



FLAC

annual report

2010





FLAC ANNUAL REPORT
2010

FLAC Annual Report 2010

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DEBT QUERIES TO FLAC CENTRES



FOREWORD

The year 2010 was one of the most challenging years in the history of the Irish State. The continuation of the economic crisis and recession led to severe budget cuts and further serious restrictions on people's access to credit. Many people have suffered significant losses in investments and pensions. Those who had already been marginalised and excluded have been placed under even more pressure than they had been, even during the years of apparent plenty. The resultant insecurity and feeling of helplessness that many feel are every bit as real and as problematic for people as their actual financial or job situations. In these circumstances, we need to focus afresh on the rights of those in need and ensure adequate mechanisms to allow people to deal with their problems effectively and with dignity.

It is disappointing that it often takes a crisis for an issue to be addressed. FLAC's reports on consumer debt and credit in Ireland in 2003 and 2009 had warned about the dangers of widespread credit without proper assessment of capacity to repay and the dangers of light touch regulation. Those predictions have unfortunately been validated. Similarly, the analysis in FLAC's 2010 report on the system of Direct Provision in Ireland, *One Size Doesn't Fit All*, which highlighted how asylum seekers in the system were being treated as a homogeneous group without individual needs or circumstances, was borne out in the regrettable episode in August in which a group of asylum seekers were instructed to move from their accommodation, which had become their home, without consultation or proper notice.

Despite the scale and complexity of the difficulties, FLAC continued to seek to make positive proposals for effective action. During 2010, FLAC's representation on the government's Expert Group on Mortgage Arrears and Personal Debt contributed to recommendations from the Group which, when implemented, will go some way to addressing the problems of over-indebted homeowners. FLAC continued to analyse the laws and practice surrounding consumer debt and credit, social welfare law and civil legal aid in order to promote better understanding of the law, as well as suggesting mechanisms for change.

FLAC's telephone information line, our second-tier advice services, our website and our clinics around the country all provided support and information to tens of thousands of people. The pressure on all of our services has increased enormously, both in the numbers who seek help and in the complexity of their problems and we want to pay tribute to all of those who have constantly and expertly provided those services while working under significant pressure. We would also like to particularly thank the dedicated staff and interns of FLAC.

In challenging times, there is the opportunity for us to look at some of the core principles and values that characterise us as a country and to re-examine the kind of society we want.

Equal access to justice for everyone without discrimination and regardless of their ability to pay must be at the heart of these values and FLAC will continue to strive towards this.

FLAC welcomed the State's decision in 2010 to accept High Court rulings that transgendered people had identity rights which were not vindicated in Irish law. The recognition by an Irish judge that deaf people had the right to be considered for jury service, rather than be subjected to a blanket refusal, was also significant. Other challenges taken against social welfare refusals highlighted again the difficulty for people trying to deal with complex and sophisticated legal concepts without any representation. The state funded legal aid scheme denies people the right to a lawyer at a Social Welfare Appeals Tribunal, no matter how complex the legal issue at stake.

Further, 2010 was the second year of operation of the Public Interest Law Alliance (PILA), a project undertaken by FLAC to advance the use of the law in the public interest. This year vividly showed the extent of the need for an alliance that joins voluntary organisations and lawyers together to the mutual benefit of both. Many voluntary organisations benefitted from the legal information and advice that they received. The lawyers who contributed were encouraged by the positive difference they and their firms could make through applying their legal skills for the benefit of groups seeking to advance the law for marginalised and disadvantaged people.

Working with our volunteers and with other voluntary organisations has made it clear to FLAC how much creativity, enterprise and commitment there is in this country, regardless of our economic struggles, and how we must harness this potential to continue to work towards a society based on principles of equality and fairness. Many contribute to this work and FLAC was grateful for the support and assistance it received from its funders and supporters during the year.

Following her recent visit to Ireland, Magdalena Sepúlveda, the UN Independent Expert on human rights and extreme poverty, commented:

Human rights are not dispensable and cannot be disregarded in times of economic uncertainty. On the contrary, these are times in which people become more susceptible to potential infringements on their basic rights and have higher risks of falling into poverty.

Access to justice is one of these rights and in these challenging times, FLAC is committed to defending and promoting this right. We present this report outlining our work done in this cause in 2010.

Peter Ward
Chairman

Noeline Blackwell
Director General

ABOUT FLAC

INTRODUCTION

FLAC (Free Legal Advice Centres Ltd) is an independent human rights organisation dedicated to the realisation of equal access to justice for all. Established in 1969, FLAC was founded by four law students who wanted to use their legal knowledge to provide advice and information to those who could not afford to pay for legal services and to campaign for the introduction of legal aid in Ireland.

mission FLAC is a human rights organisation which exists to promote equal access to justice for all.

vision FLAC's vision is of a society where everyone can access fair and accountable mechanisms to vindicate their rights.

In 2010, FLAC completed a strategic planning process for the period 2010 – 2014. The process provided an opportunity for FLAC staff, interns and Council members to discuss and reflect on the role and focus of FLAC as well as the changing context in which it operates. Promoting equal access to justice for all remains central to all of FLAC's work. The new strategic plan confirms this and rearticulates FLAC's mission, vision and values and core areas of work.

HOW WE WORK

FLAC is involved in a wide range of activities following its mission of equal access to justice for all:

- **Legal information and advice:** FLAC provides a range of services to assist the public with their legal queries. We operate an information and referral telephone line service from Monday to Friday. We produce a range of information leaflets and resources on various aspects of law. FLAC also supports the provision of legal advice to the public by volunteer lawyers through a network of legal advice centres.
- **Public Interest Law:** FLAC has developed and is the lead partner in the Public Interest Law Alliance (PILA) which works to encourage academics, students, lawyers and NGOs to use law for the benefit of disadvantaged and marginalised groups and to encourage the involvement of lawyers in public interest law work.
- **Strategic Litigation:** This is carried out by FLAC where it is felt that the outcome of a specific case has a wider impact and can contribute to changing the law or the use of law. This can involve FLAC bringing cases to the Irish courts or international fora as well as bringing appeals to administrative tribunals such as the Social Welfare Appeals Office and the Legal Aid Board Appeals Committee.

- Research and analysis:** FLAC monitors the use of law and law reforms underway and seeks to identify and raise awareness of reforms necessary through the production of research reports, briefing papers, submissions and information leaflets. Our focus in research and law reform is those areas of law which particularly impact on those who are marginalised, and those who risk marginalisation. These areas of law include consumer debt and credit law, social welfare law and the state's legal aid system.
- Law Reform:** FLAC highlights the need for reform of law and state policy through advocacy and the development of public campaigns focused on raising awareness of the need for reform and building support for change.
- Technical legal support:** We provide legal support to the Money Advice and Budgeting Service (MABS) and to the network of Citizens Information Centres. We also work closely with and provide legal support where necessary to a range of NGOs working in FLAC's areas of interest.



COUNCIL



PETER WARD
Chairperson



DON CREWE



ISEULT O'MALLEY



LIAM THORNTON



RÓISÍN WEBB



STAFF



NOELINE BLACKWELL
Director General



CATHERINE HICKEY
Director of Funding & Development



PAUL JOYCE
Senior Policy Researcher



YVONNE WOODS
Information & Communications Officer



SAOIRSE BRADY
Policy & Campaigns Officer



EMER BUTLER
Executive Officer
(from June 2010)



MICHAEL FARRELL
Senior Solicitor



JACQUELINE HEFFERNAN
Information Line Co-ordinator



ZSÉ VARGA
Volunteer & Centres Manager
(from May 2010)



GILLIAN KERNAN
Research Officer



KIRSTY WATTERSON
Finance & IT Coordinator



LARRY DONNELLY
PILA Manager (from
September 2010)



JO KENNY
Legal Officer



LIANNE MURPHY
Project Officer



TONY O'RIORDAN
PILA Manager
(to April 2010)



EDEL QUINN
Legal Research
Officer (to July 2010)

INTERNS

As in previous years, FLAC was again fortunate to have a dedicated group of interns working with them throughout 2010. The interns play a very valuable role in the day-to-day running of the organisation, inputting into all aspects of the work, in particular the telephone information and referral line. The interns in 2010 were: Stephanie Behan, Kathrina Bray, Eoin Coffey (UCC BCL Clinical Placement), Sarah Farrelly, Ronan Flanagan, Laura Fitzgerald, Niamh Fortune, Wei Gao (CEU Budapest), Peter Harper, Juliette Hopkins, Colin Lenihan, Niamh MacEvilly, Sarah McCabe, Jenny McCarthy, Roisin McCluskey, Lorna McDonnell, Peter McKenna, Doreen Mescal, Fintan Monaghan, Emma Jane Morrissey, Sarah Naughton, Aoife O'Brien, Emma O'Hara and Ailbhe Storan.



