

**3<sup>rd</sup> October 2022**

# **Women's Aid CLG**

## **Request for Tender for Research Services**

**A research study to explore the experiences of victims/survivors of domestic violence and abuse, including children, in custody and access proceedings in the Irish Family Law system**

**The latest date for receipt of tenders is 5pm, Irish time, Friday 11<sup>th</sup> November 2022**



**Women's  Aid**



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## About Women's Aid

Women's Aid is a national, feminist organisation working to prevent and address the impact of domestic violence and abuse including coercive control, in Ireland since 1974.

We do this by:

- Advocating, influencing, training, and campaigning for effective responses to reduce the scale and impacts of domestic abuse on women and children in Ireland

And

- Providing high quality, specialised, integrated, support services. Background/ Research Rationale

## Background/ Research Rationale

When family breakdown and separation occur, many (if not most) families manage to resolve matters of custody, access, and maintenance without significant or lengthy recourse to the Courts. However, when domestic abuse, including coercive control are factors a disproportionate number of families find themselves navigating the Family Law system in the District Courts across the country, often for very long periods. Domestic violence and abuse is known to persist and often escalate at the point where a relationship is ended, meaning that many victims/survivors navigating the Courts System do so in the context of facing heightened risk of harm and while experiencing extreme levels of stress. Where separated people have children, the Courts are often interacting with both victims/survivors (including children) and perpetrators in the context of Custody and Access proceedings. In such situations it is recognised that children should be considered as direct victims/survivors of abuse including coercive control themselves, and not just 'witnesses'.<sup>1</sup>

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<sup>1</sup> Katz, E. Beyond the Physical Incident Model: How Children Living with Domestic Violence are harmed by and Resist Regimes of Coercive Control. Child Abuse Review Vol. 25:46–59 (2016) Published online 24 November 2015 in Wiley Online Library (wileyonlinelibrary.com) DOI: 10.1002/car.2422.

For nearly 50 years, Women's Aid has been to the fore in supporting women navigating the family law system. Women's Aid operate a full-time drop-in service in Ireland's largest family court (Dolphin House), provide support including court accompaniment to women in family law and criminal law matters, manages a unique High Risk Support Project and supports women nationally via the 24h National Freephone Helpline. The organisation has also played a key role for decades in researching, monitoring, and advocating for improved policy and legislation to prevent and combat domestic violence and abuse and to improve responses to victims/survivors.

Legislation has been amended through the Children and Family Relationships Act 2015 to explicitly include domestic violence as a consideration the courts (sec. 31/3) must have regard to when determining the best interest of the child, it is however unclear how this legislative change is being applied and whether it has made any impact to the outcomes. This same Act also makes provision for determining and conveying the child's views (Sec 32/1 (a) and (b)) and there is a need to assess how effective this system is in achieving its stated objective; to meet the 'Best Interests of the Child'.<sup>2</sup> There has been limited research to examine both the supporting factors and challenges for victims/survivors of domestic abuse, including children, who are navigating Ireland's Family Law systems. There has been some, but again limited, examination of how children's voices are heard in Irish courts, as is children's legal entitlement.<sup>3</sup> Reference to disputed concepts such as 'Parental Alienation Syndrome' have become increasingly prevalent in Custody and Access proceedings, while simultaneously since 2019 Coercive Control is a criminal offence and is becoming better understood.

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Callaghan J, Alexander J, Sixsmith J & Fellin LC (2015) Beyond "Witnessing": Children's Experiences of Coercive Control in Domestic Violence and Abuse, *Journal of Interpersonal Violence*, (Volume 33, Issue 10), pp. 1551-1581.

<sup>2</sup> <https://www.irishstatutebook.ie/eli/2015/act/9/section/63/enacted/en/html>

<sup>3</sup> Relevant UK studies include those summarised here: [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/895175/domestic-abuse-private-law-children-cases-literature-review.pdf](chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/895175/domestic-abuse-private-law-children-cases-literature-review.pdf)

Additionally, in 2019 Women's Aid published its 'Unheard and Uncounted, Report'<sup>4</sup> detailing survivors experiences of the Criminal Courts. This research highlighted the significant issues of a disconnection between family law and criminal law processes. There is also a documented need for more research to give children a voice in sharing their experiences, in addition to the experience of their non-abusing parent<sup>5</sup>.

