



Sheamus Brennan, T.D. Minister for Social & Family Affairs launches the Law Centre's Website.

Law Centre Update

The Law Centre recently launched its website and Social Welfare case base on the 28th of June last. We were delighted that the Minister for Social and Family Affairs Seamus Brennan was able to launch the website and case base and we were much encouraged by his kind words of support for the work of the Law Centre and for the development of such projects as the website and case base.

The website provides practical information about the legal services offered by the Law Centre and creates links to many other sites offering information and advice on a wide range of legal issues. Minister Brennan described the new website as a significant addition to the services offered by the Law Centre. He also referred to the social welfare case base and described it as "unique" and further stated that the "case base will complement the information already available in this area on the website of the Social Welfare Appeals Office".

The highlight of the website is the social welfare case base which is a database of decisions made in social welfare appeals cases taken by clients of the Law Centre. The case base allows a person to search for cases similar to their own by the type of social welfare benefit being appealed and will assist people all over the country to take appeals to the Social Welfare Appeals Office. The website will also feature a news and events section which will give details of all courses offered by the Law Centre. The Law Centre's publications including the newsletters, research reports and submissions to government will also be available which can be accessed at www.nclc.ie

Sheamus Brennan, T.D. Minister for Social & Family Affairs and Tom Brennan, Chairman Northside Community Law Centre, browse Casebase on the Northside Community Law Centre's website.



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Editorial Note: Welcome to the ninth issue of our Newsletter. The Law Centre has been very busy in recent months and it was decided that two issues shall be published each year. Therefore we have a lot of news to catch up on as this is our first issue this year. In addition to our usual areas of work we also launched our website and database referred to above. We also have included in this issue other news of interest to the local community such as the redevelopment of the maisonettes and also news on Dublin City Councils policy towards bin collection for those who refuse to pay service charges. Also a short article on a recent decision from the Valuation Tribunal regarding the payment of rates involving the City Centre Citizens Information Service. We hope the articles provide much food for thought. If there is a particular issue you would like us to raise in the Newsletter please contact the Law Centre.

Northside Community Forum Submissions

The Northside Community Forum (NCF) was established through a series of facilitated sessions with community groups operating in the catchment area of Northside Partnership during 2002–2004. The NCF currently represents 47 members from within the community and voluntary sector such as Community Development Projects, Media Initiatives, Youth Projects, Adult Education, Childcare, Residents Associations, Drug Prevention Schemes, Family Resource Centres and the Law Centre. The formation was a response to issues of mutual interest among local community & voluntary organisations such as funding issues, information sharing and collaboration. The structures and ways of working are open and inclusive and are based on commitment to social inclusion, equality and anti-poverty. Its focus is to collaboratively work on issues together concerning the local community.

Objectives of the Community Forum

- Jointly work on an equal basis as the community & voluntary sector in partnership with the Northside Partnership and other relevant stakeholders on policy issues that address the needs of the people Community Forum members represent and work with
- Create a common voice for community sector groups who work from a social inclusion and equality perspective
- Develop anti-poverty policy positions on relevant issues across the sector
- Build up momentum to collectively engage in dialogue and have an input in decision-making
- Establish links with other initiatives and groups to support the aims and objectives of the Community Forum
- Establish relationships between groups with a similar agenda/from a similar background
- To become less dependent (financially and politically) on the statutory sector

The NCF is operated by a Steering Committee and has established various Sub-Committees to advance the objectives of the Forum. The Policy Sub-Committee has made 2 submissions to government recently representing the views of our community and to influence policy.

Submission to the Working Group on Domestic Partnership

The NCF made a submission to the Working Group on Domestic Partnership. The Working Group is to prepare an options paper for presentation to the Minister for Justice, Equality & Law Reform later this year. The terms of reference of the group are:

- To consider the categories of partnerships and relationships outside of marriage to which legal effect and recognition might be accorded, consistent with constitutional provisions and;

- To identify options as to how and to what extent, legal recognition could be given to those alternative forms of partnership, including partnerships entered into outside the State.

