

FLAC Annual Report

2006/2007



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Letter from the Director

Sometimes, in the midst of being busy, it can be hard to assess what has been achieved. This is why compiling our annual report gives FLAC an opportunity to reflect and to assess the work of our organisation. As will be seen from the content of the report, 2006 and 2007 were important and eventful years for FLAC.

We developed further the embryonic public interest law project which had been started in 2005, and had useful and timely exchanges with many organisations and individuals who recognise the systematic use of law in the public interest as a way to widen access to justice. On a sad note, a pre-eminent champion of public interest law, Dave Ellis died during this period – a huge loss not just to those who knew him, but to all who strive to end social and economic exclusion. The legacy of this veteran public interest lawyer and great friend to FLAC will continue to inspire us. FLAC initiated the Dave Ellis memorial lecture series in his honour, with the first talk held in 2007. Professor Gerry Whyte from Trinity College, Dublin, another long-time standard bearer for access to justice closed the inaugural lecture, which he had given, with a quote from India's M.K. Gandhi "Think of the poorest person you have ever seen and ask whether your next act will be of use to him". Hopefully, that reflection will continue to guide the work of FLAC.

The period 2006-07 brought with it an increased concern about aspects of social welfare law. FLAC began its formal campaign seeking the restoration of Child Benefit as a universal payment for all children living and growing up in Ireland. We have noted that the refusal to grant child benefit to some children is due to a harsh, inflexible policy which placed a tough immigration regime ahead of children's human rights. We remain worried about this, as we are about other aspects of how our welfare system treats a particularly vulnerable, marginalised group in Ireland, namely those immigrants who are newly arrived, whose status has not been settled.

On a happier note, FLAC welcomed the first increase in the means test for civil legal aid since 2002, recognising that this would give access to justice to some who had hitherto been unfairly excluded. This change had been recommended in FLAC's Blueprint for Civil Legal Aid in Ireland in 2005. Other recommendations of that report remain outstanding at the end of 2007 though FLAC was happy to note that waiting lists

remained within limits which the Irish courts have suggested are consistent with the constitutional rights of those who need legal aid.



The work done by FLAC lawyers on a voluntary basis in our centres around the country remains an essential stepping stone in the overall aim of achieving equal access to justice for all. Without that first-stop legal advice offered by dedicated volunteers in our centres, many would be ignorant of their rights and responsibilities and would be unable to partake in important legal processes affecting them. Working with our volunteers are many Citizens Information Centre staff whose organisation of the centres is essential to their continued existence. FLAC thanks all of you who keep the centres open through good times and bad, summer and winter.

In addition to these lawyers, we also call on the services of practitioners to assist us in particular case work – sometimes directly and sometimes through the Bar Council's Voluntary Assistance Scheme. These calls are always answered without reserve, and we thank those practitioners who have assisted and continue to assist us generously with their time and expertise.

A particular band of volunteers who do not seek the limelight, but who are crucial to our work are FLAC's National Council, our governing body. Chairperson Peter Ward and his fellow Council members, Don Crewe, Iseult O'Malley and Paul O'Connell give freely of their skills and experience to lead our policy development and to provide strong and constant support for my work and that of the staff and organisation.

Our in house legal team continued to deal with cases which raise serious issues of human rights and potentially deny people access to justice. Many of these cases take place in internal tribunals, but during this period we have had prominent High Court litigation too in the judgment issued in proceedings taken by

Dr. Lydia Foy against the Registrar General. That case saw the first ever Irish declaration of the incompatibility of Irish legislation with a person's human rights under the European Convention on Human Rights.

Our legal work in FLAC is directed at areas of law which inevitably attract little attention from private lawyers. Thus we concentrate on the application of social welfare law and access to law, as well as consumer protection in debt and credit law. The period under review has seen a worrying rise in the level of sub-prime lending. FLAC is concerned that insufficient safeguards are in place to protect those who often feel that they have no option but to take out unrealistically high loans which have to be repaid at the highest possible interest rates. Often, to add insult to injury, additional "charges" on such loans seem arbitrary and unexplained. FLAC has raised these concerns about apparently irresponsible lending in public forums, and with the various bodies charged with regulating the credit sector. We will continue this work and to scrutinise Ireland's antiquated debt enforcement system which itself has serious potential to breach fundamental human rights.

FLAC strongly believes that information is strength and tries to promote greater public understanding of law through its information and publications. Our website got a major overhaul in 2007 and FLAC's information and referral line also provided a telephone information service for some 12,000 people over the 2-year period in question.

FLAC was initially founded by students and we encourage the engagement of students in promoting access to justice. Because much of our volunteer work is based in centres, where qualified lawyers must give the advice, our student volunteers have to be creative in their approach. And they are! FLAC has vibrant student societies in UCC and TCD. Other colleges are considering similar societies. Students have assisted us in collecting data on unmet legal need. In addition, our Fellowship competition, where the prize is a summer internship in the USA has attracted really high grade student entries in both years. Sincere thanks to Mr Justice Donal Barrington who judged the competition in 2006 and to Mrs Justice Catherine McGuinness who has since been his successor in this work. The support of such eminent lawyers has greatly added to the competition's status.

In addition to the invaluable work done by our vol-

unteers, I am extremely proud and grateful to be the Director General of an organisation which has such a thoroughly committed and capable staff, all of whom served to advance the aims of FLAC in the period of this Annual Review. FLAC is extremely lucky to have such a wide range of talent, experience and dedication to the advancement of human rights in general, and access to justice in particular. We have had a number of staff changes. During this time, we said goodbye to Marcela Rodriguez Farrelly and to Elizabeth Mitrow. We said hello to Saoirse Brady, Sarah Horgan and Gillian Kernan. We continue to depend enormously on Clare Dennehy, Michael Farrell, Jacqueline Heffernan, Catherine Hickey, Paul Joyce and Yvonne Woods. Staff are assisted by those we call "the interns" a changing group of highly energetic, interested and bright students who support the work of the staff in many essential ways and who, even when they move on, maintain their place in FLAC's history and achievements.

