



Towards Equal Access to Justice

FLAC ANNUAL
REPORT 2021

About FLAC

FLAC (Free Legal Advice Centres) is an independent legal, equality 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.
- Through the 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.
- Engages in strategic litigation and takes on cases in the public interest, as an Independent Law Centre.
- Runs a Roma Legal Clinic.
- Operates the Traveller Legal Service.
- Campaigns for policy and law reform in areas of law that most affect disadvantaged and marginalised people and communities through research and advocacy.
- Is a partner with INAR on the Equal Access Project (EAP) funded by the European Union's Rights Equality and Citizenship Programme (2014-2020).
- Is a partner with the Centre for Criminal Justice and Human Rights UCC on the Traveller, Equality and Justice Project funded by the European Union's Rights Equality and Citizenship programme (2014-2020).

CONTENTS

Foreword	5
Message from the Chairperson	7
SECTION 1: Legal Information, Advice, PILA, Advocacy & Training	9
SECTION 2: Litigation in the Public Interest	28
SECTION 3: Policy arising from casework	42
SECTION 4: Policy, Research & Law Reform	54
SECTION 5: Equal Access Project and Traveller, Equality and Justice Project	60
SECTION 6: Access to Justice Events	61
Staff, Governance & Funding	66

FLAC HIGHLIGHTS 2021



13,147

calls to FLAC's
Telephone Information
& Referral Line



2,729

consultations
at Phone
Advice Clinics



110 social justice
organisations assisted
through PILA Pro Bono
Referral Scheme



FLAC had

88

open case
files in 2021

Housing, discrimination and social welfare

were
the main areas of law in
FLAC's case files for 2021



Constitutional Challenge

to the Wardship
jurisdiction leads to the
repeal of the Marriage
of Lunatics Act 1811
and commitment to
commence the Assisted
Decision-Making
(Capacity) Act
2015 during 2022



Equality

FLAC and TCD
Law School host
Lunchtime seminar
series – Status Check:
20 years of the
Equal Status Acts



FLAC and 45 signatories
including NGOs,
advocates and a union
called on the Minister
for Justice to ensure
a root and branch

review of civil legal aid system



Pillar to Post:

Three detailed
papers published
on issues arising
in new and
existing consumer
debt cases in light
of Covid 19



The report of UN Human Rights Council UPR Working Group

contained
recommendations
in relation to each
of FLAC's four key
areas of concern



FOREWORD

2021 was an extremely busy and eventful year for FLAC. The ongoing impact of Covid, successful campaign advances, encouraging engagement with civil society, and positive policy and casework outcomes were the themes of the year.

Since the beginning of the pandemic, the FLAC Telephone Information and Referral Line is the first, and at times, the only port of call for people seeking legal assistance. While 13,147 callers were provided with legal information on the telephone information line, the overwhelming demand for legal information, advice and advocacy continued to exceed our resources, despite the addition of new staff, further resources and expertise. We are keenly aware that more callers than we can answer are trying to get through to us. At every opportunity we have sought to highlight that this is a very clear demonstration of the extent of “known” unmet legal need particularly in the areas of family and employment law.

We were delighted that the FLAC volunteers who worked so hard, throughout the pandemic, to ensure that people would continue to have access to legal information and basic legal advice, were acknowledged and celebrated at the Volunteer Ireland Awards. Due to their sterling work, the phone legal advice clinics have continued, providing legal advice to 2,729 people with urgent and substantive issues.

In 2021, FLAC engaged with a cross-section of civil society about their experience of the legal aid system. This led to a campaign by FLAC and 45 NGOs to ensure that vulnerable and marginalised individuals, families and communities can access civil legal aid. We welcomed the Minister for Justice’s commitment to review the legal aid system, published in the Department’s 2021 action plan. This commitment has recently been realised with the establishment of the Civil Legal Aid Review Group, chaired by the Former Chief Justice Frank Clarke, and of which FLAC is also a member. It is a very significant moment in the history of access to justice and we look forward to participating on the review group.

Barriers to access to justice require a multifaceted response and FLAC is delighted to continue to engage with the Chief Justice’s Access to Justice

Committee. FLAC also participated in the Access to Justice Conference 2021 and in consultations about the modernisation of the Courts Services and Family Justice system.

FLAC welcomed the announcement of a commitment to review Ireland's Equality legislation made by Roderic O'Gorman TD, Minister for Children, Equality, Disability, Integration and Youth while delivering the Closing Address at Status Check: 20 Years of the Equal Status Acts, a seminar series organised by FLAC and the Law School at Trinity College Dublin. Together with IHREC, FLAC subsequently launched Equality ACTion, a joint project aimed at strengthening the engagement of civil society with the review.

FLAC launched the first three "From Pillar to Post" papers, in a series of four, to highlight concerns and generate debate in relation to the impact of Covid on levels of household debt in Ireland. FLAC's project PILA continued the development of pro bono work with 110 social justice organisations receiving legal assistance through the pro bono referral scheme. We held the first Pro Bono Pledge Ireland NGO pitch event and a very successful Pro Bono Week.

FLAC's independent law centre, Traveller legal service and Roma clinic produced significant casework outcomes in the areas of wardship, discrimination and housing, demonstrating the significant unmet legal need faced by people experiencing poverty and disadvantage.

It was with great sadness we learned of the death of two great friends of FLAC, Frank Callanan SC, an exceptional lawyer, historian and scholar and Katie Dawson BL, a fierce advocate and a human rights campaigner in child and family law, women's rights, and LGBTQI+ rights.

A very sincere thank you to David Fennelly who took on the role of Chairperson during 2021 and to FLAC Council for their ongoing support and vital hidden work. A special thanks to Julie Herlihy who provides invaluable guidance in relation to finances, and to Joanne Hyde and David for their outstanding work on the Governance sub-committee which led to FLAC declaring compliance with the Charity Regulators Code of Governance.

A huge thanks to FLAC's expert, committed and excellent staff for their outstanding contribution during an event filled year, the details of which is set out in this report.

Eilis Barry, *FLAC Chief Executive*.



A MESSAGE FROM FLAC'S CHAIRPERSON

In 2021, the COVID-19 pandemic continued to cast a shadow over many aspects of our lives. The pandemic was not just a public health crisis. It had a far-reaching effect on all aspects of Irish society, including our justice system. Over the past year in FLAC, we continued to see the devastating impact of the pandemic on the lives of individuals and families throughout the country. The demand for FLAC's services, speaks to the high levels of unmet legal need in the community. In many cases, the issues presented were also more urgent and complex.

The Annual Report shines a light on FLAC's work during 2021. While the pandemic significantly affected how services were delivered, the provision of legal information, advice and representation - to individuals and groups who would not otherwise have access to justice - remained as important as ever. In addition, FLAC's legal, policy and advocacy work continued to address many of the major challenges facing Irish society today, from discrimination and personal debt to housing and social welfare. As the Annual Report illustrates, over the past year, this work has not only provided vital support to very many individuals and groups around Ireland but has also had a much wider social and policy impact.

None of this work would be possible without the enormous commitment and support of FLAC's staff, volunteers, partners and funders. FLAC's wonderful staff, led by Eilis Barry, has shown great dedication and leadership during 2021, ensuring that FLAC has been able to adapt and respond effectively to current challenges, while continuing to press for progress on FLAC's longstanding priorities. Across all aspects of our work – the clinics, the information line, the PILA Pro Bono register, the case-work, the student societies and in FLAC headquarters – our amazing network of volunteers has provided vital support. The Citizens Information Board and the staff and management of local Citizens Information Centres and other community based organisations – which play a key role in facilitating and hosting FLAC clinics – worked with us to adopt new and alternative services in response to the pandemic. And, of course, our funders – from philanthropic organisations, the Law Society, the Bar Council, individual law firms and practitioners, Government Departments and statutory bodies and private citizens – have provided essential support to FLAC in undertaking all of this work. On behalf of FLAC Council, I extend our sincere gratitude to all who have made FLAC's work possible over the past year.

As we emerge from the pandemic, there is an important opportunity to reflect on the lessons to be learned from this experience. Coming at a time of serious challenge to the rule of law in Europe and elsewhere, the pandemic has served as a stark reminder of the importance of access to justice. Access to justice is a value in its own right in any justice system worthy of the name. But it also serves an essential role in protecting other rights, in promoting equality, and in upholding the law in the interests of all members of society and not just the few. For FLAC, the pandemic has reinforced our commitment to ensuring that equal access to justice is a cornerstone of Irish society and the Irish legal system.

We therefore welcome the major review of Ireland's civil legal aid system, established by the Minister for Justice, Helen McEntee, which will shortly commence its work under the chairmanship of former Chief Justice Frank Clarke. Alongside the work of the Chief Justice's Access to Justice Committee, led by Chief Justice O'Donnell, there is a once-in-a-generation opportunity to bring stakeholders together and to develop a legal aid system that is fit for purpose. We also welcome the review of Ireland's equality legislation established by Minister for Children, Equality, Disability, Integration and Youth, Roderic O'Gorman. While these reviews, and other initiatives such as the Civil Justice Implementation Plan, have great potential to improve access to justice, we must also be mindful of the risks to access to justice in any major reforms of our justice system, particularly if access to vital remedies such as judicial review is curtailed.

In June 2021, I took over as Chairperson of FLAC Council from Peter Ward. In last year's Annual Report, Peter spoke of FLAC's role, at the forefront of the human rights community in Ireland, as a respected and trustworthy advocate for the radical legal reform required to make Ireland a more just and equal society. Anyone familiar with FLAC will know of Peter's immense role and contribution in making FLAC the organisation that it is today. On behalf of the wider FLAC community, I would like to extend a special thanks and tribute to Peter for his contribution over many years.

I would also like to thank my fellow Council members and FLAC's Chief Executive Officer, Eilis Barry, for their invaluable support during this time. Reflecting FLAC's commitment to the principles of transparency and accountability and to high standards of corporate governance, in 2020/2021, FLAC's Governance Subcommittee oversaw FLAC's work to ensure compliance with the Charities Governance Code.

When FLAC celebrated its 50th anniversary in 2019, we were reminded of the breadth of the FLAC community, which extends far beyond current staff, Council members and volunteers to the generations of lawyers and individuals who have contributed to the organisation in various ways over many decades. In the FLAC student societies, we are excited to see the next generation of this FLAC community emerge. For anyone who would like to reconnect or become involved, we are always delighted to hear from you and to work together to promote access to justice for all.

David Fennelly, *FLAC Chairperson*.

SECTION ONE: 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.

2021 HIGHLIGHTS

 **13,147** calls to its Telephone Information and Referral Line in 2021.

 FLAC volunteers nominated for Volunteer Ireland Award

 The number of calls logged in 2021 was the highest since 2015

 **110** social justice organisations assisted through PILA Pro Bono Referral Scheme

 **15%** of calls were regarding Employment law

 **91,896** people visited the FLAC website

 **55%** of lay litigants had a family law issue

 **8,800** downloads from www.flac.ie

 **2,729** consultations at phone clinics

 **3,895** calls regarding family law

TELEPHONE INFORMATION & REFERRAL LINE

Given the ongoing restrictions in 2021 and the subsequent effect this placed on individuals seeking legal information and advice, there continued to be a huge demand for legal information and onward referral to specialist legal telephone clinics for legal advice.

FLAC is often the main port of call for many in crisis. The acute need for legal information and advice that arose during Covid restrictions continued in 2021. FLAC's information line provided an insight into the urgent stressful situations that people were facing. The FLAC Information and Referral Line continued to be overwhelmed by calls where callers, in addition to their legal queries, were often extremely upset and worried about how to proceed with the legal issues that they raised with the FLAC Information and Referral Line.

With the closure of the face-to-face clinics, the FLAC Information and Referral Line in 2021 continued to receive far more complex queries than prior to Covid restrictions.

FLAC believe that we are just seeing the tip of the iceberg in terms of demand. In response to the demand and the increasing complexity of queries, we resourced the phone line with additional and more experienced staff and volunteers. A special thank you to Arthur Cox for their assistance volunteering on the FLAC Telephone Information and Referral Line.

FLAC provided legal information to 13,147 callers to its Telephone Information and Referral Line in 2021, which was a 5% increase on the calls dealt with the previous year.

The number of calls logged in 2021 was the highest since 2015 (despite the reduced operating hours).



Anne and Lauren working remotely on FLAC's Telephone Information and Referral Line



A number of areas of law saw a peak in 2021, these included family law queries, criminal law queries, queries about a will, consumer related queries and immigration queries.

Queries to Flac’s Telephone Information and Referral Line 2021



FLAC TELEPHONE INFORMATION & REFFERAL LINE

What were the calls about?

29.6% Family Law:

A record 3,895 family law queries were answered on FLAC's telephone information and referral line, more than any previous year, accounting for almost one third of all calls received. Family law queries rose by 13% compared with the previous year.

Almost 44% of family law queries were in relation to a divorce or separation, 29% in relation to custody, access or guardianship, 17% in relation to maintenance, almost 12% in relation to domestic violence and 11% in relation to the family home.

Calls about a divorce or separation rose by 29.3% compared with the previous year, while calls about custody/access/guardianship rose by 17.8%. Calls about maintenance rose by 9.8%, and calls about domestic violence rose by 8.6%.

Legal Aid in Family Law:

Complicating most of the family law queries received was either the non-eligibility or the delay in being approved for legal aid representation. Callers often contacted the FLAC Information and Referral Line in situations where they had been served with legal proceedings but were facing many months of delay in being approved for legal aid. The FLAC Information and Referral Line also had many callers contacting us for information and advice in circumstances where they did not qualify for legal aid, often by a very small margin but being unable to discharge private legal

costs. Such callers are in a particularly difficult position trying to borrow money from family/friends/lenders or trying to navigate the Court System as lay litigants. In one particular case, a caller was over the legal aid limit by €500 and had incurred legal costs in a contested family law matter of in excess of €20,000 which this caller was struggling to discharge. This caller was also looking at the sale of the family home in the near future and facing difficulty in obtaining alternative housing.

