



Response to Mid-term Review

Second National Strategy on Domestic, Sexual and Gender-based Violence, 2016-2021

February 2019

Introduction

Established in 1973, the National Women's Council of Ireland (NWCI) is the leading national women's membership organisation in Ireland. NWCI seeks full equality between men and women and we draw our mandate from a membership of over 180 groups and organisations across a diversity of backgrounds, sectors and locations. We also have a growing, committed individual membership.

We strive to show leadership in bringing women together to build a consensus on the kind of society we want to be a part of, and on the key values, that we believe, should be at the heart of that society. Our feminist values of equality, inclusion, respect for diversity, empowerment and meaningful participation by women in society, are shared by Irish trades union and civil rights movements.

Our Strategic Plan 2016-2020, *Driving Women's Equality*, aims to build on the progress that NWCI has helped to bring about for women in Ireland to date and sets out our vision for the future to progress key human rights and equality issues for women.

Submission Structure

We welcome the opportunity to respond to the mid-term review of the Second National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021, and commend Cosc's commitment to ensuring this Strategy is fit for purpose. NWCI's comments reflect the lived experiences of the women that we have worked with and that have contacted us in huge numbers over many years. This submission is directly based on the Questionnaire¹ as provided by Cosc.

Role of NWCI in the implementation adopted recommendations

NWCI, as the national women's membership organisation, is committed to working towards the implementation of any adopted recommendations. Over the past 45 years, NWCI has developed strong evidence-based research resulting in the introduction of a range of policies advancing women's equality and human rights. We will continue to bring forward evidence-based proposals, the perspectives of our members and the lived experience of women on all elements of any recommendations adopted. In this way, we will work with Cosc, the Courts Service, An Garda Síochána the Department of Justice and Equality and the Policing Authority to support the modernising of the justice system in Ireland which meets the needs of women and advances equality for women in Ireland.

Key Recommendations

NWCI provides detailed responses to the specific questions provided in the questionnaire. However, we would like to draw Cosc's attention to the following three overarching points.

1. Data Collection

The Istanbul Convention recognises the importance of data collection and research, with Article 11 outlining minimum requirements. While the Strategy is committed to establishing a bottom line 'gold standard' of data collection and analysis by all agencies working in the area of DV and SV, and includes a number of actions in relation to data and disaggregation of data by gender, progress is unacceptably slow. The commitments in relation to data collection need to be reviewed, prioritised, and heavily monitored.

¹ Questionnaire accessible through the following link <http://www.cosc.ie/en/COSC/Pages/Mid-term-Review-of-the-Second-National-Strategy>

2. Domestic Homicide Reviews

Domestic Homicide Reviews are systematic multi-agency reviews which are used to improve risk assessment and management and to identify gaps in policy and practice, following such crimes. The Strategy must establish the practice of multi-agency reviews of domestic homicides every time such a crime occurs.

3. Access to Justice

Effective access to justice must be at the forefront of our justice system as excellent laws are rendered meaningless without a real ability to invoke them. The Strategy should include actions on *Strengthening Access to Justice for Women Victims of Violence*. This would assist in recognising the specific barriers that women face when attempting to access the courts.

Background

Violence against women (VAW) is the most significant crime impacting on women internationally and in Ireland. Domestic and sexual violence is a cause and consequence of gender discrimination and it needs to be located within a gender equality framework. In 2014, the EU Fundamental Rights Agency² reported that 25% Irish women had experienced a form of physical and/or sexual violence since the age of fifteen, and 8% experience physical and/or sexual violence each year. 79% of Irish women who have experienced sexual or physical violence have never reported it to an official body³ and less than 3% of women students said they had ever reported their unwanted sexual experiences to An Garda Síochána.⁴ This reflects persisting stereotypical attitudes towards women and sexual violence in Irish society: 21% of Irish people think that there are understandable reasons for having sexual intercourse without consent, raping a woman; and 23% of Irish people believe women often make up or exaggerate claims of abuse or rape.⁵ Recent reports of the Central Statistics Office show an increased level of reporting of sexual offences to the Gardaí – from 1,415 in 2006 to 2,549 in 2016⁶ – but it is not clear whether the increase in the reporting is due to an increased level of crime or increased reporting of such crime.