Strength and enthusiasm alone is not enough to do the work that we have done in this period. We also needed money. We are therefore extremely grateful to those who have enabled us financially to continue our policy and service work. Our funding is from a variety of sources. We thank the Citizens Information Board and the Departments of Justice, Equality & Law Reform and of Community Rural and Gaeltacht Affairs for their essential support of our information and advice work. Equally we thank those private donors who have permitted us to expand our work in public interest law and human rights protection. In particular, the support of The Joseph Rowntree Trust and The Atlantic Philanthropies has allowed us to carry out some innovative work that we hope will lead to better support and protection for those who are particularly marginalised. The Combat Poverty agency has again supported our ongoing work addressing policy issues during this period. FLAC also treasures the support it gets from individual practitioners around the country. In a system supported by the Law Society and the Bar Council, FLAC receives an annual contribution from most of the country's practitioners. This money, which comes with no strings, supports our core work and is also seen by FLAC as an endorsement by the legal community of our work. Thank you to all who support us with their time, energy and money. We deeply appreciate it.

Noeline Blackwell
FLAC Director General

About FLAC

Mission

FLAC – the Free Legal Advice Centres – is an independent human rights organisation dedicated to the realisation of equal access to justice for all and its campaigns through advocacy, strategic litigation and authoritative analysis for the eradication of social and economic exclusion.

Structure

FLAC was established in 1969 to provide legal information, advice and representation to people who could not afford to pay for legal services and to campaign for a state civil legal aid system. Today FLAC has a full-time head office in Dublin.

The organisation is managed by a Board of Directors known as the National Council, elected annually by FLAC's membership. Day-to-day management of the office is carried out by the Director General in conjunction with office staff, reporting to the Council.

FLAC offers the possibility of joining the organisation as an intern for a specified time period. FLAC interns provide a solid back-up to the core work of the organisation.

FLAC is also heavily dependent on the efforts of its volunteers in imparting legal advice at its centres. The work carried out by our volunteers provides a desperately needed service to those who cannot afford legal information and advice otherwise. FLAC centres operate out of Citizens Information Centre (CIC) premises and are organised in conjunction with CIC staff. FLAC recognises thus the substantial contribution made by the CICs to the smooth and effective running of its centres.

What we do

In pursuit of our goal of promoting access to justice, FLAC works in a number of ways. These include outreach via our telephone information and referral line and our legal advice centres, campaigning on core issues and conducting research into areas of law and policy where we can bring about

positive social change. We also generate publications and guides on legal topics with the aim of informing the public about their rights and advancing access to justice.

FLAC runs a statistical programme to monitor legal queries and to analyse access to justice concerns at legal advice centres around the country. This has produced insights into unmet legal needs in Ireland and has implications for how people access justice here.

Funding

FLAC is very grateful for the financial support it receives from members of the Law Society and Bar Council. FLAC also appreciates the funding it receives from the Atlantic Philanthropies, Dublin City Council, the Department of Justice, Equality and Law Reform, the Department of Community, Rural and Gaeltacht Affairs, the Combat Poverty Agency and FAS.

Special thanks are due to Comhairle, now Citizens Information Board, which helps operate our legal advice centres and provided part-funding for FLAC's legal information leaflets in January 2007.

FLAC people

Council

Peter Ward, Chairperson
Don Crewe
Paul O'Connell
Iseult O'Malley

Staff

Director General:
Noeline Blackwell

Director of Funding & Development
Catherine Hickey

Senior Policy Researcher
Paul Joyce

Senior Solicitor
Michael Farrell

Information & Communications Officer
Yvonne Woods

Information Line Co-ordinator
Jackie Heffernan

Research and Development Officer (to 03/2007)
Marcela Rodriguez Farrelly

Volunteer & Centres Co-ordinator
Elizabeth Mitrow (to 08/2007)
Sarah Horgan (from 09/2007)

Policy & Campaigns Officer
Saoirse Brady (from 09/2007)

Administrator
Clare Dennehy

Campaigning



FLAC engages in campaigning on a range of topics. The four main campaign areas include: evaluating the use of public interest law; improving the scope of civil legal aid; reforming social welfare law; and reforming consumer credit & debt law. FLAC appointed Saoirse Brady (left) as Campaigns and Policy Officer in September 2007.

Monitoring civil legal aid in Ireland

In early 2006, FLAC began discussions with the Irish Penal Reform Trust regarding immigration issues. The IPRT were concerned about the lack of legal aid available to people detained on immigration-related matters. Following talks with the Legal Aid Board (LAB), they confirmed that the LAB Centres will be advising and representing on immigration matters.

Later that year FLAC met with Moline Ryan, CEO of the LAB, and with senior officials at the Department of Justice concerning a proposal to increase the means limit. From 1 September, there were some positive changes to civil legal aid regulations, such as an increase in means test income limits and allowances and the family home no longer being included in the test.

In November 2006, FLAC visited the Council of Europe as part of a study group organised by ICCL including NGOs, prison and police authorities.

In January 2007 FLAC again met with the LAB to discuss concerns that inadequate information was being given in the centres. Some LAB Law Centres began to show long waiting lists; FLAC's own detailed analysis of civil legal aid and the experience of FLAC callers throughout 2007 showed evidence that the LAB is continuing to provide a very restricted service that does not meet the actual legal needs of qualified applicants. FLAC's study into unmet legal need conducted at the end of 2007

revealed that there remains a serious shortfall in civil legal services for people in Ireland.

Contributing to social welfare law reform

FLAC continued to watch the government's social inclusion agenda in the context of its proposed national anti-poverty strategy, in particular contributing to Combat Poverty's survey on mainstreaming social inclusion. Our pre-budget submission in 2006 sought increased resources for access to justice – for the Legal Aid Board, FLAC itself and for all community and specialised law centres. In 2007, FLAC contributed to discussions organised by the European Anti Poverty Network on the national social inclusion strategy.

