

**Women's Aid submission to the Justice Committee  
Inquiry into the Impact of Changes to Civil Legal Aid  
Under the Legal Aid, Sentencing and Punishment of  
Offenders Act 2012**

**April 2014**

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until women & children are safe

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**Question 8:**

**To what extent are victims of domestic violence able to satisfy the eligibility and evidential requirements for a successful legal aid application?**

**Introduction and summary**

- Women's Aid is the national domestic violence charity that supports a network of around 300 local services working to end domestic violence against women and children in England. Our member services are integrated domestic violence service providers delivering a range of holistic services for women experiencing domestic violence and their children. Keeping the voices of survivors at the heart of its work, Women's Aid campaigns for better support for women and children, provides training and resources for professionals and delivers a package of vital 24 hour lifeline services through publications, websites and the National Domestic Violence Helpline (run in partnership with Refuge) on 0808 2000 247.
- Women's Aid Annual Survey (2013) of almost 200 domestic violence services in England found that in 2012/13 these organisations supported nearly 116,000 women and children through refuge accommodation and outreach support. This includes nearly 10,000 women and over 10,000 children in refuge, and over 82,500 women and 14,200 children in outreach services.
- Women's Aid warmly welcomes the Justice Committee's Inquiry into the impact of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) and the opportunity to submit written evidence. We will restrict our comments to our areas of expertise and answer Question 8 of the Inquiry: *To what extent are victims of domestic violence able to satisfy the eligibility and evidential requirements for a successful legal aid application?*
- Women's Aid is very concerned that domestic violence victims access to civil legal aid has been greatly impinged since 1 April 2013 due to the changes brought about by LASPO.
- We welcome the interest the UK Government has shown on the issue of ending violence against women and girls (VAWG) and particularly the recent amendment to Regulation 33 of to LAPS0 which widens the evidence criteria that victims of domestic violence need to meet in order to access to the Domestic Violence Gateway.<sup>1</sup>

<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2014/814/regulation/2/made>

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- We believe that for the UK Government to meet its obligations in regards to the provision of justice for survivors of domestic violence more must be done to ensure that survivors of domestic violence can access civil legal aid in order to protect themselves and their children from further violence.

**Domestic Violence Survivor's Access to Legal Aid**

- Women's Aid believes that legal aid is an essential tool for the protection of women and children from domestic violence. It enables women to apply for protection orders, to access legal representation in order to establish safe child contact and access safe accommodation; which in turn can empower women to escape violent relationships. We welcome the Government's decision to exempt women experiencing domestic violence from the reforms to legal aid but are concerned about the level of evidence which is required by women to prove their experience of domestic violence.
- A recent study conducted by Rights of Women, Women's Aid and Welsh Women's Aid shows that since April 2013:
  - 50% of women do not have any of the prescribed forms of evidence in order to apply for legal aid in family law cases.
  - Research suggests that 60% of women take no further action if they are not eligible for legal aid.
  - Over 30% of women report finding it very difficult to find a legal aid solicitor.<sup>2</sup>

The concerns about victims access to legal aid being impacted by the reforms introduced under LASPO were reflected in the UN Special Rapporteur on Violence Against Women and Girls, Rashida Manjoo's, comments after her visit in April 2014.

*"While legal aid is technically still available to women survivors of violence, these changes [following the adoption of LASPO] have, in practice, led to a higher threshold of evidence that needs to be presented to be able to access legal aid. I received information indicating that women who have experienced or are experiencing domestic violence, often do not have the necessary forms of evidence to qualify for legal aid. Thus they take no action in relation to their family law problems."<sup>3</sup>*

- Women in abusive situations need to access legal aid for a multitude of reasons, from applying for injunctions against perpetrators of violence to child contact issues. The many women who are now unable to access legal aid, especially the 60% who take no further action, are potentially at much greater risk and possibly unlikely to try and seek help again from the criminal justice system.

<sup>2</sup> Rights of Women (2013) Evidencing domestic violence: a barrier to family law legal aid

<sup>3</sup> Special Rapporteur on violence against women finalizes country mission to the United Kingdom and calls for urgent action to address the accountability deficit and also the adverse impacts of changes in funding and services. [http://www.wave-network.org/sites/default/files/Final\\_press\\_statment\\_UK\\_15\\_Apr\\_VAW.pdf](http://www.wave-network.org/sites/default/files/Final_press_statment_UK_15_Apr_VAW.pdf)