Some of FLAC's interns in 2010
Back row L-R : Sarah Farrelly, Colin Lenihan, Sarah McCabe, Eoin Coffey.
Front row L-R: Aoife O'Brien, Amina Adanan,
Doreen Mescal, Lorna McDonnell.

FUNDING

FLAC is grateful to all funders and donors who supported FLAC's work in 2010, particularly given the challenging funding climate that exists for all organisations at the moment.

- Citizens Information Board
- Department of Justice and Law Reform
- Department of Community, Equality and Gaeltacht Affairs
- FÁS
- Iris O'Brien Foundation
- Members of the Bar Council
- Members of the Law Society

- Pobal
- The Atlantic Philanthropies
- The Community Foundation for Ireland
- Trinity FLAC
- UCD Law/B&L Day

MINI-MARATHON

For the second year in a row, FLAC entered a team in the Flora Women's Mini Marathon which took place on 7 June 2010. Thirty-seven women, FLAC staff and volunteers, took part and raised over €10,000 for FLAC. The printing of t-shirts for the event was generously sponsored by Printwell Co-operative. Anyone interested in running the Mini Marathon in 2011 to raise funds to support FLAC's work should contact Kirsty on 1890 350 250 or by e-mail to kirsty.watterson@flac.ie.



FLAC's Women's Mini-Marathon Team 2010



Presentation of proceeds from UCD's Law/B&L Day being donated to FLAC. Pictured are Doreen Mescal, FLAC intern, Andrew McElwee, UCD, Noeline Blackwell, FLAC Director General and Ian Dalton, UCD.

ANNUAL DAVE ELLIS MEMORIAL LECTURE

FLAC's fourth annual lecture commemorating legal activist Dave Ellis was held on 23 November 2010 in the Pillar Room at Dublin's Rotunda Hospital. FLAC was delighted to welcome renowned human rights lawyer, Michael Mansfield QC, to deliver the lecture. Mansfield, who was introduced by FLAC Chairperson Peter Ward as having "challenged the long-held assumptions of the legal and political establishment", focused his lecture on the dangers posed by the economic crisis in maintaining a commitment to human rights.

In a speech in front of a crowd of almost 300 guests Mansfield said, "It concerns the dignity of you and me. It's to do with respect for your existence and we have to be in a position to afford that. It is not something which is a luxury that can be ditched for the benefit of profit".



Michael Mansfield QC, who delivered the 2010 Dave Ellis Memorial Lecture which took place in the Pillar Room of the Rotunda Hospital.



Former Supreme Court Judge, Mrs Justice Catherine McGuinness and FLAC co-founder, former Attorney General and EU Commissioner, Mr David Byrne.



Michael Mansfield QC with wife Yvette Vanson in conversation with Sarah Flynn, wife of the late Dave Ellis.



FLAC Council Chairman, Peter Ward SC, Michael Mansfield QC and FLAC Director of Funding and Development, Catherine Hickey.

THOMAS ADDIS EMMET FELLOWSHIP

Through the Thomas Addis Emmet Fellowship, FLAC, in conjunction with the University of Washington, Seattle gives an Irish student the opportunity to spend two months during the summer working in the United States in the field of international public interest law. The candidate gains first-

hand experience in human rights and public interest cases. He or she can also attend classes geared towards legal externs at the university. FLAC covers flights, accommodation and meals plus an allowance for the successful candidate. Law undergraduates, postgraduates, King's Inns students and Law Society students are all



Recipient of the 2010 Thomas Addis Emmet Fellowship, Jeff Walsh pictured with Mrs Justice Catherine McGuinness and Michael Mansfield QC.

eligible to apply for the Fellowship.

In 2010 the recipient of the Fellowship was Jeff Walsh, a law student at Trinity College Dublin. Jeff spent nine weeks working in Seattle as a legal intern with the Washington Appleseed Centre for Public Interest Law.

There, he worked on three projects: the first concerned the rights of pregnant and parenting girls in juvenile detention, the second surrounded the issue of access to education for homeless children and the third involved access to social security for people with disabilities. While in Seattle, Jeff also

took the opportunity of attending classes at the University of Washington which were given by various professionals including prosecutors, judges and police officers who provided a first-hand view of the practicalities of the legal system in Washington and in the United States.

Jeff was formally presented with the 2010 Thomas Addis Emmet Fellowship at the 4th Annual Dave Ellis Memorial Lecture on 23 November 2010. The presentation was made by the Honourable Mrs. Justice Catherine McGuinness, chair of the Adjudication Committee.

DEBT LAW REFORM

A key consequence of the economic and financial crisis has been the growing problem of over-indebtedness as many people struggle to repay debts while on reduced incomes or in receipt of welfare payments. In February, the Joint Oireachtas Committee on Social and Family Affairs issued a report calling for urgent measures to be taken to tackle the increasing debt crisis. The report echoed many of FLAC's recommendations and positions and reflected the organisation's contribution to the Oireachtas Committee's research. Throughout 2010, FLAC was consistently asked by the media to respond to the many debt related crises. As much as possible, FLAC tried to take the perspective of the consumer and to communicate what the implications of the various issues were for people who are struggling with their mortgages and other debts.

EXPERT GROUP ON MORTGAGE ARREARS AND PERSONAL DEBT

Soon after the publication of the Joint Oireachtas Committee's report, the Government set up an expert group to investigate over-indebtedness and recommend possible solutions. The 'Expert Group on Mortgage Arrears and Personal Debt' included representatives of the banks, government departments and the law reform commission, among others. FLAC's Senior Policy Researcher, Paul Joyce was appointed a member of the group and represented the

interests of consumers and homeowners. The invitation to participate in the Group was recognition of FLAC's ongoing work and expertise in the area of debt law as well as the publication of two major reports proposing much needed reform to the system of debt enforcement in Ireland.

The Expert Group issued an interim report in July and a final report in November, both of which were immediately published by the government. Among the recommendations were: the revision and renewal of the Code of Conduct on Mortgage Arrears; reform of the Mortgage Interest Supplement Scheme; an overhaul of judicial bankruptcy proceedings; the establishment of a non-judicial debt settlement process; the creation of a 'Mortgage Arrears Resolution Process' which sets out a standardised process that all lenders must follow when tackling the issue of mortgage arrears; and a new 'Deferred Interest Scheme' which would allow borrowers to pay a minimum of two-thirds of their mortgage interest payment for a specified period.

Further afield, FLAC was represented at the Institut für Finanzleistungen's (IFF) conference in Hamburg, Germany. The event included a session on the topic of 'Banking in Other Countries – Current National Problems and Solutions'. Paul Joyce presented a paper on the current banking situation in Ireland,



FLAC's Senior Policy Researcher Paul Joyce with Greek delegate Melina J.Mouzouraki at the conference of the Institut für Finanzleistungen held in Hamburg.

briefly outlining the reasons for the establishment of the National Asset Management Agency and the mortgage arrears situation as well as giving a summary of the measures being proposed to reform the law and assist over-indebted consumers. The IFF is the founder member of the European Coalition on Responsible Credit of which FLAC is also a member.

CODE OF CONDUCT ON MORTGAGE ARREARS

On foot of a consultation process announced by the Financial Regulator in August, FLAC undertook a campaign to gauge public opinion on the proposals to revise the Code

of Conduct on Mortgage Arrears and to facilitate the public in communicating their views to the regulator. In a very short time frame, FLAC with the help of its volunteers, collected and collated the views of 35 people via e-mail and also at selected FLAC advice centres. The views expressed contained comments and suggestions on a number of areas including: communication with borrowers, rescheduling arrears and the definition of 'primary residence' as well as the provision of an independent appeals body to hear complaints by borrowers in relation to alleged breaches of the Code.