² Fundamental Rights Agency (2014) *Violence Against Women: an EU-wide survey report*.

³ Fundamental Rights Agency (FRA) (2014) *Violence Against Women: an EU-wide survey report*.

⁴ Union of Students in Ireland (2013) *Say Something: A Study of Students' Experiences of Harassment, Stalking, Violence & Sexual Assault*. Dublin.

⁵ Eurobarometer on Gender-based Violence 2016

⁶ CSO - Crime - Recorded Crime Offences Recorded Crime Offences (Number) by Type of Offence and Year – Sexual Offences. <http://www.cso.ie/multiquicktables/quickTables.aspx?id=cja01>

Responses to Questionnaire as provided by Cosc

What is working?

As a result of actions under the Strategy (Action Plan) Strategy (2017 Annual report) what in your view, if any, positive developments have occurred in relation to domestic, sexual or gender-based violence under the following headings:

- 1.1 Awareness raising (Action 1.100)
- 1.2 Education and training (Actions 1.200 – 1.910)
- 1.3 Provision of services to victims (Actions 2.100 – 2.1800)
- 1.4 Holding perpetrators to account (Actions 1.900 – 2.3900)
- 1.5 Implementation and monitoring (Action 3.100 – 3.500)
- 1.6 Data and research (Action 3.600 – 3.1000)
- 1.7 Outside the Strategy what, if any, have been the positive developments in relation to domestic, sexual or gender-based violence, generally or under any of the categories above, in the period 2016-2018?

NWCI submits that a number of positive developments have occurred as a result of the Strategy.

- We commend the investment made in the awareness raising campaign. Utilising multiple media mediums in order to raise awareness is essential to distilling the message across our country (para 1.1)
- Of particular success is the approach to the Strategy as a 'living' document. This has ensured that as new issues emerge they can be incorporated into its remit (para 1.5). A good example of this is the addition of Action 1.900 – Prevent and combat sexual violence and harassment in higher education, and build a culture of zero tolerance in Higher Education Institutions (HEIs) In Europe, through the EU funded Ending Sexual Harassment and Violence in Third Level Education Project (ESHTE), and Action 1.910 - To raise awareness of Female Genital Mutilation (FGM) within An Garda Síochána.
- Another important development, and one we would like to see increasingly utilised is the creation of specifically focused bilateral meetings when obstacles emerge. For example, the meeting that was convened to discuss 'housing'. (para 1.5)
- Two significant developments emerged outside of the commitments under the Strategy: (1) the significant changes to the law as affected by the Domestic Violence Act 2018, which were largely brought about by a highly active civil society campaign; and (2) the review of the investigation and prosecution of sexual offences in Ireland led by Tom O'Malley. (para 1.7)

What is not working?

What Strategy actions in your view have been unsuccessful, or less successful than expected, in terms of their implementation and/or effect in relation to domestic, sexual or gender-based violence under the following headings:

2.1	Awareness raising (Action 1.100)
2.2	Education and training (Actions 1.200 – 1.910)
2.3	Provision of services to victims (Actions 2.100 – 2.1800)
2.4	Holding perpetrators to account (Actions 1.900 – 2.3900)
2.5	Implementation and monitoring (Action 3.100 – 3.500)
2.6	Data and research (Action 3.600 – 3.1000)
2.7	Outside the Strategy what undesirable developments in your view, if any, have occurred in relation to domestic, sexual or gender-based violence, generally or under any of the categories above, in the period 2016-2018?

