



# Transforming the Response to Gender Based Violence in Ireland

The importance of CEDAW to help  
make Ireland the safest country in the  
world for women and children

January 2017

SAFE Ireland is the National Social Change Agency working to end gender based violence with a specific focus on male violence against women in intimate/domestic relationships. We believe that at the root of all violence is what happens in the home and that the single biggest barrier to achieving gender equality and human rights for women is the high prevalence of gender based violence and its wider social and economic impacts. We are working to make Ireland the safest country in the world for women and children. We collaborate closely with 39 frontline domestic violence services across communities in Ireland, state agencies, civic society organisations and business, community, cultural organisations throughout the country. We work directly with women to bring their experiences and voices into research, policy, service development and violence prevention programmes. Our core strategic focus is to change culture and transform the response to gender based violence in Ireland.

We welcome this opportunity to provide our evidence based opinions and recommendations to the UN CEDAW committee in order to both add the experience of survivors of violence and frontline advocates and critique the information in the Irish Government's Country report. We hope that this document will be of assistance to the Committees in assessing Ireland's progress in relation to meeting the requirements under CEDAW.

### **Methodology**

Over the past 8 years SAFE Ireland has published a series of research studies which have examined women's experience of both the civil and criminal legal system as well as their experience of seeking protection and support. SAFE Ireland has also conducted research into the habitual residency condition and homelessness in relation to the needs of women accessing frontline domestic violence services. We have carried out national studies<sup>1</sup> on how the needs of women accessing domestic violence services were met and the outcomes they achieved from their engagement with the specialist frontline services. SAFE Ireland conducts ongoing consultations with all frontline domestic violence services in Ireland who are working directly with women and their dependants. Much of the evidence presented in this report draws from our own research and research by the EU Fundamental Right's Agency.

### **Some key data relating to domestic violence in Ireland**

It is estimated from recent research<sup>2</sup> that **1 in 3 women** in Ireland have experienced psychological violence from a partner at some point in their lives and **1 in 4** have experienced physical or sexual violence by a partner or non-partner since the age of 15.

Underreporting is a significant problem in Ireland with only 21% of women contacting the police<sup>3</sup> within a year of experiencing severe physical or sexual violence by a partner. Reporting this violence to all other services ranges from 24% reporting to health services to 4% to social services. The reasons for not contacting services (besides the police) vary. Among them 17% of women said shame or embarrassment stopped them from seeking help, while 5% of women said the services were too far away or difficult to get to. When women do seek support, their needs are not being met. 1 in 4 women reported that when they did seek support, they did not get the protection from further victimisation/ harassment that they needed, 1 in 4 women did not receive the practical support they needed and 62% did not have their need for moral support met.

The only national administrative data relating to domestic violence in Ireland has been published by SAFE Ireland annually since 2008. While this is a limited data set the most recent data<sup>4</sup> is presented in the graphic below.

---

<sup>1</sup> SAFE Ireland. (2015) *The Lawlessness of the Home*. Athlone: SAFE Ireland. Available at: <http://www.safeireland.ie/wp-content/uploads/SAFE-IRELAND-The-Lawlessness-of-the-Home.pdf>

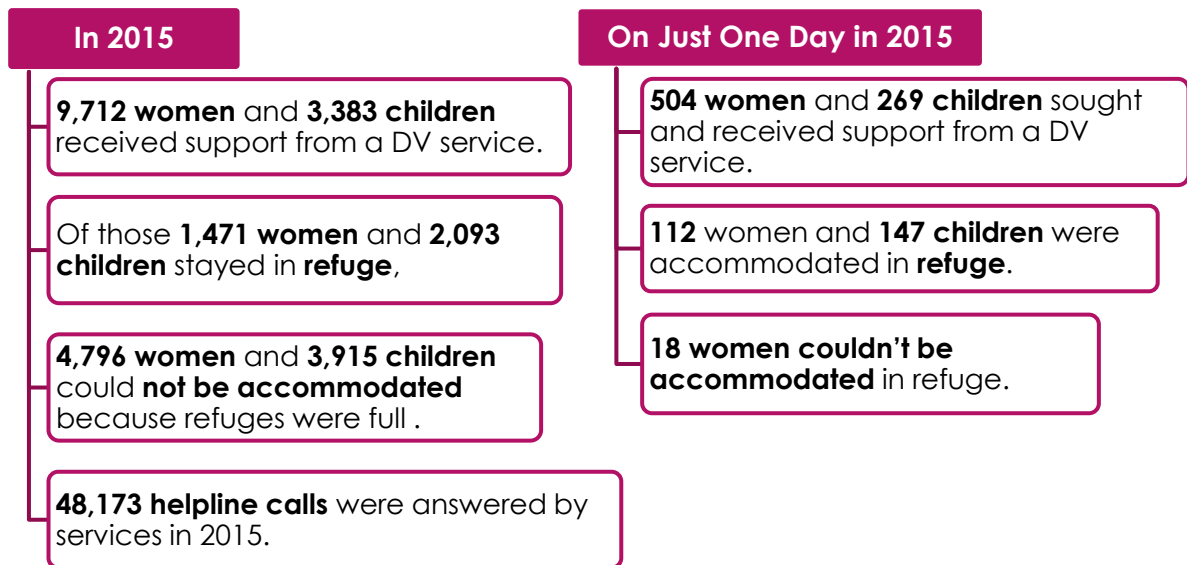
SAFE Ireland. (2016) *In Search of Justice: Women and the Irish Legal System*. Athlone: SAFE Ireland. Available at: [http://www.safeireland.ie/safeireland-docs/INASC\\_SAFEIreland\\_report.pdf](http://www.safeireland.ie/safeireland-docs/INASC_SAFEIreland_report.pdf)

SAFE Ireland, (Unpublished), Report on Special Needs and Protection Orders Project (SNaP). Athlone: SAFE Ireland.