15% Employment law:

1,968 employment law calls were logged in 2021, which is almost identical to the record number of employment law calls received the previous year.

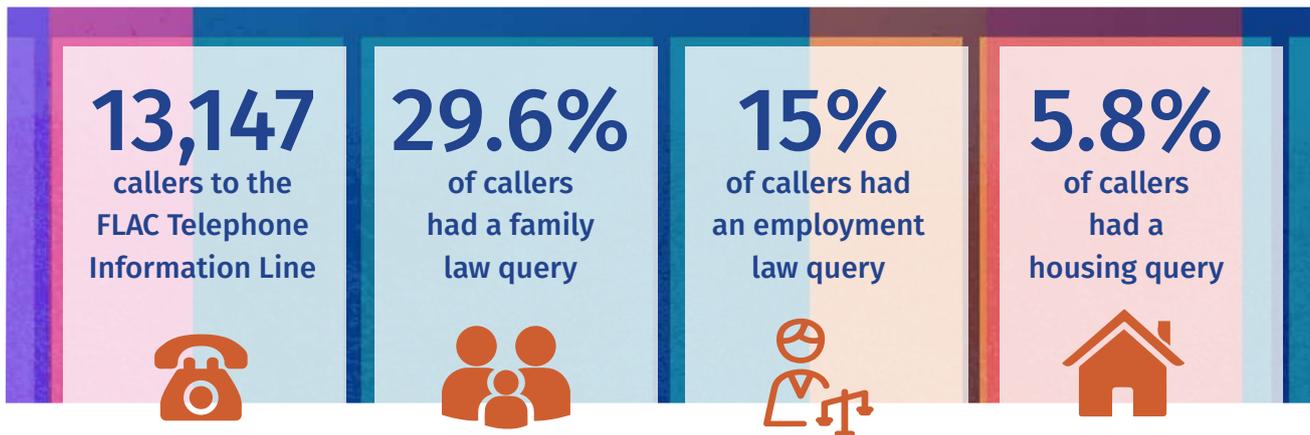
One third of all employment law queries were in relation to contract terms. Calls about grievance procedures, redundancy and dismissals each represented 14% of employment queries.

Contract related queries rose by almost 13% compared with the previous year, while calls about grievance procedures rose by 47.2%. Redundancy queries dropped by 16% compared with the previous year.

Covid related employment queries were common in 2021. 11% of employment law queries were COVID related.

Many callers queried whether employers were entitled to know their vaccination status while other callers queried whether they were obliged to return to work in circumstances where co-workers may

Key Telephone Information & Referral Line Statistics



not be vaccinated, and where such callers were concerned about the increased risk of contracting or passing Covid to vulnerable family members.

8.1% Civil Law queries:

This category of calls includes civil law queries that do not fall under the pre-defined list of areas of law. In 2021, eight per cent of calls were logged in this category.

Of these

- 23% were requiring information about court proceedings.
- 21% had a query about tort.
- 10% had a data protection related query.
- 6% had a query regarding Power of Attorney.
- Other civil law queries included queries about defamation (6%), Covid related (4%), deed poll (4%), wardship (4%) and freedom of information (3%).

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 assistance, advice and representation which FLAC does not have the resources to provide. Almost 850 calls to the Information line in 2021 were from lay litigants, 6% of all calls, which was an increase of 23% on the number of lay litigant callers contacting the FLAC Telephone Information Line the previous year.

Of these

- Over half (55%) had a family law issue, which was an increase of 24% on the previous year.
- 12% had a civil law issue.
- 9% had a criminal query, which was over double the number of lay litigants calling with a criminal query than the previous year.
- 5% had an employment law query, a 66% increase on the previous year.
- 4% had a housing related query, and 3% had a consumer law matter.



Ingrid Colvin, National Volunteers and Clinics Manager



Erin Brogan, Telephone Information and Referral Line Development Manager

FREE LEGAL ADVICE CLINICS

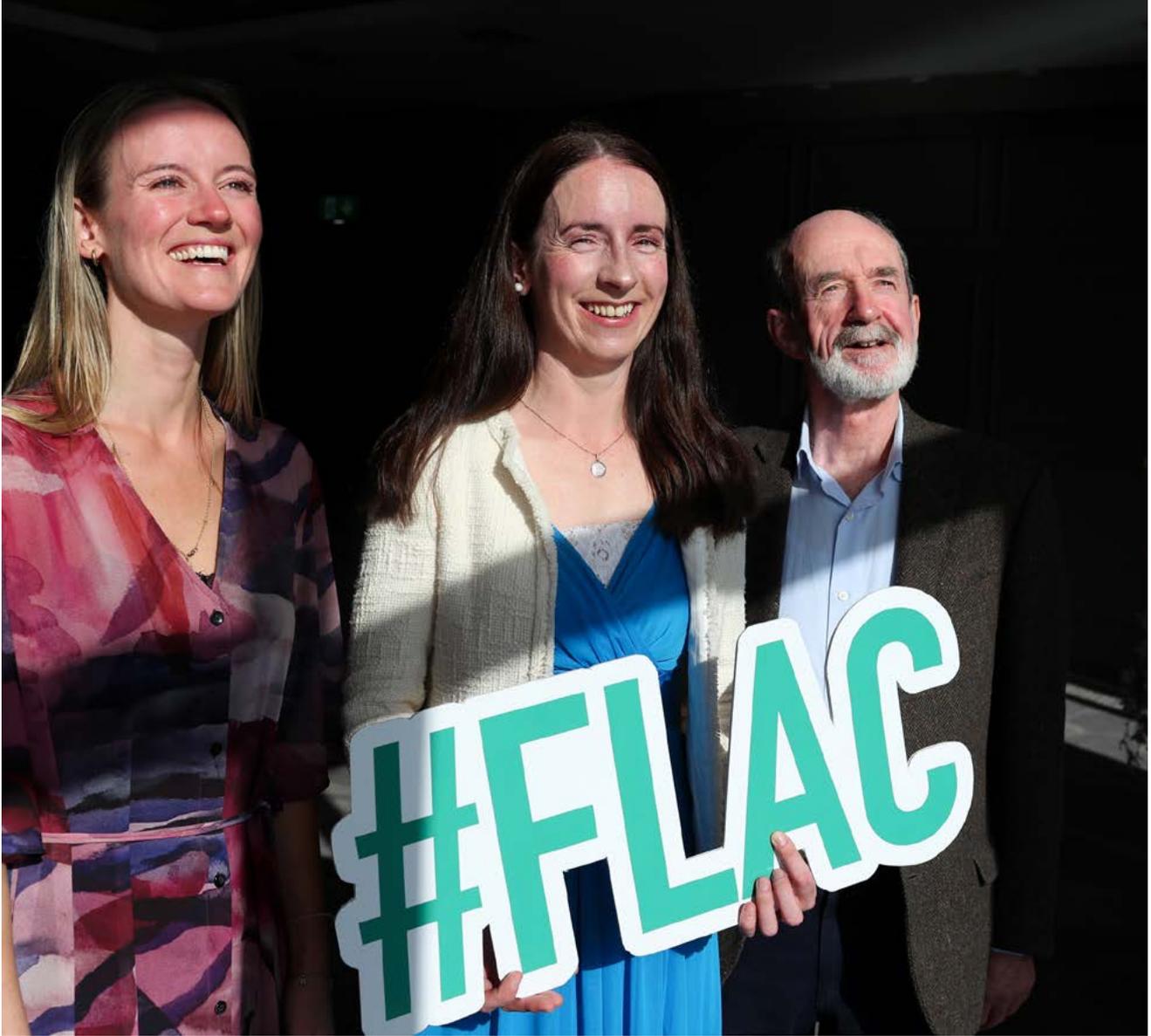
FLAC is working towards reopening our face-to-face legal advice clinics, which are mostly based in Citizens Information Centres in late 2022. They have been closed since March 2020, in line with government requirements. In 2020 we established free legal advice phone clinics for urgent and substantive issues, as the most appropriate and responsive alternative to face-to-face clinics and continued to provide these in 2021 with specialised

clinics in family law, employment law and immigration law. We also ran general law clinics.

In total 2,729 phone advice consultations were held in 2021 and we are very pleased that 79% of callers in our service user satisfaction survey for May-December 2021 expressed that they were very satisfied with the service.

HIGHLIGHTS





FLAC Advice Clinic Volunteers Róisín, Bríd, and Mick at the Volunteer Ireland Awards.

Extending online legal advice clinics

In 2021, we extended our online legal advice clinics to four CIS regions across the country, including, North Dublin, South Connaught, South Munster and South Leinster, and North Munster CIS. We are grateful for the support of the Regional and Development Managers, Administrators and Information Officers who work with us to deliver these services.

Legal advice for the deaf community

Providing access to Free Legal Advice clinics for the Deaf community has been an important development in 2021. This service

was developed, coordinated and sustained by FLAC, SLIS (Sign Language Interpreting Services) and North Dublin CIS.

Volunteer Recognition – Volunteer Ireland Awards

In 2021, over 170 volunteers participated in the delivery of free legal advice in remote clinics. We nominated our volunteers in the Phone Clinics and the Telephone Information and Referral Line for the National Volunteer Ireland Award and are delighted that their essential valuable work was recognised, making it through to the final three organisations shortlisted for the large group category award.

Appointments made via FLAC Telephone Information Line

Clinics held	Consultations*	Type of clinic
246	762	Employment law clinic
207	600	General law clinic
169	687	Family law clinic
15	32	Immigration law clinic
4	12	General Law Clinic via Zoom
641	2093	

Appointments made via Citizens Information Centre

63	219	South Leinster CIS
62	176	North Dublin CIS
35	94	South Connacht CIS
30	96	South Munster CIS
5	8	Sign Language Service
1	5	North Leinster
196	598	

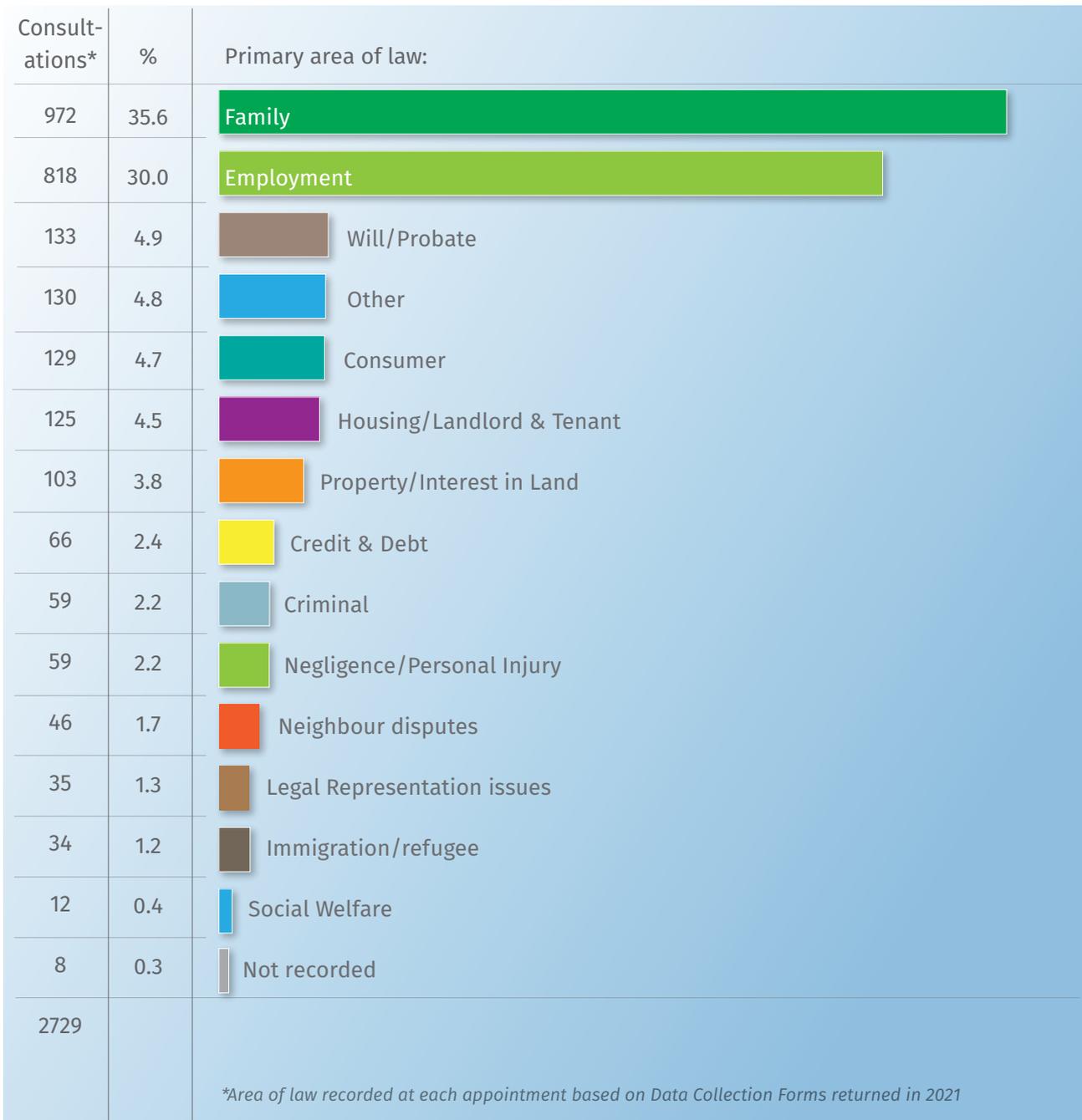
Independent

8	38	Drogheda CSC
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Total

845	2729	<i>* Number of consultations attended are based on Data Collection Form returns</i>
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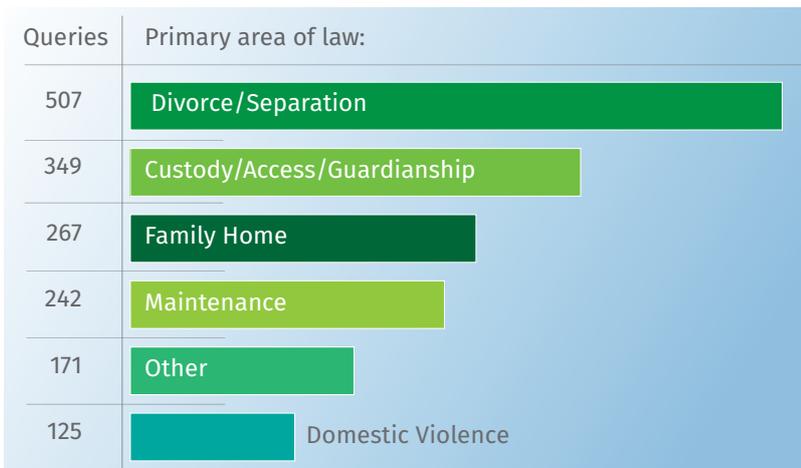
What were the consultations in FLAC Clinics about?



