**Meeting of External Consultative Panel**

**2nd February, 2021**

**Via Zoom Video Conference**

Attendance:

The following attended the meeting:

John McDaid, CEO, Legal Aid Board

Eavan Ward, Women’s Aid

Philip O’Leary, Chairperson, Legal Aid Board

Orla O’Connor, National Women’s Council of Ireland

Fiona McAuslan, Director, Family Mediation Service

Ellen O'Malley Dunlop, Board Member

Karen Kiernan, One Family

Sandra Conway, National Women’s Council of Ireland

Tom Brennan, Board Member

Susan Cahill, Courts Service of Ireland

Christopher McCann, FLAC

Ger O’Brien, MABS

Joan O’Mahony, Law Society

Clodagh Hopkins, Law Society

Caroline Counihan, Safe Ireland

Saoirse Brady, Children’s Rights Alliance

Rose Wall, Community Law & Mediation

Samantha Williams, Traveller Equality and Justice Project, UCC

Katie Mannion, Irish Refugee Council

Monica Hynds, Barnardos

Mary Condell, SAGE Advocacy

Mary Henderson, Immigrant Council of Ireland

Geralyn McGarry, Citizens Information Board

Edel Hackett, Safe Ireland

Nuala Jackson, SC, Board Member

Andrew Field, Strategic Research Manager, Legal Aid Board

Tomás Keane, Secretary to the Panel

Apologies:

