



# **Examining access to justice in the draft Programme for Government 2020**

June 2020

## About FLAC

FLAC (Free Legal Advice Centres) is a voluntary independent human rights organisation which exists to promote equal access to justice. Our vision is of a society where everyone can access fair and accountable mechanisms to assert and vindicate their rights. We work particularly in the areas of the protection of economic, social and cultural rights. We identify and make policy proposals on laws that impact on marginalised and disadvantaged people, with a particular focus on social welfare law, personal debt & credit law and civil legal aid.

FLAC produces policy papers on relevant issues to ensure that Government, decisionmakers and other NGOs are aware of developments that may affect the lives of people in Ireland. These developments may be legislative, Government policy-related or purely practice-oriented. FLAC may make recommendations to a variety of bodies including international human rights bodies, drawing on its legal expertise and providing a social inclusion perspective.

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# FLAC Response to draft Programme for Government 2020

## An Access to Justice approach

### Introduction

FLAC broadly welcomes many of the policy initiatives which have been set out in the draft Programme for Government. Prior to the 2020 General Election, FLAC campaigned for a root and branch review of civil legal aid in Ireland. Many candidates, including a number of those who participated in the drafting of the Programme for Government, made a commitment to ensuring a root and branch review of civil legal aid would be held if they were elected.

Since then, the need to ensure access to justice for those who are most vulnerable has become even more acute. FLAC provides advice and information to over 25,000 individuals annually, and in order to continue meeting their needs, we have moved some of our services online. With the closure of our face to face clinics, we have added resources to our telephone information line and established phone legal advice clinics for urgent queries. We provide these services because legal problems do not go away if you do not have access to a lawyer to help. Very often, they can get worse.

We know that those who are already vulnerable are more at risk during the Coronavirus outbreak and do not have access to the protections they deserve.

We are pleased to see that the political parties involved in writing the Programme for Government have recognised the need for new initiatives to support a new social contract and anti-poverty measures and have included some recognition of structural inequalities in Ireland which leave those who are poorer at higher risk.

There is an increasing recognition of the links between a lack of access to justice and social exclusion and wider social problems with the role of legal assistance services in efforts to address continuing poverty and inequality and to improve social inclusion. While there are many welcome initiatives relating to housing and health in the draft document, we are also aware that the lack of access to legal advice and representation can exacerbate problems that arise from housing and health. New policies that ensure access to housing are to be welcomed, but when an individual is excluded from that policy and they believe the exclusion is unfair, on many occasions they will need legal assistance to have this reviewed. Where they cannot access this legal assistance, a much-heralded new policy will be of little benefit to them. Prior to this pandemic, we highlighted the issues facing vulnerable people who cannot access legal assistance. The waiting lists for appointments with civil legal aid solicitors are already too long and Coronavirus has made this worse.

With this in mind, FLAC has examined the draft Programme for Government with an ‘access to justice’ lens relating to the areas in which we work.

## Measurement

*Programme for Government - page 6*

*We will develop a set of indicators to create a broader context for policy making, to include*

- A set of well-being indices to create a well-rounded, holistic view of how our society is faring.*
- A balanced scorecard for each area of public policy focused on outcomes and the impact that those policies have on individuals and communities. Initially this will be focused on housing, education and health.*

FLAC welcomes the proposal to introduce a set of indicators to create a broader context for policy making, and a scorecard for each area of public policy focused on outcomes. We recognise the urgency related to scoring how the state fares when it comes to housing education and health, and suggest that access to justice be added as a distinct category of measurement during this government's lifetime. The last programme for government contained a commitment to developing access to justice indicators. Having an access to justice indicator would be in line with the new UN Sustainable Goal on Civil Justice. Indicator 16.3.3 is the “*Proportion of those who experienced a legal problem in the last two years who could access appropriate information or expert help and were able to resolve the problem.*”

Many people do not have access to justice in any meaningful sense. However, the exact scale of justice deficit is not currently known, as it is not measured. While many organisations can provide some data, the severe consequences of not being able to access justice when it is required are not assessed by the state. This must change, and incorporating a measurable access to justice measurement is one way to do this.

