

March 2023

NWC Submission on the Draft General Scheme of a DSGBV Agency Bill

Introduction

Founded in 1973, the National Women's Council (NWC) is the leading national women's membership organisation. NWC represent and derive our mandate from our membership, which includes over 190 groups and organisations from a diversity of backgrounds, sectors and locations across Ireland. Our mission is to lead and to be a catalyst for change in the achievement of equality for women. Our vision is of an Ireland and of a world where women can achieve their full potential and there is full equality for women.

NWC chairs the National Observatory on Violence Against Women an independent network of over 22 grassroots and national organisations that convene quarterly to monitor progress on violence against women in Ireland.

NWC welcomes the invitation to make a submission on the Draft General Scheme of a DSGBV Agency Bill. Previous submissions, such as NWC Submission on the Third National Strategy on Domestic, Sexual and Gender-based Violence¹ and the National Observatory Shadow Report to Grevio in respect of Ireland² addressed some of the recommendations that NWC considers key to combat DSGBV, including the urgent need to coordinate planning, implementation and monitoring and communication across government bodies, CSOs and NGOs with a survivor centred approach. It is particularly welcomed the establishment of a new coordination and delivery structure under the aegis of the Department of Justice that will include a wide range of functions such as planning, commissioning and funding DSGBV services; overseeing and supporting the provision of refuge accommodation and setting standards for services and refuges and monitoring adherence; disseminating information on DSGBV and leading/supporting awareness-raising campaigns; conducting, commissioning or supporting research; assisting the Minister in the development of national DSGBV strategies and supporting, co-ordinating and reporting on the implementation these strategies. However, NWC recommends strengthening inter-agency collaboration (to ensure whole-government approach), participation of CSOs and NGOs (including survivors' experiences), as key elements for the effective and efficient planning, implementation, monitoring and accountability mechanisms of the Agency to tackle DSGBV.

¹ National Women's Council, Submission to the Third National Strategy on Domestic, Sexual and Gender-based Violence (June 2021).

² Irish Observatory on Violence Against Women, Shadow Report to Grevio in respect of Ireland (August 2022) https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf

Preamble: Domestic, Sexual and Gender Based Violence

Despite the significant progress made by Ireland in relation to DSGBV, the European Institute of Gender equality has estimated that the cost of gender-based violence for Ireland is €4 billion per year³ and violence against women remains at the heart of women's inequality in our society. Women's Aid Femicide watch has reported that since 1996, 255 women have died violently, and 20 children have died during incidents where women have died violently in the Republic of Ireland – 63% were killed in their own homes⁴. In 2022, An Garda Síochána has received in excess of 49,250 domestic abuse reports - a 9% increase this year to date⁵. Moreover, women experiencing income poverty are especially more vulnerable to domestic violence as poverty limits choices and resources preventing them from escaping from violent environments.⁶

As part of a broader framework of fundamental human rights obligations to combat domestic, sexual and gender based violence, Ireland has adopted crucial international obligations and instruments in the last decades, such as the Council of Europe Convention on Preventing and Combating Violence against Women, the Istanbul Convention; the UN Convention on the Elimination of All Forms of Discrimination against Women⁷. Ireland has also adopted multiple policy and legal changes aligning with the provisions of the Istanbul Convention, such as the coordination of all Government Actions set out by the National Strategies and implementation plans, such as the Third National Strategy 2022-2026, the enactment of the Female Genital Mutilation Act 2012, the Domestic Violence Act 2018, the

³ EIGE (2022). Costs of gender-based violence in the European Union.

⁴ Women's Aid Femicide Watch January 2023

<https://www.womensaid.ie/assets/files/pdf/1673698407342369511.pdf>

⁵ An Garda Síochána, An Garda Síochána continues to see an increase in Domestic, Sexual and Gender Based Violence Incidents - 9th December 2022 Available at <https://www.garda.ie/en/about-us/our-departments/office-of-corporate-communications/press-releases/2022/december/an-garda-siochana-continues-to-see-an-increase-in-domestic-sexual-and-gender-based-violence-incidents-9th-december-2022.html#:~:text=Provisional%20figures%20that%20to%20date,of%20481%20recorded%20to%20date.>

⁶ Rape & Justice in Ireland: A National Study of Survivor, Prosecutor and Court Responses to Rape 2009