There are currently a significant number of relevant activities and processes underway in Ireland, which make this research project both timely and important. These include, but are not restricted to:

- The publication of an ambitious 3<sup>rd</sup> National DSGBV Strategy;
- A forthcoming Family Justice Strategy;
- The Family Courts Bill in process;
- The implementation of the recommendations of the 'O'Malley report' to improve the experience of victims in criminal proceedings;
- Initiatives within the Court System to provide Trauma informed training to all key personnel and;
- A review of the current Child Maintenance system and a review of Civil Legal Aid<sup>6</sup>.

There are also new research projects underway/just completed that have variously examined intersections between Family, Childcare and Criminal law systems, and the challenges and needs of separated families sharing parenting of young children.

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<sup>4</sup> [https://www.womensaid.ie/assets/files/pdf/unheard\\_and\\_uncounted\\_-\\_women\\_domestic\\_abuse\\_and\\_the\\_irish\\_criminal\\_justice\\_system\\_full\\_report.pdf](https://www.womensaid.ie/assets/files/pdf/unheard_and_uncounted_-_women_domestic_abuse_and_the_irish_criminal_justice_system_full_report.pdf)

<sup>5</sup> Eliffe, R., Holt, S., & Øverli, C. (2020). Hiding and being hidden: The marginalisation of children's participation in research and practice responses to domestic violence and abuse. *Social Work and Social Sciences Review*, 22(1), 6-25. <https://doi.org/10.1921/swsr.v22i1.1438>

<sup>6</sup> Also new/forthcoming national policy for children and families, 'Better outcomes Brighter futures #2' which may give a broad national policy framework.

In 2021 the Board of Women's Aid designated funding to commission a research project to provide an independent, evidence based, comprehensive examination of how effectively the Irish Family Law system proceedings related to Custody and Access, in intersection with other systems and factors;

- a) Responds to the needs of victims/survivors of domestic abuse and
- b) Vindicates the rights of the children to have their voice heard in such proceedings.

This research should provide a clear evidence base, incorporate findings and recommendations from other recent relevant research and make new recommendations and/or validate existing recommendations to improve the Family Law system for these two groups.

This research is **not intended** to examine proceedings under the Child Care (Amendment) Act 2022 in any detail.

## Request for Tender

Women's Aid wishes to invite researchers to tender for a research project that will provide an independent, evidence-based 360-degree examination of how effectively Custody and Access proceedings in the Irish Family Law system, both exclusively or in intersection with other proceedings, systems and factors, responds to the safety and wellbeing requirements of victims/survivors of domestic abuse, including children.

The research will focus primarily on the experience of the non-abusing parent and their children<sup>7</sup>, examining how safety and wellbeing are prioritised and how the rights of the children to have their voice heard are vindicated in such proceedings. The focus for this purpose will be adults with children engaging in District Court Custody and Access proceedings, where there is a history of, or ongoing domestic abuse, including coercive control. Children should also be considered as potential research subjects using ethical methodologies to garner their experiences. These families may also

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<sup>7</sup> Focus is on experiences of Children up to age 18 for the purpose of the research, but researcher/s may consider engaging with now aged out minors who have relatively recent experience of the Family Law/Custody and Access proceedings.

be involved in additional Family Law proceedings (domestic abuse order applications, maintenance, guardianship...) and there may be scenarios where there are related criminal proceedings, or external processes such as mediation.

This research project will be supported by a Research Advisory Group comprised of a range of key stakeholders from relevant disciplines.

### **Research Brief including Methodologies**

It is essential that the framing narrative for the research balances the needs of adults navigating Custody and Access and related proceedings in the Family law system, with a requirement to ensure that the children's voices, as minors, are heard and the safety/wellbeing of children be considered a primary concern.

