**Meeting of External Consultative Panel**

**15th July, 2020**

**Via Zoom Vide Conference**

Attendance:

The following attended the meeting:

Mr John McDaid, Chief Executive, Chair of the Panel

Ms Aedamair Gallagher, Council of the Bar of Ireland

Ms Karen Kiernan, One Famly

Ms Stephanie Lord, FLAC

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

Ms Rose Wall, Community Law and Mediation

Ms Mary Roche, Treoir

Ms Mary Condell, Sage Advocacy

Ms Susan Benson, Women’s Aid

Ms Sinéad McGarrigle, Mercy Law

Ms Andrea McDermott, Men’s Aid Ireland

Ms Susan Shanahan, Citizens Information Board

Mr Brian Collins, Irish Refugee Council

Ms Caitríona Gleeson, Safe Ireland

Ms Monica Hynds, Barnardos

Ms Ellen O’Malley Dunlop, Legal Aid Board Member

Ms Catherine Keane, Legal Aid Board Member

Ms Angela McDonnell, Legal Aid Board

Mr Niall Murphy, Director of Civil Legal Aid

Mr Donal Reddington, Legal Aid Board

Mr Tomás Keane, Legal Aid Board, Secretary

Apologies:

Ms Catherine Cosgrave, Immigrant Council of Ireland

Ms Rebecca Keatinge, Mercy Law

Mr Damien Peelo, Treoir

Ms Gillian Dennehy, Women’s Aid

Ms Monica Hynds, Barnardos

Ms Eilis Barry, FLAC

Ms Rachel Baldwin, Council of the Bar of Ireland

Ms Susan Cahill, Courts Service

Mr Paul Dornan, Mercy Law

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Item for discussion | Person responsible | Discussions | Actions/Decisions |
| 1. | Membership update of the External Consultative Panel | CEO | Ms Caitríona Gleeson, Safe Ireland and Ms Sinéad McGarrigle, Mercy Law have joined the Panel and were welcomed by the CEO. |  |
| 2. | Draft minutes of meeting of 17th April 2020 and matters arising. | CEO  Secretary | The CEO invited members to consider the draft minutes circulated and revert with any comments or amendments within 48 hours. 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:  • Domestic violence cases;  • Resolution of other family disputes in the courts;  • Family mediation services;  • International Protection cases;  • Other civil matters including Abhaile related matters | CEO | The CEO stated that the Board is keen to hear from members regarding their experience of lockdown. The Board has focussed on providing urgent services promptly and maintaining clear pathways to those services. He noted that now that the government has published its roadmap and return to work protocols are in place, the focus is on getting offices open to public in a way that ensures everybody’s safety. The Dolphin House service has been fully staffed throughout the crisis with solicitors present to provide services. The Chancery Street and Smithfield offices have effectively been open. A telephone helpline has been in place since the end of March. The Board is making efforts to hold video consultations and engagements though there are some technical teething issues. Offices have been trying to make sure they can engage in terms of video court arrangements in place. Conversations have also taken place with IPAT in terms of a move to video hearings for international protection appeals. Demand at law centres decreased during the lockdown compared with last year. The Board anticipates an increase in demand in September as lockdown arrangements unwind further. Demand for legal aid for Domestic violence cases dropped during the crisis, though there was a significant increase in June.  The CEO then opened up the discussion around domestic violence issues.  SB/Womens’s Aid noted that the overall courts data described a 60% drop in safety order applications and a 40% drop in barring order applications. These figures must be read in light of the continued adjournment of all protection orders over the COVID period.. Barring and Safety applications are being adjourned to October. On the ground there is concern amongst women that matters keep getting pushed out and there remains a lack of clarity as to whether all matters will be adjourned. SB reminded the panel of the availability of Women’s Aid telephone and support number open 9.30am to 4.30pm every day. Women’s Aid also intends looking at the set up in Dolphin House and is working with the Courts Service in that regard. Breach of access is an issue. The Courts have advised that an applicant must ask the judge for legal aid.  AMcD/Men’s Aid: Noted many cases will not get into court again until October. It is difficult to make applications for breach of access where zoom access has not been complied with. Mens’ Aid have started back up in Dolphin House recently. There is an issue with the length of time that clients are not getting access to their children due to the delays, adjournments, etc.  CG/Safe Ireland: Return dates are building up. Safe Ireland have been meeting twice weekly with all Domestic violence services in Ireland. Reconfiguration of refuges was needed. Services remained open, though relatively quiet. There was an increase in presentation to services when restrictions lifted. Safe Ireland tried to interact with women by phone. Court accompaniment was opened up again. Key issues include; Private solicitor availability from the legal aid panel is becoming more limited across the country and the length of time separation is taking makes it a more traumatic journey. The financial threshold for legal aid remains a barrier and it would be welcome if the thresholds were increased. Poverty often means a person may not leave a partner even where it is in the interests of their own personal safety to do so.  The CEO clarified that there is progression towards remote hearings for ex parte hearings and the Board is in communication with the President of the District Court on that. The COVID crisis has opened up opportunities in terms of the use of technology and better scheduling of courts.  