

Submission from Amen to the Legal Aid Board.

“Society does not have the right to discriminate against victims of domestic violence because of their gender”

About Amen

AMEN is a voluntary group, founded in December 1997, which provides a confidential helpline, a support service and information for male victims of domestic abuse, who in the past suffered silently and alone in abusive relationships. Thousands of men and supportive members of their families have contacted the helpline since it was set up. Most of the men who avail of our services would have some involvement with family law and many with the legal Aid Board either directly or indirectly. As the largest men's support group in Ireland we have unique experience, insights and perspectives on the operation of the family law system and the Legal Aid Board. While there are many organisations who will present the views and experiences of women, Amen is one of the few groups that can present those of men, even though men make up 50% of those involved in all family law cases.

The Legal Aid Board

While we note that you are inviting submissions in the context of the development of your corporate plan, we would be failing those who contact us if we did not raise more fundamental issues regarding the Legal Aid Board's existence and operations. There appears to be an assumption that the existence of the Legal Aid Board is entirely good for society and that it does not have any negative consequences for Irish citizens. This is an assumption that we would question. It is clear that the activity of the Board has increased drastically over the years and is still increasing and also that the vast bulk of its activity (over 95%) is in the area of family law. In tandem with the increase in the Board's activity there is also an increase in family law activity. While it could be argued that the former is a consequence of the latter we would argue that there is a two-way stimulus i.e. that the existence of the Legal Aid Board also leads to an increase in family law activity. This would be okay if we accept that all family law is necessary and beneficial to those involved. On the basis of our experience of assisting male victims of domestic abuse, and of the family law system, we would not agree that this is so. It is our view that the level of recourse to family law is excessive and is mostly damaging to those involved, particularly children.

The adversarial legal system is a totally unsuitable means of dealing with family disputes which, by its nature, exacerbates hostility and leaves behind a legacy of bitterness from which the parties never recover. State supports should be geared towards encouraging parties to take responsibility for resolving their differences through negotiation rather than trying to 'defeat' each other in courts of law. The mediation service is a support for families to assist in a non-acrimonious resolution of disputes however we are very well aware from our experiences that its effectiveness is undermined by the adversarial and anti-man practices of the courts. Anything that

encourages parties to engage in adversarial litigation rather than take responsibility for their own lives and resolve their problems in a civilised manner is not in the best interests of society, families or the individuals concerned. As the Legal Aid Board facilitates unnecessary, damaging and one-sided recourse to the adversarial family law system there is a question as to whether, overall, it is beneficial or inimical to the well-being of society and those who are affected by its services. The State is providing €17.636 million to the Legal Aid Board to facilitate adversarial court actions this year but only €1.4 million to the Family Mediation Service. Is this a reflection of the Government's commitment to the promotion of non-adversarial methods of resolving family disputes.

Men's experiences

While we are aware that the above comments are really a matter for those who govern our country rather than those who provide the service we would also have views on the operation of the service. The experiences of the men who come to us are that legal aid is essentially a service for women. We believe that a gender breakdown of those availing of your services would support this contention.

Men come to us regularly and say that they cannot afford a solicitor but cannot get legal aid. It would appear that the criteria used to determine eligibility for legal aid is designed to facilitate women rather than men. Earnings from employment are not a reliable indicator of wealth or ability to pay. While men are still the primary wage earners in most families this does not mean that they have higher living standards than their spouses. In post-separation circumstances men are usually left in a much poorer position than their spouses. The major issues involved in family law cases are (1) children (2) the family home and (3) finances. Women invariably emerge as supreme victors under all three headings. Women 'get' the children and with that prize goes the family home and consequently they get the vast bulk of the family finances. Men are evicted from their homes without any reason (section 10 of the Family Law Act, 1995), removed from or marginalised in their children's lives and, in most cases, left living in comparative poverty in sub-standard accommodation, often still paying mortgages etc. for the family home, as well as giving over the vast bulk of their earnings to maintain their wives and children. Very few men emerge from judicial separations in an equal or better financial position than their wives yet their wives continue to get legal aid whereas men are denied.

Current practices

Under the current criteria used by the Legal Aid Board there is a maximum allowance of €1900 for a spouse/partner and €1100 for each dependent. These allowances are totally inadequate having regard to the levels of maintenance awarded by courts. Maintenance paid for a dependent spouse or a dependent child should be allowed in full as this money is not available as disposable income to the provider spouse. Similarly accommodation costs have a limit of €4900 which in current circumstances is also inadequate particularly for men who have been evicted from their homes under the Family Law Act

1995. The allowance for accommodation should reflect the current costs of renting a house where a father can accommodate his children. The effect that the current practices of the Legal Aid Board has on men is that their wives or partners can keep going back to court repeatedly. This can be used as a tactic to further impoverish men. In order to protect themselves, the men must engage solicitors, or sometimes barristers, at enormous expense.

It is the policy of the Legal Aid Board that only one spouse can be represented by any branch. This can be very inconvenient for some people. While it is not a major problem for those living in Dublin it can cause difficulties for those living in rural areas.

Finally we would like to thank you for giving us the opportunity to make this submission to you. Those who represent the views and experiences of men are generally excluded from such consultations and this is the cause of so many defects and imbalances in so many public policies and services.

23rd July 2002.

New address: 9/10 Academy Street, Navan, Co. Meath.

Mr. Pat Fitzsimons
Director
Legal Aid board
St. Stephen's Green House
Earlsfort Terrace
Dublin 2.

23rd July 2002.

Dear Pat

In response to your letter of 9th July I am enclosing a submission from Amen as requested. I would like to thank you for giving us the opportunity to participate in this consultation and also to thank Madeline Swan for assistance.

I look forward to receipt of a copy of the Corporate Plan when it is finalised.

Yours sincerely

Mary T Cleary