



# FLAC

ANNUAL REPORT

2015



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## OVERVIEW

### Key stats for 2015

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#### **Almost 30,000**

people received help directly from the FLAC telephone information line or, in conjunction with Citizens Information Centres, from a volunteer lawyer in a legal advice centre.

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#### **Over 10,000**

downloads from FLAC's website.

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#### **Almost 400 volunteer lawyers**

directly supported by FLAC with online resources, volunteer induction and legal training sessions.

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#### **15 policy submissions**

and 15 strategic cases across FLAC's priority areas of law.

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#### **95 NGOs**

community organisations and Independent Law Centres supported by PILA, FLAC's public interest law project.

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#### **Almost 300**

individual lawyers, 22 law firms and 4 in-house teams on PILA's pro bono register by the end of 2015.

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#### **More than 70**

new legal advice and litigation referrals, 9 new or ongoing Law Reform Working Groups and 10 Legal Education Sessions training 230 people from 50 organisations achieved by PILA in 2015.





## 2015 HAS BEEN ANOTHER BUSY YEAR FOR FLAC,

with a major campaign to coordinate an Irish civil society response to the UN's examination of Ireland under the Covenant on Economic, Social & Cultural Rights, as well as an international conference on protecting human rights in austerity. The essential core work of ensuring free basic information and advice on the law continued through our telephone information line and, in partnership with the Citizens Information Centre network, via evening advice clinics. At least 28,000 people around Ireland received direct help in 2015, with many others availing of FLAC's online and print legal guides. Our Public Interest Law Alliance continued its work matching social justice organisations with free legal expertise, building on the Irish legal profession's strong track record of pro bono legal work.

In 2015 we finally saw the culmination of our longest-running legal case, with Transgender rights champion Lydia Foy finally obtaining her birth certificate – 22 years after she first came to FLAC for help. Her selfless crusade was crucial to Ireland's introduction of one of the most progressive Trans recognition laws in the world. FLAC is proud to have been part of this campaign.

On our policy and law reform front, we continued to make proposals in our priority areas of law that allow people to access their rights and seek effective remedies for their legal problems and, where this is not possible, to obtain redress. In social welfare FLAC highlighted the threat of destitution for people from whom the state sought to recover social welfare overpayments. Our work promoting the basic rights of over-indebted people, particularly those in mortgage arrears, continued with many policy submissions and awareness-raising activities.

Finally, we would like to thank the hundreds of volunteers throughout Ireland who make FLAC's impact on Irish society so much greater, from the lawyers giving their time in local advice clinics, to the legal experts who helped create our information guides, to our Board members: we could not do it without you. We are grateful also to our funders for their generous support of our work. We believe the right of access to justice underpins all other human rights and as such is vital for each and every person in Ireland. We hope we can count on your continued support in our work to secure equal access to justice for all.

Peter Ward, FLAC Chairperson

# LEGAL INFORMATION AND ADVICE

Overall almost 29,000 people received direct help from either FLAC's information line or from a volunteer advisor in a local legal advice clinic in 2015, a slight increase of 1% over 2014.

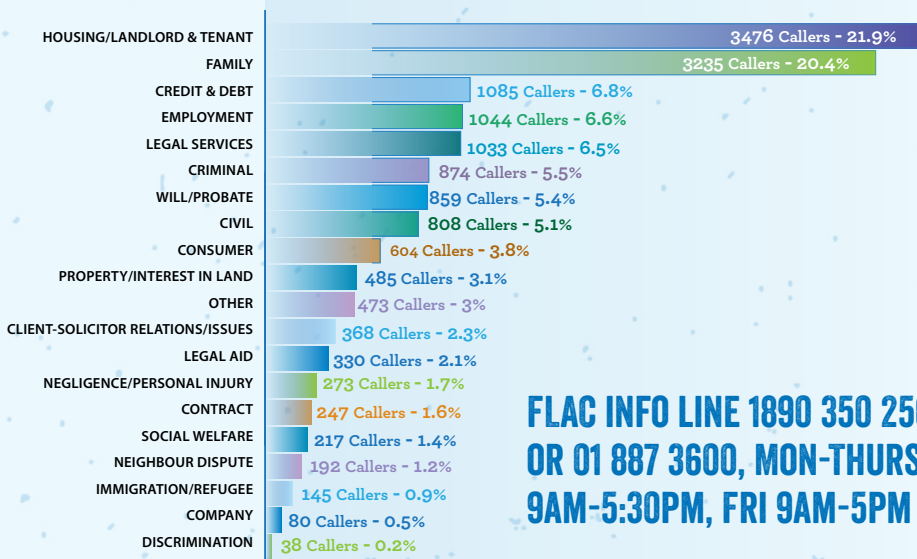
## FLAC telephone information and referral line

FLAC operates a telephone information line where people can call during office hours and get basic legal information on any legal question, for free, with no means test. Where issues are more complex or require legal advice, callers are referred to a FLAC clinic or to another appropriate body.

In 2015, there were 15,866 calls to our helpline, an increase of 5.7% over 2014. Reflecting the housing crisis, the largest area of query was on housing or landlord & tenant issues at almost 22% of calls, up 62.4% on 2014. Family law queries formed 20.4% of calls, and credit & debt came in third at 6.8%. Employment law queries amounted to 6.6% of calls.

- On housing calls, the main queries were on rent issues, ending a tenancy and over-holding (tenant staying longer than agreed). More than half of calls (58%) were from a landlord. In calls about family law, one in every three (31%) was regarding divorce or separation, a quarter (26%) on custody, access or guardianship of children and 17% on maintenance.
- One-quarter of all debt-related calls were in relation to mortgage arrears (26% or 284 callers), with a further 20% about problems with personal loans. Some 155 callers were in fear of repossession.