Campaign to restore Child Benefit as a Universal payment

The government introduced a Habitual Residence Condition on certain welfare payments in May 2006 as a measure to forestall the perceived threat of 'welfare tourism' from citizens of the 10 EU accession countries. Following an enquiry from the EU Commission, Ireland was forced to stop applying the HRC to EU citizens (unless they were not making PRSI contributions, including returned Irish emigrants) but retained it for all other people claiming welfare payments. It was attached to the hitherto universal payment of Child Benefit and has meant that many very low income families, such as people seeking asylum, have been deprived of this payment.

The HRC's complexity led to confusion among officials seeking to apply it and FLAC began to receive queries from people who legitimately should have been receiving the benefit but had been refused on doubtful grounds. This was over and above its inherent unfairness even when applied correctly. The measure created an inequality between children living in Ireland. It showed clearly that government immigration policy takes priority over children's rights. It goes against international human rights law and even the government's own stated policy on ending child poverty.

Following discussions with other NGOs, the campaign to restore child benefit as a universal payment was officially launched on 20 November 2006,



International Children's Day, by Senator Ivana Bacik (left) and FLAC Director Noeline Blackwell (below). Initial response from opposition parties and other NGOs was very positive. FLAC then worked with local authorities and opposition parties and issued a

pre budget submission on the HRC and Child Benefit.



In early 2007, FLAC distributed a campaign pack via CICs containing lobbying materials and key information. The campaign established a volunteer programme and sought meetings with government departments. It featured in the media including RTE's *This Week* programme and the *Pat Kenny Show*.

FLAC marked the UN International Day for the Eradication of Poverty on 17 October with a renewed call for support for the campaign. We met

with the HRC unit of the Department of Social and Family Affairs in October 2007, which confirmed that its focus was now on the 'centre of interest' criterion and no longer relied on the 2-year rule. It was also clear at this stage that children's rights and the national children strategy had not been considered when formulating the rules.

Monaghan County Council, Dun Laoghaire-Rathdown County Council and Dublin City Council all passed motions to restore universal Child Benefit and FLAC wrote to every county councillor in the State calling for support. On the first anniversary of its launch, the issue was raised in the Seanad to support the overall campaign.

Regarding the **Habitual Residence Condition** itself, in November 2007, FLAC contributed to the Irish Human Rights Commission roundtable on the HRC. By the end of 2007, NGOs such as Pavee Point, Vincentian Refugee Centre, Crosscare and Refugee Information Service were regularly contacting FLAC for advice on Child Benefit and HRC cases.



Panel of speakers



Attendees at launch



The Discovery Choir



Dr Mary Twomey (L) and Senator Ivana Bacik



Left: Poster image for campaign to restore universal Child Benefit. The campaign included a poster, information leaflet and postcard as well as a petition and factsheet.

(photo © Derek Speirs)

Reforming credit & debt law

In 2006, FLAC made a submission to the Department of Social and Family Affairs regarding the restructuring of the Money Advice & Budgeting Service (MABS) which raised concerns about the Financial Regulator. Further submissions that year went to the Department of Finance on consumer credit, on the regulation of mortgages and on a new draft EU Consumer Credit Directive.

In January 2007, FLAC met with Liam O'Dwyer of the League of Credit Unions with concerns around credit unions' handling of debt. In May, Paul Joyce spoke at the Irish Institute of Credit Management seminar in Dublin. That summer, Paul also presented a paper in Berlin on Debt Enforcement proceedings at international conference and participated in Brussels conference on responsible credit.

In November 2007, Paul submitted a consultation paper to the Department of Finance on regulation of sub-prime lenders including protection of consumer interests on interest rates, charges and decision making processes. This paper was also sent to opposition spokespersons.

FLAC featured on RTE's *Prime Time* a number of times, speaking about sub-prime lending and about chronic indebtedness and imprisonment for debt.



During this period FLAC conducted a study on procedures around imprisonment for debt, the results of which will be published are forthcoming.

FLAC continues to provide training and technical legal support to MABS in its work with the public.

FLAC received 327 helpline queries from MABS in 2006 and 315 in 2007. FLAC also assisted MABS with publications such as the new leaflet on termination of hire purchase agreements and the MABS manual.

Promoting Public Interest Law

In February 2006 FLAC launched Public Interest Law and Litigation in Ireland which contained proceedings from FLAC's major conference which brought together lawyers, NGOs and activists in October 2005. The publication examines the role Public Interest Law and Litigation plays or might play in advancing the position of disadvantaged and vulnerable groups in Ireland.

In 2006, FLAC organised a series of seminars to promote discussion around Public Interest Law in Ireland. The first seminar on 12 May focused on procedural obstacles to Public Interest Law and how they might be overcome. The second, on 31 May covered how Public Interest Law can address the needs of NGOs. The third seminar on 16 June looked at how public interest law and litigation might be best delivered in Ireland.

On 30 June, there was a major roundtable event in the Royal Hospital Kilmainham, chaired by Roger Smith of JUSTICE (UK). It heard discussions from experienced public interest practitioners from other jurisdictions, such as Prof Andrea



Dr Maurice Manning, President of the Irish Human Rights Commission with Philip Joyce, Law Society Vice President (l) and Mel Cousins BL (r)



Brian Kennelly BL (l) and Colm MacEochaidh BL who spoke at the first PIL seminar



Noeline Blackwell (l) and Claire Hamilton (r), chair, who spoke at the second PIL seminar



Prof Gerry Whyte (l), Paul Joyce and Peter Ward BL (r)



Pictured left - Roundtable speakers (l-r): Robert Garcia, Odette Geldenhuys, Dave Ellis, Prof Andrea Durbach & Roger Smith



Pictured right - Attendees at Roundtable, 30 June 2006

Durbach (Australia/ South Africa), Robert Garcia (USA) and Odette Geldenhuys (South Africa).

The event also featured a position paper from independent Irish consultants Community Legal Resource to consider how Public Interest Law and Litigation should be developed and supported in this jurisdiction. All the events were well attended; the four workshops at the roundtable were particularly welcomed by participants as a great chance to feed back on experience with Public Interest Law.