⁷ These obligations include the European Convention on Human Rights Act 2003; the European Convention on Human Rights (ECHR, 1953) and the European Court of Human Rights' jurisprudence; the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) and CEDAW's General Recommendations; the International Covenant on Civil and Political Rights (ICCPR, 1966); the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966); the UN Convention on the Rights of the Child (CRC, 1989); the UN Convention on the Rights of Persons with Disabilities (UNCRPD, 2006); the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (the Palermo Protocol); UN Security Council Resolution 1325 on women, peace and security; the 2014 European Parliament resolution on sexual exploitation and prostitution and its impact on gender equality; the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007) and the Committee of Ministers to the Council of Europe Recommendation Rec(2002)5 on the protection of women against violence. Ireland is also bound by relevant EU Directives and regulations, 'in particular in the areas of judicial cooperation in criminal matters (especially as regards crime prevention and the rights of victims of crimes), equality between women and men and asylum policy'.

transposition of the EU Victims of Crime directive through the Criminal Justice (Victims of Crime) Act 2017, the Criminal Law (Sexual Offences) Act 2017 and 2019, the Health (Regulation of Termination of Pregnancy) Act 2018 and the Criminal Law (Extraterritorial Jurisdiction) Act 2019.

The establishment of an Agency to coordinate, deliver and monitor under the aegis of the Department of Justice is an important step towards addressing endemic gendered issues such as DSGBV, as a whole government approach in collaboration with civil society organisations. Therefore, a preamble to the bill would be key to highlight the importance of this Agency in the Irish context. The content should include the Agency's purpose, as stated by Minister McEntee: The new standalone State agency with responsibility for domestic, sexual and gender based violence will be central to achieving our goal of Zero Tolerance⁸; and the key international obligations and national legislation and policy relevant to DSGBV mentioned above.

Recommendation

- Include a preamble to the bill stating the purpose of this Agency as stated by Minister McEntee; as well as to recall Ireland's international obligations, as part of a broader framework of fundamental human rights obligations, and Irish legislation and policy to combat domestic, sexual and gender based violence.

PART 2: AGENCY

Chief Executive and Staff of the Agency

The importance of having staff with experience and expertise and funding to successfully perform its tasks is particularly highlighted in the Third National Strategy⁹ and it was part of the Observatory Shadow report to Grevio recommendations for the new Statutory Agency in order to deliver the Strategy's Implementation Plan¹⁰.

Head 10 (6) is clear about this issue for the Chief Executive as "The Service shall not recommend a person under this Head unless satisfied that the person is suitable for appointment as the chief

⁸ Department of Justice, Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026. Page 3

⁹ Department of Justice, Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026, page 8.

¹⁰ Irish Observatory on Violence Against Women, Shadow Report to Grevio in respect of Ireland (August 2022) https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf

executive by reason of his or her possessing such relevant experience, qualifications or expertise as is appropriate having regard in particular to the functions of the Agency and of the chief executive under the Act.”¹¹

However, Head 13 in relation to the Agency’s staff is less clear with regards the eligible members (e.g. if external candidates are eligible for these roles or if only transferred members from the Minister for Children, Equality, Disability, Integration and Youth or the Child and Family Agency are eligible) and therefore the required experience and expertise for these roles.

Recommendation

- Head 13 (3): Provide that the persons designated for the staff of the Agency shall have commitment, understanding, experience, expertise on DSGBV and external candidates to the Ministry for Children, Disability, Integration and Youth are also eligible to become members of the staff of the Agency.

Functions of Agency

The Third National Strategy acknowledges that “A key principle for the Department of Justice in the detailed design phase of the set up for the Agency will be to work with the specialist and community-based support organisations in a spirit of co-design to ensure that the new structure avoids the issues that limited effectiveness in the past.”¹² The Strategy is also very clear about the importance of this collaboration, involving not only consultation, but a shift in the approach to the work on DSGBV as it “marked a new way forward to work in a genuine collaborative way between the Department of Justice and civil society organisations.”¹³

Moreover, the Strategy is clear in seeking to embed a victim/survivor-centred approach. This means placing the needs and priorities of victims/ survivors of domestic sexual and gender based violence at the forefront of responses¹⁴. It is important to note that victim-survivors of DSGBV are not a homogenous group. They have many different identities and experiences among them, women from a migrant background, ethnic minority women, LGBTQI, women seeking international protection and

¹¹ Department of Justice, ‘Draft General Scheme of a DSGBV Agency Bill’ (March 2023)

¹² Department of Justice, Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026, page 22.