The call for submissions on domestic partnership comes at an important time and in the context of:

- The findings of the All Party Oireachtas Committee on the Constitution regarding the family;
- Recommendations of the Equality Authority and Law Reform Commission;
- The European Convention on Human Rights Act 2003 and rulings of the European Court of Justice;
- The Good Friday Agreement;
- Pending litigation.

1. Local Experience

The experience of groups working in the Northside area of Dublin reflects the fact that greater numbers of our community now co-habit in increasingly diverse situations. CSO statistics show that in 2002 approximately 77,000 families co-habited outside of the traditional family based on civil and religious marriage ceremonies, and that 1 in every 3 children born in Ireland are born to unmarried parents. Research in 3 of the poorest areas in our catchment, Belcamp, Darndale and Moatview revealed that 48% of children are born into lone parent families.

This submission supports the recognition of domestic partnerships. At present couples and families living together outside of marriage are largely denied any form of legal recognition despite the fact that they have formed stable, long lasting personal and committed relationships. This lack of formal recognition of family diversity is a denial of a basic human right. It can be argued that such a right may be recognised in Irish law through the incorporation of the European Convention on Human Rights however it should be recognised and protected by direct legislation. Some commentators suggest that recognition of domestic partnerships may constitute an attack on the family based on marriage as protected by the Constitution. We do not accept this argument and submit that recognition of domestic partnerships at a sub-marriage level is possible without Constitutional amendment.

2. Categories of partnerships & relationships to which legal effect & recognition might be accorded

Co-habitation between a man and a woman is the most obvious and most common form of alternative domestic arrangement. However, there are currently no defined rights for any co-habiting partners in Ireland.

The European Court of Human Rights has recognised that family relationships arise and must be protected; the Court has found that “family life” may result from any number of arrangements demonstrating a committed relationship between two people.¹ The European Court of Human Rights has also held that co-habiting same sex partners are entitled to the same rights as co-

habiting opposite sex partners,² however as stated co-habitees do not have any defined rights in this country.

This submission supports the introduction of legislation to recognise domestic partnerships between couples irrespective of sexual orientation.

It could be argued that couples have the option of having their union legally recognised through the civil marriage ceremony. Many couples do not wish to become “married” in the conventional sense for a variety of reasons, but would prefer the option of legal recognition of a domestic partnership for economic, social, and legal purposes.

The recognition of a legal relationship between non-married couples would not pose a threat to the established, traditional and constitutional definition of marriage as it does not purport to allow the couples to ‘marry’ per se. Couples would continue to have the option to marry (or not) according to conventional legal requirements. The recognition of a legal relationship for domestic partners therefore would not require any amendment to the Constitution.

3. The extent of legal recognition of domestic partnerships & options as to how legal recognition could be given to domestic partnership

Many different types of legally recognised domestic partnerships exist in different countries. Thirteen other western European countries have already introduced forms of registered domestic partnership. They include Denmark, Norway, Sweden, Spain, Iceland, France, Germany, Portugal, the Netherlands, Switzerland, Finland, Belgium and Luxemburg. Other countries across the world have similar provision including Hungary, Croatia, Canada and parts of the USA, Australia, and New Zealand, as well as Brazil, Argentina and Israel.

Some countries have named these as ‘registered partnerships’, others as ‘partnership rights’ or ‘civil solidarity pacts’ and others still as ‘de facto unions’. Registered partnerships appear to be the most frequently used description and would appear to be the most correct name for the recognition of domestic partnerships that the NCF supports i.e. a procedure where couples elect to formalise a domestic partnership securing similar rights and responsibilities to civil marriage but not recognising these partnerships as marriage per se.

The NCF submits that legislation should be enacted to provide for registered partnerships providing couples with the following fundamental social and economic rights:

- The right to nominate a partner or successor and the right to designate a partner next of kin for medical purposes.
- The right to recognition of domestic partnerships for employment purposes and the right to residency and work permits for foreign partners.
- The right to be taxed jointly.
- The right to welfare benefits as a couple.

- The right to housing as a couple and tenancy rights as a couple.
- The right to survivor pensions and recognition for life assurance.
- Succession rights as a couple.
- The right to parenting, fostering, and adoption of children and the right to nominate a partner as co-parent or guardian of a child.

