



# RCNI Submission to the Joint Oireachtas Committee on Gender Equality on relevant Citizens' Assembly Report Recommendations dated March 2022 – Executive Summary

## Introduction – RCNI

Rape Crisis Network Ireland (RCNI) is a charity specialising in information, policy and resources on rape and all forms of sexual violence. RCNI is owned and governed by our member Rape Crisis Centres who provide free advice, counselling and other support services to survivors of sexual violence in Ireland. Together we represent more survivors of sexual violence than any other specialist non-governmental body in Ireland. We develop and coordinate national projects, use our expertise to influence national policy and social change, and lead, support and facilitate multi-agency partnerships towards ending and addressing sexual violence.

## Introduction – Gender Equality and Sexual Violence

Sexual violence is a gendered phenomenon: most sexual offences are committed by men and boys against women and girls<sup>1</sup>. RCNI's view is that this imbalance has its roots in the inferior status of women and girls which persists in our society, so that in order to reduce the incidence of sexual violence, measures must be taken to reduce gender equality.

This submission is itself an **Executive Summary** of the RCNI position on some key recommendations in the Citizens' Assembly Report which are most relevant to sexual violence and gender equality. It should be read alongside two earlier RCNI documents, the RCNI Submission to the Citizens' Assembly on Gender Equality (March 2020)<sup>2</sup> and the RCNI Submission on the Equality Acts (December 2021)<sup>3</sup>. Its focus is on specific practical suggestions. This means that on some topics, specific recommendations from earlier documents are summarised, and on others, relevant material is updated as appropriate. RCNI comments are listed under the text of the original relevant recommendation(s) in the same order and under the same headings in which they appear in the original Citizens' Assembly Report on Gender Equality.

## Citizens' Assembly Report on Gender Equality (2021)<sup>4</sup>: Norms & Stereotypes and Education

**Recommendation 27:** Curriculum review and development should:

- (a) Promote gender equality and diversity.
- (b) Explicitly cover gender power dynamics, consent and domestic, sexual and gender-based violence – both online and offline – within the revised Relationships and Sexuality curriculum.

### RCNI Commentary:

- Because education begins in the home, parents must be educated and supported about the importance of gender equality and how to put it into practice with their sons as much as with their daughters;
- Teachers at every level should encourage girls to regard themselves and their ambitions, tastes, opinions, values and appearance as individual and as intrinsically valuable as those of boys and men;

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<sup>1</sup> See for example, RCNI Rape Crisis Statistics 2020: <https://www.rcni.ie/wp-content/uploads/RCNI-Rape-Crisis-Statistics-2020-FINAL.pdf>, at page 19, (RCNI clients only) and CSO figures on suspected sexual offenders 2019 – 99.4% were male:

<https://www.cso.ie/en/releasesandpublications/ep/p-rcvo/recordedcrimevictims2020andsuspectedoffenders2019/>

<sup>2</sup> The RCNI Submission to the Citizens Assembly on Gender Equality (March 2020), is available via this web-link: <https://www.citizensassembly.ie/en/previous-assemblies/2020-2021-citizens-assembly-on-gender-equality/about-the-citizens-assembly/public-consultation/submissions%20received/rape-crisis-network-ireland-ca30265.pdf>

<sup>3</sup> Accessible online via this web-link: <https://www.rcni.ie/wp-content/uploads/EL-Submission-RCNI.pdf>

<sup>4</sup> Whole report may be accessed via this web-link: <https://www.citizensassembly.ie/en/previous-assemblies/2020-2021-citizens-assembly-on-gender-equality/about-the-citizens-assembly/report-of-the-citizens-assembly-on-gender-equality.pdf>

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- Parents and teachers at every level should constantly reinforce the message that bodily autonomy is every girl's and woman's right and respect for her decision about sexual activity is a minimum expectation and not up for debate;
- All education initiatives should include a whole of system approach. That is, those in authority and power must be accountable and proactive in being part of the solution. Critically, funding, especially public funding, should be contingent on reaching this standard.
- A good example is the Framework for Consent for third level colleges and universities<sup>5</sup>. It is a whole-of-institute framework response to sexual harassment and violence in third level colleges and universities (HEIs). Since 2019, the Higher Education Authority has had responsibility to monitor its implementation as it distributes public funding to HEIs.

