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## **An Comhchoiste um Dhlí agus Ceart**

Tuarascáil maidir leis an nGrinnscrúdú Réamhrechtach ar Scéim Ghinearálta an Bhille fán nGníomhaireacht um Fhoréigean Baile, Gnéasach agus ar Bhonn Inscne

Bealtaine 2023

## **Joint Committee on Justice**

Report on Pre-Legislative Scrutiny of the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill

May 2023

33/JC/38

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## CATHAOIRLEACH'S FOREWORD

In March 2023, the Minister for Justice, Mr. Simon Harris TD, forwarded the General Scheme of the Domestic, Sexual and Gender-Based Violence Agency Bill to the Joint Committee on Justice in accordance with Standing Orders for the purpose of pre-legislative scrutiny.

The Committee is supportive of the ongoing measures to tackle the prevalence of domestic, sexual and gender-based violence, having previously examined topics in relation to this issue, including [an examination of the experience of victims testifying in cases of rape and sexual assault](#) and [an examination into the provision of women's shelters and domestic abuse refuges in Ireland](#).

The Committee welcomes the General Scheme's intention to establish a statutory agency, under the aegis of the Department of Justice, which would be responsible for steering a whole of Government approach towards domestic, sexual and gender-based violence (DSGBV), for the delivery of support services for victims of DSGBV and for the implementation of the Third National Strategy on DSGBV, among other aims.

In undertaking pre-legislative scrutiny, the Committee has sought to scrutinise the proposed legislation and provide recommendations on areas where it believes change or amendments are warranted. Among the areas identified for further examination within the General Scheme include the need for there to be an independent monitoring mechanism of the legislation; the functions of the Agency [Head 14]; and the membership of the Agency's Board [Head 18].

The Committee has made a number of recommendations and a copy of this report and recommendations will be sent to the Minister for Justice. I would like to express my appreciation to all the witnesses for their contributions and to the Members of the Committee for their work on this subject.

Finally, I hope that this report will help to inform the legislative process and make a valuable contribution to the forthcoming legislation.



James Lawless TD (FF) [Cathaoirleach]  
May 2023

## COMMITTEE MEMBERSHIP

### Joint Committee on Justice

#### Deputies



James Lawless TD (FF) [Cathaoirleach]



Colm Brophy TD  
(FG)



Patrick Costello TD  
(GP)



Alan Farrell TD  
(FG)



Pa Daly TD  
(SF)



Aodhán Ó Ríordáin TD  
(LAB)



Mark Ward TD  
(SF)





Thomas Pringle TD  
(IND)



Niamh Smyth TD  
(FF)

### Senators



Robbie Gallagher  
(FF)



Vincent P. Martin  
(GP)



Michael McDowell  
(IND)



Lynn Ruane  
(IND)



Barry Ward  
(FG) [Leaschathaoirleach]

Notes:

1. Deputies nominated by the Dáil Committee of Selection and appointed by Order of the Dáil on 3<sup>rd</sup> September 2020.
2. Senators nominated by the Seanad Committee of Selection and appointed by Order of the Seanad on 25<sup>th</sup> September 2020.
3. Deputy Jennifer Carroll MacNeill elected as Leas-Chathaoirleach on 6 October 2020.
4. Deputy James O'Connor discharged and Deputy Niamh Smyth nominated to serve in his stead by the Fifth Report of the Dáil Committee of Selection as agreed by Dáil Éireann on 19th November 2020.
5. Deputy Michael Creed discharged and Deputy Alan Farrell nominated to serve in his stead by the Fifteenth Report of the Dáil Committee of Selection as agreed by Dáil Éireann on 28th June 2022.
6. Deputy Brendan Howlin discharged and Deputy Aodhán Ó Ríordáin nominated to serve in his stead by the Nineteenth Report of the Dáil Committee of Selection as agreed by Dáil Éireann on 8<sup>th</sup> November 2022.
7. Deputy Jennifer Carroll MacNeill was discharged, pursuant to Standing Order 34, on 21st December 2022.
8. Senator Barry Ward was elected as Leas-Chathaoirleach at the Committee meeting on 15th February 2023.
9. Deputy Colm Brophy nominated to serve on the Committee by the Twenty First Report of the Dáil Committee of Selection as agreed by Dáil Éireann on 7<sup>th</sup> March 2023.
10. Deputy Martin Kenny discharged and Deputy Mark Ward nominated to serve in his stead by the Twenty-Third Report of the Dáil Committee of Selection as agreed by Dáil Éireann on 26<sup>th</sup> April 2023.

## COMMITTEE RECOMMENDATIONS

The following recommendations were made by the Committee in relation to the topic:

1. The Committee recommends that Head 18(2)(a) of the General Scheme should be revised, to ensure that membership of the Board of the Agency includes service providers and those who can adequately consider the diverse needs and experiences of those affected by DSGBV.
2. The Committee recommends the use of quotas, nested quotas or subgroups, to ensure that membership of the Board will be diverse and representative of Ireland's changing demographic; inclusive of gender, race, culture, class, disability and sexual orientation.
3. The Committee recommends that the Civil Legal Aid Scheme must be amended to address delays in the progression of family law cases and to extend the reach of legal aid to marginalised communities and individuals in rural or underserved areas.
4. The Committee recommends that the remuneration for private practitioners from the Legal Aid Board is evaluated and increased, to ensure that sufficient numbers of family law practitioners continue to practice under this scheme.
5. The Committee recommends the appointment of more judges, particularly to the District Court.
6. The Committee recommends that measures are taken to ensure there are sufficient numbers of practicing family lawyers that are from minority backgrounds, so that legal services provided are inclusive and culturally informed.
7. The Committee recommends that the Agency be responsible for carrying out a national needs assessment in relation to the funding of service providers and

other organisations that provide support for victims or persons at risk of DSGBV.

8. The Committee recommends that, based on the results of the needs assessment undertaken, a transparent and coherent criteria for the allocation of funding to service providers should be developed.
9. The Committee recommends that an independent monitoring mechanism be established to provide oversight of the implementation of this legislation. It should be ensured that the body responsible for this task is sufficiently independent from the implementation of this legislation, as stated under article 10 of the Istanbul Convention.
10. The Committee recommends that Head 14(1)(e)(i) of the General Scheme be amended, so that the need to specifically engage boys and men would be placed on a statutory footing, ensuring efforts are taken to address the root causes of DSGBV and implement prevention mechanisms.
11. The Committee recommends that Head 14 of the General Scheme be amended to allow the Agency to generate policy, independent of the Minister, to ensure the delivery and implementation of evidence-based support services and policies for DSGBV; submit a draft multi-annual Performance Framework; and to provide input into the Minister's annual Statement of Priorities. Such powers should be addressed appropriately under Heads 15, 27, 28 and 29.
12. The Committee recommends that the legislation include a formal structure to ensure that there is regular consultation between civil society organisations and the Agency which includes a mechanism for victims to contribute directly to its work.
13. The Committee recommends the insertion of a new subclause under Head 14(1) to provide that the Agency would oversee the implementation of a co-



ordinated system of specific and defined data collection and analysis by public service bodies and to support research in the field of all forms of violence covered by the scope of the Istanbul Convention as set out in Article 11.

14. The Committee recommends the functions of the Agency include the development of a National DSGBV Services Development Plan to include a national Strategic Accommodation Solutions Development Plan to meet immediate refuge roll-out needs.
15. The Committee recommends that Head 14 (1) (a) be redrafted to include the provision of culturally sensitive services for victims of DSGBV.
16. The Committee recommends that Head 14(1) of the General Scheme be amended so that the language reflects the broad scope and contributory nature of a service provider's work.
17. The Committee recommends that Head 5 of the General Scheme be amended to allow the anonymisation or pseudonymisation of generated or collected data, to ensure the protection, safety and dignity of survivors or persons at risk of DSGBV. The Agency should recognise client confidentiality as paramount, regardless of the duties outlined in Head 4(1). Such amendments should be addressed appropriately under Heads 36 and 37.
18. The Committee recommends that Head 36(2) of the General Scheme be amended, so as to clarify the criteria for funding and the frequency of payments to be made. Funding on a multi-annual basis allows service providers to carry out their work sustainably and in a manner that addresses the *ad hoc* provisions of support for victims or persons at risk of DSGBV.
19. The Committee recommends that strategies under the new statutory body are conducted in a manner that is innovative; reflects a zero-tolerance attitude to DSGBV; and improves support services and safeguarding standards for adults and children.

20. The Committee recommends that Head 14(1)(d) be amended to ensure the suitable distribution of information regarding services available to victims or persons at risk of DSGBV, investing a responsibility on the Agency to provide translation and interpretation services.
21. The Committee recommends that Head 14(2) of the General Scheme includes a subclause to guarantee the provision of continuous culture and trauma informed care training for board members and staff who will engage directly with clients of the Agency, ensuring sufficient attention to diverse concerns should representation not meet the quota.

## CHAPTER 1 - Introduction

This is the report on pre-legislative scrutiny of the General Scheme of the Domestic, Sexual and Gender-Based Violence Agency Bill, which will establish a statutory agency, under the aegis of the Department of Justice, to be responsible for steering a whole of Government approach towards domestic, sexual and gender-based violence (DSGBV).<sup>1</sup>

### Purpose of the Bill

Among the Agency's objectives include responsibility for the delivery of support services for victims of DSGBV; responsibility for the implementation of the Third National Strategy on DSGBV; responsibility for monitoring the planned increase in the number of refuge spaces available for victims of DSGBV; and to assist in developing permanent structures to deliver further refuge accommodation over the long term.

The General Scheme will also outline the core statutory functions of the Agency, the staffing of the Agency and the functions of the non-executive board, which will oversee the internal governance of the Agency and the performance of the Chief Executive of the Agency.

### Procedural basis for scrutiny

Pre-legislative consideration was conducted in accordance with Standing Order 174A, which provides that the General Scheme of all Bills shall be given to the Committee empowered to consider Bills published by the member of Government.

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<sup>1</sup> [gov.ie - Dedicated State agency to oversee and support dramatic increase in refuge accommodation under new legislation from Minister Harris \(www.gov.ie\)](https://www.gov.ie/en/news/2022-03-16-dedicated-state-agency-to-oversee-and-support-dramatic-increase-in-refuge-accommodation-under-new-legislation-from-minister-harris/)

## Engagement with Stakeholders

The Joint Committee on Justice invited submissions from stakeholders on the General Scheme of the Domestic, Sexual and Gender-Based Violence Agency Bill.

On 18<sup>th</sup> April 2023, the Committee held a public engagement with several of these stakeholders, as laid out in the table below:

**Table 1: List of public engagements with Stakeholders**

Organisation	Witnesses
<b>National Women's Council of Ireland (NWC)</b>	Ms. Orla O'Connor, Director Ms. Ivanna Youtchak, Violence Against Women Coordinator
<b>Men's Development Network (MDN)</b>	Mr. Seán Cooke, CEO Mr. Colm Kelly Ryan, Head of Programmes & Advocacy
<b>Transgender Equality Network Ireland (TENI)</b>	Mx. Daire Dempsey Mrs. Lee Martin, Legal Intern
<b>AkiDwA</b>	Dr. Salome Mbugua Henry, CEO Ms. Alannah Owens, Policy Officer
<b>Safe Ireland</b>	Ms. Mary McDermott, CEO Ms. Caroline Counihan BL, Legal Advisor
<b>Rape Crisis Network Ireland (RCNI)</b>	Dr. Cliona Saidléar, Executive Director
<b>Department of Justice</b>	Mr. Paul O'Farrell, Principal Officer, Criminal Legislation Ms. Layla de Cogan Chin, Principal Officer, Criminal Governance

The primary focus of this meeting was to allow for an engagement between the Members and stakeholders to discuss possible areas of the General Scheme which may need to be amended.

This report summarises the engagements and the key points considered by the Committee when drafting the recommendations set out in this report.

A link to the full transcript of the engagement can be found [here](#).



## CHAPTER 2 - Summary of Evidence

In the course of the public hearing, a number of important points were raised.

A summary of the main areas discussed in evidence to the Committee follows.

### 1. Membership of the Board [Head 18]

Members and witnesses discussed the membership of the Board of the DSGBV Agency.

The Committee heard that Head 18(2)(a) of the General Scheme should be revised, as it is essential for membership of the Board to include service providers and those who understand the needs and experiences of victims or persons at risk of DSGBV and/or have experience working with those within the sector. Witnesses pointed out that including service providers within Board membership allows for wider viewpoints to be represented and that their presence would de-politicise the atmosphere on the Board and create broader buy-in among the service providers for the Board's success.

Witnesses also recommended that measures should be taken to ensure that board members will have expertise and experience around the needs of trans and non-binary people.

In response to this point, representatives from the Department of Justice underlined that the Minister is committed to the principle of co-design and close co-operation with the DSGBV sector under this legislation and that the Department would consider this recommendation in further iterations of the legislation.

Witnesses also underlined the need for the Board's membership to be diverse and representative of those from within minority communities, as it must reflect the diversity of Ireland's population.

To achieve diversity within the Board it was suggested that there could be quotas to ensure a minimum number of members would be from a minority background or that subgroups could be formed within the Board, that would have consultative status with the Minister.

Witnesses also pointed to the recommendations arising from [the report of the Joint Committee on Gender Equality](#) on how to ensure that Board memberships are inclusive and recommended that these could be used as guidelines for the membership of the Agency's Board.

The Committee also heard that the Board itself must be empowered sufficiently in order for it to be effective. As it is currently proposed in the General Scheme, witnesses argued that the Board's role will be one of auditing and that it should be altered to be more independent and be given more strategic room, or else an alternative structure should be proposed to ensure sufficient oversight of the Agency occurs.

## 2. Independent monitoring mechanism

Members and witnesses discussed the need for there to be an independent monitoring mechanism of the DSGBV Agency and the possible forms this mechanism could take. It was highlighted that under the current General Scheme, the Agency is controlled by or linked to the Minister.

Witnesses pointed out that Article 10 of the Istanbul Convention highlights the need for any monitoring body to be fully independent from the implementation of the legislation and the Council of Europe criticised countries that were allowing their DSGBV agencies to be responsible for this oversight role.

Witnesses suggested that, if the Agency is to fulfil this monitoring role, it would need to be made more independent from Government, otherwise an alternative body should be designated with responsibility for this role.

Other witnesses suggested that the Irish Human Rights and Equality Commission (IHREC) could be tasked with this monitoring role, as the Government can grant additional responsibilities to this body under the *Irish Human Rights and Equality Commission Act 2014*. This would also align with the Paris principles that guide the activities of human rights institutions such as the IHREC and could therefore be the most efficient way of setting up the monitoring body. Witnesses stressed that if the IHREC is designated as the monitoring body, it will need adequate resourcing and staffing in order to carry out this mandate.

The Committee heard that other factors should be taken into account when selecting the body that will undertake this monitoring function, including the need to assess necessary protections to allow this body to retain and share data, whilst respecting the confidentiality of vulnerable individuals; and the need to assess the statutory enabling mechanisms required for a monitoring oversight body.

### **3. Resourcing and funding of service providers under the legislation**

Members and witnesses discussed the funding of service providers under the legislation.

Witnesses highlighted that there should be transparent and coherent criteria around the allocation of funding to service providers, however to date, the approach of funding service providers has been inconsistent and has lacked structure.

Witnesses highlighted that a national needs assessment should be carried out, in order to guide the criteria around funding of services. It was recommended that the Agency should be tasked with carrying out this national needs assessment as a matter of priority, to ensure sufficient funding is allocated to each service provider.

Witnesses also welcomed the imminent launch of the sexual violence survey by the Central Statistics Office, which is the first survey of its kind in a number of years and would outline the prevalence of sexual violence in Ireland.

In the absence of the needs assessment to guide funding, witnesses underlined the importance of maintaining engagement with the NGO sector and wider communities, so that they can provide feedback on the areas that may need additional funding.

#### **4. Lack of family lawyers**

During the engagement, Members pointed to the shortage of family lawyers to represent individuals experiencing DSGBV and asked witnesses what suggestions they have to improve this situation.

While acknowledging the recent efforts made by Government and the Legal Aid Board to improve the number of family lawyers, witnesses agreed that there is an ongoing shortage of family lawyers, particularly at District Court level. Witnesses highlighted that the ensuing delays in court cases progressing have both an emotional and financial toll on those affected by DSGBV.

The Committee heard that there are several measures to improve the shortage of family lawyers, including:

- Witnesses highlighted that the family courts system needs to be improved and that district courts outside of Dublin are particularly overburdened with the number of cases they must deal with.
- Acknowledging the ongoing Civil Legal Aid review, witnesses emphasised that the legislation must be amended to extend the reach of Civil Legal Aid, as the system is stretched and cannot support the number of family law cases being processed, alongside other cases.
- Witnesses highlighted that the remuneration for private practitioners from the Legal Aid Board is set too low, resulting in many opting to practice elsewhere.
- Witnesses underlined the need for more judges to be appointed to help deal with the backlog of cases.
- The Committee was also informed of the need for there to be sufficient numbers of family lawyers from minority backgrounds. Witnesses highlighted that it is essential that appropriate legal services are made available, as this helps to lessen potential barriers that may prevent individuals from progressing with



their cases, e.g. experiencing language barriers, accessibility issues or cultural differences.

## **5. Need to engage men and boys in preventing violence against women**

### **[Head 14(1)(e)(i)]**

Members questioned whether there had been a rise in the prevalence of online misogyny and whether the DSGBV agency could play a role in combatting this.

In response, witnesses underlined that the root cause of misogyny is gender norms, attitudes and behaviours and highlighted the need for gender-responsive and gender-inclusive approaches. It is imperative to address and tackle these root causes, in order to achieve a zero-tolerance approach towards DSGBV.

Witnesses pointed to Head 14(1)(e)(i) of the General Scheme and recommended that this section should place the need to engage boys and men on a statutory footing. They emphasised the extent to which patriarchal attitudes, stereotypes and ideas of masculinity contribute to DSGBV, and how confronting these issues is a crucial element of prevention.

The Committee heard that this would align with international reports and best practice, including Chapter 3 of Istanbul Convention and goals 1.1.1, 1.1.6 and 1.1.8 of the implementation plan of 3rd national strategy on DSGBV.

Witnesses also underlined the rise of transphobia and targeted attacks across social media platforms. They stressed that prevention work against transphobia and DSGBV must be carried out in a way that targets online harassment and is relevant for young people. If the approach fails to engage them, it will not make a lasting impact.

In response, representatives from the Department of Justice commented that the awareness raising role of the Agency would play a part in the violence prevention measures mentioned by witnesses, however, they would consider engaging with the Office of the Parliamentary Counsel to see how this role could be expanded.

## 6. Functions of Agency [Head 14]

Witnesses raised several points in relation to the proposed functions for the Agency and recommended changes to this Head, including some of the following:

- **Agency must be sufficiently empowered to carry out its functions:** The Committee was told that the legislation must ensure the Agency, in collaboration with relevant bodies, is sufficiently empowered to carry out the tasks expected of it; the agency must not be limited in its mandate or funding capacity; that the Agency is sufficiently resourced; and that the Agency will be designed to be ‘future facing’ and be equipped to deal with emerging issues in relation to DSGBV.
- **Agency must generate policy:** Witnesses informed the Committee that the Agency must be empowered to generate policy, rather than simply co-ordinate policy.
- **Regular consultation between Agency and civil society organisations:** The Committee was informed that the legislation should clarify the mechanisms of collaboration between the Agency and civil society organisations and include a structure to ensure that there is regular consultation between parties, in order for these organisations to engage and contribute meaningfully in the performance of the Agency’s functions.
- **Establish consistent standards for data collection and analysis:** The Committee heard that the Agency’s role in data collection and analysis should be expanded and that the Agency should be responsible for implementing consistent standards for data collection and analysis among all public bodies, service providers and relevant organisations, in order to accurately document the trends and prevalence of DSGBV and to inform the legal, financial and policy frameworks around prevention. In response, representatives from the Department of Justice acknowledged the need to gather such data in order to provide an evidence base for any policy making decisions. They highlighted

that the dedicated research function envisaged for the agency reflects this need to gather data.

- **Agency must recognise and protect the agency of service providers:**  
Witnesses raised concerns around the language used under Head 14(1). The Committee heard that the General Scheme does not explicitly recognise the broad scope of work undertaken by service providers, in particular, actions that are difficult to measure; listening, learning, engaging with evidence and effecting change; in short, their advocacy and agency. Legislation should acknowledge that the Agency's success is contingent on the contributions of service providers, as experts and advisors.

## CHAPTER 3 - Summary of Submissions

The Committee received submissions from the following Stakeholders.

- Dublin Rape Crisis Centre (DRCC)
- Safe Ireland
- National Women's Council of Ireland (NWC)
- Ruhama
- Transgender Equality Network Ireland (TENI)
- An Garda Síochána
- Men's Development Network (MDN)
- Rape Crisis Network Ireland (RCNI)
- AkiDwA
- Women's Aid

Stakeholders welcomed the objective of the General Scheme to establish a new statutory Agency for domestic, sexual and gender-based violence (DSGBV) which would, among other areas, steer a whole of Government approach towards DSGBV; be responsible for the delivery of support services to victims of DSGBV; and be responsible for undertaking research and analysis on DSGBV.

The submissions provided commentary in relation to several heads of the General Scheme, in particular, the need for greater clarity in relation to the duties of Public Service Bodies and Service Providers [Head 4]; the staffing of the Agency [Head 13]; the functions of the Agency [Head 14]; and the membership of the Agency's Board [Head 18].



## 1. Stakeholders welcome the intention of this legislation and provide general comments

- A new Head should set out the 'Guiding Principles' of the legislation and of the Agency.
- An independent monitoring mechanism should be included in the General Scheme to provide oversight of the new Agency and implementation of the 3<sup>rd</sup> national strategy on DSGBV.

All stakeholders viewed positively the introduction of this legislation and the establishment of a dedicated Agency for domestic, sexual and gender-based violence (DSGBV). Stakeholders welcomed the Agency being under the aegis of one Department, the Department of Justice and shared the view that the Agency would help to co-ordinate and drive a whole of Government approach towards the provision of DSGBV services and the development of policies and strategies to tackle DSGBV.

