

- **Experiences of the operation of legal aid services:**

Shetland Women's Aid (SWA) provides support to women, children and young people in the Shetland Isles experiencing domestic abuse. We cover mainland Shetland and the 15 inhabited islands. SWA provide advocacy, support and advice around matters such as housing, social work, police, benefits and grants, maternity and above all emotional and physical safety.

There are times when legal assistance in these areas is needed though and it is important that legal aid for family and immigration law, in particular, remains available and accessible to our clients. Women who leave abusive partners often present to our service in financial hardship and at risk of homelessness. This often includes women who have some form of employment but perhaps no access to household income and often they have children with them. In line with Scottish Women's Aid, a positive outcome for women, children and clients experiencing domestic abuse is that they have access to solicitors who are aware of the dynamics of domestic abuse, and who can provide targeted legal assistance in complicated and, often unsafe situations. It is proposed that one way this could be met by providing specialist solicitors working within the Women's Aid setting or within an agreed legal firm and it is absolutely felt that this is a, not only local, but nationwide unmet need.

- **Examples of projects, services, innovations or improvement work, including evaluations or assessments, which may be relevant to the work of the review:**

Shetland Women's Aid (SWA) provides two specialist advocacy, advice and support services within Shetland, as well as counselling and children's services. The Adult Therapeutic Support Service and Independent Domestic Abuse Advocacy Service supports the immediate safety, housing, advice, advocacy and other such needs of women entering our service, with the latter specialising in supporting clients who are at higher risk of serious harm. Supporting women and young people to access appropriate legal services to protect themselves and their families is an important aspect of our service and we work hard to help clients to access solicitors, legal advice and emergency protective measures.

- **Views on the obstacles to and opportunities for improvement:**

Accessibility

SWA has observed a number of barriers for women in the Shetland Isles being able to access legal assistance, particularly for civil cases. If a search is performed on the Scottish Legal Aid Board's website for a "local solicitor" – there are ten firms listed, six of whom are not in the Shetland Isles and are a plane/boat journey away so not easily accessible. Of the three listed as being in Shetland, **none** of them undertake civil legal aid cases and one will undertake criminal legal aid cases. This meant that until around 2 years ago, there were no local solicitors offering legal aid services in Shetland until Herd Law, an Orkney based firm opened an office in Shetland – this office is not listed on the SLAB website.

SWA feels that women should be able to access legal representation locally. It is important for women leaving an abusive relationship that they feel they have control over their legal process and having a choice is part of this. Women require assistance from a solicitor who understands the complexity and dynamics of domestic abuse and this relationship can be difficult over the phone when the woman does not have the opportunity to meet her solicitor face to face.

Quality of service

Experiences of our clients who have legal representation from legal aid solicitors from outwith Shetland has been mixed. Whilst there has been some positive feedback, we have had a number of issues around quality of service raised time and time again.

Women who contact the Civil Legal Assistance Office (CLAO) are often asked to wait two weeks for CLAO to source a solicitor that will take on the case. This wait is then extended in cases where the solicitor requires an initial face-to-face meeting with the woman. Many women have reported having to pay to travel to solicitors offices on Mainland Scotland to sign particular documentation or for initial meetings. It is costly to travel outwith Shetland and this is not a viable option to our clients whose financial means are restricted anyway.

There have also been issues with the solicitors from outwith Shetland being able to access funds to travel to Shetland to represent clients which has resulted in a number of our clients being represented by agents, many of whom they are having their first conversations with on the morning of court. In at least one case, we have had no contact from the solicitor and they have failed to attend altogether, in another the solicitor for the other party quit and there was no one to take over, which has left a women now waiting potentially months for the resolution of her legal case which has already been ongoing for two years.

Many clients feel that they are unable to have direct contact with their solicitors and there is not an office nearby that they can attend to address this. Women feel that this is an impersonal service.