KEY FLAC CLINIC STATISTICS



Family Law queries 2021



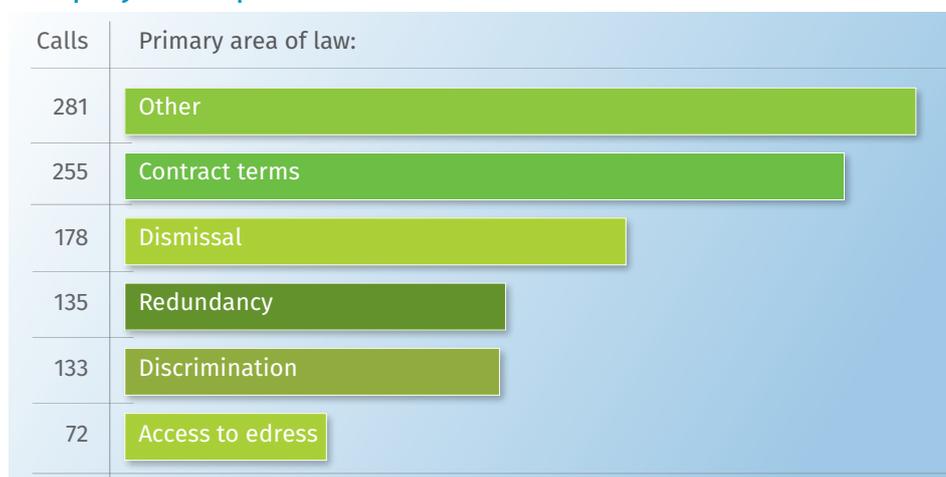
35.6% Family Law:

- Around one third of all consultations in FLAC clinics in 2021 were in relation to a family law query.
- Over half of service users with a family law query were seeking legal advice in relation to a divorce or separation (52%).
- 36% of service users with a family law query were seeking legal advice in relation to custody, access or guardianship.
- Almost one quarter of service users with a family law query were enquiring about a family home, and one quarter were seeking advice regarding maintenance.
- 13% of service users with a family law query were seeking assistance in relation to domestic violence.

30% Employment law:

- Almost one third of all consultations in FLAC Clinics in 2021 were in relation to an employment law query.
- Around one third of service users with an employment law query were seeking advice in relation to an employment contract.
- Almost 22% of service users with an employment law query were seeking advice in relation to dismissal.
- Around 16% had a query about redundancy and discrimination each.

Employment queries 2021



PILA HIGHLIGHTS 2021



Directly assisted 110 social justice organisations through the Pro Bono Referral Scheme

Hosted the first Pro Bono Pledge Stakeholders Group Meeting

Hosted the first NGO Pitch Event under Pro Bono Pledge Ireland

Facilitated 8 Legal Education Sessions training almost 500 NGO staff and their service users

Hosted Pro Bono Week 2021

LEGAL ASSISTANCE FOR SOCIAL JUSTICE ORGANISATIONS THE PUBLIC INTEREST LAW ALLIANCE AND THE PRO BONO REFERRAL SCHEME

PILA (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.

Pro Bono Referral Scheme

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

PILA continued to note the impact of COVID-19 on the NGO Community, helping them survive and thrive in delivering their crucial work – the importance of which has been made devastatingly clear during the pandemic.

In 2021, our network of 52 law firms, 350 barristers and 9 in house legal teams delivered direct legal assistance to 110 NGOs, community organisations and independent law centres with many referrals in the areas of corporate governance, employment law, immigration law, contracts and data protection and equality.

The work PILA carries out would not be possible without the support of our sustaining and supporting partners:

Breakdown of Referrals:



What PILA's partners say;

Sustaining Partners

“Collaborating with the Public Interest Law Alliance (PILA) supports **Arthur Cox** in delivering meaningful pro bono assistance to those most in need. PILA plays a vital role in connecting us with NGOs providing frontline legal services and together we develop pro bono projects to improve access to justice for vulnerable people in our community.”

“2021 has been another challenging year; with the impact of the pandemic being felt more acutely by some in our community. Throughout it all PILA has been a linchpin bringing together the legal profession and civil society in innovative ways to share in that burden. As a sustaining partner of PILA, **A&L Goodbody** recognises the crucial role PILA plays in developing a strong and collaborative pro bono culture in Ireland. We look forward to continuing our work together in 2022.”

Supporting Partner

“Over the course of the pandemic, PILA has worked hard to support NGOs and community organisations in need of access to pro bono legal support which has helped them survive and deliver their crucial services. **McCann FitzGerald** is proud to be a sustaining partner of PILA.”

“At **Eversheds Sutherland**, we have a history of pro bono work. We are delighted to partner with PILA to support its vision to develop public interest law in Ireland in a practical way and to help identify pro bono opportunities for our lawyers. In 2018, Eversheds Sutherland agreed on a five-year strategic partnership with PILA to help develop people’s understanding and awareness of their legal rights and improve their access to justice.”

Pro Bono Pledge Ireland

Pro Bono Pledge Ireland is an initiative which asks the legal profession to commit to promoting access to justice by providing free legal assistance to those in need.

Since the launch of the Pledge in November 2020, we now have 50 law firms, 8 individual Solicitors, 38 Barristers, and 2 in house legal teams as signatories. The first NGO pitch event held in September 2021, sought to connect Pledge Signatories with NGOs and Civil Societies in need of legal expertise. Organisations such as the Irish Foster Care Association, the Irish Council for Civil Liberties and NASC presented an overview of their organisations and highlighted how pro bono can assist them in delivering their services.

Julie O' Leary, Advocacy Service Manager with NASC - Migrant & Refugee Rights commented:

“Nasc were delighted to participate in PILA's first Pro-Bono Pledge Event. We have now teamed up with a firm of solicitors in Cork and look forward to working with them to assist our clients during the Afghan Admission Scheme and undocumented migrant regularisation scheme in 2022. This will help us to increase our capacity and to assist more individuals across Cork”

The Irish Foster Care Association had the following to say:

“PILA were very approachable and supportive. They answered our queries and gave assistance whenever we needed it throughout the application process. We felt fully supported in preparing for the pitch, the guidance provided on how to structure the pitch was extremely useful and helped clarify how we needed to communicate our request to the group. Overall, it has been a very positive experience and we are really happy to be able to access the service. We are delighted now to be in a position to offer a series of legal workshops to foster carers, and those in the fostering community on topics which are central to their role in caring for and supporting children in care”



To sign the Pledge visit
www.probonopledge.ie



Arthur Cox phonline volunteers virtual meeting with FLAC's phonline team

PILA Impact Projects

Pro Bono Support for FLAC Phone line

During the pandemic, the FLAC Information and Referral line experienced a huge increase in the demand for legal information. Pro Bono Pledge signatories were ready and willing to step into the breach to fulfil this need and to ensure the public need for legal information could continue to be met.

“Without the generosity of qualified volunteers who have donated their time and expertise, the FLAC information and Referral Line could not even attempt to meet this demand.” Erin Brogan, FLAC Telephone Information Line Coordinator.

“Access to justice lies at the heart of the Arthur Cox Pro Bono Practice. Collaborating with FLAC enables us to apply our skills and knowledge to help people understand and access their legal rights. We are proud to support the FLAC Information Line and the work we do together to help people in need.” Carolann Minnock, Arthur Cox Pro Bono Associate.

Children's Rights Alliance - Legal Clinics

PILA and supporting partners Eversheds Sutherland teamed up to provide free Legal Clinics to children, young people, and their families following a request for assistance from the Children's Rights Alliance.

Praising the success of this project, Legal and Policy Manager with the Children's Rights Alliance Julie Ahern commented:

“This [project] has meant a greater number of families can avail of our services through an increased number of free legal advice clinics. These clinics have contributed greatly to people's understanding and awareness of their legal rights.” Julie Ahern

Eoin Mac Aodha, Partner at Eversheds Sutherland commented:

“We recognise that COVID-19 has created significant challenges for children and young people and this year we wanted to use our privilege of legal expertise to assist some of the most vulnerable people in our society. We were delighted to partner with the Children's Rights Alliance (CRA) so that a greater number of people, who contact the CRA Helpline for legal information, can access support with family law issues and become better informed about their legal rights. The project involves providing free, one-to-one legal advice appointments with a solicitor. We are delighted to be able to make this small contribution and it's the first time the firm has done pro bono work solely focused on children's rights.”

Eoin Mac Aodha



Pro Bono Week: 22 November to 26 November

A central objective of this year's Pro Bono Week was to bring together various stakeholders in the pro bono ecosystem – lawyers, law students, non-profits, academics, and businesses – for an engaging conversation on the impact and role of pro bono in tackling important social and legal issues and to celebrate the role played by volunteer lawyers supporting civil society and those in need.

The week of events, with unprecedented numbers in attendance, was supported by A&L Goodbody, Arthur Cox, Holohan Solicitors, KOD Lyons, Leman's, McCann Fitzgerald LLP, Mason, Hayes & Curran, Matheson, Members of the Bar Council of Ireland, Philip Lee, and William Fry.

“ A strong pro bono culture has long been a hallmark of the legal profession in Ireland. From advising individual clients and NGOs to taking landmark legal challenges, barristers and solicitors acting pro bono have made a major contribution not only to the legal profession but to Irish Society. This has been indispensable to FLAC's work over many decades and continues to be today. ”

– David Fennelly BL, FLAC Chairperson speaking at Pro Bono Week 2021 .



“ I have always stressed that there are many strands to improving access to justice. In that context FLAC's Pro Bono Week provides a significant opportunity not only to encourage the further expansion of pro bono work but also to enhance the way in which the work of those willing to provide their expertise free of charge can be deployed to the greatest effort. ”

– Mr Justice Frank Clarke



FLAC Covid-19 Information Leaflets

FLAC provided [information leaflets](#) on the main covid related issues coming up on the telephone information line including Family Law, Social Welfare, Employment law and debt.

FLAC Website

In 2021, we had

- 91,896 users/visitors
- 300,518 page views
- 8,800 downloads

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 2,300 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 pila@flac.ie

FLAC News

We published 9 editions of FLAC NEWS throughout the year. If you would like to join our mailing list please email flacmedia@flac.ie

The FLAC Casebook

The FLAC Casebook provides updates about FLAC's ongoing case work to highlight notable outcomes and to provide an insight into how FLAC uses litigation in the public interest as a mechanism for achieving its broader aims. Links to the 2021 blogs are contained in section 2. [Sign Up to Our Blog here.](#)

Legal Education and Training

PILA facilitated 8 Legal Education Sessions training almost 500 NGO staff and their service users.



Lewis Mooney BL, Thomas Mulholland, Niamh Callaghan, Philip Smith and Bill Holohan SC speaking at the Implementing the Charities Governance Code Webinar for Pro Bono Week 24 November 2021

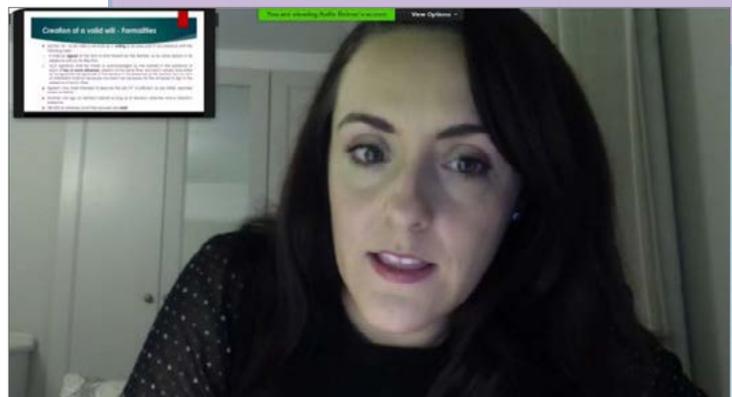
FLAC Volunteer Training

8 online training events were delivered, at which 470 FLAC Volunteers attended.

The topics included Social Welfare, Wills and Probate, Employment Law Covid Updates, Legal Aid Updates, Introduction to the Residential Tenancies Board Act 2004, Employment Law 2021 Round Up, Family Law 2021 and Housing Law 2021.

CIC staff were invited to attend 4 training events, at which 237 CIC staff attended.

A huge thanks to the trainers for sharing their expertise and experience. Thanks to Christopher Bowes BL, Aoife Beirne BL, Katherine McVeigh BL, John McDaid, Chief Executive of the Legal Aid Board, Eoin MacAodha, Partner Eversheds Sutherland, Kiwana Ennis BL, Paul McCarthy SC & Lewis Mooney BL.