Some general comments on how to improve this legislation were common across several submissions, including:

- **'Guiding Principles':** Submissions recommended the General Scheme should include a new head, which would set out the 'Guiding Principles' of the legislation and guide the activities of the Agency. For example, this Head should recommend that the rights of survivors of DSGBV would be central to the actions of the Agency and that the Agency would endeavour to collaborate with other relevant agencies in the DSGBV sector when carrying out its functions.
- **Independent Monitoring Mechanism:** The General Scheme should include an independent monitoring mechanism, which would provide oversight of the new Agency and of the implementation of the Government's 3<sup>rd</sup> national strategy on DSGBV. Similarly, submissions recommended that relevant Governmental Departments must be held to account by the Agency. An interdepartmental DSGBV Oversight Committee should be established to carry out this function, with assistance from the Board of the Agency and from an

Advisory Council of the Agency, which would comprise of expert advisors in the field of DSGBV.

## **2. Duties of Public Service Bodies and Service Providers [Head 4]**

- The Agency should have a core role in developing policy, to ensure that the experience of victims would be incorporated in the design of policy.
- Structures should be implemented to allow local and regional inter-agency groups to inform the Agency of issues and feedback they have encountered and incorporate these in the design of policy.

Head 4 outlines the duty on public service bodies to co-operate with each other and the Agency in carrying out their functions, in line with the acknowledgement that addressing DSGBV requires a multi-agency and whole of Government approach.

Submissions argued that developing policy should constitute one of the primary functions of the Agency. It was highlighted that the Agency's role in service provision ensures it has direct engagement with victims of DSGBV and that as a result, the Agency could ensure that the experiences of these survivors and victims would influence the design of DSGBV policies.

Stakeholders suggested that structures should be designed that would enable relevant local or regional inter-agency groups to provide upward feedback to the Agency regarding issues and concerns they have encountered and potential solutions for these. This would be valuable to allow their views and frontline experience to be fed back into the policy-making designed by the Agency.

Submissions pointed out that the public bodies must ensure they are inclusive and intersectional in their membership and makeup. It was argued that measures should be put in place to protect the specialist services provided by agencies which ensure sufficient representation of minority groups.

### 3. Chief Executive [Head 10]

- Minister must be obligated to ensure that any individual they recommend for the role of Chief Executive has relevant qualifications and experience.
- Any CEO appointed prior to the Agency's establishment should have a limited contract and must take part in an open PAS competition.

Head 10 relates to the terms of appointment and conditions of the Chief Executive Officer of the Agency.

Among the recommendations made by stakeholders in relation to this Head include:

- Stakeholders noted that, prior to the Agency's formal establishment, the Minister may appoint its first CEO. Stakeholders argued that the Minister must be required to ensure that any individual they recommend for the role of Chief Executive of the Agency would have relevant experience, qualifications or expertise for this role.
- Submissions recommended that an open competition process should take place to inform the Minister's appointment of a CEO.
- The contract period should be limited for any CEO appointed prior to the Agency's official establishment and a competitive PAS competition should take place, in which the appointed CEO should take part.
- The Head should contain a complaints mechanism for Agencies who feel their concerns are not being acknowledged, particularly for Agencies that represent minority groups.

#### 4. Staff of the Agency [Head 13]

- Staff should be fully training in the nature and dynamics of DSGBV and there should be a wide range of varying experience and qualifications among staff.
- Applications for staff roles should be available to external candidates and to civil servants in various Government Departments aside from TUSLA and the Department of Children, Equality, Disability, Integration and Youth.
- Staffing quota should be in place within the Agency to ensure sufficient diversity of staff.

Head 13 of the General Scheme sets out the terms around the staffing of the Agency, including provisions allowing for the transfer of current staff from TUSLA to the DSGBV Agency.

Submissions recommended that the staff assigned to the Agency should be fully trained in the nature and dynamics of DSGBV, as separate to training staff may previously have in social work, social care or other similar fields. It was recommended that staff should have a wide range of experience, qualifications and expertise among them, and that staff with specialist-area training should be recruited, to cover the different functions of the Agency and ensure that its functions are carried out by expert staff, in as far as possible. Stakeholders recommended that staff should receive regular training to keep them up-to-date on best practice in this field.

Submissions pointed out that the Head lacks details on whether staff within this Agency will only comprise those transferred from TUSLA or the Department of Children, Equality, Disability, Integration and Youth. Submissions recommended that provisions should allow for relevant civil servants from other Departments to be transferred to the Agency and that external, qualified candidates should also be permitted to apply for roles within this Agency.

Stakeholders highlighted the significance of some of the Agency's functions, e.g. in providing services to victims and overseeing the distribution of funding. Submissions argued that it is essential that there be adequate representation of minority communities within the Agency, so that its staff would have an awareness and



understanding of issues that affect all groups, including minority groups and to ensure there is equal distribution of resources to all relevant groups.

It was recommended that a staffing quota should be implemented within the Agency to ensure sufficient diversity of staff, to counteract unconscious bias from developing and to promote inclusion within the Agency. Staff within the Agency should also receive cultural competency training and trauma-informed training, to inform their interactions with service users from varying backgrounds.

## 5. Functions of Agency [Head 14]

- Legislation should include a formal structure to ensure there is regular consultation between public sector bodies, civil society organisations and the Agency.
- The Agency should establish consistent standards for public service bodies regarding the collection and analysis of data relating to DSGBV.
- Materials relating to DSGBV services should be designed in an accessible medium and translated into different languages to ensure they are accessible by those from minority groups.

Head 14 stipulates the core statutory functions envisaged for the Agency, including responsibility for the planning, commissioning and funding of DSGBV services; assisting the Minister in the development and implementation of national strategies relating to DSGBV; and responsibility for undertaking and supporting research on DSGBV.

Submissions made several recommendations for Head 14, which include some of the following:

- **Mechanisms for consultation between the Agency and specialist organisations:** Submissions underlined it is essential that public sector bodies and civil society organisations would collaborate effectively with the Agency under this legislation. It was recommended that the legislation include a formal structure which would ensure there is regular consultation between these bodies and the Agency. Submissions suggested that these consultations should take place within smaller and specialist groups, allowing the Agency to benefit from the experience and subject-area knowledge of each group. The legislation should also set out the measures that will be taken to ensure that there is appropriate consultation with agencies that work with those from minority groups.

- **Duty on bodies to collaborate with the Agency:** Submissions recommended that public services bodies be obliged to engage with the Agency on any consultations that they launch.
- **Open list of topics:** Submissions recommended that there should be an open list of topics regarding which the Agency should always consult with relevant public sector bodies and civil society organisations.
- **Agency must share outputs with the Minister:** It was recommended that the Agency should be required to share any of its reports, the results of its consultations or any other outputs with the Minister and their officials.
- **Establish consistent standards for data collection and analysis:** Submissions recommended that the Agency establish consistent standards for public service bodies regarding data collection and analysis in DSGBV-related areas, to ensure that data is gathered effectively for the purposes of guiding legal and policy frameworks relating to DSGBV responses and prevention measures.
- **Agency staff should receive specific training in working with trans individuals:** It was highlighted by stakeholders that trans individuals have specific vulnerabilities and challenges when accessing Government services and that more information should be distributed to raise awareness of these difficulties. It was recommended that those working within the Agency should receive specific training in working with trans individuals.
- **Establish a perpetrator programme:** Stakeholders recommended that a perpetrator programme be established under this Head that would address and combat violent or abusive behaviour.
- **Information campaigns on DSGBV should have a specific focus on engaging men and boys:** In developing and rolling out awareness-raising information campaigns in relation to DSGBV, submissions recommended it be

highlighted that such programmes should have a specific focus on engaging men and boys. This is important to ensure that the legislation would adhere with Article 6 of the Istanbul Convention and that these campaigns would aim to address the underlying causes of gender-based violence, including ‘patriarchal attitudes and stereotypes’ and ‘social norms regarding masculinity’.

- **Accessibility and translations of materials on DSGBV services:** It must be ensured that any material and information distributed in relation to DSGBV services should be designed in an accessible medium, should be culturally appropriate and should be translated into different languages, in order to be accessible by those from minority groups. Submissions also recommended that community-based or peer-to-peer distribution of these materials should be considered.
- **Transparency of the Agency:** Submissions recommended that resources and evidence provided to the Agency should be made publicly available and be accessible, to ensure transparency in the operation of the Agency.

## 6. Membership of the Board [Head 18]

- Board members should have sufficient experience and expertise in the area of DSGBV.
- Board should contain ‘nested quotas’ to ensure sufficient representation of minority groups within its membership.

Stakeholders recommended this Head should ensure that membership of the Board would include individuals who have experience, understanding and expertise in the area of DSGBV or in specialist areas of DSGBV, or those with experience in the delivery of DSGBV services. Submissions suggested that between one and three members of the Board should possess such experience.

Submissions also highlighted that membership of the Board should have experience with or be knowledgeable of the perspectives and needs of a variety of groups that are affected by DSGBV, for example, those within the trans and non-binary communities.

Other suggestions for membership of the Board included

- The Board should include senior officials from a number of Government Departments who are authorized to speak on behalf of their Department about its responsibility for the Agency’s operation. Relevant officials include those from the Department of Children, Equality, Disability, Integration and Youth; the Department of the Environment, Community and Local Government; the Department of Health; and the Department of Education, among others.
- The Board should contain ‘nested gender quotas’, as recommended under Article 4(1) on the Convention of the Elimination of All Forms of Discrimination Against Women, to ensure there is sufficient representation of women and those from ethnic minorities groups in the governance of the Agency and to represent the voices of groups that are most vulnerable to DSGBV.

## 7. Additional Points

In addition to the above key issues, some stakeholders indicated specific interest in certain areas, as follows:

- **Head 36 - Arrangements with Service Providers**

Head 36 stipulates that the Agency may organise agreements with not-for-profit service providers for the delivery of DSGBV services.

Submissions recommended that this Head should set out in clearer terms that service providers do not have to provide personal data on any individuals or service users that would cause them to breach provisions under data protection law. Stakeholders underlined it is vital that the Agency would respect the confidentiality of its clients in order for them to feel comfortable engaging with the Agency. It was pointed out that this is particularly important for those from vulnerable or migrant communities, as they fear alienation from their communities if they seek support from such bodies.

Stakeholders questioned the intention of Head 36(2) as phrased and whether it intends that funding for service providers would only be granted on an annual basis. It was recommended that this Head be clarified, as stakeholders highlighted it is imperative for multi-annual funding to be in place for service providers in order to carry out their work and maintain staff in an effective manner.

- **Head 37 – Persons providing supplemental services**

Similar to Head 36, stakeholders recommended that Head 37 should clarify that service providers do not have to provide any personal data on any individuals or service users that would be in breach of data protection law.

It was also recommended that more clarity be provided on the terms under which the Agency will make arrangements with voluntary bodies to provide additional services.

## APPENDICES

### APPENDIX 1- ORDERS OF REFERENCE OF THE COMMITTEE

Standing Orders 94, 95 and 96 – scope of activity and powers of Select Committees and functions of Departmental Select Committees

#### **Scope and context of activities of Select Committees.**

**94.(1)** The Dáil may appoint a Select Committee to consider and, if so permitted, to take evidence upon any Bill, Estimate or matter, and to report its opinion for the information and assistance of the Dáil. Such motion shall specifically state the orders of reference of the Committee, define the powers devolved upon it, fix the number of members to serve on it, state the quorum, and may appoint a date upon which the Committee shall report back to the Dáil.

(2) It shall be an instruction to each Select Committee that—

(a) it may only consider such matters, engage in such activities, exercise such powers and discharge such functions as are specifically authorised under its orders of reference and under Standing Orders;

(b) such matters, activities, powers and functions shall be relevant to, and shall arise only in the context of, the preparation of a report to the Dáil;

(c) it shall not consider any matter which is being considered, or of which notice has been given of a proposal to consider, by the Joint Committee on Public Petitions in the exercise of its functions under Standing Order 125(1)<sup>2</sup>; and

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<sup>2</sup> Retained pending review of the Joint Committee on Public Petitions

(d) it shall refrain from inquiring into in public session or publishing confidential information regarding any matter if so requested, for stated reasons given in writing, by—

(i) a member of the Government or a Minister of State, or

(ii) the principal office-holder of a State body within the responsibility of a Government Department or

(iii) the principal office-holder of a non-State body which is partly funded by the State,

Provided that the Committee may appeal any such request made to the Ceann Comhairle, whose decision shall be final.

(3) It shall be an instruction to all Select Committees to which Bills are referred that they shall ensure that not more than two Select Committees shall meet to consider a Bill on any given day, unless the Dáil, after due notice to the Business Committee by a Chairman of one of the Select Committees concerned, waives this instruction.



## Functions of Departmental Select Committees.

**95.** (1) The Dáil may appoint a Departmental Select Committee to consider and, unless otherwise provided for in these Standing Orders or by order, to report to the Dáil on any matter relating to—

(a) legislation, policy, governance, expenditure and administration of—

(i) a Government Department, and

(ii) State bodies within the responsibility of such Department, and

(b) the performance of a non-State body in relation to an agreement for the provision of services that it has entered into with any such Government Department or State body.

(2) A Select Committee appointed pursuant to this Standing Order shall also consider such other matters which—

(a) stand referred to the Committee by virtue of these Standing Orders or statute law, or

(b) shall be referred to the Committee by order of the Dáil.

(3) The principal purpose of Committee consideration of matters of policy, governance, expenditure and administration under paragraph (1) shall be—

(a) for the accountability of the relevant Minister or Minister of State, and

(b) to assess the performance of the relevant Government Department or of a State body within the responsibility of the relevant Department, in delivering public services while achieving intended outcomes, including value for money.

(4) A Select Committee appointed pursuant to this Standing Order shall not consider any matter relating to accounts audited by, or reports of, the Comptroller and Auditor General unless the Committee of Public Accounts—

- (a) consents to such consideration, or
- (b) has reported on such accounts or reports.

(5) A Select Committee appointed pursuant to this Standing Order may be joined with a Select Committee appointed by Seanad Éireann to be and act as a Joint Committee for the purposes of paragraph (1) and such other purposes as may be specified in these Standing Orders or by order of the Dáil: provided that the Joint Committee shall not consider—

- (a) the Committee Stage of a Bill,
- (b) Estimates for Public Services, or
- (c) a proposal contained in a motion for the approval of an international agreement involving a charge upon public funds referred to the Committee by order of the Dáil.

(6) Any report that the Joint Committee proposes to make shall, on adoption by the Joint Committee, be made to both Houses of the Oireachtas.

(7) The Chairman of the Select Committee appointed pursuant to this Standing Order shall also be Chairman of the Joint Committee.

(8) Where a Select Committee proposes to consider—

- (a) EU draft legislative acts standing referred to the Select Committee under Standing Order 133, including the compliance of such acts with the principle of subsidiarity,
- (b) other proposals for EU legislation and related policy issues, including programmes and guidelines prepared by the European Commission as a basis of possible legislative action,
- (c) non-legislative documents published by any EU institution in relation to EU policy matters, or
- (d) matters listed for consideration on the agenda for meetings of the relevant Council (of Ministers) of the European Union and the outcome of such meetings, the following may be notified accordingly and shall have the right to attend and take part in such consideration without having a right to move motions or amendments or the right to vote:
  - (i) members of the European Parliament elected from constituencies in Ireland,
  - (ii) members of the Irish delegation to the Parliamentary Assembly of the Council of Europe, and
  - (iii) at the invitation of the Committee, other members of the European Parliament.

(9) A Select Committee appointed pursuant to this Standing Order may, in respect of any Ombudsman charged with oversight of public services within the policy remit of the relevant Department consider—

- (a) such motions relating to the appointment of an Ombudsman as may be referred to the Committee, and

(b) such Ombudsman reports laid before either or both Houses of the Oireachtas as the Committee may select: Provided that the provisions of Standing Order 130 apply where the Select Committee has not considered the Ombudsman report, or a portion or portions thereof, within two months (excluding Christmas, Easter or summer recess periods) of the report being laid before either or both Houses of the Oireachtas.<sup>3</sup>

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<sup>3</sup> Retained pending review of the Joint Committee on Public Petitions.

## **Powers of Select Committees.**

**96.** Unless the Dáil shall otherwise order, a Committee appointed pursuant to these Standing Orders shall have the following powers:

(1) power to invite and receive oral and written evidence and to print and publish from time to time—

(a) minutes of such evidence as was heard in public, and

(b) such evidence in writing as the Committee thinks fit;

(2) power to appoint sub-Committees and to refer to such sub-Committees any matter comprehended by its orders of reference and to delegate any of its powers to such sub-Committees, including power to report directly to the Dáil;

(3) power to draft recommendations for legislative change and for new legislation;

(4) in relation to any statutory instrument, including those laid or laid in draft before either or both Houses of the Oireachtas, power to—

(a) require any Government Department or other instrument-making authority concerned to—

(i) submit a memorandum to the Select Committee explaining the statutory

Instrument, or

(ii) attend a meeting of the Select Committee to explain any such statutory instrument: Provided that the authority concerned may decline to attend for reasons given in writing to the Select Committee, which may report thereon to the Dáil,

and

(b) recommend, where it considers that such action is warranted, that the instrument should be annulled or amended;

(5) power to require that a member of the Government or Minister of State shall attend before the Select Committee to discuss—

(a) policy, or

(b) proposed primary or secondary legislation (prior to such legislation being published),

for which he or she is officially responsible: Provided that a member of the Government or Minister of State may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil: and provided further that a member of the Government or Minister of State may request to attend a meeting of the Select Committee to enable him or her to discuss such policy or proposed legislation;

(6) power to require that a member of the Government or Minister of State shall attend before the Select Committee and provide, in private session if so requested by the attendee, oral briefings in advance of meetings of the relevant EC Council (of Ministers) of the European Union to enable the Select Committee to make known its views: Provided that the Committee may also require such attendance following such meetings;

(7) power to require that the Chairperson designate of a body or agency under the aegis of a Department shall, prior to his or her appointment, attend before the Select Committee to discuss his or her strategic priorities for the role;

(8) power to require that a member of the Government or Minister of State who is officially

responsible for the implementation of an Act shall attend before a Select Committee in relation to the consideration of a report under Standing Order 197;

(9) subject to any constraints otherwise prescribed by law, power to require that principal office-holders of a—

(a) State body within the responsibility of a Government Department or

(b) non-State body which is partly funded by the State,  
shall attend meetings of the Select Committee, as appropriate, to discuss issues for which they are officially responsible: Provided that such an office-holder may decline to attend for stated reasons given in writing to the Select Committee, which may report thereon to the Dáil;

and

(10) power to—

(a) engage the services of persons with specialist or technical knowledge, to assist it or any of its sub-Committees in considering particular matters; and

(b) undertake travel;

Provided that the powers under this paragraph are subject to such recommendations as may be made by the Working Group of Committee Chairmen under Standing Order 120(4)(a).'

## APPENDIX 2 - LIST OF STAKEHOLDERS AND SUBMISSIONS

The Committee received submissions from the following stakeholders:

- Dublin Rape Crisis Centre (DRCC)
- Safe Ireland
- National Women's Council of Ireland (NWC)
- Ruhama
- Transgender Equality Network Ireland (TENI)
- An Garda Síochána
- Men's Development Network (MDN)
- Rape Crisis Network Ireland (RCNI)
- AkiDwA
- Women's Aid

[Submissions are available in the online version of the Committee's Report, which will be accessible at <https://www.oireachtas.ie/en/committees/33/justice/>].



Submission to the Joint Committee on Justice  
on the  
**General Scheme of the Domestic, Sexual  
and Gender Based Violence Agency Bill**

**March 2023**

## **Executive Summary**

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## ► About Dublin Rape Crisis Centre

The mission of Dublin Rape Crisis Centre (DRCC) is to prevent the harm and heal the trauma of all forms of sexual violence in Ireland.<sup>1</sup> DRCC has been at the forefront of the Irish response to sexual violence for more than 40 years. That response includes:

- Running the National 24-Hour Helpline and associated services;
- Providing individual advocacy, counselling and other support;
- Accompaniment and support services for those attending court, reporting to An Garda Síochána or attending the Sexual Assault Treatment Unit (SATU);
- Education and training for a wide range of professionals and support workers engaging with victims of sexual violence;
- Data collection and analysis on trends and issue relating to sexual violence.

DRCC is also committed to eliminating the tolerance of sexual violence through education, awareness raising, advocacy and policy analysis.

## ► Context

According to a presentation from the Department of Justice as part of their consultation with civil society, the Department succinctly identified 5 main objectives for the new Domestic Sexual and Gender-Based Violence (DSGBV) Agency (the Agency). They were:

1. Delivering excellent services to victims of DSGBV, including delivering on the number of safe and accessible accommodation spaces available, as well as ensuring that helpline and other supports are available to anyone requiring them;
2. Putting in place a robust set of national service standards and governance arrangements to ensure adherence to the appropriate standards for such supports;
3. Leading on consistent and ongoing research to inform DSGBV policy development, working with others such as the Central Statistics Office (CSO) who have data projects underway;
4. Leading on awareness-raising campaigns designed to reduce the incidence of DSGBV in Irish society as well as ensuring that all victims know how to access the supports they require; and
5. Coordinating all Government actions set out in the Third National Strategy on Domestic Sexual and Gender-Based Violence (TNS) and reporting on their delivery to the Minister for Justice. Political oversight of the strategy will be provided by the Cabinet Committee on Social Affairs and Equality.

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<sup>1</sup> For more information see Dublin Rape Crisis Centre website at: <https://www.drcc.ie/about/>

## ► About the submission

This submission is based on the draft General Scheme for the Agency Bill published in March 2023, our understanding of the TNS and the recognition of the functions outlined above for the Agency by the Department which, if permitted the resources and systems that are required, will seriously help to counteract and probably reduce the epidemic of DSGBV that is currently so prevalent in Ireland. It will also help to meet Ireland's compliance with its international human rights treaty obligations.

