

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

March 2023

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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.¹ 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.

¹ 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 23rd 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