The legislation should also include the following responsibilities:

- Maintenance for the domestic partner
- Maintenance for children
- Joint treatment for taxation and state benefits

The legislation should also include a registration procedure for these partnerships and include provision preventing either partner from entering into a registered partnership or marriage with another until the partnership is legally dissolved. A dissolution process including provision for the equitable distribution of property and assets will be required. It will also be most important for government to make provision for adequate resources to allow couples access legal advice and services should their domestic partnership breakdown.

Legal recognition of domestic partnerships is necessary on a day to day basis, but also and perhaps more importantly, at times of great personal stress such as the death of a partner in a long term relationship. The recognition of domestic partnerships in a separate legal structure does not overlap or attack the traditional and constitutional definition of marriage in any way. Arguably, the recognition of domestic partnerships strengthens marriage by recognising the value and importance of committed relationships to society generally.

The Northside Community Forum supports the legal recognition of domestic partnerships as it will remedy injustices faced by constituents in committed long term relationships, and that will send out a signal that society values committed relationships in all their forms.



Submission on Proposed Changes to the One Parent Family Payment

The Northside Community Forum (NCF) also made a submission to the Department of Social & Family Affairs in relation to the government's proposals to reform the social security arrangements for Lone-Parent Families who constitute a significant segment of the overall family population of our catchment.

While the Government is committed to tackling child poverty and this has been a key objective under the last Social Partnership Agreement, the National Action Plan Against Poverty and Social Exclusion and the National Children's Strategy, nevertheless more than 20%³ of children are living in poverty in a very wealthy society. These statistics are no surprise to members of the Northside Community Forum who work with families in our catchment on a daily basis. Our main concern in making this submission is to ensure that any proposed changes do not create further stress, poverty and marginalisation on families already under huge pressure.

1. Review of the reform proposal

The Northside Community Forum welcomes the proposed ending of the cohabitation rule, a policy which has been degrading to women and may well have interfered with the efforts of fathers to develop and maintain stable and secure relationships with the children. A further positive effect of the ending of this rule is the move away from the male breadwinner model and an attempt to further individualise the social welfare system.

We welcome the focus on all families living on low incomes rather than categorising particular families in ways which can create poverty traps which have the effect of preventing them from becoming socially and economically independent.

The acknowledgement of parenting either by mothers or fathers through the payment of a Parental Allowance to all families who rely on social welfare is most welcome. However, We are very concerned that the age related nature of this payment to be paid until child is 8 years of age may lead to severe poverty traps which will push lone parent families further into poverty and marginalisation

According to a number of our members who are in contact with lone parents on a daily basis, moving away from receiving the Parental Allowance when a child is 8 years of age on to Unemployment Assistance will be a retrograde step and has the potential to put already marginalized people into deeper poverty. We believe that this should not occur until the child is 12 or 14 years of age.

The reintroduction of the limitation rule will result in a severe drop in income for lone parent families and will have the effect of increasing the levels of poverty already being experienced by them. While it is theoretically possible to argue for economies of scale where there are two adults in a family, it is much harder to

determine the exact situation in each and every family. Moreover, these changes will be occurring at an age when the cost of rearing a child increases.⁴

Access to affordable childcare is a major issue for all families, but it is absolutely vital to lone parents if they are to take up opportunities offered by these reforms. The bulk of childcare currently being provided in our catchment is in the private sector which even though their wage costs are based mainly on the minimum wage, they charge on average 250 per week for a full time place. Even where community childcare receives subsidies through the EOCP⁵ and the CSP⁶ they cannot make ends meet as lone parents even though they are in employment cannot afford to pay the full cost of providing childcare. Once childcare providers pay above the minimum wage, which is essential to attract staff who can deliver a quality service to children, the costs of provision



rises; on average it costs community childcare facilities 215.00 per week to provide one full time place. The majority of families in disadvantaged communities can only afford around 60% of this price thus creating a major problem of sustainability for the community childcare sector.

Moreover, our experience is that none of the statutory agencies involved in the support and promotion of strategies designed to encourage young people to stay in school or training is that none of them are willing to provide subsidies that bear any relationship to the actual cost of childcare provision.