Included in the appendix to this submission is feedback from participants at a conference entitled *Tackling Sexual Violence in Ireland* hosted by DRCC in February 2023 where participants were asked to discuss the functions of the new Agency. The appendix relates directly to Head 14(1).

### Head 1 Short title and commencement

1. This Agency and its work are needed to build and help implement Ireland's obligations under the Council of Europe's Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) which Ireland ratified in March 2019. Ireland's current TNS utilises the pillars of the Convention in its vision, its ambition and its implementation. This legislation for the Agency should be linked to the Istanbul Convention. It would be helpful if the title provides that this is an Act to give effect to the Istanbul Convention so that the focus is firmly on Ireland's commitment to meeting its international treaty obligations.

### Head 2 Interpretation

2. The definition of "Service Provider" should include all providing services, including for profit organisations. While the bulk of services are delivered directly by the State or by not-for-profit service providers, some services may be provided on a regular or an occasional basis by for profit providers who should be subject to the same rules, standards and monitoring as not-for profits where traditionally, the governance and service provision requirements have been far more extensive.

### Head 4 Duties of public service bodies and service providers &

### Head 5 Exchange of documents and information including personal data

3. As the memo notes, this is taken in part from the Policing and Community Safety Bill. However, s.118 of that Bill relates only to public services It does not refer to voluntary or commercial bodies. There is a good rationale for that. The State can require its public service bodies to behave in a coherent way and indeed it should do so both with this Agency and with An Garda Síochána as both are organs of the same state structure.

4. In principle, it is clear that it is in the interests of victim/ survivors of DSGBV that there is co-operation and collaboration to deliver services and campaigns in the most efficient way. We question however, whether the State can order private entities including those in the community and voluntary sector to co-operate, or how it can establish what co-operation between non-state companies should be. It makes sense that any service provider working with and funded by the Agency should have to co-operate with it. It is harder to see how to require co-operation between non-state service providers. Such co-operation happens as a matter of course in the DSGBV sector on a pragmatic and philosophical basis but the question is how this is to be required as a duty. On balance, we believe that this provision, as it relates to non-State actors is unworkable and we believe it should be removed.
5. We also note that there is no recognition in the scheme for the support of non-state service providers whose collaboration and co-operation work is largely done unfunded. While the functions of the agency are quite specific, it does not include supports for service providers in such collaborative or consultative work. We discuss this further below at Head 14.

#### **Head 10 Chief Executive**

6. While the Scheme provides that the Board is the governing authority of the agency, its remit in relation to the appointment of the Chief Executive is too limited where it provides that the Chief Executive is appointed by the Minister. Similar agencies of the Department are appointed by the Board with the consent of the Minister. The Parole Board (Parole Act 2019 s.18) appoints its Chief Executive with the consent of the Minister. We submit that this model be followed.
7. This is particularly appropriate where the TNS refers to the co-design model, where the Department consults with those who are familiar with practice on the ground. The make-up of the Board is to include people with expertise of the work and functions of the agency, but they are only to have a limited, non-binding say in the appointment of the Chief Executive.
8. Subhead (3) notes that the Minister can designate a person to be appointed as first Chief Executive. It would be helpful to have it confirmed that such designation will happen on foot of a Public Appointments Service (PAS) competition for the post.

#### **Head 11 Functions of Chief Executive**

9. In addition to the functions mentioned, the Chief Executive should have a function to implement the policies, procedures and decisions of the Board.

### **Head 13 Staff of the Agency**

10. Staff are to be appointed by the Minister for Justice from her/ his own staff. The Agency and its board therefore have no control over its own staff. They cannot decide on their own recruitment needs nor ensure that the staff they have understand the role and function of the agency and its values which will reflect the commitment to implement of the TNS and the Istanbul Convention.
11. The proposed scheme whereby the Minister decides on the number of staff will also hamper the ability of the agency to decide on staff roles including – for example – the number of staff needed for administration as against the numbers needed for research or for various other expert positions. There is no flexibility in the budget for the agency between pay and non-pay elements. This is a significant limitation on the Agency. The scheme should allow the Agency to recruit those best qualified for the work based on its expert knowledge and experience and it should have its own recruitment licence.

### **Head 14 Functions of the Agency**

12. Function 1(f) of this head describes a function for the agency to “*Engage and consult with the domestic, sexual and gender-based violence sector and other relevant stakeholders*”. This is disappointingly vague and non-committal in a scheme arising from the TNS. That strategy recognised the crucial role that service providers in the voluntary sector played in the co-development of the strategy and the formulation of policy to combat and prevent DSGBV. The vague phrases of the Bill give no assurance to the public or to the Minister that co-design is to continue or to be a feature of co-delivery of the Strategy or the State’s obligations under the Istanbul Convention. We submit that this should be expanded to provide a formal, regular and funded conversation with those who provide supports and services to victim/survivors of DSGBV and those who work to combat that harm in the first place.
13. Function 1(i) of this head further describes a function for the agency to “*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*”. The need for advice and support to public service bodies is recognised and is welcome. However, the implementation of national strategies and the current strategy on which the agency is based, and particularly services, is heavily outsourced to not-for-profit bodies who are grievously under-resourced over many years. The advice and support function should be extended to all those engaged in delivering the TNS and to support all those engaged in the implementation who struggle with inadequate resourcing and funding. Alternatively, there should be a separate function sub-head to provide SME style government supports to the not-for-profits in the voluntary sector who are providing essential services and engage in prevention work.

14. Function 1(k) of this head should contain an obligation to collect, collate, analyse and interrogate data from the public service agencies that collect data relevant to the functions of the Agency.
15. Subhead (2)(a) is interesting, but lacks any authority or specificity. Within subhead (1) there should be a function for providing guidance to the Minister on the implementation of the Istanbul Convention in Ireland. In addition, the Agency should monitor and publish regularly, details on that implementation and on Ireland's compliance with the Convention as expressed in the convention text, in GREVIO recommendations directly addressed to Ireland and in general comments of that body as well as the rights of victims of DSGBV as elaborated in Irish, EU and Council of Europe legislation and case law.

#### **Head 15 Power of Minister to give directions etc.**

16. This is extremely wide. It should at the very least specify that it be consistent with the functions and purpose of the agency (e.g. Home Building Finance Act 2018 s.23). It should also specify that any additional costs/ consequences suffered by any service provider or person dependent on an agency service which are a result of such a direction should be fully and immediately paid by the Minister to the Agency which should ensure full compensation to any party affected by that direction.

#### **Head 16 Duties to inform and assist Minister**

17. There is no separate vote for the Agency. The Sec Gen of Justice seems to be the Accounting Officer. Similar to the point made in Head 13 on staffing, the failure to provide for its own grant is a significant limitation on the Agency and its power to act flexibly and independently of the Department of Justice.

#### **Head 17 Establishment and functions of Board**

18. Subhead (2) states that "*The Board shall be the governing body of the Agency with authority, in the name of the Agency, to perform the functions of the Agency*". This is not consistent with the Board having no power to appoint the Chief Executive or staff of the agency. However, one of the functions in 17(4) is the recruitment of staff.
19. The Board is not independent in its function. It is accountable to the Minister. We presume there will be a limitation of individual liability in the final version for board members and officers, absent bad faith.

#### **Head 21 Ineligibility for appointment, disqualification from office, cessation of membership, etc.**



20. Subhead (3) provides that a member of the Board or a member of a committee of the Board shall cease to be qualified for office and shall cease to hold office if he or she— (a) is adjudicated bankrupt, (b) makes a composition or arrangement with creditors. While we recognise that this commonly appears in legislation, we submit that it be reviewed. It is unclear in the scheme summary whether it applies to someone who was previously a bankrupt, prior to applying for board membership but that may be the case. In any event, it is now recognised, in reforms led by the Department of Justice some 10 years ago that bankruptcy or making a composition with creditors is a business decision and is not a moral wrong or akin to a criminal conviction nor is it something of which a person needs to feel ashamed, excluded or isolated from the normal functions of citizenship and participation in public or civic life. It is time that the Oireachtas stopped seeking to shame and treat someone as morally or criminally abhorrent for what is now a fact of business and financial life.

#### **Head 27 Performance Framework**

21. The intention of the Minister is clear. The time frame given to the Agency should be extended from three to six months to allow the Agency adequate time to consult with those working on issues combating and preventing DSGBV and all relevant Government Ministers whose functions relate to the work of the Agency in delivering the TNS.

#### **Head 28 Corporate Plan**

22. This should specifically include those providing services, awareness raising programmes and the like, to the Agency.

#### **Head 31 Annual Report**

23. Subhead (3) should include a time limit from date of receipt within which the Minister should have the annual report laid before both houses of the Oireachtas. We suggest 3 months.

#### **Head 36 Arrangements with service providers**

24. Arrangements with service providers should apply to commercial service providers as well as those which are not-for-profit. See the same point made in relation to Head 2 above.



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## Appendix

## ***Tackling Sexual Violence in Ireland Conference***

Issues of consideration for the Department of Justice on the establishment of a new DSGBV Agency based on conference feedback

### ► **Background to the event:**

*Tackling Sexual Violence in Ireland Conference* took place in Kilkenny on Thursday 23<sup>rd</sup> February 2023. The conference was the culminating event for the *Tackling Sexual Violence Training Network*, which was part of the Wheel Training Links Programme and funded from the National Training Fund through the Department of Further and Higher Education, Research, Innovation and Science.

Attendees at the conference were largely from the 10 organisations within the *Tackling Sexual Violence Training Network*, including: Athlone Midland Rape Crisis Centre, Dublin Rape Crisis Centre, Galway Rape Crisis Centre, Kilkenny Rape and Sexual Abuse Centre, Men's Development Network, One in Four, Sexual Violence Centre Cork, Sligo Rape Crisis Centre, Tipperary Rape Crisis Centre, Tullamore Rape Crisis Centre, and Wexford Rape Crisis Centre.

Given the announcement of the new DSGBV Agency, the event organisers decided to use the conference as an opportunity to gather thoughts and feedback on the agency from the staff of organisations working directly with the issue of sexual violence.

Conference attendees were asked to discuss in groups the question below:

*Based on today's discussions and on your own thoughts, what do you think are the key issues for the new Dept. of Justice statutory agency on DSGBV to take on board when engaging with us as NGOs?*

### ► **General Discussion Feedback:**

There was a general concern expressed that the new agency would not continue to consult the sector and look to impose a one size fits all solution to the issue of DSGBV. There were repeated expressions of the need for consultation with the sector organisations including:

*“we have huge expertise”;*

*“we want the Dept. of Justice to listen to us as experts on what is needed”;*

*“thus far the consultation process has given us some reassurance and left us hopeful for the future”*

An emphasis was placed on this being a critical opportunity to get it right for clients and staff. At present, we are not able to meet the needs of clients or staff, and both are suffering as a result.

### **Funding:**

The most overarching need expressed was for **multi-annual, sustained funding**.

- Full funding for all of our services (including back office):
  - Administration
  - Communications
  - Education: Support/Schools/Parents/Universities
  - Finance
  - Therapists
  - Outreach
- Funding for the Victim/Survivors' Journey
  - Pre-Counselling/ Waiting List Management; Coping Skills Groups; Self-directed/ mentoring programmes
  - Post counselling groups
  - Dedicated space for Garda accompaniment
  - Online counselling
- Funding for Salaries and Staff Retention
  - The sector is suffering from collective burn out. Overworked. Underpaid. Undervalued. **Pay regulation and standardisation** across the sector would help retain staff especially therapists. Therapists can earn more doing private practice or being employed by statutory agencies. Passion is what keeps many of them within RCCs, where the client is always the focus. This passion needs to be recognised and rewarded.
  - Retention of Staff requires:
    - Targeted CPD
    - Training/Upskilling
    - Selfcare
    - Continuous Education/Training
- Funding for Projects:
  - Ongoing funding for projects all centres can use continuously

### **Administration**

- Recognition of the human and financial resources required by organisations around compliance, funding returns etc.

### **Prevention and root causes:**

- Less firefighting, more tackling root causes
- Acknowledge need for prevention as well as healing/support services
- We need an agency that champions addressing root causes

**Education:**

- Education is hugely important, but this must begin with parents, who need support to help their children and to speak to children and teenagers about consent. Parents want to feel supported and want to see specific support for how to talk about sex, consent, etc.
- Education for the schools themselves (teachers and principals) was repeatedly expressed as a critical need. Education and prevention need to be recognised as a bigger part of the picture – train teachers to facilitate specialised training in school (early on!)
- More education is needed about consent and porn in schools, too many young people are getting their education about sex from porn

**Trauma-informed service providers & governmental organisations:**

- More general training in trauma for other groups, charities and healthcare providers. Trauma-informed practice should be the standard for every service working with people

**Inclusivity/ diversity:**

- Inclusivity needs to be part of the discussion
- Better representation of minority groups, including:
  - Sex workers
  - People with disabilities
  - People in situation of homelessness

**Networking/ liaison/ outreach workers:**

- We need to have more liaison/networking with other agencies
- Outreach workers are required to raise awareness about services and assess group/communities' needs
- More connection between RCCs and other service providers is needed for the sake of the client
  - Including services and charities working with homeless people
  - People dealing with addiction need more help and support, many people struggling with addiction have multiple layers of trauma and healing is a long process.

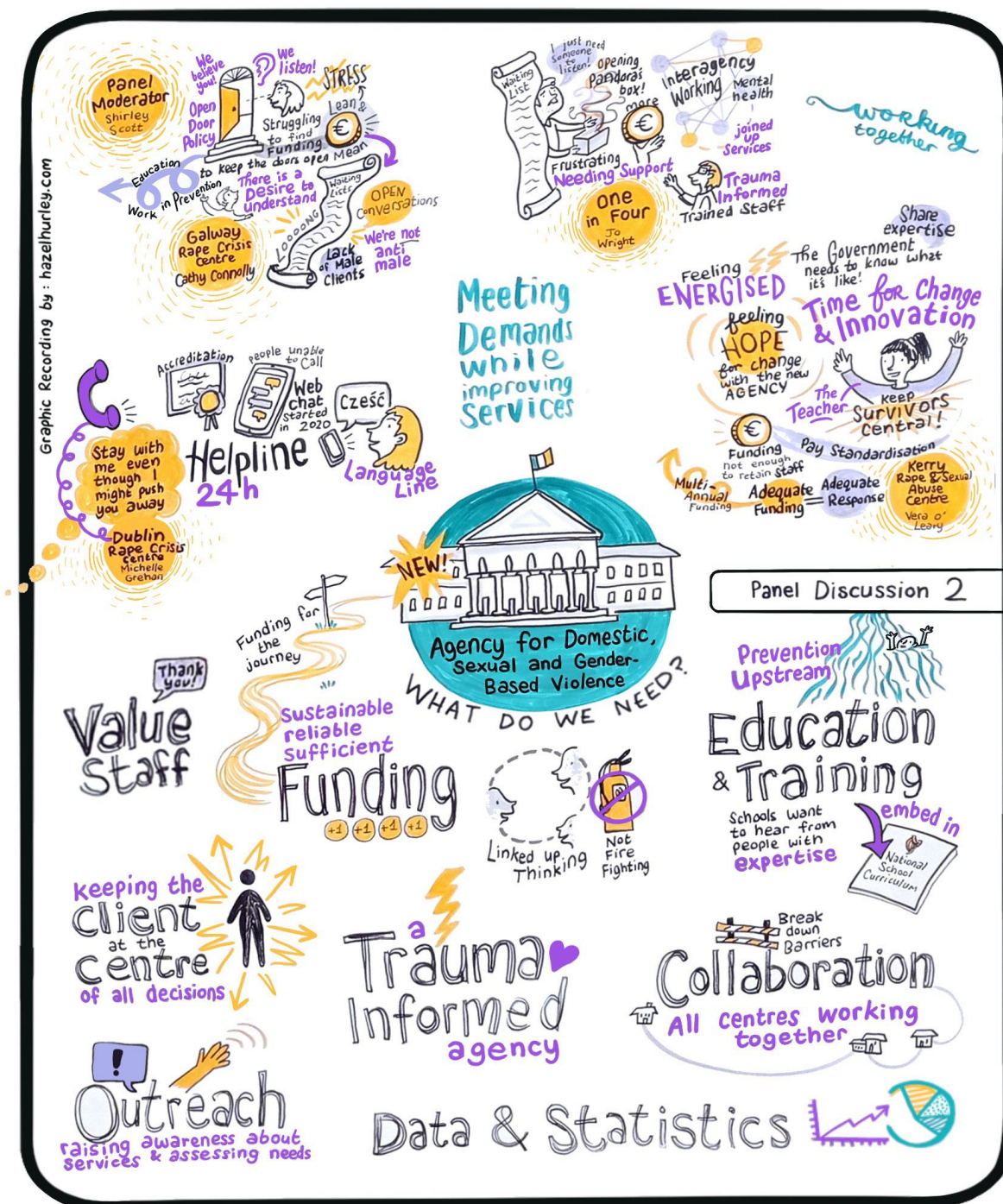
**Collaboration not competition:**

- Enable collaborative working to stop competing
- RCCs often feel as though they are working in silos even though they are doing the same work. Purposeful efforts to eliminate unhealthy competition between RCCs and other groups. Funding applications etc. make RCCs feel divided
- Being at this conference is giving huge energy to wanting more opportunities to come together to learn from each other and support each other

**National media & campaigns:**

- National media & campaigns – all 16 RCC's and DV centres together
- Campaigns *must* be trauma-informed
- Targeted campaigns for bigger outreach

## Graphic Recording of Tackling Sexual Violence in Ireland Conference





## Submission to the Joint Oireachtas Committee on Justice on the General Scheme of the Domestic, Sexual and Gender-Based Violence Agency Bill March 2023

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### About Safe Ireland

Safe Ireland is the national development and co-ordination body working to eradicate Domestic Violence (DV). We have four distinct functions:

- (i) Investigating the causes and effects of violence and coercion based on sex, gender and sexuality;
- (ii) Delivering frontline refuge, support and outreach services;
- (iii) Supporting the development, delivery and coordination of frontline Domestic Violence member services
- (iv) Developing best practice guidelines for skilled community-led domestic violence response; and
- (v) Influencing civil society and national strategic policy.

This is achieved through our research, advocacy and direct refuge and service provision, through our network of affiliated independent frontline DV services; local communities; professionals; public bodies; academic institutions; philanthropists; and corporate partners.

There are thirty-eight DV services across Ireland affiliated as members to Safe Ireland. Each deliver various combinations of services, including, national and local crisis helplines, emergency accommodation, housing and practical supports, one-to-one emotional and therapeutic support, information and advocacy, Garda and Court accompaniment, and Welfare advice. Twenty of these services operate staffed refuges.

Our core strategic focus is to change culture, transform responses to sex, gender, and sexuality-based violence in communities across Ireland, and to progress towards creating a free and Safe Ireland for women, for young people, and for children.

### Executive Summary of this Submission

Safe Ireland as the national development and co-ordination body whose mission is to eradicate domestic violence welcomes this opportunity to make submissions on this very important General Scheme of the Domestic, Sexual and Gender-Based Violence Agency Bill 2023 (DSGBVA Bill).

Our core focus is to change culture so that Ireland becomes a safer place for women, children and young people. To do this, we examine the causes and effects of domestic violence and abuse and aim to influence both civil society and national strategic policy. We also support 38 affiliated specialist domestic violence support services, including 20 refuges.

In this Submission, we make a number of key points. These are:

1. The DSGBV Agency proposed (“the Agency”) must be designed to implement a fully integrated approach to DSGBV itself and to have the range of powers necessary to ensure that this happens. This means that it must lead implementation of any current National Strategy and do this with the full and effective collaboration of other Departments and agencies as well as civil society

organisations (such as but not limited to, specialist DV support services). The marriage of policy with service provision is envisaged in the 3<sup>rd</sup> National Strategy at 4.1.1.

2. The Agency must have the capacity to generate policy itself as well as to provide services and fulfil a range of other functions, as is set out under Head 14 and to which we have proposed amendments, so that policy generation and service provision (and other Agency functions) are integrated and are informed and shaped by policy which itself is grounded in both the best available international evidence and the daily experience of survivors accessing both specialist DV support services and appropriate State services.
3. While the Minister for Justice will always have the **ultimate** responsibility for deciding on policy, he or she should have the benefit of the best possible policy development when making such decisions. He or she should also be obliged to have regard to the Agency's views, proposals, recommendations and feedback on policy.
4. Therefore, in Safe Ireland's view, it should be for the Agency to propose a draft multi-annual Performance Framework to the Minister (see Head 27), and to input into the Minister's annual Statement of Priorities (see Head 29), to which the Minister will have the power to respond as he or she sees fit.
5. As part of its policy generation function, the Agency should have the capacity, and the resources, to undertake, commission or otherwise support, the best quality research in order to ensure that its policy reflects the best international analyses in this area.
6. Further in this regard, the Agency should have both capacity and resources to lead on the design and implementation of appropriate, anonymised or pseudonymised data collection and analysis systems which are capable of "talking to each other" because they use common indicators/definitions, so that at any given moment, high quality data is available on particular topics to provide the best possible national evidence base from which to make policy decisions.
7. Effective inter-agency working at every level should be a principal focus for the Agency. It needs to be always in close touch with daily experience "on the ground" in local communities and to ensure that the voices of survivors and those supporting them can always reach the ears of those making decisions and where warranted, have a really strong positive influence on policy and its implementation. We suggest how this might be done under Heads 14 and 25 among others.
8. The promotion of cultural transformation based on a real understanding of the nature, dynamics and impacts of domestic violence and abuse through education including targeted "sector-specific" education as set out in this Scheme as well as awareness raising activities, should also be a central focus of this Agency.
9. The Agency must be accountable through its own Board, which should include representatives from other relevant Departments with appropriate authority to take decisions, to the Minister for Justice, to the Taoiseach (through the Cabinet Committee on Social Affairs and Equality), and ultimately to the Oireachtas (see further in the Introduction and under Heads 17 and 18 below).
10. In this regard, Safe Ireland welcome the creation of a duty on other public sector bodies (including other Government Departments) and service providers, as defined, to cooperate with the Agency under Head 4 of the General Scheme.
11. An early priority for this Agency should be the National Services Development Plan, which is a commitment under 2.2.1 of the 3<sup>rd</sup> National Strategy Implementation Plan and in turn, the first

major task undertaken under that Plan should be to tackle the deficits in the provision of short-term emergency accommodation for victims of domestic violence and to develop longer-term accommodation solutions for them, as set out in the 3<sup>rd</sup> National Strategy Implementation Plan at 2.3.2 and 2.3.3 respectively. There is a real risk of failure if this is not done in an integrated, coordinated way at national level, taking full account of the best available evidence and analysis in this area.

