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## Women's Aid Briefing Paper on Domestic Violence

25th November 2010

### RECOMMENDATIONS

#### 1. Domestic Violence and Funding:

- a. That vital domestic violence services are protected in Budget 2011 by at least maintaining current funding levels.
- b. Maintain funding to Women's Aid and to community groups to support communities to develop responses to domestic violence locally through the Code of Practice on Domestic Violence.

#### 2. Domestic Violence Legislation:

- a. That the *Civil Law (Miscellaneous Provisions) Bill, 2010* is amended to remove the requirement that a relationship is "committed" for cohabitant partners to be eligible for Safety or Barring Orders.
- b. That further extension of eligibility for Domestic Violence Orders is enacted as soon as possible, and that it includes as a minimum extension of Safety Orders to dating relationships and removal of length of cohabitation requirement for Barring Orders where the applicant has sole or greater interest in the property.

#### 3. Domestic Violence and Immigration Law:

- a. That a provision is introduced in the *Immigration, Residence and Protection Bill 2010* to provide for the granting of autonomous residence permits in exceptional circumstances such as domestic violence to all dependant spouses/partners, in line with that available under European Law.
- b. The residency status women receive should 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. The Department of Social Protection should direct community welfare officers to grant welfare support to abused migrant women regardless of whether they satisfy the habitual residency conditions.

### RATIONALES

#### 1. Domestic Violence and Funding

- Women's Aid National Freephone Helpline 1800 341 900 and Support Services are working to full capacity.
- We are deeply worried about the impact of Budget 2011 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. For example, a woman may have lost her job and become financially dependent on her abuser, or the abuser may have become unemployed and at home all day, or it may be impossible to sell the family home and separate. It is therefore more necessary than ever that services are there to support women and children.
- Refuges and support services have already been impacted, with cuts in funding in 2009 and 2010. It would be impossible to continue to maintain the same level and quality of service if further cuts are implemented, thus services would be reduced at a time of increased need, placing women who are being abused and their children at increased risk.
- Local community projects can provide a vital first point of contact and support for women experiencing violence, and an important link to specialist support services. It is crucial that funding is maintained to Women's Aid and local communities to ensure this work continues. Women's Aid is Specialist Support Agency on the issue of violence against women to the Local and Community Development Programme and the Family and Community Services Resource Centre Programme. We support community projects to respond to the issue of violence against women by providing free training, information and support as organisations implement the Code of Practice on Domestic Violence, which provides a framework for local responses to domestic violence.

#### 2. Domestic Violence Legislation

##### a. Update on amendments to the *Domestic Violence Act, 1996* in the *Civil Law (Miscellaneous Provisions) Bill, 2010*

Women's Aid warmly welcomes the following positive amendments to the *Domestic Violence Act, 1996* included in the *Civil Law (Miscellaneous Provisions) Bill, 2010*

- Parents with a child in common will be eligible to apply for Safety Orders without any cohabitation requirement.
- Cohabiting partners will be eligible to apply for Safety Orders without any minimum duration of cohabitation required.
- Same sex cohabitants will be able to apply for Domestic Violence Orders in the same way as opposite sex cohabitants.



However, Women's Aid is concerned that the proposed wording in the Bill will require a cohabitant applying for a Domestic Violence Order to prove she lived with the respondent in an "intimate and **committed** relationship" in order to establish eligibility for Safety or Barring Orders.

Women's Aid strongly recommends removal of the words "and committed" for reasons outlined in more detail in a separate brief, available on request. However, in short, Women's Aid is opposed to this wording on three main grounds:

1. There is no reason why a relationship needs to be committed to be worthy of protection against abuse.
2. It may provide an opportunity for the abuser to prevent his partner being deemed eligible for Domestic Violence Orders by undermining or down-playing the level of commitment in the relationship.
3. This wording will potentially give rise to uncertainty and delays in the courts.

#### **b. Further necessary amendments**

- Dating partners (not cohabitating) are currently totally unprotected by the *Domestic Violence Act, 1996* and will remain so. Protection from domestic violence should not be contingent on current or previous cohabitation, and 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.<sup>1</sup>
- The current eligibility requirements for cohabitants applying for a Barring Order are that they need to have cohabited for 6 out of the previous 9 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. Domestic Violence and Immigration Law**

#### **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 dependant spouses of migrant workers or of Irish citizens). When the relationship ends, so too 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 the country or stay in the relationship and put up with 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 dependant 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 also opted out of the said EU Directive, have separately introduced provisions for women in this situation.<sup>2</sup>
- A similar entitlement is available under European Union Law to non EU dependent spouses/partners of EU citizens living in Ireland, but not to spouses/partners of Irish citizens or dependent spouses/partners of non EU citizens.<sup>3</sup>

##### **b. Habitual Residency Condition**

#### **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 Habitual Residency Condition, may find themselves and their children destitute
- Even refuges may not be able to accommodate them or can only accommodate them for a very 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.
- Medium or longer term accommodation is not available for them, so 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
- Many women with immigration status dependent on their spouses/partners do not have the right to work.
- Women's Aid's research *Making the Links* 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 to leaving by negatively affecting the woman's access to both financial support and to a refuge.

#### **References:**

<sup>1</sup> Department of Economic and Social Affairs Division for the Advancement of Women, Handbook for Legislation on Violence against Women, Advance version, United Nations, New York, 2009, page 26.

<sup>2</sup> EU Directive on Family Reunification of 3<sup>rd</sup> country nationals EU Directive 2003/86

<sup>3</sup> Directive 2004/38/Ec Of The European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union.