### Queries to FLAC Telephone Information & Referral Line 2015



**FLAC INFO LINE 1890 350 250  
OR 01 887 3600, MON-THURS  
9AM-5:30PM, FRI 9AM-5PM**

### KEY STATS IN 2015:

**15,866**

calls to the FLAC helpline

Main areas of inquiry:  
**Housing, family,  
credit & debt**

**10,835**

document downloads from  
the FLAC website

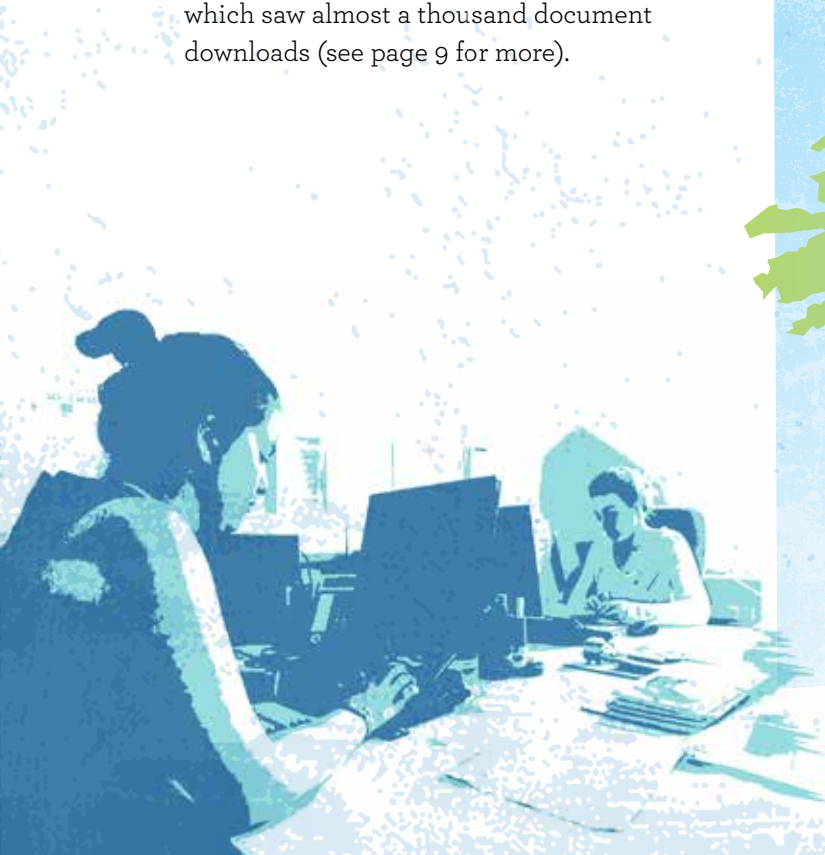


## Other achievements:

- In July, Minister for Justice and Equality, Frances Fitzgerald TD, launched FLAC's new legal information booklet on Neighbour Disputes. This provides information on how to address noise and anti-social behaviour in various residential settings. FLAC is grateful to the Civil Service Charities Fund for funding the publication of the booklet and to the volunteer lawyers who helped produce it.
- FLAC produced and updated a number of basic FLAC sheets in 2015 on issues like top-up loans from licensed moneylenders, making a Freedom of Information request and how to access state civil legal aid, all available on the FLAC website.
- As part of the reporting process on Ireland's examination under the UN Covenant on Economic, Social and Cultural Rights in May, FLAC set up a dedicated website ([ourvoiceourrights.ie](http://ourvoiceourrights.ie)) and a Twitter feed (@realrightsIRL) to disseminate information about the civil society reporting and the UN's examination and recommendations, which saw almost a thousand document downloads (see page 9 for more).



Minister for Justice and Equality, Frances Fitzgerald TD, launched FLAC's new legal information booklet on Neighbour Disputes



## Legal Advice Clinics nationwide

All over the country, people can discuss their legal questions free of charge with a volunteer lawyer in an advice clinic. In a FLAC clinic, people can get advice on any area of law; specialised clinics offer help on family law, employment law and immigration law, with one clinic providing Irish Sign Language interpretation and others offering advice as Gaeilge.

In 2015, some 66 advice clinics participating in FLAC's anonymised data collection programme had a total of 12,881 callers. A third of callers had queries on family law matters, while almost 15% had an employment law issue. Some 9.2% had questions on wills and/or probate while just under 8% had a credit and debt law question. Housing/landlord & tenant issues were the fifth largest area of enquiry in FLAC clinics, at just over 6% of callers.

- Roughly half of all family law queries (48%) were in relation to separation or divorce. Custody and maintenance were the next most common family law queries. Over 330 callers to the FLAC clinics in 2015 were experiencing domestic violence.
- Contract terms, dismissal and redundancy are the three main employment law queries in the clinics.
- Almost half of those presenting with a debt-related query (46%) were discussing mortgage arrears, with a further 21% needing help with debt collection procedures.

## KEY STATS IN 2015:

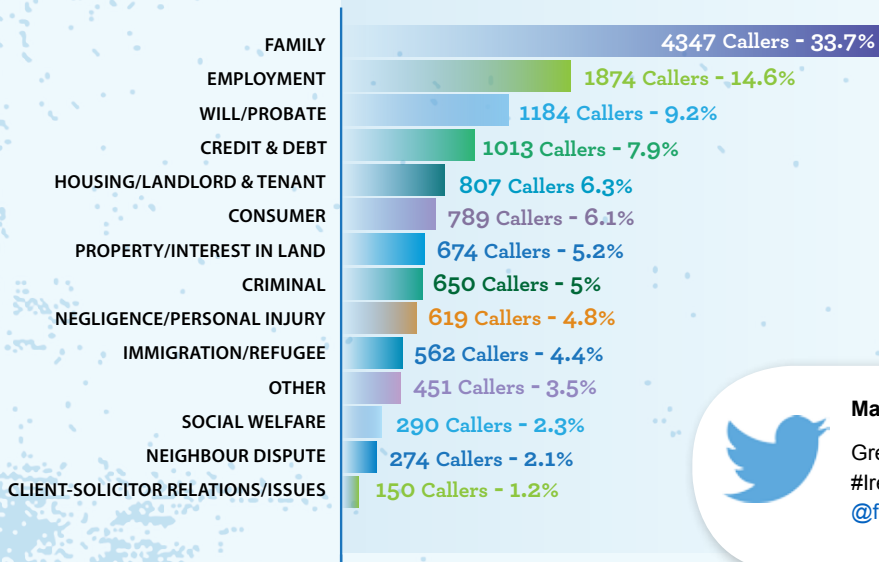
**12,881**  
callers to advice clinics

**88**  
services around Ireland in  
partnership with Citizens  
Information Services

**66**  
clinics participating in  
FLAC's anonymised data  
collection programme

The clinics are run in partnership with the Citizens Information Centres around Ireland, with legal advice provided by volunteer solicitors and barristers. We would like to particularly acknowledge the staff and management of the Citizens Information Board and local CICs whose work in coordinating and facilitating clinics is key to ensuring people can access free and confidential legal advice as and when they need it.

## Queries in Legal Advice Clinics 2015



**Matthew Moore** @4BorB • 10 Nov 2015

Great guide for anybody facing #repossession in #Ireland. Simple and easy to follow. Well done @flacireland flac.ie/download/pdf/g...

# FLAC VOLUNTEERS

One key way FLAC promotes the basic right of equal access to justice for people in Ireland is through the remarkable efforts of an army of volunteer solicitors and barristers. These members of the legal profession help thousands every year and demonstrate their commitment to human rights by volunteering their skills in evening advice clinics.

Induction and legal training sessions are available to FLAC volunteers. In 2015, there were two training seminars for Dublin and Leinster volunteers, one in Cork and a session in Ennis. There were also 3 induction sessions held for new volunteers. Many thanks to all those who helped organise and present at these sessions.

