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## Women's Aid Briefing Paper on Domestic Violence 23rd November 2011

### RECOMMENDATIONS

#### 1. Child protection and domestic violence

- a. That the link between child abuse and domestic violence and the best practice principle of protecting the child through the protection and support of the non-abusive parent is acknowledged and reflected in any new child protection structures and in any review of Family Law and domestic violence legislation.

#### 2. Eligibility for domestic violence orders

- a. That the review and reform of domestic violence legislation is progressed as soon as possible, and that it should include extending Safety Orders to dating relationships and removing the length of cohabitation requirement for Barring Orders where the applicant has sole or greater interest in the property.

#### 3. Barriers to safety for migrant women experiencing domestic violence

- a. That a provision is introduced in the Immigration, Residence and Protection Bill 2011 to provide for the granting of autonomous residence permits in exceptional circumstances such as domestic violence to all dependent spouses/partners, in line with that available under European law.
- b. That the residency status women receive enable them to access the labour market or the social welfare system, as well as education and training, in order to allow them to support themselves and their children.
- c. That the Department of Social Protection direct community welfare officers to grant welfare support to abused migrant women regardless of whether they satisfy the Habitual Residency Condition.

#### 4. Domestic violence and funding

- a. That Women's Aid and other vital domestic violence services are protected in Budget 2012 by at least maintaining current funding levels.
- b. That the government commits to support local groups responding to domestic violence in their communities.

### RATIONALES

#### 1. Domestic violence and child protection

- The link between physical child abuse and domestic violence has been clearly established and is very high, with domestic violence being the most common context in which child abuse takes place.
- Exposure to domestic violence is recognised as a form of emotional abuse, with detrimental effects to children's well-being, as recognised in the very welcome new Child Protection and Welfare guidelines.
- In 2010, there were 1,658 incidents of child abuse disclosed by callers to Women's Aid National Freephone Helpline. The kinds of abusive tactics used directly against children included:
  - Abusers smacking and hitting children including with household items
  - Abusers physically and sexually abusing children
  - Children being manipulated against the mother, making children side with the abuser
  - Abusers constantly shouting in children's faces.
- In addition to these incidents, in another 3,014 calls it was disclosed that children were living with domestic violence against their mother. In the majority of these cases, it is likely that children will have witnessed or heard the abuse of their mother.
- Children living with domestic violence are often not protected in Family Law proceedings, with Custody and Access arrangements that disregard the impact of domestic violence on children and the risk of continuing abuse during and after separation.
- Protecting and supporting the non-abusive parent is internationally recognised as the best practice in protecting children living with domestic violence.

#### 2. Domestic violence legislation

- Women's Aid welcomed the positive amendments to the Domestic Violence Act, 1996 enacted last August. We have already seen many women benefiting from these changes.
- However, dating partners remain unprotected by the Domestic Violence Act, 1996.
- In a national survey on domestic abuse, almost 60% of people who had experienced severe abuse in intimate relationships experienced the abuse for the first time under the age of 25, and 24% before the age of 19.



- Protection from domestic violence should not be contingent on current or previous cohabitation. Therefore, Safety Orders should be available to all parties who are or have been in an intimate relationship, as is supported by UN Guidelines on Domestic Violence Legislation.
- The current eligibility requirements for cohabitants applying for a Barring Order are that they need to have cohabited for six out of the previous nine months AND have the same or greater interest in the property. Women's Aid believes that as a minimum, the length of cohabitation requirement should be removed for those applicants who have sole or greater interest in the property for which the Barring Order is sought, as there can be no justification whatsoever for insisting that such applicants fulfil a cohabitation requirement.

### **3. Addressing additional barriers to safety for migrant women experiencing domestic violence**

#### **a. Dependent immigration status**

- The residency of many migrant women living in Ireland is dependent on their continued relationship with their spouse, whether dependent spouses of migrant workers or of Irish citizens. When the relationship ends, so does the dependent spouse's leave to remain in the country. Migrant women experiencing domestic violence may therefore be faced with the "choice" of having to leave Ireland or stay in their relationship and endure the violence. For many women, returning to their country of origin is not a viable option, for economic, social, safety or cultural reasons.
- Almost all European states have special provisions in their immigration laws for women with dependent residence status leaving their spouse/partner because of domestic violence, based on a European Directive, which the Irish state has opted out of. The UK, who opted out of the same European Directive, has separately introduced provisions for women in this situation.
- A similar entitlement is available under European Union law to non-EU dependent spouses/partners of EU citizens living in Ireland but not to dependent spouses/partners of Irish citizens or non-EU citizens.

#### **b. Habitual Residency Condition (HRC)**

- Some women escaping domestic violence have no right to work, no right to welfare assistance and no support networks available in Ireland. Women who leave their partner because of violence and who do not satisfy the HRC may find themselves and their children destitute.
- Even refuges may not be able to accommodate them or can only accommodate them for a short time due to increasing financial constraints on their budgets, as they are unable to financially support women and children for more than a few days. As medium or longer term accommodation is not available for them, they cannot move on.
- Clearly this impacts on women and children's safety as women feel they cannot leave or, having left, must return to the abuser for lack of financial support and fear of destitution.
- Research by Women's Aid found that lack of a place to go and economic dependence on the perpetrator are the two main reasons why women do not leave violent partners. The Habitual Residency Condition may increase these barriers by negatively affecting the woman's access to both financial support and to a refuge.

### **4. Domestic violence and funding**

- Women's Aid National Freephone Helpline 1800 341 900 answered over 10, 000 calls in 2010. It is the only free, national, domestic violence helpline with specialised trained staff, full membership of the Helplines Association and with a Language Line facility covering 170 languages for callers needing interpreting.
- We are deeply worried about the impact of Budget 2012 on our vital services and on the capacity of the sector in general to continue to support women and children experiencing domestic violence.
- The recession has greatly reduced options for women experiencing domestic violence, with many women reporting that they have become more trapped in the violent relationship.
- Refuges and support services have already been impacted, with cuts in the last three years and refuges are increasingly unable to accommodate all women that need them. Reducing services at a time of increased need would mean placing women who are being abused and their children at increased risk.
- Local community groups provide a vital first point of contact and support for women experiencing violence, and an important link to specialist support services. Women's Aid supports many of these groups in the development of local responses. In light of on-going restructuring and changes in funding and priorities of these national programs, there is a risk that their role in addressing domestic violence may be lost.