¹³ Ibid, page 44.

¹⁴ Ibid, page 10.

Traveller women¹⁵. This understanding needs to be embraced, integrated and actioned throughout the establishment and implementation of the Agency.

The Strategy also acknowledges the importance of a whole Government approach to respond to DSGBV, as it must involve several Departments, agencies and bodies to be effectively and efficiently implemented, including the Department of Justice, the Department of Housing, the Department of Health and associated agencies/bodies (including HSE), the Departments of Education and FHERIS, the Department of Children, Equality, Disability, Integration and Youth, and TUSLA; and the Central Statistics Office (CSO)¹⁶.

NWC, the Observatory and a number of advocacy and frontline services have continuously highlighted as a significant weakness of the First and Second National DSGBV Strategies the lack of sufficient and coordinated oversight, accountability and action, as an area that must be addressed so as to ensure that the Third National Strategy can fully meet the objectives set forth within¹⁷. The national infrastructure for DSGBV has historically been criticised for having no clear, integrated leadership, being 'formulaic', 'siloed', 'departmental', 'disconnected' and overall 'not working'¹⁸. There has been a fragmentation of policy development and service delivery competencies between different agencies, and responsibility has been dispersed across multiple government departments¹⁹. One of the most important impacts is that the fragmentation of competencies created and sustained a lack of effective national monitoring of policies²⁰.

NWC and the Observatory recognises that the Third National Strategy takes a significant step forward in this regard. The Strategy is detailed in proposing comprehensive and co-ordinated policies, involving civil society organisations and a large number of government departments and agencies²¹. Moreover, the Strategy has adopted a model of co-design and co-production with civil society that is expected to be embedded in all actions that recognises that civil society organisations have an important role to

¹⁵ National Women's Council, Submission to the Third National Strategy on Domestic, Sexual and Gender-based Violence (June 2021).

¹⁶ Department of Justice, Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026, page 23.

¹⁷ National Women's Council, Submission to the Third National Strategy on Domestic, Sexual and Gender-based Violence (June 2021).

¹⁸ Safe Ireland, No Going Back: A Sustainable Strategy and Infrastructure to Transform Our Response to DSGBV in Ireland, Discussion paper (Safe Ireland, March 2021).

¹⁹ For a visual picture of the National Framework up until January 2022, please see: Safe Ireland, No Going Back: A Sustainable Strategy and Infrastructure to Transform Our Response to DSGBV in Ireland, Discussion paper, (Safe Ireland, March 2021) 18.

²⁰ Irish Observatory on Violence Against Women, Shadow Report to GreVio in respect of Ireland (August 2022) https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf

²¹ Irish Observatory on Violence Against Women, Shadow Report to GreVio in respect of Ireland (August 2022) https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf

fulfil in holding the government to account regarding the realisation of the Strategy and a central role in driving forward this collaborative approach²².

However, the DSGBV Agency Bill is not as clear with regards inter-agency and civil society collaboration and this must be strengthened as it was recognised as key for the success of DSGBV strategies by the Strategy and CSOs.

Head 14 (2) (a) of the Draft DSGBV Agency Bill states that the Agency will ‘consult as appropriate with, and consider recommendations from, public service bodies, international bodies, civil society organisations, other persons with relevant expertise, service users including children and young persons, and the public’²³. Therefore, the Bill only focuses on consultation, rather than the co-design and collaboration that the Third National Strategy identified as key to tackle DSGBV.

Moreover, with regards inter-agency collaboration specifically, 14 (i) of the Draft Bill states that the Agency will ‘provide advice and support to public service bodies in the implementation of any national strategy and any implementation plan approved thereunder, and foster collaboration between those bodies’²⁴.

It is unclear in the DSGBV Agency Draft Bill how this collaboration with the CSOs and with other government departments will be delivered and what mechanisms will be put in place to ensure this. As stated in the explanatory report to the Convention, ‘this type of co-operation should not rely on individuals convinced of the benefits of sharing information’ but rather, the State has the obligation to put in place ‘guidelines and protocols for all agencies to follow, as well as sufficient training of professionals on their use and benefits’²⁵. To ensure this, the Department of Justice should outline clear mechanisms for collaboration, key for the success of a DSGBV Strategy.