As well as specific questions relating to the Code of Conduct, FLAC also took this

opportunity to test public opinion on some broader issues relating to mortgage arrears. In terms of the supports available to borrowers who are struggling with their mortgages, from the 30 respondents who answered this question, the main opinions could broadly be split into two categories: those who did not believe that there was enough support and advice available and those who were not aware of what current supports were available. A small number of people maintained that the available supports were sufficient. Nearly two-thirds of respondents agreed that there needed to be an overall debt settlement process and a more holistic approach taken.

FLAC also submitted its own substantive submission to the Regulator on the revision of the Code of Conduct on Mortgage Arrears which noted the need for better consumer protection in all aspects of the Code and pointed to serious gaps where borrowers remained unprotected.

LAW REFORM COMMISSION & DEBT LAW REFORM

In December the Law Reform Commission presented a detailed final report on proposals to overhaul the law in relation to debt in Ireland. Paul Joyce addressed the launch and spoke on the future of Debt Enforcement in Ireland, quoting from FLAC's own 2003 report, *An End Based On Means*, which had highlighted the unsuitability and inadequacy

of the seldom-used 1988 Bankruptcy Act for consumer over-indebtedness and which had emphasised the need for an early non-judicial debt settlement process, the need for money and legal advice and a proper assessment method to determine a person's genuine capacity to pay.

He noted that the 39 recommendations which *An End Based On Means* had proposed for debt reform were overlooked by Government at the time. However, with the Law Reform Commission's forensic research into some of these recommendations, Government has finally begun to act.

TRAINING & TECHNICAL SUPPORT

FLAC continued in 2010 to provide legal support to Money Advice and Budgeting Service (MABS) money advisors in connection with legal difficulties being encountered by their clients. As well as dealing with almost 300 calls, FLAC contributed to three seminars on mortgage debt, two organised by the Citizens Information Board (CIB) and one by the Family Mediation Service.

PUBLIC INTEREST LITIGATION

FLAC is a public interest law organisation and to that end we seek to use the law to improve the lives of disadvantaged and marginalised people. One of the ways in which we do this is through strategic litigation in the public interest, whereby we take a limited number of legal cases where we believe that there is a potential for the outcome of the case to have a wider impact beyond the individual whose case it is and which can contribute to changing the law, or changing the use of the law.

RIGHTS OF TRANSGENDER PERSONS

In June 2010 after a 13-year battle, transgender woman Dr Lydia Foy finally won the right to be legally recognised as a woman and to have a new birth certificate issued describing her as female. The Irish government dropped its appeal against a High Court ruling, made in 2007 that Irish law was incompatible with the European Convention on Human Rights (ECHR) because it failed to provide for recognition of transgender persons.

In addition to being a major achievement for transgender persons in Ireland and their families, this case resulted in the first declaration of incompatibility under the ECHR Act 2003, which was also the first – and so far only – declaration to become final, thus requiring the government to change the law. This was a vindication of the ECHR Act

which was central to Dr Foy winning her case and demonstrated the potential of the Act to be used in other cases in the future.

Council of Europe Commissioner for Human Rights, Thomas Hammarberg had taken a particular interest in the Foy case and in a policy statement on transgender rights issued in September he welcomed “at long last” the decision in the Foy case.



Dr Lydia Foy (L), who in 2010 won her 13 year legal battle with the State for recognition of her true gender. Also pictured is Catherine Hickey of FLAC.

An advisory group was subsequently established by the Government to draft proposals for legislation to recognise transgender persons in Ireland. FLAC made both written and oral submissions to this group and liaised with Transgender Equality

Network Ireland and other interested bodies. Given that Ireland is one of the last European states that does not give legal recognition to transgender persons, FLAC argued that we have the opportunity to avoid some of the difficulties with transgender laws experienced in other European countries, where legislation was brought in some time ago. Some of these difficulties arose from making invasive gender reassignment surgery and dissolution of previous marriages a precondition for gender recognition, which caused hardship for people whose health precluded surgery and married couples who wanted to remain married to each other. Both of these issues were highlighted in FLAC's submission to the Gender Recognition Advisory Group.

FLAC wishes to pay tribute to all the staff, interns, volunteers and the team of barristers and solicitors who have been involved in this case for the last 13 years and in particular to Dr Lydia Foy herself for whom it has been an especially long and difficult battle. Her contribution to advancing the rights of a small and vulnerable community was acknowledged when she was honoured as Person of the Year at the 2010 Gay and Lesbian Awards (GALAS) and was made Grand Marshal at the annual Pride parade in Dublin.

RIGHT TO SERVE ON JURIES

Significant progress was made in 2010 towards ending the discrimination against deaf people that prevents them from serving

on juries. This ban excludes deaf people from one of the two main ways the ordinary citizen can participate in government: by voting in elections and by helping to administer justice by sitting on a jury. So long as deaf people are prevented from being jurors, they are not being treated as full and equal citizens in our society.

In April 2006 Joan Clarke received a jury summons for the Galway Circuit Court which she responded to, saying she was willing to serve on the jury but indicating that she was deaf and would need a sign language interpreter. The court staff arranged for an interpreter but before the court date the County Registrar wrote to Ms Clarke excusing her from jury service even though she had never asked to be excused and did not want to be. This decision was based on the 1976 Juries Act which listed deaf people as "incapable persons" who were "unfit to serve on a jury" – this offensive language has since been modified but the net effect remains the same.

Ms Clarke, represented by FLAC, decided to challenge her exclusion from jury service. The case was heard in 2008 and in July 2010 the judgement was finally given. Judge O'Keefe ruled that the County Registrar had no power to excuse people from jury service who had not requested that they be excused. He also stated that deaf people could not be excluded from jury service just because they were deaf; they would need to be both deaf and unfit to serve on a jury and any decision

as to a person's fitness to serve should be made by the court.

The judgment ended the automatic exclusion of deaf people from juries but Judge O'Keefe went on to say that, in his opinion, where a deaf person needed a sign language interpreter, s/he could not be allowed to serve because allowing an interpreter into the jury room with the deaf person would infringe the confidentiality of the jury's deliberations under an old common law prohibition on a '13th person' in the jury room. This was not part of the court's order but it meant the interpreter issue had to be argued out again in another court.

In November 2010 FLAC represented Damien Owens, a deaf man, who had been called for jury service at the Circuit Court in Tullamore. The trial judge listened to the argument that deaf people should be allowed on juries but ruled that Mr Owens could not serve because of the '13th juror' rule. However at the end of November FLAC represented Senan Dunne, another deaf man, who had been summoned to serve on a jury in the Central Criminal Court. This time the presiding judge, Mr Justice Carney, ruled that a deaf person could serve on a jury and dismissed objections to the presence of a sign language interpreter. Unfortunately, Mr Dunne did not actually get to serve on the jury as he was objected to by defence lawyers who can object to up to seven jurors without having to give a reason. Nevertheless, Judge Carney's ruling was very significant as it was the first time that a High

Court judge in Ireland or in the UK had ruled that a deaf person could sit on a jury.

Judge Carney had dealt with the 13th juror argument by saying: "[I]f the signer is allowed in the jury room, first of all, it would be the foreman's responsibility to see that the signer simply communicated to the jury what was going on and didn't participate in any fashion in the deliberations or make any communication of any kind to the other jurors". He added that an interpreter could also be required to take an oath of confidentiality about the jury's deliberations.

Unfortunately, shortly after Judge Carney's decision, the Director of Public Prosecutions sent a circular to state solicitors instructing them to oppose deaf persons being empanelled as jurors. The DPP apparently argued that Judge Carney's decision was not binding and urged prosecutors to rely on the '13th juror rule'.

It is disappointing that the DPP is clinging to this outdated rule instead of trying to facilitate deaf people who want to serve on juries. In the United States, the courts have accepted that sign language interpreters are highly trained professionals whose code of ethics would ensure that they would not interfere with the deliberations of a jury and who could, in any event, be required to take an oath of confidentiality, as suggested by Judge Carney. FLAC will continue to press for change on this issue so that sign

language interpreters are recognised as the professionals that they are and deaf persons are finally recognised and treated as full and equal citizens of Ireland.