Additionally, it is important to elicit, examine and report on both enabling and inhibiting **structural/systemic** factors in conjunction with human **behavioural/attitudinal and knowledge** (skills and deficits) among key stakeholders who have a role in supporting the Family Law system, and those navigating it. In this regard, the provision of evidence-based research is essential in informing and developing policy and practice both in the Family Law system and supportive community-based service provision.

The research will require<sup>8</sup>:

1. A national and international literature review examining the experiences and outcomes for victims/survivors of domestic abuse and their children when navigating custody and

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<sup>8</sup> Where possible, all surveys, literature reviews and interviews should target experiences of the research cohort dating from 2015 and thereafter, being the period since the enactment of the Child & Family Relationships Act 2015, and the Domestic Violence Act thereafter in 2018 (commenced Jan 2019). It is acknowledged that some comparative analysis may be desirable to gauge any difference pre and post enactment of the 2015 Act.

access, and related proceedings in family law courts. The literature review<sup>9</sup> will be carried out by desk-based research, thematic synthesis, analysis, and writing.

- Only relevant and up-to-date primary and secondary sources should be consulted, with any Irish sources ideally dating from the period **after** the enactment of the Child and Family Relationships Act 2015. International sources should be assessed to gather potential good practices, which may have application in an Irish context.
  - In the Irish context, it is importance that any notable gaps or absences in primary sources are also identified.
2. A synthesis of the most relevant Government strategies and initiatives underway (including new legislation) which should provide opportunities/vehicles to support key recommendations from this research project. The research may also serve to validate existing recommendations within current strategies or plans.
  3. Taking a methodological approach designed to elicit and evidence both structural and human behavioural/attitudinal factors that are currently influencing domestic abuse victims/survivors experience of the family law system in both positive and negative ways.
  4. A specified number of qualitative (structured/semi-structured) interviews with a range of key stakeholders including: selected specialist Domestic Abuse support services operating in both urban and rural settings, specialist child and family support services<sup>10</sup>; Courts Service personnel; family law practitioners (Solicitors/Barristers); the Judiciary, individuals producing section 32 (a) and (b) reports<sup>11</sup> for District Court C&A proceedings, Tusla, representative groups for minority/minoritized groups who support victims/survivors of domestic abuse (including migrant, minority ethnic and disabled peoples organisations) who have direct experience of supporting women and children going through custody and

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<sup>9</sup> The international literature review should be limited to the most legally comparable countries outside Ireland.

<sup>10</sup> Engagement with women's and men's services to proportionately reflect the prevalence and impacts of domestic violence and abuse.

<sup>11</sup> <sup>11</sup> <https://www.irishstatutebook.ie/eli/2015/act/9/section/63/enacted/en/html>

access proceedings in District Court), and other key stakeholders as may be identified by the Research Advisory in consultation with the Researcher/s.

5. Qualitative (structured/semi-structured) interviews with a range of individuals from both urban and rural areas who have direct experience of domestic abuse and engaging with custody and access, and related proceedings in the Family Law system and (in some cases) other legal systems. Interviews should make efforts to include individuals from a diverse range of backgrounds and experiences to ensure an intersectional approach to this research<sup>12</sup>.
6. Ethical mechanisms to hear the authentic experience of children who have been impacted by family law proceedings. This might include hearing from adult children (aged out) who experienced the family law system as minors. Researchers tendering for this project may suggest additional approaches, which could be achieved within the project timeframe.
7. Two targeted online surveys (primarily quantitative but with some qualitative components): one for victims/survivors of domestic abuse and their (now adult) children who have navigated the family courts system directly since 2015, and one for specialist domestic abuse support service practitioners, particularly those currently providing casework and court accompaniment support.
8. An analysis and report of district court proceedings over a sample period in one urban and one rural District Court setting (subject first to access approval, and thereafter compliant with any obligations to preserve 'in camera' requirements) in both an urban and a rural setting.<sup>13</sup>

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<sup>12</sup> The literature review should also be used as an opportunity to identify and give visibility to potential additional challenges for individuals from more minority and/or marginalised communities in this research.