<sup>2</sup> In 2012 the EU Fundamental Rights Agency conducted 1,500 face to face interviews with women in Ireland from a national stratified sample, as part of a European wide study on Violence Against Women. The sample size in ratio to the Irish population allows us to extrapolate this data to ascertain some indication of recent prevalence. See European Union Fundamental Rights Agency, Violence Against Women: AN EU-Wide Survey, 2014, available at [http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14_en.pdf).

<sup>3</sup> (An Garda Síochána)

<sup>4</sup> Both the SAFE Ireland National Domestic Violence Service Statistics Report 2015 and the SAFE Ireland National One Day Count of Women Accessing Domestic Violence Services 2015 are yet to be published.



Since the last report to CEDAW by Ireland in 2005 there have been some infrastructural changes made by the Irish Government to develop the policy, administration and service provision to address the needs of both men, women and children experiencing domestic violence.

In 2006, the Government established a national Government office on domestic, sexual and gender based violence. Some of the measures that this office has supported and/or initiated are detailed in the Irish governments reply to issues raised in paragraph 11 & 12 (86-108).

While some progress has been made, the impact of austerity measures and a lack of leadership on the issue in some key Government departments and agencies has meant that real and substantial change is only slowly trickling to the ground for women and children seeking support, protection and justice because of violence in intimate relationships. However, notably more progress is being made in the police force in the past 2 years since the publication of both the Garda Inspectorate report<sup>5</sup> and the SAFE Ireland 'Lawlessness of the Home'<sup>6</sup> research report. In addition, Tusla (The Child and Family Agency) has established a national domestic, sexual and gender based violence team under their remit which includes a statutory duty to protect and care for victims of domestic and sexual including adults. There is now national oversight of the core budgets for provision of domestic violence support services.

### 2017 onwards: Areas of greatest concern that need to be addressed in Ireland

The following issues require urgent action in order to better respond to the needs of women and children experiencing domestic violence and satisfy our commitments under CEDAW

- The legal response to domestic violence
- Housing
- Resources for specialist services and relevant state frontline services
- Cross departmental infrastructure reform

#### Key recommendations to the Irish Government:

- Enact new legislation on domestic violence, which encompasses recommendations made in this submission, with a commitment to look at the definition of domestic violence to ensure that it is defined as a criminal offence.
- Amend, develop and enact housing legislation as a matter of urgency to address the many barriers to safe accommodation currently experienced by victims of domestic and sexual violence.

<sup>5</sup> Garda Inspectorate. (2014). *Garda Inspectorate Report on Crime Investigation*. October 2014. Dublin: Garda Inspectorate. Available at: <http://www.gsinsp.ie/en/GSINSP/Crime%20Investigation%20-%20Full%20Report.pdf/Files/Crime%20Investigation%20-%20Full%20Report.pdf>

<sup>6</sup> SAFE Ireland. (2015) *The Lawlessness of the Home*. Athlone: SAFE Ireland. Available at: <http://www.safeireland.ie/wp-content/uploads/SAFE-IRELAND-The-Lawlessness-of-the-Home.pdf>

- All relevant Government departments and agencies should develop a 5-year strategic and operational plan to establish a strong infrastructure to enable a transformation of the response to gender based violence. These plans should be costed and reviewed by the Department of Public Expenditure with a minimum of a 5-year commitment to incremental investment to achieve a state of the art approach to responding to and preventing gender based violence in Ireland.
- Ratify the Council of Europe Convention on Preventing and Combating Violence Against Women (Istanbul Convention) by the end of 2017.

This report is structured to draw on existing and most recent research evidence in response to the List of Issues and Questions raised by the committee and will focus solely on Reply to issues raised in par. 11, par. 12. by the Irish Government. While this report is limited to the issue of domestic violence, as members of the National Women's Council of Ireland we fully endorse their submission on wider issues affecting women in Ireland.

### **Reply to Issues Raised in Par.11**

**1.1** The second National Strategy on Domestic, Sexual, and Gender Based Violence, 2016- 2021, was published in January 2016 and is being coordinated by the Cosc office. Ireland has signed the Istanbul convention and the Government has developed an action plan to enable the ratification of this important Council of Europe Convention by 2018. This however will need significant investment annually in order to achieve the minimum standards as set out in the convention.

While Cosc's remit is to coordinate a whole of Government response the low level of actions agreed by the departments with responsibility for health, education, social protection, housing and community highlight the significant gaps in leadership, capacity, resources and infrastructure to respond effectively to gender based violence in intimate relationships. However, some of the actions by Tusla, the Gardaí and the Courts Service should result in important improvements for victims and the leadership in many areas of the Department of Justice is starting to name domestic violence as a priority area for the first time. These are all welcome developments which need to be sustained and expanded so that the resources and infrastructure to support widespread transformation of the response to domestic violence is in place.

### **Recommendation re. Government Infrastructure and Policy**

- All relevant Government departments and agencies should develop a 5-year strategic and operational plan to establish a strong infrastructure to enable a transformation of the response to gender based violence. These plans should be costed and reviewed by the Department of Public Expenditure with a minimum of a 5-year commitment to incremental investment to achieve a state of the art approach to responding to and preventing gender based violence in Ireland.
- Ratify the Council of Europe Convention on Preventing and Combating Violence Against Women (Istanbul Convention) by the end of 2017.