MR/Treoir: The financial threshold for legal aid is a concern. HAP can put applicants over the threshold. During COVID all these matters are amplified. It is really important that all the issues in relation to access to the courts and legal representation are dealt with. Domestic violence issues arise incidentally in the cases dealt with by Treoir.  AMcD/LAB described the Department led Domestic Violence group which remains active and feeds into a higher level management board. As part of the ‘Still Here’ campaign, the Board as a representative of that group were asked to contribute feedback including in relation to; difficulties getting private solicitors to take District Court legal aid cases on account of the fees, arrangements at Dolphin House and learning from the Helpline. The Board also noted its concerns re the impact of HAP. The Board is a creature of statute, though efforts are made to interpret legislative provisions in as liberal a manner as possible for the benefit the citizen. Members who know of any individuals who have concerns in this regard are invited to contact AMcD or her colleague John Sugrue in the Board’s Legal Services function. The Board is obliged to consider HAP as income, but is looking at a fairer way to apply the rules.  Clarification was sought about the treatment of income. AMCD stated that guidance re: HAP can be made available to members.  JO’M/Law Society noted that private solicitors may be discouraged from taking cases as they are more involved and time consuming for some remedies, though the fees remain the same.  NM/LAB clarified that domestic violence cases are treated as a priority and law centres will deal with them if a private solicitor is unable to. Attempts have been made to get Private solicitors to join the panel. Law centres have been asked to reach out to private solicitors to go on the panel, with limited success. It was noted that an approach should be made by the Board to the individual bar associations. It was noted that there is a need to have children reflected or thought about in context of the ‘Still Here’ campaign as it was very adult focussed at the beginning. In relation to the enforcement of maintenance orders the CEO noted that there was a technical issue in terms of enforcement cases that impacts on the availability of legal aid. There are both civil and criminal mechanisms. The Board will talk to the Court Services in Dolphin House to ask them to use the civil remedy so that legal aid representation can be made available.  The panel had a broad discussion around the courts. The CEO noted that the Court Services are rolling out remote hearings or part hearings. This is happening in Chancery Street. The Dept. of Justice is taking a more active interest in family justice reform. The establishment of the Family Justice Oversight Committee gives a sense that there is a strong interest at Departmental level about how to do things differently. There is now a commitment to extra funding for the development of a family courts complex in Dublin at Hammond Lane. The CEO noted the Board’s keenness to track timelines and to improve the focus on getting cases through the system within an acceptable time-frame.  KK/One Family recommended the webinar available on Youtube with Anthony Douglas, CAFCASS as the keynote speaker. The Webinar dealt with conflict resolution with the safety and best interest of children at the centre. CAFCASS officers are present in the UK courts to see what is needed. President Daly spoke of innovations. The Minister has signalled her commitment to family law reform. There is a good basis in the family law legislation to build on.  MH/Barnardos: Noted with interest that remote call overs have started in Dublin. The courts are trying to reschedule the care order hearings. There are long waiting times for care order hearings, e.g. in Roscommon. There have been reports of child protection concerns made to Tusla. GALs have restarted face to face meeting since late June and are back in court.  AMcD/LAB noted that the Board had carried out research in relation to length of court hearings in cases in which it was involved. The average was 18 months from the time of granting of LAC. An applicant may have been with the Board before that or waiting. The Board has an employee/research student looking to update that information. AMcD will ask the Research Manager to contact MH to discuss obtaining more information on how long child care cases are taking.  CEO: noted that the Courts Service is holding a stakeholder meeting with a number of bodies every fortnight. The CEO of the Service has made it clear that there is not likely to be a return to normal court business any time soon. As a response, the Board is considering setting up a settlement forum with the possibility of a consent hearing being made available to have the settlement ruled. A start will be made in Dublin and it will be expanded if successful.  DR/LAB: The Board is working on returning to face to face mediations. The IT function has been working with mediation colleagues to enable the provision of mediation remotely. There are technical dependencies – domestic signal strength or the mediator and client respectively. Guidance has been issued to mediators to ensure that privacy is respected.  SB raised a concern about the guidance re: access on Law Society page. There was an updated guidance noting that parents should engage in mediation, though there is no reference to where there is domestic violence that mediation is not advised. That qualification not having been made is a concern. A discussion followed in relation to Screening Guidance and the importance of frequent checking of guidance.  