2. Children living in poverty

National representative organisations working in the field of family support and relevant statutory agencies continue to express grave concerns about the extent of child poverty nationally. The effects of poverty on children have been well documented and include, behaviour problems, early school leaving and ill health.

In our catchment the results of a research project undertaken in October 2005 in three of the poorest neighbourhoods in our catchment, Belcamp, Darndale and Moatview strongly concur with this view. The research revealed that 48% of children are born into lone parent families. One in three children are born into households that are dependant on social welfare, as their only source of income and 62% of families cannot afford things like



holidays, birthday presents and school trips. In addition, 65% of residents have problems with heating and damp in their homes, 20% of children have eating problems, 26% of children display significant behaviour problems before starting school and of those who started school in 2005, 31% of them had missed ten or more days by the end of March 2006.

While these levels of poverty, deprivation and exclusion are not a common feature across the catchment, they are an example of the effects of poverty on some of the most marginalized families in our society and those most likely to be affected by any proposed changes outlined in the Government Discussion Paper

3. The rights of the child

The Irish constitution and the its EU counterpart as well as the United Nations Convention on the Rights of the Child sets out the rights that must be realized for children to develop their full potential, free from hunger and want, neglect and abuse. It reflects a new vision of the child. Children are neither the property of their parents nor are they helpless objects of charity. They are human beings and are the subject of their own rights. The Convention offers a vision of the child as an individual and as a member of a family and community, with rights and responsibilities appropriate to his or her age and stage of development. By recognizing children's rights in this way, the Convention firmly sets the focus on the whole child.

The Irish Government in its second report to the UN Committee on the rights of child highlighted the progress being made in relation to the well-being, education and welfare of Irish children. However, it is clear from the statistics outlined above, that children living in our community are not benefiting from the new wealth being created by the economy. Moreover, public services continue to be patchy. There are long waiting lists for the education psychological services, speech therapy and assessment of special educational needs. Regarding pre-school education it is internationally recognised that access to early years education has major social and economic benefits to children living in poverty and exclusion. In our catchment area the numbers of community pre-school playgroups are low and families living on low incomes cannot afford to access places in privately run pre-school playgroups.

It is quite clear that children described above include those most likely to be affected by the proposed reform of the One Parent Family Payment. The government has a moral responsibility to ensure that any of these changes do not impact negatively on their life chances, already significantly impaired by poverty and exclusion, otherwise it could be argued that it is in contravention of provisions of the Irish Constitution and UN Convention of the Rights of the Child.

¹ *Croone - v - Netherlands, European Court of Human Rights Judgement of the 27.10.1994.* ² *Karner -v- Austria, European Court of Human Rights Judgement of the 00.00.2003 Combat Poverty Agency.* ³ *Carney et al (1994), The Cost of a Child, Dublin: Combat Poverty Agency.* ⁴ *Department of Justice, Equality & La Reform's Equal Opportunity Childcare Programme.* ⁵ *Community Services Programme, formerly the Social Economy Programme.*

Re-development of the Bunnratty Maisonettes - A step in the right direction?

The re-development by Dublin City Council of the maisonettes on Bunnratty Road is to be welcomed. Planning permission was granted on the 3rd April 2006, and it is expected that work will commence in the autumn. Three green areas situate at the middle and both ends of the maisonette complex are to be replaced by a sports recreation area at Barraycourt Road, a public park opposite Northside Civic Centre, and a children's play area at Coolock Drive. The twelve maisonette blocks along the Oscar Traynor Road are to be demolished and replaced by 102 units, comprising 2 and 3 bedroom houses and 1, 2, and 3 bedroom apartments. It is also proposed to convert the 12 maisonette block on Bunnratty Road into self contained dwellings, each with their own door access, private open space at the front of the dwelling with a clothes drying area to the rear. The Bunnratty Road maisonettes will be re-developed into 12 blocks with 4 units each containing two 3 bedroom houses, 1 bed house, and 1 two bed apartments. Some of the new units will be for sale under the affordable housing scheme.