DISABILITY ISSUES

In February 2010 a decision was given in a case where FLAC represented a wheelchair user who complained to the Equality Tribunal that a local authority had allocated him a house which was in a dirty and unkempt condition and which he claimed was not fit for habitation. Though the case did not succeed, the Equality Officer made some significant rulings in the course of her decision.

She clarified the scope of the requirement for 'reasonable accommodation' of persons with disabilities under the Equal Status Act 2000, stating that "if the respondent rented the house to the complainant in a dirty and unkempt condition with broken fixtures and fittings ... this could be construed as a failure to provide reasonable accommodation to a person in a wheelchair in accordance with Section 4 (1) of the Act".

The Equality Officer also held that it was not necessary for a complainant to use the forms provided by the Tribunal when making a complaint so long as the respondent "was fully aware of the general nature of the complaint", and she stated that it was permissible for a complainant to elaborate further on the complaint in the course of his/her submissions.

SOCIAL WELFARE CASEWORK

During 2010 FLAC continued to work on a number of social welfare cases where we hoped to not only secure redress for the individual clients but to make some changes in the way social welfare appeals are dealt with and change inflexible rules that deny benefits to vulnerable people.

ACCESS TO PREVIOUS DECISIONS:

Almost alone of quasi-judicial tribunals for dealing with disputes about the actions of public bodies, the Social Welfare Appeals Office does not publish its decisions. Apart from a limited number of summaries of selected decisions that it publishes on its website and in its annual report, claimants cannot get access to previous decisions that might let them know how different rules and regulations are interpreted and applied in practice.

Leave was granted for Judicial Review in a case on this issue in July. FLAC was representing a woman who had been recognised as a refugee after several years in direct provision, during which time she was refused Child Benefit. We argued that when someone is recognised as a refugee, that recognition should be backdated to when s/he first applied for refugee status. That would mean she was entitled to social welfare benefits from that date.

In this case an Appeals Officer agreed that our client's recognition should be backdated to the first decision on her status and she was paid

arrears of benefit back to that date. However, she applied to the Chief Appeals Officer for a review of the decision on the basis that the recognition should be backdated to her original application. The review application is ongoing but to help our client make her case, she applied as well for copies of any previous decisions relevant to this issue.

The Appeals Office refused, revealing that they do not keep copies of their own decisions but send them all back to the Department of Social Protection, which is the Respondent in these cases. And the Department refused, saying they do not have any database of appeals decisions but keep them all in hardback format in offices scattered around the country. They said it would be too expensive and time consuming to maintain a database. Our client applied for judicial review on the basis that she needed access to previous decisions in order to be able to present her case properly. Her application is ongoing.

FAMILY STATUS & THE HABITUAL RESIDENCE CONDITION:

Leave was granted for judicial review in another case involving a woman in the asylum process who is in a longstanding relationship with an Irish national. The couple have two children who are Irish citizens but the parents are not co-habiting. The mother and children live in direct provision and the father visits regularly, while they all frequently stay with him at weekends.

The mother was refused Child Benefit because she did not satisfy the Habitual Residence condition (HRC), although she has been living here for seven years. FLAC represented her in a social welfare appeal and then a review application to the Chief Appeals Officer and pointed out that the Department had a practice where if one spouse, usually the father, satisfied the HRC and the mother did not, the mother would be allowed to rely on her partner's status for the purposes of the HRC. The Department would then pay Child Benefit, relying on the concept of a 'family unit'.

Our client's appeal was refused on the ground that only co-habiting spouses could qualify and be recognised as a 'family unit'. She had also sought copies of previous decisions to help her prepare her case. Her Judicial Review application deals with both the substantive issue of the definition of a family or a 'family unit', and the procedural issue of access to prior decisions.

OMBUDSMAN CASES:

FLAC helped two clients with two successful applications to the Ombudsman's office during the year. An unaccompanied minor, who had applied for asylum shortly before the HRC was introduced in 2004, had been refused Child Benefit because her application was late by one working day. She appealed to the Ombudsman, helped by FLAC, and after a lengthy correspondence with the Department of Social and Family Affairs, they

eventually agreed to pay her substantial arrears of benefit. This was a good illustration of the effectiveness of the Ombudsman's office in certain types of dispute.

In the second case, a woman who was in the asylum process left her direct provision accommodation because the overcrowding and lack of privacy were having a serious effect on her daughter's mental health. She stayed with a friend and applied for Supplementary Welfare Allowance, which was refused because she had left direct provision. A Social Welfare Appeals Officer upheld her appeal on the basis that there were exceptional medical circumstances in the case.

The Community Welfare Officer who had refused her application had sought to change his reason in mid-stream, saying that she had not satisfied the HRC, but the Appeals Officer would not allow him to do so. The CWO then said he would only pay her arrears at the direct provision rate of €19.10 per week for an adult and €9.60 for a child. We assisted the woman in making a complaint to the Ombudsman, who investigated the case and held that she should be paid full arrears of Supplementary Allowance. Some issues are still ongoing in this case.

DOMESTIC ABUSE AND RESIDENCY RIGHTS:

FLAC has been representing a woman from outside the EU who is married to an EU

citizen working in Ireland. Due to domestic abuse, she had to leave the family home while pregnant and found alternative accommodation, but the Department of Justice refused to renew her residence permit because her husband tried to claim he had divorced her before he brought her to Ireland to live with him. And when her baby was born, who is an Irish citizen, she was refused Child Benefit on the basis that she did not have a right to reside here.

She appealed this on the basis that the EU Citizenship Directive provided that the spouse of an EU worker had a right to reside independent of national law and regardless of whether she was living with or separated from her husband.

The Appeals Officer rejected her claim, relying on the refusal of the Department of Justice to give her a residence permit. She applied for a review by the Chief Appeals Officer and we argued that the EU Directive had direct effect in the State and should be followed. The case is important for the rights of other women as well, whose right to residence is derived from their spouse's status and who may be forced to stay in abusive relationships to avoid deportation.

FLAC worked closely in this case with the Immigrant Council of Ireland who are representing the woman in proceedings over her residency status.

PUBLIC INTEREST LAW ALLIANCE (PILA)

In order to facilitate and promote an increased use of law in the public interest in Ireland, FLAC established the Public Interest Law Alliance (PILA) in 2009. PILA seeks to bring together people committed to using the law for the benefit of marginalised and disadvantaged people, including academics, lawyers, students and NGOs. Guided by an Advisory Board made up of lawyers and experts from Ireland and abroad, PILA has a core team of four staff. Indeed 2010 saw some changes in the PILA team, with Tony O’Riordan stepping down as PILA Manager at the end of April to be replaced by Larry Donnelly, former Lecturer and Director of Clinical Legal Education at the School of Law, NUI Galway. Edel Quinn also finished up



in her role as PILA’s Legal Research Officer.

In April, PILA organised a successful conference that gathered NGOs and lawyers to discuss practical ways to promote the use of law in responding to challenges in areas such as: debt, housing, children’s rights, mental health, Travellers’ rights and migrants’ rights. The conference featured presentations on the experience of other countries’ experiences of using law in the public interest, including from academic, author and human rights activist Andrea Durbach, and founder and director of the Public Interest



L-R: Professor Gerry Whyte of TCD, FLAC Director General Noeline Blackwell and Director of Probono.net Mark O’Brien listen to broadcaster and journalist Vincent Browne who chaired the PILA Conference in April 2010.



PILA's Legal Officer Jo Kenny speaking at the launch of PILA's research report on 'The Costs Barrier and Public Interest Litigation'. Other speakers at the event (L-R): Patrick Dillon-Malone, BL, Iain Byrne of Interights and PILA Manager, Larry Donnelly.



Lianne Murphy, Saoirse Brady, Edel Quinn and Jo Kenny at the PILA conference, April 2010

Law Institute (PILI), Edwin Rekosh. The conference workshops focused on recent examples of public interest law in action in Ireland, North and South, with useful inputs from a range of speakers from both the NGO sector and other independent law centres.