<sup>13</sup> For research purposes, subject to the directions of the court in a specific case a person who does not hold legal qualification (solicitor/barrister) may be admitted to an in camera court and allowed to listen to the evidence, access documents, etc if they are a "person falling within any other class of persons specified in regulations made by the Minister....." (Section 40(3) Civil Liability & Courts Act 2004 as amended) – the relevant regulations currently include "persons engaged in family law research who are (i) nominated by a body specified in the Schedule to these Regulations, and (ii) approved by the Minister". The Schedule lists the

9. Other, or varied, research activities and methodologies as researchers tendering for this project may wish to recommend.

The combined output of these activities will form a strong evidence-base by examining and identifying:

1. Thematic segmentation and analysis of predominant legislative, structural and sociological enablers of, and barriers to, safety and support experienced by adult and child victims/survivors of domestic abuse who engage with the family law system.
2. A visual mapping of adult and child victims/survivor's most common concurrent interactions with processes and systems **additional** to Custody and Access proceedings in District Court (other civil or criminal legal processes, and directly related non-legal processes).
3. Specific experiences or additional barriers that may be factors for adults and children from the research group due to intersecting factors including migrant or ethnic minority status, disability, sex, sexuality, gender identity, socio-economic status.
4. Experience and outcomes for adult victims/survivors of domestic abuse engaged in family law proceedings: thematically grouped to identify both best practice and areas where systems, structures and other factors need to be improved.
5. Experiences and outcomes for children engaged (directly or by proxy) in family law proceedings that impact on their lives, safety and wellbeing, thematically grouped to identify both best practice and areas where systems, structures and other factors need to be improved.
6. Identification and critical analysis of current practices, with specific reference to reported experiences of the Section 32 (a) and (b) reporting systems, which primarily aim to

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applicable bodies. Applicants for this tender must therefore be qualified as a researcher under this legislation and regulations. Women's Aid will actively support the process of applying for access for qualified researcher/s.

vindicate children's right to have their voice heard in Court proceedings that affect their lives, safety and wellbeing.

7. Whether Ireland complies with article 31 of the Istanbul Convention<sup>14</sup>.
8. Models of evidence-informed good practice, including from other relevant jurisdictions that have proven beneficial in vindicating the rights of children to have their voices heard in Court proceedings that directly impact their lives.
9. Models of good practice, including from other relevant jurisdictions, that have proven to be supportive of the safety and well-being of DVA victims/survivors engaged in Family Courts proceedings.
10. A prioritised summary of current opportunities and key recommendations to improve systems for the research subjects in the Irish context.

### Primary Research Questions

Based on the best available empirical evidence including primary evidence, the research study should identify and document:

1. The main experiences of, and impacts on, adult victims/survivors of domestic violence and abuse who engage with custody and access proceedings in District Courts, in relation to their safety and wellbeing.
2. The main experiences of, and impacts on, children impacted by domestic violence and abuse who engage with custody and access proceedings in District Courts, in relation to their safety and wellbeing, **and** their right to have their voice heard.

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<sup>14</sup> Article 31 – Custody, Visitation rights and safety. [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://rm.coe.int/168046031c](https://efaidnbmnnnibpcajpcglclefindmkaj/https://rm.coe.int/168046031c)

3. The most significant inhibiting structural/systemic factors in protecting the safety and wellbeing of victims/survivors of domestic violence and abuse when engaged in custody and access proceedings.
4. The most significant enabling structural/systemic factors in protecting the safety and wellbeing of victims/survivors of domestic violence and abuse when engaged in custody and access proceedings.
5. The most significant inhibiting human behaviours/attitudes/competencies among key stakeholders who have a role in supporting the Family law system including prioritising the safety and wellbeing of victims/survivors of domestic violence and abuse.
6. The most significant enabling human behaviour/attitudes/competencies among key stakeholders who have a role in supporting the Family law system including prioritising the safety and wellbeing of victims/survivors of domestic violence and abuse.
7. Drawing from the review of national and international peer review literature and analysis combined with the evidence gathered during the research, propose key opportunities for and challenges facing improvements to the Custody and Access system, and related structures and supports, for victims/survivors of domestic abuse including their children, who are also impacted by such abuse.