Section 42 of the Irish Human Rights and Equality Act 2014 requires public bodies to have regard to the need to eliminate discrimination and promote equality of opportunity and protect human rights. There is therefore already an obligation on public bodies to carry out equality and human rights impact assessments. These important obligations need to be integrated into the scorecards for each area of policy and it would be important to ensure that the scorecard should include the impact that policies have on the groups that come within the equality grounds and the outcomes they experience.

## Budgetary Process and Procurement

*Programme for Government:  
Budgetary Process - page 23*

*We will improve budgeting for demographic related costs. Spending in the areas of health and social welfare will be prioritised for improved budgeting. Each minister will be required to produce service improvement and reform plans in conjunction with the Department of Public Expenditure and Reform. Budget overspends within the budgetary year must be included in department budgetary plans each year, in line with changes in Budget 2020.*

*Budget and expenditure plans for each department must include measures to drive the digitisation of public services and work within our public services, while maintaining access to those services to all.*

*We will utilise both the new well-being indices and balanced scorecards in the development of government budgeting.*

*Procurement - page 23*

*We are committed to evaluating and managing the environmental, economic and social impacts of procurement strategies within the state. During the lifetime of this government we will develop and implement a sustainable procurement policy. The policy will:*

- Ensure strong value-for-money for the taxpayer.*
- Seek to minimise the environmental impact and optimise the community benefit of products and services procured.*
- Support innovation in supply markets to increase the availability and effectiveness of sustainable solutions.*
- Encourage suppliers to adopt practices that minimise their environmental impact and deliver community benefit.*
- Work in partnership with suppliers to achieve common goals and continually improve performance over time.*

*We will task the Office of Government Procurement to update all procurement frameworks in line with green procurement practice over the next three years.*

FLAC welcomes the proposal to ensure that each department must include measures to drive the digitisation of public services and work within those services while maintaining access to those services to all. In addition, FLAC recommends that each public sector body places their obligations under Section 42 of the Irish Human Rights and Equality Commission Act 2014, to have regard to the need to eliminate discrimination and promote equality of opportunity and protect human rights at the centre of their service improvement and reform plans. It should also be at the centre of all budgetary planning.

*Debt - page 23*

- Introduce the necessary reforms to our personal insolvency legislation and ensure that sufficient supports are in place for mortgage holders with repayment difficulties.*
- Assess the Code of Conduct on Mortgage Arrears, including the available suite of alternative repayment arrangements, and ensure it has full legal effect.*
- Strengthen the Mortgage to Rent Scheme and ensure that it is helping those who need it.*

FLAC welcomes the commitments set out above to improve the infrastructure relating to assisting those in financial difficulty due to over-indebtedness. However, we believe that they largely reflect existing policy that has yet to be acted upon rather than any new initiatives and may thus also lack the urgency required to effectively deal with a new set of debt problems that may arise in the post-Covid landscape.

There has been inordinate and unexplained delay in the reform of the personal insolvency legislation. It is now over three years since the effectiveness of the solutions offered under the Act was reviewed by a Consultative Forum of relevant stakeholders (including FLAC) set up by the Insolvency Service of Ireland. This forum was comprised of groups representing all sides of the debt engagement – insolvency practitioners, credit institutions, money advice staff and debtor advocates – who agreed a set of (still unimplemented) recommendations largely concerning the improvement of processes that would streamline the operation of the legislation. FLAC subsequently made its own detailed submission on more substantive issues in August 2017 and discussed it at considerable length at a meeting with the Department of Justice in January 2018.

In terms of the CCMA, 2013, its legal effectiveness has been hampered by the fact that it continues to be a regulatory Code that is not expressly admissible in legal proceedings and is the sole creation of the Central Bank. By way of illustration, in a letter of March 2019, six years after the current CCMA was put in place, the Bank announced that it 'expects regulated firms to provide the following additional information to borrowers; 1) a copy of the firm's assessment of the borrower's case carried out in accordance with Provision 37 and as documented by the firm in compliance with Provision 40; and 2) The reasons why alternative repayment arrangements (ARAs) considered by the firm, but not offered to the borrower, are not appropriate and not sustainable for the borrower's individual circumstances, as documented by the firm in compliance with Provision 40.