12. Safe Ireland also propose that this DSGBV Agency Bill should include a strong and comprehensive set of Guiding Principles which should set high expectations for all relevant public sector bodies and service providers as well as for the Agency itself.

## Introduction and Background to this Submission

### Introduction – This Submission

Safe Ireland welcomes very much this opportunity to make a submission on this General Scheme of the Domestic, Sexual and Gender-Based Violence Agency Bill 2023<sup>1</sup>, which will create the legislative framework upon which an integrated and formal Governmental response to Domestic, Sexual and Gender-Based Violence (DSGBV) will be built. It is imperative that this structure, a State-supported DSGBV Agency, is robust, comprehensive and fit for purpose.

Safe Ireland's considered view, based on the best available evidence and on our daily experience of domestic violence as it affects its victims across the country, is that all co-ordination, planning, policy and service provision must be overseen by a single agency, as envisaged in 4.1.1 of the 3<sup>rd</sup> National Strategy Implementation Plan (3NSIP)<sup>2</sup>.

### Effective Agency Structures

As Safe Ireland have long advocated, and in line with 4.1.2 of the 3<sup>rd</sup> National Strategy on DSGBV, implementation must be ensured by strong oversight and coordination at central Government level. It is important to note that 3NS Implementation Plan clearly states that *"Political oversight of this whole-of-government priority will be provided by the Cabinet Committee on Social Affairs and Equality chaired by An Taoiseach"*.

We strongly recommend that political oversight through the Cabinet Committee on Social Affairs and Equality of the DSGBV Agency itself, the Minister for Justice and all other Ministers responsible for any aspect of national policy and service provision as agreed between the Minister and the Agency, is implemented and maintained. In our view, this should be stated expressly in this Bill.

**Safe Ireland propose that this structure be stated expressly in this Bill to enable shared understanding and clear lines of communication and responsibility.**

Safe Ireland's firm view is that both the generation of policy and national service provision functions should be led by the Domestic, Sexual and Gender-Based Violence Agency ("the Agency") and that the Agency

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<sup>1</sup> Accessible through this web-link: <https://www.gov.ie/en/publication/245e7-draft-general-scheme-of-a-dsgbv-agency-bill/>

<sup>2</sup> Accessible through this web-link: <https://www.gov.ie/pdf/?file=https://assets.gov.ie/228481/69e48889-49ea-49d6-8143-982f6cc28bac.pdf#page=null>



should have access from the very beginning to the expert capacity and resources necessary to fulfil both functions to the best possible international standards.

This is our best assurance of a well-informed and coherent approach to both primary prevention and the provision of the best possible services to survivors of domestic, sex, gender and sexuality-based forms of violence and coercion. The experience of survivors and the specialist services which support them in their local community is at the very heart of the best policy, and that community itself must be able not only to support individual survivor needs as they arise, but also to channel its experiences towards policy-makers at national level in order to enable appropriate and lasting changes as and when they are needed.

Effective and efficient forms of targeted prevention and service provision, consultation, data generation, evaluations and policy implementation are meaningless without a robust and active feedback loop between the Agency, relevant state agents and local communities. The 3<sup>rd</sup> National Strategy itself clearly states the role and position of communities<sup>3</sup>.

This means in turn that in line with both 3NS and with our international obligations in the Council of Europe Convention on combating violence against women and domestic violence (“the Istanbul Convention”)<sup>4</sup>, responsibility for implementation of the best possible policy must be shared across all relevant Government Departments and other State agencies.

All Departments involved in the work of the Agency (Housing, Education and Health for example) must be capable of being held to account to the Agency through an over-arching interdepartmental structure such as a Domestic, Sexual and Gender-Based Violence Oversight Committee. The mechanisms for monitoring and ensuring compliance by all these Departments should be set out in this Bill.

**Safe Ireland propose that the mechanisms for monitoring and ensuring compliance by all these Departments should be set out in this Bill.**

This Oversight Committee should itself be supported in its work either by the Board of the new Agency itself, supported by a small number of small specialist sub-committees, or by a separate high-level Advisory Council of the new Agency, itself composed of a range of advisors with significant experience, qualifications or expertise in their subject area.

### **3<sup>rd</sup> National Strategy & National Services Development Plan**

Safe Ireland also considers that in line with 2.2.1 of 3NSIP, the first priority of the new DSGBV Agency should be the creation of a National Service Development Plan, using a collaborative and co-designed approach which examines all aspects of victim response, both general and targeted, as they relate to Safety, Well-Being, Welfare and Finance, looking at the housing issue from a national, integrated perspective and from the best available evidence base. In this way, the risks associated with accommodation provision which is

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<sup>3</sup> The phrase “community-based” is mentioned almost 30 times in the 3<sup>rd</sup> National Strategy document itself, “Zero Tolerance”, beginning at page 12. It is accessible via this web-link: <https://www.gov.ie/en/publication/a43a9-third-national-strategy-on-domestic-sexual-and-gender-based-violence/>

<sup>4</sup> Accessible online via this web-link: <https://rm.coe.int/168008482e> . See in particular Article 7 on: Comprehensive and co-ordinated policies

not (for example) appropriate to its local community's needs, or otherwise wasteful, piecemeal or not based on evidence-based criteria – will all be avoided.

Safe Ireland's view is that without this 3NS-mandated National Services Development Plan, the long-standing issues of ad-hoc, fragmented and uneven provision of DSGBV services nationally will continue. In considering what should be included in the forthcoming Bill, close attention must be paid to the models/Acts referenced, and upon which this new Agency are being built.

As Safe Ireland have stated repeatedly and publicly, it is necessary to move beyond the model followed in the Child and Family Agency Act 2013 which in effect confined the activity of the Child and Family Agency in respect of domestic, sexual and gender-based violence to service provision.

With regard to service provision, Safe Ireland suggest that an urgent first action of a National DSGBV Services Development Plan should be to draw up a national Strategic Accommodation Solutions Development Plan – to meet immediate Refuge Roll-Out needs - in order to avoid these evident risks. Safe Ireland have published a Refuge Design Guide which may support such work<sup>5</sup>.

The first task of that Plan should be the development and implementation of an agreed Strategic Accommodation Solutions Development Plan, focussed on emergency and short-term accommodation provision in line with 2.3.2 of 3NSIP, and the parallel development of clear pathways into longer-term, secure accommodation for survivors of domestic violence, in line with 2.3.3 3NSIP.

Again, the reach and remit of this Bill will either enable or hamper the Agency to lead this process in partnership with the Department of Housing and to have the power to ensure that that Department (or any other Department relevant to accommodation provision) complete their part in the implementation of this part of 3NS.

We also note that the Tusla Review of Provision of Accommodation for Victims of Domestic Violence<sup>6</sup> recommends a centralised, nationally co-ordinated approach, including an Inter-Departmental Commissioning Plan and an Interdepartmental Agency Group to oversee crisis accommodation provision. It also makes recommendations emphasising the importance of local structures in progressing commissioning and provision of accommodation into the future, as well as the importance of providing ancillary services alongside accommodation provision within local communities. The capacity to do this work, or not, will reside in the underpinning provided by this Bill. The capacity to do this work, or not, will reside in the underpinning provided by this Bill.

### **The Bill: Cross-Department, Policy & Community work**

Safe Ireland note that this General Scheme does not appear to provide the Agency with necessary capacities as follows;

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<sup>5</sup> Safe Ireland. December 2022. Safe Place: Designing Domestic Violence Centres for Prevention and Response. (<https://www.safeireland.ie/policy-publications/> )

<sup>6</sup> Accessible online via this web-link: [https://www.tusla.ie/uploads/content/TUSLA - Domestic Violence Acc Provision Single Page.pdf](https://www.tusla.ie/uploads/content/TUSLA_-_Domestic_Violence_Acc_Provision_Single_Page.pdf)

- (i) It does not contain any formal mechanism by which the obligations of other Departments to implement the 3<sup>rd</sup> National Strategy may be overseen by the Agency
- (ii) It does not give the Agency a strong role in the generation of policy, which appears to be concentrated almost entirely in the Minister for Justice and his or her officials
- (iii) It does not confer any formal obligations on the Agency to work closely with relevant agencies at local community level, or establish structures to do so, to ensure evidenced-based and consultative feedback for framing policy and service provision within the Agency

The emphasis throughout this General Scheme is on the Agency as first and last the overseer of service provision: it may be no accident that in the Notes, the Child and Family Agency Act 2013 is cited as a model on 7 occasions for various provisions within the Scheme. Providing services is an extremely important function, and national co-ordination of this important function is necessary.

However, dealing with domestic (or indeed other) violence effectively demands much more than service provision. It demands tight oversight of the implementation of national strategy (not simply the current 3<sup>rd</sup> National Strategy) that focuses just as much on primary prevention, on awareness raising, on changing culture, on education at every level, and on the generation of policy which is evidence-based and which is acutely responsive to those at the heart of this General Scheme, and indeed the whole 3<sup>rd</sup> National Strategy: survivors of domestic violence and those at risk of it.

In our view, it is imperative at this innovative and ground-breaking stage, that the new DSGBV Agency be empowered to lead, collaboratively within historical, extant Government silos, the implementation of (any) national strategy and structural change. It is precisely this fragmentation of policy and services that Safe Ireland have identified as a significant block to creating an effective integrated DSGBV infrastructure in Ireland. To recreate this clearly identified problem now at the legislative level would be a very serious mistake.

Policy cannot be separated from effective evidentiary feedback loops provided by local and regional agents, research/advocates, services and survivor/victims. This separation does not represent best practice itself, nor is it evidence based. Integration of policy and services leads to the development of the best possible policy, including policy recommendations on best practice national service provision models, and thereby provides the Minister with the best possible advice, proposals or recommendations for which he or she (and ultimately, the Government of the day and the Oireachtas) will be responsible.

Finally, in our view this General Scheme, if it is fit for purpose, will establish an internationally innovative and integrated governmental response to domestic violence. It will be truly effective in practice by creating a comprehensive base for the Agency structures, which in turn provide a clear focus on the rights dignity and well-being of survivors of DSGBV, good leadership, a determination to seek out and implement best practice, a focus on the collection and analysis of high quality evidence, recognition of the need for specialist training and expertise in this area, excellent communication and collaboration within and across relevant State agencies and NGOs, and adequate, secure funding.

These are the pillars of an effective response to Domestic, Sexual and Gender-Based Violence (DSGBV) which must be enabled and supported by this legislative framework. Accordingly we have ventured to put together a set of guiding principles which should underpin all activity undertaken both by the Agency and

its collaborators, at the end of this document. We think it is vital that this legislation sets the right tone and high expectations from the start.

## Structure of this Submission

This submission will set out Safe Ireland's commentary on each one of a number of selected Heads of the General Scheme in the order in which they are set out in that document. Any recommendations by Safe Ireland will be set out underneath our commentary under the relevant Head.

Safe Ireland will list any recommendations for additional Heads at the end of the submission.

## Part 1: Preliminary and General

### Head 2 - Interpretation

#### Safe Ireland Commentary:

- This Head, and therefore the whole General Scheme, would be easier to read and understand if some definitions were set out in full in it instead of using the formula: "has the meaning assigned to it by Head X," and similar expressions, particularly when the definition refers to something either new or unusual, such as "performance framework" or "statement of priorities". While this is a common practice now, it could be abandoned in this case to make both the definitions and the General Scheme as a whole more accessible;
- The definition of "service provider" makes no mention of the vital role played by domestic violence support services in the improvement of policy, not only at local but also at national level. Their knowledge of the experiences of survivors should inform national policy directly, fully, and regularly. This is in fact a service to those who may be at risk of domestic violence in the future. It is also a 'service' to inter-agency response and national policy generation.
- Neither does it mention the contribution made by domestic violence support services to cultural transformation through awareness raising, communications and education in their local community. This too is a service to those who may be at risk of domestic violence.
- Our concern is that the expression "service provider" as defined under Head 14(1)(a) might be interpreted so narrowly that centres could not seek funding from the Agency for these activities. Safe Ireland's view is that all these domestic violence support service functions are essential for the prevention of future domestic violence and in order to ensure that the cycle of violence is broken and so that prevention is understood as not simply secondary measures to mitigate the effects of the violence once it has happened, but also primary: that is, measures to prevent the violence happening in the first place.

#### Safe Ireland Recommendations:

- Set out every definition in full under this Head, even it is repeated later in the General Scheme;
- Put it beyond doubt that the expression "service provider" is to be understood to mean, not only services to victims and those who may be at risk of violence, but also more broadly, that is, services to those supporting survivors, those who need to access awareness and educational initiatives at local level to enable cultural transformation vis à vis domestic violence, and at least potentially the

whole national community, any member of which could become a victim of domestic, sexual or gender-based violence in the future.

### Head 3 – Designation of Public Service Bodies

#### Safe Ireland Commentary:

- We think it is a very good idea to leave the list of designated public service bodies open in order to accommodate future changes in public administrative structures. Safe Ireland does not have any comment on the inclusion of any of the Bodies on the current list under Head 2. However, we are surprised to see that the **Office of the DPP** and the **Legal Aid Board** have been excluded. Both have a direct role in the protection and support of victims of domestic violence, the former only in the criminal courts and the latter (almost completely) in the family law courts.

#### Safe Ireland Recommendation:

- Safe Ireland recommends that due consideration be given to the inclusion of both the Office of the DPP and the Legal Aid Board in the list of designated public service bodies, in the Bill itself.

### Head 4 – Duties of Public Service Bodies and Service Providers

#### Safe Ireland Commentary:

- Safe Ireland welcomes very much this clear statement of an obligation to co-operate with each other and with the Agency in order to increase awareness and understanding of DSGBV, reduce its incidence and protect and support victims of DSGBV as well as those who may be at risk of it – on both public sector bodies and service providers. There can be no real progress on the 3<sup>rd</sup> National Strategy without real co-operation across different agencies, including Government Departments.
- However, our view is that this statement needs to be supplemented by provisions outlining a clear structure through which other agencies, including other Government Departments, will be monitored and held to account in their implementation of relevant directions by the Agency. There must be some kind of cross-departmental oversight mechanism which can ensure that all actions committed to are in fact implemented, and it seems to us that it is for the Agency to co-ordinate that mechanism, though ultimately it may be for the Cabinet Committee on Social Affairs and Equality or the Taoiseach themselves to compel compliance.
- On a separate issue, Safe Ireland is gravely concerned to see the continued separation of policy from services in this new legislative framework. As drafted, our view is that however inadvertently, it recreates the problems of fragmentation and lack of integration which have been found wanting in the lifetime of the 1<sup>st</sup> and 2<sup>nd</sup> National Strategies on Domestic, Sexual and Gender-Based Violence and in the structures created under the Child and Family Agency Act 2013. We have repeatedly noted that the Tusla model was not the correct structure for a truly national, integrated and effective DSGBV response.
- In this regard, Safe Ireland notes with concern the statement in the accompanying Note under this Head that the Minister will retain lead policy responsibility for DSGBV while the Agency will provide the lead in delivering DSGBV services. Our point is that while the Minister and the Government of

the day do have the **ultimate** responsibility for policy in this area as in any other, subject only to decisions made by the Oireachtas and the independent judiciary, nevertheless the Agency should not be obliged to concern itself **only** with service provision while policy is shaped entirely elsewhere.

- To be most relevant and effective, policy should be underpinned and informed by the day to day varied experiences of service provision, not divorced from these realities. Therefore, the Agency itself which will be at heart of service provision, should also have the capacity to generate policy. We do not see how this can happen if policy and service provision are to be separated altogether. We are very concerned that this is being put forward at all.
- We also note in this regard that the Agency itself has a statutory duty under Head 14 (1) (j) to provide advice to the Minister on policy matters as and when requested to do so, and that another of its functions is to undertake, commission, or collaborate with, research and to assist in the development of relevant statistics. It seems to us that this is work of fundamental importance in building a national DSGBV infrastructure which is truly fit for purpose, and therefore, the generation of policy as well as research functions and the development of relevant anonymised or pseudonymised data collection and analysis systems, must be within the Agency's remit.

#### Safe Ireland Recommendations:

- Include the development of policy itself as one of the core functions of the Agency, so that policy is continually being informed and influenced by the experiences of survivors and those who support them in domestic violence support services elsewhere. Safe Ireland appreciates fully the challenges of creating meaningful consultation processes. However, separating policy from the work of the Agency will only add to these challenges;
- While we note and applaud the Agency function which includes research and data, we think that more could and should be done to devise structures which would gather and sift the learning from these experiences and present it in suitable form to those who do make policy, or at least, contribute widely to it. For instance:
- Consider how local or regional inter-agency committees could be supported to meet to discuss and relay concerns and possible solutions to, specific issues as they arise in those areas, to the Agency. This does not have to be complicated or expensive process.

#### Head 5 – Exchange of Documents and Information including Personal Data

**Safe Ireland Commentary:** Safe Ireland's firm view is that there is no need for a specific extra provision enabling sharing of personal data between public sector bodies. This is neither "necessary" nor "proportionate" to facilitate any of the general purposes listed in Head 4 above. Confidentiality matters very much to survivors of domestic violence and perhaps most of all to those who must live in small communities. They need reassurance that it is only in rare, defined circumstances (immediate risk of loss of life or serious harm, child protection concerns necessitating a mandated report e.g.) that their confidentiality will be breached by any public service body or service provider.

While we note that the provision is qualified to read "in accordance with law", we think this is not strong enough to reassure either survivors or service providers that their rights under current Data Protection legislation will be explained to them and respected in all circumstances. To the contrary (whatever the good



intention behind it is) it gives the opposite impression: that personal data can be shared at will, without any reference to the data protection rights of the person whose personal data is being shared. This is not appropriate and carries the risk of being interpreted both by data subjects and data processors as a blanket permission to share personal data with third parties at will, whereas the reality is that appropriate sharing of personal data in individual cases across agencies which takes place “in accordance with law” can sometimes be very beneficial for individual victims of DSGBV.

#### **Safe Ireland Recommendation:**

- The phrase “including personal data” should be deleted from Head 5(1) and Head 5(2) should be deleted altogether.
- If this is not regarded as an acceptable solution, a subsection should be added to the effect that any such sharing will only take place in accordance with a dedicated Code of Conduct which has been approved by the Data Protection Commissioner, and
- There should be a statutory obligation on anyone working with or for a public sector body to advise the person concerned (the data subject) of their data protection rights, before any such personal data is shared.

## **Part 2: Agency**

### **Head 10 - Chief Executive**

#### **Safe Ireland Commentary:**

- We note that the first CEO of the DSGBV Agency may be designated by the Minister for Justice in advance of the establishment day of the Agency, but any future CEO will have to be selected via the Public Appointments Service (PAS) process.

**Safe Ireland Recommendation:** The Minister should be bound by the same obligations as those binding on the PAS in Head 10(6) to satisfy itself that the person they recommend to the Minister to become CEO of the Agency has “such relevant experience, qualifications or expertise” as is appropriate to the role, if s/he decides to use his/her power to designate the first CEO of the Agency.

### **Head 13 - Staff of the Agency**

#### **Safe Ireland Commentary:**

- Our understanding is that this is the provision which will enable the transfer of staff from Tusla to the new Agency. If the Minister Children, Equality, Disability, Integration and Youth decides to do so, he can transfer any number of staff from one to the other. We think it is important that wherever the staff of the new Agency come from, there is a wide spread of relevant experience, qualifications and expertise among them, so that all the functions of the Agency are administered and overseen by specialists in their field, as far as possible. This may well mean recruiting staff additional to those now employed by Tusla to work on the co-ordination of service provision.

**Safe Ireland Recommendation:** Whatever decisions are made with regard to the staffing of the new Agency, Safe Ireland recommend that

- All staff joining the new Agency are fully trained in the nature, dynamics and function of DSGBV including the provision of specialist-area training and that this training is repeated as necessary so that it stays up to date with the latest developments in this area. It is an important fact that this training is distinct from training in social work, social care, child and family specialisms, community work or related areas. The absence of this specialised and dynamic focus on DSGBV has caused considerable difficulties for victims of domestic violence and also for service-providers.
- In addition to this specialist training, a spread of experience, qualifications and expertise among staff to covers all functions of the Agency, including policy analysis and generation, is of great importance.

## Head 14 - Functions of the Agency

### Safe Ireland Commentary:

- We note that among the functions of the Agency are duties to provide assistance, advice and support on DSGBV related matters including policy as and when needed in effect to other public sector bodies, to the Minister for Justice, to civil society organisations. It seems to us that this is much to ask from the Agency in the absence of a formal structure which would allow the Agency to generate policy itself and in so doing, to call on its colleagues in public sector bodies and civil society organisations (at the very least service providers and providers of supplemental services) to provide relevant advice based on their individual areas of experience and expertise.
- For these reasons and also because our clear view is that it does not make sense to separate the generation of policy from service provision (and indeed other listed functions of the Agency), we think that the generation of policy based on the best available evidence, should also be listed as a function of the Agency.
- Further in this regard, (see under Head 27 below), we think it is the Agency, not the Minister, who should have the responsibility for the generation of a draft multi-annual Performance Framework and this should be listed as an additional function of the Agency.
- We also think that the Agency should have a wider role in relation to the promotion of public awareness of domestic, sexual and gender-based violence related issues than simply the provision of information campaigns in this regard;
- Heads 14(1)(f): “engage and consult with the DSGBV sector and other relevant stakeholders” and 14(2)(a): “consult as appropriate....and consider recommendations from public sector bodies, international bodies, civil society organisations, ...other persons with relevant expertise, service users and the public”....are very welcome in that they envisage the involvement of specialist organisations including domestic violence support services in the development of both policy and services, however
- There is little detail on the subject areas for consultation, or on the topics where consultation with specialists in DSGBV is important both for policy and for the development of the best possible services for survivors. The creation of best practice standards, embarking on research projects and working on data collection and analysis, cultural transformation/awareness-raising activities (whether for the general public, or “sector-specific”) are all areas in which input from specialist organisations is really essential in order to ensure the best possible outcomes;



- There is no detail at all on the possible mechanisms for consultation with specialist organisations and others. Safe Ireland's view is that a framework for regular consultation, including obligations on all public sector bodies and funded service providers to participate at least to a minimum level in any relevant to their own area of knowledge and expertise, should be put in place at this early stage so that a culture of effective inter-agency consultation and collaboration is allowed to develop as early as possible in the lifetime of the Agency.

