**Meeting of External Consultative Panel**

**10th September, 2020**

**Via Zoom Video Conference**

Attendance:

The following attended the meeting:

John McDaid, CEO, Legal Aid Board

Aedamair Gallagher, Bar Council of Ireland

Caitríona Gleeson, Safe Ireland

Mary Henderson, Immigrant Council of Ireland

Karen Kiernan, One Family

Rose Wall, Community Law and Mediation

Geralyn McGarry, Citizens Information Board

Monica Hynds, Barnardos

Susan Cahill, Courts Service of Ireland

Joan O'Mahony, Law Society

Mary Roche, Treoir

Philip O’Leary, Chairperson Legal Aid Board

Freda McKittrick, Board Member

Catherine Keane, Board Member

Nuala Jackson, SC, Board Member

Ellen O'Malley Dunlop, Board Member

Rachel Woods, Board Member

Angela McDonnell, Director of Strategy and Decision-Making

Andrew Field, Strategic Research Manager, Legal Aid Board

Niall Murphy, Director of Civil Legal Aid

Tomás Keane, Secretary to the Panel

Aplologies:

Rachel Baldwin, Bar Council of Ireland

Éilis Barry, FLAC

Mary Condell, SAGE

Gillian Dennehy, Women’s Aid

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|  | Item for discussion | Person responsible | Discussions | Actions/Decisions |
| 1. | Membership update of the External Consultative Panel | CEO | Ms Geralyn McGarry, Citizens Information Board has joined the Panel and was welcomed by the CEO. It was noted that Ms. Susan Shanahan is stepping back as the CIB representative on the Panel and Ms McGarry will take her place. A note of thanks was extended to Ms. Shanahan for her positive and helpful contributions to the Panel over the last few years. |  |
| 2. | Draft minutes of meeting of 15th  July 2020 and matters arising. | CEO  Secretary | It was noted that the minutes of the July meeting referred to guidance surrounding HAP and the income threshold being made available to members. AMcD noted that the Board’s website contains information on how HAP is treated as part of the eligibility process. AMcD informed the panel that the Board had received communications from TDs in relation to HAP and a PQ had also been raised since the last meeting. The Board will circulate a letter responding to queries from Gary Gannon TD in relation to HAP. It was noted that a research paper on divorce timelines was made available to members.  AMcD explained that FLAC had raised a query at the July meeting in relation to the presentation of Board data in the Board’s Annual Report. The Board had made contact with FLAC since the last meeting and will actively engage on this matter. AMcD assured the panel that the presentation of information internally and externally is a live issue for the Board and is being incrementally worked on.  The CEO noted that the Board had written to individual Bar Associations to seek members for its District Family Court Panel but it has not received positive responses and concerns have been expressed about the fees payable. The Board will also engage further with SAGE in relation to a possible project to help vulnerable elderly people. RW noted that the Board services are not very well promoted in the community. The CEO noted that this is a matter that the Board and the Chair are concerned about.  The CEO invited members to consider the draft minutes circulated and revert with any comments or amendments within one week. The minutes will then be published on the Board’s website. | All/Secretary |
| 3. | A reflection on the Legal Aid Board Statement of Strategy 2021 – 2023 | CEO | The CEO noted that the focus for today’s meeting is on the preparation of a Statement of Strategy for the period 2021-2023. Strategic planning has been a feature of the public sector for 20 years and tends to go in three year phases. The Board as a creature of statute must act within a strategy framework. The CEO set out the process: The Board will prepare a draft strategy which will be approved in principle by the statutory Board before submission to the Department of Justice. The Minister has a period of 12 weeks to offer any observations or input into the draft. The Minister will revert and then the Board will approve a final version which will act as the strategy for the next three years.  The CEO acknowledged that there are issues that are long running, but nonetheless they are worth repeating today in the context of the Board’s strategy. The CEO noted that the Board is very aware that financial eligibility is a concern. Basic thresholds have not been changed since 2006. A submission was made to the Minister in May 2017. Apart from the removal of the financial contribution in domestic violence cases, that submission remains outstanding. A submission was made to the Minister in December 2018 to increase the fees paid to PPs in District Court family law cases. The Board is pursuing that submission. There are other submissions re: terms and conditions for the retention of and fees paid to Counsel. The Assisted Decision Making (Capacity) Act, 2015 has significant legal aid provisions, though it remains to be seen when they will be implemented. The Board is part of the implementation group set up following the publication of the O’Malley Review Group Report in relation to the protection of vulnerable witnesses in sexual assault cases. The Board has also contributed to the Catherine Day Review in relation to International Protection / Direct Provision which is expected to publish a report before the end of the year.  The CEO opened the floor to hear the views of members on the key issues of concern and what the Board’s strategic priorities should be for the next three years. The CEO noted that there will be time for members to come back to the Board with views.  KK/One Family: One observation is to note the focus is on high level approaches. There is no mention of family mediation, a key service where One Family would like to see some specific focus, e.g. re: innovation and partnership. One Family will take time to consider the strategy document further and offer views.  GMcG/Citizens Information Board: Would like an opportunity to digest the strategy document. In general terms, it is important that a body set out clearly how things have moved on and what will be different for the next three years. There is a need to ring fence priorities in a given period. The financial threshold is an issue of note. COVID-19 presents an opportunity to push this issue in the context of access to services. Also, awareness of the scope of the Legal Aid Board services available is important, making it clear about the nature of what is in and what is out of the Board’s scope. Legislative restrictions should be set out.  