There is one firm, Herd Law from the Orkney Isles who have recently (in last couple of years) opened an office in Shetland and have taken on civil legal aid cases. This has helped ease the situation in Shetland and feedback from clients regarding service is largely positive. However, women in Shetland are limited for choice in the sense that if they want local representation, they only have one option. This becomes even more limited if Herd Law are representing the other party. This will also inevitably mean a higher workload on this particular firm which, in turn, may mean longer waiting times for clients to be seen.

This waiting time has meant that clients requiring an emergency measure such as an interdict, which can be in place within 48 hours in other parts of Scotland, are having to wait weeks, not days for the process to be completed.

SWA would like to see greater availability of civil Legal Aid solicitors in Shetland, whether this is in the form of encouraging local legal firms to take on civil legal aid cases or whether there is a need for the creation of a local specialist legal aid service – something that Scottish Women's Aid has been considering.

SWA would like to see the safety of women in our isles increased by the availability of emergency interdicts or legal remedies, preferably within 48 hours as opposed to weeks as we experience the moment.

SWA would like for there to be a recognition that there is additional travel costs required for Legal Aid solicitors from outwith Shetland to be able to provide an acceptable service to clients in Shetland and that this is adequately funded as to fully support the clients that they are representing.

Specialist service

As above, an issue that presents itself often through clients of SWA is finding representation from solicitors who are aware of the complex dynamics of domestic abuse. There are an overwhelming number of clients who are advised by their solicitors to attend mediation by their solicitors. This is absolutely inappropriate as domestic abuse is never a situation that requires “resolution” – it is a pattern of manipulative and controlling behaviour of one of the parties which can be further perpetrated in a mediation environment.

Women very often feel that they are being portrayed as unreasonable for minimising contact between a perpetrator and any children in their attempts to protect the children and this has resulted in Legal Aid being withdrawn or, even worse in one case, jailed.

Women are also informing us that they are being told “not to mention” domestic abuse and that it is not “relevant” in their cases. This has also happened in court whereby Women’s Aid workers as witnesses have not been allowed to discuss domestic abuse.

SWA feels that there is an unmet need for local solicitors that have specialist knowledge of domestic abuse and its impact on, not just women but children too.

Financial Issues for women

Women who present to our service are more often than not in financial hardship; often at risk of homelessness and often presenting with children who are at risk of poverty. It is important that the availability of legal aid does not present a barrier to women accessing measures to protect themselves and their children.

We have experienced barriers to accessing legal aid for 16/17 years olds. A female under the age of 18 who has been, for example, sexually assaulted and wishes to apply for an interdict to prevent her perpetrator from contacting her may not be eligible for legal aid due to the level of household income of her parents. SWA are seeing an increasing number of young women under 18 accessing our services who are in abusive relationships or who have experienced gender-based violence. We feel that they should have fair access to civil legal remedies in their own right.

SWA would like to see consideration given to providing free legal services to all women, children and young people who are experiencing domestic abuse. Women in this situation should not have to be at risk of further service-generated harm due to the difficulties in accessing and affording legal support or be prevented from obtaining protective measures out of fear of further poverty or debt.

SWA would like to see more support for clients under 18, particularly 16 & 17 year olds who are not in education, to access civil measures such as interdicts for their own safety without having to have their household income considered.

• **Views on the options for the future.**

On a Scotland wide scale, Shetland Women’s Aid feel strongly that there should be better quality, easily accessible civil legal services for women experiencing domestic abuse. Many of the women using our service require legal services as a means of protecting themselves and/or their children but are experiencing barriers towards doing this.

In this response SWA has outlined a number of options for the future of legal aid provision on both a local and national scale. This includes locally trained solicitors with a specialist knowledge of the dynamics of domestic abuse and its complexities. The availability of legal aid should not be a barrier for women, children and young people who are experiencing domestic abuse and require protective measures.

Locally, Shetland women require specialist local legal aid solicitors within the island, provisions made for solicitors outwith Shetland to be able to cover the costs of travelling to Shetland and a higher quality service from solicitors outwith Shetland. It is also of utmost importance that the barriers to emergency legal services in Shetland at the moment are removed so that women have access to emergency protective measures within days rather than weeks.