CLR members Dave Ellis, Orlagh O'Farrell and Róisín Webb

In September 2006, Indian human rights activist and lawyer Colin Gonsalves (I) visited FLAC and gave two information sessions on public interest law and litigation in India. Colin is a widely respected Senior Counsel of the Indian Supreme Court and the executive director of the Human Rights Law Network, an organisation with a presence in many Indian states. He has pioneered the use of public interest law in the Indian Supreme Court and has litigated across the spectrum of human rights, including the right of children to a lunchtime meal as part of the right to life.



succession of FLAC staff and council members who worked with him on various campaigns and issues during his time at Coolock. He believed wholeheartedly that social change was possible and that the law could be used to effect change in Ireland. FLAC believes that Dave pioneered much of the community and public interest law work now developing in this country.



On 15 October 2007, FLAC held its first Dave Ellis memorial lecture in Trinity College Dublin. More than 200 attended the lecture which was followed by a reception in the Atrium. The keynote was presented by Prof Gerry Whyte of TCD (r), a former colleague of Dave.



On 30 April 2007, FLAC hosted a seminar on the use and potential of *amicus curiae* interventions. Speakers for the event, introduced by FLAC's Michael Farrell, were Phil Shiner, a senior solicitor with UK-based firm Public Interest Lawyers, Karen



Seminar speakers (l-r): Ellis Barry BL, Equality Authority; Phil Shiner, Public Interest Lawyers; Michael Farrell, FLAC; & Karen Quinlivan BL

Dave Ellis, founder member and driving force behind Community Legal Resource (CLR) and formerly Community Law Officer with Coolock Community Law Centre (now Northside CLC) for over twenty years, died after a short illness on 2 February 2007. Dave was a priceless resource to a

Quinlivan, a practicing barrister in Northern Ireland who has acted in a number of interventions on behalf of the Northern Ireland Human Rights Commission, and Ellis Barry, Senior Legal Advisor with the Equality Authority, who has experience of *amicus curiae* applications in Ireland.

Casework

Legal Aid

FLAC continued its scrutiny of civil legal aid provision by examining the assessment procedures of the Legal Aid Board. In February 2006, we supported a client in an application to the Board's Appeals Committee on the amount of contribution requested. A number of other cases involving Legal Aid assessments arose subsequently, giving rise to the suspicion that the LAB's method of assessing capital, and perhaps even income, was incorrect.

In late 2006, FLAC became involved in a case involving a person served with eviction summons under s.62 of the Housing Act 1966. This person had been refused legal aid on the grounds that the case involved a right or interest in land. On appeal in January 2007, legal aid was granted to the client on the grounds of hardship. Thus FLAC established that there is a hardship exemption to the LAB's policy to exclude eviction proceedings taken by the local authority as a dispute concerning rights and interests in or over land.

Also in May, FLAC received complaints about the Refugee Legal Service in asylum seekers' accommodation in Mosney. We then entered into discussions with Irish Refugee Council about a more systematic appraisal to ensure that all sections of RLS were delivering the appropriate service.

In 2007, FLAC issued judicial review proceedings (*Monahan v Legal Aid Board, Department of Justice, Equality & Law Reform, Ireland and the Attorney General*). This case arose because it appeared that the LAB failed to give reasoned decisions for refusal of dependent allowance. The scheme failed to permit the plaintiff to access justice. FLAC hoped to clarify whether the LAB had the power to grant legal aid outside of the regulations. The court has since held against the applicant in one point of this case in 2008 but the case is continuing in relation to other issues.

CADIC

FLAC had been part of the Coalition Against the Deportation of Irish Children (CADIC). FLAC engaged solicitor Hilka Becker to conduct CADIC's litigation for a time. We were subsequently part of CADIC's management and legal strategy teams. FLAC then took over the handling of four judicial review

cases for CADIC challenging deportation orders against parents of Irish citizen children seeking family reunification. All four cases were settled satisfactorily subject to a dispute about the right to work of one parent. This was settled later.

Child Benefit

Arising from FLAC's campaign against the refusal of Child Benefit to asylum-seekers and people seeking humanitarian leave to remain, we took up a number of cases where Child Benefit was being refused to non-national parents based on the Habitual Residence Condition. We also worked with OPEN (One Parent Exchange and Network) who were providing an advice service to people in the Mosney direct provision centre.

FLAC successfully represented an asylum-seeker from a central African country at her social welfare appeal and she was awarded Child Benefit from the time of her arrival in the State in 2004. We made detailed appeal submissions in three other complex cases which were awaiting hearing dates at the end of 2007, and we assisted a number of other applicants with their initial applications or appeals which were settled without going to hearing.

Effect of HRC on Disability Allowance

In 2006, FLAC was involved in a case concerning the refusal of disability allowance because of the Habitual Residence Condition (HRC). This case was being appealed to SW Appeals Office for precedent setting or potential further challenge. By October 2006, the appeal was eventually admitted for hearing, but the claim, from a former part of the Soviet Union, was rejected in April 2007 based on the HRC. Then in January 2007, the Migrants Rights Centre lost their appeal to the Social Welfare Appeals Office regarding the refusal by the SW Office of disability allowance because of the HRC.

Migrant workers' entitlement to benefit

FLAC worked with the Migrant Rights Centre Ireland on the case of a migrant worker who had paid PRSI contributions for a number of years but when she became unfit for work was refused Illness Benefit because her employer had not renewed her

work permit – over which she had no control. We represented her at a Social Welfare appeal hearing but her appeal was rejected based on a 1995 Supreme Court decision (*FAS v Minister for Social Welfare*). We have appealed this case to the High Court and it is ongoing. It raises important issues for other migrant workers who may become undocumented through no fault of their own.