**1.2** The General Scheme of a Reformed and Consolidated Domestic Violence Bill was published in July 2015, and brought before Cabinet in December 2016, however publication has been postponed. The proposed reforms include:

- Giving the court power to prohibit a perpetrator of domestic violence from communicating with the victim electronically;
- Allowing victims to be accompanied to court by a person of his or her choice to provide support during the hearing;
- Victims to have the opportunity to give evidence by live television link both in civil cases and in criminal cases for breaches of orders;
- Restrictions to be placed on who can be in a courtroom during proceedings involving domestic violence.

While these reforms are to be welcomed, gaps still remain in the proposed legislation. The Bill did not include an extension in the criteria for qualifying for Safety Orders to those who do not have a child in common, are not partners or ex partners, spouses, or actual or former cohabitants, but

who have or have had an intimate personal relationship (dating or ex-dating relationship). This is of concern because we are aware that more and more young girls and women in particular among our clients, are reporting abuse of all kinds at the hands of their lovers/boyfriends. Few of these girls and young women are or were, cohabiting. Nevertheless, they need legal protection from intimate violence.

There is no definition of “domestic violence” in the bill, although the word is used in relation to many possible orders which may be made under this Scheme. SAFE Ireland views violence in the context of intimate relationships as many-faceted, incorporating actual and threatened acts of physical violence, including sexual violence, and psychological violence, including coercive control and economic violence. All these forms of intimate violence can have far-reaching negative impacts both for victims and for other dependents who are forced to witness them and/or to live with them. We believe it would be helpful to decision makers to provide a broad-ranging definition of intimate violence, and that more victims would be able to access the protection of civil orders as a result.

The bill does not contain provision for the granting of emergency barring orders outside of court hours. We are also concerned that there is no reference to ancillary supports necessary to ensure effective emergency protection to victims of domestic violence. This is likely to be more important for the success of these Orders than the mechanics of the procedure itself. These conditions include the availability of such supports as adequate personal care assistance, emergency social welfare payments, language supports to help women with everyday administrative tasks, etc. – the nature of the support needed will depend on the specific needs of each individual.

#### **Recommendation re. Domestic Violence Legislation**

- Agree a broad definition of Domestic Violence, including psychological as well as physical violence, and incorporating by way of examples of psychological violence, both coercive control and acts of economic violence.
- Include in the forthcoming legislation a list of factors to be taken into account on deciding whether to grant a particular DVA order, and this should be broadly phrased to take account of any novel circumstances. With regard to domestic violence which the court is satisfied has already occurred, it is suggested that wording similar to that included in Appendix 1 be used.
- Consideration should be given to creating a specific criminal offence of domestic violence. The existing Criminal Law legislation (in particular the Non-Fatal Offences against the Person Act 1997 as amended) should be the subject of further study to establish whether it is feasible, as has been done in some other jurisdictions, to introduce specific domestic violence offences into our system.
- Legislation should be introduced identifying breach of a position of trust as an aggravating factor in any sentence involving an offence of violence and/or abusive behaviour in a close relationship.
- Commit to looking closely at the prosecution of acts of crimes against intimate partners.
- Enact victim support legislation to comply fully with the EU Victims' Directive.

**1.3** Gender disaggregated court data on orders made under the Domestic Violence Act 1996 as amended or breaches of orders under the 1996 Act is currently unavailable from the Irish Court System. Furthermore, because domestic violence does not have a specific criminal code in Ireland, it is impossible to determine the number of cases within our court system that are actually domestic violence as acts of domestic violence may be prosecuted under a range of other criminal statutes.

Data from An Garda Síochána has also proven to be unreliable. The Garda Inspectorate Report<sup>7</sup> found that domestic violence calls were often not classified correctly. The Inspectorate identified many cases of domestic violence where a crime had occurred, but it was wrongly

<sup>7</sup> Garda Inspectorate. (2014). *Garda Inspectorate Report on Crime Investigation*. October 2014. Dublin: Garda Inspectorate. Available at: <http://www.gsinsp.ie/en/GSINSP/Crime%20Investigation%20-%20Full%20Report.pdf/Files/Crime%20Investigation%20-%20Full%20Report.pdf>

recorded as an 'Attention and Complaint' or a case of 'domestic dispute – no offence disclosed'.

The Government have committed to a 'gold standard' in data collection, however it is imperative that this is developed, implemented and monitored in consultation with all relevant NGO stake holders, is resourced properly and robustly protects the rights to privacy of individuals.

**Recommendations re. Data Collection Improvements:** For Gardaí, DPP, Courts Service – while there is a group working on this, it is important that the following recommendations are taken on board;

- Resource and enable frontline domestic violence services to collect service related data while protecting the privacy of the service users
- A universal identifier system for DV related criminal cases should be developed for use in all three agencies, and to feed into CSO statistics;
- This identifier system should be capable of distinguishing all possible assault, harassment, false imprisonment, sexual violence, coercion offences, and
- Should be capable of generating extra sub-identifiers if a new crime with a DV background is added (e.g. criminal damage to a woman's car or phone line)

**1.4** Since 2014, SAFE Ireland has conducted a series of mixed method research studies on women's experiences of the Irish Legal System in search of legal remedies and protection from domestic violence<sup>8</sup>. Our research has heard directly from 63 women, examined 50 women's case files and included the perspectives of DV frontline staff, legal professionals, social workers and Gardaí. The legal system - at every level – is failing women and children who are living with violence and abuse in their homes. There is complete inconsistency in the responses domestic violence victims receive from the legal system. While there are pockets of good practice, where legislation and policy is being implemented, this has been the exception rather than the norm. The pillars of best practice in protection of victims from domestic violence emerged as entirely absent from the Irish context.

