



Federation Northern Ireland

RESPONSE TO

**NORTHERN IRELAND LEGAL
SERVICES COMMISSION**

Consultation

**The Legal Aid (General) Regulations
(Northern Ireland) 1965**

**Substantive Changes to the Operation of
the Statutory Charge in Civil Legal Aid**

June 2010

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24 Hour Domestic Violence Helpline - 0800 917 1414

Core Work of Women's Aid: Background information & statistics

1. Introduction

Women's Aid is the lead voluntary organisation in Northern Ireland addressing domestic violence and providing services for women and children. We recognise domestic violence as one form of violence against women. Women's Aid seeks to challenge attitudes and beliefs that perpetuate domestic violence and, through our work, promote healthy and non-abusive relationships.

2. Core Work of Women's Aid

The core work of Women's Aid in Northern Ireland, including Women's Aid Federation Northern Ireland and the 10 local Women's Aid groups is:

- To provide refuge accommodation to women and their children suffering mental, physical or sexual abuse within the home.
- To run the 24 Hour Domestic Violence Helpline.
- To provide a range of support services to enable women who are leaving a violent situation to rebuild their lives and the lives of their children.
- To provide a range of support services to children and young people who have experienced domestic violence.
- To run preventative education programmes in schools and other settings.
- To educate and inform the public, media, police, courts, social services and other agencies of the impact and effects of domestic violence.
- To advise and support all relevant agencies in the development of domestic violence policies, protocols and service delivery.
- To work in partnership with all relevant agencies to ensure a joined up response to domestic violence.

3. Women's Aid Statistics (2008 - 2009)

- 12 refuges with 300 bed spaces, playrooms and facilities.
- 1058 women and 890 children sought refuge.
- 15 resource centres for women seeking information and support; group work and training.
- 2,814 women and 2,753 children accessed the Floating Support service enabling women to access support whilst remaining in their own homes and communities.

- 2,753 children and young people accessed protection and support services.
- Move-on houses for women and children leaving refuges.
- In 2008/09 the 24 Hour Domestic Violence Helpline open to anyone affected by domestic violence, managed 27,663 calls. This represented an increase of 14% on 2007/08
- Volunteers are a core part of the Helpline team: throughout the year they contributed a total of 3,268 hours to the service, an average of 9 hours per day, 365 days of the year

4. Additional Women's Aid Statistical Data

- During the last 10 years Women's Aid across Northern Ireland gave refuge to 12,579 women and 12,748 children and young people
- During the last 14 years Women's Aid Federation Northern Ireland managed 212,215 calls to the 24 Hour Domestic Violence Helpline

5. Statistics: Domestic Violence & Violence Against Women

- Domestic violence is a violation of Article 5 of the UN Universal Declaration of Human Rights – that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”;
- Domestic Violence is a crime. PSNI statistics for 2009/10 indicate that there were more recorded crimes with a domestic motivation (9,903) than the combined total of all the following crimes (9,864). These include all recorded sexual offences (1,944), robbery (600), armed robbery (557), hijacking (119), theft or unauthorised taking of a motor vehicle (2975), theft, one person from another (591), arson (1980) dangerous driving (865), handling stolen goods (226) and offences under anti-terrorism legislation (7).
- PSNI Statistics for 09/10 indicate that they responded to a domestic incident every 21 minutes of every day of the year.
- The number of all recorded offences of murder in Northern Ireland in 09/10 total 18. Those classed as having a domestic motivation total 7. Therefore, 38.9% of all murders in Northern Ireland in 09/10 had a domestic motivation.
- There were 461 rapes and attempted rapes in Northern Ireland in the period 2009/10. Those classed as having a domestic motivation total 101. Therefore 22% of all offences

of rape and attempted rape in Northern Ireland in 09/10 had a domestic motivation.

(Source: PSNI Statistics 2009/10)

- Official sources (NISOSMC) estimate that up to 80% of sex crimes are not reported.
- The joint NIO, DHSSPS Strategy “Tackling Violence at Home” estimates that the cost of domestic violence in Northern Ireland, including the potential loss of economic output, could amount to £180 million each year.
- UNICEF research released in 2006, showing per capita incidence, indicates that there are up to 32,000 children and young people living with domestic violence in Northern Ireland.
- Where the gender of the victim was known, 75% of adult victims of domestic crimes recorded by the PSNI in 2009/10 were female.*
- Over 30% of all domestic violence starts during pregnancy.**
- Violence Against Women is not limited to domestic violence, it includes amongst other crimes murder, rape, sexual assault, sexual exploitation, trafficking, sexual stalking and sexual harassment.