Entitlement to Free Travel

In early 2007, FLAC and the International Federation of Human Rights (FIDH) took the first ever complaint against Ireland on an economic/social welfare issue under the Revised European Social Charter. The Charter is the economic and social equivalent of the European Convention on Human Rights and its implementation by member states is monitored by the European Committee on Social Rights. The complaint was over the Government's refusal to allow Irish pension holders who are not resident in Ireland to avail of the free travel scheme for people over 66 to during their periodic visits home.

This was the first case specifically against Ireland and it was thought that the case would encourage use of this new mechanism. Complaints under the Social Charter must be lodged through a recognised international trade union or NGO, hence FLAC's co-operation with FIDH in this case. Access to the Committee on Social Rights is relatively cheap and easy. There is no provision for costs orders, thus no risk of incurring a massive bill for the state's costs if the complaint is unsuccessful. And there is no requirement to go through the domestic courts before lodging a complaint, so it is a lot quicker than applying to the European Court of Human Rights. Hopefully, other groups seeking to pursue social or economic complaints will make use of this new mechanism in future.

By October 2007, the European Committee on Social Rights had declared the complaint about Free Travel admissible despite the Government's objections and gave them until 30 November to make observations on the merits of the issue. The case carried on into 2008.

Entitlement to Pension

In 2007, FLAC began to examine the inability of spouses of self employed to contribute to PRSI and possible discrimination because of reduced old age pensions arising from the marriage bar. FLAC is currently in talks with National Women's Council of Ireland in relation to this

issue. This case is still under investigation and ongoing.

Rights of Transgendered Persons

The long-running case of *Foy v An t-Ard Chlaraitheoir* (Registrar General) which began in 1997, seeks legal recognition for a transgendered woman. FLAC issued



Dr Lydia Foy after her historic court win flanked by solicitor Michael Farrell

new proceedings in the High Court at the beginning of 2006 so that we could rely on the duty of organs of state to conform to the European Convention on Human Rights and on decisions by the European Court of Human Rights. The European Court has held that states must respect the dignity of transgendered persons and recognise their "new" or realigned gender. After a full exchange of pleadings, FLAC obtained a hearing date for 17 April 2007. The historic decision of Judge McKechnie to grant Ms Foy a certificate of incompatibility with the European Convention on Human Rights was widely and warmly welcomed on 19 October 2007. This was the first such declaration in Ireland under the ECHR Act. Unfortunately the State has appealed the decision and the case proceeds now into its eleventh year.

Right to Serve on a Jury

Over the two years, FLAC took on two challenges to the Juries Act 1976 which barred certain groups from serving on juries. In the first instance, in late 2006 FLAC was granted leave to a judicial review in the case of a deaf woman excluded from jury service (*Clarke v. Galway County Registrar*). In May 2007, another discrimination case in relation to jury service emerged, this time in relation to age, as persons over 70 are excluded from service (*Sharpe v. Ireland & AG*). These cases are important for securing respect and recognition for deaf and older people as full and active members of society.

The government subsequently agreed to amend the law to remove the age barrier from jury service while the case of the deaf woman went to a full hearing in the High Court.

Policy & Law Reform

Consumer credit and debt

FLAC carried out a survey in 2006/07 to look at the experience of debtors in the legal system, particularly focusing on debt enforcement by instalment order procedure. Detailed questionnaires were completed by clients of the state Money and Budgeting Service (MABS). The issue is all the more pressing given that approximately 1,000 people had been jailed for over a five-year period for debt-related offences, some 200 imprisonments a year, despite the fact that Ireland officially does not jail people for non-repayment of debt. The results of the survey will be available in a forthcoming report.

FLAC made a number of submissions on reforming consumer credit law throughout 2006 and 2007, including four on the revised Consumer Credit Directive, one on Mortgage Credit Regulation in the EU (August 2006) and one on Subprime Lending (October 2007). We also met with departmental officials on the forthcoming EU Consumer Credit Directive (introduced in 2008).

Many of FLAC's suggestions have been incorporated into the Consumer Protection Code, which was introduced by the Financial Regulator and came into force in July 2007. While not hard law, the Regulator has the power to administer sanctions if the code is breached.

Civil legal aid

Some of FLAC's major concerns around access to justice via the legal aid system were addressed in a substantial reform of the legal aid system which took place in September 2006. There was an increase in income limits and allowances to qualify for civil legal aid, an increase in the allowances for child care and importantly the family home will no longer be part of the calculation when legal aid limits are being assessed. However FLAC pointed out that many of the allowances and limits remained very modest and that there would be a need for regular revisiting of the qualifying limits so as to allow those who need it to get legal aid to access justice

Social welfare law

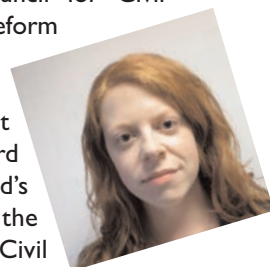
In 2006, work began on a study which revisits the situation in Ireland with the system of Direct Provision that was covered by our 2003 report. It was then deferred to early 2007 for more impact and more time for consultation. In March 2006 FLAC made a submission to the National Economic and Social Forum on Improving the Delivery of Quality Public Services.

Human rights general

FLAC contributed to the Law Reform Commission's Consultation Paper on Legal Structures for Charities LRC CP 38-2005 in August 2006. The reform of this area is hugely important and FLAC participated in The Wheel's Charities Law Review Committee, particularly in lobbying to include human rights as a charitable purpose in the Charities Regulation Bill.

In the run-up to the general election in May 2007, FLAC lobbied political parties on its core issues. Some were adopted by the parties, such as the Green Party giving a commitment in its manifesto to community law centres and to restore universal Child Benefit.

Together with the Irish Council for Civil Liberties and the Irish Penal Reform Trust, in 2007 FLAC commissioned researcher Edel Quinn (r) to prepare a Shadow Report to Ireland's forthcoming third country report on Ireland's implementation of the International Covenant on Civil and Political Rights. Under Article 40 of the Covenant, all States Parties are required to submit regular reports on how the rights provided for in the Covenant are being implemented. This international human rights treaty sets out extensive rights including the rights to life; to freedom from torture and to a fair trial.