Other successful events organised by PILA in 2010 include a seminar on international legal mechanisms which featured speakers from the United Nations and the European Committee of Social Rights, Kate Fox and Colm O'Cinneide, and a seminar that focused on the barriers to public interest litigation at which PILA's research report *The Costs Barrier and Public Interest Litigation* was launched and which featured speakers from international human rights organisation Interights and the Irish Bar, Iain Byrne and Patrick Dillon-Malone BL.

The PILA team worked with over 30 NGOs through the *pro bono* referral system, looking at unmet legal need and identifying ways in which *pro bono* referrals and legal mechanisms could further the work of the NGOs and address some of the needs and challenges faced by their respective clients and target groups. More knowledge of legal issues had been one of the key areas highlighted by NGOs as a need and training has subsequently been provided in a number of areas including: social welfare law, family law and housing law.

In addition, a large number of legal advice referrals have been made for NGOs to lawyers on PILA's *pro bono* register. Referrals have been made in areas such as: housing, social welfare, family law, immigration law, criminal law, discrimination, corporate

governance, employment law and international human rights law.

PILA continued to engage with a number of law firms, working with them to develop *pro bono* in their firms. While many firms have a history of engaging in *pro bono* work, this valuable work is often done on an ad hoc basis while international experience demonstrates the importance of having a formalised structure in place. By putting this structure in place, the law firms are better able to contribute their skills and expertise to NGOs who are frequently lacking in the legal resources themselves and also in the capacity to identify and access these

resources. Two breakfast roundtables on the issue of *pro bono* were held in 2010 with lawyers from leading Irish commercial law firms in attendance. International speakers Miriam Buhl, Pro Bono Counsel of Weil, Gotshal & Manges, Mark O'Brien of Probono.net and Ed Rekosh of PILI spoke at these breakfasts. In 2010 a number of law firms, large and small, signed up to PILA's *pro bono* protocol and began to deliver *pro bono* work on this basis.

PILA hosted the inaugural launch of the *Irish Human Rights Law Review* in May. The Review, which is to be published annually, was launched by the Ombudsman Emily



FLAC's Senior Solicitor Michael Farrell, Ombudsman Emily O'Reilly and Donncha O'Connell, NUI Galway, Editor of the *Irish Human Rights Law Review*

O'Reilly. The Human Rights in Ireland Blog, in conjunction with PILA, hosted an innovative seminar on rights, advocacy and engagement in August. The seminar was webcast live on both the Human Rights in Ireland and PILA websites, and interaction from online listeners was facilitated using Twitter. ICCL's *Know Your Rights* guide was launched in November; PILA was pleased to support its publication and at the launch PILA Manager Larry Donnelly noted the importance of informing people about their rights in language that is accessible and easy to understand.

PILA co-hosted a roundtable and evening reception with Marriage Equality in November where Evan Wolfson – a US lawyer and long-time civil rights leader in the movement for marriage equality – discussed same-sex marriage issues with interested lawyers, NGOs and academics.

In November, the PILA team attended the Public Interest Law Institute 2010 European Pro Bono Forum in Paris where they heard from a wide range of speakers on a variety of *pro bono* initiatives around the world. Larry Donnelly was invited to speak at the conference and highlighted the role of *pro bono* in combating poverty and social exclusion in Europe. The PILA team participated in the NGO Marketplace which gave them the opportunity to showcase PILA's work to an international audience, and to learn from others' experiences on what

works and what doesn't work in terms of promoting public interest law.

Work on researching the need and potential for a Children's Law Centre in Ireland was progressed further by a working group and advisory group of experts in the area, and the process to secure seed funding for such a centre was begun.

The *PILA Bulletin*, a bimonthly e-newsletter, continued to be well received in 2010 by over 800 legal practitioners, NGOs, academics, students and other interested parties. In 2010 it became an electronic bulletin and is now readable online. It includes updates on the most current developments in the area of public interest law and litigation, such as legislative changes, jurisprudence and ongoing campaigns both nationally and internationally, as well as conferences, events and job opportunities. (People can subscribe by signing up on the website www.pila.ie or by contacting bulletin@pila.ie)



LEGAL AID, INFORMATION AND ADVICE

Having adequate access to legal information and advice when people require it is a key part of FLAC's overall goal of access to justice. As part of this, FLAC runs a LoCall telephone information and referral line which offers basic legal information to callers on a confidential basis, free of charge. FLAC also supports a network of legal advice centres around the country. At these centres, members of the public can meet with a volunteer barrister or solicitor and receive free legal advice on a once-off basis. These advice centres are operated out of Citizens Information Centres and local community centres. Some of the centres are appointment only and others work on a drop-in basis. There are currently 35 centres in Dublin, and 52 located around the country. In addition, FLAC seeks to ensure that those who need state funded legal aid to ensure a fair hearing receive it.

LEGAL ADVICE CENTRES ROUND-UP

The number of queries to FLAC's legal advice centres continued to grow in 2010. Once again FLAC's volunteers, of whom there are now over 650, played a crucial role in delivering this service. The demand for detailed, specialist legal advice in relation to family law, employment law, and immigration law also continued this year and in response FLAC opened two additional specialist centres in Dublin, in O'Connell Street and Aungier Street. A new Dublin centre also



Volunteer Solicitor Aoife McCann pictured at the Dublin City North East Citizens' Information Centre where a new FLAC Centre opened in May 2010

opened on Sean McDermott Street and is the only centre which operates during the daytime rather than in the evening. The FLAC centre in Blackpool, Cork responded to increased demand on its services by expanding its service from fortnightly to weekly. In November, a new centre opened in Outhouse on Capel Street, Dublin. Outhouse is a resource centre for the LGBT (lesbian, gay, bisexual, transgender) community. Full details of the opening hours of FLAC's advice centres are available on www.flac.ie.

Another development for FLAC's legal advice centres in 2010 was the increase in the number of Assistant Volunteers at the



FLAC Director General, Noeline Blackwell and Professor Gerry Whyte of TCD (both seated) with members of the new FLAC NUIG society which launched in January 2010.

centres. While the volunteer Legal Advisors at the centres must be qualified barristers or solicitors, the Assistant Volunteer role does not demand a full legal qualification but provides invaluable support in the running of the centres. They help the advisors find necessary leaflets and brochures, do research online and help with our Data Collection Programme. In some centres, they run the reception – without these volunteers receptionists, some centres would not be able to operate. Many of the assistants then go on to qualify as barristers and solicitors and become Legal Advisors in the centres, having gained valuable experience and knowledge from being present when advice is being given.

FLAC STUDENT SOCIETIES

There are currently three FLAC student societies, one in Trinity College Dublin, one in University College Cork and a new society in NUI Galway which was officially launched in January 2010. The student societies provide legal information clinics where students can go and discuss any legal issues that they may have. They also organise legal information evenings and training seminars for student volunteers and are involved in organising seminars on interesting and topical legal issues. In addition, they get involved and assist FLAC with its campaign work.

The various FLAC societies had over 250 student members in 2010. As well as being

such a great resource to FLAC, we hope that by getting involved in this kind of activity at this early stage of their legal careers, the students involved gain an understanding of the inequities that exist in terms of access to justice in Ireland and that this continues to

inform and influence their work and choices in the future. We are also grateful to the societies for their fundraising for FLAC.

LEGAL AID CASE WORK & CAMPAIGNING

A comprehensive legal aid service has been a core goal of FLAC's work since the organisation was founded in 1969 when there was no state-funded civil legal aid. While civil legal aid is now available through the Legal Aid Board for those who meet certain criteria, and the Legal Aid Board solicitors and staff provide an excellent service within the resources that they have, unfortunately the resources available continue to fall short of actual need and the numbers of those waiting to access services continues to rise.