(*Findings from the 2009/10 PSNI Annual Crime Statistics N.B. “Adult” defined as aged 17 and over)

(** Women’s Aid Federation NI)

Women’s Aid Federation NI welcomes the publication of this consultation on Substantive Changes to the Operation of the Statutory Charge in Civil Legal Aid and the opportunity to comment upon it on behalf of our members. The following comments reflect their collective views.

5. Comments:

- 5.1. Women’s Aid has no fundamental objections to the purpose of the statutory charge as defined in the consultation document (Pg.7). Specifically, to ensure that legally-aided clients contribute towards the cost of funding their cases, so far as they are able; To provide the

Commission with a revenue stream which they are allowed to keep and use for funding future cases; To enforce the ability to pay principle thereby targeting limited resources on those in greatest need and to ensure that legal aid is viewed by the assisted person and their legal adviser in the same way a private client would view funding – as if they were paying their own costs.

- 5.2. We are deeply concerned however that many women who have experienced domestic violence, already struggle to access Legal Aid in Civil Proceedings.
- 5.3. Additionally the excessive cost of non-molestation orders is financially prohibitive for many women. We have evidence of costs in excess of £1,000 if the full order is contested in court.
- 5.4. It is an intolerable situation that women in genuine and present fear for their personal safety and well being and that of their children, are forced to choose between seeking vital legal protection and ensuring their financial stability and avoiding substantial long term debt.
- 5.5. The consequences of domestic violence on a woman's financial status can often be devastating. Irrespective of assessments of overall assets, costs incurred in relocation for example, may render her unable to sustain any additional financial burdens.
- 5.6. We are therefore additionally concerned by the statement in Point 14 (Pg.10) that the statutory charge will apply in many more cases and that if exemptions do not apply, their legal costs will be recouped by the Commission from money or property recovered or preserved.
- 5.7. We note the proposed new exemptions from the charge as outlined in Point 15 (Pgs. 12-15) and welcome the specific exemption of any periodical payments of maintenance.
- 5.8. Additionally, we fully support the exemption of any sum or sums ordered to be paid under Article 27B (4) or 27 C of the Matrimonial Causes (Northern Ireland) Order 1978 thereby exempting both income and lump sums derived from a pensions earmarking arrangement in ancillary relief proceedings.
- 5.9. We are also supportive of the proposal, that other than in circumstances which are exceptional, having regard in particular to the quality or value of the items concerned, the assisted person's clothes or household furniture or the tools or implements of their trade, will be exempt.
- 5.10. We would particularly wish to welcome the proposal in Point 15, 4 (Pg.13) which would exempt any sum or sums ordered to be paid under Article 7 of the Inheritance (Provision for Family and

Dependents) (Northern Ireland) Order 1979 or the Family Homes and Domestic Violence Order 1998.

- 5.11. We acknowledge that this would afford protections to the assisted person in respect of payments made to them for repairs, maintenance, discharge of rent or mortgage, or other payments in regard to the occupation of the matrimonial home.
- 5.12. Women's Aid also feel that the introduction of a new provision which will exempt from the charge, state benefits and pensions and will exempt monies, both income and lump sum, recovered under a pension sharing order under Article 26A of the Matrimonial Causes (Northern Ireland) Order 1978, is a very positive development.
- 5.13. We are of the strong opinion however that in addition to those exemptions specified, an additional exemption should be in place in cases of personal injury compensation consequent to domestic violence.
- 5.14. It is our view that in cases involving domestic violence it is fundamentally unjust to recoup monies received by the victim.
- 5.15. Finally, in respect of the £3,000 threshold below which the statutory charge will not apply, Women's Aid is concerned in respect of the potential consequences to women who have experienced domestic violence and are awarded property, including the asset of the matrimonial home.
- 5.16. We will monitor the application and financial implications of this proposal to the women who use our services and welcome the statement in Point 19 that the Commission will keep the affordability of such a threshold under review.

For further information about this response please contact:

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