- Absence of individual needs and risk assessment
- Absence of judicial training and justice sector training
- Absence of inter and multi-agency coordination
- Absence of monitoring and data collection
- Absence of legal definition of domestic violence in Irish legislation.

The Domestic Violence Act order process is long, formidable and costly, and the rate of attrition high. Many of the key concerns noted by both practitioners and women<sup>9</sup> who have experienced DV are around high thresholds for DVA orders and legal aid. Fear of authority, limited supports and information gaps also mean that women who are eligible for DVA orders and legal aid are not accessing them. Untrained individuals are providing protection on the basis of a non-existing definition without any assessment of individual risk, without monitoring. This is undoubtedly contributing to the low levels of reporting and high levels of withdrawals of complaints.

Under current Irish law women who are in or were in a dating relationship with the perpetrator, including women in non-cohabiting relationships, who have not had a child together; and women who experience DV from some family members are ineligible for DVA orders.

The increase in Legal Aid fee from €50 to €130 and the long waiting lists are having a detrimental impact on women, with many women experiencing domestic violence simply not being able to afford the fee or waiting months for a solicitor. Other issues arising in relation to Legal Aid include

---

<sup>8</sup> SAFE Ireland. (2015) *The Lawlessness of the Home*. Athlone: SAFE Ireland. Available at: <http://www.safeireland.ie/wp-content/uploads/SAFE-IRELAND-The-Lawlessness-of-the-Home.pdf>

SAFE Ireland. (2016) *In Search of Justice: Women and the Irish Legal System*. Athlone: SAFE Ireland. Available at: [http://www.safeireland.ie/safeireland-docs/INASC\\_SAFEIreland\\_report.pdf](http://www.safeireland.ie/safeireland-docs/INASC_SAFEIreland_report.pdf)

SAFE Ireland. (Unpublished), Report on Special Needs and Protection Orders Project (SNaP). Athlone: SAFE Ireland.

<sup>9</sup> SAFE Ireland research on the effectiveness of domestic violence orders for women with specific needs is due to be published in 2017

some women not qualifying for legal aid because of assets which may be in joint names but that she may not be able to control use. One woman told us<sup>10</sup>:

*"I wouldn't have a huge amount of money now; I had to borrow that money to pay [the solicitor]. So, I just felt they are just stripping me of everything. Every ha'penny I have. I did look for legal aid and they told me there was a six-month waiting list for it. My solicitor had the grip on me and he said then - on account of we having the land I wouldn't get free legal aid. But my husband had control of all that, you know."*

Some women<sup>11</sup> are left with no option but to represent themselves in court.

*" I feel let down by the legal aid system if anything like they say its free legal aid yet you have to pay €30 consultation and then €100 for your cert, I felt that the woman, it was like she was an automated voice, she had no empathy, like I was pouring my heart out to her, telling her that I was stressed, I met her face to face and it was like it was just rigged off her tongue, she knew what to say, 'I'm sorry for your frustration'. This is a legal aid solicitor, when I first came in she asked for my €30, which I gave to her and then she turned around and said I wouldn't get representation for a couple of months, she could have said it before I gave her the €30, she knew I was in financial stress, I feel very let down by the system. I told her that I felt very let down by the system, that I went to court in January about the maintenance arrears, told her the stress , that I had to go to St. Vincent de Paul to get a ham to cook for the dinner, told her all this like and she just said 'I understand your frustration'.*

*I felt like why give the €100, I'll represent my Self because they're doing nothing for me, so I did in actual fact save a €100 but it's an intimidating process where you're standing in front of Judge and you're doing your best, I felt like I was on trial, I'm looking for what the children need and we're trying to live on €260, five of us and you have all the evidence to prove he had income coming in and then when the result comes out, I was so disheartened. Disheartened with the court and disheartened with the system, he owed €9,200 and he's paying €25"*

Some of the attrition rates could be said to emanate from the attitudes and advice of professionals. Research<sup>12</sup> on domestic violence related **criminal proceedings** found that there are multiple barriers for women victims to reporting domestic violence and often after they have reported they are dissuaded from maintaining their complaint by the process. Victims get discouraged and lose faith where breaches are not investigated or prosecuted, where evidence is not gathered, where leniency is applied and undertakings favoured over orders. The law is being applied differently in different areas of the country. There appears to be no consistency in the way the legal system works and stereotyping remains integral to the way in which a woman can be viewed and treated by that system. Women are deterred from reporting as responses vary so much, legal professionals find it difficult to predict outcomes for women who do decide to pursue legal cases.

**1.5** Research<sup>13</sup> on the experience of women seeking protection from domestic violence within the Criminal Justice System, found that in part because the Domestic Violence Act 1996 is a civil Act, cases of domestic violence were rarely found within the Criminal Justice System and that the majority of domestic violence acts did not form the basis for a criminal prosecution. There is no specific crime of Domestic Violence under Irish Law. However there is a range of offences under Irish law, which may be used to prosecute offences of domestic violence. These include the Non- Fatal Offences Against the Person Act 1997, Criminal Law (Rape) Amendment Act 1990, Criminal Justice (Public Order) Act 1994, Child Trafficking and Pornography Act 1998, Sex Offenders Act 2001, Criminal Law (Sexual Offences) Act 2006, Criminal Law (Human Trafficking) Act 2008 and Criminal Law (Defence and the Dwelling) Act 2011.

