**Meeting of External Consultative Panel**

**15th January, 2020**

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

Attendance:

The following attended the meeting:

Mr John McDaid, Chief Executive, Chair of the Panel

Ms Rachel Baldwin, Council of the Bar of Ireland

Ms Susan Cahill, Courts Service

Ms Mary Condell, Sage Advocacy

Mr Paul Dornan, Mercy Law

Ms Aedamair Gallagher, Council of the Bar of Ireland

Ms Monica Hynds, Barnardos

Mr Paul Joyce, FLAC

Ms Karen Kiernan, One Famly

Ms Stephanie Lord, FLAC

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

Ms Gillian Dennehy, Women’s Aid

Ms Barbara Egan, Legal Aid Board

Ms Fiona McAuslan, Legal Aid Board

Mr Tomás Keane, Legal Aid Board, Secretary

Apologies:

Ms Catherine Cosgrave, Immigrant Council of Ireland

Ms Rebecca Keatinge, Mercy Law

Ms Rose Wall, Community Law and Mediation

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|  | Item for discussion | Person responsible | Discussions | Actions/Decisions |
| 1. | Membership update of the External Consultative Panel | CEO | The CEO clarified that the minutes are published on the Legal Aid Board website after the draft minutes have been approved at the next meeting of the Panel. It is not proposed to change this approach. A PQ and letters from an individual had been received regarding the operation of the Panel; the number of meetings, membership and minutes. |  |
| 2. | Minutes of meeting of 18th July 2019 and matters arising. | CEO  Secretary | Monica Hynds is to be added as an attendee to the draft minutes circulated from the previous Panel meeting held in July. Karen Kiernan to be added to the Apologies.  Matters arising from the previous minutes were discussed. There was a request that the Annual Report for 2019 would include a breakdown of the number of waivers of contributions granted in 2019 and the amount of which related to Dolphin House. Also, it would be useful to record the number of applications for waivers refused and the areas of law they relate to. FLAC requested that information relating to the availability of waivers be placed more prominently on the Board’s website and that people be more routinely informed of same.  The CEO noted that the membership has been fluid and the terms of reference are on the Board’s website. There was discussion regarding increasing the frequency of meetings of the Panel. Should members wish to increase the frequency this could be facilitated. It may be necessary to examine how the Panel works should there be an expansion of the membership. It was noted that there may be benefit in establishing subgroups. The CEO noted that scheduling the meetings for the same dates as the statutory Board meetings gives an opportunity for Board members to meet with the Panel, though this was not practical on this occasion.  The minutes will be published on the Board’s website. | CEO will explore possibility of providing requested waiver information in Annual Report. Secretary to post approved July minutes to the Board’s website |
| 3. | General legal and family mediation service delivery update | CEO  Director of Family Mediation | The CEO provided a general update on operations and noted the issues challenging the LAB’s operating model. The numbers waiting for legal service had risen slightly in 2019 and now stood at just over 2,000 people. The CEO wants to redouble efforts in the next few months to reduce the numbers waiting and the Board is looking at both short terms and long term solutions. The budget for 2020 is the same as 2019, bar €1 million for Abhaile and a sum for staff pay increases. Solicitor recruitment is challenging as the Board can only advertise the first point on the entry scale and the level of interest in vacant positions is low. The CEO noted that submissions have been made to the Department in relation to counsel fees, Private Solicitor District Court fees and expert fees and that it is hoped to progress these submissions. The CEO explained that the Board is about to begin an internal process of reviewing the law centre operating model.  In November, the CEO and Chairman appeared before the Oireachtas Committee enquiring into access to justice and legal costs. The same Committee published a report with 38 recommendations in relation to their inquiry into the family justice system. The Board was not asked to appear before that Committee.  The CEO noted that the Heads of a Family Courts Bill have not yet been published. The Board is engaged with the Dept. of Justice and Equality and the Court Service re: piloting a Family Dispute Resolution Model in order to address family dispute issues in a more solution focussed way. Limerick is the location chosen for the pilot centre and a second location on the Eastern seaboard may also be chosen. The Board is working closely with other stakeholders on the project.  FMcA gave a family mediation update. FMcA noted that the mediation service in the courts is growing. The Limerick pilot and the recent opening of a service in Mullingar are indications of progress. There is a need to signpost really well and offer choices. SC noted that the 7th February will be a Self Care Day for Courts Service staff at Dolphin House.  MC raised the issue of changes and steps needed as a result of the Supreme Court Judgement in the case of AC (Oct, 2019). There is a note on Sage’s website. The Supreme Court held that under the doctrine of necessity a hospital had the right to lawfully detain a person briefly in circumstances where there was a concern that the patient would be put at risk if they were discharged, but that right is only temporary while further investigations are made. MC noted that it is important to intervene early in a person's social/medical pathway to protect their personal rights and prevent getting to a situation where wardship is regarded as the only option. In the local placement fora, options other than a nursing home are not always offered. SC noted that the courts are guided by the rules and legal intervention is needed so people know what they are applying for. SAGE recommends that the patient be separately legally represented, through the Legal Aid Board if they qualify.  A discussion followed in relation to whether family mediation has a role and also around the likely impact of the Assisted Decision Making Capacity legislation when the relevant provisions are commenced. The CEO noted that the Board’s operating model possibly did not facilitate easy access for elderly vulnerable people and this would need to be looked at. MC stated that people lacking capacity can make decisions about where they live, but are not being asked. The issue is one of public policy as well as a practical one. A suggestion was made that a sub committee of the Panel be established to reflect on these issues.  JO’M noted that there are 2,000 on the waiting list for legal services. Waiting times are published on the Board’s website. It was noted that one staff absence in a smaller office can have a very significant impact. In response to a query the CEO noted that submissions to the Department would not be shared while there is active engagement with the Minister. The CEO also confirmed that the Board had answered a PQ on applications for legal aid under the Intoxicating Liquor Act. The CEO addressed a query regarding the degree to which the Board can be proactive regarding promoting its services. The CEO noted there is a tension between the promotion of the Board’s services while at the same time having difficulty meeting the demand. The Board has areas of speciality, e.g. Personal Injury, International Protection and Child Care. The vulnerable elderly will be the next focus.  A query was raised in relation to the Board’s interpretation of HAP as an income in means assessments and asked that this be reviewed. The CEO stated that we apply the regulations as we believe they are written, though we have a submission with the Dept. FLAC have a legal opinion on this issue which they may share. |  |