**VOLUNTEER AWARDS SCHEME 2015:** FLAC runs a Volunteer Awards scheme, the ‘Golden Pin’ award, to recognise long-standing and committed volunteering. The 2015 awards ceremony took place on 3 December at FLAC’s Ninth Annual Dave Ellis Lecture. We honoured 82 volunteers who have been regular volunteers for more than 3 years. The awardees received a Golden FLAC pin, a Certificate and a mention on the 2015 Roll of Honour. We were delighted to be able to acknowledge so many volunteers.

**SUMMER SQUAD:** FLAC is very lucky to enjoy the support of so many volunteers throughout the year. However, over the summer holidays, there are fewer available to attend advice clinics. The “FLAC Volunteer Summer Squad” is a group of volunteers who kindly offer to take on extra nights and extra clinics to allow the service to continue without

interruption. In 2015, the FLAC Volunteer Summer Squad again did a great job and a giant thank-you goes to all involved.

**WEXFORD FLAC 10 YEAR ANNIVERSARY:** FLAC works with Citizens Information Services around the country to support the running of local clinics by local CICs. In November, Wexford Citizens Information Service and FLAC celebrated 10 years of great cooperation and of voluntary involvement from the local legal profession. A high profile event was organised by Wexford CIS and FLAC’s Noeline Blackwell spoke on ‘Towards a more equal society through access to law.’ The event was attended by FLAC Golden Pin-awarded volunteers as well as fellow FLAC and CIC volunteers, Wexford CIS Board & staff, Citizens Information Board and local organisations.

121

barristers and solicitors  
became new FLAC volunteers

82

volunteers honoured for long service with a  
FLAC Volunteer Golden Pin

4

legal training sessions for volunteers  
in Dublin, Cork and Clare







In March, to recognise the long-standing and vital commitment of Cavan FLAC volunteers, the local Citizens Information Centre invited Noeline Blackwell and Zsé Varga to award the volunteers with the FLAC Volunteers Golden Pin Award.

**FLAC STUDENT SOCIETIES:** There are currently FLAC student societies in UCC, Trinity, NUI Galway, NUI Maynooth, DCU, Griffith College, and IT Carlow, as well as the UCD Student Legal Service. Below is a snapshot of the year from some of the societies to showcase the sterling work being done.

- **Trinity FLAC:** The Society marked its 25th Anniversary with 'Best Overall Society' and 'Best Medium Society' at the College's 2015 student society awards. Trinity FLAC ran panel

discussions, research projects and other human rights events, as well as weekly legal advice clinics for students and staff. Other highlights included an 'Alternative Careers in Law' talk and a public interest law moot court competition.

- **DCU FLAC:** Apart from its advice clinics, DCU FLAC Society hosted a number of events including a talk in collaboration with DCU LGBT Society on Transgender Rights featuring FLAC's Michael Farrell and Dr Lydia Foy.
- **NUIG:** The FLAC Society in NUI Galway ran an introductory lecture for students seeking to take part in legal advice clinics and, in collaboration with the Law Society, a will-writing workshop for Zambian students.
- **UCC:** UCC FLAC hosted a range of inspirational speakers throughout the year, including FLAC's Michael Farrell and Dr Lydia Foy, and a successful debate on the Marriage Referendum. Campaigns included "Know Your Rights" (a campaign highlighting students' rights under such issues as Employment Law and Landlord & Tenant Law) and "Know Offence" aimed at combatting sexual violence against students.



Maynooth University FLAC Society members Emmet Lande, Lauren Clarke and Greg Flynn.





Tanya Ni Mhuirthile @tanyanim • 10 July 2015

Hugely inspiring to hear the stories of litigants who used the law to advocate for change

@SenDavidNorris @SenatorKZappone #CICL15

# PILA: PUBLIC INTEREST LAW ALLIANCE

**PILA's Pro Bono Referral Scheme has continued to grow from strength to strength in 2015, with 95 social justice organisations accessing pro bono expert legal advice, litigation support, Law Reform Working Groups and Legal Education Sessions.**

With a broad base alliance of 300 individual barristers, 2000 solicitors in 22 law firms and 4 in-house teams working side-by-side with 105 NGOs, community organisations and independent law centres, PILA's role remains ever central in building capacity to use the law as a tool for positive social change.

In 2015 PILA launched the first national pro bono survey to provide insight into how much pro bono is happening across the country, while identifying factors that encourage or discourage pro bono service. The survey drew 464 responses from barristers, solicitors and students across Ireland. The results not only revealed promising levels of pro bono work, they showed significant appetite in the legal profession taking a leadership role

in using pro bono as a vital adjunct in meeting unmet legal need. Almost three-quarters of practitioners reported to have engaged in pro bono during their career, with 38% doing so on a regular basis. Of the lawyers who had never taken

In October, Society of St Vincent de Paul unveiled a report on the need for legislation to improve energy efficiency in private rental sector. The study was done by McDowell Purcell Solicitors through PILA. Pictured at the launch are John-Mark McCafferty (SVP), Noeline Blackwell (FLAC) and David McKechnie (McDowell Purcell).



## SOME 2015 REFERRALS

### LEGAL ADVICE

a legal opinion on the employment rights of au pairs, which fed into the Migrant Rights Centre Ireland's 'Labour of Love' campaign and a landmark decision before the Workplace Relations Commission.

### LAW REFORM WORKING GROUP

a collaboration between six homeless organisations highlighting the barrier of statutory declarations when accessing social housing.

### LITIGATION SUPPORT

development of a litigation strategy for a grassroots organisation seeking to challenge alleged Garda malpractice and corruption.

### LEGAL EDUCATION SESSION

legal training delivered by William Fry for 20 people from 17 organisations on obligations under the new Lobbying Act.

### SIGNATURE PROJECT

pilot project between Inclusion Ireland, Mason Hayes & Curran and the legal team at LinkedIn that seeks to empower people with intellectual disability by helping them make a will.



At the launch of the Clinical Legal Education report in October 2015: Prof. Donncha O'Connell (NUIG), former Justice Bryan MacMahon, Larry Donnelly (NUIG) and Eamonn Tansey (PILA)

on pro bono work, 65% would like to in the future. With only a tenth of practitioners not inclined to participate in pro bono, there is an abundance of skill to be leveraged for good.

## Other achievements:

- **'Changing Ireland, Changing Law' seminar series:** As lead community partner on the Irish Research Council-funded 'Changing Ireland, Changing Law' project, PILA teamed up with Professor Ivana Bačik of Trinity College Dublin and Dr Mary Rogan of Dublin Institute of Technology for a series of seminars that explored the connections between law and social change. In November, PILA appeared before the Joint Oireachtas Committee on Justice, Defence & Equality to present the project's key recommendations on improving access to justice and public interest litigation. Read the debate at [bit.ly/CICL16](http://bit.ly/CICL16)
- **Public Procurement & Pro Bono:** As part of the Office of Government Procurement's process to reform how the government buys legal services, PILA submitted a proposal to include a pro bono requirement. This was accepted and now all law

Before the CICL presentation to the Joint Oireachtas Committee: Noeline Blackwell, Dr Mary Rogan, Rachel Power, Sen Ivana Bacik, Dr Micheline Sheehy Skeffington & Prof. Mark Bell



firms that are successfully awarded a government tender must offer at least 5% of the value of legal fees invoiced in pro bono legal services or Corporate Social Responsibility projects.