<sup>10</sup> SAFE Ireland. (2015) *The Lawlessness of the Home*. Athlone: SAFE Ireland. p. 63 Available at: <http://www.safeireland.ie/wp-content/uploads/SAFE-IRELAND-The-Lawlessness-of-the-Home.pdf>

<sup>11</sup> SAFE Ireland. (2016) *In Search of Justice: Women and the Irish Legal System*. Athlone: SAFE Ireland. Available at: [http://www.safeireland.ie/safeireland-docs/INASC\\_SAFEIreland\\_report.pdf](http://www.safeireland.ie/safeireland-docs/INASC_SAFEIreland_report.pdf)

<sup>12</sup> Ibid

<sup>13</sup> Ibid

While this list of legislation provides for the criminalisation of forms of domestic violence such as assault and sexual violence, provision is not made for coercive control nor are repeated patterns of violence legislated for (unless they satisfy the definition of criminal harassment). We also know that prosecutions under these criminal statutes are rare.<sup>14</sup>

**1.6** There is little evidence of any formal needs or risk assessment being conducted by An Garda Síochána in the case of domestic violence.<sup>15</sup> Such assessments are required under Articles 22 and 23 of the Victims Directive, and victims will be entitled to participate in such assessments. Measures will need to be implemented to ensure that assessments become routine, and are carried out either by the Gardaí or perhaps by a specialist agency.

The following woman's account<sup>16</sup> shows how the system can be blind to behaviour that would be punished if it happened in public, or between two people not in an intimate relationship. No risk assessment was conducted and the threats made by her ex-partner were not recognised in Domestic Violence Act proceedings by either her solicitor or by the Judge as abuse because it wasn't physical.

*"So I got a solicitor and eventually I got my protection order, and an interim barring order. I had to come back to get the final barring order. But the first thing the solicitor said when we got there was, 'oh, this judge is not going to give you a barring order, we'll drop the barring order and we'll look for just another safety order, or a protection order.' My solicitor told me, 'there is not enough grounds for it - he didn't do anything, he hasn't hit you.' And I said, 'no he hasn't, but only because I left before he got the chance to hit me. But he threatened to kill me and my kids.' So, they just said, 'we'll get you a safety or a protection order, it's just as good, but he can live in the house with you.' And I said, 'well I can't go home then, I'll stay with my sister.' So finally, we got the safety order and he gave an undertaking to leave the house, but I was back and forth to the court.*

*I think sometimes [the judge] doesn't grasp the full extent - that just because there wasn't physical violence, the emotional can be worse than the physical sometimes because it's the fear of when is he going to get me? He says he's going to get me but when? Like you need to take it serious. But I've had the other two judges like and they didn't care. They just sort of said, 'nothing happened to you, so what are you here for?' Being beat is bad, like, but sometimes I would have rather if he had of hit me because you could deal with the beating, you could say well look at the bruises he left. It was the little bits, slowly like picking at things, breaking down things slowly until eventually I felt worthless."*

The 2014 Garda Inspectorate Report<sup>17</sup> found that the Gardaí were not implementing their own policy on domestic violence. The Garda Síochána has a positive arrest policy for domestic violence cases. However, it was found that of 10,373 calls identified as Domestic Violence or Sexual Violence<sup>18</sup>, only 247 CAD calls had a CAD result recorded as Prisoner to Station (PTSN). On checking those cases where an arrest was made, it was often for a breach of a domestic violence barring order, rather than for crimes such as an assault. The investigation by the Garda Inspectorate found that the response of the Gardaí to reports of domestic violence tended to fall far short of their own policy with inconsistent approaches to complaints of domestic violence, and many examples of disinterest among Gardaí in such complaints.

One woman told us that after calling the Gardaí to report an attempted rape by her partner

*"they just removed him and let him out in an hour or two and he came back. I've heard nothing from [the Gardaí] since."*

<sup>14</sup> SAFE Ireland. (2015). *The Lawlessness of the Home*. Athlone: SAFE Ireland. Available at: <http://www.safeireland.ie/wp-content/uploads/SAFE-IRELAND-The-Lawlessness-of-the-Home.pdf>

<sup>15</sup> SAFE Ireland. (2016) *In Search of Justice: Women and the Irish Legal System*. Athlone: SAFE Ireland. Available at: [http://www.safeireland.ie/safeireland-docs/INASC\\_SAFEireland\\_report.pdf](http://www.safeireland.ie/safeireland-docs/INASC_SAFEireland_report.pdf)

<sup>16</sup> SAFE Ireland. (2015). *The Lawlessness of the Home*. Athlone: SAFE Ireland. Available at: <http://www.safeireland.ie/wp-content/uploads/SAFE-IRELAND-The-Lawlessness-of-the-Home.pdf>

<sup>17</sup> Garda Inspectorate. (2014). *Garda Inspectorate Report on Crime Investigation*. October 2014. Dublin: Garda Inspectorate. Available at: <http://www.gsinsp.ie/en/GSINSP/Crime%20Investigation%20-%20Full%20Report.pdf/Files/Crime%20Investigation%20-%20Full%20Report.pdf>

<sup>18</sup> DV shares the same CAD code (which is DVSA) with sexual assaults and this makes it difficult to analyse DV CAD incident data.