The full texts of the submissions above are available online at www.flac.ie/publications/policy

Outreach & Networking

FLAC volunteers and centres

FLAC offers free legal advice at legal advice centres around Ireland. The centres are operated by qualified lawyers who volunteer their expertise and time. Some centres do require people to ring in advance for an appointment,

We supply regular training to our volunteers in areas of law relevant to their work in FLAC centres. Volunteers also have access to an online volunteer forum which facilitates exchange of information and contains useful documents and publications for download.

At FLAC centres nationwide, members of the public may speak with a volunteer legal practitioner in confidence (anonymously if they wish), without being means tested, judged or directed, and receive advice and relevant referrals appropriate to their needs. Priority is given to those who cannot afford private legal services. In January 2007 FLAC began an audit of all directly rostered centres in order to assess needs. In February, McCann Fitzgerald legal firm took on responsibility for a specialist clinic in Family Law at the Aungier Street centre in Dublin for a number of months.

By August, FLAC had established a specialist family and employment law service at Meath St.

Centre. A specialist immigration service was to be provided at North King St. In September Elizabeth Mitrow was succeeded by Sarah Horgan (I) as Volunteer and Centres co-ordinator. In October, a new FLAC centre opened in Killarney.



Dublin City Council runs an annual 'Unsung Heroes' award to honour volunteers nominated for their work with voluntary organisations. Selected nominees are enrolled into the Unsung Heroes Roll of Honour in the Mansion House on Dawson Street. FLAC nominated several of its dedicated volunteers in 2006 and 2007 who were then invited to the award ceremony in the Mansion House.



Pictured (L-R): Caragh Cunniffe, Kevin Baneham, Lord Mayor Vincent Jackson, John Langan & FLAC's Christina McGranaghan & Elizabeth Mitrow attending DCC's Unsung Heroes event

Tallaght FLAC centre

The FLAC centre in Tallaght has been running weekly since 2003 and is open every Tuesday evening as a walk-in, first-come first-served service. It is based in the Tallaght Citizens Information Centre which was established in 1999 as a successor to the Tallaght Welfare Society. The CIC itself provides free and confidential information and advice to over 24,000 clients a year. The FLAC night is very popular, so this vital service could not be maintained without the commitment of a very dedicated group of volunteer advisors and the support of the staff and management in the CIC.

The total number of legal queries recorded at the Tallaght FLAC in 2007 was 463. In 2007, 36.7% of the queries concerned family law, while 57.9% of clients enquired about non-family matters. Only 5.4% of the clients who visited Tallaght FLAC during 2007 called in relation to matters involving criminal law.

Staff & volunteer training

FLAC volunteers are offered regular opportunities to increase their knowledge of specialised areas of law that are likely to present at centres. In April 2006 we organised an all-day conference in Dublin for volunteers featuring presentations on Family Law, Immigration Law, Legal Aid and Access to Justice. A seminar in September focused on the legal position of families and partnerships not based on marriage, particularly 'Legal Issues for Unmarried Parents' and 'Property Rights of Cohabitees'. During this year too FLAC staff had training in Social Welfare law from Professor Gerry Whyte of TCD.

Volunteer profiles

Tom O'Hare, Clondalkin

I have been volunteering in Clondalkin FLAC for nearly 10 years. Initially I found it a great way to improve my client interviewing skills, as the demand on the service was so great that you had to make the most of a few short minutes with each client ... One of the best aspects of volunteering with FLAC is that you get to deal with areas of law that you would not normally encounter in your practice. I would recommend anyone considering volunteering to give it a go. FLAC provides excellent training and updates for volunteers so don't be put off if you do mainly commercial work in your own practice.

Mary Rose Gearty, North King Street

In 2006, having qualified as a lawyer over ten years earlier, I finally admitted that I would probably be able to deal with basic legal queries from members of the public and I volunteered for FLAC for the first time. I had spent years putting this decision off on the basis that I didn't have the experience to help anyone... The most useful tools in any FLAC session are the handbooks now available at the centres (which contain every leaflet you can imagine on a huge range of topics) and some common sense.

Aoife McCann, Clondalkin

I have volunteered in Clondalkin for the last five years on a fortnightly basis. The voluntary work has been very rewarding in lots of ways. You see life from a different perspective and it certainly helps to put your life in some sort of balance. I had only started at the bar when I began volunteering and it helped enormously with giving me experience in problem solving in an instant and having to rely on your self. All in all a very worthwhile experience.

In April 2007 there was a seminar for volunteers on applications under the Freedom of Information Act. In May FLAC dedicated an evening to various aspects of criminal law, and in July an information session on the workings of the Garda Síochána Ombudsman Commission was held at FLAC Offices. A seminar on 'Family Law in the District Court' and the 'Rights and Responsibilities of Unmarried Parents' was offered in October. Finally, there was a seminar covering Family Law, Criminal Law and Immigration and Asylum Law in Cork in December.

In May 2007, FLAC organised a talk in conjunction with the Law Society where lawyer Sardar Latif Khosa spoke about the upheaval in the Pakistani justice system and the turbulence in society in general in his home country following the sacking of Chief Justice Chaudry by the government under General Pervez Musharraf.



Solicitor Stephen Collins with Sardar Latif Khosa (r) at Law Society

Fellowships

Thomas Addis Emmet Fellowship

FLAC works in conjunction with the Law School of the University of Washington, Seattle, to provide the Thomas Addis Emmet Fellowship in Public Interest Law. The programme sends one Irish law student to Seattle for two months each summer to get first-hand experience of human rights and public interest law cases. The programme covers the cost of flights, accommodation and a small subsistence.

In 2006, the Hon Mr Justice Donal Barrington presented the prize to Nicola White. This was to be his last year to adjudicate the competition: In 2007, the Hon. Mrs Justice Catherine McGuinness presented Claire McHugh with the award.