It is also unclear in relation to systematic and adequate collection of disaggregated data, crucial not only to document the prevalence of DSGBV in Ireland, but also to inform the legal and policy frameworks regulating the prevention, response and prosecution components²⁶. Taking into consideration that Ireland failed to implement its Second National Policy on Domestic, Sexual and

²² Ibid

²³ Department of Justice, ‘Draft General Scheme of a DSGBV Agency Bill’ (March 2023)

²⁴ Ibid

²⁵ GREVIO, Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Explanatory report CETS 210 (Council of Europe, 2011)

²⁶ Irish Observatory on Violence Against Women, Shadow Report to Grevio in respect of Ireland (August 2022) https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf

Gender-based Violence (2016 - 2021) and accompanying Action Plan in relation to data collection²⁷, this issue is of particular relevance for the Agency.

As acknowledged by the Strategy, there was a 'lack of joined up Government approaches that lead to an uneven implementation of policy, lack of comprehensive state-wide service delivery and services and supports, and a deficiency of data'²⁸. And this acknowledgment is reflected on the entire section of the Implementation plan (Action 4.3) focusing on the Development of enhanced coordination of data collection strategies²⁹.

Head 14 (k) of the Draft Bill commits to undertaking research projects and evaluation on issues relating to domestic, sexual and gender based violence and to assist in the development of statistical information appropriate for the planning, delivery and monitoring of programmes and services for persons affected. However, taking into account the importance of data collection and the establishment of 'a bottom line 'gold standard' of data collection and analysis by all agencies working in the areas of domestic and sexual violence whereby all datasets are disaggregated, greater clarity with regards the coordination function of the Agency with regards this is crucial.

The new statutory DSGBV agency under the aegis of the Department of Justice must be responsible for 'Leading on consistent and ongoing research to inform DSGBV policy development, working with others, such as the CSO'³⁰; and with the support of the CSO and the specialist and community based organisations 'Equip and support Departments, agencies and services providers to gather and report data relevant to the implementation of this Strategy'³¹, 'Establish a data standards liaison group with responsibility for identifying the key quantitative and qualitative data gaps (including ethnic identifiers, and age (specially in relation to children and young adults)) and data linking challenges that exist in relation to DSGBV, with a view to addressing and monitoring the gaps on DSGBV to provide analysis to inform policy, legislation, and service provision'³², 'Ensure co-ordinated systems, (to include shared definitions and agreed methodologies) for collecting, analysing, and sharing data on access to and use of services'³³. Moreover, the state's obligations under Article 11 references to

²⁷ Action Plan - Second National Strategy on Domestic, Sexual and Gender-Based Violence - 2016 - 2021 (Cosc, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence, January 2016) page 25.

²⁸ Department of Justice, Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026, page 10.

²⁹ Department of Justice, Implementation Plan - Zero Tolerance Third Domestic, Sexual and Gender-Based Violence, Action 4.9, page 46

³⁰ Department of Justice, Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026, page 22.

³¹ Department of Justice, Implementation Plan - Zero Tolerance Third Domestic, Sexual and Gender-Based Violence, Action 4.2.2, Page 44

³² Ibid, Action 4.3.1, Page 45

³³ Ibid, Action 4.3.3, Page 45

disaggregated data collection and to include services working with minority and minoritised women, on the design and implementation of data collection strategies.

Finally, this Draft Bill is for the jurisdiction of the Republic of Ireland. It should be noted that both informal and formal arrangements and structures are in place with statutory and non-statutory services and agencies in Northern Ireland and that DSGBV does not respect borders and there is both shared experiences and continuity of service provision³⁴. Moreover, the Implementation Plan of the Third National Strategy on Actions 4.4 and 4.5 refers to Shared Island Initiatives³⁵. Greater coordinator across Northern Ireland and the Republic of Ireland strategies should be considered.