- **Clinical Legal Education in Ireland: Progress and Potential report:** PILA commissioned the first report of its kind to examine the development of clinical legal education in Ireland. Written by Larry Donnelly, Lecturer and Director of Clinical Legal Education in NUI Galway's School of Law, the report reflects on existing clinical programmes, and makes recommendations for expansion and growth.
- **A&L Goodbody and Irish Refugee Council win European pro bono award:** A&L Goodbody and the Irish Refugee Council's Independent Law Centre were presented with the inaugural European Award for Local Pro Bono Impact at PILnet's 2015 European Pro Bono Forum in Rome. The award was in recognition of their innovative pro bono programme which provides essential legal services to people claiming refugee status in Ireland – a collaboration developed through PILA.
- **Public Interest Litigation and Social Change in South Africa:** PILA hosted foremost South African advocates Gilbert Marcus SC and Nick Ferreira who held a seminar for legal practitioners on the duty of the State in constitutional cases, as well as a roundtable for partner NGOs on developing an effective rights strategy for social change.
- **Pro bono Leadership Committee of Partner Law Firms:** PILA facilitated the establishment of a Pro Bono Leadership Committee made up of its partner law firms. The Committee meets quarterly to share information and data on pro bono activity and participation, promote collaboration and drive development of pro bono practice in Ireland.



# HUMAN RIGHTS: IRELAND'S EXAMINATION UNDER UN INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

One of FLAC's largest undertakings during 2015 was to coordinate a broad Irish civil society response to the state's report to the UN on how it is respecting, protecting and fulfilling the economic, social and cultural rights of people in Ireland.

These are protected by a UN Treaty, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Irish state is obliged to report regularly on how it is meeting its solemn commitments under that agreement.

A dedicated UN Committee, CESCR, considers the state's report and issues its Concluding Observations on what specific actions the state must take to improve performance. This Committee also welcomes views and evidence from civil society. Thus FLAC, through its PILA project, worked with over 80 civil society organisations to gather the information and evidence required to assemble a real picture of economic, social and cultural rights on the ground in Ireland.

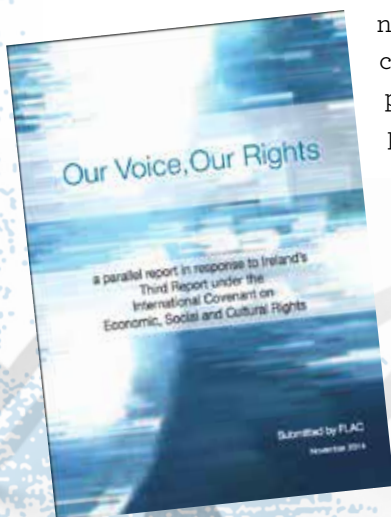
This civil society Parallel Report, *Our Voice, Our Rights*, went to the UN in October 2014, covering developments since Ireland's last State report in 2002. In March 2015, FLAC led a group of NGOs in presenting the report to legislators at Leinster House. By May 2015, there had been so many

new developments under continued state austerity policies that FLAC prepared an updated report to the UN Committee ahead of Ireland's examination on 8 and 9 June.

The UN examination, held at the Palais Wilson in Geneva, saw the UN Committee question a 22-person Government delegation, led by Minister of State Sean Sherlock TD, on what the State has been doing since 2002 to protect a basic level of rights in areas such as education, health, social security, family life and adequate living standards, especially for more vulnerable groups. A strong civil society team, coordinated by FLAC and PILA and comprising representatives of Threshold, Irish Family Planning Association, Atheist Ireland, Justice for Magdalenes Research, Pavee Point Traveller & Roma Centre, Abortion Rights Campaign, Tallaght Dialogue, Community Law and Mediation and Dr Liam Thornton of UCD's Human Rights Network attended, as did the Irish Human Rights and Equality Commission, led by Chief Commissioner Emily Logan. The delegation organised a parallel session with UN Committee members to answer questions on the rights landscape in Ireland.

Throughout the two-day hearing, the Committee repeatedly expressed its gratitude to the Irish civil society groups who contributed to both *Our Voice* *Our Rights* reports. It was clear that the Committee relied heavily on this extra evidence in its examination process.

The Committee published its Concluding Observations on 22 June, with many recommendations mirroring those put forward in the civil society Parallel Reports: see [bit.ly/1UevFeo](http://bit.ly/1UevFeo) Among its concerns are the state's actions on housing, healthcare services (including mental and reproductive health), domestic violence, protection of vulnerable and marginalised groups (such as







Attendees at the FLAC-FIDH conference in May

disabled people, survivors of the Magdalene Laundries, immigrants, asylum seekers and Travellers), social welfare appeals, childcare, discrimination in and the impact of austerity on education, ethnic minority status for Travellers, and broadband access. Overarching recommendations from the committee included adequate data collection, domestic application of the Covenant, ratification of the Optional Protocol, access to civil legal aid, consultation with civil society, review of austerity measures and maximising resources to fulfill basic rights. The Irish government must make its next report to CESCR by June 2020.

### Campaign resources:

- The *Our Voice, Our Rights* civil society reports assess how the state has fulfilled its duties on economic, social and cultural rights. Download them at [www.ourvoiceourrights.ie](http://www.ourvoiceourrights.ie).
- The dedicated *Our Voice, Our Rights* website contains blog pieces, news, resources and Irish State, civil society and UN reports on the ICESCR examination process as well as a Storify Liveblog of the examination as it happened.
- Noeline Blackwell's address to the UN Committee summarises many of the issues raised in the parallel reports – it is at [bit.ly/29poFtS](http://bit.ly/29poFtS).
- A special edition of *FLAC News* compiled articles, blogs, first-hand accounts of the process and analyses, as well as statements to the Committee and its subsequent Concluding Observations. You can download it at [bit.ly/FN252](http://bit.ly/FN252) or request a print copy from FLAC.

## Joint FIDH-FLAC Conference: Protecting Human Rights in Austerity

Human rights groups from all over Europe met with Irish bodies working on economic, social and cultural rights issues in Dublin for two days over 14 and 15 May to examine how human rights have been challenged over the period of austerity. The event, hosted by FLAC and the International Human Rights Federation (FIDH), featured interventions from Prof Olivier De Schutter of the UN Committee on Economic, Social and Cultural Rights and Emily Logan, Chief Commissioner of the Irish Human Rights and Equality Commission, on the challenges to human rights in Europe posed by austerity. The event featured a discussion on mechanisms available to civil society for the protection of economic, social and cultural rights in the region, with a presentation from Ballymun Community Law Centre on the use of the European Social Charter complaints mechanism to enforce the rights of local authority tenants in estates all over the country. There was also a session on the role of the EU in imposing austerity involving MEP Barbara Spinelli and Graham Stull of the European Commission representation in Ireland.