- The 'awareness' campaign on domestic violence would have benefited from early consultation with the organisations working at the coalface. It is essential that such organisations are brought into the decision making process at a very early stage rather than after the major decisions have been made. We believe the initial roll out of this campaign would have significantly benefited from this wealth of expertise. Specifically it is vital that communications and public awareness campaigns focus on the actions of perpetrators, rather than placing the responsibility on women to keep themselves safe. The approach taken to the 2nd phase on sexual violence is a much improved process of engagement and meaningful consultation with NGO's.
- The minimisation of VAW across society can only be challenged by placing a consistent focus on the actions of perpetrators. VAW is endemic for women in all communities and it is vital that all relevant agencies challenge myths related to VAW, including the 'stranger danger' myth consistently used in relation to SV crimes. As documented by Pavee Point⁷, there are a number of misconceptions of violence against minority ethnic women, including: that VAW is more prevalent in minority ethnic groups and is inherent in their cultures; support services and AGS are easily accessible for women from minority ethnic groups; information on VAW is available to all; and that many women from minority ethnic groups do not challenge or resist violence against women within their communities.
- Understandings of the complexities of VAW are constantly evolving, as evidenced by the introduction in the DV Act 2018 of the offence of coercive control. The changing nature necessitates a commitment to continuing education and professional development of the personnel of the relevant agencies. The absence of regular training results in a lack of expertise and understanding to effectively respond to DV and SV in a consistent manner. For example, the Garda Inspectorate recommended improved training for gardaí on VAW, in conjunction with VAW victims and support services. Despite this there has been a significant reduction in the time scheduled for probationer training on VAW in the Garda College, as well as a reduction in the time during this training allocated to support organisations such as Rape Crisis Centres and Women's Aid to provide an insight for gardaí into the impact of VAW on victims.

⁷ Pavee Point 'Challenging the Misconceptions of Violence against Minority Ethnic Women, including Travellers, in Ireland: An Information brochure for service providers'. <http://www.paveepoint.ie/document/challenging-the-misconceptions-of-violence-against-minority-ethnic-women>

- The establishment of the GNPSB as a specialist team offers great potential to improve the prevention and investigation of VAW. Given the Bureau's responsibility for DV, SV, prostitution, trafficking and child pornography, it is significantly under-resourced to carry out its wide remit effectively. The initial roll-out of the Divisional Garda Protective Units (DPSUs) has been slow and the approach of gardaí on the ground to VAW remains inconsistent. It is crucial that properly-resourced specialist units are rolled out in each division.
- Legislative developments, such as the Criminal Law (Sexual Offences) Act 2017 and the Domestic Violence Act 2018, while welcome, have not been matched by the essential resourcing of frontline services for victims, in the funding of specialised An Garda Síochána services, or in the collection of data on VAW incidence. (para. 2.2)
- Digital technology has opened up new methods for perpetrators to undertake VAW. Increasingly, rape crisis centres are hearing from those who have been harmfully impacted by violations including grooming, pornography, sexting, harmful communications and improper use of personal images. Legislative action needs to be prioritised (para 2.3)
- Actions must be as specific as possible and those agencies who are charged with implementing them must report back in as much detail as possible. For example, under Action 1.500 the Courts Service 'will provide training for staff who are involved in the administration of family law by quarter 4 2017', but there is no information provided on the type of training delivered, the numbers of those trained, the personnel being trained, etc. Therefore it is impossible to understand the depth of achievement (or lack of) within the Courts Service. For example Action 1.900 on ESHTe is very detailed, and the commitments it makes such as Establish National Advisory Committee, Appoint External Evaluator, Develop a baseline report on the prevalence of sexual harassment & violence and responses by HEIs and relevant agencies in partner countries, are clear and easily assessed and monitored. Each Action should be clearly considered and the various strands teased out to ensure that it is as specific as possible.
- In order to hold perpetrators to account and to give victims a degree of certainty when it comes to dealing with the justice system that there needs to be a move towards adopting sentencing guidelines. (para. 2.4)
- The Istanbul Convention recognises the importance of data collection and research, with Article 11 outlining minimum requirements. The Strategy commits to establishing a bottom line 'gold standard' of data collection and analysis by all agencies working in the area of DV and SV. However, progress on this matter is extremely slow and it shows no sign of changing. The data collection commitments need to be reviewed. (para. 2.6) In particular:
 - Harmonise and share information among relevant stakeholders (the justice system, police, social services, health services) by contributing to the development of a system of multiagency (An Garda Síochána, TUSLA, Courts Service)
 - Develop a common identifier system for VAW crimes for use by An Garda Síochána, Director of Public Prosecutions and the Courts Service that can feed into statistics gathered by the CSO. This identifier system should be capable of distinguishing all possible assault, harassment, false imprisonment, sexual violence, coercion and other offences.