This belated direction is an implicit recognition by the Bank that the process of assessment imposed on lenders under its Code and the provision of information to and right of appeal for borrowers arising therefrom has to this point fallen woefully short of any reasonable standard of fair procedures. FLAC first raised these glaring deficiencies in 2013 to no avail and has reiterated them on a number of occasions.

The mortgage to rent option (MTR) in chronic mortgage arrears cases is regularly described as a scheme but it has no explicit statutory basis and, critically, there are no rights of appeal for a borrower whose application is unsuccessful. The rules that apply appear to be tweaked from time to time by the Department of Housing and the Housing Agency, but it is not clear how this is decided. The success of an application depends on a number of moving parts and entities working together but practice varies widely across local authority areas. MTR for borrowers in positive equity, the low level of cases in rural locations and valuation, accommodation size and income criteria have all been identified as obstacles to completions. It is an important and valuable part of the strategy to prevent the loss of family homes but is in need of a transparent review and reform.

The fallout from Covid-19 and the ensuing recession is unfortunately likely to worsen the problem of over-indebtedness in Ireland. The position of a number of people whose financial difficulties arising from the last recession have never been resolved, may be exacerbated. To these may be added others who were just keeping their heads above water but who may now find themselves in a position of personal insolvency following loss of employment or business failure, particularly when payment breaks, moratoria on evictions, income support measures and associated strategies are phased out.

Thus, while the review of the matters suggested in the programme is welcome, the incoming government must also turn its mind to additional problem areas as soon as possible. It is notable for example that the focus is still largely on mortgage arrears. However unsustainable unsecured debt and increasing rent arrears are also likely to be a feature into the future.

## Planning and Reform

*Planning and Reform page 65*

*We will:*

- *Review and reform the judicial review process so that such reforms come into effect upon the establishment of the Environmental and Planning Law Court, while always adhering to our EU law obligations under the Aarhus Convention.*

FLAC welcomes the acknowledgment of the state's obligations under the Aarhus Convention. The proposal to establish a new court dealing with Environmental and Planning law raises fundamental issues in terms of equality of arms in access to justice in environmental matters.

Any proposal in relation to procedures governing claims in environmental law and/or other public interest law matters should include an amendment to section 28(9) of the Civil Legal Aid Act, to allow for legal aid in class/multi-party actions.

Public interest litigation is inherently unpredictable, as the case is often being litigated because the law is not clear and needs clarification. In our legal system, such cases are almost always brought by an individual who is personally concerned with the outcome.

Such cases are usually against the State or some manifestation of the State, because ultimately it is the responsibility of the State to protect, defend and promote the rights of its people. The public interest litigant is bringing a benefit to the public in facing the significant resources of the State, bears a personal risk over and above that normally borne by someone who goes before the courts. It is the experience of FLAC, that the costs incurred by litigants in vindicating their rights is one of the biggest barriers to accessing justice. Not only do applicants incur their own legal fees, they also run the risk of incurring those of their opponent.

FLAC would like to see the exceptions to the rule that costs ‘follow the event’ expanded to include Protective Costs Orders (PCO) for litigants taking cases that are in the public interest. This would provide certainty as to costs at the outset of litigation. PCOs are already in existence in Ireland in relation to environmental cases under the Aarhus Convention, which provides that costs should not be so unduly prohibitive as to prevent the public participating in environmental decision-making and procedures.

While the Irish courts have accepted in principle that PCOs can be granted, there are no specific rules or guidance on public interest litigation comparable to other common law jurisdictions. FLAC is concerned that the availability of PCOs is not specifically recognised in legislation, and requests that these matters are addressed in any initiatives to develop an Environmental and Planning Law Court.

## A new social contract

*Mission: A New Social Contract - page 85*

*Social Protection*

*we will:*

- *Move forward with a new social contract*
- *Recognise the importance of ancillary benefits and eligibility criteria to vulnerable groups.*
- *Improve jobseeker supports for people aged under 24 over the lifetime of the Government.*

FLAC welcomes a new social contract. Access to justice is vital for social inclusion, democracy and the rule of law and must be a part of the new social contract.

