

Ministry of Justice Amends Current Legal Aid System for Victims of Domestic Violence



Angela O'Connor

Since the changes introduced by the Legal Aid Sentencing and Punishment of Offenders Act 2012 came into force in April 2013, many vulnerable people

are no longer eligible for legal aid funding in certain family matters.

The current rules state that to be eligible for legal aid in certain matters, the client needs to show that they have been the victim of domestic abuse or that social services have concerns about their children due to the opponent's behaviour. The Legal Aid Agency is strict in what they accept as evidence of domestic abuse. A requirement of showing evidence of domestic violence within the previous 2 years was initially imposed; this has since extended to 5 years.

What many practitioners and clients have found is that even if a client has been the victim of domestic abuse, if they do not have the required evidence within the time-frame, they will not qualify for legal aid.

The problem then arises when family law issues need to be resolved and court proceedings begin. Quite often the courts see victims of abuse who do not qualify for legal aid, without the funds to pay a solicitor privately, representing themselves in court. This means they have to come face-to-face with their abuser and, in certain cases, be cross-examined by them in court.

Thankfully, the Ministry of Justice has announced plans to change the current system, abolishing the time frame for the abuse to have taken place and the 5 year time limit for

evidence of abuse. The new rules, due to come into force in January 2018, widen the range of evidence, for example permitting statements from domestic abuse support organisations and housing officers.

This will assist some people in getting legal aid, but not others who are too scared to speak out. Domestic abuse, by its nature often takes place behind closed doors with the victim too afraid to speak out. Eventually, though they may find the strength to leave the abusive relationship, many victims will not report the offender to the police or seek assistance from medical professionals or domestic abuse agencies.

In my view, although these changes are welcome, there is still a way to go in ensuring that the most vulnerable are able to access legal aid.

Author, Angela O'Connor, is a Childcare Solicitor specialising in public law children matters, including domestic violence, neglect, substance abuse, mental illness, serious non-accidental injury, sexual abuse and fabricated or induced illness cases. She is experienced in dealing with Emergency Protection Orders, Supervision Orders, Special Guardianship matters, contact and residence disputes, specific issue and prohibited steps orders.

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