### Safe Ireland Recommendations:

Safe Ireland recommends that the generation of policy is added as a function of the Agency.

Safe Ireland recommends that that an additional function of the Agency should be added to this list, as follows:

The promotion of public awareness of Domestic, Sexual and Gender-Based Violence, and of measures including the advancement of cultural transformation measures relating to the prevention of violence against women, the protection of victims and survivors, and the promotion of safe communities, including co-operation with An Garda Síochána, local authorities, NGOs and other persons in this regard<sup>7</sup>.

Safe Ireland also recommends that one of the Agency's functions should be to generate both a draft multi-annual Performance Framework for submission to the Minister every three years;

Further, Safe Ireland recommends that another function of the Agency should be to provide a draft annual Statement of Priorities to the Minister;

Safe Ireland recommends that a structure which is both formal and flexible - is put in place to ensure that there is regular consultation between the Agency and relevant public sector bodies, civil society organisations, and perhaps others;

Safe Ireland also recommends that this formal structure consists not of a single large and likely unwieldy structure but a number of smaller, specialist targeted structures, each one responsible for a distinct subject area, so that the Agency can have the benefit of the experience and expertise of those who know most on any particular topic;

Safe Ireland further suggests that there should be an open list of topics on which the Agency should always consult with relevant public sector bodies, civil society organisations and others;

Safe Ireland recommends that there should be a duty imposed on public sector bodies and service providers funded by the Agency to collaborate with any consultation initiated by the Agency, as far as is reasonable in the circumstances; finally

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<sup>7</sup> Adapted from Section 4 Road Safety Act Subsections (4)(b), accessible via this web-link:  
<https://revisedacts.lawreform.ie/eli/2006/act/14/revised/en/html#id1141210515.42>

Safe Ireland recommends that there should be an obligation on the Agency to ensure that any recommendations, reports, or other outputs of any of these consultation structures, are shared with the Minister and his or her officials.

### Head 15 - Power of Minister to give Direction etc

#### Safe Ireland Commentary:

- This Head underlines the central role of the Minister for Justice and his/her officials in generating policy on DSGBV as it allows the Minister to give specific directions on any matter, to give general directions on policy, and to issue guidance on prioritisation of policy commitments, codes of practice relating to governance and related matters, to all of which the Agency must have regard. This underlines the close oversight which the Minister and his officials will have over the running of the Agency and the control which they will have over policy direction.
- While the Minister will have the **ultimate** responsibility for policy direction, prioritisation of commitments, codes of practice and the like, it seems to us that it makes no sense for him or her to have day to day responsibility also for all the necessary ongoing generation of policy, its revision, and the creation of codes of practice and similar documents. That responsibility should be placed with the Agency, the entity which is most in touch with all aspects of service provision.
- There should be an obligation not only on the Agency to produce advice, proposals and recommendations on policy at regular intervals and also ad hoc (as here) as necessary – but also on the Minister to consult with and have regard to that advice, proposals and recommendations.

### Part 3: Board of Agency

#### Head 17 - Establishment and Functions of Board

#### Safe Ireland Commentary:

- The functions of the Board as listed in Head 17(4) do not include any obligation on Board members to communicate with the Minister and/or his or her officials any concerns they may have about policies which in their view are not having the desired effect despite the best efforts of the Agency and their colleagues in other organisations.
- With great respect, it is important that if independent experts are being encouraged to sit on this Board that they have not only the right but the duty to raise any concerns they may have about a particular policy from the Minister if they see that it is not working in practice.
- Similarly, there should also be a reciprocal duty on the Minister to have regard to any such concerns raised by the Board and to communicate these concerns directly to the CEO of the Agency.

**Safe Ireland Recommendation:** The functions of the Board should include a duty to advise the Minister about any difficulty with the operation of any of his or her policies as soon as practicable;

There should be a reciprocal duty on the Minister to have regard to any concerns raised by the Board and to communicate these concerns to the CEO of the Agency without delay.

#### Head 18 - Membership of the Board

### Safe Ireland Commentary:

- Safe Ireland's view is that the Board of the Agency should be an interdepartmental structure which includes senior officials from a number of relevant Departments to underline the responsibility of each of these for the work of the Agency. Whatever the rank of these officials, they should have the necessary authority to speak for their respective Departments and undertake commitments on their behalf.
- This means that the overall number of Board Members would be increased, in line with the proposals set out in our Recommendation below.
- Safe Ireland notes that under this Head, the Minister may designate a person to be the first Chair of this Board without any PAS process before this Agency is established, and may appoint an officer of his/her own as an ordinary member of the Board under Head 18(2) at any time. This means that the influence of the Minister on the composition of the Board will be strong, at least initially.
- Safe Ireland also notes that on this Board which as drafted would have 8 members in addition to the Chair, there are two seats reserved for members with experience and expertise relating to the functions of the Agency. This is important, but it is not quite the same thing as having experience and expertise relating to DSGBV. We think that this experience and expertise should also be represented on the Board.

### Safe Ireland Recommendation:

The Board should include senior representatives with the delegated authority necessary to speak on behalf of their Department and undertake commitments in line with 3NS or other agreed Strategy in the future, and we suggest the following additions to the configuration proposed in the General Scheme to ensure that all relevant Departments are included, so that this is truly an interdepartmental structure:

- a) One serving officer from the Department of Justice, as nominated by the Minister of that Department;
- b) One serving officer from the Department of the Environment, Community and Local Government, as nominated by the Minister of that Department;
- c) One serving officer from the Department of Employment Affairs and Social Protection, as nominated by the Minister of that Department;
- d) One serving officer from the Department of Health, as nominated by the Minister of that Department;
- e) One serving officer from the Department of Department of Children, Equality, Disability, Integration and Youth as nominated by the Minister of that Department;
- f) One serving officer from the Department of Further and Higher Education, Research, Innovation and Science as nominated by the Minister of that Department;
- g) One serving officer from the Department of Education itself as nominated by the Minister of that Department<sup>8</sup>.

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<sup>8</sup> Adapted from *S.I. No. 264/2012 - Housing and Sustainable Communities Agency (Establishment) Order 2012 Section 6 (3)*  
<https://www.irishstatutebook.ie/eli/2012/si/264/>

The Board should include at least one member with significant experience, qualifications and expertise in some area of DSGBV with a specialist area.

## Head 25 - Committees of Board

**Safe Ireland Commentary:** Safe Ireland's view is that the principle that specialist Committees, composed of Board members and non-members, should focus on specific topics - is a good one. It is important that in its functions it should have access to the best quality advice. We think that the Agency should have the benefit of some such structures too, as set out under Head 14 above.

## Part 4: Governance and Accountability of Agency

### Head 27 – Performance Framework

#### Safe Ireland Commentary:

- This Head sets out the Minister's role in providing policy guidance, direction and prioritisation parameters in the form of a multi-annual Performance Framework to the Agency for the preparation of its Corporate Plan through which all will be implemented. There is no mention of any obligation on the Minister and/or his or her officials to have regard to any policy advice, proposals or recommendations from the Agency or from civil society generally, when devising the performance framework. In our view, there should be such an obligation.
- Safe Ireland considers that in fact, it should be the Agency who not only has responsibility for generating policy under Head 14 (as indicated above), but also for generating a draft multi-annual Performance Framework. After all as it is the Agency who will understand exactly how service provision is working on the ground, they are the entity who is best placed to take a longer view of implementation, that is, to generate the draft multi-annual Performance Framework.

#### Safe Ireland Recommendation:

Make the generation of a draft Performance Framework the responsibility of the Agency whose duty it would be to submit it to the Minister who would have the power to change it if that were necessary.

Include an obligation on the Minister to have regard to any advice, proposals or recommendations from the Agency on policy before s/he finalises any Performance Framework.

### Head 28 – Corporate plan

#### Safe Ireland Commentary:

- Our understanding is that the Agency's responsibility is to devise a Corporate Plan, each one to last three years, in response to the Minister's Performance Framework which will set out how the contents of the Framework will be implemented.
- We welcome very much the duty on the Agency to consult with interested parties and have regard to the views of those parties, before it finalises each Corporate Plan.
- We note that the Minister may intervene to amend the Corporate Plan at any time after it has been approved by him/her. This has the advantage of providing a mechanism through which necessary

changes may be made if it transpires that a particular policy or practice is not working out as well as anticipated in reality or is giving rise to unintended consequences.

- All that said, as we indicated under Head 27 above, it seems to us that it would be best if it were the Agency whose responsibility it was to generate the draft multi-annual Performance Framework. If this were to be the case, there would be no need for the Agency to have responsibility to create a separate Corporate Plan in response to the Minister's multi-annual Performance Framework;
- If that were to be the case, there should be a duty on the Agency to consult with interested parties and have regard to the views of those parties, before it finalised the draft multi-annual Performance Framework which would go to the Minister and which would be amended by him or her in the light of other competing priorities and available resources.

## Head 29 – Statement of priorities

### Safe Ireland Commentary:

- This is the Head which gives the Minister the duty to state his or her priorities for any single year of the life of a Corporate Plan “with specific policy guidance, direction, prioritisation and resource parameters”. This is what will inform the creation by the Agency of an Annual Business Plan under Head 30.
- This duty underlines the clear and direct line of responsibility and control back from the Agency to the Minister and ultimately to the Government of the day and the Oireachtas.
- Safe Ireland's view is that it should be for the Agency to submit its own draft Statement of Priorities on the generation of policy, its direction and/or the aspects of it to be prioritised to the Minister, any part of which s/he would be free to override – but in line with already agreed and accepted National Strategy, such as the current 3NS;
- However, the Agency will not be able to determine the amount of funding it gets in a given year as this is ultimately a matter for the Minister for Finance and the Government of the day as a whole. This aspect of the Statement of Priorities will be for the Minister for Justice to determine.

### Safe Ireland Recommendation:

Safe Ireland's view is that provisions should be drafted to enable the creation of an annual Statement of Priorities on a joint basis as outlined above by the Agency and the Minister;

There should also be a duty on the Minister should have to take into account any proposals, advice or recommendations coming from the Agency and through the Agency, from its public sector body and service provider partners, when s/he has to finalise the Statement of Priorities in the light of available resources.

## Head 30 – Annual business plan

### Safe Ireland Commentary:

- This Head sets out the corresponding duty of the Agency to create an Annual Business Plan which accords with the Statement of Priorities given to it by the Minister. The Agency must produce an Annual Business Plan in accordance with the Minister's Statement of Priorities and stated policy

objectives which as we have set out under Head 29 above, should be arrived at as part of a joint process between the Agency and the Minister.

## Part 5: Provision of Services

### Head 36 – Arrangements with service providers

#### Safe Ireland Commentary:

- With regard to Head 36 (2), cited in full here: “Before entering into an arrangement under subhead (1), the Agency shall determine, in respect of a financial year of the Agency, the maximum amount of funding that it proposes to make available during the course of that year under such an arrangement and the level of service it expects to be provided for that funding”, Safe Ireland’s view is that this provision should make it clear that this does not mean that funding of service providers can **only** be granted on an annual basis;
- Without multi-annual funding, it is extremely difficult for service providers to plan their work and carry it out in a sustainable and cost-effective way. It is hard to recruit, train and retain skilled staff with the necessary experience and qualifications appropriate to their role if it is only possible to offer them a fixed-term contract lasting for 12 months. Annual-only funding also means that every year, significant resources must be set aside to renew funding applications and if necessary, to recruit and train new staff.
- With regard to the wide-ranging obligations on service providers under Heads 36 (8) and (10) to provide any information requested to the Agency or the Minister respectively, on pain of the significant sanctions set out in Head 36 (9), some qualification is needed to make it clear that service providers do not have to provide personal data on anyone (especially service users) in possible contravention of their obligations under data protection legislation, in order to comply with these obligations so that they will not be subjected to the sanctions listed under Head 36(9).

**Safe Ireland Recommendations:** Reword Head 36(2) to make it clear that this refers only to the information on annual financing which the Agency must give to the service provider each year, not to any obligation on either Agency or service provider to enter into a service level agreement lasting no longer than a year.

Reword Heads 36 (8) and (10) to clarify that the duty on service providers to provide information does not include the provision of information in contravention of the service providers’ data protection obligations.

### Head 37 – Persons providing supplemental services

#### Safe Ireland Commentary:

This Head in itself is very welcome as it recognizes the multi-faceted and wide-ranging nature of the fight to eliminate DSGBV. However, just as under Head 36 above, we think that Head 37 (5), (6) and (7) which deal with the provision of information requested by the Agency, should be qualified to make it clear that these obligations and sanctions do not refer to the sharing of any personal data in contravention of data protection legislation.

**Safe Ireland Recommendation:** Reword Heads 37 (5), (6) and (7) to clarify that these obligations and sanctions respectively should not be understood to include the sharing of any personal data in contravention of data protection legislation.

### Proposed Additional Heads:

#### Proposed Additional Head [39] – Guiding Principles

#### Safe Ireland Commentary:

- This is legislation which will establish an integrated framework to work towards the eradication of DSGBV. Therefore, it must enable the best possible response to DSGBV from both State agencies and civil society.
- This means that it must also be capable of countering effectively the populist, incoherent ideas about DSGBV which are not founded on fact. These ideas now abound on both mainstream and social media and which have themselves become part of the intractable large-scale social problem that is DSGBV.
- An effective response to DSGBV to counter these therefore entails a common vision and purpose shared across all public sector bodies and civil society generally, who will have to collaborate with each other. Safe Ireland's view is that therefore, a strong statement of its Guiding Principles should be included in this Bill, ideally in Part 1. We suggest that the parallel statement at Section 8 of the Family Courts Bill 2023<sup>9</sup> is a powerful precedent.

#### Safe Ireland Recommendation:

Include in a separate Head in Part 1 a strong statement of the Guiding Principles which will underpin this ground-breaking new DSGBV Act and all the activities of the new Agency, e g:

“DSGBV Agency shall do its best to ensure that

- The rights, dignity and well-being of all survivors of domestic, sexual and gender-based violence shall be at the centre of every action taken to implement any direction or plan;
- All its activities are underpinned by knowledge and understanding of the nature and impacts of domestic, sexual and gender-based violence, encompassing the differences between violence based on sex, gender and sexuality (sometimes described as sexual orientation);
- Such knowledge and understanding is fostered in all its partner agencies, including but not limited to public sector bodies and service providers and any persons providing supplemental services;
- There is always a strong focus on maintaining and developing measures to further the primary prevention of domestic, sexual and gender-based violence;
- All relevant activities of the Agency are undertaken in partnership with other relevant agencies as far as possible, in a spirit of mutual understanding and co-operation;
- The best possible communication and information sharing systems will be fostered across agencies in every direction so that not only policy directives from the Minister and obligations under service level agreements are shared with service providers and others, but also so that the experience of

<sup>9</sup> Accessible via this web-link as initiated: <https://data.oireachtas.ie/ie/oireachtas/bill/2022/113/eng/initiated/b11322s.pdf>



service providers embedded in their communities can be passed on to the Agency and the Minister in a timely and appropriate way;

- There is a strong emphasis on providing not only the best possible quality of service through common standards and protocols but also on ensuring that the best possible quality of training is made available to all those working with survivors of domestic, sexual and gender-based violence in whatever capacity;
- There is also a strong emphasis on the best possible quality education of our children and young people in positive relationships; and
- All activities undertaken are recorded and analysed through the use of the best possible evidence-gathering and analysis systems”. [This means not only regular involvement in research but also the generation of data collection systems which can talk to each other because they use universal indicators or definitions. This is what will ensure that any changes to policy, implementation plans in the future are properly evidence-based].

### Proposed Additional Head [40]

#### General Duties of Agency

The Agency shall—

(a) if requested by the Minister, provide such advice as may be appropriate in respect of any regulatory or other function vested in the Minister relating to Domestic Sexual and Gender-Based Violence,

(b) if requested by the Minister, represent the State at meetings with or arranged by, international organisations or governments of other states in so far as the meetings relate to matters to which the functions of the Agency relate,

(c) in carrying out its functions, promote the development and improvement of preventive and protective measures to mitigate and eliminate Domestic Sexual and Gender Based Violence and may make such recommendations to the Minister as the Agency considers appropriate in relation to same

### Proposed Additional Head [41]

#### Conferring of additional functions on Agency.

The Minister may, after consultation with the Agency, the Minister for Finance and any other Minister of the Government who in the opinion of the Minister is concerned, by order—

(a) confer on the Agency, such additional functions connected with the functions for the time being of the Agency or the services or activities that the Agency is authorised to provide or carry on (including functions of the Minister in relation to any directive, regulation or other act adopted by an institution of the European Communities or other international convention or agreement to which the State is or becomes a party, as the Minister considers appropriate), and



(b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the Agency of functions under this section or the performance by the Agency of functions so conferred (including provision for the transfer to the Agency of any property held by the Minister for the purposes of functions conferred on the Agency under this section).

(2) Every order made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House has sat after the order is laid before it, the order shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

### Proposed Additional Head [42]

#### Domestic, sexual and gender-based violence information and statistics

1. The Minister may direct the Agency to collect, compile, prepare, publish or distribute to such persons (including the Minister) such anonymised or pseudonymised information and statistics relating to Domestic, Sexual and Gender-Based Violence and the functions of the Agency, as the Minister considers appropriate, for national or international planning, policy research and development, monitoring and reporting purposes and may specify any matter concerning the collection, compilation, preparation, publication and distribution of such data and statistics, as the Minister considers appropriate.
2. For the purpose of facilitating the collection of such anonymised or pseudonymised information and statistics under *subsection (1)* the Agency may require a person who holds records relating to Domestic Sexual or Gender-Based Violence or matters relating to the functions of the Agency, to give to the Agency such anonymised or pseudonymised information and statistics in such form (including electronic form) and at such reasonable times or intervals, as the Agency specifies. A person to whom such a requirement is directed shall comply with the requirement<sup>10</sup>.

SI/Final

15 March 2023

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<sup>10</sup> Adapted from Section 8 Road Safety Agency Act Subsections (1) and (3), accessible via this web-link:  
<https://revisedacts.lawreform.ie/eli/2006/act/14/revised/en/html#id1141210515.64>

DVAB\_03

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 Violence<sup>1</sup> and the National Observatory Shadow Report to Greivio in respect of Ireland<sup>2</sup> 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.

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

<sup>2</sup> Irish Observatory on Violence Against Women, Shadow Report to Greivio in respect of Ireland (August 2022) [https://www.nwci.ie/images/uploads/IOVAW\\_GREVIOS.pdf](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 year<sup>3</sup> 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 homes<sup>4</sup>. In 2022, An Garda Síochána has received in excess of 49,250 domestic abuse reports - a 9% increase this year to date<sup>5</sup>. 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.<sup>6</sup>

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 Women<sup>7</sup>. 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

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

<sup>4</sup> Women's Aid Femicide Watch January 2023

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

<sup>5</sup> 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>.

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

<sup>7</sup> 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 (UNCPRD, 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 Tolerance<sup>8</sup>; 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 Strategy<sup>9</sup> 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 Plan<sup>10</sup>.

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

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

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

<sup>10</sup> 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](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.”<sup>11</sup>

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.”<sup>12</sup> 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.”<sup>13</sup>

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 responses<sup>14</sup>. 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

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

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

<sup>13</sup> Ibid, page 44.

<sup>14</sup> Ibid, page 10.

Traveller women<sup>15</sup>. 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)<sup>16</sup>.

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 within<sup>17</sup>. The national infrastructure for DSGBV has historically been criticised for having no clear, integrated leadership, being 'formulaic', 'siloe'd', 'departmental', 'disconnected' and overall 'not working'<sup>18</sup>. There has been a fragmentation of policy development and service delivery competencies between different agencies, and responsibility has been dispersed across multiple government departments<sup>19</sup>. One of the most important impacts is that the fragmentation of competencies created and sustained a lack of effective national monitoring of policies<sup>20</sup>.

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 agencies<sup>21</sup>. 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

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

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

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

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

<sup>19</sup> 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.

<sup>20</sup> 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](https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf)

<sup>21</sup> 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](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 approach<sup>22</sup>.

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’<sup>23</sup>. 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’<sup>24</sup>.

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’<sup>25</sup>. 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 components<sup>26</sup>. Taking into consideration that Ireland failed to implement its Second National Policy on Domestic, Sexual and

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<sup>22</sup> Ibid

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

<sup>24</sup> Ibid

<sup>25</sup> 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)

<sup>26</sup> 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](https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf)



Gender-based Violence (2016 - 2021) and accompanying Action Plan in relation to data collection<sup>27</sup>, 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'<sup>28</sup>. 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 strategies<sup>29</sup>.

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'<sup>30</sup>; 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'<sup>31</sup>, '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'<sup>32</sup>, 'Ensure co-ordinated systems, (to include shared definitions and agreed methodologies) for collecting, analysing, and sharing data on access to and use of services'<sup>33</sup>. Moreover, the state's obligations under Article 11 references to

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<sup>27</sup> 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.

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

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

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

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

<sup>32</sup> Ibid, Action 4.3.1, Page 45

<sup>33</sup> 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 provision<sup>34</sup>. Moreover, the Implementation Plan of the Third National Strategy on Actions 4.4 and 4.5 refers to Shared Island Initiatives<sup>35</sup>. 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’<sup>36</sup>, 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;

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<sup>34</sup> 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](https://www.nwci.ie/images/uploads/IOVAW_GREVIOS.pdf)

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

<sup>36</sup> 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 responses<sup>37</sup>. 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 women<sup>38</sup>. 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.