FLAC works with the Legal Aid Board to see how our advice centres can complement the



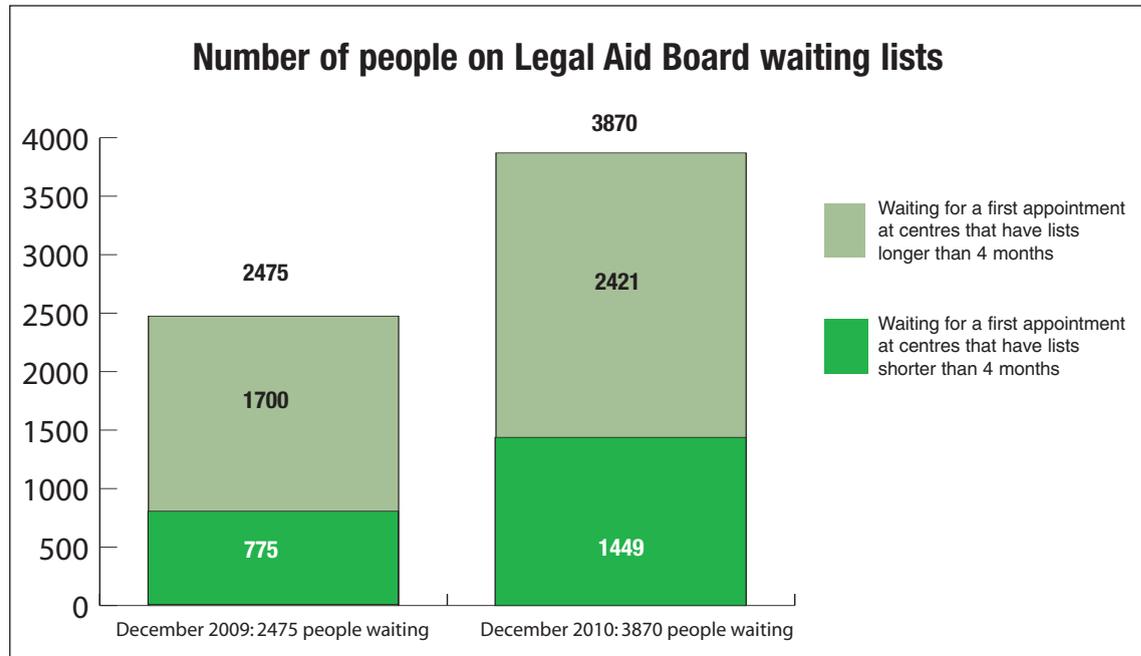
FLAC's Senior Solicitor, Michael Farrell who received the Access to Justice Award from UCC's FLAC society in 2010.

work of the Board, such as facilitating people to get some initial advice through a FLAC centre while they are on a waiting list of one of the Legal Aid Board law centres.

FLAC also monitors the waiting times

consistently, and raises concerns through its membership of the Legal Aid Board's External Consultative Panel and also in its discussions with the Board and with politicians and policy makers. Of the 30 Legal Aid Board law centres, 14 centres experienced an increase in waiting times since 2009, a year which itself had seen a substantial increase in Board waiting lists.

In December 2010, there were 3,870 people nationwide who were approved for legal aid but were on waiting lists for a first appointment with a solicitor. Of these people, 2,421 were waiting for an appointment at centres that have lists longer than four months. This compares to a total of 2,475 people waiting in December 2009, of whom 1,700 were in law centres with a waiting list of four months or more.



The part of the country in which a person lives has a significant impact on how long he/she must wait to see a solicitor, with differences in waiting times of up to nine months. For example, the maximum waiting time in December 2010 was less than a month in Louth, but nine months in Tallaght, Dublin 24. A positive development during the year was the dramatic drop in the waiting time in Wexford which went from nine months to three months, when staff resources increased

In addition to its general monitoring role, FLAC carries out some case work in this area which is mainly focused on strategic issues

relating to accessing legal aid. In 2010, FLAC identified and highlighted a lack of clarity in the law as to whether civil or criminal legal aid should be granted for those facing committal hearings due to the non-payment of family law maintenance. Clarification was sought and eventually received from the Department of Justice and Law Reform who stated that proposed law reform would resolve the issue. At the end of 2010, the proposal that those facing committal should be entitled to avail of the civil legal aid scheme had still not been implemented.

FLAC assisted clients who had their legal aid certificates terminated following a

breakdown in their relationship with their Legal Aid Board solicitor. The clients had their legal aid reinstated following FLAC's intervention. While there may be legitimate reasons why a client's relationship with a solicitor breaks down, all efforts need to be made so as not to deny people access to services that they really need, particularly as poorer clients denied service by the Legal Aid Board cannot access an alternative legal service. Denial of legal aid by one Legal Aid Board office denies access to the entire network of legal aid centres countrywide.

Training courses on the legal aid system and how it works were provided for FLAC volunteers who advise in the centres to give them a better understanding of the system so that they could advise and refer clients appropriately.

Some preliminary work was completed in establishing a Legal Aid Working Group. The rationale for establishing such a group is that FLAC's volunteer lawyers have a huge knowledge base and capacity in relation to legal aid and we hope to harness this to make progress on our goals in this area by working together on a number of different tasks, research topics etc.

TRENDS IN ADVICE CENTRES AND INFORMATION LINE

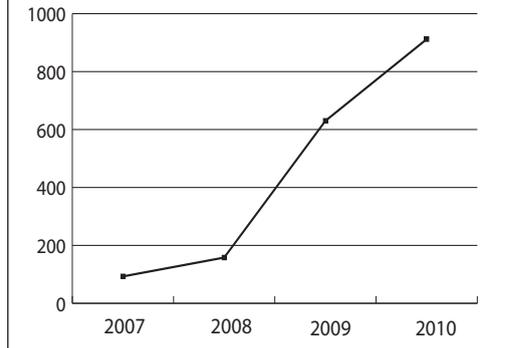
In 2010 FLAC's legal information and advice services continued to be kept busy with queries across a broad range of areas.

The number of calls logged by the Telephone Information & Referral Line team remained steady at 9,712, similar to the 2009 figure. Once again, there seems to be an overall trend of longer and more complex calls coming in to the information line, requiring the provision of information in relation to more than one area of law. In the legal advice centres, FLAC volunteers gathered information on 10,967 queries, increasing from 9,321 in 2009. The number of centres participating in this data collection programme continued to rise with a total of 59 participating in 2010, seven more than in the previous year.

Overall, family law is still the largest area of enquiry in civil law across FLAC's information and advice centres, making up 24% of all telephone enquiries and 30% of all queries in the centres. Criminal law enquiries account for approximately 6% of queries overall which is consistent with previous years. Within non-family civil matters, there was a slight increase in the number of employment, social welfare, consumer and housing calls with the most dramatic increase being seen in the number of queries relating to debt.

After family law, debt was the most frequently discussed topic on the telephone information line with an increase of 45% in the number of debt related calls from 2009 to 2010. This increase in debt calls continues a pattern observed in the last number of years: in 2007 there were 93 calls related to debt; in 2010

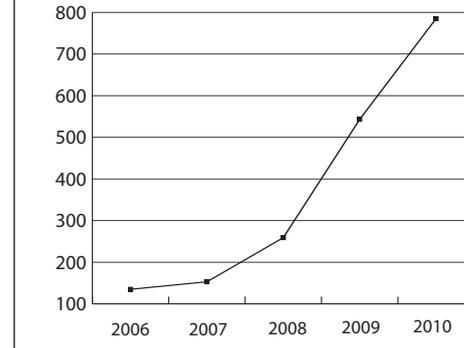
Debt law queries to FLAC telephone information line



912 calls were logged. A similar pattern emerges from the centres, with 153 debt related queries in 2007 and 787 in 2010. Those answering queries on the telephone information line have also noticed that a significant proportion of calls coming in have a debt element to them, even though debt was not the primary reason for the call. For example, in the case of marital breakdown there is frequently an issue with debt when it comes to the family home.

The most common debt queries were related to housing debt: mortgage arrears, arrears to estate management companies, rent arrears, judgement mortgages and repossession proceedings. This was followed by personal debt issues such as bank loans, hire purchase agreements, utility bills and credit card debt.

Debt & credit law queries to FLAC advice centres



Other noteworthy trends in 2010 were the increase in queries related to social welfare with a 35% increase in calls to the telephone information line and a 47% increase in queries at the centres. There was also approximately a 20% increase overall in queries relating to consumer law issues.