Mary Roche, Treoir

Paul Dornan, Mercy Law

Rachel Baldwin, Bar Council of Ireland

Aedamair Gallagher, Bar Council of Ireland

Catherine Cosgrave, IRC

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|  | Item for discussion | Person responsible | Discussions | Actions/Decisions |
| 1. | Membership update of the External Consultative Panel | CEO | The CEO welcomed all attendees and noted that the purpose of the Panel is for the Board to update stakeholders on the Board’s business and to learn about how our services are impacting member’s services and explore opportunities to work together. The meeting commenced with all members introducing themselves to the Panel. |  |
| 2. | Draft minutes of meeting of 13th October, 2020 and matters arising. | CEO  Secretary | Members will be invited by email to approve the draft minutes of the previous meeting and the minutes will then be published on the Board’s website. | All/Secretary |
| 3. | Update on service delivery (combined with Tour de Table) in the context of the COVID-19 crisis to include:   * Delivering legal services generally; * Availability of services for domestic violence cases; * Legal Resolution of other family disputes in the courts; * Family mediation services; * International Protection cases; * Other civil matters including Abhaile related services | CEO | The CEO gave an update on current service delivery issues and the impact of COVID-19. Since Christmas, there has been a greater impact on capacity due to an increase in the number of staff affected by the virus. The Board remains part of the ‘Still Here’ campaign. There was a spike in the number of people seeking legal services for domestic violence towards the end of 2020. The Board is keen to keep pathways to legal services for domestic violence cases clear.  In general, solicitors have been engaging with clients over the phone or by video conference. Where court cases are going ahead, in person consultations are taking place.  The Board continues to engage with the Department in relation to the financial eligibility criteria including the treatment of the Housing Assistance Payment (HAP) in financial assessments. The Board has been served with court proceedings challenging its approach.  In proceedings instituted by the Friends of the Irish Environment in relation to an entitlement to legal aid for limited companies, the High Court upheld the Board’s contention that legal aid is only available to natural persons. That case is being appealed.  The Board has been advised that a review of the Legal Aid Scheme is likely to begin this year. No detail is available to the Board on what form the review will take. The Board held its Annual Conference in December. The theme was International Protection. Catherine Day was the keynote speaker. The Board understands that a white paper is being prepared in relation to the recommendations of the Catherine Day Review Group.  In January, the Board held a training event in domestic violence and coercive control. It was an open event and the Board intends to hold such events again as training opportunities and to help build relationships between organisations and stakeholders.  A Family Justice Oversight Group has been established by the Department of Justice. In tandem with publication of the Family Court Bill, the Group has initiated a consultation process with stakeholder groups in relation to family justice reform. There is also a Model Family Dispute Resolution Centre project in Limerick led by the Board and the Courts Service. A project Board has been established.  The Board has recently finalised its Family Mediation Strategy. Key aspects include increasing mediation capacity and awareness of mediation and improving how legal and mediation services work together. Another theme is consolidating the Board’s mediation presence in the courts.  The Board has been working on a broader strategy for 2021-2023 and is grateful for the input of this Panel. A draft document is with the Minister for her views. Key aspects include working with stakeholders to develop greater awareness. Bilateral engagements have been held with some of this Panel’s members. Discussions have been held with some Panel members in relation to taking a project based approach to reach more marginalised sections of the community who do not currently access Board services.  FMcA gave an update on the Board’s Family mediation services;  The Board has been reviewing the service design at Dolphin House. The mediation service is open for business and at present is telephone and video conference based. The development of the virtual world is increasing access opportunities. Specific policy areas are been looked at this year with a view to operating best practice at all times. Areas include; child inclusive work and domestic violence and coercive control. The service is also examining the legalisation of mediation agreements with law centres.  A tour de table followed with members providing an update on their services and raising issues of concern.  RW/CLM: CLM situation has not changed a great deal. Family law queries remain very high. There remains an issue of people seeking services who are now aware of the Legal Aid Board or its services. There has been a rise in queries in relation to Employment law and Housing law.  OO’C/NWCI: Remote access is a positive development. NWCI are interested to learn of the Board’s mediation strategy and its policy surrounding domestic violence and how they come together. There is concern that mediation is not amenable to a domestic violence context.  FMcA/LAB: There is a full policy with screening and procedures. The Board is keen to meet with members to answer concerns about mediation and is not interested in having participants with the service in a mediation context unless they are safer for the experience.  CC/Safe Ireland: The inappropriateness of mediation in domestic violence cases is a huge concern. Safe Ireland is available to talk with the Board in a separate forum to identify the best way forward.  General issues for Safe Ireland include the threshold to access to legal aid services in family law matters. Domestic violence can have serious effects which involve the need for court and medical appointments, e.g. with psychologists and counsellors and so victims incur child care costs as a consequence.  