

RCNI (Rape Crisis Network Ireland) Opening Statement

Submission on General Scheme of the Criminal Justice (Legal Aid) Bill

September 2023

I would like to thank the committee for inviting the Rape Crisis Network of Ireland here today and allowing us to contribute to these discussions. Our submission addresses three main points. The first deals with the criteria applied for victims to qualify for legal aid, namely, the specific crimes to which the enacted Act will apply. Secondly, our research points to the barrier facing most victims which is resources. We are advocating for victims not to be subject to means testing. Lastly, we are calling for clarity on when and how victims will be able to access the legal aid services proposed.

The provision of legal advice for victims of sexual crimes is a crucial step in supporting survivors. It is essential to deliver a more survivor centred justice service that will improve the experience of victims as they engage with the criminal justice system – the quality of this engagement directly affects rates of attrition. While not considered an equal participant in the legal process, the central role of the victim means they require supports and protections of their rights. The intimate nature of these crimes combined with the associated rape myths and victim-blaming makes many victims reluctant to make and sustain a criminal complaint. RCNI is calling for access to independent legal advice from an early stage and throughout the criminal process – this legal advice can empower victims to engage with and withstand the often re-traumatising impact of the criminal justice process. While RCNI and rape crisis centres around the country provide legal support to victims on an ad hoc basis, what is required is a comprehensive and far-reaching provision of legal advice which caters to the needs of victims of sexual violence.

First Recommendation: RCNI recommends, that, rather than attempting to compile an extensive and exhaustive list of every possible crime which should be included for legal aid, a more generalised definition covering all harms of this nature should be applied. This will mitigate against the possibility of some crimes being excluded and further avoid the need for constant amendments to the legislation. This would include the replacement of Head 47,

paragraph 3A (a) - (k) with a broader definition based on harm types, for example: *'provided to a victim of ... all crimes containing, related to or containing elements of rape, sexual assault, sexual harassment, online sexual harassment, stalking, non-fatal strangulation, incest, prostitution, human trafficking'*.

Second recommendation: We submit that this Bill must clearly and unequivocally confirm that victims of sexual offences will not be required to comply with a means test nor will they be required to make contributions to access legal aid services for sexual offences. While this is discussed in detail in Chapter 6 regarding 'specified persons', no mention is made of provisions relating to victims.

Third recommendation: Victims should be given the opportunity to access legal advice directly through the Legal Aid Board or a suitable facilitator **before** any engagement with the Gardai and DPP is considered if they so choose. Paragraph 3A alludes to legal advice being available at any time before a complaint is made and whether or not a complaint is made, but it is unclear as to how this could be accessed.

Fourth recommendation: Legal advice should be available to victims throughout the legal process including the trial. Again, the provision for legal advice throughout the process is not specifically provided for in the wording of the Head.

Again, I thank the Committee for their invitation and am prepared to answer any questions which the Committee members may have.