



Against Domestic Violence

Crisis in DV Services

Women's Aid, the national domestic violence charity, has declared a state of crisis in domestic violence services. Its Annual Survey confirmed that there is now a chronic underfunding in the violence against women sector. The charity warned that, unless there are improvements, an entire network of domestic violence providers in England may well collapse.

As a result, many more women and children are likely to remain in abusive situations or more likely to return after they have left given the increased difficulties faced in finding help. Cheaper service provision often results in loss of expertise. In 2012, an estimated 27,900 women were turned away from the first refuge they approached; 7,085 victims were turned away from non-refuge services.



Diary notes

A variety of women's /family support groups and confidence building groups, look at the impact of Domestic Violence on children and moving forward. Some groups are run jointly with Solace Women's Aid. For more information contact Karen at karen@jwa.org.uk.



JWA's **annual lunch** will take place on 8 May. The Guest speaker is Cressida Dick, Assistant Commissioner Metropolitan Police. Please contact tara@jwa.org.uk for a ticket!

Save the Date! 25 November 2014 – Eileen Fisher fashion show, Covent Garden Store. For more information please contact tara@jwa.org.uk

Jewish Women's Aid

One woman in four will experience domestic violence in her lifetime. It affects all women, regardless of age, class, lifestyle or religion. The Jewish community is no different.

Jewish Women's Aid is a registered national charity run by Jewish women for Jewish women and their children who have experienced or are experiencing domestic abuse.

The Freephone helpline is 0808 801 0500.

Please see our website for more details – www.Jwa.org.uk

For Richer or Poorer

By Dawn Freedman



JEWISH WOMEN'S AID

The theme of this year's seminar for JWA Legal Panel and staff which took place on 11th November was the two ends of the spectrum. Jeremy Posnansky Q.C. addressed the duty to make full and frank disclosure and the principles applicable in situations where wealthy spouses made flawed and fraudulent disclosure in an effort to defeat an order for financial provision. Nannette Watson spoke of the practical problems facing lawyers and Judges in cases where, because of the withdrawal of Legal Aid from family law disputes, one of the litigants, usually the wife, was self-representing.

Emma Scott of Rights for Women explained the research her organisation had carried out into the difficulties experienced by victims of domestic abuse in accessing Legal Aid, even though, in theory, it had been retained for such cases. And, tragically following on from that, Heather Harvey of "Eaves" discussed the call by her organisation for a Public Inquiry into what goes wrong when domestic abuse is inadequately dealt with and culminates in the killing of the abused woman.

Jeremy pointed out that the duty to make full, frank and clear disclosure was absolute and the so-called "millionaires defence" of cavalierly telling the Court that he need not give details of his finances because he could afford any appropriate order, was probably defunct. He emphasised that in order to obtain justice a spouse should use every means to force disclosure, since it has the effect of concentrating the mind of the recalcitrant spouse wonderfully. He also covered the many other means at the solicitor's disposal to obtain the necessary disclosure and the consequences of non-disclosure including the guidance given by Lord Sumption in Prest v Petrodel on drawing adverse inferences in situations of non-disclosure.

We then moved to the other end of the social scale when Nannette told of the insurmountable difficulties facing litigants in person. It was never easy for solicitors to obtain evidence but, among other issues, since police officers usually failed to arrest an abuser but simply tell him to leave, there is a lack of evidence of arrest, information from police is rare, MARAC does not produce

reports, medical reports have to be paid for and there is no evidence to cross the threshold for legal aid. Hence the victim has to self-represent. They cannot anticipate the evidence of the other party or prepare bundles. Judges have to rummage through files. All of this leads to delays, slow hearings and ultimately a greater cost. She referred to a warning from the senior judiciary that injustice and expense would result from the cuts to legal aid, in particular, Lord Neuberger, and so it had proved.

Emma described the responses to her research encapsulated in the response "Legal Aid made it possible to stand up to my partner and finally resolve issues". She predicted that victims would not go to Court without legal aid and that this would result in more deaths. The government had promised that victims of domestic abuse would continue to be protected by legal aid but in the Home Secretary's own words, crimes are committed behind closed doors in secret. In fact, research showed (as Nannette had observed) that most of the evidence required to obtain legal aid falls outside any of the "gateways". Continual pressure was being brought on the Ministry of Justice by the research and she appealed for as much help as possible in seeking to have the cuts rescinded.

Heather began by saying that two women a week are killed by their current or previous partner and that the statistic is so common that it has become normalised. In every case chances to protect them had been missed. She called for a more extensive public inquiry to examine all the issues, such as how cases of domestic violence are recorded, why cases are dropped, police and other agencies' failings, risk assessments and other factors. She asserted that there always risk factors evident in murder cases particularly looking at patterns of behaviour and spiralling risk. She shocked even the case-hardened solicitors and community support workers with the statistic that one in two boys think it is o.k. to hit a woman or force her to have sex. She was confident that a public inquiry would give greater voice to domestic violence survivors, experts and victims' families. Without understanding and addressing the root causes, it is not possible to solve the problem or transform attitudes and the allocation of resources.

The atmosphere was lightened by the lovely room, delicious supper and enjoyable chatting during the break.