EB/FLAC: The fundamental role of the Board is to be available to provide legal advice and aid and act in the best interests of a client. FLAC would have concerns that the Board would prioritise directing clients towards mediation rather than giving the person access to legal advice and aid in the first instance. FLAC would like the primary focus of the Board to be recognising that it is there to meet the State’s obligation to provide legal aid and advice. ADR should not be a substitute for a properly funded legal aid system or a properly funded court system. FLAC see mediation is an ancillary service and not the primary service.  CEO: The CEO clarified that the Board is governed by legislation and has a responsibility to provide civil legal aid services, but also a responsibility to provide family mediation services. Part of the Board’s mediation strategy is that people get contemporaneous services from the Board.  EW/Women’s Aid: Women’s Aid agrees that mediation is not suitable in a domestic violence situation. There has also been an experience where women are not qualifying for legal aid due to HAP. The Women’s Aid support and referral service is open in Dolphin House.  The CEO confirmed that the Board want an early resolution of the issue of HAP and met with the Department last week where they were made aware of the proceedings in relation to the treatment of HAP.  GMcG/CIB: Enquired as to the opportunity for bodies to submit formally to the Civil Legal Aid review and noted that a mediation strategy is very dependent on a review of the Civil Legal Aid Scheme.  The CEO noted that it is hoped that there will be an opportunity to do so and the Department will be taking the lead on that. The Board will be emphasising the importance of NGOs and stakeholders making submissions. The Board’s mediation strategy is designed to take us up to 2023, however it is not anticipated that a review will be completed within a 12 month period.  GMcG/CIB: Online hearings and services are evolving. It is worthwhile monitoring how quasi judicial forums are developing in terms of fair administration principles and how third parties are engaging and representing people in those settings, e.g. RTB and WRC.  SC/Courts Service: It is important to clarify that the Courts Service does not provide legal advice. The Courts will not force or refer customers to any one service, rather it is interested in identifying what the customer needs to ensure they can make an informed choice.  There were four courts sitting before Christmas in Dolphin House and continue to sit including a domestic violence court which has been a priority for the President and the staff. Appointments are being arranged for persons seeking to issue summonses to ensure the counter is free to deal with domestic violence applications. There has been a lot of work done in relation to virtual hearings in both the District and the Circuit Courts. A practice direction issued on the 26th of January in relation to civil matters and how they might proceed remotely.  SB/Children’s Rights Alliance: The CRA phone line is active. Queries have featured issues surrounding education and family law. CRA are collaborating with Eversheds Solicitors beginning in the coming months. Eversheds will be providing legal advice. Much of CRA work is around Family Law reform.  JO’M & CH/Law Society: There is divergence in districts in terms of how courts are operating and this presents challenges to solicitors and clients. There are difficulties with access applications in terms of delays for hearing dates. The lack of face to face engagement with clients is also challenging. The Family Court Bill is also on the Law Society agenda and it appears to be a long term project. Wellness is also an important issue for practitioners and other stakeholders.  SC/Courts Service: There are different practices around the country. This is influenced by the independence of the judges. There will be details of a mechanism issued soon to have Circuit Court cases heard remotely. There is a concern with unrepresented litigants recording the court and posting details on social media. This has delayed matters to a degree.  NJ: There has been a lot of thought put into dealing with this particular question. It has been an enormous leap to go from ‘in person’ to remote hearings and it should be acknowledged that great progress is being made in this area.  KK/One Family: All One Family services are available by telephone and online. The service has seen a big increase in families experiencing domestic violence and access problems. The Family Court Bill does present an opportunity to advocate for change. COVID-19 has brought many issues to the surface and it will be important to remember what is not working well. It is useful to look at the big picture in terms of achieving a world class family law system where there can be resolution of family conflict and child safety at the centre. Every organisation has their role to play and will need more resourcing.  MC/SAGE Advocacy: SAGE would like the whole legal aid system to broaden the definition of family. SAGE encounters a wider definition of family and constantly talks to people about their rights and the balancing of rights. Everyone should know their rights, but should also know that they have the right to respect everyone else’s rights. This aspect can be missing in legal advice and perhaps mediation may have a role in that regard. SAGE sees coercive control in all shapes and sizes. In future, training could be broadened to include the full extent of coercive control and not just partners in a relationship.  The LRC is carrying out a report on safeguarding adults and an extension of the law is expected. SAGE notes that there are certain Acts in place or reports, yet the practicalities of implementation are absent. SAGE intends to carry out a piece of work on access to justice for vulnerable adults. Proper funds to ensure such access will be needed.  CMcC/FLAC: CMcC is a solicitor with FLAC’s Traveller Legal Service which was launched last July. The service aims to take strategic cases referred by advocates working in Traveller groups around the country. Areas of work include housing and discrimination. Enquiries are received in relation to applications for housing supports and discrimination in terms of goods and services and also access to licenced premises. There is an enormous lack of knowledge among clients about the Legal Aid Board. Many Travellers do not have internet knowledge or access. Online forums create difficulties in this regard. The service would be very interested to work with the Legal Aid Board in increasing awareness.  