# ACCESS TO JUSTICE

## Transgender recognition

After 18 years of litigation and 22 years of campaigning, the long-running case taken by Dr Lydia Foy, represented by FLAC and a team of dedicated pro bono barristers, ended in the High Court on 29 January, because a Gender Recognition Bill had finally been introduced in the Oireachtas. Settlement terms in the case of *Dr Lydia Foy vs An t-Ard Chlaraitheor & ors* had been agreed in November 2014, committing the Government to publish a Gender Recognition Bill before Christmas and introduce it before the end of January. The result was a landmark victory for transgender persons in Ireland. Dr Foy's success was based on the European Convention on Human Rights, showing that the Convention could be an important tool to end injustice. However, the unacceptable delay of seven years in implementing the High Court's decision in Dr Foy's favour led FLAC to call for a strengthening of the legislation

incorporating the Human Rights Convention into Irish law to ensure that judgments are acted on in a timely fashion.

The Gender Recognition Bill contained problematic provisions, including forced divorce for Trans people in same-sex couples which carried through in the subsequent Act. In February FLAC together with the UCD Human Rights Network held a seminar on "(Trans)Gender Recognition in Germany: The Role of the German Courts". The event was chaired by Mrs Justice Catherine McGuinness with the keynote address by Prof. Dr. Johanna Schmidt-Räntsch, a judge of the German Federal Supreme Court and Professor of Law. FLAC and TENI (Transgender Equality Network Ireland) also took part. The seminar aimed to examine the experience of other European countries like Germany, where the Constitutional Court struck down a similar 'compulsory divorce' provision. (More at [bit.ly/TGsemJSR](http://bit.ly/TGsemJSR))

However with the passing of the Marriage Equality referendum in May, the 'forced divorce' measure became redundant and in July the amended Act

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Dr Lydia Foy's supporters, family members and co-campaigners at the Dublin reception to honour her as she received the European Parliament Medal of Honour in September





Donncha O'Connell @donnchanuig • 3 Dec 2015

Well deserved and very warm standing ovation for Michael Farrell after delivering brilliant #factalk @flacireland



was passed, making Ireland one of the world's most progressive regimes on Transgender recognition. The Gender Recognition Act 2015 came into force on 8 September; appropriately, Dr Lydia Foy received the first Gender Recognition Certificate to be issued by the newly established office. On 25 September 2015, she finally received the Birth Certificate for which she had fought since 1997.

Dr Foy was further honoured when she became the Irish recipient (and the first ever Trans recipient) of the European Parliament's Citizen's Prize for 2015, nominated by Ireland's four Sinn Fein MEPs. She was celebrated at a reception in Dublin and at a ceremony in Brussels, where she received the Parliament's Medal of Honour. While in Brussels, a group from FLAC and TENI had the opportunity to meet and discuss the Irish campaign for transgender recognition with MEPs in the Parliament and with the European branch of the International Gay & Lesbian Association.

## Ninth Annual Dave Ellis Memorial Lecture

The 2015 lecture was given by FLAC's Senior Solicitor Michael Farrell, who retired from FLAC that month after over ten years with us. He is an internationally recognised human rights campaigner and author, with careers as lecturer, civil rights activist, journalist and then solicitor in private practice before joining FLAC. Michael was Co-Chair of the Irish Council for Civil Liberties in the 1990s and a member of the Irish Human Rights Commission for ten years. He is currently the Irish member of the European Commission against Racism and Intolerance and is on the Council of State. Attendees filled the Pillar Room of the Rotunda Hospital to hear Michael speak on the issue of "*Using the law to secure Social Justice*" with a particular emphasis on litigation in the public interest. Read more & view the lecture at [bit.ly/29AQtv8](http://bit.ly/29AQtv8).

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In December, FLAC's Michael Farrell gave the 9th annual Dave Ellis Memorial Lecture on 'Using the law to secure Social Justice'







Mahmoud Abukhadir, Thomas Addis Emmet Fellow for 2015

## Thomas Addis Emmet Fellowship in Public Interest Law

Mahmoud Abukhadir was the 2015 recipient of the Fellowship. Having completed his LLB with the National University of Ireland, Galway, Mahmoud spent seven weeks working in Seattle as a legal fellow in Washington Appleseed Centre for Public Interest Law. Washington Appleseed is a non-profit which seeks to achieve social justice through working closely with community advocates and utilising pro bono resources. Mahmoud was mainly involved in a re-entry project that works on recurring challenges facing those leaving the prison system, particularly looking at the issue of debt during incarceration. Mahmoud also did research for Professor Walter Walsh at the University of Washington School of Law on draft universal anti-discrimination legislation at State level. Mahmoud described his time there as “one of the most intellectually engaging, and enriching experiences that I ever had the pleasure of undertaking”. FLAC is grateful to Mrs Justice Catherine McGuinness for her assistance in judging Fellowship applications. More at [www.flac.ie/about/fellowships/](http://www.flac.ie/about/fellowships/)

## Child Care Law Reporting Project

Throughout 2015, FLAC continued to provide administrative, technical and communications support to the Project, which is led by Dr Carol Coulter. The Project publishes regular reports from the courts which make orders under the Child Care Act, mainly relating to taking children into care. It collects and analyses data from the proceedings, reports on the nature and outcomes of the child care proceedings and promotes public debate on the issues raised. The anonymity of the children and their families is preserved throughout.

The Project completed its initial three-year stage at the end of 2015, culminating in a Final Report, launched by Chief Justice Susan Denham, which used statistics gathered in the courts over the project’s life to make a set of findings and recommendations on issues affecting how and why children are taken into care. During 2015, the Project also delivered a further four volumes of reports on cases where children were taken into care, totalling 111 anonymised reports for the year. It held an international conference on child protection in April, with speakers including the Minister for Children and Youth Affairs James Reilly TD as well as experts from the UK and Scandinavia. The Project now enters a second stage of work, expected to last two years, researching more protracted and complex cases and continuing its reporting work. More at [childlawproject.ie](http://childlawproject.ie)



At the launch of CCLRP’s final report in November: Noeline Blackwell, Chief Justice Susan Denham and Dr Carol Coulter

# CIVIL LEGAL AID

In November, FLAC made a submission to Seanad members ahead of a debate on the Legal Services Regulation Bill 2011.