### **Anticipated Outputs**

An interim report of the research, covering all key work strands of the project, should be produced for review with Women's Aid in conjunction with the Research Advisory Group at a mid-point in the process to allow for analysis of initial findings and support with any unforeseen process matters as may arise.



A detailed thematic final report should be produced, detailing key findings, and incorporating responses to the noted Research Questions (above) with a set of practical clear recommendations for ways to improve the Custody and Access system in Ireland for the research cohort.

A short executive summary of the final report synthesising the key findings and recommendations should also be produced.

Both final reports should be presented in a visually engaging, clear, accessible and plain English format.

### **Timeframe and Budget**

It is anticipated that the research will take in the region of 12-18 months to be completed. Costings should be based on the number of days work necessary to complete the task and should include all relevant costs and anticipated expenses including VAT. Budgets should clearly indicate segmented costs for individual components of the project, where applicable.

The budget available for this project is a maximum of €100,000 (inclusive of VAT). Please clearly outline all fees (including expenses and with VAT as applicable). A current tax clearance certificate will be required. This contract will be awarded based on a fixed price contract and all costs must be quoted and clearly indicated as fixed price in Euro. The successful applicant is expected to work within the agreed budget and report regularly on budgetary issues.

Women's Aid is not bound to accept the lowest or any tender and will award the contract to its best advantage. MEAT<sup>15</sup> assessment principles will apply.

### **Requirements and Expectations of Researcher**

The Researcher/s should have the relevant mixed methodology research experience to meet the objectives of this project.

Approaches from consortiums will be considered and approaches from universities are particularly welcome.

Tenders may be submitted from outside the Republic of Ireland, but a clear demonstration of capacity to undertake all relevant fieldwork, and to comply with relevant tax and insurance obligations will be required.

A structural understanding of issues affecting adults and children who have been subjected to domestic abuse/coercive control is desirable.

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<sup>15</sup> Most Economically Advantageous Tender, a weighted process Per Public Sector Procurement guidelines. Weighted scoring detailed under Tender selection process.

A working knowledge of the various, intersecting legal systems that separated families may navigate when domestic abuse/coercive control is a factor, is desirable. Reference should be made to any relevant academic publications in this field.

The Researcher/s will be responsible for ensuring that all ethical standards are met throughout the research process and ensuring that data protection and confidentiality provisions are strictly upheld. Researchers will need to demonstrate that they have experience of successfully receiving ethical approval for interviewing vulnerable adults and/or children, in circumstances applicable to this research project.

It is expected that Researcher/s should have access to databases (such as EBSCO) to cost-effectively undertake the literature review aspects of this project.

For research purposes, subject to the directions of the court in a specific case a person who does not hold legal qualification (solicitor/barrister) may be admitted to an in camera court and allowed to listen to the evidence, access documents, etc. if they are a “person falling within any other class of persons specified in regulations made by the Minister.....” (*Section 40(3) Civil Liability and Courts Act 2004 as amended*<sup>16</sup>) – the relevant regulations currently include “persons engaged in family law research who are (i) nominated by a body specified in the Schedule to these Regulations, and (ii) approved by the Minister”. The Schedule, in Section 3, lists the many applicable bodies for this purpose. Applicants for this tender must therefore be qualified as a researcher under this legislation and regulations and should indicate same in their tender document. Women’s Aid will actively support the process of applying for access for qualified researcher/s to the District Courts.

The Researcher/s will be expected to work on a collaborative basis with Women’s Aid and the Research Advisory Group, with clear terms of reference established for the Advisory, and a schedule of meetings between Women’s Aid, the Advisory and the Researchers to be agreed on awarding of the contract.

