The Law Reform Commission on its Fifth Programme of Law Reform;
- The Department of Social Protection on its 2018 Budget.

Donncha O’Connel @donnchanuig • 19 October 2018



Great crowd at #FLACPSDCon listening to Deirdre Toomey of @_IHREC explaining the public sector duty under Section 42 of the IHREC Act 2014. Excellent conference



Koldo Casla, Just Fair Policy Director, Eilis Barry, FLAC Chief Executive and Rainer Hiltunen from the Office of the Non-Discrimination Ombudsman, Finland



Panel at PSD Con (L-R) Laurence Bond, IHREC Director, Eilis Barry, FLAC Chief Executive, Sinead Lucey, FLAC Managing Solicitor, Prof Donncha O’Connell, NUIG, Damian Walshe, Independent Living Movement Ireland and Niall Crowley, Independent and Equality Expert.

TWELFTH ANNUAL DAVE ELLIS MEMORIAL LECTURE: “THE REGULATION OF SOCIAL MEDIA, PRIVACY AND ACCESS TO JUSTICE”



Marc Rotenberg

About Dave Ellis: Dave Ellis was the Community Law Officer at Coolock Community Law Centre (now Community Law and Mediation) for more than 20 years. He dedicated his career to working with community groups in areas including welfare rights, legal education and legal entitlements generally. 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.

The twelfth annual Dave Ellis Memorial Lecture on Thursday 13th December, 2018, featured Marc Rotenberg, President and Executive Director of Washington-based privacy NGO ‘EPIC’ (Electronic Privacy Information Center), as the keynote speaker. FLAC has been representing EPIC since 2016 when the High Court appointed EPIC to act as amicus curiae in the case of *‘Data Protection Commissioner v Facebook Ireland & Schrems’*, to offer a counterbalancing view to that of the US government (also amicus curiae in the case).

Mr Rotenberg advocates on privacy and transparency through the US federal courts, pursues open government cases, defends consumer privacy and appears before Congress and judicial organisations.

In his speech, which is available at flac.ie, Mr Rotenberg discussed the *“growing connection between the protection of democratic institutions, which we (at EPIC) set out to pursue, and the increasing importance of privacy and data protection in our modern world.”*

He highlighted numerous examples of litigation EPIC has engaged in to hold bodies to account, including attempts to instigate actual punitive action from the US Federal Trade Commission (FTC) against Facebook following its previous (2011) damning judgment against the social media giant over its practices involving user data. Commenting on this inaction from the FTC - and the subsequent Cambridge Analytica scandal involving Facebook - Mr Rotenberg stated that it was an *“important lesson”* that when public sector bodies and *“government agencies... fail to protect the public interest...the consequences, with the internet economy, happen quickly, are widely felt, and can provoke enormous harm.”*

“The US FTC’s failure to act in the Facebook matter has had real consequences. It is quite possible that if the FTC had enforced the order and prevented third party access to personal data without meaningful consent, there would have been no Cambridge Analytica, no Brexit, and no election of Donald Trump.”

Mr Rotenberg covered the increasingly relevant topic of artificial intelligence (AI) - in particular the automation of decision-making in employment, housing and credit matters as well as criminal sentencing - and the need for proper transparency in order to avoid *“a black box society in which decisions about us are based on factors we do not see and cannot control”*. EPIC, had launched a campaign to establish *“Universal Guidelines for AI”*, which he said had been endorsed by more than 200 experts in forty countries and sixty NGOs.

Mr Rotenberg addressed the important role Ireland has to play, *“as home to the European headquarters of the world’s biggest social media corporations..to safeguard fundamental rights in the digital age. Enforcement under the GDPR and new laws to address the challenges of fake news and hate crimes in cyber space should be top priorities for the Irish Government.”*

He ended his speech with reference to FLAC’s raison d’être: *“Access to justice in this modern digital world is going to be the ability to hold to account the technologies and companies that are shaping our lives.”*

FLAC Chief Executive Eilis Barry reflected on FLAC’s work in 2018 and also discussed the importance of fair monitoring of the *“online space”* in order to protect the rights of all groups in society:

“The objective of regulation should be one which makes the online space one that is civil, safe and democratic. In framing regulation, there has to be a commitment to the principles of transparency, accountability and the protection of representative democracy in the online space. Any regulation introduced also needs to tackle the rise of online hate speech which is widespread against groups such as Travellers and asylum seekers.”



EPIC President Marc Rotenberg addresses the audience



Ali Williams, Catherine Everitt, Elizabeth Quinn, Miah Phelan Sweeney, Stephen Bourke and Eithne Lynch



Gillian Kernan and Liz Lee



Eilis Barry, Caroline Smith and Paul Joyce

Oireachtas briefing on Privacy and Access to Justice in the Digital Space

To coincide with FLAC's Annual Dave Ellis Memorial Lecture, FLAC provided a briefing to members of the Joint Oireachtas Committee on Justice and Equality and the Joint Oireachtas Committee on Communications, Climate Action and Environment on the issue of 'Privacy and Access to Justice in the Digital Space'.

