Presentation by Geraldine Gleeson, Chief Appeals Officer, 24 October 2012

I would like to thank FLAC, and in particular Saoirse Brady as main author, for this valuable research and for the invitation to this launch and the opportunity to comment. An examination of the appeals system through a human rights lens is very useful as an operating guide as it does identify areas where potential breaches of human rights law could occur.

There are just three issues I want to highlight in my 5 minutes allocation.

<u>The first point relates to processing delays</u>

The point is made that there are significant delays in the system which are unfair and in particular for those waiting on an oral hearing, and of course this is fully accepted. Significant progress has been made in processing times over the last nine months, in particular for those awaiting an oral hearing where the time has reduced from a high of 52.5 weeks in 2011 to between 38 and 40 weeks each month in 2012. Measures taken to address the delays include

- 15 additional AOs (almost doubling the cadre) assigned
- Retired Officers retained for 18 months ending December 2011
- Business processes were improved, and
- A new operating model implemented.

The way the appeals system was structured up to this year, gave rise to a significant disparity between the time taken for a summary decision as against an oral hearing. This was because files were assigned to AO's to either decide the appeal (summary decision) or return the file for the case to be dealt with by way of an oral appeal hearing, most likely by a different AO. Where a case was not decided summarily it went back into a second queue to await assignment to a different AO, which carried an inherent delay.

Since January, where an officer is assigned a case load, he or she will either decide the case summarily or, if an oral hearing is warranted, will conduct the hearing him/herself. This has resulted in a progressive reduction and rebalancing of processing times over the last nine months. As I said, processing times for an oral hearing have been reduced from a high of 52.5 weeks in 2011 to between 38 and 40 weeks each month in 2012 and improvements are continuing.

<u>The second point relates to summary decisions</u>

Concern is expressed that there is a policy change in favour of summary decisions. The point is made that the proportion of summary cases is rising - 69% in 2010 and 65% in 2011 as against 30% in 2004. The concern is that this may undermine an appellant's right to oral hearing, which carries a higher success rate.

I must stress that nobody's right to an oral hearing is compromised because of the backlogs. Yes, the number of summary decisions increased over the last two years, but there are two reasons for that.

1. Eight very experienced retired appeals officers, working on a part time basis, were working exclusively on summary decisions. This had the effect of front loading summary decisions. This is borne out by the fact that in the 9 months to September this year, the proportion of summary decisions has dropped to 56%.

2. To the extent that there is a policy of encouraging a greater proportion of summary decisions, the emphasis has been on identifying cases which might benefit from an earlier positive summary decision as is borne out by the figures. In 2004, the year referred to in this report, where 30% of decisions were on a summary basis, only 14.5% of those were positive. In 2009 and 2010 only 20% of summary decisions were positive. In 2011 this rose to 25%. In the 9 months of 2012 30% of summary decisions have been positive.

The final point relates to the Independence issue

In considering any alternative to the present system, it is really important to bear in mind that the system has worked very well over the last two decades. There has been no sustained or concerted criticism relating to the independence of the office or the impartiality of the Appeals Officers. Of course the delays and backlogs of the last couple of years have attracted a lot of criticism but it is not at all clear that any other tribunal approach would have fared better given the tsunami of claims that hit the office. Neither is it clear that the decisions coming from any alternative approach would be any better or any more consistent.