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<sup>16</sup> <https://www.irishstatutebook.ie/eli/2004/act/31/section/40/enacted/en/html#sec40>

Ownership of materials produced will reside primarily with Women's Aid, with the work of the Researcher/s acknowledged in all publications. This shall not preclude the Researchers presenting and publishing the research and findings thereof at conference and in peer reviewed articles and journals, for which permission will be granted.

The Research Advisory Group may make sections of the report available for public use and others, with advance permission from Women's Aid, with all relevant attribution made.

### **General Conditions**

Detailed contractual arrangements are not within the scope of this Request for Tenders. However, the following condition should be noted:

1. Any conflicts of interest involving a contractor must be fully disclosed to Women's Aid.
2. In the event of a group of bidders jointly submitting an acceptable offer, Women's Aid will award the contract to one contractor who acts as the agreed prime contractor. The prime contractor is responsible for the delivery of all services provided for under the terms of the contract and shall assume all the duties, responsibilities and costs associated with the position of prime contractor.
3. Payment will be on the foot of appropriate invoices. Invoicing arrangements will be agreed with the successful tendering organisation following the award of the contract.
4. The successful tendering organisation will be required to comply with the requirements of the Data Protection Acts 1988-2018 and the General Data Protection Regulation (Regulation (EU) 2016/679) (each as amended, revised, modified or replaced from time to time) and all other statutory instruments, industry guidelines (whether statutory or non-statutory) or codes of practice or guidance issued by the Data Protection Commission relating to the processing of personal data or privacy or any amendments and re-enactments thereof in relation to the processing of any personal information that may be necessary in the context of service delivery. This will require the organisation to sign a form of undertaking to comply with the provisions of the Acts.

5. Women's Aid will not be liable in respect of any costs incurred in the preparation of their tender in response to the Request for Tenders, nor for costs incurred in preparing subsequent presentations or for attendance at it.

### **Insurance**

The successful researcher will be required to submit evidence of relevant professional indemnity and insurance details.

### **Submissions**

In no more than 2,500 words, submissions should include the following:

1. Overall approach to the work and the tasks outlined
2. Indication of the proposed project timeframe and delivery of different components of the research (allowing for ethical approval requirements etc...)
3. Proposed methodology for the work to be undertaken
4. Name and contact details of the tenderer / organisation and the personnel who will be involved in the delivery of the work
5. Previous experience of all personnel involved in undertaking the work
6. Detailed costings for the work (segmented where appropriate to different components of the research).
7. Timeframe for the completion of the tasks of the research
8. Details of two referees
9. Copies of/links to previous relevant work should be attached to tender

### **Tender Selection Process**

Initially the tender proposals will be checked for compliance with the Request for Tender conditions. Potential candidates will be assessed both on their tender proposal and if required, a follow up interview. They will be assessed against the following major attributes\*:

1. Proven capability and experience in research, consultation and relevant field work (350)

2. Methodology (350)
3. Value for Money (300)

*\*A minimum threshold of 150 in each category will be required.*

## Timing of the Tendering Process

- 24/10/2022 at 5.00 p.m., Closing date and time for queries to this tender. Queries should be emailed to [mary.oconnor@womensaid.ie](mailto:mary.oconnor@womensaid.ie)
- 11/11/2022 5.00 p.m., Closing date and time for receipt of tenders.

Any tenders received after the closing date will not be considered.

## Tenders should be submitted by email only to:

Mary O'Connor, Women's Aid, email: [mary.oconnor@womensaid.ie](mailto:mary.oconnor@womensaid.ie)

Please mark the subject line of the email: **Tender Submission: Custody and Access**

Shortlisted tenderers will be asked to attend for interview.

## Women's Aid expressly reserves the right to:

- Extend the time of lodgment of responses to the Request for Tender and/ or to vary the timings and process for their Request for Tender.
- Vary any requirements of the services required for the Request for Tender.
- Following evaluation, accept or reject any or all responses to the Request for Tender.
- Seek and obtain clarification of any responses to the Request for Tender, including additional information.
- Request providers to amend their responses.
- Accept any proposal in part or in total.