Mediation in Difficult Cases

By Elissa Da Costa-Waldman MCI Arb

Mediation is a process whereby Clients arrive at their own solutions or settlement proposals in relation to children or financial issues via negotiation and discussions facilitated by an impartial Mediator. The Mediator assists the Clients in identifying the issues they need to resolve and finding the most sensible and practical solutions for the family. Mediation can be said to have the following advantages-

- Reduces tension and hostility
- Solutions are tailor made to the Clients' needs (by the Clients with the assistance of the mediator)
- Decisions are made on an informed basis
- Clients are able to communicate and co-operate
- Clients are able to explore and examine options in a safe environment
- Clients are able to appreciate and consider the needs of their children
- Savings in costs as disputes may be resolved more quickly and efficiently

All these are laudable objectives but are they achievable at all in a case to which domestic abuse provides an unhappy backdrop? Can mediation ever work in such circumstances? It has to, given that so many Clients fall outside the new and somewhat limited legal aid framework, and even for those that qualify, the Legal Aid Agency will look to save costs by encouraging parties to mediate rather than litigate.

Abusive relationships do not preclude mediation taking place and being successful. It is important to choose the right mediator, i.e. one with the appropriate legal training for the particular issues in dispute and with a level of experience such that their 'people skills' will be well honed to recognise when one party is seeking to pressurise or manipulate the other, in order to continue the cycle of abuse and control.

The environment is also an important factor in making mediation conducive to settlement in abuse cases.

There are two basic ways of mediating a family dispute using either the 'Resolution' model comprised of a series of meetings between the here are other options:-

1. **Shuttle Mediation** – parties in different rooms and the mediator travels between them. Obviously the Clients would be well advised to have someone present for their protection and comfort when the mediator is out of their room and somewhere else.
2. **Telephone conferencing**
3. **Skype** – there is no reason (provided everyone has the same documentation where necessary) why mediations cannot take place via Skype or telephone conferencing.

It may be that other safeguarding procedures can be put in place, agreed between the parties and the mediator prior to the commencement of the mediation as to how the mediation is to proceed, which could form part of the Agreement to Mediate. If a party was unwilling to accept these as terms of the Mediation Agreement then clearly mediation may not be the appropriate option for resolving the dispute.

For Clients for whom a series of meetings is both too expensive and too daunting notwithstanding the suggestions above for easing the pressure, the one day commercial model offers a solution.

The commercial model is used where the parties have already exchanged their financial disclosure, intend to attend mediation with their respective lawyers and intend to resolve all their financial issues in one day and to have a binding agreement drafted at the conclusion of the mediation.

This provides a solution to the dispute which endeavours to conclude the matter in a relatively short space of time, the ground work already having been done.

The respective Clients attend with their own legal representatives and there is no need to meet the other party face to face if they prefer not to do so. Again the mediator can shuttle between the parties and the lawyers are on hand not only to advise but as an additional presence should that prove necessary.



Clare's Law

A scheme which gives people the right to ask police if their partner has a history of domestic violence has been extended nationwide. Named after Clare Wood, who was strangled and set on fire by her ex-boyfriend George Appleton in 2009, the Domestic Violence Disclosure Scheme is being trialled by four police forces.

This comes as domestic violence rates have risen to their highest recorded levels with 1.2million women and 800,000 men having reported being victims of domestic abuse last year, up 10% in the past three years, according to the Crime Survey for England and Wales. Yet, the number of cases the police refer for prosecution has fallen by 13%.

Under the scheme as well as the potential victim, a third party such as a parent can also apply for information. But some charities have suggested that most abusers are not known to the police and more should be spent on improving police responses to domestic violence and funding refuges.

Domestic Violence Protection Notice

A reminder about the latest initiative aimed at protecting victims of domestic violence – being the Domestic Violence Protection Notices and Orders which were introduced by the Crime and Security Act 2010.

A suspect may be arrested if police have reasonable grounds for suspecting that an offence has been committed ie that the suspect has used or threatened violence and that an order is necessary for the victim's protection.

A breach of a Domestic Violence Protection Notice or Order is punishable with a maximum fine of £5,000 or up to 2 months imprisonment. Critics say that two months is not long enough to be a serious deterrent.

Law Commission proposals

We still await the report of the Law Commission Report on pre nuptial agreements including a draft bill. Whether, if as is expected, they recommend that PNAs become legally enforceable, there would be Parliamentary time for legislation in the current session, is probably doubtful. If the Bill were to be enacted, it will be necessary to consider its impact on the PNA currently offered by the Office of the Chief Rabbi. What will be the effect of the requirement for independent legal advice and will legal enforceability constitute coercion, thereby invalidating a Get given as a consequence thereof? There will be a full discussion of this topic in the next newsletter. Contributions are welcome.

Effect of DV on children

An epidemic of domestic violence is having a damaging effect on a generation of children. A report from the Early Intervention Foundation confirms that youngsters who have seen their mothers beaten are just as damaged as children who have been physically abused themselves. Many such children who witness fights between their parents suffer grave psychological damage including depression, which can lead to high levels of aggression and antisocial behaviour.

The report also reveals worryingly high levels of abuse reported by girls aged 16 to 19 years old, in their relationships, with one in seven suffering violence. Many say the reason for this increase is that a significant proportion of young men appear to be learning about relationships from internet pornography and computer games

800,000 incidents of domestic violence were reported to police in England and Wales in 2011/2012.

Rabbinic Advisory Panel

A Rabbinic Advisory panel has been set up to help Client and Support Workers in relation to any religious queries they may have. Please contact JWA on 020 8445 8060 for more information.

Newsletter

It is planned to send out this newsletter three times each year. All contributions would be welcomed. Please contact Dawn Freedman at dawnandneil01@tiscali.co.uk.