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

<sup>38</sup> 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"<sup>39</sup>.

## 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;

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<sup>39</sup> 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.

Follow up contact can be made to: Orla O'Connor [orlaoc@nwci.ie](mailto:orlaoc@nwci.ie) or Ivanna Youtchak [ivannay@nwci.ie](mailto:ivannay@nwci.ie)



# Ruhama

**Fighting Sexual Exploitation, Prostitution and Human Trafficking**

**Submission to the Joint Committee on Justice:  
General Scheme of the Domestic, Sexual and Gender Based  
Violence Agency Bill 2023**

**March 2023**



### **About Ruhama**

Ruhama is an Irish NGO and registered charity that offers nationwide support to individuals, predominantly women, impacted by prostitution and human trafficking for sexual exploitation.

Ruhama's mission is to support and empower women impacted by prostitution and sex trafficking by providing safe, accessible, psychological and practical assistance to co-create opportunities to enhance their lives. Ruhama raises public awareness and advocates to influence policy that will support and protect women. Ruhama provides a diverse range of holistic supports including Outreach, Casework, Counselling/Trauma Therapy, Education and Development programme, Bridge to Work programme, and survivor voice engagement.

### **About the submission**

Ruhama welcomes the Bill to establish the new Domestic, Sexual and Gender Based Violence (DSGBV) Agency to oversee the implementation of the Third National Strategy on DSGBV, and the continuation of the work in this area.

We believe that it is important that the Bill encompasses the intentions of the Third National Strategy on Domestic, Sexual and Gender-Based Violence, with the emphasis on collaborative inter-agency function and integrates a survivor-centred approach. Ruhama notes that there is no mechanism included for monitoring progress of the agency such as key performance indicators in the delivery of its functions and would recommend the inclusion of such mechanisms for accountability and to ensure its success.

The following comments and recommendations outline Ruhama's view on the inclusion of these elements within the current draft of the Bill.

### **Part 2, Head 10, (4)**

Ruhama recommends that the recruitment of an appropriate Chief Executive of the Agency is not exclusively recruited via a Public Appointments Service competition but is advertised publicly to draw applicants from other sectors, particularly civil society organisations (CSOs), who possess extensive knowledge, experience, and expertise.



### **Part 2, Head 13, (3)**

Ruhama recommends that staff of the Agency are not solely recruited or transferred from the Child and Family Agency but is advertised publicly to draw applicants from other sectors, particularly CSOs, who possess extensive knowledge, experience, and expertise.

### **Part 2, Head 14**

- (1) (b) Ruhama recommends the inclusion of provision of safe and appropriate accommodation for victims of human trafficking.
- (2) (a) Ruhama notes that there is no mechanism or protocol included for consulting with CSOs and victim/survivors as per commitments in the Third National Strategy on inter-agency functions. This includes involvement of CSOs in a collaborative capacity. Ruhama recommends the inclusion of a mechanism or protocol to enable consultation and collaboration with civil society organisations and victim/survivors, as per intention of the Strategy.
  - (i) Ruhama recommends that CSOs are included in reference to the provision of advice and support in the implementation of any national strategy and any implementation plan approved thereunder, and foster collaboration between those bodies.

### **Part 3, Head 18 & 19**

Ruhama is concerned about the lack of representation and expertise from the NGO sector and recommends that at least two members of the Board are represented from civil society organisations.

### **Part 4, Head 34**

Ruhama welcomes the inclusion of accountability of the Agency to Oireachtas Committees. Ruhama recommends that accountability would also be extended to an independent body to monitor progress of the agency's business plan and Key Performance Indicators (KPIs).





**Part 5, Head 36**

(2) Ruhama notes that funding is determined in respect of the financial year of the Agency. There is no reference to multi-annual funding which many service providers currently receive. It is essential to include and provide multi-annual funding to ensure strategic and financial planning, cost effectiveness and sustainability.



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## **TENI - Transgender Equality Network Ireland**

### **Submission on the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill**

**15th March 2023**

Transgender Equality Network Ireland (TENI) supports the general proposals set out in the **Domestic, Sexual and Gender Based Violence Agency Bill**. We welcome the opportunities that a new agency will bring to ensure a focus on the intersectional and diverse experiences which are at the heart of the support and response we provide across Ireland.

#### **About TENI:**

TENI is the national transgender advocacy organisation, working to create a more just and equal Ireland for all, regardless of gender identity or expression. We work directly with other members of the transgender community through community events, support groups and the Transgender Family Helpline. We provide education and training opportunities across the public and private sectors, working with schools, universities, clinics, hospitals, services and other workplaces to create more trans-inclusive spaces. We are also extensively involved in relevant policy development and legislative review. Our policy, training and legislative work is always underpinned by our frontline support and engagement with the wider transgender community. Existing research into trans experiences in this area within a national context is limited, our work and community knowledge informs this submission and the suggested areas for further consideration contained within.

Per public sector duty standards we have completed the submission on a 'head by head' basis. In order to specify the particular needs of our service users, we address only the



heads appropriate to us, and our suggestions and submissions. TENI's value statement underpins equality and human rights-based access to justice. We recognise that this is a general scheme and welcome further opportunities to contribute further.

### **Key Takeaways:**

Accessibility – Outreach – Inclusion – Resourcing - Education - Future Proofing

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## **Part 1 - Preliminaries**

Accessibility and discrimination-based harms in the civil legal sphere affect the trans community disproportionately in that there is currently no trans specific civil legal aid in Ireland. Informal gatekeeping is a major barrier to access where training is lacking in institutions that deal with trans individuals such as the HSE or the Gardai .

### **Head 3:        Designation of Public Service Bodies (a)**

Is there a policy on appointment of PSB's within the plan? We would be concerned if TENI were asked to work with other agencies who also align with gender critical advocacy groups as part of working with the agency in the future.

### **Head 4:        Duties of Public Service Bodies (1):**

Can we understand further what engagement will take place prior to a relationship being established by the Minister as to ensure the inclusivity and intersectionality of any Public Service Bodies.

## **Part 2 - Agency**

### **Head 14       Subhead (d) (e) (f)**



We would ask here that consideration is taken around the distribution of information increasing awareness of the particular vulnerabilities for the trans community who TENI work with, both adults and children.

**Head 14** Subhead (2) (7)

In an effort to avoid a situation such as with CAMHS where because of a postcode lottery system the agency became the 'poor relative' of the HSE, TENI wishes to highlight the specific vulnerabilities that our service users encounter when accessing government services. Trans individuals in the medical setting are particularly vulnerable to bias/gatekeeping and require robust legal safeguarding and advocacy at all levels and some trans people have a mistrustful relationship with the Gardai. Advocates within this new agency should have specialised training in working with trans people, both adults and children.

**Head 16** Subhead 2 (b)

TENI understands that this section is based on section 41.1 of the Garda Síochána Act 2004 discussion required on whether there will be a privacy issue here or possible GDPR problem with particular regard to the line 'any matter likely to give rise to public concern' clarification on the phrase 'public concern' is required.

**Part 3 & 4 - The Board and Accountability**

**Head 18**

TENI would welcome further consideration around the membership of the proposed board, with particular consideration for how ensuring lived experience across a diverse range of identities is ensured.

TENI recognises the unique challenges working across diverse and intersectional communities around domestic, sexual and gender based violence can need, what



assurances can be given around how this expertise (particularly in regards to the understanding of trans and non-binary experiences) will be sought and ensured through those recruited into board positions at the agency?

## **Head 19**

(3) While TENI welcomes the need to have a specific focus on equitable representation around men and women and that the agency needs to go beyond simply endeavouring for this to take place but to ensure that this is the case. We would also be anxious to ensure representation for non-binary voices.

(4) TENI feels additional consideration is needed around reference to diverse panels and the involvement of intersectional experiences within the recruitment process.

## **Part 5 - Provision of Services**

### **Head 36 (8)**

‘Any material it considers material to the provision of a service by the service provider’ means this could potentially be problematic from a privacy/GDPR standpoint? As this head is modelled on section 56 of the Child and Family Agency Act 2013, TENI assumes this particular head relates to funding.

### **Head 37**

Further clarity for this Head would be welcomed. We feel more discussion is required on what terms the Agency is willing to make one off arrangements with NGOs.

## **Further Suggestions:**

Legislation protecting women MUST also protect trans people - FGM and forced abortion are female specific violences that can also affect trans and non binary people, the Istanbul



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convention mentions a 'small number' of men who also experience violence but doesn't specifically target Trans people under the banner of who are the most vulnerable cohort.

Outreach training to partner associations and lay people to provide knowledge of the services available and understanding of the requirements for application is necessary.

Targeting services for those users who have a built-in apprehension of Ireland's legal system for example sex workers, addiction service users etc.

# An Garda Síochána

Oifig an Choimisinéara  
Gnóthaí Corparáideacha  
An Garda Síochána  
Páirc an Fhionnuisce  
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## **CONFIDENTIAL**

Mr. Alan Guidon  
Clerk to the Committee  
Joint Committee on Justice  
Leinster House  
Dublin 2

*[By email: [justice@oireachtas.ie](mailto:justice@oireachtas.ie)]*

### **RE: Invitation to Make Written Submission on the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill**

Dear Mr. Guidon,

With reference to the above and to your correspondence of 2 March 2023, please see attached submission on behalf of An Garda Síochána in relation to the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill.

An Garda Síochána welcomes the introduction of the Draft General Scheme of the Domestic, Sexual and Gender-Based Violence Agency Bill and the invitation to make written submissions to the Joint Committee on Justice.

The provisions contained at Heads 4 and 5 will result in the exchange of information between An Garda Síochána, the Agency and other Public Service Bodies. While An Garda Síochána acknowledge that the Bill is at an early stage, these heads may require clarification to enable the efficient transfer of information in accordance with the law upon commencement of the legislation.

An Garda Síochána will provide all assistance necessary to support the Agency. However, due to the nature and role of An Garda Síochána, the requirement for an exchange of information relating to incidents of domestic, sexual and gender-based violence, which may be under criminal investigation and pending prosecution before the Courts, will require careful management and clear guidelines in relation to the manner in which such information is to be exchanged in accordance with law.

An Garda Síochána acknowledges that this Bill is at an early stage in development but wishes to highlight these heads and request that any necessary provisions or regulations required to implement the Bill will include clear guidelines for the Agency and Public Service Bodies that will enable the exchange of information, including personal data, in a manner that is in accordance with the law, and does not interfere with the investigation and prosecution of offences arising from reports received of domestic, sexual or gender-based violence.

Yours sincerely,



**SORCHA FITZPATRICK  
CHIEF SUPERINTENDENT  
COMMISSIONER'S OFFICE**

15 March 2023



# Written Submission to the Joint Committee on Justice: General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill

Submitted by: An Garda Síochána

Date: 13/3/2023

## **1. Introduction**

This Bill concerns the establishment and functions of the Domestic, Sexual and Gender Based Violence (DSGBV) Agency as referenced in the 3rd National Strategy on Domestic, Sexual & Gender-Based Violence. An Garda Síochána is defined under the Bill as a “public service body”. The Bill is silent on expectations from a public service body, with the exception of Head 4, Duties of public service bodies and service providers and Head 5, Exchange of documents and information including personal data.

## **2. Submission from An Garda Síochána**

### **2.1. Head 1-3 – No Submission**

### **2.2. Head 4 - Duties of public service bodies and service providers**

The notes in the attached document in respect of Head 4, Duties of public service bodies and service providers, state:

*“This Head creates a duty on public service bodies (as defined in Head 2) to co-operate with each other and with the Agency in the performance of such of their respective functions as are relevant to the whole-of-Government objective of tackling DSGBV and supporting victims. The Head is partly modelled on section 118(2) of the Policing, Security and Community Safety Bill 2023.*

While the Minister for Justice will retain lead policy responsibility for DSGBV and the Agency will provide the lead in delivering DSGBV services and driving the Third National DSGBV Strategy (and its successors), this Head reflects the fact that tackling DSGBV requires a cross-departmental and multi-agency effort and that numerous public bodies have individual and shared responsibilities in this area, as identified in the Government's

Third National Strategy on Domestic, Sexual and Gender-Based Violence (the co-ordination of which is to be a statutory responsibility of the Agency under Head 14)."

An Garda Síochána are fully supportive of a cross-departmental/ multiagency effort and fully support this approach. There are no further submissions in respect of this head.

### **2.3. Head 5 - Exchange of documents and information including personal data**

Head 5, Exchange of documents and information including personal data, provides that:

*"(1) Cooperation as referred to in Head 4 includes the exchange of documents and information, including personal data, in accordance with law and to the extent that is necessary and proportionate for the purpose of the performance of the functions referred to in that Head.*

*(2) The Agency may request personal data from or disclose personal data to a public service provider in accordance with law and to the extent that is necessary and proportionate for the purpose of the performance of the functions referred to in that Head."*

Head 5 acknowledges that the sharing of documents and information, including personal data, can only take place in accordance with law and to the extent that is necessary and proportionate for the purpose of the performance of the functions of the new Agency.

This section is ambiguous on how this exchange should take place, and what governance will need to be applied to such exchange. Similar to Section 108 Garda Síochána Act 2005, as amended, consideration should be given to the addition of a subsection, requiring the new Agency to establish a protocol/ SLA with the relevant Public Service bodies on the exchange of such information.

### **2.4. Head 6-13 & 15-35**

These heads of bill relate to the establishment of the Agency and the Board of the agency; governance and accountability of the Agency and matters relating to its operation. An Garda Síochána has no submissions in respect of these heads of bill.

## **2.5. Head 14(6)– Functions of the Agency**

Under Head 14 it states the functions of the Agency are to engage and consult with relevant stakeholders & to coordinate the implementation of any national strategy. It is worth noting that in its functions under Head 14 (6) it cites “The Agency shall have all such powers as are necessary or expedient for the performance of its functions”.

The explanatory note states:- Subheads (6) and (7) are in standard form and provide, respectively, that the Agency shall have all such powers as it needs to perform its functions and that it shall be independent in its functions, subject to other relevant provisions of the Act.

Subsection 6 seems broad and it is unclear how these powers will extend, and affect the work of An Garda Síochána. This requires some further clarity

## **2.6. Head 36-38 – Provision of Services/ Miscellaneous**

The heads of bill relate to arrangements with Service Providers and amendments to certain Acts. An Garda Síochána has no submissions in respect of these heads of bill.

## **3. Conclusion**

An Garda Síochána believes that this Agency will mirror in form its predecessor COSC whose function was The National Office for the Prevention of Domestic, Sexual and Gender-based Violence which endeavoured to ensure the delivery of a well-co-ordinated ‘whole of Government’ response to domestic, sexual and gender-based violence. The work of COSC covered issues relating to domestic and sexual violence against women and men, including older people in the community. COSC’s role covered co-ordination across the justice, health, housing, education, family support and community sectors. This work included close interaction with non-governmental organisations (NGOs) supported by Government funds.





**Men's  
Development  
Network**

Better Lives for Men, Better Lives for All



**White Ribbon  
Ireland**

Men Ending Gender-Based Violence

**DVAB\_07**

# **Submission on the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill**



**An Roinn Dlí agus Cirt  
Department of Justice**

**mensnetwork.ie**



## Introduction

As a national organisation which advocates for transforming masculinities, a feminist and intersectional approach to advance the changing of norms and behaviours and to promote equality,<sup>1</sup> Men's Development Network welcome the invitation to provide a written submission to Department of Justice on the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill. Men's Development Network run a number of programmes in this area which means that we work on an ongoing basis with both perpetrators and victims of Domestic Violence as well as in prevention. These programmes include:

1. The CHOICES Programme the national domestic violence intervention programme working with male perpetrators to end their violent or abusive behaviour and become non-violent and respectful within their intimate partner relationships.
2. The Male Advice Line – the national freephone advice and support service for male victims/survivors of domestic abuse.
3. Men's Development Network is the lead agent for the White Ribbon Ireland Campaign and Capacity-Building Programme which seeks to engage with men and boys as allies for gender equality and in ending Gender-Based Violence.

This submission to the Joint Committee on Justice on the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill will make some recommendations for minor alterations to the Heads 14 and 18 of the Bill.

### Head 14 – Functions of the Agency

1. **Recommendation:** Men's Development Network recommend that perpetrator programmes which work at addressing and ending violent and abusive behaviour be included under Head 14.
2. Amendment to 14(1)(c)(ii) currently reads that the agency should '*monitor adherence to standards by service providers*'.

**Recommendation:** Men's Development Network recommend that this be altered to '*monitor and enforce adherence to standards by service providers*'

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<sup>1</sup> 'Men's Development Network' <<https://mensnetwork.ie/>> accessed March 12<sup>th</sup>, 2023.

### 3. Amendment to 14(1)(e)(i)

*“Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women”.<sup>2</sup>*

The functions of the proposed agency are clearly outlined and give effect to Articles 7 and 10 of the Istanbul Convention in relation to provision of the necessary level of coordination to implement the Third National Strategy on Domestic, Sexual and Gender-Based Violence (DSGBV). However, our recommendation relates to Head 14(1)(e)(i) which reads at present:

*“[D]evelop and implement general and sector-specific information campaigns for the purposes of – (i) increasing awareness of domestic, sexual and gender-based violence, the associated risk factors, and the support services available to victims and persons who may be at risk of these forms of violence”.<sup>3</sup>*

Head 14(1)(e)(i) as stands reflects the need for awareness raising to create the conditions necessary for a ‘Zero Tolerance’ approach to DSGBV. However, the provision would benefit from including **specific reference to engaging men and boys through such information campaigns and awareness raising initiatives.**

The ‘Zero Tolerance’ Third National Strategy on DSGBV Implementation Plan tasks the proposed agency with three action items related to engaging men and boys as allies for gender equality and ending Gender-Based Violence:

*1.1.1. “Raise public awareness of DSGBV... As part of the campaign there should be messaging focused on “Encouraging men and boys to contribute to actively preventing all forms of violence”*

*1.1.6. “Support campaigns (e.g., the White Ribbon campaign) and other initiatives designed to engage men and boys in ending gender-based violence”*

*1.1.8. “Prioritise the development of effective approaches to engaging men and boys in tackling gender-based violence and changing male behaviour which supports a zero-tolerance attitude to violence against women”.*

Under regional human rights treaties such as the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (Istanbul Convention), Chapter III on

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<sup>2</sup> Preamble of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (2011).

<sup>3</sup> Draft General Scheme of a DSGBV Agency Bill at Head 14(1)(e)(i).

Prevention further notes in its General Obligations that State Parties are required to “*encourage all members of society, especially men and boys, to contribute actively to preventing all forms of violence...*”.<sup>4</sup>

The absence of specific reference to engaging men and boys runs the risk of the agency in implementing its functions failing to address the root causes of DSGBV which is necessary. The United Nations Committee on the Elimination of Discrimination against Women in General Recommendation 35 on Gender-Based Violence against Women notes that States’ prevention work must address the underlying causes of Gender-Based Violence and these include “*patriarchal attitudes and stereotypes*”.<sup>5</sup> *Root causes include, but are not limited to, “gender-related factors such as men’s entitlement, privilege and social norms regarding masculinity”.*

The risk of proceeding with Head 14(1)(e)(i) as presented in the Draft General Scheme is that it dilutes a fundamental element of prevention by failing to apply a gender lens or gender focused approach in preventing DSGBV. To ensure that the Prevention Pillar within the National Strategy and Istanbul Convention is in no way diluted, engaging with men and boys in prevention work should be specifically mentioned as among the agencies functions and this should be captured within a statutory footing.

Article 6 of the Istanbul Convention provides an undertaking from states to adopt a gender perspective and to ensure policies are gender sensitive in the implementation and evaluation of actions undertaken as part of their state obligations.<sup>6</sup> The amendment of Head 14(1)(e)(i) to include a gender specific focus of engaging men and boys in its awareness raising and campaigns is vital to ensuring the Draft General Scheme of a DSGBV Agency Bill adheres with Article 6 of the Istanbul Convention and creates the conditions necessary for a ‘Zero Tolerance’ approach to DSGBV.

**Recommendation:** Men’s Development Network recommend the amendment of 14(1)(e)(i) as follows: “*To develop and implement general and sector-specific information campaigns for the purposes of – (i) increasing awareness of domestic, sexual and gender-based violence, with a specific focus on engaging men and boys, the associated risk factors, and the support services available to victims and persons who may be at risk of these forms of violence*”.

## **Head 18 Membership of the Board**

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<sup>4</sup> Article 12(4) of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (2011).

<sup>5</sup> CEDAW General Recommendation 35 on Gender-Based Violence against Women (2017) at paragraph 34.

<sup>6</sup> Article 6 of the Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (2011).

18(2)(a) currently reads that *“the board shall be comprised of at least two members having sufficient experience and expertise relating to the functions of the agency”*.

**Recommendation:** Men’s Development Network recommend that 18(2)(a) be amended to ensure that membership of the Board includes persons with experience in Domestic Sexual and Gender Based Violence service delivery.





RCNI Submission on the Domestic, Sexual and Gender-Based Violence Bill 2023 General Scheme  
March 2023



**RCNI Submission to the Joint Oireachtas Committee on Justice**  
**on the**  
**Domestic, Sexual and Gender-Based Violence Bill 2023**  
**General Scheme**

**15<sup>th</sup> March 2023**

## **Introduction – Rape Crisis Network Ireland**

Rape Crisis Network Ireland (RCNI) is a specialist information and resource centre on rape and all forms of sexual violence. The RCNI role includes the development and coordination of national projects such as using our expertise to influence national policy and social change, and supporting and facilitating multi-agency partnerships. We are 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.

## **Introduction – This Submission**

RCNI welcomes very much this opportunity to make a submission on this important General Scheme of the Domestic, Sexual and Gender-Based Violence Bill 2023 which will shape the future of our collective response to sexual violence (among other forms of violence). We submit here our reflection on the proposed Bill and remain at your disposal in your deliberations and debate on the issues arising.