- Enable a qualitative analysis of case law to identify negative gender stereotypes and ways to overcome them.

In 2016 both the National Women's Council of Ireland and Women's Aid called for a review of domestic homicides, and the then Minister for Justice Frances Fitzgerald and then Garda Commissioner Noirin O'Sullivan promised that a review would be published. NWCI has very serious concerns about the length of time which was elapsed since the review was announced, and we very urgently need the findings of this review to be published. In other jurisdictions, Domestic Homicide Reviews are systematic multi-agency reviews which are used to improve risk assessment and management and to identify gaps in policy and practice, following such crimes. Ireland must initiate the practice of multi-agency reviews of domestic homicides in Ireland every time such a crime occurs. The Strategy must establish them.

The Evidence

- 3.1 Are you aware of evaluations or reviews by others of the impact of any actions under the Strategy? Please forward copies of any relevant publications or documents, or contact details of those who undertook the evaluation.
- 3.2 What gaps exist in evaluating the strategy?
- 3.3 What actions would you recommend to facilitate enhanced evidence-informed evaluation?

- The review of ESHTe (Action 9.100) will be available following the completion of the project in March 2019. (para 3.1)
- There is no mechanism for obtaining the direct views of the victims when it comes to their experiences. When a victim engages with a service they could be asked for their consent to be contacted at a future date to assess their satisfaction and views on the service they received. (para. 3.3)

What can be done to improve the Strategies Action Plan?

- 4. Are there any actions in the strategy that you would like to see revised or dropped? (Please supply text of proposed revision)

What additional actions should be undertaken, and by whom, in the remainder of the term of the Second National Strategy, i.e. 2019-2021 under any of the following categories and why.

- 5.1 Awareness raising (Action 1.100)
- 5.2 Education and training (Actions 1.200 – 1.910)
- 5.3 Provision of services to victims (Actions 2.100 – 2.1800)
- 5.4 Holding perpetrators to account (Actions 1.900 – 2.3900)
- 5.5 Implementation and monitoring (Action 3.100 – 3.500)
- 5.6 Data and research (Action 3.600 – 3.1000)

Actions in the Strategy that NWCI would like to see revised:-

- Those concerning the collection of data. As already highlighted this is of immediate and particular concern as the commitments made are not being met. We need an action on qualitative data with regard to the experiences of victims from groups that experience multiple forms of discrimination.

Additional actions should be undertaken: -

- The obligations as a result of the Domestic Violence Act 2018 should be incorporated into the Strategy. Further, we are given to understand that the Istanbul Convention will be ratified in March 2019, so the Strategy should be reviewed in light of this change. Finally upon publication it may be necessary to incorporate the recommendations of the working group of the Criminal Justice Strategic Committee as chaired by Tom O'Malley regarding the review of the investigation and prosecution of sexual offences in Ireland.
- We believe given the housing crisis and its obvious effects on women's abilities to secure alternative accommodation when they are attempting to leave a violent relationship that 'housing and accommodation' needs to have a clearly identified Action.
- #MeToo movement made clear that sexual harassment is a severe and pervasive problem, but what it also made clear were the barriers that many people experience in reporting it. Sexual harassment whether it occurs within the work environment, or a public space, including public transport, should be clearly addressed within the Strategy.
- The Strategy should be updated to include explicit references to other national action documents that tackle different forms of gender-based violence,⁸ and in particular, the Second National Action Plan on Trafficking in Human Beings. The inclusion of trafficking in human beings in the national documents on combatting violence against women, such as the Strategy, is considered an indicator of successful implementation of the Anti-trafficking Directive (2012/29/EU).⁹ NWCI believe that if genuine progress is to be achieved increased integration, monitoring and implementation of separate but related instruments and strategies must become the norm across our Government Departments.

And finally

6. Please make additional comments, if any, here.

Effective access to justice is an indispensable right enshrined in numerous instruments within the universal human rights protection system to which Ireland holds membership.¹⁰ However, the stalled development of the specialised family courts system, the overburdened legal aid system, and the well documented delays experienced in accessing the courts negatively impact all but most particularly those women engaged with this system due to

⁸ For example, the Department of Foreign Affairs and Trade is currently overseeing the Third National Action Plan on Women, Peace and Security.