Recommendations under Head 14

- Head 14 (1) (J) must include not only the provision of ‘advice, or make proposals, to the Minister on matters pertaining to the functions of the Agency and on policy matters relating to domestic, sexual and gender-based violence’³⁶, but also to other departmental officials;
- Insert New subclause Head 14 (1) (I): Provide that the Agency funds civil society organisations in the implementation of government DSGBV policies, strategies and legislation;
- Insert New subclause Head 14 (1) (m): Provide that The Agency coordinates the establishment and implementation of a ‘gold standard’ of data collection and analysis by all relevant public service bodies, with the support of the CSO and the specialist and community based organisations;
- Insert New subclause Head 14 (2) (d): Provide that in performing its functions the Agency collaborates with civil society/NGOs, including the participation of victims and survivors, on planning, implementation and monitoring of DSGBV, including guidelines, protocols, resources, funding and training of professionals;
- Insert New subclause Head 14 (2) (e): Provide that in performing its functions the Agency has full regard to the strategies, policies and legislation in Northern Ireland for the purpose of cross-collaboration;

³⁴ Irish Observatory on Violence Against Women, Shadow Report to GreVio in respect of Ireland (August 2022) https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf

³⁵ Department of Justice, Implementation Plan - Zero Tolerance Third Domestic, Sexual and Gender-Based Violence.

³⁶ Department of Justice, ‘Draft General Scheme of a DSGBV Agency Bill’ (March 2023)

- Insert New subclause Head 14 (8): Provide That the Agency shall have all such powers as are necessary for the performance of its functions to oblige all public service bodies to fulfil legal obligations under DSGBV strategies, policy and legislation;

PART 3: BOARD OF AGENCY

Following the importance of collaboration between CSOs and the Agency for effective DSGBV Strategies, this collaboration will be also crucial for the establishment and functions of the Board of the Agency, and this includes CSOs representation on the Board. This representation must also ensure survivors' voices and experiences.

The Strategy is clear in seeking to embed a victim/survivor-centred approach. This means placing the needs and priorities of victims/ survivors of domestic sexual and gender based violence at the forefront of responses³⁷. However, the Draft Bill is not clear with regards the importance of the role of survivors in this collaboration and particularly in the Agency's Board, key to ensure that the composition of this Board would reflect the experience and expertise of DSGBV survivors.

Moreover, it is important to note that victim-survivors of DSGBV are not a homogenous group. They have many different identities and experiences among them, women from a migrant background, ethnic minority women, LGBTQI, women seeking international protection and Traveller women³⁸. As such, the Board needs to reflect the diverse needs and experiences of all women and girls who are subjected to DSGBV. This understanding needs to be embraced, integrated and actioned throughout the establishment of the Agency, including the composition of the Board.

To ensure this, the Department of Justice must ensure a victim-survivor-centred participation at the Board of Agency. The State must not only encourage but adequately fund this collaboration between organisations at different levels, from the local community level to the national level. This should include building capacity and resources for civil society and NGOs to engage in this collaborative governance process.

³⁷ Department of Justice, Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026, page 10.

³⁸ National Women's Council, Submission to the Third National Strategy on Domestic, Sexual and Gender-based Violence (June 2021).

Recommendations

- Head 18 (2): The Board shall be comprised of members with sufficient commitment, experience, expertise and understanding of DSGBV;
- Insert New subclause Head 18 (2) (d): The Board of the Agency shall be comprised of at least 2 members of Civil Society Organisations and reflects the diverse needs and experiences of all women and girls who are survivors of DSGBV;

PART 4 - GOVERNANCE AND ACCOUNTABILITY OF THE AGENCY

A significant weakness of the First and Second National DSGBV Strategies has been the lack of sufficient and coordinated oversight, accountability and action. The knowledge, experience and expertise of CSOs, including survivors' voices will be also key in the accountability structures and mechanisms.

It is welcomed that as part of the Accountability mechanisms, Head 34 - Accountability of Chief Executive to other Oireachtas committees – it includes the Oireachtas committees.

However, the Agency must also report to monitoring bodies of the government DSGBV strategies, composed by the relevant civil society organisations and specialist NGOs.

As stated above, the Explanatory report to the Convention advises that, 'to ensure that the expertise and perspective of relevant stakeholders, agencies and institutions contribute to any policy-making in this field calls for the involvement of "all relevant actors, such as government agencies, the national, regional and local parliaments and authorities, national human rights institutions and civil society organisations"³⁹.

Recommendations:

- Insert New subclause Head 31 (7): The Agency shall ensure that a copy of an annual report is laid before the monitoring bodies of the government DSGBV strategies;

³⁹ GREVIO, Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Explanatory report CETS 210 (Council of Europe, 2011) para 65.

- Head 32 (3): Provide that A copy of the accounts and the report of the Comptroller and Auditor General on the accounts shall be also presented to the monitoring bodies of the government DSGBV strategies.

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