Another woman<sup>19</sup> told us that after reporting a violent incident against her she received no response, she spoke to us about how the lack of response made her feel

*'oh do you know it just makes you think what's the point, you know, do they want a body? Is that what's going to say 'oh he is doing all of this' you know? And even before that it totally took away my confidence and you know my confidence in them wasn't there before that but when this happened I thought 'yeah, this is it'. I've always felt as if he's always going to win you know, because nobodys helping, nobody is ever going to help"*

We heard how women<sup>20</sup> feel they would be at a higher risk of harm if they do report, as there is a sense that Gardaí will not arrest the perpetrator.

*'that's why I didn't report, now God knows I wanted to report it loads of times but because you're afraid of what's going to come to you if the Guard comes out, you know they're not going to arrest him they're only going to give him a caution, there should be some sort of protection in place that if a woman feels in fear that she can contact the Guards and that there is something that he's away from the family home for a couple of hours just to buy you a few hours to get out of the house"*

It must be noted that the problems identified in our research have been acknowledged by An Garda Síochána and measures are being put in place to address these issues e.g. specialist units; risk assessment processes; revised Domestic Violence Policy; exploring new investigative methods such as body cameras; Garda Victims Service Offices; new information leaflets for victims. There is also much more oversight of the force in relation to domestic violence with the establishment of the Garda National Protective Services Bureau, however it is significantly under resourced to carry out its wide remit effectively.

### **Recommendations re. The Legal System's Response to DV**

- Dating or formerly dating, intimate partners (of either sex) should have the protection of the DVA. As the law stands now, parents of a child in common who may have never live together at all, can already invoke the protection of the DVA, and it seems illogical to exclude from protection dating or ex-dating intimate partners who do not have a child in common;
- Breach of a barring order should be made an indictable (hybrid or "either way") offence, so that really serious breaches can incur the heavier sentences possible only in the Circuit Court, and so that persons suspected of committing or of having committed such a breach, may be arrested and detained pending questioning;
- Waive the free legal aid charge for victims of domestic violence.
- Measures are required to ensure that risk and need assessments in domestic violence cases become routine, and are carried out primarily by the Gardaí
- Introduce Special Measures addressing women's specific needs, both during investigation and during court proceedings:
- Accompaniment (already in General Scheme) to be extended to DV related criminal proceedings, not just breach of an order, as a right, subject to few exceptions and allowing for substitutions;
- Accompaniment (already in General Scheme) to Garda interview, as a right subject to few exceptions and allowing for substitutions;
- Specialist interpretative/intermediary services at both Garda interview and in court, whatever the nature of proceedings, for women who have difficulty communicating because of a physical or intellectual disability;
- Specialist independent and expert interpretative services to be available at both Garda interview and Court stages, including in DVA proceedings;
- Individual assessment of specific needs and appropriate referrals to specialist services, to be conducted as early as possible by Gardaí and/or other first responders

<sup>19</sup> This woman participated in the INASC research project

<sup>20</sup> Ibid

- In Court: provision to be made for women's evidence to be given by video-link whatever the nature of proceedings, in any proceedings attended by Respondent/accused
- In Court: consideration should be given to moving towards a system where complaints are pre-recorded (evidence in chief) and eventually, cross-examination is pre-recorded too – in the Criminal courts at least

**1.7** The establishment of Tusla, the Child and Family Agency was a welcome development in 2014 which centralised responsibility for the protection of victims of domestic, sexual and gender based violence to one statutory agency. Prior to this domestic violence was dealt with on the local level, and varied by region. Tusla has established a more coordinated approach for provision of DSGBV services.

In 2016 Tusla increased overall funding to domestic violence support services by approximately €200,000 from their overall total budget of 20.4 million. This increase is in no way adequate to restore the levels of funding that domestic violence services have been cut since 2008 or meet the increased demand on their services. State funding to the domestic violence sector, traditionally a grossly underfunded sector, has been decimated since the beginning of the recession. In the period 2009 to 2013 the sector experienced over all cuts to core Health Service Executive funding of 11%. The cuts have not been consistent or uniform with some services experiencing cuts to core funding of 38%, pushing them to the brink of closure. In 2014, domestic violence service core funding transferred from the HSE to Tusla and saw a further reduction of 2.2%. Tusla funding to Rape Crisis Network Ireland was completely removed in 2014 .

During this period demand for services continued to grow, services have been forced to rise to the crisis, meeting the increase in demand against the backdrop of decreasing resources. In 2009 7,512 women<sup>21</sup> received support from a DV service, this figure grew to 9,500 in 2014<sup>22</sup>. Since 2008 SAFE Ireland's core HSE/Tusla funding has been cut by 49%.

It is not only domestic violence support services that have been impacted by cuts to funding. The whole system designed to respond to domestic violence is totally under- resourced. From the Courts Service to the Gardaí to healthcare and social services, all are under-trained and under-resourced to respond effectively to domestic violence.

**1.8** According to Art. 23 of the Istanbul convention<sup>23</sup> states must provide easily accessible shelters in sufficient numbers. The explanatory report goes on to say a state should provide 1 family space per 10,000 population. According to this calculation we are falling short by two thirds. For our population of 4,757,976<sup>24</sup> the minimum number of refuge spaces recommended is 475.<sup>25</sup> A family unit consists of a Room or apartment for 1 woman with or without children. There are 21 domestic violence refuges in Ireland and within those refuges there are 145 family units in use in Ireland. That is just 31% of the minimum recommendation.

In areas where there is no refuge nearby women are likely to go to stay with friends and family rather than go into refuge to attempt to lessen the disruption to children regarding school, friends and access to community supports.