We are encouraged to see the priority this issue continues to have in government and across the members of the Oireachtas and indeed in wider society. RCNI is enthusiastic about a dedicated DSGBV Agency and the potentially transformative impact this can have on our collective capacity to prevent Sexual and other gender-based violence. We are mindful of the legislation for this agency giving it both the scope and specificity to meet expectations. We are conscious of the importance of developing a clear understanding of its parameters in the debate that will ensue with this legislation, so as to ensure gaps do not open up in any misalignment of expectations, purpose and capacity.

We welcome that this general scheme recognises the need for the Minister for Justice and the whole of government to remain responsible and active for policy and progress in the area of DSGBV in a coherent and coordinated manner with the new Agency.

We recognise the presence of civil society, its role and the need to engage in consultation and collaboration with us in this GS but would make a number of recommendations that more explicitly recognise, supports and protects the specialist sector's unique deliverables to survivors, communities, evidence and policy development. It is vital under this new Agency that we continue to centre survivors, protect their autonomy, voice and access, listen and adapt to and uphold their rights at all stages.

Reflecting on the GS we remain of the view that this Agency and government oversight of the issue and the national strategy currently lacks an essential independent monitoring mechanism. Such a mechanism would do much to support the work of the Agency and government. We believe an appropriate independent 'champion' would also benefit from strong legislative basis.

## **Structure of this Submission**

This submission will set RCNI's commentary on each one of a number of selected Heads of the General Scheme in the order in which they are set out in that document. Any recommendations by RCNI will be set out underneath our commentary under the relevant Head.

RCNI will list any recommendations for additional Heads at the end of the submission.

## Part 1: Preliminary and General

### Head 2 - Interpretation

#### RCNI Commentary:

- This Head, and therefore the whole General Scheme, would be easier to read and understand if some definitions were set out in full in it instead of using the formula: "has the meaning assigned to it by Head X," and similar expressions, particularly when the definition refers to something either new or unusual, such as "performance framework" or "statement of priorities". While this is a common practice now, it could be abandoned in this case to make both the definitions and the General Scheme as a whole more accessible;
- The definition of "service provider" 14(1) (a) ..'any other enactment, the Agency shall –
- (a) plan, commission and fund the provision of support services for victims of domestic, sexual or gender-based violence and persons who may be at risk of any such form of violence;' makes no mention of the vital role played by rape crisis centres in the improvement of policy, not only at local but also at national level. Their knowledge of the experiences of survivors should inform national policy directly, fully, and regularly. This is in fact a service to those who may be at risk of sexual violence in the future;
- Neither does it mention the contribution made by rape crisis centres to awareness raising and education in their local community. This too is a service to those who may be at risk of sexual violence.
- Our concern is that the expression "service provider" as defined under Head 14(1)(a) might be interpreted narrowly as encompassing protective functions, exclude the significant prevention functions of the sector and thus risk siloing and silencing the considerable resources of the sector in its evidence, advocacy and solution generation.

#### RCNI Recommendations:

- Set out every definition in full under this Head, even it is repeated later in the General Scheme;
- Put it beyond doubt that the expression "service provider" is to be understood to mean, not only direct services to sexual violence victims and those who may be at risk of violence, but also more broadly, services to those supporting survivors, providing awareness and educational initiatives and specialist and supports to professionals and communities, and services collating, evidencing and analysing the realities of sexual violence.

### Head 3 – Designation of Public Service Bodies

#### RCNI Commentary:

- We think it is a very good idea to leave the list of designated public service bodies open in order to accommodate future changes in public administrative structures. RCNI does not have any comment on the inclusion of any of the Bodies on the current list under Head 2. However, we are surprised to see that both the Office of the DPP and the Legal Aid Board have been excluded. Both have a direct role in the protection and support of victims of sexual violence when it comes before the criminal courts.

**RCNI Recommendation:**

- RCNI recommends that due consideration be given to the inclusion of both the Office of the DPP and the Legal Aid Board in the list of designated public service bodies, in the Bill itself.

**Head 4 – Duties of Public Service Bodies and Service Providers****RCNI Commentary:**

- RCNI welcomes this clear statement of an obligation to co-operate with each other and with the Agency in order to increase awareness and understanding of DSGBV, reduce its incidence and protect and support victims of DSGBV as well as those who may be at risk of it – on both public sector bodies and service providers. co-operation across different agencies A necessary condition for progress on the 3<sup>rd</sup> National Strategy. .
- RCNI welcomes that that the the Minister will retain lead policy responsibility for DSGBV but feel the accompanying note fails to adequately encompass the Agencies role in supporting policy. The Agency's function is described as 'will provide the lead in delivering DSGBV services and driving the Third National DSGBV Strategy (and its successors),' while the Agency will provide the lead in delivering DSGBV services RCNI feels this note does not reflect the significant role of the agency in the formation of policy.
- For example we note in this regard that the Agency itself has a statutory duty under Head 14 (1) (j) to provide advice to the Minister on policy matters as and when requested to do so, and that another of its functions is to undertake, commission, or collaborate with, research and to assist in the development of relevant statistics. For the avoidance of any confusion we feel the note should reflect these functions.

**RCNI Recommendations:**

- Amend the wording of the note to encompass the Agencies functions in policy support and development more broadly
- Fully consider how the Agency itself could be empowered to develop policy, so that policy is continually being informed and influenced by the experiences of survivors and those who support them in rape crisis centres and elsewhere. While we note and applaud the Agency function which includes research and data, we think that more could and should be done to devise structures which would gather and sift the learning from these experiences and present it in suitable form to those with lead policy responsibility. For instance:

- Consider the agency being given explicit responsibility under the Act to scope and support appropriate and responsive infrastructure of local, regional or issue specific inter-agency committees to meet to discuss and relay concerns and possible solutions to the Agency.

## Head 5 – Exchange of Documents and Information including Personal Data

**RCNI Commentary:** RCNI’s respectful but firm view is that there is no need for a specific extra provision enabling sharing of personal data between public sector bodies. The law on data protection and the rights of survivors are well defined and this provision does not serve to bestow powers of data sharing outside of the existing law. It is therefore, on the face of it, superfluous.

However, trust is a highly valued and vulnerable quality in the work of responding to survivors of sexual violence across agencies. Confidentiality matters to survivors of sexual violence. They need reassurance that it is only in rare, defined circumstances (immediate risk of loss of life or serious harm, child protection concerns necessitating a mandated report e.g.) that their confidentiality will be breached by any public service body or service provider.

Survivors and service providers need to be assured that their rights under current Data Protection legislation will be explained to them and respected in all circumstances. This provision risks sowing doubt without actually providing anything additional in terms of information sharing. It may indeed give the impression: that personal data can be shared at will, without any reference to the data protection rights of the person whose personal data is being shared. Indeed, it may risk the functionaries believing that they have some additional protection to act without full regard to the existing law. Our grave concern in this regard is that fears about uncontrolled sharing across agencies of their personal data, including sensitive personal data, might deter survivors of sexual (and indeed other) violence from seeking assistance from any agency, including an independent rape crisis centre. It is also important that any provisions on personal data comply with our obligations under the Istanbul Convention (Article 65) so as not act as a barrier to victims’ access to services.

### RCNI Recommendation:

- The phrase “including personal data” should be deleted from Head 5(1) and Head 5(2) should be deleted altogether.
- If this is not regarded as an acceptable solution, a subsection should be added to the effect that any sharing of personal data will only take place in accordance with a dedicated Code of Conduct which has been approved by the Data Protection Commissioner, and
- There should be a statutory obligation on anyone working with or for a public sector body to advise the person concerned (the data subject) of their data protection rights, before any such personal data is shared.

## Part 2: Agency

### Head 10 - Chief Executive

#### RCNI Commentary:

- We note that the first CEO of the DSGBV Agency may be designated by the Minister for Justice in advance of the establishment day of the Agency, but any future CEO will have to be selected via the Public Appointments Service (PAS) process.

**RCNI Recommendation:** The Minister should be bound by the same obligations as those binding on the PAS in Head 10(6) to satisfy itself that the person they recommend to the Minister to become CEO of the Agency has “such relevant experience, qualifications or expertise” as is appropriate to the role, if s/he decides to use his/her power to designate the first CEO of the Agency. We also believe the Minister’s appointment of the first Chairperson should follow an open competitive process.

Should a CEO be appointed in advance of the Agency establishment date and without an open competitive process under PAS, that the contract period should be limited and a competitive PAS process undertaken. The designated CEO should not be excluded from that competition.

### Head 13 - Staff of the Agency

#### RCNI Commentary:

- Our understanding is that this is the provision which will enable the transfer of staff from Tusla to the new Agency. If the Minister Children, Equality, Disability, Integration and Youth decides to do so, he can transfer any number of staff from one to the other. We think it is important that wherever the staff of the new Agency come from, there is a wide spread of relevant experience, qualifications and expertise among them, so that all the functions of the Agency are administered and overseen by specialists in their field, as far as possible.

RCNI would query whether this provision should be confined to the Minister for DCEDIY's designation as there are civil servants in other locations across government whom it may also be appropriate to consider transferring. **RCNI Recommendation:** Whatever decisions are made with regard to the staffing of the new Agency, ensure that the spread of experience, qualifications and expertise among them covers all functions of the Agency as they are all important.

Consider if the provision should be broader than the Minister for DCEDIY.

### Head 14 - Functions of the Agency

#### RCNI Commentary:

- Head 14 (1) (c) if this provision included ‘in consultation with service providers’ after the word ‘prepare’, - prepare [in consultation with service providers] and publish standards for service provision and governance in respect of the services and accommodation referenced at (a) and (b) respectively. While this addition confers no additional duty on the agency than is provided in (f) we think it worthwhile including here for the avoidance of doubt.
- Heads 14(1)(f): “engage and consult with the DSGBV sector and other relevant stakeholders” and 14(2)(a): “consult as appropriate....and consider recommendations from public sector bodies, international bodies, civil society organisations, ...other persons with relevant expertise, service users and the public”....are very welcome in that they envisage the involvement of specialist

organisations including RCNI and rape crisis centres in the development of both policy and services, however

- There is little detail on the subject areas for consultation, or on the topics where consultation with specialists in DSGBV is important both for policy and for the development of the best possible services for survivors. The creation of best practice standards, supporting research projects, awareness-raising activities (whether for the general public, or “sector-specific”) are all areas in which input from specialist organisations is essential in order to ensure the best possible outcomes;
- There is no detail at all on the possible mechanisms for consultation with specialist organisations and others. RCNI’s view is that a framework for regular consultation, including obligations on all public sector bodies and funded service providers to participate at least to a minimum level in any relevant to their own area of knowledge and expertise, should be put in place at this early stage so that a culture of effective inter-agency consultation and collaboration is allowed to develop as early as possible in the lifetime of the Agency.
- We also note that among the functions of the Agency are duties to provide assistance, advice and support on DSGBV related matters including policy as and when needed in effect to other public sector bodies, to the Minister for Justice, to civil society organisations. It seems to us that this is much to ask from the Agency in the absence of a formal structure which would allow the Agency to call on its colleagues in public sector bodies and civil society organisations (at the very least service providers and providers of supplemental services) to provide relevant advice based on their individual areas of experience and expertise.

- **RCNI Recommendations:**

RCNI recommends that an obligation is placed on the agency to provide a minimum level of opportunities and structures for consultations under 14 (1)(f) and 14(2)(a).

Such that the Agency has responsibility for ensuring that mandatory consultation takes place with relevant public sector bodies, service providers, and civil society organisations, and others as relevant, are invited to participate in targeted consultations as appropriate;

RCNI further suggests that there should be an open list of topics on which the Agency should always consult with relevant public sector bodies, civil society organisations and others;

RCNI recommends that there should be a duty imposed on public sector bodies and service providers funded by the Agency to collaborate with any consultation initiated by the Agency, as far as is reasonable in the circumstances;

RCNI recommends that there should be an obligation on the Agency to ensure that any recommendations, reports, or other outputs of any of these consultation structures, are shared with the Minister and his or her officials, as it is they who have responsibility for deciding policy; finally

RCNI recommends that Agency is given an obligation to operate from the principle of transparency such that resources and evidence should be made publicly available, where no impediment applies, in a timely, complete and accessible manner.

## Head 15 - Power of Minister to give Direction etc

### RCNI Commentary:

- This Head underlines the nature of the Agency vis a vis the Government and the central role of the Minister for Justice and his/her officials in generating policy on DSGBV. It allows the Minister to give specific directions on any matter, to give general directions on policy, and to issue guidance on prioritisation of policy commitments, codes of practice relating to governance and related matters, to all of which the Agency must have regard. This underlines the close oversight which the Minister and his officials will have over the running of the Agency and the control which they will have over policy direction.
- RCNI wonders if some reference to an assessment of capacity and resourcing might be possible here in terms of the Minister's regard for potential additional capacity necessary when directing new policy or priorities. Particularly when such changes necessitate resource considerations between budgets and the annual vote.

## Part 3: Board of Agency

### • Head 18 - Membership of the Board

### RCNI Commentary:

- RCNI notes that under this Head, the Minister may designate a person to be the first Chair of this Board without any PAS process before this Agency is established, and may appoint an officer of his/her own as an ordinary member of the Board under Head 18(2) at any time. This means that the influence of the Minister on the composition of the Board will be strong, at least initially.
- RCNI also notes that on this Board which will have 8 members in addition to the Chair, there are two seats reserved for members with experience and expertise relating to the functions of the Agency. This is important, but it is not quite the same thing as having experience and expertise relating to DSGBV. The notes are more specific in this regard. We think that this experience and expertise should also be represented on the Board.
- Under 18(7) the Minister has the responsibility to appoint a chairperson of the board. The board's own autonomy in selecting its own chair or submitting a preference to the Minister for appointment is absent.

### RCNI Recommendation:

The Board should include at least three members with significant experience and expertise in policy and services, and not simply knowledge on, some area of DSGBV.

The board should be tasked with submitting a chairperson of their selection to the Minister for approval. With the exception of Head 18(8), where a chair that can be appointed in advance of the formation of the full board and the commencement of the Agency.

## Head 19 Appointments as members of the Board



Head 19 (1) appears to have a typo citing head 18(13) where no such subsection exists.

## Head 19 - 26 – Matters regarding the Board

**RCNI Commentary:** RCNI is in agreement with the provisions set out in Head 19 – 26 and have no recommendations to vary same at this point.

## Part 4: Governance and Accountability of Agency

### Head 27 – Performance Framework

#### RCNI Commentary:

- This Head sets out the Minister's role in providing policy guidance, direction and prioritisation parameters in the form of a multi-annual Performance Framework to the Agency for the preparation of its Corporate Plan through which all will be implemented. It also sets out a structure on this process of Ministerial direction in order to allow for the effective running of the Agency. This Head enables due regard to be given to the democratic political process through the Minister and ensures the Agency can be directed in being responsive to same. However, while we may expect this in practice, there is no mention of the Minister and/or his or her officials having regard to any policy advice, proposals or recommendations from the Agency or indeed from civil society generally, when devising the performance framework.

#### RCNI Recommendation:

Add 27(4) The Minister may seek the assistance of the Agency and any other stakeholder in developing the Performance Framework.

### Head 28 – Corporate plan

#### RCNI Commentary:

- Our understanding is that the Agency's responsibility is to devise a Corporate Plan, each one to last three years, in response to the Minister's Performance Framework which will set out how the Agency will deliver and be measured on its purpose. .
- We welcome very much the duty on the Agency to consult with interested parties and have regard to the views of those parties, before it finalises each Corporate Plan.
- We note that the Minister may intervene to amend the Corporate Plan at any time after it has been approved by him/her. This has the advantage of providing a mechanism through which necessary changes may be made if it transpires that a particular policy or practice is not working out as well as anticipated in reality or is giving rise to unintended consequences as well as ensuring a responsive Agency activity to matters arising.

### Head 29 – Statement of priorities

**RCNI Commentary:**

- This is the Head which gives the Minister the duty to state his or her priorities for any single year of the life of a Corporate Plan “with specific policy guidance, direction, prioritisation and resource parameters” in line with the Government’s Estimates for Public Services. This is what will inform the creation by the Agency of an Annual Business Plan under Head 30.
- This duty underlines the clear and direct line of responsibility and control back from the Agency to the Minister and ultimately to the Government of the day and the Oireachtas.

**Head 30 – Annual business plan**

**RCNI Commentary:** This Head sets out the corresponding duty of the Agency to create an Annual Business Plan which accords with the Statement of Priorities given to it by the Minister. The Agency must produce an Annual Business Plan in accordance with the Minister’s Statement of Priorities and stated policy objectives.

**Heads 31 – 35** RCNI is in agreement with the provisions set out in Head 31- 35 and have no recommendations to vary same at this point

**Part 5: Provision of Services****Head 36 – Arrangements with service providers****RCNI Commentary:**

- With regard to Head 36 (2), cited in full here: “Before entering into an arrangement under subhead (1), the Agency shall determine, in respect of a financial year of the Agency, the maximum amount of funding that it proposes to make available during the course of that year under such an arrangement and the level of service it expects to be provided for that funding”, RCNI’s view is that this provision should make it clear that this does not mean that funding of service providers can **only** be granted on an annual basis;
- Without multi-annual funding, it is extremely difficult for service providers to plan their work and carry it out in a sustainable and cost-effective way. It is hard to recruit, train and retain skilled staff with the necessary experience and qualifications appropriate to their role if it is only possible to offer them a fixed-term contract lasting for 12 months. Annual-only funding also means that every year, significant resources must be set aside to renew funding applications and if necessary, to recruit and train new staff.
- With regard to the wide-ranging obligations on service providers under Heads 36 (8) and (10) to provide any information requested to the Agency or the Minister respectively, on pain of the significant sanctions set out in Head 36 (9), some qualification is needed to make it clear that service providers do not have to provide personal data on anyone (especially service users) in possible contravention of their obligations under data protection legislation, in order to comply with these obligations so that they will not be subjected to the sanctions listed under Head 36(9).

**RCNI Recommendations:** Reword Head 36(2) to make it clear that this refers only to the information on annual financing which the Agency must give to the service provider each year, not to any obligation on either Agency or service provider to enter into a service level agreement lasting no longer than a year.

Reword Heads 36 (8) and (10) to clarify that the duty on service providers to provide information does not include the provision of information in contravention of the service providers' data protection or other obligations under the law.

### Head 37 – Persons providing supplemental services

#### RCNI Commentary:

This Head in itself is very welcome as it recognizes the multi-faceted and wide-ranging nature of the fight to eliminate DSGBV. However, just as under Head 36 above, we think that Head 37 (5), (6) and (7) which deal with the provision of information requested by the Agency, should be qualified to make it clear that these obligations and sanctions do not refer to the sharing of any personal data in contravention of data protection and other legislation.

**RCNI Recommendation:** Reword Heads 37 (5), (6) and (7) to clarify that these obligations and sanctions respectively should not be understood to include the sharing of any personal data in contravention of data protection and other legislation.

### Head 38 Miscellaneous

38(1) amends the Child and Family Agency Act 2013 to remove paragraph b. The Child and Family Agency has retained a broad range of responsibility to responding to and preventing DSGBV over and above the "care and protection for victims of domestic, sexual or gender-based violence, whether in the context of the family or otherwise" which is being transferred to the new DSGBV Agency.

**RCNI Recommendation:** consideration be given to not only deleting Section 8(3)(b) but replacing it with a suitably worded paragraph recognising the continued pivotal role the C&F Agency will play in DSGBV responses.

### Proposed Additional Head:

### Head [39] – Guiding Principles

#### RCNI Commentary:

- This is legislation which is going to address the prevalence of DSGBV from all sides and also ensure that the response of Government and civil society generally to victims of these forms of violence is the best it can be. An effective response entails a common vision and purpose shared across all public sector bodies and civil society generally, who will have to collaborate with each other. RCNI's view is that therefore, a strong statement of its Guiding Principles should be included in this Bill, ideally in Part 1. We suggest that the parallel statement at Section 8 of the Family Courts Bill 2023 is a powerful precedent.

#### RCNI Recommendation:

Include in a separate Head in Part 1 a strong statement of the Guiding Principles which will underpin this ground-breaking new DSGBV Act and all the activities of the new Agency, e.g:

"DSGBV Agency shall do its best to ensure that

- All its activities are underpinned by knowledge and understanding of the nature and impacts of domestic, sexual and gender-based violence;
- Such knowledge and understanding is fostered in all its partner agencies, including but not limited to public sector bodies and service providers and any persons providing supplemental services;
- There is always a strong focus on maintaining and developing measures to further the primary prevention of domestic, sexual and gender-based violence;
- All relevant activities of the Agency are undertaken in partnership with other relevant agencies as far as possible, in a spirit of mutual understanding and co-operation;
- The rights, dignity and well-being of all survivors of domestic, sexual and gender-based violence shall be at the centre of every action taken to implement any direction or plan;
- The best possible communication and information sharing systems will be fostered across agencies in every direction so that not only policy directives from the Minister and obligations under service level agreements are shared with service providers and others, but also so that the experience of service providers embedded in their communities can be passed on to the Agency and the Minister in a timely and appropriate way;
- There is a strong emphasis on providing not only the best possible quality of service through common standards and protocols but also on ensuring that the best possible quality of training and professional supports are made available to all those working with survivors of domestic, sexual and gender-based violence in whatever capacity;
- All activities undertaken are recorded and analysed through the support and development of the best possible evidence-gathering, through the support of data capacity across government and civil society, the development of shared definitions and terminology and the promotion of open data principles.

Date: 15 March 2023

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# SUBMISSION TO THE HOUSES OF THE OIREACHTAS JOINT COMMITTEE ON JUSTICE

General Scheme of the Domestic, Sexual  
and Gender Based Violence Agency Bill

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15th March 2023

# **Submission to the Houses of the Oireachtas Joint Committee on Justice**

## **General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill**

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### **1. Introduction**

Akina Dada Wa Africa Ireland (AkiDwA) is pleased to make a submission to the Houses of the Oireachtas Joint Committee on Justice (the Committee) on the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill 2023 (the General Scheme).