Nicola White, 2006 Thomas Addis Emmett Fellow, with the Hon. Mr Justice Barrington



Claire McHugh, 2007 Thomas Addis Emmett Fellow, with the Hon. Mrs Justice McGuinness

William Sampson Fellowship

The University of Washington, Seattle and FLAC also cooperate on another fellowship programme called the William Sampson Fellowship in Comparative Public Interest Law under which a student from Seattle comes to FLAC to work as an intern for two months.

In 2006 the Fellowship was awarded to Cecilia Boudreau (r) who worked on a social welfare brief for a report on Direct Provision. She also did some background research and reading on a report on civil debt.



Sampson fellows for 2006 (left to right): Elizabeth Ahlquist (placed with Irish Centre for Human Rights), Rebecca Huffman (Northside CLC), Cecilia Boudreau, Patrice Kent (Law Centre NI) and Jill Monnin (ICHR)



In 2007 FLAC hosted Elizabeth Hawkins, a student of Law and International Studies at the University of Washington. Elizabeth (l) spent her time at FLAC researching and analysing the Habitual Residence Condition and whether or not such a condition complies with international treaties, specifically the United Nations Convention on the Rights of the Child.

Publications

FLAC seeks to inform people of their rights and entitlements as well as developments on particular legal and policy issues. To this end, FLAC produces a quarterly newsletter, *FLAC News*, documenting the work of the organisation and covering issues which may be of interest to those working on access to justice and public interest law. In early 2007 FLAC also produced a range of informative leaflets and booklets on:



- Changing your name by Deed Poll
- Cohabiting couples
- Divorce
- Domestic Violence
- Enduring Power of Attorney
- Family Law & Children
- Maintenance
- Maternity Leave
- Probate
- Separation
- Small Claims Court
- Unfair Dismissals
- Wills
- Working Hours

Website

The new website came into operation in November 2007. It provides information on FLAC activities, campaigns and events as well as resources to download such as publications and legal guides. It also features a forum/discussion board for volunteers and location maps for FLAC Centres.



Information & referral line

FLAC's primary goal is to promote access to justice. Thus the head office operates a telephone information and referral line, open to individuals, local organisations, advice agencies and social workers during office hours, Monday to Friday, at Lo-Call 1890 350 250. The line assists callers in identifying the appropriate services for their legal needs. Advice is not given over the phone line, basic general legal information is provided as well as referral

to appropriate agencies and/or FLAC centres.

Calls increased over the two years from 5786 in 2006 to 6034 in 2007. Family law was the largest area of enquiry at 1,451 in 2006 and 1,373 in 2007. Employment calls rose steeply from 387 in 2006 to 850 in 2007. Queries on legal aid almost trebled from 106 to 270 and calls about solicitor/client issues rose from 175 to 241.

Telephone Information Line 2006 & 2007

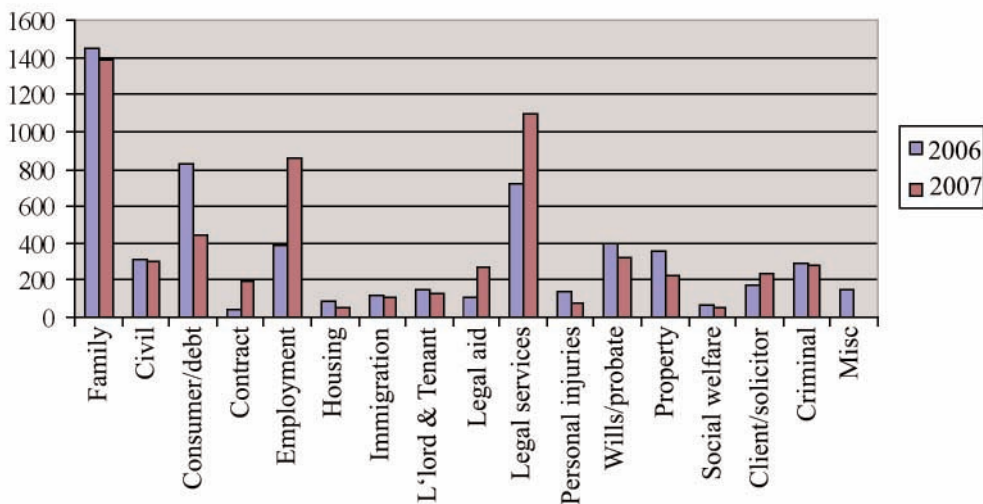


Figure 1 (N2006=5,786; N2007=6,034)
Table 1 Telephone Information Line 2006 & 2007



Clockwise from bottom left - At the Women's Rights Alliance conference 'Taking CEDAW seriously' in March 2006 (l-r) Noirin Clancy, Noeline Blackwell, Shanti Dariam, Faustina Pereira and Joshua Castellino; Sue Gogan (left) and Marcela Rodriguez Farrelly at the PILL report launch in Feb. 2006; FLAC interns in June 2006 - Deirdre McMahon, Dennis Breuer, Tara Clark, Carine Pessers, Gretchen Ransow, Siobhan Green, Maria Gallagher & Modupe Akanbi; Solicitor Hilka Becker (left) with her daughter Martha & Noeline Blackwell in Sept. 2006; and pictured with their Unsung Heroes award for 2006 are FLAC volunteers ???



Statistical report on FLAC centres 06-07

Campaigning for greater access to justice and advocating for the promotion and protection of human rights is central to FLAC's work, a component of which is to ensure that disadvantaged people can effectively access legal services. To this end, FLAC introduced the Data Collection Programme in 2004 with a view to having a better understanding of the legal needs of those attending the centres. The data collated from FLAC's network of legal advice centres has greatly helped in its development and in its ongoing research. FLAC's campaigning efforts to improve the provision of state civil legal aid in Ireland have also benefited greatly from this data.

Approximately half of the centres participate in the programme. The results for 2006 and 2007 show a similar picture to previous years. The returns that give the overall picture have increased steadily each year. Half of FLAC's 60 centres participated in the 2006 data collection programme and returned almost 4,500 forms. This rose to 35 centres in 2007, with the return of 4,815 forms. Extrapolating from this, and based on the experience of previous years, we believe that approximately 9,000 people used FLAC's service nationally each year.