⁹ NWCI supports the Immigrant Council of Ireland's views and submission in respect of this matter.

¹⁰ The UN Committee on the Elimination of Discrimination against Women has recognised six key fundamentals necessary for a justice system to be responsive to gender. These are: justiciability; availability; accessibility; good quality; accountability and the provision of remedies for victims. (See CEDAW General Recommendation on Women's Access to Justice at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf) The Istanbul Convention includes numerous provisions aimed at facilitating access to justice for victims of gender-based violence. The Council of Europe has also issued guidance in terms of violence against women and access to justice, and such matters should be incorporated into the Strategy. Council of Europe WOMEN'S ACCESS TO JUSTICE: A GUIDE FOR LEGAL PRACTITIONERS (2018) <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

violence and abuse. President Michael D. Higgins recently warned that barriers to access to justice in Ireland are damaging "the very fabric of our society, entrenching and exacerbating inequality".¹¹ In recognition of the increasing difficulty in gaining access to our justice system, the Irish Human Rights and Equality Commission's Strategy Statement 2019–2021 adopted as one of its four strategic areas to 'Protect the rights of individual persons who face the greatest barriers to justice'.¹²

We believe that effective access to justice must be at the forefront of our justice system. Excellent laws without an effective ability to invoke them are rendered meaningless. In that respect NWCi recommends that the Strategy should include actions on *Strengthening Access to Justice for Women Victims of Violence*. This would assist in recognising the specific barriers that women face when attempting to access the courts. Through being aware of how gender creates different roles for women and men, and by taking account of unequal power relations between women and men, the justice system will be better able to address different vulnerabilities experienced by different groups of women.

This is of immediate and particular importance in light of the proposed development of a specialist division of family courts and judges which has the potential to remedy many of the problems currently faced by our over stressed and over burdened courts system. However, this requires engagement by all stakeholders, as highlighted by several of the speakers at the recent Joint Oireachtas Committee on Justice, Defence and Equality Reform of the Family Law System on February 20th 2019.¹³ Family law and violence against women are fundamentally connected. For those women attempting to leave violent relationships matters such as maintenance,¹⁴ access¹⁵ and separation, are fraught with difficulty.

Conclusion

NWCi welcomes the opportunity to respond to this consultation. We will continue to work with Cosc, the Courts Service, An Garda Síochána, the Department of Justice and Equality and the Policing Authority to ensure that the modernisation of our justice system reflects the need for increased participation of women within the system and to ensure the Courts Service has the necessary information it needs to propel reform.

We believe improving the protection of women's human rights is underpinned by legal system reform.

¹¹ The president mounted a strong defence of legal aid in [his speech](#) at the official opening of legal rights group FLAC's new Dublin headquarters on 25 February 2019. He went on to say He said: "We know that a right to justice is fundamental to human rights protection, a primary element of an individual's entitlement as an equal citizen of any state. It is simply not acceptable, in a state that claims to be a democracy that the most vulnerable section of our society is unable to access our legal system or is prevented from doing so in a timely manner."

¹² IHREC Strategy Statement 2019 – 2021; <https://www.ihrec.ie/documents/strategy-statement-2019-2021/> (last accessed 13 February 2019).

¹³ <https://www.kildarestreet.com/committees/?id=2019-02-20a.359&s=The+Family+Courts+Bill#g494>

¹⁴ See NWCi 2017 Submission to the Law Reform Commission to Examine legal infrastructures designed to secure maintenance payments https://www.nwci.ie/index.php/learn/publication/submission_to_the_law_reform_commission_on_areas_requiring_law_reform_exami

¹⁵ See NWCi 2017 Recommendations for Legislative Amendments: Domestic Violence Bill 2017 which provides a detailed discussion about access arrangements which give the abuser a reason to contact and see their former partner thereby facilitating an opportunity for further assault, harassment, intimidation and abuse. https://www.nwci.ie/index.php/learn/publication/recommendations_for_legislative_amendments_domestic_violence_bill_2017

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