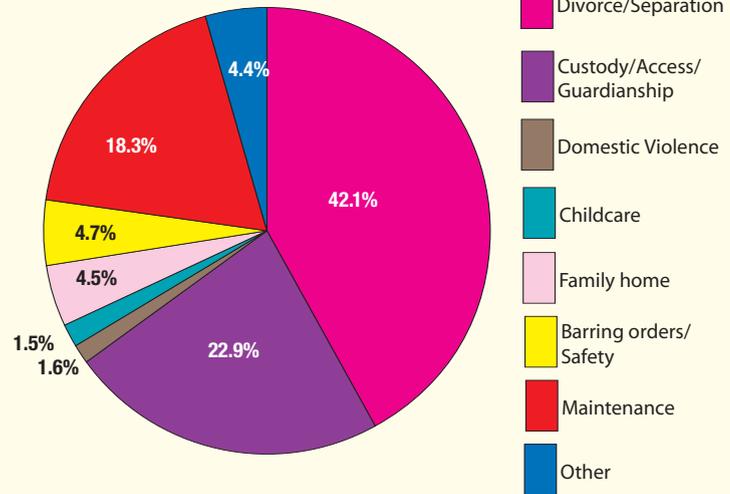
In response to demand, FLAC has established a number of specialised centres that focus on specific areas of law for which there is significant demand and which require specialist expertise. These centres provide information and advice on family law, employment law and immigration law.

Data collected from the specialised family law centres indicate that 42% of family law queries were in relation to divorce/separation and 18% were regarding maintenance while 22% concerned custody, access and

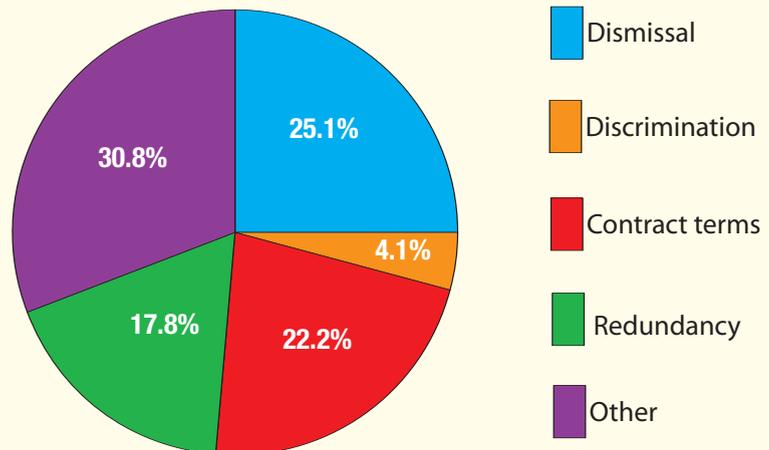
guardianship of children. However, these divisions are somewhat arbitrary as a question primarily relating to one area of family law will often have implications for other sub-areas.

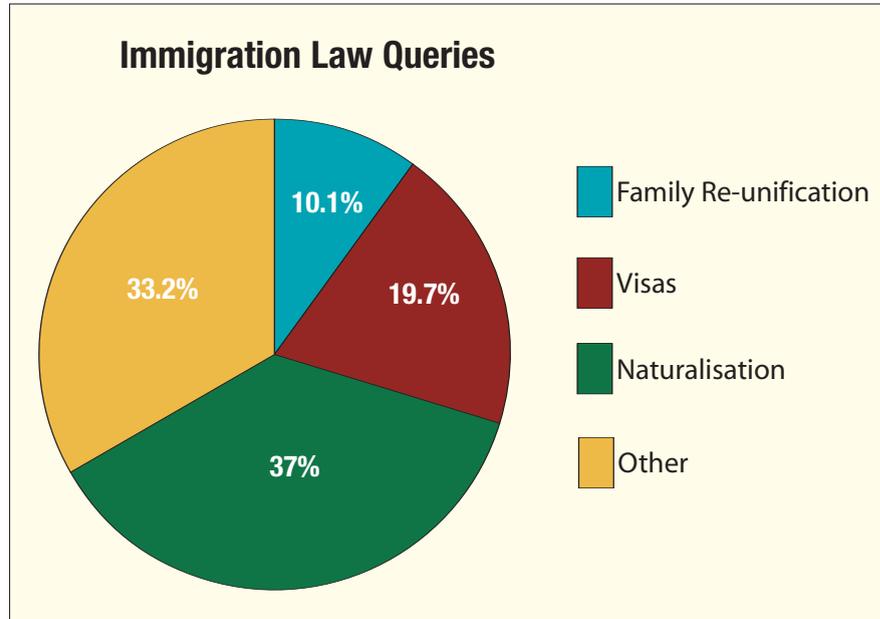
While debt is the second most discussed topic on the telephone information line, outside of family law employment law remains the most frequently discussed topic in the centres making up 14% of all queries. The data collected from the specialist employment law centres show that, similar to debt, the most common queries are reflective of Ireland's struggling economic situation and the impact that that has had on the lives of ordinary people: 25% of employment law queries were about dismissal, 17% were about redundancy, and 22% were about

Family Law Queries



Employment Law Queries





and FLAC advisors will advise callers who already have a solicitor to return to that person.

When further legal advice or representation is required, FLAC advisors make referrals to appropriate agencies. Over half of the people who visited a FLAC centre in 2010 were referred to another

contract terms.

Data from the specialist immigration legal advice centres show that 37% of queries were about naturalisation, 19% about visas and 10% about family reunification. This is consistent with the pattern from 2009. Other areas discussed in the immigration centres include: work permits, EU treaty rights, permission to remain in Ireland, asylum, non-EU citizen entitlements and deportation orders.

Some 95% of people who visit FLAC centres have not engaged a private or Legal Aid Board solicitor in relation to their legal query. FLAC centres do not offer second opinions

agency. Of those, 22% were advised to contact a private solicitor and 18% were advised to contact the Legal Aid Board. Referrals from FLAC's telephone information line were mainly to its legal advice centres (48% of referrals), to the Legal Aid Board (10% of referrals), and to a Citizens Information Centre (5% of referrals). FLAC referred over 400 people to MABS services in 2010.

PUBLICATIONS & WEBSITE

In 2010, FLAC continued its work in producing newsletters, guides and fact-sheets on various aspects of law. These publications aim to provide clear, accessible information on a range of issues as well as keeping FLAC's areas of work to the fore in the minds of opinion-shapers, policy-makers, legislators and practitioners. 2010 was the 20th year of *FLAC News*, the organisation's quarterly newsletter which gives a comprehensive round-up of FLAC's work and activities as well as containing legal news, information and comment.

Among the publications from FLAC in 2010 were: *One Size Doesn't Fit All*, a comprehensive analysis and critique of Ireland's Direct Provision and Dispersal System, a *Guide to the Habitual Residence Condition*, briefing documents on the Lydia Foy Transgender Case and the Joan Clarke Deaf Juror Case, as well as factsheets on Unemployment and Mortgage Arrears.

These publications are all available to download on the FLAC website which is another resource that people can use to access a publications and factsheets on a wide range of legal topics. On average, there were over 5,000 unique visitors to the FLAC website each month in 2010.



SOCIAL WELFARE LAW



The launch of FLAC's Report, 'One Size Doesn't Fit All', which examined Ireland's direct provision and dispersal system. Pictured from left to right are: Sue Conlan, CEO of the Irish Refugee Council, Josephine Ahern, CEO of the Integration and Social Inclusion Centre in Ireland, Noline Blackwell, FLAC Director General, Saoirse Brady, FLAC Policy and Campaigns Officer and Vukasin Nedeljkovic, artist and former direct provision resident.

DIRECT PROVISION CAMPAIGN

As part of its focus on aspects of law that particularly impact on people who are disadvantaged or marginalised, FLAC works in the area of social welfare law. In Ireland, some of the most marginalised people are asylum seekers who are waiting for their application for refugee status to be processed. Social welfare is administered to this group via the system of direct provision, a system whereby asylum seekers are provided with full board accommodation in centres around the country, are not allowed

to work, and receive a weekly allowance of €19.10 per week (€9.60 for children). Many people remain in this system for several years due to long delays in processing their asylum applications.