In the submission, FLAC argued that the Bill does not sufficiently include the right of access to justice in its focus and remit. FLAC singled out four areas for immediate amendment that would mean the legislation would increase the access of people currently excluded from the legal system:

- Ensure the new oversight body for the legal professions, the Legal Services Regulatory Authority, must promote understanding of the law and legal system, as well as its current function of giving information on legal costs.
- Ensure that the new principles proposed for lawyers in the legislation match those promoted by the United Nations *Basic Principles on the Role of Lawyers* to ensure high quality services for legal clients.
- Remove sections of the Bill that limit transparency around fees in family law cases or others held in private or settled before hearing.
- To protect fairness and the public interest, introduce Protective Costs Orders that remove the personal risk to people wishing to take cases in the public interest or to seek redress from the State, but who legitimately fear financial ruin if costs are awarded against them.

## STRATEGIC CASEWORK

As an Independent Law Centre, FLAC takes on a small number of strategic cases each year in our priority areas of law.

- **Clarifying refusal of civil legal aid:** Ms T had been granted a legal aid certificate by the Legal Aid Board for divorce and maintenance proceedings and assigned representation at her local Board Law Centre. She was told to contact a Board Law Centre in the area where the proceedings would be taking place and have her file transferred. However, none would take over her case due to conflict of interest. With the court date fast-approaching, Ms T contacted FLAC, who asked the Legal Aid Board on her behalf to clarify why her file could not be transferred, given the urgency of the case. The Board confirmed that there was no conflict of interest and she was entitled to have her file transferred to a Law Centre which could accommodate her. Ms T was represented at her next hearing.



AideenHayden @Aideen\_Hayden • 7 Jul 2015

@flacireland well done on a great annual report! calling today in #Seanad for a debate on availability of legal aid esp in housing cases



# SOCIAL WELFARE LAW REFORM

In July 2015, in response to growing outreach queries and recent legislative changes, FLAC and fellow independent law centre Community Law & Mediation launched two guides for the public on the state recovery of social welfare overpayments.

These aim to help people understand their rights and obligations when the Department of Social Protection claims they have been overpaid social welfare and demands the return of such monies.

The guides explain how the state recovers overpayments, how much it is entitled to recover and where a person appeals the decision, what issues the Social Welfare Appeals Office will consider. The longer document, aimed at advocates, outlines important procedural steps and actions to be taken by a claimant to either challenge a decision in the first instance or to reach a sustainable debt repayment arrangement where appropriate.

While the State must be able to recover money which has been unlawfully or incorrectly paid out, FLAC is concerned that a deduction of up to 15% of a person's net weekly earnings, which is the maximum allowed without his/her consent, can push him or her into poverty. For example, if the state deducts 15% of a person's social welfare payment, this will in many cases mean that his or her income falls below the relevant Supplementary Allowance rate, which is the level that the Government itself considers to be a basic minimum income.

## STRATEGIC CASEWORK

- **Student fees and leave to remain status:**

The daughter of a former FLAC client, who was given leave to remain as a dependent child of a *Zambrano* mother, was admitted into an Irish university and awarded a maintenance grant. After her first year in university, the college sought payment of tuition fees for the previous academic year (2014-2015) and also

requested fees for the second year up front (2015-2016). The grant-making body claimed it was not responsible for processing the college's request for fee payment, as our client qualified for free tuition. The college sought a letter from the Irish Naturalisation and Immigration Services (INIS) confirming that the Minister had decided not to deport our client, but INIS, in turn, would not issue such a letter. After considerable correspondence, our client received confirmation that her fees for both academic years would be paid and received her maintenance grant for 2015-2016. The college in question has confirmed with FLAC that other students are caught in this situation, which means this case can act as a precedent for others attending third-level institutions who are unjustifiably facing requests for payment of tuition fees.

- **Child benefit/Zambrano cases:** FLAC represented three clients in long-running but ultimately successful Social Welfare appeals. The clients in question all had been given leave to remain as a *Zambrano* parent of an Irish citizen child. While in Direct Provision they were refused Child Benefit on the basis that they did not satisfy the Habitual Residence Condition, principally because they did not have a right to reside here. When our clients were recognised as *Zambrano* parents, they received Child Benefit from that date. The Appeals Officer held that the individuals, as the non-national parents of Irish citizen children, should have received Child Benefit in the first instance as they had the right to reside in the State from the birth of their children.





At the launch of 'Person or Number? 2': Joe O'Brien (Crosscare), Karen McHugh (Doras Luimni), Minister Aodhan O'Riordain, Fiona Finn (Nasc) and Yvonne O'Sullivan (FLAC).

- **Child benefit/Subsidiary Protection challenge:**

In an ongoing case, FLAC is representing a client who is challenging the state's refusal to backdate child benefit payments for her eight-year-old Irish child. The parents had spent several years in Direct Provision before being granted subsidiary protection, which is a status accorded to persons who are acknowledged to be in danger of serious harm if returned to their country of origin but who do not meet the strict conditions for refugee status. The case raises significant issues under Irish and EU law

concerning children's rights and the child benefit entitlements of people who are granted subsidiary protection. The core issues in this matter are whether the woman is entitled to child benefit for her child from (1) the child's date of birth; (2) date of first application for child benefit or (3) the date subsidiary protection was granted. FLAC believes the appropriate dates are the child's date of birth or when the mother first sought child benefit, while the State is arguing that the appropriate date is when subsidiary protection was granted.

Kfm Radio @kfmradio • 21 Jul 2015

News: FLAC Issued Advise On How To Deal With Social Welfare Over-Payments.

[kfmradio.com/node/12141](http://kfmradio.com/node/12141)



## Other achievements:

- **Launch of Person or Number? 2:** January saw the publication of a follow-up to the 2012 report on persisting issues and challenges for migrants in accessing social protection, jointly compiled by Nasc, Crosscare Migrant Project, FLAC, Doras Luimni, and Dublin City Citizens Information Service. Four years on from the original *Person or Number?*, the update contained new research and case studies to evaluate the situation for migrants accessing or attempting to access support from the state and making a series of recommendations.
- **Social Welfare Bill 2015:** In March, FLAC and Community Law & Mediation made a joint submission on the Bill calling for an end of the practice of guillotining debate, for the consolidation of welfare legislation, the reversal of changes to One Parent Family Payments, reversal of a section of the bill shifting the onus of proof for payments onto claimants and laying out concerns around recovery of overpayments. More at [bit.ly/1OYPdQ8](http://bit.ly/1OYPdQ8).
- **Training:** In May, Michael Farrell and Kevin McCague delivered a training session in Limerick on the Social Welfare Appeals process for Citizens Information Centre staff from surrounding counties. CIC staff provide an invaluable resource to people trying to undertake welfare appeals, as this area is excluded from state legal aid services.
- **Pre-Budget Submission 2016:** In advance of Budget 2016, FLAC prepared a Pre-Budget Submission which was presented to the Minister for Social Protection Joan Burton TD at a forum for civil society in July. FLAC focused on identifying how good investment by the State via the social protection system can result in fairer outcomes that better protect people's basic rights and at the same time yield better value for money. Among the proposals were

human rights-based budgeting decisions; review of overpayments recovery procedures to ensure no-one is left destitute; greater supports for those struggling to meet housing needs; affordable, adequate and accessible childcare; and reform of the Social Welfare Appeals office. Read more at [bit.ly/29z4bkP](http://bit.ly/29z4bkP).