Education programmes designed to address sexual violence and gender inequality must:

- Support young people to identify their own authentic sexual needs as opposed to those imposed by a culture saturated in misogyny and sexual violence imagery as entertainment and commodification and to be able to identify and understand peer pressure;
- Contain material which challenges robustly the idea that male sexual (and other) ambitions, needs, desires, should have automatic primacy over female sexual and other ambitions, needs and desires.
- Equip young people with the skills to understand what consent means and act accordingly.

The Minister for Education and Skills asked the National Council for Curriculum and Assessment to review the sex education programme in schools (RSE) in 2018. A report was produced in 2019<sup>6</sup> and work has progressed with work on new specifications for SPHE/RSE commenced in late 2021 - 2022, beginning with a focus on junior cycle. A concern raised by RCNI at the time of the 2019 report was that the report did not appear to make the connection explicitly between gender inequality and sexual harassment and violence.

However, the draft Third National Strategy on Domestic, Sexual and Gender-Based Violence, due to be published in final form shortly, does make explicit reference to gender equality: see **1<sup>st</sup> Prevention Pillar Overall Objective 1.3** on primary and secondary education: "Enhance the understanding of children, and young people on what creates gender inequalities and what constitutes gender equality and healthy relationships" - and its list of proposed actions, especially 1.3.7, "Develop specific age-appropriate information campaigns which highlight how pornography fuels misogyny and undermines gender equality". This action is mirrored in the earlier list of actions targeting adults at 1.1.4.

These are very positive developments. Their full implementation depends on good inter-agency co-operation so that an in-depth understanding of the role of gender equality in the prevention of sexual violence is transmitted effectively to each audience who needs to hear it and act upon it (adults, third level students, children and young people). It also depends on having adequate resources. We look forward to seeing the detailed Action Plan for each year of the Third National Strategy in this regard.

### Citizens' Assembly Report on Gender Equality (2021): **Domestic, Sexual and Gender-Based Violence**

**Recommendation 38.** Eliminate tolerance in our society of domestic, sexual and gender-based violence by developing and implementing awareness, prevention and education campaigns which may include children of an appropriate age on:

- (a) The impact and harm caused by domestic, sexual and gender-based violence.

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<sup>5</sup> Accessible online via this web-link: <https://www.education.ie/en/Publications/Education-Reports/framework-for-consent-in-higher-education-institutions.pdf>

<sup>6</sup> <https://ncca.ie/en/resources/report-on-the-review-of-relationships-and-sexuality-education-in-primary-and-post-primary-school/>

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### RCNI Commentary:

- Education of adults about the impact of domestic, sexual and gender-based violence is an overall objective of the draft Third National Strategy on DSGBV (**1<sup>st</sup> Prevention Pillar 1.1**: Enhance the understanding of adults of all forms of DSGBV and educate society to recognise the harm and prevent the human rights abuse that is DSGBV while making clear the pathways to safety and sanctions)
- We would like to draw attention to how easily accessible so-called “legal” pornographic material is on the internet. This material often portrays and justifies male violence, dominance and exploitation of women. This access does much to promote the commodification of women and girls as sexual objects rather than autonomous actors in their own right. Not only does this material act as a gateway for some young people, mostly boys, to more harmful sexual behaviour, sometimes contact sexual offences, so that we are hearing more and more about young male sex offenders’ pornography viewing as a contributory factor in court cases, it also strongly reasserts that girls’ and young women’s sexual pleasure is secondary to men’s or even irrelevant. It portrays women’s and girls’ ‘normal’ sex role as compliance and subservience to their male “partners”. These are all strongly facilitative and affirming of a culture which facilitates, normalises and excuses sexual violence.
- This kind of “legal” material is identified in the current Online Safety and Media Regulation Bill 2022<sup>7</sup> as “age-inappropriate online content”. In our view, consideration should be given to re-designating it as “harmful online content” OR to ensuring that it too is subject to the same stringent regulation as is harmful online content in the Bill as it stands.

(b) Supports available to victims/survivors.