New Building: 85/86 Dorset Street Upper

After 15 wonderful years working from our office at 13 lower Dorset Street, FLAC moved to its new office at 85/86 Dorset Street Upper, Dublin 1, the birthplace of Sean O'Casey, on 9th April 2018.

FLAC is very grateful to the Atlantic Philanthropies for the capital grant which enabled us to purchase the building and for the supplementary capital grant which contributed towards the renovation and refurbishment costs.

Prior to moving to Dorset Street, FLAC had spent 18 years on the top floor of 49 South William Street, having previously been based in North Earl Street, where FLAC opened its central office in 1978. FLAC first opened its doors at the premises of the Society of St Vincent de Paul in Mountjoy Square in April 1969.

FLAC will continue our campaign for access to justice from our new office at 85/86 Dorset Street Upper, which we hope will be a hub of inspiring radical and innovative legal work for years to come.



FLAC's new building on Upper Dorset Street



New FLAC office under renovation



FLAC staff celebrate International Women's Day, 8th March 2018



FLAC staff celebrate Africa Day, 25th May 2018

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

Staff Changes:

In February we said farewell to Lorraine Walsh who had been part of the Volunteer Team since 2012. Eithne Lynch left FLAC in July to take up her new role as A&L Goodbody's first Pro Bono Associate. Grace Mulvey left her role as Volunteer Coordinator in November. We also had some new additions to the FLAC staff in 2018. Stephanie Lord joined us in January as our new Legal and Policy Officer. Kuda Mushaya, having undertaken an internship with FLAC, took up the role of Volunteer Development Officer. Daniel English was Communications Manager from February until September 2018.

Interns and student placements

FLAC very much appreciates the hard work and dedication of all our interns and students on placement. Over the course of 2018, they were: Ali Williams, Aoife McVerry, Blaithin Sheil, Catherine Everitt, Clare Lawlor, Erin Dunleavy, Gavin Bush, Helen Brady, Helen Carroll, James Egleston, Jane Holian, Lauren Murphy, Maddy Shenfield, Maria Saracut, Miah Phelan Sweeney, Rebecca Bolger and Stephen Bourke.

FLAC COUNCIL



Peter Ward
(Chairperson)



Don Crewe



Julie Herlihy



Joanne Hyde



Jo Kenny

STAFF



Eilis Barry,
Chief Executive



Christopher Bowes,
Legal Officer



Corina Byrne,
Finance Officer



Daniel English,
Communications Manager
(from Feb - Sept 2018)



Maureen Gourley,
Solicitor (from May 2017)



Sinead Lucey,
Managing Solicitor



Eithne Lynch,
PILA Legal Officer
(to July 2018)



Stephanie Lord,
Legal and Policy Officer



Nijole Matiukiene,
Housekeeper



Grace Mulvey,
Volunteer & Clinics Coordinator
(to November 2018)

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 2018, FLAC's funders were:

- 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 or Supporting Partners.

Sustaining Partners in 2018 were:

- A&L Goodbody
- Arthur Cox
- McCann Fitzgerald

Supporting Partners in 2018 were:

- Eversheds Sutherland.



Jackie Heffernan,
Information Line
Co-ordinator



Catherine Hickey,
Director of Funding &
Development



Paul Joyce,
Senior Policy Analyst



Gillian Kernan,
Research Officer



Liz Lee,
Receptionist &
Administrative Assistant



Kuda Mushaya,
Volunteer Development Officer
(from March 2018)



Rachel Power,
PILA and Strategic
Development Manager



Caroline Smith,
Media and Communications
Officer



Zsé Varga,
Volunteer Development
Manager



Lorraine Walsh,
Volunteer Development Officer
(to February 2018)

FLAC Income & Expenditure 2018

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.



Bláithín Sheil, Sinead Lucey, and Maureen Gourley at the Grant Thornton Run, September 2018

FLAC Annual Report 2018

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85/86 Dorset Street Upper
Dublin 1, Ireland

T: +353 1 887 3600
E: info@flac

Information & Referral LoCall
Line: 1890 350 250

www.flac.ie
www.pila.ie



“ As home to the European headquarters of the world’s biggest social media corporations, Ireland now has a critical responsibility to safeguard fundamental rights in the digital age. Enforcement under the GDPR and new laws to address the challenges of fake news and hate crimes in cyber space should be top priorities for the Irish Government. ”

Marc Rotenberg delivering his address at the
12th annual Dave Ellis Memorial Lecture, December 2018

“ I’ve found very many points of resonance between the struggle for justice in South Africa and Ireland. The road to change is long because of us - people like me, who are still coming to insights along it. It’s a long process, and it’s a process that starts with us. ”

Justice Edwin Cameron addresses the audience
at the Foy Report launch, June 2018