- **Youth welfare payments discrimination:** In November, FLAC welcomed the Department of Social Protection's announcement that it would launch a review into social welfare payments for those aged under 26. Current measures allow for young people to receive payments at a reduced rate of assistance which can expose many to risk of poverty and put them well under the state's own minimum income limit. The economic crisis has left many young people in this age bracket unemployed and needing social welfare supports. While the lower rate of payment has been defended as a targeted measure to prevent welfare dependency, it ultimately discriminates against a group of people on the basis of age. FLAC notes that the Department has yet to report back on this review and strongly recommends that the full rate of social welfare payment be restored for all those under 26.



# PERSONAL DEBT LAW REFORM

**In 2015 FLAC concentrated on identifying policy reforms which could help troubled borrowers resolve their situation and bring greater balance to the uneven playing field between creditors and those in debt.**

In January, FLAC published a paper by Paul Joyce with a detailed analysis of measures to address the mortgage arrears crisis. *Owner-Occupier Mortgage Arrears: What progress has been made towards resolution?* revisited the available arrears data, focusing in particular on the problem category of accounts in long-term arrears. Overall, FLAC suggested that the strategy of leaving lenders in charge of cleaning up an arrears mess of their own creation was not working. Of particular concern was the over-weening reliance of many lenders on two particular mortgage restructuring options, capitalisation of arrears and split mortgages. FLAC queried whether lenders were making a truly objective assessment of borrowers' long-term capacity to service such arrangements and suggested that many mortgages in longer term, more serious arrears could only be potentially resolved with a more fundamental rescheduling of payments – such as a write-down of the mortgage to the current market value of the property - or would end in repossession. Although actual repossessions remained relatively low, there had been a worrying and stark increase in applications to repossess family homes in arrears, with 11,424 new applications to repossess family homes in 2014.

FLAC pointed to the ongoing lack of an objective oversight mechanism for insolvency proposals as the reason behind the low impact of Personal Insolvency legislation to resolve the crisis and called for an independent Mortgage Arrears Restructuring Authority to be established on a statutory basis until the crisis was resolved:

*If the government is serious that its core policy objective in this area is to avoid repossessions of family homes, it should step in and set up an independent authority to assess the viability of mortgages in arrears and this authority must have the powers, where required, to impose solutions on lenders that may involve compulsory write-down.*

For manifestly unsustainable mortgages, FLAC proposed a ramped up mortgage-to-rent scheme to avoid contributing further to an already deepening housing crisis. In this area, there should be urgent review of the valuation thresholds of relevant properties, the income means tests for applicants, the requirement that the property must be in negative equity, the requirement for the lender to offer participation in the scheme and the low level of state investment in the scheme. Read more at [bit.ly/29k8Rdf](http://bit.ly/29k8Rdf).





## STRATEGIC CASEWORK

In two mortgage arrears cases, FLAC represented borrowers who wished to voluntarily surrender their homes but had considerable shortfalls hanging over them after the sale of the property. FLAC negotiated the write-off of the residual mortgage debt following sale.

### Other achievements:

- **Reducing bankruptcy term:** In June FLAC submitted a paper to the Joint Oireachtas Committee on Justice, Defence and Equality on reducing the term for bankruptcy from three years to one year, citing European Union best practice standards, potential for better family home outcomes and the possibility of a system that empowers people to rejoin the active economic system as soon as possible. Read more at [bit.ly/BkrpTm](http://bit.ly/BkrpTm).
- **Training/support:** FLAC handled 151 technical legal queries from the Money Advice & Budgeting Service and did four training days on the consumer credit legislation and Code of Conduct on Mortgage Arrears.
- **Proposals around civil debt procedures:** In July FLAC's submission on the Civil Debt (Procedures) Bill 2015 pointed out that despite appearances the new draft law did not actually remove the threat of imprisonment for debt from the statute books, a deficiency that was only finally remedied at the 11th hour. We suggested that the bill did not adequately take up the Law Reform Commission's 2010 report on debt enforcement in its scope, nor contain overarching proposals to review the system of enforcing judgments generally in Ireland. Significantly, the bill placed responsibility for assessing a debtor's ability to pay a civil debt on his or her own statement of means (for social welfare recipients, a statement from the Department of Social Protection) – something for which many people need substantial support to prepare. Equally the bill's provision for

debtors to make statements in open court to defend themselves may not appeal to many. FLAC suggested the court have recourse to the 'reasonable living expenses' guidelines used by the Insolvency Service of Ireland and the Official Assignee (under personal insolvency and bankruptcy legislation respectively) to ensure that a debtor's income does not fall below an acceptable minimum income standard. FLAC also proposed that the District Court have access to expert advice on financial and budgeting matters and over-indebtedness. We also raised questions about deducting payments from social welfare recipients as well as employment law concerns. More at [bit.ly/29vfuHG](http://bit.ly/29vfuHG).

- **Amending Personal Insolvency law:** Also in July, FLAC welcomed aspects of the Personal Insolvency Bill 2015 with many much-needed amendments to the existing law, particularly around information gathering, financial limits and court oversight of insolvency proposals. Particularly, there was an increase in the qualifying debt limit for Debt relief Notices from €20,000 to €35,000. However on the latter point, FLAC suggested the law go further and provide real and effective independent adjudication of proposals -more at [bit.ly/29k8WOP](http://bit.ly/29k8WOP).
- **Court review of insolvency arrangements:** Shortly after marking six months since the government's pledge to act on arrears, in November FLAC was able to welcome a government announcement of new provisions for independent oversight of personal insolvency arrangements, whereby a judge could overturn the rejection of a reasonable proposal for a Personal Insolvency Arrangement. However the measure was quite limited in that a debtor would have to show that he or she was in arrears or in a restructured arrangement on 1 January 2015 and also that some creditors agreed to the PIA, not to mention be able to afford the insolvency process.

# CONSUMER CREDIT LAW REFORM

In February FLAC raised its concerns about the Consumer Protection (Regulation of Credit Servicing Firms) Bill 2015 in a submission to the Department of Finance.

The bill had evolved from its original stated purpose of regulating the sale of loan books into regulation strictly on the activity of servicing credit agreements once credit agreements are sold on. There were no provisions setting out a set of concrete rights for borrowers – such as to consumer information or legal protection – when their loan agreements are sold on. The Bill provided for a limited definition of credit servicing, which in FLAC’s view may impair its ability to effectively regulate the activities of investment funds in their dealings with consumers. Amongst other issues, FLAC was concerned that the legislation did not strictly state that the Code of Conduct on Mortgage Arrears and the Mortgage Arrears Resolution Process – the only pre-insolvency instruments available to borrowers – would apply to all mortgages affected by the sale of loan books. We also raised the question of access to the Financial Services Ombudsman and whether the Bill covered Credit Union loan agreements. More at [bit.ly/29ptxz4](http://bit.ly/29ptxz4).