FLAC is concerned that the Supplementary Welfare Allowance scheme no longer constitutes an adequate “safety net”, that it no longer provides assistance to all whose means are insufficient to meet their needs. Its eligibility criterion and exemptions including the habitual residence condition needs to be reviewed.

FLAC notes the commitment to improve jobseeker supports for people aged under 24 over the lifetime of the government and request that these supports are drafted to eliminate the discriminatory rates of payment based on age for claimants receiving Jobseekers Allowance. We note that individuals in receipt of HAP or rent supplement may receive the full rate of JSA where they are under 25. However, there are few individuals who will qualify for this.

Reduced payments do not provide the basis for an adequate income, or enable young adults to live at an acceptable level without significant familial support. Research has shown that people under 25 will be most adversely affected by the negative impacts of Covid-19. There is an assumption within the policy of paying lower rates of Jobseekers Allowance that young people can live with their parents or family and do not require the same payment as those over 26, or over 25 from January 2020, as they are financially subsidised by their family. However, there are numbers of vulnerable young people who are LGBTI+, migrants, persons with disabilities, and Travellers who do not have access to the same level of family support.

FLAC recommends that the supports mentioned in the Programme for Government remove the discriminatory rates of payment for Jobseekers.

## Anti-Poverty and social inclusion measures

*Employment and equality - page 86*

*The Low Pay Commission will be instrumental in ensuring that those who are in low-paid employment are valued. We will be guided by the recommendations of the Low Pay Commission with regard to any future changes in the minimum wage.*

*As we emerge from the COVID pandemic, we must build upon the unity, which was fundamental in our response, to improve outcomes for those who are struggling on low incomes, struggling with caring responsibilities, or having to raise their families alone and those who are living with a disability.*

*Equality between all citizens is a core guiding principle of our republic. Over recent years we have taken major strides in our addressing discrimination against minority and marginalised groups. However, the task of ensuring every individual enjoys this fundamental right remains incomplete. This Government will continue to build on hard won progress to give real meaning to our best values of equality and fairness.*

*· We will examine the introduction of a new ground of discrimination based on socio-economic disadvantaged status to the Employment Equality and Equal Status Acts.*

*· We will support the establishment of a Joint Labour Committee in the childcare sector and the drawing up of an Employment Regulation Order, which would determine minimum rates of pay for childcare workers, as well as terms and conditions of employment.*

FLAC welcomes the diverse commitments given and acknowledgements made above, drawn from the programme under the general heading of the Mission on a 'New Social Contract'.

However, we note that there is no explicit reference in the document that we can see that considers reform in the area of the employment rights of workers in Ireland and the system of enforcing these rights.

Over the past four months the range and number of employment related queries received on FLAC's Telephone Information and Referral line and in FLAC's legal advice clinics arising in the context of the Covid crisis illustrates the need for a review of existing legislative standards and a potential programme of law reform in this critical area of socio-economic participation and welfare. In the course of attempting to assist employees with a wide range of often detailed individual legal questions, it is apparent to us that the system of access to assistance on employment rights issues in Ireland requires review and improvement.

As pointed out elsewhere in this submission, civil legal aid is simply not available for employment related complaints before the Workplace Relations Commission and the Labour Court and this has an adverse impact on the number of complaints and their outcomes. In turn, the remedies available and provided to those whose complaints are upheld does not always adequately reflect the gravity of the conduct of the employer or improve outcomes for those who are struggling on low incomes.

The particular features of the Covid-19 crisis has also shone a light on some aspects of current employment legislation and practice that are unclear and are in need of review and potential amendment. Some examples here include:

- The absence of a legal obligation on employers to use a specific procedure in writing to place employees on lay-off from their jobs. Thus, for example, many employers ignored the RP9 form recommended for this purpose with the result that many laid off employees had no documentation or written proof of the date of lay-off.
- The absence of a legal obligation on employers to use a specific written procedure to notify employees that their lay-off was coming to an end and of the date when they would be expected to return to work. As a result, some staff returned to some workplaces earlier than others and some have not yet returned.
- Whether an employer has a legal right to put an employee on lay-off and, if so, in what specific circumstances.
- Ambiguity concerning how requests for annual leave from employers by employees and impositions of annual leave by employers on employees are to be decided and by whom.
- What legal rights employees who believe that their workplace may currently be a risk to their health and safety have to object to attending for work.
- What legal protection is available to employees who cannot attend at work due to lack of child care provision.