In February 2010, FLAC launched a major report, *One Size Doesn't Fit All*, investigating and examining the direct provision system. The report was launched in Buswells Hotel in Dublin to mark the UN World Day of Social Justice. FLAC also held a joint launch with Doras Luimni in Limerick's Hunt Museum. A

decision. FLAC also issued a background note and initiated an e-mail campaign encouraging the public to voice their opposition to the transfers. The campaign was successful in drawing attention to the situation and raising awareness of the issue of direct provision among the general public.

One person said in a letter she wrote to the Minister:

I am again ashamed at the manner that the people in Mosney are being treated. They are human beings entitled to the rights and dignity all of us experience. It is inhumane and an affront to their dignity to leave them so long without processing their cases.

THE HABITUAL RESIDENCE CONDITION

FLAC met with Minister for Social Protection, Éamon Ó Cuiv TD, in May and highlighted some of FLAC's concerns in relation to social welfare, particularly the access by immigrants and asylum seekers to social welfare which has been significantly curtailed by the Social Welfare and Pensions Act 2009. FLAC also highlighted the difficulties and confusion posed to both immigrants and returning Irish emigrants by the Habitual Residence Condition (HRC).

Introduced in May 2004 as a result of EU enlargement amid fears of 'welfare tourism',

the HRC is a set of five conditions which all applicants to a means-tested social welfare payment must meet. The condition has been shown to negatively impact on asylum seekers, migrant workers and returning Irish emigrants and FLAC has found that the misapplication of the condition, as well as a general misunderstanding of it, has led to inconsistent and often unfair decision making. In September, FLAC published a *Guide to the Habitual Residence Condition* to explain and document the law in this area.

This was followed in October by a presentation to the Joint Oireachtas Committee on Social Protection on the inconsistencies and unfairness caused by the HRC. In its presentation, FLAC argued that the lack of fair practice and procedure in social welfare administration was leading to bad or inconsistent decision-making. It recommended that all references to the obsolete '2 year rule' be removed, comprehensive training be made available to all Deciding Officers and Community Welfare Officers, and that a common sense approach be taken to decide each case on its merits.

further launch in Mayo with the Mayo Intercultural Action organisation provided an opportunity for some of the 330 people being accommodated at the county's sole direct provision centre in Ballyhaunis to have their views and concerns heard.

FLAC's work on direct provision included the creation of a factsheet, *Asylum Seekers: 6 Facts*, on the asylum process which aimed to counter the myths and untruths surrounding asylum seekers and to inform members of the public, journalists and policy makers about the complex process.

As part of FLAC's campaign on direct provision, FLAC met with the Minister of State for Equality, Integration and Human Rights, Mary White TD, to raise concerns about the direct provision and dispersal system. These concerns included: the inordinate amount of time spent by asylum seekers in the process, the standard of accommodation at the direct provision centres and the lack of an adequate appeal and complaints mechanism for the people residing at the centres. The Minister subsequently commented in an interview with the *Irish Times* that she would like to see the asylum system overhauled with the right to work extended to asylum seekers awaiting decisions on their cases.

In June, FLAC and other members of the NGO Forum on Direct Provision arranged a briefing for politicians which highlighted the

need for an independent complaints mechanism for people living in the system. The following month, FLAC made a presentation on *One Size Doesn't Fit All* outlining the recommendations contained within to the Joint Oireachtas Committee on Justice, Equality, Defence and Women's Rights. Representatives of the various political parties attended and Alan Shatter TD committed to ensuring that the system be subjected to a fundamental review if Fine Gael were elected to Government.

During summer 2010, members of the Joint Oireachtas Committee on Health and Children visited a number of the direct provision accommodation centres and subsequently invited the HSE and the Reception and Integration Agency (RIA) to appear before the Committee. FLAC contacted each member of the Committee and raised its concerns in relation to the rights of children, the right to health of residents and the impact of the administrative set-up of the direct provision system on residents.

In July, FLAC campaigned against the RIA's decision to transfer 150 residents of the Mosney Direct Provision Centre to a centre in Dublin City Centre at short notice and without consultation or consideration of individual circumstances. An NGO coalition, of which FLAC is a member, sent an open letter to the then Minister for Justice, Dermot Ahern TD, outlining the concerns about the RIA's

CONSUMER CREDIT LAW

In June 2010, the revised European Union consumer credit directive was transposed into Irish law by way of a regulation rather than by primary legislation. The directive was superimposed onto the existing legislation relating to consumer credit, which was already complex itself, resulting in a law that is extremely difficult to decipher.

FLAC called on the government to publish clear and user friendly information on the new provisions as soon as possible and to produce one codified version of the consumer credit legislation as a matter of priority. No guide was made available on the new rules, resulting in a situation where the new law is in place but is incomprehensible to most people.

Through FLAC's phone line and direct queries from MABS, hire purchase has emerged as a problematic area for consumers, with people struggling to meet repayments on cars, for example. The rules under the consumer credit legislation that govern the situation in which an individual wishes to hand back goods bought on hire purchase have been very restrictively interpreted by some lenders and this has given rise to much hardship for borrowers.

FLAC is seeking to clarify this issue through casework and in this regard has appealed a recent decision of the Financial Services Ombudsman to the High Court which will be heard in 2011.

FLAC also delivered three training courses on consumer credit law to MABS in 2010.

WORKING IN PARTNERSHIP TO PROMOTE EQUALITY AND HUMAN RIGHTS



The launch of the Equality and Rights Alliance campaign, 'It's About U' to highlight the importance of human rights and equality in the lives of every person in Ireland, FLAC Director Noeline Blackwell is pictured centre left holding the sign.

One of FLAC's core values is a commitment to working with other organisations to better achieve our goals and objectives. FLAC has therefore developed productive working relationships with a range of NGOs, strategic alliances and state bodies.

Some examples of these relationships are described below.

The **Equality and Rights Alliance** (ERA) is a coalition of 171 civil society groups and activists (NGOs, trade unions, academics and individual activists) working together to protect and strengthen the statutory equality and human rights infrastructure. FLAC continued its participation in this alliance in 2010 including inputting to the development

of its 'roadmap' and getting involved in the 'It's About U' campaign which aimed to highlight the fact that human rights and equality are issues that affect everybody.

FLAC is a member of the **NGO Forum on Direct Provision** where it seeks to provide a legal perspective on aspects of the direct provision system, following up on its report *One Size Doesn't Fit All*.

'**The Poor Can't Pay**' is a coalition of civil society organisations that believe that those earning the minimum wage or living on social welfare should not be forced to pay the cost of the economic crisis in Ireland. FLAC is a member of this coalition.



The Poor Can't Pay campaign produced a YouTube clip to illustrate the situation of many of the people affected by budgetary measures. Pictured left holding FLAC's sign is Information & Communications Assistant Fintan Monaghan, who took part in the video.

In October, FLAC was invited to join the Cross Sectoral Steering Group of the Civil Society Coalition Campaign **Your Rights, Right Now**. This group of 17 organisations, coordinated by the Irish Council for Civil Liberties, was brought together to participate in the examination of Ireland's human rights record by the UN Human Rights Council through the Universal Periodic Review mechanism.

FLAC is a member of the **Advocacy Initiative's** steering group. This initiative was developed following discussions at the Centre for Non-Profit Management's Summer School in 2008. It secured three year funding in 2010 and is concerned with the development of the relationship between the community and voluntary sector and the State and public agencies, with a focus on the experience, practice and principles of advocacy in this regard.

FLAC communicates and works with the other **independent law centres** on a regular basis and is a member of **The Wheel**.

FLAC regularly works with the **Legal Aid Board**, with two members of FLAC staff sitting on their external consultative panel. We also work closely with **MABS** (Money Advice & Budgeting Service), with the **Citizens Information Board** and with **FÁS**.

At an international level, FLAC was pleased to be admitted to FIDH (**Fédération Internationale des Ligues des Droits de l'Homme**) as a correspondent member. FIDH is made up of 164 member organisations and is concerned with defending all civil, political, economic, social and cultural rights, as set out in the Universal Declaration of Human Rights. FLAC participated in the 37th FIDH Congress in Yerevan, Armenia in April 2010. FLAC is also a member of the **European Coalition on Responsible Credit**.

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LoCall:
1890 350 250

Administration Tel:
01 887 3600

e-mail:
info@flac.ie

Web:
www.flac.ie