EB/FLAC: FLAC’s telephone Information line remains overwhelmed with people seeking aid and advice and information, primarily about family law and employment rights. FLAC attempted to establish phone advice clinics, but lacked capacity to meet the demand.  The FLAC PILA project continues to link organisations with private practitioners and the request for legal services doubled since the pandemic began. FLAC would like the Abhaile scheme to be on the Agenda for a future meeting of the Panel.  SM-W/Traveller Equality & Justice Project: The project was established two years ago on a voluntary basis to assist local Traveller groups who had been self representing at the District Court regarding cases on foot of section 19 of the Intoxicating Liquor Act. Funding was received from the European Commission to establish a free legal aid clinic in UCC School of Law. Travellers feel they cannot access legal services and there are low levels of awareness of the Legal Aid Board. The Project has partnered with FLAC to attempt to address the gap in current legal provision. The focus will be on the day to day erosion of rights.  GO’B/MABS: The MABS offices are providing services remotely. One pilot project is conducting consultations over the phone. Another is a consultancy with the South Dublin looking at e-signatures on documents. There is a moratorium on utility disconnections as long as Level 5 is in place. There is a ‘dam’ on lots of things in terms of debts at present. In terms of Abhaile, MABS has not seen many repossession orders granted. The Abhaile vouchers for legal consultations are being issued. Legal professionals are conducting remote appointments.  Re: Child care costs in terms of insolvency legislation – A person seeking a debt relief notice or a PIA is allowed to retain a certain portion of their income based on reasonable standards of living. Under s.23 of Personal Insolvency Legislation, the ISI is responsible for issuing guidelines. Set costs are defined and include child care costs and special circumstances.  CEO: noted that the Abhaile cases are taking place remotely. There is a commitment to review the scheme some time this year.  PO’L: The Board commends the great work of the courts in keeping access to the courts available in difficult circumstances and acknowledged the importance for the Board of listening to all stakeholders.  The Chairperson stressed that there is no hierarchy of services provided by the Board. For the right case mediation is the answer and for the right case, legal aid is the answer. The Chairperson also noted that he is not aware of any circumstances where an applicant for services in relation to a domestic violence matter would be directed to mediation by the Board.  The Chairperson noted that his term and that of the current Board ends in October 2021. The Board has set its priorities to the end of October 2021. There are nine on the document, four of which are items to be achieved in the next 12 months, NGOs feature in three of the four. The Board is asking NGOs to come to us with pilot projects to get off the ground. The current Board is placing great emphasis on influence, input and collaboration with NGOs. There is great potential for achieving things together and the Board is trying to be innovative and encourage innovation generally including in its approach to services.  EB/FLAC: It is important to stress the importance of legal aid as a right. Both mediation and legal side need to be properly resourced and the best interests of the client should be the deciding criteria. Proper information and advice should be given to the person at the outset. It is also noted that the Kelly Review of the Administration of Justice includes specific recommendations re: Abhaile and highlighted the need for all bodies to get together to ensure proper legal representation is available to people in debt.  FLAC welcomes online litigation, though it is not suitable in every case. It should not be assumed that end users have access to online facilities. People need assistance with accessing online dispute resolution. FLAC welcomes the Board initiative in involving the NGOs.  The CEO suggested that the Panel meet again in six weeks to hold a round table discussion to achieve a mutual understanding of perspectives on family law reform.  KM/IRC: There is an 18 month delay to first interviews which is causing anxiety. The IPO has recently changed its approach to granting extensions to submission of questionnaires. An important development relates to vulnerability assessments. There is a new pilot scheme process to be put in place for such assessment so that everyone applying for IP can have an opportunity to have their vulnerability assessed and special reception needs identified and taken into account. There is an important role to be played by legal representatives in this process.  Another positive development is that in right to work applications, people can apply after six rather than nine months. IPAT hearings are being scheduled to take place remotely. One area of concern surrounds admissibility. Persons deemed inadmissible receive access to direct provision, but not to medical or daily expense allowances.  AF/LAB: AF clarified that the Board is obliged by Statute to follow the code of conduct for State bodies to set a strategy for the next three year period. In relation to Abhaile, there was an amendment introduced to the Personal Insolvency Act, currently before An Seanad. The amendment will remove the gateway requirement of the 1st of January 2015 as a means by which one can access section 115A of the Act.  AF also updated the Panel on the Limerick Family Dispute Resolution Centre project. The project is jointly led by the Courts Service and the Board. A series of meetings with interested stake-holder bodies has been held around; Information sources in relation to the resolution of family problems; Non court based dispute resolution in family justice; Reimagining the structure of civil legal aid in family justice; The family courts; and The voice of the child. | ACTION: The Board will look at its interpretation of child care costs in assessments of financial eligibility in applications for legal aid. |
| 4. | AOB |  | N/A |  |
| 5. | Date of next meeting. |  | Plans for holding a round table discussion on Family Law in March will be shared and all interested members will be welcome to attend. The Panel’s usual meeting will be held in about three months time. | CEO/Secretary |