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*Being in such an awful situation and trying to cope with abuse and caring for my children is really hard, having this additional obstacle in my way just acted as another barrier to getting some support which in turn has made it easier for my husband to continue to be abusive for longer. I understand the need for budget cuts and control over public spending but please don't make already very difficult situations even harder for victims" (survivor of domestic violence)*

### **Domestic Violence Gateway**

- The Domestic Violence Gateway is the route through which victims of domestic violence can apply for legal aid for family or civil law matters. To access this Gateway to legal aid victims of domestic violence must have evidence to prove their experience of domestic violence. The evidence criteria is not set out in the Act but through regulations that the Ministry of Justice published in April 2013.<sup>4</sup> The Regulation relevant to domestic violence is Regulation 33 - *Supporting Documents: Domestic Violence*.
- Victims of domestic violence must be able to show their solicitor evidence, in line with Regulation 33, of domestic violence before an application for Legal Aid can be made. This evidence is then submitted to the Legal Aid Agency who assess their claim against the evidence criteria.

Accepted types of evidence outlined in the Regulation 33, published in April 2013, were:

- criminal conviction
- police caution
- ongoing criminal proceedings
- protective injunction
- an undertaking
- letter from a Multi Agency Risk Assessment Conference
- finding of fact, by a court
- letter from social services
- letter from a doctor (including a family doctor or 'GP'), nurse, midwife, or health visitor

### **Recent Changes to the Regulations:**

- Women's Aid, alongside Rights of Women and Welsh Women's Aid, have been working with the Ministry of Justice as they review and widen the evidence criteria for the Domestic Violence Gateway.
- The Ministry of Justice announced changes to the Domestic Violence Gateway, through amendments to Regulation 33, which came into force on 22 April 2014.

<sup>4</sup> <http://www.justice.gov.uk/downloads/legal-aid/funding-code/evidence-requirements-for-private-family-law-matters-guidance.pdf>

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- As a result of the recent amendments to Regulations 33 further evidence that can be used to access legal aid for women affected by violence includes:
  - a letter from a domestic violence refuge or refusal of entry to refuge
  - a referral to a domestic violence specialist support service by a doctor, nurse, midwife, practitioner psychologist or health visitor
  - a Domestic Violence Protection Notice or Domestic Violence Protection Order granted
  - a letter from a psychologist
  - police bail
  - a bind over
- Women's Aid welcomes these changes to the Regulations which we hope will ensure that more women will be able to have access to the relevant proof that they are victims of domestic violence and therefore be entitled to Civil Legal Aid for, so called, Family Disputes. However, Women's Aid is still very concerned that the current list of evidence accepted under the Domestic Violence Gateway will impact many survivors of domestic violence access to Legal Aid.
- In July 2013 the UN Committee on the Elimination of Discrimination Against Women (CEDAW) published their concluding observations of the seventh report of the United Kingdom. In its concluding observations the Committee was concerned that the Legal Aid, Sentencing and Punishment of Offenders Act 2012, "unduly restricts women's access to legal aid<sup>55</sup>." The Committee also expressed concern about the conditions applied to accessing legal aid, including the proof that women had to present to prove domestic violence. The CEDAW Committee's concluding comments urged the UK to, "a) ensure effective access by women to courts and tribunals, in particular women victims of violence; and b) continuously assess the impact of the reforms to legal aid on the protection of women's rights<sup>6</sup>." Women's Aid supports these recommendations and calls on the Government to implement them without delay.
- Women's Aid believes that the current legal aid Regulations are still placing unnecessary burdens of proof on women survivors of domestic violence that restrict them from accessing vital Legal Aid and contravene the Government's obligations under CEDAW.

## **Conclusion**

- Women's Aid believes that in order to ensure that all survivors of domestic violence are able to access Legal Aid that the evidence criteria in Regulation 33 must be further widened.

The evidence should include:

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<sup>55</sup> CEDAW, Concluding Observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, July 2013.

<sup>6</sup> Ibid.

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- A letter from a specialist domestic violence support service confirming that a survivor has sought help from the service
- a letter from the 24 Hour National Domestic Violence Helpline that confirms the woman has contacted the helpline due to their experience of domestic violence;

Furthermore Women's Aid is calling for:

- The elimination of any funding requirement for accessing evidence to support legal aid applications.
- Specialist domestic violence training, guidance and awareness raising activities amongst all legal professional and relevant agencies in order to improve the responses of the gatekeepers to legal aid (including solicitors, barristers, health professionals and other statutory services) to ensure that women affected by violence are appropriately assessed for eligibility for legal aid and supported to obtain the appropriate evidence

Women's Aid is committed to working with the Ministry of Justice to ensure all survivors of domestic violence are able to access justice.