Katherine McVeigh BL, Eilis Barry FLAC CE, Paul McCarthy SC, Aoife Beirne BL and Kiwana Ennis BL

FLAC Societies

There are currently eight FLAC societies at universities across Ireland. The FLAC societies operate independently of FLAC, however FLAC works with the societies as part of its aim to support legal education, to complement the academic training Law students receive.

Despite the restrictions imposed by the pandemic, several of the FLAC college societies remained highly active throughout 2021 and organised online debates, guest speakers, fundraising events and information sessions on careers in Law

as well as 'Zoom' clinics providing legal information to their fellow students.

FLAC was delighted to facilitate two online gatherings with several of the societies in June and September, where the societies reflected on 2020/21 and looked forward to 2021/22. FLAC was also delighted to speak at two society events in 2021: Legal Officer Christopher Bowes gave a presentation to NUIG FLAC on Access to Justice, whilst Chief Executive Eilis Barry and Societies Liaison Officer Conall Cahill helped to launch Maynooth FLAC's "A Guide to Student Rights". Further, FLAC solicitor Christopher McCann

recorded a video on Civil Legal Aid as part of Trinity FLAC's online speaker series.



SECTION TWO: Litigation in the Public Interest

FLAC, as an Independent Law Centre, takes on a number of cases in the public interest each year, with the aim of benefiting the wider community as well as being important for the individual client. The FLAC legal team also runs a Roma Legal Clinic and provide a Traveller Legal Service.

2021 HIGHLIGHTS

Organic farm ordered to pay €8,000 to FLAC client after he was asked to leave the farm where he was volunteering after disclosing his HIV status.

Constitutional Challenge to the Wardship jurisdiction leads to the repeal of the Marriage of Lunatics Act 1811 and commitment to commence the Assisted Decision-Making (Capacity) Act 2015 during 2022.

Council agrees to quash decision to not proceed with halting site on foot of Judicial Review proceedings being initiated.

FLAC's clients received a total of €32,500 in financial redress in respect of discrimination complaints.

A discrimination case taken by Dr Ethel Brooks, Chair of European Roma Rights Centre, against An Garda Síochána on foot of an interaction with a member of An Garda Síochána at Dublin Airport reached settlement before the Circuit Court.

Litigation in the Public Interest and Strategic Casework

FLAC had 88 open case files in 2021. 30 new case files were opened and 58 case files opened in previous years remained open in 2021.

Housing, Social Welfare and Discrimination matters remain the areas of law in which FLAC most often provides legal representation.

New Casefiles by Area of Law

%	New casefiles	Area of Law
33.3	10	Housing
26.7	8	Discrimination/Equality
23.3	7	Social Welfare
3.3	1	Citizenship
6.7	2	Legal Aid
6.7	2	Other
100%	30	

All Open Case files in 2021 by Area of Law

Files Carried Over	New Files	Total Open Files	% Total Open Files	Area of Law
22	10	32	36.4	Housing
24	8	32	36.4	Discrimination/Equality
9	7	16	18.2	Social Welfare
1	1	2	2.3	Citizenship
-	2	2	2.3	Legal Aid
2	2	4	4.5	Other
58	30	88	100%	

Traveller Legal Service

37 of the 88 (42%) case files which were open during 2021 were opened on behalf of clients of FLAC's Traveller Legal Service. This number includes existing case files for which the Traveller Legal Service assumed responsibility on its inception.

The Traveller Legal Service received 85 individual queries in 2021. FLAC assists these individuals through legal representation, assistance in submitting applications to the Legal Aid Board, written & oral legal advice, and assistance in submitting Freedom of Information & Data Subject Access Requests.

All Open Traveller Legal Service Case files in 2021 by Area of Law

Files Carried Over	New Files (% of New Files)	Total Open Files	% Total Open Files	Area of Law
15	8 (53.3%)	23	62.2%	Housing / Accommodation
7	6 (40%)	13	35.1%	Discrimination/Equality
-	1 (6.7%)	1	2.7%	Equine law
22	15 (100%)	37	100%	



Christopher McCann, FLAC Solicitor

All Traveller Legal Service Queries received in 2021 by Area of Law

Total	% Total Queries	Area of Law
53	62.4%	Housing (see breakdown below)
21	24.7%	Discrimination/Equality
4	4.7%	Equine law
7	8.2%	Other
85	100%	

Breakdown of Traveller Legal Service Queries in relation to Housing

Total	% Total Queries	Area of Law
18	34%	Evictions
4	7.5%	Emergency Accommodation
17	32%	Inadequate Accommodation / Access to Social Housing Supports
5	9.4%	Traveller Specific Accommodation / Traveller Accommodation Programmes
9	17%	Other
53	100%	Total

Roma Legal Clinic

FLAC continued to remotely operate its Roma Legal Clinic throughout 2021. The clinic is funded by the Department of Children, Equality, Disability, Integration and Youth's National Traveller and Roma Inclusion Strategy.

It was necessary as a result of the pandemic, and the risk posed by face-to-face meetings, to adopt a different model for the clinic over the last two years. Existing clients were contacted to follow up on their cases using interpreters over the telephone. While this method of communication is not perfect as it is somewhat inflexible (due to reliance on booking appointments with interpreters), it is largely adequate. Communication and language barriers, as well as the digital divide, made it significantly more difficult to open new files during this period. However, during this period FLAC began offering advice and



assistance to other advocates working directly with the Roma community, including Cairde, Crosscare and Donegal Travellers Project, and opened a number of case files based on referrals from those organisations.

FLAC attends the regular meetings of the National Roma Network (NRN).

33 of the 88 (37.5%) case files which were open in 2021 were opened on behalf of callers to FLAC's Roma Legal Clinic.

All Open Roma Legal Clinic Case files in 2021 by Area of Law

Files Carried Over	New Files (% of New Files)	Total Open Files	% Total Open Files	Area of Law
9	5 (55.6%)	14	45.2%	Social Welfare
4	2 (22.2%)	6	19.4%	Housing
9	1 (11.1%)	10	32.3%	Discrimination/Equality
-	1 (11.1%)	1	3.2%	Employment
22	9(100%)	31	100%	

Housing Casework

Case files on housing and homelessness issues constituted one-third of new case files opened by FLAC in 2021. Housing case files also constituted one of the largest categories of total case files dealt with in 2021 (36.4%).

Housing/homelessness files constituted the largest category of total case files dealt with by the Traveller Legal Service in 2021 (62.2%) and the largest number of new files opened by that service in 2021 (53.3%).

Within the Roma Clinic, 19.4% of the total open files related to housing, and 22.2% of new case files opened by that service related to housing and homelessness.

Sinead Lucey speaking on RTÉ News



ECHR Complaint

FLAC continued to act in two applications to the European Court of Human Rights, relating to eviction proceedings under the Planning and Development Act 2000 against Travellers on an unofficial site where they have lived for several years. Neither complainant was represented at the eviction proceedings.

The Court delivered judgment in 2022 and deemed the complaints inadmissible. While this decision was disappointing, the Court was critical of the Irish authorities and noted that the complainants lacked legal representation in the Circuit Court and accordingly found it difficult to accept that they had an effective means of participation before the Court. Notably, the judgment confirmed that lack of legal representation may undermine the effectiveness of a court's proportionality assessment in eviction cases.



Housing Judicial Reviews

FLAC initiated Judicial Review proceedings in one housing case in 2021, and acted in a further two sets of Judicial Review proceedings relating to housing matters in which leave was granted prior to 2021. Of these three cases, two settled in favour of FLAC's clients during 2021 and one case awaits hearing:

Failure to comply with Traveller Accommodation Programme

The first case concerned a decision by Waterford City and County Council not to build a halting site which had been included in its Traveller Accommodation Programme. FLAC's clients were both young mothers who for years had been required to live in overcrowded, dangerous and insecure conditions, on the promise that the Council would provide them with a halting site consistent with their culture as Travellers. FLAC's clients' case argued that the Council's decision not to proceed with the halting site was contrary to the requirements of the Planning and Development Acts 2000 (as amended), and the Council's legal obligations under the Housing (Traveller Accommodation) Act 1998 and section 42 of the Irish Human Rights and Equality Commission Act 2014, which respectively oblige local authorities to take any reasonable steps to implement their Traveller Accommodation Programmes and require them to have regard to the need to eliminate discrimination and promote equality and human rights. In November 2021, the Council agreed to an order quashing the decision.

[PRESS RELEASE: Waterford Council Decision not to proceed with halting site quashed today in case taken by the FLAC Traveller Legal Service.](#)

Suspensions from housing Lists:

1. In 2020, FLAC initiated an appeal to the Court of Appeal after the High Court dismissed judicial review proceedings taken on behalf of a client against Donegal County Council. Those proceedings concerned a decision to suspend our client from the housing list when she refused two offers of non-Traveller specific accommodation. The appeal proceedings were struck out on consent during 2021 after FLAC's client, a Traveller woman, accepted an offer of accommodation from the Council.
2. The ongoing judicial review case is a challenge to the decision of a local authority to suspend FLAC's clients, a Traveller family, from the housing list, along with a challenge to the constitutionality and compliance with the ECHR, of certain provisions of the Housing Acts. During 2021, FLAC successfully defended a motion brought by the State to have the case heard as a two part (or "modular") trial. In March 2021, Hyland J refused the application for a modular trial for reasons including the potential prejudice to the Applicants arising from being exposed to two trials.

[BLOG: High Court: Traveller Accommodation case against a Local Authority and the State must be heard as a single trial.](#)



Defending proceedings taken by a semi-state body which sought to remove a Traveller woman and her children from a halting site.

In 2021, FLAC acted in High Court proceedings taken against a Traveller woman, a single mother of four children, by a semi-state body. The semi-state body had brought proceedings against the residents of a local authority halting site. The residents, including FLAC's client, had lived on the site for over 30 years. The semi-state body argued that the residents had no legal right to remain on the site, due to the expiry of a licence between it and the local authority which provided the halting site. The proceedings had initially been commenced and progressed without FLAC's client being represented. When FLAC came on record, the semi-state body was seeking to have FLAC's client summarily removed from the site by court order, due to her failure to file court pleadings within the

time allowed by the Rules of the Superior Court. FLAC successfully argued for further time to be allowed to its client. In FLAC's submission the action of the semi-state body did not adequately take account of its client's rights under statute, the Constitution and the European Convention on Human Rights. Ultimately, the case settled before trial and the severe consequences facing FLAC's client were avoided, as she was offered and accepted alternative accommodation in the area.

[BLOG: FLAC defends Traveller family in High Court proceedings for which Civil Legal Aid not available.](#)



Cases concerning access to housing supports, appropriate accommodation and emergency accommodation

- In a new file, on foot of representations from FLAC, a local authority agreed to provide the clients, a Roma couple, with temporary HAP.
- Representations from FLAC also yielded positive results in another case in which a local authority agreed to reinstate FLAC's clients, a Traveller family, to the housing list.
- A further four clients of the Traveller Legal Service were provided with appropriate accommodation following FLAC's extensive correspondence with the relevant local authorities (including the threat of proceedings).
- During 2021, FLAC opened two new files in relation to access the emergency accommodation, one of which resulted in a local authority providing FLAC's clients with emergency accommodation.

Use of "Local Connection" test for access to Emergency Accommodation

In September 2021, the Traveller Legal Service acted for a young Traveller couple who had been sleeping in their car. They had applied for emergency accommodation but were being required to seek emergency accommodation in the functional area of the local authority from which they had most recently received social housing support. Following lengthy correspondence with their solicitors and the threat of judicial review proceedings, the local authority ultimately provided FLAC's clients with emergency accommodation. However, this came almost 3 months after the couple's application had first been refused.

[BLOG: Continued use of "local connection" tests a concern for FLAC](#)

Residential Tenancies Board Appeal to the High Court

In 2021, FLAC continued to act in a set of linked statutory appeals to the High Court in relation to a determination of the Residential Tenancies Board (RTB) which upheld a Notice of Termination issued to our clients on the basis of their landlord's intention to sell the property they were renting.

At the RTB, there was significant factual disputes as to the bona fides of the landlord's intention to sell the property. Barr J issued judgment in March 2021 refusing the appeals. While the appeals were unsuccessful, the judgment of Barr J provides some useful clarification regarding the status of the statutory declaration provided by landlords as evidence of intention to sell, and the onus of proof in relation to proving such intention.



Social Welfare Casework

Social Welfare cases constituted 18.2% of FLAC's overall open case files in 2021 and 26.7% of new files opened in 2021.

Social Welfare files constituted the largest category of case files dealt with on behalf of callers to the Roma Legal Clinic (45.2%) and the largest number of new files opened by that service (55.6%). The majority of social welfare case files arising from the Roma Legal Clinic in 2021 related to issues around satisfying the Habitual Residence Condition.

SWA, Proof of Residency Status and Social Welfare Reviews and Suspensions

FLAC assisted Crosscare Migrant Project in a case concerning the suspension of a service user's claim for Supplementary Welfare Allowance on foot of a "review" of her claim. Her claim was suspended on foot of several requests from the DSP for a letter setting out the conditions attaching to her residency status. It had previously been established on appeal that such a letter was not required to determine her residency status and entitlement to SWA. Despite repeatedly being informed by Crosscare that such a letter did not exist and could not be provided, her claim was suspended. Her claim was also suspended during a period when she was absent from the State (despite the fact that she was entitled to her payment for the first two weeks of that period). On foot of correspondence drafted by FLAC, the DSP confirmed Crosscare's client's continued entitlement to SWA. Her payment was restored and she received 7 weeks payment in arrears.