### RCNI Commentary:

- The draft Third National Strategy also covers supports for victims, and information about those supports, under the **2<sup>nd</sup> Protection Pillar Overall Objective 2.2**: “Ensure availability of accessible quality specialist and general DSGBV services across the state so that all people who experience DSGBV have access to integrated services”. See also **Overall Objective 2.4**: “Ensure a victim/survivor centred approach through the creation of clear integrated local pathways (building on the mapping of the victim/survivor journey work) for adults and child (female and male) victims/ survivors to access the DV and SV information, services and supports they need”.
- As with the Overall Objectives described in the previous section, our view is that these are also very positive developments. Close co-operation and adequate resources will both be necessary between agencies to ensure that all awareness, prevention and education campaigns are effective. Once again, we look forward to seeing the detailed Action Plan for each year of the Third National Strategy in this regard. In our view, the following are also important measures:
- The current Online Safety and Media Regulation Bill should be amended to include an individual complaints mechanism (this is under examination by an Expert Group at present) – so that the rights of women and girls to an effective remedy whenever they are the victims of online sexual (and other) abuse which is independent of criminal proceedings;
- The most important principle with regard to supports for victims is that every victim has individual needs so needs an individual, personal approach which remains victim-centred and which takes account of the wide range of needs of victims of sexual violence, and is delivered at a consistent high standard. These needs include access to specialised services such as in-depth counselling provided by specially trained counsellors. RCNI is working on a new standardised training programme for qualified counsellors, known as the Clinical Innovation Project (CIP)

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<sup>7</sup> Accessible online via this web-link (as initiated): <https://data.oireachtas.ie/ie/oireachtas/bill/2022/6/eng/initiated/b0622s.pdf>

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following a process of intensive consultation and collaboration with survivors, rape crisis and other colleagues in the counselling sector.

- Specialised services can only be available to survivors when they need them if they are funded adequately and sustainably. There are still many gaps in service provision in certain areas of the country. In addition, rape crisis centres have not had a national pay and standardisation process since 2008.
- RCNI's view is that in order to provide a truly victim-centred approach, it is necessary also to liaise, work with and learn from other non-governmental organisations offering specialist services to specific, often especially vulnerable groups (for example, the National Advocacy Service which works with people who have some form of disability and need support to access the justice process).
- Continuity and consistency of service to victims of sexual violence are also important. In our view, this would be best achieved by a professionalised advocacy and support service, housed in rape crisis centres and other specialised services, which would be available to survivors of sexual violence from first contact with that service to the end of the criminal justice process. RCNI is collaborating with other specialist organisations on a proposal to pilot this service at this moment.

### **Recommendation 39.** Support justice for victims/survivors by:

(a) Reviewing and reforming the courts system - including the family courts - to better protect and support victims/survivors of domestic, sexual and gender-based violence and their dependents and remove barriers to justice.

#### **RCNI Commentary:** In our view there should be:

- More opportunities for victims and other vulnerable witnesses to pre-record direct evidence, and the pre-recording of both cross-examinations and re-examinations should be piloted;
- Both protective and special measures which are easier to access for victims and other prosecution witnesses;
- Full use of pre-trial hearings to ensure special measures are discussed and arrangements made where appropriate for them to be available at hearing, and
- Greater use of special measures in civil hearings involving sexual violence;
- A much clearer, consistent, expert, independent, transparent and affordable approach to both expert assessments and reports done for court purposes (especially family law);
- Much clearer and simpler in camera rules in family law proceedings;
- Both Garda and Court accompaniment available from specially trained staff; and
- Every possible measure taken to reduce delays before trial in both criminal and civil courts.

(b) Developing guidelines and specialist training for judges and lawyers regarding the treatment of victims/survivors, including the exclusion of the consideration of sexual history, character, attire and counselling/medical records.

#### **RCNI Commentary:**

- Guidelines and specialist training for these legal professionals are both vital. The latter is now becoming more and more widespread and seems to be very high quality. However, we suggest that guidelines for use by judges and legal professionals - need to be developed. One valuable resource as a possible model is the Advocates' Gateway collection of guideline documents on vulnerable witnesses in the criminal justice system in England & Wales<sup>8</sup>.
- Exclusion of all consideration of sexual history, character, attire and counselling/medical records is a high bar and may not be achievable under our Constitution. Decisions on admissibility of evidence must be left to the discretion of the individual judge who must be free to do justice in an individual situation.

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<sup>8</sup> [www.theadvocatesgateway.org](http://www.theadvocatesgateway.org)

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- That said, current provisions on sexual history and other potentially prejudicial evidence could and should be redrafted and/or created tightly enough to help ensure that none of these kinds of evidence is adduced unless strictly necessary in order to prevent a miscarriage of justice. In particular, the existing right to object to disclosure of counselling records should be extended to medical records;
- Jury instructions from the judge pointing out the difference between rape myth and fact at both the beginning and end of the trial will help, however the guiding principle should be that no evidence which is not strictly relevant to the factual issues should be admitted;
- Judges and prosecution advocates should also understand the importance to victims of a robust response to defence strategies which are oppressive towards victims, unnecessary and/or irrelevant, and be prepared to act quickly and decisively to prevent or curtail the use of such strategies.
- RCNI's view is that all prosecution and defence lawyers should have mandatory training in the nature and impacts of sexual violence and in best practice in questioning witnesses in sexual cases in order to maximise the quality of the evidence given and to minimise re-traumatisation in this process.
- Training in the nature of sexual violence trauma would help improve the approach to victims of some legal professionals and time for this training should be built into the working time of every judge who will hear evidence about sexual violence.

