**Meeting of External Consultative Panel**

**21st March, 2019**

**Law Centre, Jervis Street, Dublin 1.**

Attendance:

The following attended the meeting:

Mr John McDaid, Chief Executive, Chair of the Panel

Ms Susan Shanahan, Citizens Information Board

Ms Johanna Martyn, MABS

Ms Karen Kiernan, One Family

Ms Shirley Coulter, Council of the Bar of Ireland

Ms Rachel Baldwin, Council of the Bar of Ireland

Ms Andrea McDermott, AMEN Support Services

Mr Paul Joyce, FLAC

Ms Stephanie Lord, FLAC

Ms Joan O’Mahony, Law Society and O’Mahony’s Solicitors

Ms Linda Smith, Women’s Aid

Ms Edel Quinn, Children’s Rights Alliance

Ms Katie Mannion, Irish Refugee Council

Ms. Mary O’Connor, Legal Aid Board

Mr Ronan Deegan, Legal Aid Board

Mr Michael O’Connell, Legal Aid Board

Mr Donal Reddington, Legal Aid Board

Mr Enda Torsney, Legal Aid Board, Secretary

The following Board members were present:

Mr. Philp O’Leary, Chairperson

Ms. Ellen O’Malley Dunlop

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|  | Item for discussion | Person responsible | Discussions | Actions/Decisions |
| 1 | Minutes of meeting of 15th November 2018 and matters arising. | CEO  Secretary | Matters arising from the previous minutes were discussed.  There were no suggested changes to the draft minutes circulated from the previous Panel meeting in July.  Ms Lord queried if information on waiver of contributions can be more prominently displayed on the website and if information can be provided on the breakdown of waivers. Ms Lord queried if legal aid was being granted for traveller discrimination cases regarding entry to licensed premises.  Mr McDaid said that information on waivers is displayed on the website and it is a question of balance as to where and how prominently it is displayed. Mr McDaid said that there are very few applications for legal aid regarding traveller discrimination cases. The Executive will check and seek to provide exact figures for this.  The minutes were agreed and will be published on the Board’s website. | Secretary  Mr McDaid to provide Ms Lord with information on waivers and information on legal aid sought regarding traveller discrimination cases. |
| 2 | General legal and family mediation service delivery update. | CEO | Mr McDaid advised demand for services has fallen by 10% in the first two months of 2019 compared to the same period last year. A figure of approximately 1,700 waiting remains consistent and challenging to clear.  A Domestic Violence Conference Interagency event was held on 19 March 2019 and was well received.  A legislative amendment which provides legal aid for legal representation to the accused in prosecutions of sexual offences where the accused is unrepresented and prevented from personally cross-examining a witness has resulted in no applications for legal aid to date (legal aid for representation in relation to the cross-examination only).  A legislative amendment which provides for legal aid to the complainant or witness in applications for the disclosure of counselling records in certain sexual offences cases has resulted in one grant of legal aid to date.  Proposed amended terms and conditions for the retention of barristers and for the retention of solicitors for District Court work have been sent to the Minister. A submission on the fees payable to experts has also been made to the Minister. The Board would like these matters to progress quickly but there is no set timeframe. An exercise was conducted to identify solicitors on the existing District Court panel who were not taking cases and they were removed from the panel.  There has been engagement with the Department on the eligibility criteria and contributions payable but to date only the abolition of contributions in Domestic Violence cases has gained traction. There was discussion on the Housing Assistance Payment (HAP) which forms part of the Board’s submission to the Department. HAP does fall within the Regulations and the Board wishes to treat it similarly to supplementary welfare.  The Board is working with other bodies on the establishment of a Mediation Council which is provided for in the mediation Act. A submission will be made to the Minister shortly.  Legal aid in respect of Environmental law cases is a live issue for the Board at the moment.  The Board has appointed a head of research and has an oversight group with an academic on the membership. The Board is happy to engage with FLAC and other bodies and share research outlines.  The Assisted Decision Making Act is yet to be fully commenced. | Materials from the Domestic Violence conference which are available for circulation will be circulated to the group.  Mr McDaid to consider if any material concerning the submission on fees payable to experts (not the submission itself) is available for circulation to the group.  The group will be provided with the Board’s up to date guidance on the treatment of HAP.  Contact details for the Board’s research function will be circulated to the group |