[BLOG: How Safe is the Social Safety Net? Social Welfare Case illustrates how "control" procedures can impede access to Supplementary Welfare Allowance](#)

Refusal of pension to bereaved Cohabitee

FLAC was granted leave to seek Judicial Review in one social welfare case in 2021, challenging a decision of the Minister for Social Protection in relation to FLAC's client's entitlement to the Widow's, Widower's or Surviving Civil Partner's Contributory Pension Scheme following the death of his long-term partner. FLAC's client's claim for a pension under this scheme was refused on the grounds that he was neither a widow nor a bereaved civil partner. A hearing date has been fixed for 2022.

Constitutional & ECHR challenge in relation to rights of EU Workers

FLAC acted in an appeal heard before the Court of Appeal in relation to judicial review proceedings challenging the constitutionality and compliance with the ECHR, of certain provisions of the Social Welfare Consolidation Act 2005. The case concerns a decision of the Social Welfare Appeals Office to the effect that FLAC's client is not a worker under EU law and, as a result, does not have a right to reside in the State and an entitlement to Jobseeker's Allowance. Submissions were made to the Court of Appeal that a preliminary reference to the Court of Justice of the European Union should be made in respect of the nature and purpose of the Jobseeker's Allowance payment. A decision on the Appeal remains pending.

Citizenship Casework

FLAC acted on behalf of two clients in relation to their citizenship applications. Judicial review proceedings were initiated in one of these cases following a prolonged delay in issuing FLAC’s client’s Certificate of Naturalisation after his citizenship application was approved in principle. Those proceedings were resolved in his favour. The second case also resolved in favour of FLAC’s client prior to proceedings being initiated.

Discrimination / Equality Casework

Discrimination/Equality matters constituted one of the largest categories of total case files dealt with in 2021 (36.4%).

Discrimination/Equality case files constituted the second largest category of new case files opened in 2021 (26.7%).

Discrimination/Equality matters also constituted the second largest category of total case files dealt with by the Traveller Legal Service in 2021 (35.1%) and the second largest number of new files opened by the service (40%).

Discrimination/Equality case files constituted the second largest category of total case files dealt with by the Roma Legal Clinic in 2021 (32.3%), and 11.1% of new case files opened by the Clinic.

In 2021, FLAC’s clients received a total of €32,500 in financial redress in respect of discrimination complaints.

Breakdown of discrimination/ equality casework by area of law

Total	%	
24	71.9%	Equal Status Acts
2	6.3%	Employment Equality Acts
2	6.3%	GSOC Complaints
5	15.6%	Other
32*	100%	*One complaint arose under both the Equal Status Acts & the Employment Equality Acts.

Breakdown of Equal Status Acts Case files by ground covered

Total	%	
13	54.2%	Membership of the Traveller Community*
7	29.2%	Race
1	64.1%	HAP
3	12.5%	Disability
24	100%	*Discrimination complaints under this ground are also submitted under the Race Ground. The number of claims under the Race ground does not include the complaints which were also submitted under Membership of the Traveller Community.

HIV Status Discrimination

FLAC represented a client who suffered discrimination after disclosing his HIV status to a manager of an organic farm where he was volunteering. FLAC lodged complaints against both the organic farm and the educational charity through which the volunteering was organised. In his evidence, the man outlined the humiliation he had suffered when he was asked to leave the farm after disclosing his HIV status. He was refused access to the internet to arrange his travel home and refused access to shower facilities. The WRC upheld both discrimination complaints. The organic farm was ordered to pay FLAC's client €8,000 in compensation, following a finding that their conduct was "unacceptable and transgressed not only the law, but was also below the threshold of acceptable conduct that reasonable people expect when affording equal opportunity to those with a disability". Further, the educational charity was found to have failed to carry out a meaningful investigation into the alleged discrimination and was ordered to carry out an independent audit of its inclusivity policies and to draft a comprehensive equality and diversity policy.

[BLOG: FLAC cases illustrate the importance of the Equality Acts in combatting HIV Stigma and giving a broad meaning to disability](#)

Discrimination claim against An Garda Síochána

A discrimination case taken by Professor Ethel Brooks, against An Garda Síochána on foot of an interaction with a member of An Garda Síochána at Dublin Airport reached settlement in October 2021 before the Circuit Court. An Garda Síochána acknowledged the distress and upset caused to FLAC's client during her experience, committed to the provision of training to all members of An Garda Síochána in relation to its responsibilities under the Equal Status Acts, as well as agreeing to make a €10,000 charitable donation to Pavee Point.

[PRESS RELEASE: FLAC welcomes settlement of Circuit Court Discrimination Case taken by a woman of Romani heritage against An Garda Síochána](#)



Discrimination cases on behalf of Roma Women

FLAC acted in five separate cases in which Roma women were refused access to services (three supermarkets, one shop and a fast food restaurant). Three of these cases settled in favour of FLAC's clients. The other two cases were heard by the WRC in 2021. The WRC decided against FLAC's clients and those cases have now been appealed to the Circuit Court.

Constitutional Action concerning Seanad Voting

FLAC represented a graduate of the University of Limerick in a High Court constitutional action, in relation to the fact that, unlike certain other graduates, he does not have a vote in Seanad elections, and in relation to the fact that he is restricted from voting more generally in Seanad elections. The High Court found against FLAC's client. The Supreme Court has granted leave to appeal directly to that Court.

Discrimination case on behalf of a Traveller woman refused entry to a Communion Mass

FLAC continues to act in a WRC appeal to the Circuit Court on behalf of a Traveller woman who was refused entry to a Communion Mass on the basis that her attire was not in keeping with the dress code for the ceremony. The case awaits hearing.

Constitutional action on behalf of a survivor of a Mother and Baby Home

FLAC continues to act on behalf of a survivor of a Mother and Baby Home. In October 2021, FLAC issued proceedings on behalf of our client and the matter is ongoing. FLAC's client claims that the ongoing delay in providing a redress scheme in respect of former residents of a specific Mother and Baby Home constitutes a breach of his rights under the Constitution and ECHR.

Disability Discrimination case against a financial services provider

FLAC represented a client before the WRC in a disability discrimination complaint made by a woman who is deaf against a financial services provider. FLAC argued that in failing to allow the woman to utilise a "Telephone Banking Service" via a remote interpretation service, the financial institution failed to meet its obligation to provide reasonable accommodation, under Section 4 of the Equal Status Acts. The outcome of the case is awaited.

CASE STUDY

Constitutional Challenge to the Wardship Jurisdiction

Throughout 2021, FLAC continued to act on behalf of a man (referred to as “A” in the context of legal proceedings in which his identity is protected) with an intellectual disability who is the respondent to a High Court wardship inquiry instigated by the residential care facility in which he lives. In June 2019, the President of the High Court began a wardship inquiry in respect of FLAC’s client (on foot of an application made by the residential care facility). On the same day, the President granted an injunction to prevent FLAC’s client’s wedding which was to take place the following day, pending the outcome of the wardship proceedings.

In December 2019, “A” initiated a constitutional challenge to the wardship jurisdiction, which is administered under the *Lunacy Regulation (Ireland) Act 1871*. He also challenged the constitutionality of the *Marriage of Lunatics Act 1811* which prevents persons who have been made a Ward of Court from getting married. “A” applied to have the wardship proceedings adjourned pending the outcome of the constitutional challenge. However, the then President of the High Court refused that application.

This decision was subsequently reversed by the Court of Appeal, who placed a stay on the wardship inquiry. In her decision, Ms Justice Whelan noted that:

“ In the plenary proceedings A. has demonstrated a stateable cause of action directly concerning his own personal fundamental rights and contesting the ambit and extent of his right to assert and exercise legal agency in the context of his lived experience of cognitive disability, and the substitute decision-making paradigm to which the wardship orders will subject him.”

In January 2021, the Minister for Children, Equality, Disability, Integration and Youth signed regulations commencing Section 7(1) of the *Assisted Decision-Making (Capacity) Act 2015* – which repeals the *Marriage of Lunatics Act 1811* and means that Wards of Court are no longer automatically disbarred from entering a marriage.

A **statement** by the Decision Support Service noted that the Minister's actions were "prompted" by FLAC's client's legal challenge, and is a "welcome further step towards the full rollout of the 2015 Act and another move away from the language and ethos of antique legislation".

In 2021, both the wardship proceedings and the constitutional case were adjourned generally by the President of the High Court, pending the full commencement of the *Assisted Decision-Making (Capacity) Act 2015* which is expected by July 2022. The commencement of the 2015 Act will see the wardship regime (a system of substitute decision-making) replaced by the Decision Support Service (an assisted decision-making system).

The commencement of that legislation is extremely significant in the context of Ireland's obligation under the UN Convention on the Rights of Persons with Disabilities.



“It is with profound sadness we at FLAC learned of the death of Frank Callanan SC. He acted regularly for FLAC clients with no expectation of payment. Those who were fortunate to be represented by him had an unswerving champion who was fearless and brilliant.”

Eilis Barry, Chief Executive

SECTION THREE: Policy proposals arising from casework

FLAC develops policy and law reform recommendations (including to Oireachtas committees and International human rights bodies) to highlight the learning and experience of its work as an independent law centre, including the work of the Roma Clinic and Traveller Legal Service. It also organises events and prepares blogs on relevant issues arising from case work in the public interest.

2021 HIGHLIGHTS

FLAC and TCD Law School Seminar Series - Status Check: 20 Years of the Equal Status Acts

Submission to the Joint Oireachtas Committee on Key Issues Affecting the Traveller Community on the subject of Access to Housing and Accommodation

Equality ACTION, a joint FLAC/IHREC project aiming to strengthen the engagement of civil society with the review of the equality legislation.

The report of UN Human Rights Council UPR Working Group contained recommendations in relation to each of FLAC's four key areas of concern. The State accepted four recommendations in relation to the State's system of Civil Legal Aid, and several recommendations in relation to the rights of Travellers and Roma. This includes the acceptance of recommendations to improve 'implementation of laws against discrimination' and to 'step up efforts to address homelessness and shortcomings in access to adequate housing, particularly for Travellers and Roma communities.

FLAC submission to the Independent Anti-Racism Committee.

EQUALITY AND ANTI-DISCRIMINATION LAW

FLAC and TCD Law School Seminar Series -
Status Check: 20 Years of the Equal Status Acts



[All four webinars may be viewed on the FLAC website.](#)

In June 2021, FLAC, in association with the Law School, Trinity College Dublin, held a series of seminars on the Equal Status Acts. At the four lunch time webinars (which were attended by over 300 individuals in total), leading academics, practitioners, policy-makers and activists reflected on the experience, impact and limitations of the legislation to date, and explored its future role in Ireland’s equality framework.

The first seminar, chaired by David Fennelly BL, examined the experience of the Equal Status Acts to date including a number of exceptions to the activities which are covered by the Acts, notably a blanket exemption for



“It is now more than twenty years since the introduction of the Equal Status Act, and in that time Ireland has seen huge societal changes. I’m delighted to be announcing this review of Ireland’s equality legislation today at FLAC’s ‘Status Check: 20 Years of the Equal Status Acts’ conference. For decades, FLAC have been central to ensuring equal access to justice to some of Ireland’s most marginalised communities. I look forward to working with them and other interested parties as we progress this review.”

– Roderic O’Gorman TD, Minister for Children, Equality, Disability, Integration and Youth, 22 June 2021.

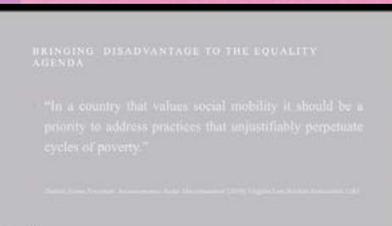
any action required by law. FLAC Managing Solicitor, Sinéad Lucey, noted the significant practical consequences of this limitation on the scope of the Acts which “removes significant fields of public sector activity”, (including actions of Government Departments and public bodies such as An Garda Síochána) from the ambit of anti-discrimination law. Sinéad and Prof. Judy Walsh highlighted that this exception may be contrary to the EU Race Directive.

The speakers noted the recent decline in the number of complaints made under the Equal Status Acts overall, as well as the fact that the number of complaints which are unsuccessful on the basis of a failure to comply with the two month “notification requirement” under the Acts has also begun to increase year on year. The seminar also explored whether certain provisions of the Acts create administrative or procedural barriers to the prosecution of discrimination complaints. For example, since 2003, a person who has been discriminated against on or at the point of entry to a licensed premises must apply to the District Court (rather than the WRC) for redress. The financial redress available for successful complaints under the Acts is capped at District Court levels (a matter which Prof. Judy Walsh noted may represent a breach of the EU Race Directive) and the Acts do not explicitly prohibit multiple or intersectional discrimination.



At the second seminar, which was chaired by Dr Fiona Donson, Siobhán Phelan SC (as she then was) examined the definitions of socio-economic status discriminatory grounds contained in the two Bills from 2017 and 2021, and concluded that the definition in the 2021 Bill was preferable. She noted that the provisions of the 2021 Bill could be strengthened by amending the Equality Acts to clearly allow for the use of hypothetical comparators and for claims relating to multiple/intersectional discrimination. Finally, she noted the potential “transformative” effect of the addition of a socio-economic status ground to the equality legislation in light of the fact that its addition would engage the Public Sector Equality and Human Rights Duty under section 42 of the Irish Human Rights and Equality Commission Act 2014.

Tamás Kádár agreed with Siobhán’s analysis of the two Bills and examined international experience of “socio-economic” grounds, and how that experience can inform the introduction of new protected characteristics to the Equal Status Acts. Paul McKeon offered a valuable insight into the lived experience of socio-economic discrimination and noted that the Equality Acts should reflect the experience of discrimination.