(c) Introducing tougher sentences and rehabilitation programmes for the perpetrators of domestic, sexual and gender-based violence and sexual crimes.

### RCNI Commentary:

- Tougher sentences might have some deterrent effect but our view is that on their own they will not do much to change future behaviour unless there are clear incentives for convicted persons to engage with appropriate programmes both in prison and on release. RCNI considers that it is appropriate to wait for the Sentencing Guidelines and Information Committee of the Judicial Council to produce draft guidelines on sentencing for sexual offences (especially offences other than rape) as these guidelines will be based on both recent research and extensive consultation – before considering whether the law on sentencing for sexual offences should be examined, not least because there are now statutory minimum sentences for second or subsequent convictions for sexual offences<sup>9</sup>.
- Community programmes to address sexually harmful behaviour in young people and sexual offending in general should be much more widely available than they are now. After all, much of this behaviour is not reported to Gardaí and not all reports result in prosecution. Fewer still result in conviction.

(d) Providing specialised confidential health care and other support services for victims/survivors including legal representation.

### RCNI Commentary:

- Specialist counselling, advocacy and support services for survivors of sexual violence which are sustainable (that is, well resourced and employing appropriately trained and supported staff and where necessary, volunteers), and of a consistently high standard, are needed to ensure that the complex needs of sexual violence survivors are addressed effectively. See RCNI Commentary under Recommendation 38 (b) above for more detail in this regard.
- Specialised health care such as that provided in Sexual Assault Treatment Units must also have an individual focus to ensure that there are no inappropriate referrals to specialist or generalist victim support services. Government

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<sup>9</sup> See the Criminal Law (Sexual Offences) (Amendment) Act 2019, available online at: <https://data.oireachtas.ie/ie/oireachtas/act/2019/4/eng/enacted/a0419.pdf>



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has now accepted the need for publicly funded legal advice to be available to survivors from the very beginning of the criminal justice process through to the end, regardless of the nature of the sexual offence. This is very much needed. Our understanding is that the necessary legal provisions will be put in place in 2022 as part of the implementation of the recommendations of the O'Malley Review.

(e) Putting in place a Victims/Survivors Commissioner as an independent advocate and voice for victims/survivors.

### RCNI Commentary:

- RCNI has long advocated for an independent commissioner from whom survivors of sexual violence may seek redress when they have reason to believe that they have not been treated in accordance with their statutory rights and with the Victim's Charter. We also believe that having an independent and expert voice for victims would be a very positive step.

### Citizens' Assembly Report on Gender Equality (2021): Gender equality principle in law and policy

**Recommendation 43:** Ensure data gathering on key gender equality issues (including care), regular publication of such data and remedial action where necessary.

### RCNI Commentary:

- Comparable and robust indicators and definitions which are common to all relevant services working with gender equality issues, including any relating to domestic, sexual and gender-based violence, would be a very significant advance in our understanding of these issues. See "Breaking the Silence"<sup>10</sup>, a compendium of definitions suitable for use by a range of agencies in relation to sexual violence against children which was published recently by RCNI.
- Data from private family law courts would allow us to move from anecdote to an evidence based assessment of how gender inequality is apparent in private family law. We know this is a focus point for gender inequality and sexual and domestic violence. Without data we know little about what happens behind the veil of the in camera rule.

**Recommendation 44:** Reflecting international best practice, require gender impact assessment of all proposed legislation and legislate for equality budgeting across all Government bodies including local authorities.

### RCNI Commentary:

- RCNI agrees with this recommendation. In addition, we would like to make the following point:
- It must be clear what is meant by gender for gender impact assessment and gender equality purposes. The meaning of gender is currently under consideration in the equality legislation review. Without this clarity it is not possible to know what is being impacted and measured. Policies, protocols and metrics to address gender inequality must explicitly recognise sex as the protected characteristic and the metric of primary focus alongside others such as gender and gender identity.

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24<sup>th</sup> March 2022

Reference: RCNI/ED/1

<sup>10</sup> Accessible online via this web-link: <https://www.rcni.ie/wp-content/uploads/RCNI-Breaking-the-Silence-1.pdf>