The CEO noted that demand for the Board’s services in the area of international protection dropped considerably in the past few months. The Board is actively engaging with the Catherine Day Review Group.  BC/IRC: noted that the IRC has seen a drop in those who have claimed protection, although there are many people already in the process. The IRC has made a submission to Refugee Legal Forum on hearings via video conference. The IRC is part of the Catherine Day Review Group. The IRC understand that the IPO will hold have face to face interviews from next week. The IRC can feedback if there are any issues the LAB should be made aware of.  The CEO noted that the Abhaile scheme is being extended in terms of its duration and it is an area where demand is coming back up. There are more people in mortgage arrears and financial difficulty as a result of the COVID crisis.  SMcG/Mercy Law: Mercy Law has seen a drop off, but are concerned that once the moratorium on home repossessions is lifted, there will be an influx of cases. The courts are hearing urgent JR hearings. SS noted that the Private Residencies Board has a suite of documents coming out on the moratorium on rent being lifted.  AMcD noted that the Board’s Helpline did receive calls in relation to debt and employment matters. Factsheets were made available to all staff in order to answer calls. The Board can make the Fact Sheets available.  SL/FLAC: Echoed some concerns about lack of representation and advice in relation to employment law issues and social protection applications. It has become acute during the COVID crisis. FLAC would be keen to see the matter reviewed. FLAC have been asking for a review for the entire legal aid financial eligibility test.  The CEO noted that the Board is keen to increase efforts to raise awareness of the Board and its services.  AG/Bar Council: Noted that court activity has been inconsistent in relation to how lists are dealt with in Dublin compared with outside of Dublin. There is a lack of consistency in terms of social distancing practices in the courts. The Bar Council thanked the Board for the introduction of stage fee payments.  CK: Noted that many of the issues raised today are at the top of the statutory Board’s agenda. The lack of solicitors available in the West of Ireland is an issue that has come up in the last few weeks too. It was noted that this consultative forum is very important and sets out the priorities and where the Board should continue to focus. | Action: AMcD has made the Board’s Factsheets available on the Board’s website.  Action: AMcD will make available divorce timelines research prepared by the Board’s Strategy Unit.  Action: AMcD will make contact with SL/FLAC with a view to holding a discussion on presentation of Board data. |
| 4. | Programme for Government |  | The previous agenda item was discussed in the context of how the Programme for Government may impact service provision in the area of family law. |  |
| 5. | Extending family Law system and dispute resolution to matters concerning vulnerable adults |  | MC/SAGE: Noted that there are vulnerable adults coming within the family law system. President Kelly has appointed a GAL, a Solicitor to represent somebody even where they have their own representation. There are people going through the wardship process because mental health legislation is not for them. The President thought that the Board didn’t take wardship cases. SAGE is concerned that the COVID crisis has accentuated opportunity for persons who wish to take advantage of an elderly vulnerable person.  SAGE would like a pilot top be set up where there is access to Board solicitors. There is a rise in contact for support for vulnerable parents for defending some child care applications. There is a large cohort of people who have nowhere to go for that support. It was noted that the National Advocacy Service offers some support in certain cases. SAGE is concerned that the GALs are court appointed and not a personal appointment.  MH/Barnardos noted that in a small number of cases GALs have been appointed to act for those parents – separate guardians for the child and the parent – to support their participation in the proceedings for vulnerability or addiction issues. MH will pass on details to MC.  The CEO noted that AMcD has spoken with SAGE and the Board will advance that to see can a pilot service be created.  SS: Assisted Decision making during the COVID crisis is a focus for CIB policy. Directors of nursing homes are being asked to do assessments which leads to a clear conflict of interest. |  |
| 6. | AOB | CEO | SL/FLAC asked if the Board had a date in mind for publication of Annual Report and would a representative from the Board be willing to meet with someone from FLAC re: the Annual Report. The CEO explained that the Annual Report will be before the Board for approval next week and will then go before the Minister and the Houses of the Oireachtas. AMCD noted that the presentation of information has meant it is difficult to show trends in the Annual Report. AMcD noted that the Board is interested in improving its presentation of data and will make contact with SL to arrange a meeting.  SL raised a further query regarding the development of subgroup for the panel meetings. The CEO agreed to explore the idea of subgroups.  A concern was raised in relation to budgets. A request was made for the Board to provide information on budgetary increases. The CEO noted that the Board has not yet engaged with the Department on this issue for 2021. The impact of the COVID crisis will need to be carefully reflected upon in terms of budgets. There are many uncertainties at the moment that will impact on this area. |  |
| 7. | Date of next meeting. |  | The next meeting will be held in September. The details will be forwarded. | CEO/Secretary |