The initial phase of the re-development will involve the demolition of the maisonettes on the Oscar Traynor Road. It is hoped the project will be completed towards the end of 2009. Most importantly the consultation process between the City Council and the Residents must be maintained and the genuine concerns of residents must be taken on board by the City Council.

Dublin City Council's policy on non-collection of bins

Dublin City Council have commenced a policy of non collection of bins of householders who have refused to pay service charges. Non collection has begun in a number of areas in Dublin North East and North Central.

The City Council contend that service charges are necessary to finance local government services and to act as an incentive to reduce in waste disposal. The anti-bin tax campaign, which oppose the imposition of service charges, believe the bin tax is a double tax, and argue that ordinary taxpayers have already paid for such essential services through their general taxes.

The dispute between the City Council and the anti-bin protestors has ended up in the Courts. On two separate occasions, the Circuit Court has ruled that service charges for 2001/2002 were illegal. The Circuit Court ruled the City Council had not adhered to its own waste management plan which promotes the polluter pays principal yet it failed to apply reduced charges to householders who disposed of less waste.

The City Council have issued proceedings in the Supreme Court to resolve this issue. Watch this space, if you have paid service charges for 2001/2002, you may be entitled to seek a refund if the Supreme Court upholds the decision of the Circuit Court. The Supreme Court case is unlikely to be heard before November 2006.

Please note if you are in a low income household you may be entitled to an exemption from payment of service charges. You should contact Dublin City Council, Waste Management Section and seek a waiver form. Currently the exemption levels are €7,000 for a single person, €4,000 for married couples and €75 for each of the first two children and €30 for each subsequent child.

Decision of the Valuation Tribunal to be welcomed

The Law Centre represented the City Centre Citizens Information Service (CCIS) as part of the Voluntary Assistance Scheme run by the Bar Council of Ireland before the Valuation Tribunal appealing a decision of the Commissioner of Valuation to charge the CCIS commercial rates for services. The decision to impose rates was considered unreasonable by the CCIS as it considered it provides services which have a "charitable purpose" and therefore should be exempt as provided for under the Valuation Act 2001. This decision to charge rates was seen as even more unreasonable as the City Centre Citizens Information Service which has offices in Green St. and provides exactly the same service was considered exempt as falling within the meaning of providing a "charitable purpose".

The case was heard before the Valuation Tribunal on the 20th April last and the key issue for the Tribunal to determine was whether the services provided by the CCIS could be considered as providing a "charitable purpose". There is no statutory legal definition of what constitutes a "charitable purpose" though there has been much case law on the subject however it was argued by Counsel that the services provided by the CCIS which provides information on legal rights and entitlements, and does advocacy work on behalf of individuals in respect of those rights

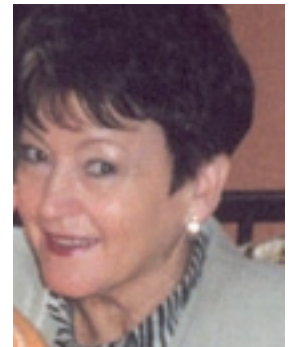
and entitlements would satisfy the definition. In addition the CCIS is situated in particularly disadvantaged area of Dublin and most of their clients would not be able to afford to pay for their services thus reinforcing the argument regarding a charitable purpose.

The Valuation Tribunal delivered a very comprehensive decision on the case and found in favour of the CCIS upholding its appeal. The Tribunal listed 8 factors which it found central in reaching its decision and finding that the services provided by the CCIS would be considered as having a "charitable purpose". The decision should be of significant benefit to any other Citizens Information Centre that finds itself charged with rates which can be a considerable amount and should contact the Law Centre for a copy of the decision. This decision is also of benefit to all other charitable organisations who would provide similar services.

Obituary for Patricia Valentine

It was with great sadness we learned that Patricia Valentine, Donaghmede died on 21st August 2006 after a long illness.

Patricia worked at the Law Centre since 1998 as Receptionist and Administrator. Patricia was well known for her sensitive and kind manner, her dedication to her job and was tremendously popular with colleagues and clients of the Centre. Patricia bore her illness with great courage and strength. She will be missed by her colleagues and friends



at Northside Community Law Centre and we offer our sincere condolences to her family at this sad time.