There is a need to share research. The learning from research carried out by the Board should be communicated. Looking at the impact and outcomes of the service should be part of that process. There are a whole range of areas in legislation where there is engagement, e.g. assisted decision making. CIB has a key interest in Abhaile and its services are also involved with quasi judicial or redress settings. There is the issue of the extent of legal representation in those settings, e.g. mortgage or rent arrears, employment rights, etc.  AG/Bar Council: AG will bring the strategy document to the Bar Council’s Civil State Bar Committee as the members’ input would be valuable. The Bar Council will submit views in writing. Areas of interest for the Bar include; the eligibility criteria, expansion of financial threshold and areas of law to where legal aid applies and the terms and conditions for the retention of counsel.  JO’M/Law Society: Information in the community is key. Understanding the legal system is vital. The lack of knowledge is an issue of concern. The public interest part of the statute allows the Board to go out into the community a lot more than is currently the case. The landscape is changing so much. There is a need to be at the forefront of communicating to the public in language that people can understand. The strategy document will be brought to the relevant Law Society Committee and comments will be submitted in writing.  MR/Treoir: Treoir will examine the strategy document and provide feedback. The mission statement should really mean access to justice and the service should be fit for purpose in 21st century Ireland. Particularly vulnerable people; poor people, people taken into care and people with disabilities should have access to justice. It is important to lobby for increased funding for a service that is fit for purpose. It is fundamental to have a proper legal aid system that is truly acceptable.  SC/Courts Service: Note the pressures in relation to access to justice; e.g. mounting court lists and waiting times. The Board crosses much of the Courts business. It is difficult to see waiting times improving in the very near future. Courts are operating on strict time slots at the moment. The Courts want to provide access to justice. SC observes that the advertising of the Board service is not very good. Visibility is not great in court buildings and could be improved. The first thing the public needs to see is the ancillary services available.  MH/Immigrant Council of Ireland: Will take time to review the strategy document. Immigration is covered to some extent by the Board. Whilst many of the processes that migrants must go through are viewed as administrative in nature, they do turn into judicial actions. There could be scope for expanding services. The ICI will revert with comments and take into account the findings of Catherine Day Group if published by the end of September.  RW/Community Law & Mediation: On the context point, it is worth noting that the waiting times around family mediation service are significant, up to six months. The promotion of the Board’s main work around area of family law in communities needs to be better. Looking at where Legal Aid Board services are provided needs to be examined. One of the barriers to access to justice is geographical location. The public do not necessarily categorise their issue as a legal issue. More outreach work could be considered to tackle this. There is a lot of work not excluded by Legal Aid Scheme, but is not being done in large quantities by the Board, e.g. housing cases, education cases and school exclusion cases.  Tackling the categories of law covered by the Scheme should form part of the strategy. There is no reason why the IPAT is the only tribunal that is covered. Others cases, e.g. employment cases, social welfare cases are critical to social inclusion and disproportionately impact on disadvantaged communities. CLM would like the financial criteria to be reviewed on a regular basis to keep pace with the cost of living. The HAP anomaly is grossly unfair. The model of the Board’s work should be looked at to move towards information and education work. In terms of vision and mission, it would be helpful if the strategy document mentioned an element of law reform or advocating on behalf of the communities that the Legal Aid Board serves.  MH/Barnardos: Promotion of legal aid in private law and child care matters is important. The Child Care Act is under review. Barnardos will advocate for the Board to be involved in voluntary agreements. Barnardos are conscious of a cohort of young people aging out of the immigration system who cannot make application for Irish citizenship until they reach 18 years. Legal aid and advice would be useful to those people.  CG/Safe Ireland: CG will revert to the Safe Ireland wider membership as it is an important discussion for them. Legal Aid Board should use influence more to provide insight as to what is happening ‘in camera’. Board data could be useful to benefit society in terms of reform. Safe Ireland deals with the needs and experiences of women and children who are directly impacted by domestic abuse and coercive control. There is a need to start thinking differently to how we respond as a system to a complex area.  Safe Ireland is looking at the promotion of specialist responses in all agencies. It would be useful to those working in the advocacy field to be given the opportunity to engage in more specialism in the area. A domestic violence client’s journey can be a long one. There is a need for advocates to have specialism in terms of the dynamics of abuse. A failure of the system has been not seeing children equally as victims of coercive control. They are often seen as witnesses or secondary victims. Representing children in processes must come into play.  Obligations in terms of safety and protection, e.g. Victim’s Directive are not being met. Delays are not acceptable. Access to representation not being possible and means testing across all areas are not acceptable. The pervasiveness of domestic abuse in society cannot be ignored.  There is much in the Board’s existing Values Statement that should not be lost. There should be an explicit direct statement in relation to diversity and inclusivity and an anti-discrimination statement. The work of the Board in collaboration is welcomed and could be extended to problem solve together in order to address breakdowns in our systems response to victims of domestic abuse.  