The third seminar discussed the experience of the Workplace Relations Commission (WRC) and the Irish Human Rights and Equality Commission (IHREC) since their creation in 2014. It explored the potential of an integrated approach to Equality and Human Rights, as well as the need to reach a “critical mass” of case law across each discriminatory ground and a culture of compliance with the legislation. Niall Crowley emphasised the importance of stakeholder and civil society involvement in the development of the Equality Acts. IHREC Chief Commissioner Sinéad Gibney noted that the future of equality law must be focussed on “proactive compliance” by public bodies and highlighted the significance of the Public Sector Equality and Human Rights Duty in this regard.

The seminar explored the practical barriers individuals face in seeking to prosecute a discrimination complaint before the WRC. The absence of legal aid before that tribunal has been the subject of criticism from international bodies such as the UN Committee on the Elimination of Racial Discrimination.

FLAC Chief Executive, Eilis Barry, noted that these concerns are all the more pressing in light of the recent decision of the Supreme

Court in *Zalewski v Adjudication Officer & Ors* [2021] IESC 24, which included important findings on the “standard of justice” required by the Constitution in tribunals involved in the administration of justice.



The Covid-19 pandemic highlighted and exacerbated societal inequalities. The final seminar examined how the equality framework could be mobilised to redress those inequalities. The leading international expert on equality law, Prof. Sandra Fredman (Oxford), highlighted key areas of potential reform, including the need for a prohibition of intersectional discrimination, strong positive duties and the introduction of

In addition, FLAC published [a comprehensive guide to making a submission to the Review](#) the key issues under Review, and FLAC's recommendations in relation to those key issues. FLAC is also a member of the #AddThe10th coalition, a group of organisations who are campaigning for the introduction of a disadvantaged socio-economic status ground.

FLAC Submission to the Independent Anti-Racism Committee

FLAC also called for the reform of the Equality Acts in its wide-ranging submission to the *Independent Anti-Racism Committee* (which is tasked with developing a National Action Plan Against Racism). In addition to equality law, FLAC's submission made recommendations in relation to Traveller Accommodation, Access to Justice (including legal aid, access to the Courts and Judicial Review), Social Welfare and the need for a prohibition on racial profiling by An Garda Síochána.

In its submission FLAC highlighted the particular value of dedicated legal services such as the FLAC Roma Clinic and Traveller Legal Service. FLAC believes that the Traveller Legal Service provides a rights-based model which should be replicated in respect of other groups, including those from minority ethnic and migrant backgrounds. FLAC recommended that the *National Action Plan against Racism for Ireland* should provide for the provision of dedicated legal services for marginalized groups, including through the provision of long-term funding for fully resourced dedicated legal services for Travellers and Roma. This recommendation was subsequently echoed by IHREC in their Submission on the Review of the Equality Acts which recommended that “*the State increase the allocation of sustainable core funding to organisations providing legal, independent advocacy and support services to people experiencing discrimination*”.

Housing Law

Housing law remains an area of critical concern to FLAC. Issues relating to housing and homelessness have consistently been one of the most prevalent categories of case files opened by FLAC. FLAC has repeatedly highlighted the specific issues which marginalised and disadvantaged groups encounter in seeking to access public services such as housing.

FLAC welcomed the aspirations to end homelessness and increase social and affordable housing in the Government's *Housing for All* plan (published in September 2021). However, it noted that this potential can only be realised if the delivery of the plan is grounded on the principles of equality and human rights, including the right to respect for privacy and family life as protected by the Constitution:

“Delivering a housing system which is based on these principles must include legally enforceable minimum standards. The plan's commitment to advance proposals on a referendum on housing and to 'examine the potential for independent regulation of the social housing sector' are therefore to be welcomed. However, the absence of commitments to provide minimum legislative standards in relation to emergency accommodation, Traveller accommodation and the system replacing Direct Provision is regrettable.”

FLAC Managing Solicitor, Sinéad Lucey, in response to the publication of the Government's *Housing For All* plan in September 2021.

FLAC also believes that the absence of a clearly articulated right to housing contributed to the emergence of the housing crisis and any solution to the crisis must be founded in the principle of housing as a human right as required by our international human rights obligations.

FLAC also welcomed the introduction of new housing regulations which remove the cap on percentage increases to the income eligibility threshold for social housing in respect of each child who is part of the household. FLAC is aware of at least one case, arising from its Roma Legal Clinic, where a family with over ten children, who were dependent on social welfare and who were experiencing homelessness, were unable to access social housing supports because their income was above the threshold set by the previous regulations.

[BLOG: New Social Housing Assessment Regulations raise the income limit for larger families applying for housing supports](#)



Chris McCann, FLAC Solicitor speaking at the JOC on Traveller Issues 22 July 2021



Sinead Lucey, FLAC Managing Solicitor speaking at the JOC on Traveller Issues 22 July 2021

Traveller Accommodation

Files concerning access to adequate accommodation again constituted the largest category of total case files dealt with by the Traveller Legal Service in 2021 and the largest number of new files opened by that service in 2021.

In a written [Submission to the Joint Oireachtas Committee on Key Issues Affecting the Traveller Community on the subject of Access to Housing and Accommodation](#), FLAC highlighted the need for urgent law reform in relation to the delivery of Traveller Accommodation, the standards of that accommodation, evictions, and access to emergency accommodation.

In a subsequent appearance before the Joint Oireachtas Committee, Traveller Legal Service Solicitor Christopher McCann highlighted the “serious flaw” in the *Housing (Traveller Accommodation) Act 1998* that means elected councillors may adopt a programme for the provision of Traveller accommodation for a period of 5 years, which the local authority is legally bound to implement, yet vote against the delivery of components of that programme with impunity. This pattern of voting for, then against Traveller accommodation has been identified as a significant obstacle to the delivery of Traveller specific accommodation by FLAC’s clients, the Steering Group of national Traveller

organisations which oversee the TLS, the *Expert Review Group on Traveller Accommodation* report, and independent research commissioned by the Housing Agency. FLAC continues to call for the urgent and full implementation of the recommendations set out in the report of the *Expert Review Group on Traveller Accommodation*.

FLAC also noted that a local authority wishing to evict a Traveller living on the roadside or an unofficial site has at its disposal no fewer than five separate legislative mechanisms to do so. Each of these mechanisms carry with them a risk of prosecution, of the person or family concerned having their caravan (i.e. their home) towed and/or impounded and all but one (Part VIII of the *Planning and Development Act 2000*) may be invoked on short or no notice without prior or subsequent recourse to a court or other independent authority.

FLAC recommended that the Government bring forward reforming legislation that ensures that, other than in the most exceptional of circumstances, a family home can never be interfered with in the absence of a merits-based determination involving a proportionality assessment by a Court accompanied with a requirement to offer alternative appropriate accommodation to homeless families. The implementation of

this recommendation is all the more urgent in light of the recent landmark judgment of the Supreme Court in *Clare County Council v McDonagh* [2022] IESC 2. In the Supreme Court, Mr Justice Hogan considered the constitutional protection afforded to the home and also under Article 8 of the European Convention on Human Rights. While he accepted that the Traveller families concerned were trespassers on the Council's land and also that the placing of their caravans was in breach of planning law, he did not consider that this justified a Court granting an injunction requiring the removal of the caravans before the proportionality of making such an Order was considered in full. In FLAC's view, this decision should prompt the Government to reconsider the other legislative mechanisms used to evict Travellers which have no requirement for the proportionality of an eviction order to be considered by a Court and which contain inadequate, or no, procedural safeguards.

“Any reform of substantive [housing] law must be accompanied by an expansion of the scheme of civil legal aid to unambiguously offer and provide advice and representation on matters related to housing, evictions and appearances before quasi-judicial tribunals.”

FLAC Traveller Legal Service Solicitor, Christopher McCann, addressing the Joint Oireachtas Committee on Key Issues Affecting the Traveller Community, 22 July 2021.

Several of FLAC's recommendations were subsequently reflected in the final report of the Joint Committee (published in November 2021). That report's recommendations included: *“the transfer of the decision making directly to An Bord Pleanála where local authorities are failing to implement their TAP due to refusal to pass Part 8 planning proposals”*; *“The ‘local connection requirement’ for social housing supports should be removed”*, and; *“Trespass legislation, in particular where it relates to publicly owned land, should be repealed until the network of transient sites is in place”*.

During 2021, the Traveller Legal Service also remarked upon the continued application of non-statutory *“local connection tests”* by local authorities as a reason to refuse access to emergency accommodation. Where Travellers are disproportionately represented among the homeless population, the continued application of these tests, which have no legal basis, is a source of concern for the Traveller Legal Service.

[BLOG: Continued use of “local connection” tests a concern for FLAC](#)

The Traveller Legal Service also contributed to the National Traveller Organisations' submission to the Department of Housing concerning the implementation of the recommendations of the *Expert Review Group on Traveller Accommodation* relating to evictions pursuant to section 10 of the *Housing (Miscellaneous Provisions) Act 1992 (as amended)* and possible means to include safeguards in the process at an administrative level.

Engagement with International Human Rights Bodies

The United Nations Universal Periodic Review of Ireland

In November 2021, Ireland was reviewed as part of the third cycle of the United Nations' Universal Periodic Review (UPR) mechanism, at the 39th session of the UPR Working Group.

FLAC engaged with the UPR process in two ways. In March 2021, FLAC made a [“Stakeholder Submission”](#) to the Office of the UN High Commissioner for Human Rights.

In May 2021, FLAC made a [submission to the Department of Children, Equality, Disability, Integration and Youth’s consultation](#) on the Ireland’s National Report to the UPR.

In both submissions, FLAC focused on updates and developments in areas which are most relevant to our work on access to justice: Equality, Social Welfare, Issues affecting Travellers and Roma, and Civil Legal Aid.

On 7 October 2021, FLAC Chief Executive, Eilis Barry, presented at the UN Universal Periodic Review of Ireland “Pre-session” to petition states to make recommendations to Ireland in respect of the issues highlighted in FLAC’s submission. FLAC also published a series of fact sheets for States reviewing Ireland in relation to our areas of concern.

[PRESS RELEASE \(which includes link to FLAC fact sheets\): FLAC highlights barriers to justice and inequality at UN Review of Ireland](#)

The report of the UN Human Rights Council UPR Working Group (in relation to the third review of Ireland under the UPR mechanism) contained recommendations from countries to Ireland in relation to each of FLAC’s four key areas of concern. Ireland accepted over 200 of the recommendations contained in that report. Notably, the State accepted four recommendations in relation to the State’s system of Civil Legal Aid, including recommendations to conduct a “comprehensive and independent” review of the Civil Legal Aid scheme and to broaden efforts to ensure vulnerable groups can ‘fully access justice’ including in relation to social welfare and equality issues. The State accepted several recommendations in relation to the rights of Travellers and Roma. This includes the acceptance of recommendations to improve ‘implementation of laws against



discrimination’ and to ‘step up efforts to address homelessness and shortcomings in access to adequate housing, particularly for Travellers and Roma communities’. The State accepted over 50 recommendations in relation to equality and non-discrimination, as well as in relation to the rights of minority groups.

[PRESS RELEASE: UN Human Rights Review of Ireland: FLAC welcomes State’s commitment to “comprehensive and independent” review of Civil Legal Aid but expresses dismay at refusal to prohibit Racial Profiling](#)

Social Welfare

FLAC’s casework in this area continues to illustrate issues around the quality of first-instance social welfare decision making and the disproportionate impact of the Habitual Residence Condition on marginalised groups such as Roma. FLAC raised these matters in its engagement with the Universal Periodic Review of Ireland, as well as in its submission to the *Independent Anti-Racism Committee*.

In 2021, the FLAC legal blog examined the practical consequences of the decision of the Supreme Court in *McDonagh v Chief Appeals Officer & The Minister for Social*

“FLAC recommends that Ireland should review the Habitual Residence Condition to eliminate its discriminatory impact on access to social welfare, particularly among disadvantaged and marginalized individuals and groups.”

– FLAC Chief Executive, Elis Barry, addressing the United Nations Universal Periodic Review of Ireland Pre-Session, 7 October 2021.

Protection [2021] IESC 33, where Ms Justice Dunne held that the refusal of a Deciding Officer to revise an earlier decision is, in itself, a decision that may be subject to an appeal.

[BLOG: When is a Decision not a Decision? Supreme Court finds that the refusal of a Deciding Officer to revise an earlier decision may be subject to a Social Welfare Appeal](#)

Judicial Review

In its submission to the *Independent Anti-Racism Committee*, FLAC expressed its serious concern about the recommendations of the *Review Group on the Administration of Justice* in relation to judicial review, particularly in light of the importance of judicial review for people from vulnerable and marginalised groups who may have access to no other mechanism to challenge decisions with major implications on their lives and rights, as illustrated by FLAC’s casework in the areas of housing, social welfare and citizenship.

In light of these concerns, on foot of the publication of the Review Group’s report, FLAC wrote to the Minister for Justice and set out that, given the potentially significant implications of the Review for access to justice in the State, it is essential that there is consultation with a wider range of stakeholders who will be affected by the proposals in the Report prior to their implementation.

However, the Department formed an Implementation Group in relation to the recommendations in the Review Groups' Report, and furnished an implementation plan with legislative proposals to restrict access to judicial review to Cabinet in May 2022, without a meaningful consultation process with key civil society stakeholders. This is a matter of great concern.

Engagement with Courts Services

Throughout 2021, FLAC engaged with the Court services in relation to the ongoing and welcome programme of modernisation and improvements to accessibility for lay litigants.

While FLAC welcomed the move to online Courts in light of the Covid-19 pandemic, it has stressed that any such measures must be equality-proofed and implemented in a manner that is compatible with constitutional requirements for the administration of justice and the Public Sector Human Rights and Equality Duty.

In July 2021, FLAC wrote to the Director General of the Workplace Relations Commission to express its concern at the apparent introduction of a policy of remote hearings by default.