## Equality

*Equality - page 87*

*We will:*

- *Publish a new national action plan against racism.*
- *Develop and implement a new Migrant Integration Strategy.*

FLAC supports the proposals to introduce a new national action plan on racism as well as the proposal to develop and implement a new Migrant Integration Strategy.

Article 5 of ICERD requires State parties to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone without distinction as to race, colour or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: “(a) The right to equal treatment before the Tribunals and all other organs administering justice”.

Similarly, Article 7 of the Racial Equality Directive obliges EU Member States to ensure that judicial and/or administrative procedures are available to victims of racial discrimination to enforce their right to equal treatment. However, the effectiveness of such procedures is undermined where victims are reluctant or unable to use them. Research conducted by the Fundamental Rights Agency across the European Union has highlighted that awareness of the national legislative and procedural framework giving effect to the prohibition on discrimination appears to be low among racial minorities. This in turn, affects the degree to which victims pursue their rights and reduces the frequency with which the prohibition of discrimination is enforced and remedies are obtained. This discrimination is compounded due to some of the most prevalent legal issues affecting Travellers and Roma being excluded from the remit of the Legal Aid Board. The Legal Aid Board is precluded from providing representation before quasi-judicial tribunals dealing with social welfare appeals, as well as employment and equality cases. The UN Committee on Economic, Social and Cultural Rights have also expressed concern regarding the exclusion of certain areas of law from the civil legal aid scheme “which prevents especially disadvantaged and marginalised individuals and groups from claiming their rights and obtaining appropriate remedies, particularly in the areas of employment, housing and forced evictions, and social welfare benefits”.

FLAC is concerned that the lack of availability of legal representation in these types of cases means that many Travellers and Roma cannot present their cases, including discrimination claims, in the manner that fairness demands, depriving them of equality before the law and the right to equal treatment before Tribunals as required by ICERD.

Any new action plan on racism or migrant integration strategy must include initiatives to ensure that victims of racism and/or migrants have access to the legal system through a properly funded Legal Aid Board.

*Equality - page 88*

*We will:*

- *Amend the gender ground in equality legislation to ensure that someone discriminated against on the basis of their gender identity is able to avail of this legislation.*

FLAC welcomes this proposal and reiterates our recommendations in our Submission to the Review of the Gender Recognition Act that the Equal Status Acts and the Employment Equality Acts be amended to expressly prohibit discrimination based on gender identity, and gender expression in addition. Gender identity should be defined to include protection for those that identify as intersex or nonbinary.

*Travellers and Roma – page 88*

*We will:*

- *Review the National Traveller and Roma Inclusion Strategy 2017-2021, and ensure that the strategy has a stronger outcomes focused approach.*
- *Ensure that the housing needs of the Traveller Community are met by local authorities and ensure that existing funding is fully drawn down and utilised.*

We welcome the review of the National Traveller and Roma Inclusion Strategy 2017-2021, and believe it should include a review of the disproportionate negative impact of the habitual residence condition on the Roma Community.

It is vital that the recommendations of the Traveller Accommodation Expert Review are implemented to ensure that the housing needs of Travellers are met.

*Gender Recognition - page 89*

*We will:*

- *Remove the need for a person aged 16 and 17 years to have two specialist reports before they can apply for legal gender recognition, by providing for self-declaration, with parental consent and by making mediation available on a voluntary basis. These improvements will include the provision of a gender recognition certificate providing proof of change of name as well as gender. Make any necessary changes to the law to allow legal name change be part of the gender recognition process.*
- *Commence research to examine arrangements for under children under 16.*
- *Complete the work of the interdepartmental group tasked with examining legal recognition of non-binary people.*
- *Ensure Government Departments and public bodies take positive steps, including the use of correct pronouns and where possible making improvements on official forms, to assist nonbinary people.*

As outlined in our Submission to the Review of the Gender Recognition Act 2015, FLAC recommends that that children age 16 and 17 be able to avail of gender recognition as if they were 18; that children under 16 be able to avail of gender recognition on basis of a simplified process in the District Court based on an application made by a parent or guardian with the

child's consent, with the Court being required to hold the best interests of the child as the paramount consideration in decision making concerning the application.