Akina Dada wa Africa-AkiDwA (Swahili for sisterhood) is a national network of migrant women living in Ireland. Established in 2001, AkiDwA's mission is to promote equality and justice for migrant women, with a vision for a just society where there is equal opportunity and access to resources in all aspects of society: social, cultural, economic, civic, and political.

For AkiDwA, the term 'Migrant Women' includes not only recent immigrants, asylum seekers and refugees, but also migrant workers, students, trafficked and undocumented women. It also includes those who have acquired Irish citizenship but who still consider themselves to be outside the mainstream society in terms of their linguistic, racial or cultural backgrounds, and who therefore still define themselves as Migrants.

The organisation's work on Domestic Sexual and Gender-Based Violence reflects the intersectionality between migration, gender and gender-based violence, and focuses on four areas: Domestic Violence, Female Genital Mutilation (FGM), Early /Forced marriages and Trafficking.

AkiDwA welcomes the publishing of the General Scheme, including all 6 Parts made up of 38 Heads. Observations and suggestions on the relevant heads in Parts 1-5 are set out in this submission (section 3) to assist the Committee in its scrutiny of the General Scheme.

## 2. Contextual Evidence and Background to Observations/ Recommendations

In order to preface AkiDwA's recommendations that will come in Section 3, we lay out the grounding evidence which is helpful and necessary for the Committee to understand the observations and contributions to come.

AkiDwA's work on domestic violence in the last nine months shows an increase in the number of women coming forward to seek support, due to the specialist provision of information and raising of awareness on the topic by our Victim of Crime Support Officer in this inaugural programme at AkiDwA. Migrant women face many challenges while trying to access services and support which include structural, social cultural and economic barriers, and culturally-sensitive delivery proves to be paramount for successful interventions.

According to [AkiDwA's statistics on the prevalence of FGM](#), by 2017 there were 5975 women who had been subjected to FGM living in Ireland. In 2020, Ireland saw the first case of FGM performed on a 21-month-old baby girl, which led to conviction under the Criminal Justice Act (Female Genital Mutilation) 2012. In 2020, according to the European Institute for Gender Studies, 6,000 girls born in Ireland or originating from FGM-affected countries under the age of 15 and living in Ireland were at risk of female genital mutilation.

While the issue of early and forced marriage is under-researched in Ireland, it has been happening. AkiDwA's 2021 report on [Forced Marriages and Child Marriages](#) flags the hidden nature of these practices, with victims having a significant lack of contact with service providers and agencies both on the state and NGO spaces. Evidence comes primarily from media sources and anecdotally although the GNIB can attest to having investigated several marriages of children under the age of 18, now illegal in Ireland as of the



amendments of the Civil Registration Act 2004. This is a contextually and culturally sensitive topic that warrants further community-rooted research and specialist intervention to address.

Trafficking of women for sexual exploitation/ prostitution remains a huge issue globally and in Ireland. According to [Ruhama's report](#) on their provision of support in 2018, out of the 251 women supported by the organisation, 201 were migrant women. Moreover, as the Committee will be aware, of the 44 victims of human trafficking identified by An Garda Síochána in 2020, 98% were migrants, as highlighted by the [Department of Justice annual report on Trafficking in Human Beings in Ireland \(2021\)](#).

For such victims of all the diverse forms of DSGBV listed above, service delivery and information provision needs to be undertaken in a diversity-embracing, inclusive, trauma-informed, culturally aware manner, to ensure meaningful engagement with the Agency, in its practice and by its agents. An Agency that does not take such an approach does not stand in a good stead to meaningfully address the full range of forms of DSGBV present in Ireland.

### **3. Head by Head Observations and Suggestions**

#### **Part 1 – Preliminary and General**

The Agency must be based on the experiences of all women, girls, men and boys in Ireland. It must recognise all and the diverse forms of DSGBV, as set out in the Istanbul Convention framework, and to which Ireland is Party. Ireland's is a population with diverse background and diverse needs, and the Agency must operate from an open understanding that recognises that more nuanced approaches are needed than a "one-size-fits-all" tactic.

#### **Head 4.1**

There is a need for safeguarding measures to uphold the specialist services of DSGBV agencies who ensure representation of all minority groups.

#### **Head 9**

Consultations must be ensured with all stakeholders in all stages of the development of the agency– from the establishment all the way through to every stage of implementation.



## Part 2 – Agency

### **Head 10(11)**

A complaints mechanism to be included for minority stakeholders who may not necessarily be included in the board, ie. an external complaints mechanism, to be included in the process for removal of the chief executive. Agencies, particularly those representing minority groups, need to have a clear complaint procedure, should they feel their concerns / issues are not being recognized.

### **Head 13 – Staff of Agency**

To ensure adequate representation of minority groups within the agency, a staffing quota should be implemented. This will safeguard against unconscious bias of the agency, promote diversity and inclusion.

Considering that the DSGBV agency will take responsibility for the delivery of DSGBV services and oversee funding, there must be representation from all minority groups to ensure equal access to resources and consideration/understanding/awareness of issues affecting all groups.

Moreover, it is necessary to ensure that the staff of the agency receives adequate *training* to prepare them to work with diverse service users – including cultural competency and trauma-informed training.

### **Head 14 – Functions of the Agency**

#### **Head 14(1)(a)**

“the provision of support services” must be replaced/ better nuanced with wording such as “*appropriate* support services” or “*culturally sensitive* support services” to ensure that the diverse identities to be served in these support services can adequately achieve their outcomes

#### **Head 14 (1)(d)**

“distribute information (including information for children and young persons) regarding services available nationally.....” also warrants further nuancing to account for the linguistic and cultural appropriateness of the materials and the manner in which they are to be distributed.

Translation and interpretation of all such informational materials should be provided by the Agency in order to “appropriately distribute”. Staff must be

adequately trained and required to consult translators to provide input. Materials must be published in different languages and in accessible languages and mediums (eg pictures) necessary for persons of minority groups around the country to be able to understand and access the services being flagged by the Agency. Community-based distribution and peer-to-peer dissemination should also be factored in.

#### **Head 14(1)(e)**

This head would be helpfully clarified by including reference to what kind of support public bodies and CSOs could expect from the agency and within what time period. While welcome references are made to financial considerations, will any networking support, or coordination between the stakeholders enlisted as service providers or providers of ancillary support be offered, for example?

#### **Head 14 (1)(f)**

Further clarification is also warranted here, as in light of Head 14(1)(e), especially if the CSOs themselves will be leaned on by the Agency to develop the general and sector-specific information campaigns, by what mechanism and how often will such consultations with the DSGBV sector be had, and how will representation of the minority organisations in this space be ensured?

#### **Head 14(2)(a)**

One more, a very important clarification is warranted on the term “appropriate” in this Head and the reference to “as appropriate” should be nuanced to ensure the consultations are appropriate and representative. Preferable would be a provision that reads “consult consistently” / “consult throughout” / “consult on a regular basis”, as expertise from the DSGBV sector should be considered a crucial guide in the Agency’s operations. This is especially important for working with service users from minority groups.

#### **Head 14(2)(c)**

it would be advisable that the wording of this head reflect the need for a measurement of the benchmarks “beneficial, effective and efficient” to also have full regard for *equality* and *equity* in the spending of resources.

### **Part 3 – Board of the Agency**

#### **Head 18 – Membership of the Board**

(2) AkiDwA strongly recommends nested gender quotas to be included in this provision on the composition of the Agency’s Board, to ensure adequate representation of women and ethnic minorities in the higher levels of governance of the agency. In line with Article 4(1) on the Convention of the Elimination of All Forms of Discrimination Against Women, and as per General Comment No. 25 of the Committee on the Elimination of All Forms of Discrimination Against Women, such ‘temporary special measures’ can be used by the state to ensure the

Given [the current lack of even female representation in higher levels of civil service](#) and *especially* in light of the lack of representation of ethnic minority groups in the Irish civil service in general, not just at the higher levels, such temporary special measures are certainly warranted in the interim, until such a time as a gender equal and representative board can be achieved without such measures.

This measure would better ensure equality of opportunity for representatives of some of the groups most vulnerable to DSGBV to have voice and agency in the running of the Agency. This would be combined with the selection and recommendation process for board members of the Agency under **Head 19, especially Article 19(3)** which affirms the need for sufficient experience and expertise will ensure a safeguard against any feared “tokenism” and ensure that those members of the board have the adequate skills to be in such roles

## Part 4 – Governance and Accountability of the Agency

### **Head 27 - 28.3 - Agency’s Performance Framework and Corporate Plan**

Inclusion of agencies representing minority groups in these stakeholder engagements / consultations and processes will ensure that the needs of marginalized groups are being met; gaps/issues can be identified; and key recommendations made to improve policies/services.

## Part 5 – Provision of Services

### **Head 36 – Arrangements with service providers**

(8) While welcoming this head, AkiDwA must caution to note that a mention of the need for the respect of client confidentiality would be usefully included to nuance it. For example, a suggested wording could read: “The Agency may

request from a service provider [*taking into account and fully respecting the confidentiality of the client and in compliance with the Data Protection Acts and any subsequent amending legislation*] any information that it considers material to the provision of a service by the service provider, and the service provider shall comply with that request.”

Moreover, to fully account for vulnerable women’s safety, especially those seeking independent status from an abusive spouse, this level of confidentiality is of great importance.

Finally, this respect for client confidentiality is important for migrant women to engage with the DSGBV Agency, as a key challenge to seeking support on these issues stems often from women’s fear of alienation from their communities. Failure to respect anonymity could worsen the situation and erode trust in the Agency amongst the most vulnerable populations.

### **Head 36 Arrangements with service providers**

1. It is unclear who will determine what ‘terms and conditions’ are deemed appropriate for the Agency to enter an arrangements with a service provider and who will monitor same.
2. Similarly, where the Agency will determine the amount of funding and level of / services provided, there needs to be an external and impartial body who can ensure that service providers representing minority groups are adequately resourced and members of this external monitoring body would have knowledge / expertise on the issues affecting minority groups to ensure that no one is left behind and funding is not channelled into mainstream services.

(9) Requests for such information detailed in Head 36 (8) should be appropriately timebound and justified so that service providers can comply with the regulation. Additionally, there should be an opportunity for the service provider to appeal the decision of termination, in such circumstance.

### **Head 37 Persons providing supplemental services**

(2) The modality through which grants or contributions in kind will be determined by the agency is unclear. Specificities of the application process and criteria should be included and clearly state how the final decision will be made i.e., Board majority, CEO or Minister.

(8) (a) Clarification is perhaps warranted on what can be understood by “the person”, and in the absence of full clarity, AkiDwA would recommend the role of Community navigators / champions / ambassadors/ intercultural mediators to be considered in this clarification of the ‘person’ in this article. AkiDwA warmly welcomes any promotion of active participation of wider community members to provide additional peer-led supports, and measures to fill the gaps in the current provision of funding to enable such persons who support their communities to fully and meaningfully access information and services on DSGBV.

DVAB\_10(1)

March 2023

# Women's Aid Submission to the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill



Women's  Aid

## **Submission to the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill**

### **Introduction**

Women's Aid is a leading national organisation that has been working in Ireland to stop domestic violence against women and children since 1974. In this time, the organisation has built up a huge body of experience and expertise on the issue, enabling us to best support women and share this knowledge with other agencies responding to women experiencing domestic violence. More information is available at [www.womensaid.ie](https://www.womensaid.ie).

Women's Aid welcomes the General Scheme of a DSGVB Bill and we look forward to the establishment of the Agency. We make the following suggestions in relation the General Scheme:

### **Head 2**

- i. The definition of "service provider" is unduly restrictive, as it does not include providers which in whole or in part provide functions other than support services for victims. These functions include for example policy, advocacy, awareness raising and cultural change. All of these functions are necessary to achieve significant reduction of the rate of DSGBV and to strive towards its elimination. This should be reflected in the definition of service provider (Head 2) as well as in the functions of the Agency as outlined in Head 14 (see below).
- ii. We are surprised that the DPP and the Legal Aid Board are not included in the List of "public service body" in Head 2 and agree with Safe Ireland that they should be included, as they play a crucial role in protecting victims of DSGBV and prosecuting offenders.



### Recommendations

In Head 2 (1) under Interpretation:

1. amend the definition of service provider by deleting "(a)" so that it reads  
*"service provider" means a person involved in the provision (other than for profit) of services which, in the opinion of the Agency, are consistent with the Agency's functions under Head 14(1);*
2. include the DPP and the Legal Aid Board in the list of public service bodies.

### Head 3 and Head 4

- iii. The wording below, repeated in Head (3)(2)(a) and Head 4(1) describing the functions of the Agency, public bodies and service providers does not mention anything in relation to accountability of the perpetrators of DSGBV  
*the purposes of increasing awareness and understanding of the nature and prevalence of domestic, sexual and gender-based violence, reducing its incidence, or protecting and supporting victims and persons at risk,*
- iv. While other state agencies are tasked with criminal and civil sanctions, there are aspects of perpetrator accountability that the Agency could and should be involved in, such as perpetrator programs, monitoring that sanctions are effective and suggesting policy and legislation to increase perpetrators accountability. Certain public bodies and service providers also carry out these functions in relation to perpetrators and should collaborate with the Agency in this regard.

### Recommendations

3. That in Head 3 (2) (a) and Head 4 (1), the wording is changed to  
*"the purposes of increasing awareness and understanding of the nature and prevalence of domestic, sexual and gender-based violence, reducing its incidence, protecting and supporting victims and persons at risk, **and ensuring accountability of perpetrators**".*

### Head 13

- v. It is essential that the staff of the Agency, whether moved to it from Tusla or otherwise hired/appointed, has relevant experience in DSGBV and that they are provided with appropriate and ongoing training, which should be devised in conjunction with specialist women's services who have a wealth of experience and knowledge on these issues.

### Recommendation

4. Insert a provision in Head 13 to specify that staff of the Agency shall have relevant experience and shall be provided with ongoing specialist training in conjunction with specialist services.

### Head 14

- vi. Women's Aid has a number of suggestion to improve clarity and extend the functions of the Agency, as follows:

Firstly, Women's Aid believes that the Agency should lead on and coordinate the State response to DSGBV. As such it should have a comprehensive role, encompassing a range of functions. While service provision is an essential one, other functions are equally important and this should be reflected in this Head. In particular, the Agency, drawing from the experiences of specialist service providers and in consultation with them; should have a key role in generating new policy and proposing legislation to address any gaps and emerging issues relating to DSGBV. This should be as well as leading in cultural change and awareness raising, commissioning research and the promotion /coordination of data collection from service providers and relevant state agencies.

The overarching role of the Agency in combating DSGBV is very important and needs to be made explicit.

#### Recommendation

5. To insert at the start of Head 14 a description of the overarching role of the Agency, for example:

*“The Agency overall role is to lead, develop and coordinate the State response to DSGBV, in consultation and partnership with specialist service providers”.*

- vii. Women’s Aid also believes that a key function of the Agency should be to lead in and coordinate the implementation of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (henceforth Istanbul Convention).

#### Recommendation

6. That the following line is added in Head 14 (1)

*“(I) coordinate the implementation of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence”.*

- viii. In Head 14 (1) (a) to (k), listing the functions of the Agency there is nothing in relation to perpetrators accountability, leaving perpetrators invisible and outside the scope of the Agency.
- ix. While other state agencies are tasked with criminal and civil sanctions, there are aspects of perpetrator accountability that the Agency could and should be involved in, such as

perpetrator programs, monitoring that sanctions are effective, and suggesting policy and legislation to increase accountability.

#### Recommendation

**7.** That the following line is added in Head 14 (1)

*“(m) collaborate with relevant state agencies to ensure accountability of perpetrators”.*

- x. Head 14 (d) regarding the provision of information on services, specifies that information is also provided to children and young people. There is however no mention of other specific groups, (for example people with a disability, migrants, ethnic minorities etc.), whom may also need tailored information. It is important that this vital information is delivered to groups who experience marginalisation or disadvantage and may need additional inclusion measures, as noted in the Third National Strategy on DSGBV<sup>1</sup>.

#### Recommendation

**8.** Women's Aid suggest that “and groups with additional challenges/vulnerabilities” or similar wording should be included in (d) so that it reads

*“(d) compile, maintain and appropriately promote and distribute information (including information for children and young persons **and groups with additional challenges/vulnerabilities**) regarding services available nationally to victims of domestic, sexual or gender-based violence and persons who may be at risk of these forms of violence”.*

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<sup>1</sup> ZERO TOLERANCE Third National Strategy on Domestic, Sexual & Gender-Based Violence 2022-2026, page 20

- xi. In Head 14 (e), outlining the role of the Agency in information campaigns, the Agency is to provide “advice and support” in the development of campaigns by civil society organisations. For clarity Women’s Aid suggest that the role of the Agency is expanded to clearly include funding for this purpose.

#### Recommendation

- 9. To amend the last lines of Head 14 (e) so that it reads

*“provide **advice, support and funding** in the development and promotion of relevant information campaigns by other public bodies and civil society organisations;”.*

- xii. Head 14 (j) outlines the functions of the Agency in advising and making proposals on policy matters. Women’s Aid believes the Agency should have the same role in proposing legislative changes which the Agency may believe to be necessary and appropriate.

#### Recommendation

- 10. In Head 14 (j) include “**and legislative**” after policy.

- xiii. Head 14 (k) outlines the research and data collection functions of the Agency. Women’s Aid welcomes this inclusion, however this data collection function seems limited to statistical information relevant to the planning of services for victims. While this kind of data is essential much more is needed, for example on prevalence of various forms of DSGBV. Data is also lacking from various systems that interacts with

victims such as the justice and the health systems. The Agency should therefore oversee, promote and support data collection from relevant government agencies and ensure regular prevalence survey are carried out, as per Article 11 of the Istanbul Convention.

### **Recommendation**

**11.** Women's Aid recommend to reword Head 14(k) to extend the data collection function of the Agency so as to ensure the data collection requirements of the Istanbul convention are met.

### **Head 18 and Head 19**

- xiv. These Heads deal with membership of and recommendation for appointment to the Board of the Agency. They establish that only 2 members of the Board need to have experience in the key function of the Agency, that is, only 2 members out of 9 (8 members plus the Chair) need to have relevant expertise in DSGBV with 2 members having expertise in governance and 2 in financial management.
- xv. Women Aid is surprised at the low number of Board members with specific expertise required and suggests that consideration is given to increase it in both Head 18 (2)(b) and Head 19 (4)(a).
- xvi. Expertise in DSGBV is very specific and essential in making sure that any intervention, whether in service provision or policy/legislation, does not inadvertently harm rather than benefit victims/survivors. Women's Aid believes the Agency would benefit by having a greater number of members with specific expertise.

### **Recommendation**

**12.** That consideration be given to increase the minimum number of Board members with specific DSGBV expertise in Head 18 (2)(b) and Head 19 (4)(a)



## Head 28 Corporate Plan

xvii. Head 28 (3) states that

*Before preparing the corporate plan the Agency shall make arrangements for obtaining views from bodies or persons who are likely to have an interest in the content of the plan.*

and Head 28 (4) states that the Agency shall have regards to such views (among others)

xviii. Women's Aid believes it is important the relevant DSGBV service providers are specifically mentioned here, as they have a wealth of expertise and they are partners of the Agency in delivering services and achieving the goals of the National Strategy.

## Recommendation

13. In Head 28 (3) specifically mention the above services thus

*3) Before preparing the corporate plan the Agency shall make arrangements for obtaining views from bodies or persons who are likely to have an interest in the content of the plan, **including relevant DSGBV service providers.***

## Head 36

xix. Women's Aid is concerned that there is nothing in this Head regarding criteria for selection of the service providers, in particular in relation to their expertise on DSGBV.



Women's specialist services have a long history of providing such services and recognising their critical role is required by Article 9 of the Istanbul Convention.

### Recommendation

**14.** Women's Aid recommends that criteria for the selection of service providers are included, which recognise the expertise and role of specialist women's services.

### Head 38

- xx. Women's Aid notes that subhead (1) of Head 38 amends the Child and Family Agency Act 2013 by deleting paragraph (b) of section 8(3) thereof, viz. the reference to "care and protection for victims of domestic, sexual or gender-based violence, whether in the context of the family or otherwise" as a function of the Child and Family Agency.
- xxi. We understand that this relates to the transfer of this function from Tusla to the new Agency. However, Tusla remains responsible for child protection therefore will remain involved in families where there is domestic abuse to provide services and protection to children at high risk in these circumstances.
- xxii. Children living with domestic violence are often at high risk of abuse: child abuse and intimate partner violence often co-occur, with the perpetrator abusing both the partner and the children. Moreover, even when not targeted directly, children suffer emotional abuse when witnessing the abuse of their mother and/or other family members.
- xxiii. In practice therefore Tusla will retain responsibility for the care and protection of **child victims** of domestic violence in certain circumstances. Similarly, Tusla will retain a leading role in protecting children from other forms of DSGBV, such as: trafficking/ sexual exploitation of minors or Female Genital Mutilation.
- xxiv. There needs to be vigilance to ensuring that this agency and Tusla not only clarify their mutual and distinct responsibilities to avoid creating gaps – but also to avoid duplication

and facilitate best practice in holistic family support to include specialist DSGBV services working in conjunction with Tusla staff in the best interests of all victims and survivors - adults and children.

- xxv. Women's Aid therefore is concerned that deleting altogether paragraph (b) of section 8(3) of the Child and Family Agency Act 2013 may inadvertently create a legal vacuum regarding which agency has responsibility for children where child protection and domestic abuse (or other forms of DSGBV) overlap.

### Recommendation

**15.** Women's Aid recommend re-considering the wording of Subhead (1) of Head 38. To make sure Tusla there remains some recognition that Tusla retains responsibility in some circumstances for the protection of **child victims** of domestic abuse and other forms of gender-based violence in some instances, and that the agency will need to work effectively with Tusla to ensure a holistic, joined up response to children and families.

### Guiding principles

- xxvi. Women's Aid also supports the inclusion of Guiding Principles in Head 1 as suggested by Safe Ireland in their submission.

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