FLAC called on the WRC to clarify whether the policy was temporary and, in any event, noted that the WRC should:

- Pro-actively identify cases where a remote hearing would not be suitable and schedule those matters for in-person hearing as soon as it is feasible and safe to do so.
- Introduce practical supports and safeguards to ensure meaningful access to remote hearings, including an assisted digital programme designed to help those who are 'digitally excluded' or lack digital skills to engage with new processes and the WRC Complaint Form.
- Introduce appropriate monitoring mechanisms to oversee the impact of remote hearings on access to and confidence in the WRC, particularly amongst persons with protected characteristics under equality law.

In his response to FLAC's correspondence, the Director General of the WRC noted that some complaints made to the WRC "are identified *ab initio* as suitable for face to face only, or in light of self-evident complexity or where it appears that a virtual hearing may be unfair on a party" and stated that the WRC's policy had been updated to reflect this. He also highlighted that the WRC is currently reviewing its online complaint form and a "central part of this reform programme is to create a free-standing Equal Status Acts complaint form".

FLAC welcomes these developments and clarifications. FLAC has called for the introduction of an Irish Equal Treatment Bench Book which applies to all Courts and Tribunals in this jurisdiction.

SECTION 4: Policy, Research & Law Reform

2021 HIGHLIGHTS



Legal Aid Board to no longer assess Housing Assistance Payment as a form of income for applicants for legal aid



PILLAR TO POST; FLAC published 3 detailed papers on issues arising in new and existing consumer debt cases in light of Covid 19, with rolling recommendations



7 roundtables held for NGOs to share experience of the civil legal aid system



A Report on the Absence of Legal Aid for Employment Equality Cases in Ireland



FLAC and 45 signatories including NGOs, advocates and a union called on the Minister for Justice to ensure a root and branch review of legal aid system

STATE CONSULTATION WITH CIVIC SOCIETY STAKEHOLDERS

FLAC continued to participate in its collaborative work with other statutory bodies, policy makers and other non-governmental organisations throughout 2021

External Consultative Panel to the Legal Aid Board.

FLAC welcomed the Legal Aid Board's move in 2021 to no longer assess Housing Assistance Payment as a form of income for applicants for legal aid. FLAC had been campaigning on this issue for a number of years and this move will make a significant difference to those who were unfairly deemed to be over the income limit by being in HAP accommodation rather than local authority accommodation. The Board gave a commitment to review decisions from a previous six-month period where individuals had been refused access to civil legal aid having been deemed to be over the income threshold as a result of receiving HAP, although FLAC sought a longer period of review given the number of people who missed out on receiving services.

Migrant Consultative Forum.

A main focus of this group's work throughout 2021, was seeking improvements to interpretation services available for migrants accessing the services of DSP.

National One Parent Family Alliance

FLAC also engaged in collaborative work with other NGOs on the impact of the pandemic on one parent families, working with Barnardos, Children's Rights Alliance, Focus Ireland, National Women's Council, One Family, Society of St Vincent de Paul, SPARK (Single Parents Acting for the Rights of our Kids) and Treoir. In this group, FLAC jointly made submissions to Committees on matters such as the General Scheme of the Parent's Leave and Benefit (Amendment) Bill and on Supporting One Parent Families During and After the COVID-19 Crisis.

Submission to the Department of Social Protection on the Public Consultation on Child Maintenance Review

FLAC's Submission raised concerns regarding the consultation process itself as well as potential overlap in work that is being undertaken on child maintenance structures and other bodies involved in various aspects of family law/justice reform.

Civil Legal Aid

7 Roundtables were held for NGOs to share their experience of the civil legal aid system.

During 2021, FLAC and a broad range of NGOs, charities and non-profits working in Ireland with vulnerable and marginalised communities met over the course of seven roundtable events hosted by FLAC, sharing their experience of unmet legal need and difficulties with the civil legal aid system. These organisations and individuals provide legal expertise, information, support and advocacy to a broad range of communities, families and individuals. Collectively, we work with migrants, Travellers, members of the Roma community, deaf people, lone parents, disabled people, victims and survivors of domestic violence, unemployed people, the working poor and more.

FLAC and 45 signatories seek root and branch review

FLAC came together with over 45 other organisations to seek a commitment that the upcoming review of the civil legal aid system is comprehensive, meaningful, transparent, inclusive and participatory, incorporating the voices of citizens and stakeholders with first-hand experience of civil legal aid in Ireland.

This statement outlined that the review must be a root and branch review that is comprehensive in scope and maps unmet legal need; It should explore the functions of the Legal Aid Board (including the provision of information, advocacy, education and research); the eligibility criteria for legal aid (including the means test, and financial contributions), the areas of law covered – (including

discrimination, domestic violence, housing, sexual harassment and immigration); and the methods of service delivery (such as community law centres, targeted/specialised legal services for disadvantaged groups and individuals). It must be an independent review chaired by a person of status, such as a judge with an interest in access to justice (such as the original Pringle Committee).



The common thread among all of these diverse communities is the experience of unmet legal need that is not addressed through the current civil legal aid system in Ireland.

It must have at its centre the voices of those who experience unmet legal need and involve key stakeholders, including external groups and NGOs who provide legal and other services to people in poverty and disadvantage, such as FLAC, and members of the ILCN, the Legal Aid Board; Disabled Person's Organisations; statutory bodies such as IHREC, the

Citizens Information Board and the National Disability Authority; relevant NGOs, academics and people who are familiar with the needs of lay litigants and representatives of the profession. Further, the review must measure the civil legal aid system against international standards and compliance with the State's obligations under the Constitution, the European Convention on Human Rights, the European Charter of Fundamental Rights, the UN Convention on the Rights of Persons with Disabilities, and the Public Sector Equality and Human Rights Duty contained in Section 42 of the Irish Human Rights and Equality Commission Act 2014.

A Report on the Absence of Legal Aid for Employment Equality Cases in Ireland

We are extremely grateful to the students of the LLM Course in TCD who produced a very useful [report](#) to assist FLAC in its policy work on legal aid, containing stark figures about the success rate where claimants are unrepresented in employment equality cases.

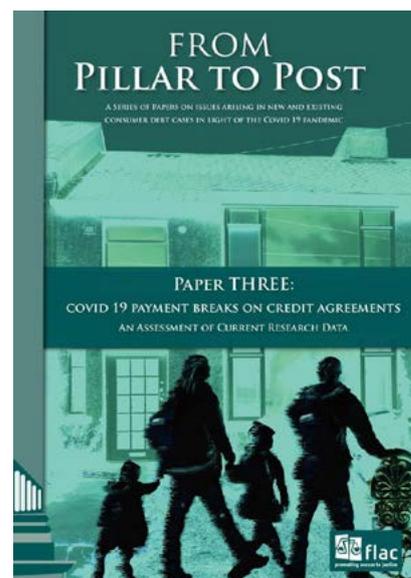
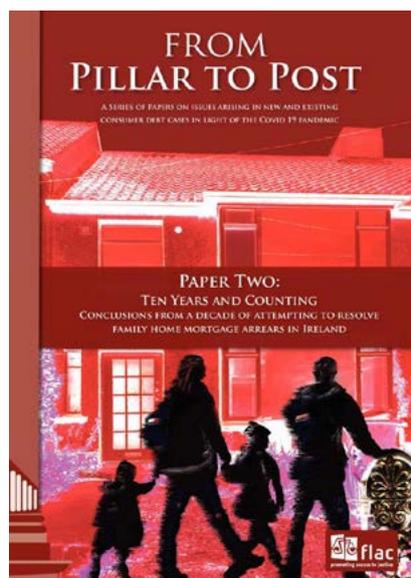
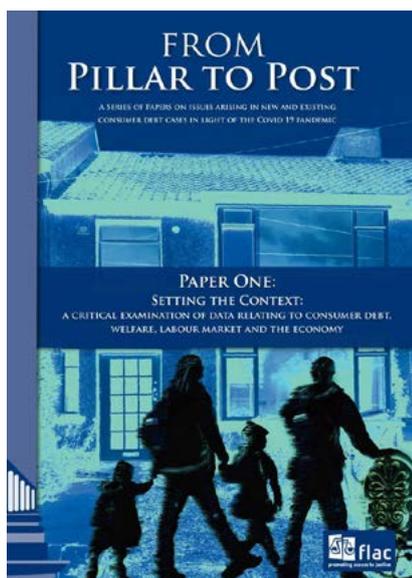
Personal Debt, Credit and Financial Services Law Reform

The 'Pillar to Post' Series

FLAC's work in the area of debt and credit this year was firmly centered on the effect of the pandemic. ['Pillar to Post'](#) is a series of policy papers on issues arising in new and existing consumer debt cases in light of Covid 19. Three detailed papers with rolling recommendations were conceived, researched, written and published in 2021.

The first paper in this series, released in June, *'Setting the Context: a critical examination of data relating to consumer debt, welfare, labour market and the economy'* outlined the objectives of the series and reviewed and analysed pre-pandemic and early pandemic indicators of financial distress and potential over-indebtedness, including utility arrears and sectors with high ratios of PUP payment. It called for a pro-active approach to resolving Covid related debt focusing on supporting the rights of the worst affected households.

Paper Two entitled *'Ten Years and Counting: Conclusions from a decade of attempting to resolve family home mortgage arrears in Ireland'* was released in August and chronicled in depth the efforts to resolve the post-Crash mortgage arrears problem on family homes, concluding that these prolonged efforts have been a limited success. It summarised the mix of legislative mechanisms introduced and highlighted their overtly conservative approach. It also reviewed recent Central Bank warnings on mortgage shortfalls into the future and criticised the apparent absence of a plan of resolution for these cases.



[Click image for link](#)

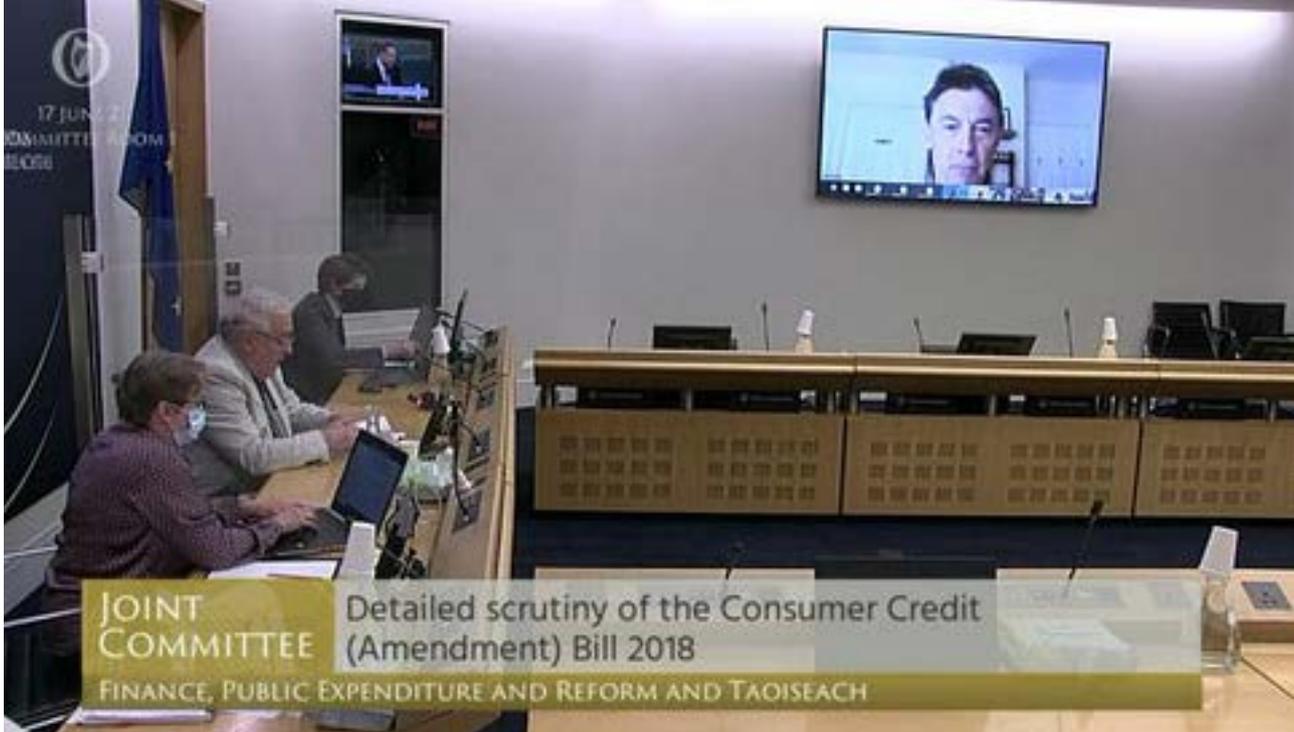
Paper Three, 'Covid 19 payment breaks on credit agreements; An Assessment of Current Research Data' published in November, examined the data concerning payment breaks offered to consumer borrowers on secured and unsecured loans in 2020 and their implications. It analysed a trend of borrowers with a pre-Crash history of mortgage arrears who had availed of payment breaks. Noting the lack of updated information in 2021 on accounts that had availed of breaks, on loans owned by vulture funds and on unsecured credit agreements in arrears generally, it called for better data to inform resolution strategies.

A fourth and final paper will be published in the Summer of 2022 and will set out detailed final recommendations for reform.

Submissions on consumer credit legislation

Two important proposals broadly concerning the regulation of high cost credit providers and the rates of interest charged by them were the subject of FLAC submissions in 2021.

The Consumer Credit (Amendment) Bill 2018, a single section Private Member's Bill to cap the rate of interest that a licensed moneylender should be allowed to charge, was initiated by Pearse Doherty TD in December 2018. Having provided an initial submission at the request of the Joint Oireachtas Committee on Finance and Public Expenditure in November 2020, FLAC appeared before the Committee in June 2021 to discuss the pre-legislative scrutiny of that Bill. Subsequently, the government published its own more detailed General Scheme of a Consumer Credit (Amendment) Bill 2021, and FLAC was requested to make a submission in turn on that scheme, which was provided to the Committee in September 2021. Both proposals are still live.