Further FLAC recommends introducing a third gender option such as an 'X', for non-binary persons and intersex persons on identity documents including passports, and provision of recognition for intersex and nonbinary identities. FLAC recommends that the Gender Recognition Act 2015 be amended to allow for recognition of non-binary gender identities.

## Building Stronger and Safer Communities

*Mission: Building Stronger and Safer Communities - page 95 - Policing*

*We will:*

- Rapidly implement the Report of the Commission of the Future of Policing, while ensuring that there remains a strong and independent public external accountability mechanism for the Garda Commissioner and Garda Leadership Team.*
- Increase the diversity within An Garda Síochána, prioritising the identification and removal of barriers to recruiting and retaining people from diverse and minority backgrounds.*

In the context of the JUSTROM programme operated by FLAC, policing issues have been a considerable concern for both Travellers and Roma, although the interaction of both communities with the Gardaí often arose in different circumstances.

FLAC recalls in this regard the 2011 Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD) concerning policing. The Observation concerned the lack of legislation proscribing racial profiling by An Garda Síochána and other law enforcement officers. The Committee also noted with regret that many non-Irish people are subjected to police stops and asked to produce identity cards which has the potential to perpetuate racist incidents and the profiling of individuals on the basis of their race and colour (Arts 2, 3 and 6). The Committee further recommended the adoption of legislation preventing racial profiling and requested that the State strengthen its efforts to promote the humane treatment of migrants and people of non-Irish origin by An Garda Síochána in accordance with international human rights law.

However, this recommendation has not been implemented and the functions of the Gardaí and the immigration functions of the State are largely excluded from the prohibition of discrimination in the Equal Status Acts, and issues of discrimination in policing do not come explicitly within the remit of the Garda Síochána Ombudsman Commission (GSOC).

FLAC recommends that mechanisms are introduced to detect, prevent and address potential racial profiling by An Garda Síochána, including through the public sector duty under Section 42 of the Irish Human Rights and Equality Commission Act 2014.

FLAC recommends that legislative measures are introduced to allow individuals or groups representing their interests, to make complaints through GSOC in relation to racial profiling to allow such allegation to be investigated independently including through placing the current Code of Ethics on a statutory footing.

FLAC further recommends that the Commission propose amendments to the Equal Status Acts 2000-2015 to bring the functions of An Garda Síochána within the remit of the prohibition on discrimination, harassment and victimisation and the obligation to provide reasonable accommodation for people with disabilities.

## Courts reform

*Courts reform - page 96*

*We will:*

- Enact a Family Court Bill to create a new dedicated Family Court within the existing court structure and provide for court procedures that support a less adversarial resolution of disputes.*
- Build a new Family Law Court building in Dublin and ensure that court facilities across the country are suitable for family law hearings so these hearings can be held separately from other cases.*
- Clarify and strengthen contempt of court sanctions for violations on social media.*
- Legislate to introduce a statutory offence of perjury, to make this crime easier to prosecute.*
- Modernise the law on the administration of oaths in judicial and other proceedings.*
- Establish a new Planning and Environmental Law Court managed by specialist judges and on the same basis of the existing Commercial Court model.*
- Establish a working group to consider the number of and type of judges required to ensure the efficient administration of justice over the next five years.*
- Enact the Judicial Appointments Commission Bill within the first six months of Government. However, we will engage with stakeholders to make appropriate amendments to the current Bill to ensure that it enjoys broad support. These would include ensuring that the Chief Justice is the ex-officio chairperson of the body.*
- Implement reforms to the administration of civil justice in the State covering matters such as the more efficient and effective deployment of court and judicial resources. This will be guided by the report of the group chaired by the former President of the High Court, Mr. Justice Peter Kelly.*
- Independently examine the option of a dedicated system of public defenders.*
- Introduce the necessary legislative reforms of the personal insolvency sys.*

FLAC broadly welcomes the above proposals set out in the Programme for Government document, including the indication of support for resolving family law issues outside of the adversarial courts system. However, there will still be a number of people who require access to the courts.