*"A lot of our work is phone-based advocacy towards housing at the moment. We are advocating on women's behalf to get them access to services. We do a lot of Court Accompaniment. We work a lot with options other than refuge.*

*There are six refuge places in the entire geographical region we are – totally under served. Provides NOTHING for women in emergency because they are full all the time due to such minimal places. This is very stressful for women.'*<sup>26</sup>

<sup>21</sup> SAFE Ireland. (2010) *Some facts about domestic violence in Ireland in 2009*. Athlone: SAFE Ireland.

<sup>22</sup> SAFE Ireland. (2015) *National Domestic Violence Service Statistics Report 2014*. Athlone: SAFE Ireland

<sup>23</sup> Council of Europe Convention on preventing and combating violence against women and domestic violence (2011), available online at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008482e>

<sup>24</sup> Central Statistics Office Ireland (2016) *Census 2016 Preliminary Report*. Available at: <http://www.cso.ie/en/census/census2016reports/census2016preliminaryreport/>

<sup>25</sup> Women Against Violence Europe (2016) *WAVE Report 2015 on the Role of Specialist Women's Support Services in Europe*. Vienna: Women Against Violence Europe. Available at: [http://files.wave-network.org/researchreports/WAVE\\_Report\\_2015.pdf](http://files.wave-network.org/researchreports/WAVE_Report_2015.pdf)

<sup>26</sup> SAFE Ireland. (2016). *SAFE Ireland's Consultation on Homelessness and Domestic Violence*. Athlone: SAFE Ireland.

In 2015 there were 4,796 unmet requests for emergency accommodation<sup>27</sup>, women and children were turned away from refuges because there simply was no space. SAFE Ireland members do everything possible to ensure that these women and children are accommodated safely somewhere, in B&Bs or hotels, however this type of accommodation is no substitute for the safety that a domestic violence refuge can provide. In some cases women are forced to stay in family or friends' houses or in some extremely unfortunate situations women choose to remain in an abusive situation because of lack of options. Frontline Domestic Violence Services have described it thus, "*this is huge. It is the biggest problem hitting the service. Because of the housing shortage I sometimes feel like I'm telling a woman to go home and deal with the abuse*". Another stated that, "*women are staying in really difficult, dangerous situations hoping that things will change because they can't see an alternative.*"<sup>28</sup>

In July 2016, the Irish Government Action Plan for Housing<sup>29</sup> stated that Tusla would provide additional emergency refuge spaces and that housing authorities would be provided with policy and procedural guidance with regard to the role they can play to assist victims of domestic violence in securing new independent tenancies. In 2016, 2 family units in Kildare were finally opened, having been built since 2013.

### Recommendations re. Resources and Shelter Provision

- Allocate an additional €30 million annually (from 2017) to address immediate gaps in our struggling services, from the Gardaí to specialist domestic violence services to the provision of safe housing. This will allow for vital education and prevention work, research, housing and accommodation provision, and training to ensure that when women look for safety it can be provided.
- Increase the emergency accommodation capacity of domestic violence services by 10% or by 14 family units every year for the next five years.

### Reply to issues raised in Par. 12

**1.9** As previously highlighted there is a complete absence of standardised needs assessment within statutory agencies when dealing with domestic violence victims, this is having an impact on women who do have specific needs (e.g. including but not limited to Traveller & migrant women, women with disabilities). In one research study<sup>30</sup>, there was little evidence in the data of special measures in place for victims of domestic violence with specific needs beyond interpretation and translation services. Subsequent research<sup>31</sup> found barriers to accessibility are numerous, and many women with specific needs who could benefit from protection are seen to be not applying for DVA orders. Individualised needs assessment is vital to improving this situation.

**2.0** In February 2016, SAFE Ireland undertook a consultation<sup>32</sup> with thirty-nine specialist Domestic Violence services in Ireland to capture the current impact of the housing crisis on their services and on the women and children accessing them in order to create a national overview of emerging issues with a specific focus on Domestic Violence and Homelessness.

The main issues identified by the domestic violence specialist services were as follows:

- **There is a lack of recognition that fleeing domestic violence is a homeless issue**

*"DV is not on the homeless agenda. Local authorities and other agencies are not viewing as **homeless** those women who are fleeing domestic violence. This is a significant barrier. According to local authority criteria such woman are not homeless –they are 'out of home' as they HAVE a home."*

- **There are barriers to accessing local authority housing**

<sup>27</sup> SAFE Ireland National Domestic Violence Service Statistics Report 2015 is yet to be published.

<sup>28</sup> SAFE Ireland. (2016). *SAFE Ireland's Consultation on Homelessness and Domestic Violence*. Athlone: SAFE Ireland.

<sup>29</sup> Rebuilding Ireland.

<sup>30</sup> SAFE Ireland. (2016) *In Search of Justice: Women and the Irish Legal System*. Athlone: SAFE Ireland. Available at: [http://www.safeireland.ie/safeireland-docs/INASC\\_SAFEIreland\\_report.pdf](http://www.safeireland.ie/safeireland-docs/INASC_SAFEIreland_report.pdf)

<sup>31</sup> SAFE Ireland. (Unpublished), Report on Special Needs and Protection Orders Project (SNaP). Athlone: SAFE Ireland.

<sup>32</sup> SAFE Ireland. (2016) *In Search of Justice: Women and the Irish Legal System*. Athlone: SAFE Ireland. Available at: [http://www.safeireland.ie/safeireland-docs/INASC\\_SAFEIreland\\_report.pdf](http://www.safeireland.ie/safeireland-docs/INASC_SAFEIreland_report.pdf)

- Having to prove they are experiencing domestic violence to receive a payment is difficult if they haven't a domestic violence order in place.
- Where a woman is co-owner of a property she faces significant barriers in trying to establish a new home away from the abuse.