Paul Joyce, FLAC Senior Policy Analyst speaking at the JOC Finance Committee scrutiny of the Consumer Credit (Amendment) Bill 2018

Separately, a General Scheme of the Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill 2019 was published in October 2019 and referred to the Finance Committee. It was referred a second time in March 2021 following the general election in February 2020. FLAC was then requested to make a submission on the pre-legislative scrutiny of the Scheme which was provided at the end of March 2021. A Consumer Protection (Regulation of Retail Credit and Credit Servicing Firms) Bill 2021, to regulate currently unregulated providers of Hire Purchase (and Personal Contract Plan) car finance agreements and unregulated providers of so called ‘indirect’ credit, was then published in June 2021. This Bill was adjourned to Select Committee stage in the Dáil in September 2021 where it may be examined in more detail by the Finance JOC.

Other work

In the course of 2021, FLAC also engaged in meetings and collaborative work with:

- The Money Advice and Budgeting Service (MABS) and Citizens Information Board (CIB) on an analysis of the effectiveness of Debt Relief Notices (DRN) under the personal insolvency legislation.
- The International Monetary Fund (IMF) concerning its periodic assessment of Ireland’s financial sector.
- The Civil Reform team of the Courts Service in relation to its work on a proposed Digital Debt litigation and enforcement system.
- The Central Bank of Ireland (CBI) in connection with its review of the home mortgage lending guidelines.
- The Competition and Consumer Protection Commission (CCPC) on its Financial Well-being Strategy Review.
- The Social Finance Foundation (SFF) on its analysis of high cost credit and moneylending practices.
- The Irish Banking Culture Board (IBCB) on its project to help promote financial inclusion.

SECTION FIVE: EU funded projects in partnership with INAR and TEJP

EAP – The Equal Access Project

The Equal Access Project (EAP), a joint initiative between FLAC and INAR (Irish Network Against Racism), began in 2021. It is funded by the EU under the Rights, Equality, and Citizenship (REC) programme. The EAP is about improving access to justice for people discriminated against in employment or access to goods and services on the grounds of race or membership of the Traveller community. The project team includes members of FLAC and INAR, overseen by an Advisory Committee of equality and anti-racism experts who provide advice on various aspects of the EAP's activities.

of someone who has been subjected to racial discrimination leading to a level 6 QQI award.

The second area of the EAP's focus is to produce a piece of research that examines whether our current system provides an accessible and effective mechanism for the adjudication of complaints on the race and membership of the Traveller community grounds. The EAP will run until 2023.

Traveller Equality and Justice Project

The TEJP is a new partnership between UCC and FLAC responding to a need for legal research and increased data on discrimination, which Irish Travellers face in provision of goods and services, and legal supports in challenging acts of discrimination through the legal system. The TEJP is currently supported by the European Commission under the Rights, Equality and Citizenship Programme (REC-AG-2020) January 2021- December 2022.

The Project and Legal Clinic is based within the School of Law, UCC and is supported by the Solicitor from the Traveller Legal Service at FLAC.



The project has two focus areas: research and training. The EAP provided a unique training opportunity for non-legal advocates to acquire the knowledge and skills to take a case to the Workplace Relations Commission (WRC) in support



SECTION SIX: Access to Justice Events

Access to Justice 2021 Conference

FLAC was proud and pleased to participate in the Chief Justice's Working Group on Access To Justice 2021 along with Mr Justice McMenamin, representatives from the Law Society of Ireland, The Bar Council of Ireland and the Legal Aid Board.

FLAC also participated in the #AccessToJustice2021 Conference held on 1 & 2 October 2021. There was a stellar line up of speakers over the two-day event. One key takeaway of day one was that all the speakers highlighted the legal, social and moral imperative of spending on legal aid.

The Chief Justice noted, in his opening remarks, that *"the range of issues is wide and potential improvement requires action across many strands."*

Eilis Barry, FLAC CE, delivered the plenary session - an Introductory Overview of the Unmet Legal Need - on day two of the conference.



(From L-R): Ms. Eilis Barry, FLAC; The Hon. Mr. Justice John MacMenamin, Judge of the Supreme Court; The Hon. Mr. Justice Frank Clarke, Chief Justice; Mr. Philip O'Leary, Legal Aid Board; Ms. Attracta O'Regan, Law Society of Ireland; Mr. Joseph O'Sullivan, Bar of Ireland.

“Equality before the law is a fundamental principle in a democratic state. To achieve it, there must be equal access to justice.”

- Eilis Barry FLAC CE



Highlights of Eilis' presentation included;

- FLAC's positioning of access to justice as a continuum of issues, including: information; legal advice; advocacy; access to the courts; access to an effective remedy and fair and just laws. She considered that viewing unmet needs as a continuum and committing to deal with needs earlier could have a significant implication for costs.
- *"In talking about unmet legal needs, the nature and level of unmet legal need in Ireland is neither well understood or comprehensively researched."* There may be more scope for some research to be carried out in relation to unmet legal needs and its social and financial consequences in order to provide an evidential basis for meeting such needs.
- A clear message arising out of the event was that the needs of many are not met by the current system. The event only scratched the surface to uncover some aspects of unmet need. Yet, the diversity, volume and experience of participants generated rich conversation and will undoubtedly assist the Working Group in considering how it may contribute to improving access to justice.

- The issue of 'clustered injustices' featured throughout the event. Eilis quoted from a book by Luke J. Clements, Clustered Injustice and the Level Green, in which he states that for many people living in disadvantage their legal problems are multiple, interconnected and messy.
- There was an emphasis throughout the event on the importance of using plain language in the law itself, and in material which provides information to people about the law and their rights.

[A report of the conference including Eilis' presentation was produced and is available here.](#)

Mr. Justice Frank Clarke, Chief Justice, delivering his opening address at the conference on Access to Justice held remotely. Observing Chief Justice Clarke's address are members of the Working Group on Access to Justice.



Guest Lecture with Edwin Cameron

FLAC was delighted to have Justice Edwin Cameron, formerly of South Africa's Highest Constitutional Court, in the FLAC office to deliver a guest lecture on the topic 'Social and economic rights, what can judges do?'

Justice Cameron opened the lecture by commending FLAC and legal practitioners in Ireland for engaging in pro bono work and notes the need for public interest law services for broad ranges of people. He commented that the pandemic has changed our lives irrevocably – and we must remember how interconnected we are. **One infection continents away can impact our health.** Justice Cameron noted the two main objections to putting socio-economic rights into a constitution: Judicial capacity (concerns regarding training) and legitimacy (separation of powers). There are concerns about resource limitations on the court and judges.

“Effective relief and remedies must be available in order to realise the material conditions of life”

- Justice Edwin Cameron

It was our first hybrid in-person and online event. It was a technical learning curve and we look forward to hosting more events in the FLAC office soon.

If you missed this insightful lecture, please visit FLAC's YouTube page or [click here](#).



Eilis Barry, FLAC Chief Executive, Justice Edwin Cameron, formerly of South Africa's Highest Constitutional Court and David Fennelly FLAC Chairperson.



FLAC Annual Justice Talk

The FLAC Annual Justice Lecture 2021 in memory of Dave Ellis was held online on Thursday 2nd December.

FLAC were delighted to hear from Professor Gráinne de Búrca, Florence Ellinwood Allen Professor of Law, NYU and Director of the Hauser Global Law Program on the topic of 'Mobilising Human Rights in Ireland'.

The introduction was provided by David Fennelly, FLAC's new Chairperson.

“#AccessToJustice is at the heart of FLAC’s mission & is an important gateway for the protection of human rights & equality. While Ireland has shown great leadership on equality issues in some areas, our equality laws require modernisation to reflect the Ireland of 2021 & beyond”

- David Fennelly, FLAC Chairperson.

David expressed FLAC’s concerns of the proposed curtailment of judicial review, *“We know from bitter experience that efforts to restrict judicial review in areas such as immigration & planning have tended only to increase the time and costs associated with litigation challenging decisions of public bodies... fundamentally there is a real risk that any significant curtailment of judicial review would undermine an essential safeguard for the rule of law in our democracy and in addition would be inconsistent with our European and international obligations”.*

At the FLAC Annual Justice Lecture 2021 Professor de Búrca noted that *“Ireland has been seen as something of a beacon for constitutional reform and human rights change in recent years”* and how although in many ways it has there are also many current challenges facing human rights in Ireland.



“ Legal campaigns for human rights reform & social justice need to be accompanied by broader campaigns to change attitudes and build social support ” - Prof Gráinne de Búrca

Prof de Búrca demonstrated the crucial elements for a successful human rights campaign include not only ongoing engagement with domestic institutions but also international and external forums and institutions. There is a need to anticipate likely factors of resistance and be wary of attempts to reduce civic spaces.

In concluding Prof de Búrca stated, *“Major contemporary challenges requiring structural change, like socio-economic inequality and climate change will need more than action from lawyers and courts; will need a broader democratic push; but the kind of change in social attitudes and support that campaigning can bring about will help enable courts and lawyers play the important supporting role that they can.”*

If you missed the lecture or would like to share the recording it can be viewed [here](#) or on [FLAC's YouTube page](#).

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 access to justice.

FLAC (Free Legal Advice Centres) is a company limited by guarantee not having a share capital and is registered in Dublin (Company Reg. No. 49413) It is recognised by the Revenue Commissioners for Charitable tax exemption (CHY No. 6097).

FLAC is registered with the Charities Regulator (Registered Charity Number 20010256), and is fully compliant with the Charities Governance Code and submits its accounts and annual report annually to the Charities Regulator.

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.

FLAC is governed by its Council/ Board of Directors who provide guidance on the strategic direction of the organisation; FLAC Council holds nine meetings each year and has a Governance Sub-Committee, which meets quarterly, and a Finance and Audit Committee, which also meets quarterly.

FLAC COUNCIL:



David Fennelly
(Chairperson)



Don Crewe



Julie Herlihy



Joanne Hyde



Peter Ward

Number of meetings of FLAC Council held in 2021: 9.

STAFF



Eilis Barry
Chief Executive



Lauren Bashir
Telephone Information
Line Officer



Christopher Bowes
Legal Officer



Erin Brogan Telephone
Information and Referral Line
Development Manager.



Corina Byrne
Finance, HR and
Office Manager



Conall Cahill Volunteer
Assistant and telephone
information line officer



Ingrid Colvin National
Clinics and Volunteer
Development Manager



Deirdre Curtis
Telephone Information
Line Officer



Susan Dennehy
Communications Consultant



Lizzie Gill Telephone
Information Line Officer



Maureen Gourley
Solicitor



Liz Harper
EAP Training Consultant



Jackie Heffernan
Telephone Information
Line Officer



Catherine Hickey
Director of Fundraising and
Governance



Laura Horan
Telephone Information Line
Officer



Monica Horyszna
Legal Executive



Paul Joyce
Senior Policy Analyst



Kasey Kelly Quinn Telephone
Information Line Officer



Gillian Kernan
Research Officer



Liz Lee Receptionist &
Administrative Assistant

STAFF



Sinead Lucey
Managing Solicitor



Stephanie Lord
Legal and Policy Officer



Ruth Kilcullen
EAP Project Coordinator



Hannah McSweeney
Legal Intern



Daithi O'Maonaigh
PILA Administrative
Assistant



Rachel Power
PILA Strategic
Development Manager



Christopher McCann
Solicitor



Nijole Matiukiene
Housekeeper



Maria Saracut
Telephone Information
Line Officer



Sinead Scales
Volunteer Rostering
and Support Officer



Caroline Smith
Media and
Communications Officer



Alessia Vecchio
Volunteer Rostering
and Support Officer



Gill Waters
Fundraising Manager

Farewells and welcomes

In 2021, we said a sad farewell to Deirdre Malone and Rachel Power – we thank them for their huge contribution to the work of PILA.

Jackie Heffernan also stepped down from her role as Coordinator of the FLAC Telephone Information and Referral Line. Read her interview [here](#).

In 2021, we welcomed Danielle Curtis, Daithi O'Maonaigh, Erin Brogan, Monica Horyszna, Ruth Kilcullen, Alessia Vecchio, Liz Harper, Gill Waters and Hannah McSweeney.

Congratulations to Sinéad Scales and Laura Horan on the birth of their baby girls in 2021.

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 2021, FLAC's funders included:

Citizens Information Board

Community Foundation for Ireland

Department of Justice

Department of Children, Equality, Disability, Integration and Youth

Department of Rural and Community Development – Scheme for National Organisations (2019-2022) administered through Pobal

European Union –DG: JUST Rights Equality and Citizenship Programme

Individual Donors and Friends of FLAC

Irish Human Rights and Equality Commission

JP McManus Charitable Foundation.

Members of the Bar of Ireland

Members of the Law Society of Ireland

Rethink Ireland

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 2021 were:

- A&L Goodbody
- Arthur Cox
- McCann Fitzgerald

Supporting Partners in 2021 were:

- Eversheds Sutherland

FLAC INCOME & EXPENDITURE 2021

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 [here](#). 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 2021.

INCOME	2021	2020
Philanthropic Funding	68,000	0
Bar Council & Law Society Members' Contributions	311,567	318,609
Statutory Funding	626,339	460,410
Fundraising and Donations	133,869	110,632
Legal costs received	122,403	26,146
European Funding	64,132	0
Total	€1,326,310	€915,797
EXPENDITURE	2021	2020
Staff costs	1,247,554	1,036,139
Programme of work	150,261.5	110,747
Overheads, equipment & depreciation	168,293.5	182,926
Total	€1,566,109	€1,329,870



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