Currently, civil litigation within a family law setting is easier navigated by persons with the financial resources to access legal representation. Beyond this, there is a general expectation

that the impecunious litigant will either manage with a low level of support through legal aid or become a lay litigant. This is antithetical to access to justice.

Equal access to justice means that everyone should have equal access to the court and legal system alternatives to court as a matter of law, and as a mechanism of social inclusion and cohesion. Access to justice means more than access to civil legal aid and an appointment with a lawyer. It is about meeting equally the legal needs of marginalised communities in Ireland. It is about access to the courts and lawmakers, to service providers and basic information on legal rights and entitlements.

FLAC recommends that the government recognise that access to justice is an essential family support mechanism and ensure that access to justice is included as a core theme in equality and social inclusion strategies going forward.

We recognise the commitment to progress a family law court in Dublin. However, within the capital allocation schemes that are agreed, additional appropriate funding for the family law court at Hammond Lane in Dublin, must be included. Ensuring that appropriate family law matters can be progressed quickly in a safe and suitable court environment is key to building a stronger and safer Ireland.

We reiterate our call for an urgent root and branch review of the civil legal aid system so that people's access to justice needs are met.

Reforms of the Court process must include making court forms and procedures more accessible and also include provision to cater for the needs of lay litigants

*Hate Crimes - page 97*

*We will:*

- Introduce Hate Crime legislation within twelve months of the formation of the Government. This legislation will create specific offences to ensure that those who target victims because of their association with a particular identity characteristic are identified as perpetrators of hate crime. This legislation will be on the basis of an aggravated offences model. This legislation will be supported by training across the criminal justice system, as well as victim supports.*
- In order to ensure that those who seek to encourage and incite others to hate minority groups can be prosecuted we will revise and update Incitement to Hatred Act 1989, taking account of the public consultation conducted in 2019.*

FLAC welcomes the proposal to introduce hate crime legislation and recommends that in tandem with the on-going review of the Incitement to Hatred Act 1989, new legislative developments should seek to ensure that a complimentary approach is taken to regulating hate speech, including the provision of accessible civil remedies to those targeted by such speech whether online or otherwise.

Consideration should be given to enable the IHREC institute proceedings in relation to hate speech that is not targeted at Individuals.

*Building on the ratification of the Istanbul Convention, we will work with NGOs and services to:*

- Develop the third National Strategy on Domestic, Sexual and Gender Based Violence which will place a priority on prevention and reduction and will include a National Preventative Strategy.*
- Conduct an immediate audit, to be concluded within nine months of the formation of the Government, of how responsibility for domestic sexual and gender-based violence is segmented across different government agencies and develop proposals on what infrastructure is needed to ensure the issue is dealt with in the most effective manner possible. This audit will be undertaken in conjunction with NGOs and service providers.*

FLAC welcomes the proposal to conduct the audit mentioned above. In addition, FLAC recommends that increased funding be made available for court accompaniment by support workers for victims of domestic violence, as well as training for mediators, legal practitioners and members of the judiciary on domestic violence, including on the nature of emotional and psychological abuse and coercion and the impact it may have on victims including the ways in which traumatic experiences may delay the ability to come forward to make applications immediately.

## Conclusion

FLAC welcomes many of the commitments contained in this document. However, we are asking members of the Dáil to ensure that a root and branch review of civil legal aid is included as part of a new social contract.

Citizens must have accessible and affordable health care, housing, education, childcare and disability services, but they must also have access to the courts and legal assistance when they need it and cannot afford to pay for this privately. It is fundamental to building equality in Ireland.

We have drafted a term of reference to show what a civil legal aid review could look like. We have made serious progress on social issues in Ireland in the past few years, that support people in accessing their rights. FLAC is asking you to continue this work and ensure that access to justice through civil legal aid provision is the next step in this journey.