| 4. | Abhaile update |  | The CEO noted that the number of cases dealt with under the Scheme have remained relatively static between 2018 and 2019. The Scheme has been formally extended for 2 to 3 years.  A discussion followed re: Land and Conveyancing Law Reform (Amendment) Act 2019. It was noted that there was uncertainty in relation to how and when to avail of protections in the new legislation. No Circuit Court regulations or practice directions have issued. It poses difficulties, e.g. at what point does a person apply for legal aid. SC noted that though many persons may be within the repossession ‘system’, they are yet to enter the court system. A question was raised whether the Abhaile Scheme be extended to cover the Circuit Court demand rather than placing people on a waiting list if and when the demand in repossession cases increases.  It was confirmed that MABS has a presence in the courts. PD noted that Mercy Law have met with the LAB to explore how they may engage further to assist people accessing social housing. |  |
| 5. | International Protection update |  | BE, Principal Managing Solicitor, Law Centre (Smithfield) International Protection and Human Trafficking Unit gave an update on International Protection. There has been an increase in demand, particularly in Dublin. There were 2,000 applications in 2018 and 2,500 in 2019. This is reflective of the increase in numbers applying for international protection in the State. The Unit has no waiting list as all applications involve statutory deadlines.  The International Protection Office (IPO) has proposed the introduction of accelerated procedures in the processing of certain applicants with the primary focus on Georgia and Albania. The Board is increasing its interaction with the IPO and working on increasing link with the Irish Refugee Council. There has been an increased reliance on use of the private solicitors (PPs) to provide services. The Reception and Conditions Directive has brought new challenges. The Board aims for uniformity of service between that provided in-house and by PPs. |  |
| 6. | Tour de Table |  | RB & AG/ Bar Council - The Bar Council was a participant in the launch of the ‘Courting Disaster’ campaign activated in late 2019. Its focus is on the family law facilities and the ongoing delay to the development at Hammond Lane. Expert fees issue brings problems with many ‘for mention’ dates delaying case progress.  SC/Court Service - As above. Also, Court Service has a new CEO – modernising and ambitious. She is putting a focus on communication and on learning and development.  GD/Women’s Aid - Part of Courting Disaster campaign. Noted the human cost of the waiting times in judicial separation and divorce. There is a negative impact of court process and delay on mental health and well being. Re: LAB – the income threshold is an issue. Issue with HAP – have seen differing practices in its application. Raised issue of fees, court process leaves with people with massive legal costs. Access to justice is a huge issue for women. Quality of legal representation is problematic. Women’s Aid also carried out a Sentencing Watch Report.  SL/FLAC - As above. Recently carried out work re: funding/public sector duty. FLAC has recently recruited a new solicitor. Part of their role will be to engage with the Legal Aid Board. FLAC recommend legal aid be made available for tribunals. FLAC will engage with political parties re: resources for the Legal Aid Board.  MH/Barnardos – Noted that sometimes there is a sense amongst parents in public law proceedings that they don’t feel they have a voice even though they have a legal representative. From a public law perspective, there were significant concerns raised last year re: the proposed legislation for the appointment of GAL’s. Representations made before Dáil Committee and they are looking at those issues. Barnardos have a pilot team working with the DCYA.  KK/One Family - Concern re: time solicitors have available for clients. People with concerns re: parenting may be referred to One Family. Also part of Courting Disaster campaign. One Family has published their vision for a court welfare service and has issued a child maintenance paper. They re hosting a seminar on the 14th May re: the need for reform of family law system.  PD/Mercy Law – Mercy Law are an independent law centre who engage with the homeless and persons in social housing. Hope to engage with LAB on a deeper level to see where there are pathways to legal aid. Made a submission to Joint Committee on Justice and Equality highlighting issues their clients face. Aim is to try and get word out there is help available.  PJ/FLAC – As above. Noted that they would like to see more information in the Board’s Annual Reports including re the Appeals Process. Concerned about whether there are services available for other civil areas aside from the core areas.  MC/Sage Advocacy – As Above. Sage is working with the LAB to try and set up a pilot scheme to advise, plan ahead and provide representation. There is confusion around legal advocacy and surrounding GAL’s for adults. AC case has yielded a whole new area of work for Sage. Sage is starting a pilot in Dublin and the Midlands. Sage is trying to track the journey of someone along their social/medical care pathway to see where early legal intervention may assist in protecting their personal/human rights. There will be a seminar on the 29th January.  Law Society - Study on comparative practices around the country. There is much judicial education happening at present including training re: competing constitutional rights. Recent decision of Peter Charleton in a rape case is instructive re: sentencing and repeat offending. Deals with coercive control. |  |
| 7. | AOB |  | The CEO informed the Panel that the Legal Aid Board is marking its 40th Year Anniversary with a number of small events during 2020. The first event will be held on the 23rd of January. The Chief Justice of Ireland will be the keynote speaker. |  |
| 8. | Date of next meeting. |  | The aim will be to have four meetings in 2020. The next meeting will be in April. The details will be forwarded. | CEO/Secretary |