| 5 | Abhaile update and supporting people with debt and related issues. |  | Mr McDaid gave an overview of the Abhaile Scheme and the Board’s input into it and acknowledged it is only one aspect of the debt picture. The Scheme has a significant impact on the Board’s budget. Mr Deegan outlined the demand for services to the Board under the Scheme. The experience is that creditors are vigorously opposing personal insolvency applications often on technical, legal grounds.  Ms Martyn enquired if the criteria for granting legal aid for S.115A Court reviews had changed. Mr McDaid explained that since the 1st March 2019 counsel is not automatically granted for S.115A Court reviews but the reality is that Counsel is mostly granted.  Mr Joyce outlined that there remain 27,000 to 28,000 accounts in arrears of two years or more. A figure of 3,500 in personal insolvency arrangements is small in totality. Sales of loans to private funds are ongoing and it seems that a critical stage for repossessions is looming. It was noted that the Land and Conveyancing Law Reform (Amendment) Bill 2019 if enacted will require courts to examine issues other than simply whether the debt is payable and these changes may give rise to a greater need for Civil Legal Aid and a greater likelihood that the Board’s ‘merits’ criteria will be met. Mr Joyce stated that the Abhaile scheme has only touched a fraction of the problem that exists. Quality assurance and lack of information on outcomes regarding the Abhaile scheme are issues of concern.  Ms Coulter stated that the Bar Voluntary Scheme is assisting in meeting unmet legal need concerning debt and questioned how full the legal support provided by the Abhaile scheme was.  Mr O’Leary stated that he was listening to what was being said and this is an issue that is front and centre with the Board. Mr O’Leary outlined that accruals for the Board under the Abhaile scheme are much greater than had been anticipated.  Ms Coulter suggested that research on the topic of the impact and cost of lay litigants in debt cases would be useful. |  |
| 6 | Identifying unmet legal need. |  | The discussion on Abhaile and debt issues has informed this issue. |  |
| 9 | Tour de Table | Irish Refugee Council  Children’s Rights Alliance  Women’s Aid  Law Society  FLAC  AMEN | Ms Mannion advised that the numbers applying for International Protection are increasing. The PP panel is a concern as some experienced PPs have left and others are not joining the panel. The PTR Review is a gap as it is not provided for in the schedule of fees and similarly with certain appeals to the International Protection Appeals Tribunal which are provided for under the EC (Reception Conditions) Regulations 2018. Mr McDaid advised that these matters are included in the Board’s submission to the Minister.  Ms Mannion noted that the Board does not provide legal advice in relation to family reunification including when children are involved.  Ms Quinn outlined that family law was a big issue emerging from the legal advice clinic and helpline which are part of the children’s access to justice initiative run by the Children’s Rights Alliance. The Children’s Rights Alliance made a submission to the Joint Oireachtas Committee on family law reform.  Ms Smith outlined that areas of concern were waiting times for services from the Board and the issue of Reports in family law cases.  Ms O’Mahony outlined that the Law Society has made a submission to the Joint Oireachtas Committee on family law reform.  Mr Joyce noted that FLAC has observed a spike in calls regarding employment law and noted that legal aid is not available for the WRC.  Ms Lord outlined that FLAC has made a submission to the Joint Oireachtas Committee on family law reform. Ms Lord suggested that the secondment of a Board solicitor to FLAC would be a welcome initiative. Ms Lord noted that some respondents in District Court proceedings had been informed they were not eligible for a Legal Aid Certificate under the 12 month rule and queried the rationale for one legal aid certificate in a 12 month period. Mr McDaid explained that the principle of legal aid as a shield and not a sword was a consideration as was cost control. Mr McDaid committed to keeping the matter under review.  Ms Lord noted that in International Protection cases a solicitor does not provide assistance in completing the application form or attend the interview with the International Protection Office. Mr McDaid outlined the services provided by the Board in International Protection cases.  Ms Lord stated that the number of formal refusals recorded in the Board’s Annual Report was questionable. Mr McDaid explained that some applicants may decide not to make a formal application and other matters may be outside scope e.g. criminal matters. Ms Lord asked if these matters could be logged and Mr McDaid stated that he could not commit to it.  Ms McDermott stated that legal aid is not always granted quickly enough in respect of Interim Barring Orders. The cap on Legal Aid Certificates is a concern in cases where orders are breached and the costs involved for S.47 reports is a concern.  Mr McDaid stated the issue of the cap on certificates will be looked at. Mr Deegan stated that where the breach is a criminal offence legal aid cannot be granted but where it concerns civil enforcement legal aid can be granted. It is the case that often the proceedings have issued by the time the applicant presents to Dolphin House. |  |
|  |  | Bar Council  One Family  MABS  CIB  Philip O’Leary,  Chairperson, Legal Aid Board | Ms Coulter noted the Board had sent revised barristers terms and conditions to the Minister. The Bar Council has made a submission to the Joint Oireachtas Committee on family law reform and sees a clear need for family courts.  Ms Kiernan noted that the cost of assessors in family law cases was an issue.  Ms Martyn outlined matters regarding the Abhaile scheme and debt in general during the earlier discussion.  Ms Shanahan noted that there may be scope for a cross organisational co-location in Blanchardstown. Mr McDaid noted that if it works there is great potential.  Mr O’Leary stated that the Board was listening and it was very beneficial for the Board to be outward looking. Among the matters the Board is considering are debt, research, co-location and unmet legal need. |  |
| 11. | Date of next meeting. |  | The next meeting will be in 4 months time at the same location and on the same day as the Board meeting. The details will be forwarded. |  |