Safe Ireland echoes the observations and recommendations made by other panel members re: the issues of public awareness and accessibility. In addition, financial eligibility and the payments to solicitors are issues to be examined. Finally, Safe Ireland would like to see victims of domestic abuse have the right to free representation throughout the process.  PO’L/Chairperson LAB: The Chairperson thanked all members for their contributions and noted that many of the suggestions made today have been discussed at Board level previously. The Chairperson would appreciate if members came back with written submission by the end of this month. The Board wants to sign off on the statement by October as it must go before the Minister. Many of the issues have been raised by the Board with the Minister. It is important to be aspirational and ambitious in terms of strategy, however it must be noted that the Board works within a limited budget and legislation. The Board, as a government supported body can lobby, but not to the same degree as the NGOs. There is a need to harness public opinion in relation to access to justice and a lot of the other issues.  This Board has put a lot of emphasis on research in terms of how the Board operates. Research that identifies needs and measuring those needs, impacts and outcomes is important in trying to create policy to present to the Government that is evidenced based and capable of gaining traction.  If the Board’s Statement of Strategy is to have a purpose, then targets must be set that can be reached and that recognise the extent of the resources. The Board is constrained in terms of resources available. There is a balancing act between advertising services and providing those services. The Chairperson noted that the role played by members in voicing their concerns in public is important.  EO’MD/Board Member: Thanked all members for their contribution and noted that the discussion had been very interesting, in particular the points regarding the importance of language and achieving more visibility. The suggestion of an outreach service is of interest. The training of solicitors aspect is really important and worthy of inclusion in the strategy statement. The Board could explore a more creative approach to increasing visibility.    FMcK/Board Member: In terms of the Board’s family mediation services and balancing the move towards wanting to deal with proceedings in a way that is much kinder to families but also involves a whole agency approach to legal proceedings, there is the need to consider the need to ensure the protection of vulnerable individuals. Re: the provision of advice services at stages before children come into care, it is worth looking at providing advice at pre any court proceedings in order to attempt to try and preclude the issuing of court proceedings on foot of the Child Care legislation.  CK/Board Member: Noted the Board is operating in an interesting time in terms of opportunity with the new Minister and new Sec Gen. It has been noted that many of these issues have previously been raised with little or marginal success. It is worth reflecting on taking the opportunity to advocate in an organised way, perhaps with help from groups represented here today. The discussion today has been very worthwhile and interesting and there is a need to build on the work of the Panel.  RW/Board Member: Thanked all members for their contribution and acknowledged the value of hearing from the experiences of stakeholders and what are the important issues for panel members. There were many useful suggestions and proposals for things to be done that are not focussed on resources or that can be moved that do not require additional resources, e.g. outreach and the promotion of non court services. All contributions provide much for the Board to think about and will influence the thinking of the statutory Board.  NJ/Board Member: This was a very interesting discussion with very useful contributions. Contributions in a more formalised fashion can be useful for the Board and suggestions in written format would be welcome. There are fundamental matters that continue to arise in relation to the constraints within the legislative scheme in which the Board operates. These should not be ignored, though it is important to also look at the other issues that the Board can be informed about that have been raised today. There is a need for parallel processes – one to look at the ‘big ticket’ items of the constraints of the scheme and one to examine the other issues which can be addressed in terms of the existing scheme.  AF: The contributions today have been very informative and useful for the Board in completing the final stages of the consultation process. The Research function of the Board is relatively new. The Board is engaging with third level institutions as well as conducting its own research in order to guide decision making going forward.  AMcD: Taking the pieces of information from many of the contributions today will be considered and may feature in a micro way in the Board’s operations going forward.  NM: Noted the contribution of the Court Services re: the decision architecture where the pubic enter the court building and the first thing they see is the ancillary services. This is of interest to the Board. The waiting list for mediation is a significant problem. It should be noted that the amount spent on family mediation is a relatively small percentage of what is spent on the legal budget. This may need to be addressed at some point.  The CEO invited members to revert with written submissions by the end of the month. The Board will aim to prepare a more concrete document by this day month with a view to holding another Panel meeting.  PO’L: Noted that it was raised that the Board sometimes does not take on cases that it should be taking on. The Chairperson invited members to refer cases that qualify under the Scheme to the Board for consideration, in particular cases that involve change. More change could be achieved with one case than with 500 cases. |  |
| 4. | AOB |  | N/A |  |
| 5. | Date of next meeting. |  | The CEO thanked all members for their contributions and reminded everyone to revert with any written submission by the end of the month. The Board will look at reconvening this forum in approximately one month. The Board intends to have a final strategy document approved in a final version subject to the Minister’s views in time for the statutory Board’s meeting at the end of October.  The next meeting will be held in October. The details will be forwarded. | CEO/Secretary |