*"There is no consistent policy on rehousing women who have had their name previously on a tenancy or mortgage. It's hard for us to deal with as we cannot risk closing doors with LA staff either."*

- **Women are staying longer in refuge as there very few move on options.**

One service provider told us:

*"If a woman's chosen option is moving on from refuge, it is very problematic as there's very little availability regarding accommodation. Whereas in the past a long stay in refuge would have been six weeks. Now we'd be lucky if a woman has moved on after 3 months. Women are staying on average 6 months currently. This HAS to change. Women are staying longer due to lack of options. It is highly unsuitable."*

*"It has been three years since anyone has got a house from this refuge. I have worked here for 30 years and it is harder now than ever. I have never seen anything like it. The biggest issue is the length of stay, women have nowhere to go from here. It is extremely stressful not being able to offer appropriate support or direct a woman towards affordable secure accommodation."*

- **As a result of women staying longer in refuge there are fewer places available to women who need to access emergency accommodation.**

Women staying for longer periods of time in refuge are reflected in the numbers of admissions to refuge which were significantly lower in 2015 compared to admissions in 2014.

*"LA housing needs assessment process can take up to 12 weeks. Too Long! While waiting for the assessment outcome women and children are stuck in refuge. An emergency interim measure is needed."*

The Habitual Residence Condition proved a significant barrier for women in recent times<sup>33</sup> and disproportionately affected Traveller and Roma women, however there is no current data to assess whether practice measures implemented by the Irish Government have had a positive impact. It is our recommendation that no woman should have to satisfy the HRC if she is seeking protection from domestic violence, the Spanish model in this regard should be considered for Ireland.

### **Recommendations re. Housing:**

- Amend, develop and enact housing legislation as a matter of urgency to address the many barriers to safe accommodation currently experienced by victims of domestic and sexual violence.
- Grant rent allowance to women when there is the presence of domestic violence.
- End the Local Authority "Centre of Interest" requirement for women forced to leave locations because of domestic violence.
- Review the HRC (as per the Joint Oireachtas Committee's recommendation) and introduce an exemption for women who have experienced domestic violence.

**2.1** Gardaí training on domestic violence is limited to their initial training in Garda College. Training of Legal Professionals, Probation Officers and Court Staff remains ad-hoc. The judiciary are not provided with the type of continuing training and professional development that is seen in other countries. Judges may attend conferences or training but it is not mandatory. This lack of consistent training is undoubtedly contributing to the poor response domestic violence victims receive from the legal system.

### **Recommendations re. Training:**

- Make training mandatory and ongoing for Gardaí, lawyers, Courts Service staff, judges. For all these groups, there needs to be NGO input into training for these groups to ensure that the topics in Appendix 2 are covered.

---

<sup>33</sup> SAFE Ireland carried out research on the impact the HRC was having on women in Ireland in 2012. See: SAFE Ireland. (2013) *Report on the impact of the Habitual Residence Condition on women seeking protection and safety for themselves and their children from a domestic violence perpetrator*. Athlone: SAFE Ireland. Available at: <http://www.safeireland.ie/wp-content/uploads/SI-Impact-Habitual-Residency-Condition-Sept2013.pdf>

## Appendix 1

This is the recommended list of factors to be taken into account on deciding whether to grant a particular DVA order, and this should be broadly phrased to take account of any novel circumstances. With regard to domestic violence which the court is satisfied has already occurred, it is suggested that wording similar to that included in Appendix 1 be used.

In determining the nature, extent and duration of any actual violence used by respondent against the applicant, the following factors shall be considered:

- Nature, extent and duration of any threats of violence by respondent against the applicant;
- Actual or threatened use of any weapon by respondent against the applicant;
- Nature, extent and duration of any harassment by respondent against the applicant;
- Housing status and living conditions of the applicant;
- Economic status of the applicant;
- Educational status of the applicant; and
- Any other matter which in the opinion of the court is relevant to the safety or physical or psychological health, and/or housing conditions, and/or economic status, of the applicant;

With regard to the assessment of the risk of any future domestic violence against the applicant, the following should also be considered as well as the list above:

- The impact or likely impact of any domestic violence by the respondent which has occurred or is likely to occur, on the physical safety of the applicant and other members of her/his household;
- The impact or likely impact of any domestic violence by the respondent which is occurred or is likely to occur, on the applicant's personal well-being, including his/her psychological and emotional well-being, and that of other members of his/her household;

In assessing the safety and welfare of the applicant and dependents, the court should be mindful of the applicant's age, any form of disability which s/he has, physical or intellectual, her/his state of health, her/his ability to live independently of the respondent, and any other personal circumstances or specific protection needs which would make her/him especially vulnerable. An example would be an inability to speak, read or write English and a resultant over-dependence on the perpetrator.

## Appendix 2

It is vital that any training developed for Gardaí, lawyers, Courts Service staff, Judges has NGO input to ensure that the following topics are covered:

- Dynamics of domestic violence;
- Its impacts, especially the impact of trauma on the ability of victims to understand and retain important information (at every stage);
- The importance of clear and accessible communication with victims
- The importance especially for lawyers and judges, of not compounding trauma for women by insensitive, prolonged and opaque questioning techniques
- The nature of specific needs: there is no one classification resulting in the woman being sorted into one well-defined static population group e.g. Traveller, Roma, blind person etc., rather specific needs should be regarded as individual and unique combinations (and so on)
- Unconscious bias, and the importance of avoiding it
- The importance of timely and appropriate referrals to specialist supports
- The importance of effective inter-agency working