## Other achievements:

- **Top-up Loans guide:** In July FLAC issued a short guide for people who may have been sold ‘top-up’ loans by a licensed moneylender. Such loans involve sums being deducted from new loans to repay earlier loans, a practice which is illegal under Section 99 of the Consumer Credit Act 1995. Download the guide at [bit.ly/1KRp5qd](http://bit.ly/1KRp5qd).
- **Study on abusive lending in Europe:** in the second half of 2015, FLAC undertook a comprehensive review of abusive lending practices and related litigation and legal developments in Europe funded by Open Society Justice Initiative. This study will form the basis of further work on the issue of abusive lending in 2016.





(Standing, left to right) Paul Joyce, Yvonne Woods, Jackie Heffernan, Rachel Power, Gillian Kernan, Michael Farrell, Noeline Blackwell, Eithne Lynch, Zsé Varga, Catherine Hickey; (kneeling) Eamonn Tansey, Lorraine Walsh, Yvonne O'Sullivan, Emer Butler

# GOVERNANCE & FUNDING

FLAC is committed to the highest standards of good governance and is fully compliant with the Governance Code for community and voluntary organisations. More at [www.governancecode.ie](http://www.governancecode.ie).

## FLAC Council:

Peter Ward SC (Chairperson), Don Crewe, Julie Herlihy, Joanne Hyde, Jo Kenny.

## Staff:

Noeline Blackwell - *Director General*  
Emer Butler - *Executive Officer*  
Corina Byrne - *Finance Officer*  
Michael Farrell - *Senior Solicitor*  
Ciaran Finlay - *Legal & Policy Officer*  
(from August 2015)  
Jacqueline Heffernan - *Information Line Co-ordinator*  
Catherine Hickey - *Director of Funding & Development*

Paul Joyce - *Senior Policy Analyst*  
Gillian Kernan - *Research Officer*  
Eithne Lynch - *PILA Legal Officer*  
Nijole Matiukiene - *Housekeeper*  
Yvonne O'Sullivan - *Advocacy & Policy Officer (to April 2015)*  
Rachel Power - *PILA Coordinator*  
Eamonn Tansey - *PILA Project Officer*  
Zsé Varga - *Volunteer & Centres Manager*  
Lorraine Walsh - *Volunteer & Centres Administrator*  
Kim Watts - *PILA Legal Information & Communications Officer (to March 2015)*  
Yvonne Woods - *Communications & Information Officer*





PILA team: Eamonn Tansey, Rachel Power & Eithne Lynch.

## Staff changes:

In March we said goodbye to Kim Watts who had been with PILA since 2011, and in April to Yvonne O'Sullivan who had interned with FLAC before joining the staff team. In August we welcomed Ciaran Finlay, fresh from his last role as Human Rights Attaché with the Permanent Mission of Ireland to the UN in Geneva. Eamonn Tansey left in December, having moved from a FLAC internship to his role in PILA. Also in December, Michael Farrell retired as Senior Solicitor with FLAC for more than 10 years.

## FLAC interns:

FLAC very much appreciates the hard work and dedication of all our interns. Over the course of 2015 they were: Susan Byrne, Aoife Callinan, Niamh Carey, Laura Delap, Naoise Duffy, Emma Foley, Jessica Gibbons, Kasey Kelly-Quinn, Grainne Langan, Aoife Masterson, Leonie Marshall, Liz Martin, Kevin McCague, Debbie McLachlan, Laura O'Byrne, Holly O'Callaghan, Liz O'Malley, Louise Ordinaire, Suzanne O'Sullivan, Maria Quigley, Ellen Reid, Sophie Ryan, Lisa Marie Salley, Emily Smartt, Katie Timmons, Fionn Toland, Kathryn Walker, Lynda Whyte. Aoife Rock joined us on a UCD Clinical Legal Education placement as did Caitriona Lavelle from TCD. Natasha McAleese came to us as part of the UCC BCL (Clinical) programme.



L-R: Jessica Gibbons, Suzanne O'Sullivan, Holly O'Callaghan, Claire Macken, Lisa-Marie Salley, Ellen Reid, Katie Timmons and Rachel Power.



Team FLAC at the 2015 Dublin Women's Mini-Marathon in June.

## Funders:

FLAC is deeply grateful to all our funders and supporters who have shown their commitment to access to justice through donations and grants. This support enables us to provide vital services and campaign for better systems that will enable all people in Ireland to access the law and legal system, when they need to, to vindicate their rights. In 2015 our funders were:

- The Atlantic Philanthropies
- Citizens Information Board
- Civil Service Charities Fund
- Department of Environment, Community & Local Government/Pobal
- Department of Justice and Equality
- A & L Goodbody
- Individual donors (including mini-marathon participants)
- IPB Community Engagement Fund
- The Ireland Funds
- JP McManus Charitable Foundation
- MABS

- Members of the Bar Council
  - Members of the Law Society
  - William Fry

*FLAC has signed up to the Statement of Guiding Principles for Fundraising, a voluntary code of conduct for the voluntary sector in Ireland - more at [www.ictr.ie](http://www.ictr.ie)*

## Join the Friends of FLAC

There is now another way to show your support for access to justice – by joining the Friends of FLAC programme, a scheme where supporters of the organisation can sign up to make a modest monthly donation. Having a solid financial base is crucial for securing the future of FLAC and its work for equal access to justice. This kind of regular income is vital in enabling us to plan for the future. To find out more, log on to [bit.ly/FoF2016](http://bit.ly/FoF2016) or phone us on +353 1 887 3600.



## FLAC Income & Expenditure 2015

FLAC's accounts are audited by KPMG each year. FLAC's financial year runs from 1 January to 31 December. The following extracts are from FLAC's audited accounts for the year ending 31 December 2015:

INCOME	2015	2014
Philanthropic funding FLAC	€516,896	€429,279
Philanthropic Funding PILA	€0	€500,000
Bar Council & Law Society members' contributions	€156,000	€156,174
Statutory funding	€268,870	€310,378
Fundraising and donations	€65,047	€13,965
Legal costs received	€93,067	€19,460
<b>Total</b>	<b>€1,099,880</b>	<b>€1,429,256</b>

EXPENDITURE	2015	2014
Salaries	€783,379	€845,128
Programme of work	€208,893	€234,744
Overheads, equipment & depreciation	€206,198	€184,013
Public Interest Law Support Fund	€79,200	-
<b>Total</b>	<b>€1,277,670</b>	<b>€1,263,885</b>





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