In 2006 and 2007, callers to FLAC centres mainly sought legal information on civil law matters; roughly 5.5% requested information on criminal law (note: The Criminal Legal Aid Scheme is more

straight-forward than the Civil Legal Aid Scheme. It is a matter for the judge to consider whether the person can pay to their legal representation. This entitles the party to free legal aid where no contribution is paid.)

When examining the sort of civil legal matters on which advice was sought, we see that the most frequently discussed area of law was family law, with one-third of the total number of the queries. However, more than half of FLAC callers needed legal advice and information on a wide range of non-family matters.

For instance, in 2006 one in five callers needed advice on either employment law or succession/probate. Housing was another area of considerable need for legal advice and information with over seven percent of the total number of queries, covering matters such as tenant's rights, neighbour disputes and local authority housing issues. Other areas of law where legal information was sought included property, social welfare and credit and debt. The main areas of law brought to the centres in 2007 were again family law, housing and property, employment and succession/probate. The category "other civil matters" included queries related to personal injuries, medical negligence, defamation, client/solicitor relationship and road traffic accidents, to name but a few.

Areas of law discussed in FLAC centres

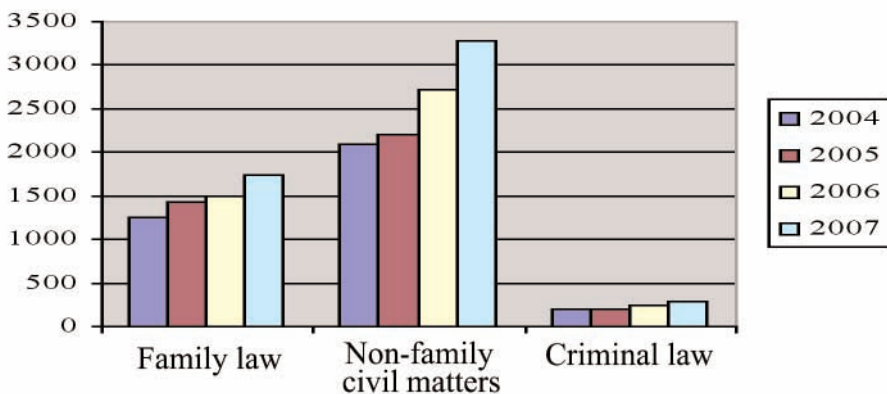


Figure 2 (N2004=3536; N2005=3811; N2006=4353; N2007=5,323)
Areas of law discussed in FLAC centres (2004-2007)

These results show that family law is an area where people need our first stop legal advice and information with approximately one caller in three. Even callers who subsequently go to a private solicitor or to legal aid often need immediate advice. This can be a problem for clients dependent on legal aid. Even though the waiting times have dropped drastically, many people – particularly in the early stages of matrimonial or family breakdown will be severely disadvantaged by having to wait one, two or three months. Apart from the emergency service mainly devoted to domestic violence cases, the Legal Aid Board has little capacity to identify where quick advice is needed. A pilot project providing an advice only service was undertaken by the Board. FLAC understands that the results are being examined. That such a service is needed is borne out by the FLAC figures. Many people do not need an elaborate structure and complicated service delivery. Many just need accessible and timely legal advice.

It is however a welcome trend to see that of those who have a solicitor, the number going to the LAB Law Centres had risen from 10% in 2005 to 20% in 2006. At the same time, the waiting time to see a LAB solicitor has fallen, in most cases surveyed to below 4 months. In addition, knowledge of the legal aid board seemed to have increased. However, only 1 in 2 of FLAC's callers surveyed knew of the existence of the LAB Law Centres.

The second page of the 2006 data collection form showed that the number of non-nationals using FLAC centres had increased by 3%. More striking is that of those who approached us, 1 in 10 did not speak English as a first language. It will be commonly acknowledged that the legal system is difficult even for those who speak and read English easily. The difficulties for those who speak other languages, and who come from different legal systems are therefore greatly increased. This leads to the conclusion that there is a need for easily understood and accessible documentation and information about law as it applies to most people. FLAC's leaflets issued across a range of legal topics have been issued in response to that need. Current survey trends point to the need for translation and interpretation facilities to allow people to access justice.

FLAC serves a widely varied public. Most of its callers in 2006 were aged between 25 and 50. More were women than men. Half of our callers owned

their own houses – with or without a mortgage. Half were not home owners. 16% of callers in 2006 and 14% of callers in 2007 had questions about housing and property. This then constituted one of the biggest areas of enquiry after family law. People are understandably anxious and concerned when legal issues arise around housing, around landlord and tenant rights and their shelter. Nonetheless, these areas are – at least at first glance – excluded from civil legal aid. What is not widely known or understood is that a number of property and housing matters are within the scope of the scheme. Apart from this, the State should seriously examine a legal aid scheme which will give assistance to people because they can bring themselves within certain areas of law, but will exclude people trouble in other areas. Thus two people in similar need and similar circumstances can be treated unequally by the State by virtue of a random classification of law.

In 2006, as in previous years, half of the referrals to the FLAC clinics came from the Citizens Information Centres. This partnership with the Citizens Information Board (formerly Comhairle) has been a helpful one for clients of FLAC centres who can get an easy referral and who will be familiar with the system. One of the greatest difficulties for those who seek to access justice and the law is the danger of being passed from pillar to post, from one office to another, without any clear understanding of the connection between the various offices. Much more could be done by the State to connect up their various services and thus reduce the risk of “referral fatigue” for people who are possibly already overburdened with problems.

Finally, FLAC relies on the volunteer advisors who staff centres around the country. This report serves as a vindication of their work, giving legal advice to the many who need it and also giving valuable insights to the wider community on the gaps that remain in meeting legal need in Ireland. We salute and offer our gratitude to all FLAC volunteers and hope that we can continue to depend on their sterling services in the future.

You can read a full statistical report for
2006 & 2007 at
www.flac.ie/publications/statistics

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