

# Submission to the 3<sup>rd</sup> National Strategy on Domestic, Sexual and Gender- based violence

June 2021



## Introduction

The Children Living with Domestic and Sexual Violence group is made up of specialist domestic and sexual violence services and organisations that work directly with children. Collectively we have huge experience and expertise working with children who have experienced child abuse and domestic violence. We welcome the opportunity to make a joint submission to the 3rd National Strategy on Domestic, Sexual and Gender-based violence, in addition to the detailed submissions from individual member organizations of this group, on key shared issues.

This joint submission from the CLwDSV group includes the collective insight and agreed priority recommendations of Women's Aid, SAFE Ireland, Rape Crisis Network Ireland (RCNI), the CARI Foundation, One Family, Barnardos, Daughters of Charity Child and Family Service, ISPCC, A.S.S.C., Accompaniment Support Services for Children, the National Women's Council and Longford Women's Link.

Domestic and sexual violence is predominantly perpetrated by men and the victims are predominantly women and children. We also recognize female perpetration of domestic and sexual violence and support their victims. The challenges and dynamics we seek to describe and which inform our recommendations cannot easily or usefully be separated from both the gendered nature of domestic and sexual violence and the broader systemic gender discrimination against women. Therefore, we use both gender neutral and gendered language in the following recommendations.

Children are often victims/survivors of domestic, sexual and gender-based violence, including:

- experiencing domestic violence, either as direct target of physical, sexual and emotional abuse or in living within families where their mother or other family members are being targeted causing health and emotional harm
- living with the impact of domestic abuse on their health, well being and development as a result of the violence perpetrated on their non abusing parent. Note that children living with domestic abuse are often also direct targets of violence
- experiencing coercive control and stalking

- having to live with the consequences of domestic violence, such as homelessness, poverty, deprivation, instability
- child sexual abuse, both within and outside the family
- intimate partner violence as a young person in a dating relationship
- sexual abuse from partners
- peer on peer sexual abuse
- online harassment and abuse, including image based sexual abuse, from adult and peer perpetrators
- trafficking and sexual exploitation, online and offline
- female genital mutilation
- In many cases the perpetrator also undermines the relationship between the child and the non abusing parent, which negatively impact on the needs of the child being met.

---

*“It is shouting, name calling, crying, shattered glass and sometimes punches, bruises and blood. It gets louder and louder; they don’t think we can hear it, but we can hear it in our rooms, when we are in bed, even if it is in the last corner of the house. Its like a fighting match and we are worried that mam might get killed”<sup>1</sup>*

---

Notwithstanding the number of children directly experiencing DSGBV within the family and peer on peer, or being indirectly impacted by it and the range of forms of violence they experience, the previous National Strategies on DSGBV were silent on the issue. The Third National Strategy needs to ensure the different parts of government, in particular the Department of Justice and the Department of Children, Equality, Disability, Integration and Youth, connect up to make visible and address DSGBV matters that affect children.

**As an overarching recommendation, the Children Living with Domestic and Sexual Violence group believes that there needs to be much more visibility of children and young people’s experiences of victimisation and their support needs in the Third National Strategy.**

1 Children voices quoted from 'Childrens participation project for childhood domestic violence and abuse, which is a multi-agency project facilitated by Barnardos'  
<https://www.barnardos.ie/resources/childhood-domestic-violence-abuse/resources#data-fancybox>

**Children and young people must be recognised as victims of crime/survivors/rights holders in their own right, with relevant actions included in the Strategy under each of the 4 pillars of the Istanbul Convention.**

Additionally the ClwDSV group wishes to make the following points under the 4 pillars:

- Prevention
- Protection
- Prosecution
- Co-ordinated Policy

# 1. Prevention

The ClwDSV group welcomes the focus on prevention of the third National Strategy on DSGBV. As a group we want to highlight the following areas of prevention that are of critical importance for children and young people.

## Education

In order to eradicate all forms of Gender Based Violence, interventions from the earliest ages are required, to combat negative sexist stereotypes and encourage gender equality and respect. One of the most impactful ways the government can support this is through the national education system.

The **National Education Curriculum** needs to be revised and updated at all levels to develop a comprehensive education program on gender equality and stereotypes as a precursor to relationships and sex education, including consent training, promotion of healthy/safe relationships, how to identify unhealthy relationships and where to look for support. Prevention programmes in schools, should also focus on developing healthy coping strategies, foster resilience and increase levels of empathy, which are protective factors for children and young people who may be vulnerable to domestic violence and abuse in the future. This was also recommended by the 2020 Citizens' Assembly on Gender Equality in Recommendation 27.

The ClwDSV group feels strongly that this education program should include addressing the **impact of pornography** on children and young people. Pornography harms both girls and boys, by influencing expectations, normalising disrespectful sexual behaviour and promoting a misogynistic, and often abusive and violent, models of sexual expectations.

Pornography is also used to groom children for abuse as it normalises and reinforces the perpetrator message that they are entitled to non-consensual and even violent sexual actions.

Children who experience domestic abuse in the home are more vulnerable to pornography and its distorted message on sexual relationships.

Note that it is vital that **teachers are also trained** on all of the above issues as well as on how to support children and young people experiencing domestic and child violence at home or in dating relationships.

In terms of prevention work it is also necessary that a **national schools' policy on sexual harassment** and violence is developed and implemented, which includes prevention, response and support. Mandatory evidence gathering would also be an important element of such a policy.

Early intervention for children and young people engaged in **peer abuse** and harmful sexual behaviour is also a critical gap that needs to be addressed in the National Strategy.

## **Training & Awareness Raising**

Training for all professionals who play a role in supporting children and families who experience domestic and child abuse is needed. Training should cover coercive control, domestic violence, sexual abuse and specifically how they impact children. Training should be designed in a manner which is specific to professionals' differing roles and delivered at all levels of staff and management. Training should also be provided in how to hear the voice of the child in the context of their voice being limited by the complex nature of violence and control. In addition training should include coercive control strategies of perpetrators targeting the community and authority figures of their victims. Campaigns should also seek to equip and activate communities to build resilience and protection for Children.

National awareness campaigns specifically focusing on **children** as victims of DSGBV should be developed and delivery during the life of the 3<sup>rd</sup> National Strategy.

## **Cultural Change**

More generally, the National Strategy needs to engage with the overall government and societal responsibility for the culture children grow up in and how this supports or undermines DSGB violence. Children now grow up in an environment where abusive, degrading and hardcore pornography is widely available online. The ClwDSV group believes that this pervasive culture of pornography undermines any positive message about healthy relationships and consent.

Extensive research is now available about the harms of pornography on children and young people<sup>2</sup> and it is necessary that the 3<sup>rd</sup> National Strategy on DSGBV explicitly makes the links between pornography, gender equality and violence against women and addresses this issue.

## **Online abuse**

Children are often victims of online abuse and harassment. Girls in particular, but not exclusively, are targeted by perpetrators of online abuse, including harassment, grooming, image based sexual abuse<sup>3</sup> and child sexual exploitation by the sex industry. Children are also abused online by perpetrators of domestic abuse, who track them and their mothers through the children's online devices.

The National Strategy should include actions to educate children and young people on online abuse as well as actions to monitor whether existing legislation, such as the Harassment, Harmful Communications and Related Offences Act 2020 is effective in responding to it.

2 See <https://www.culturereframed.org/the-porn-crisis/>

3 Plan international, 2020, Free to be online? Girls' and young women's experiences of online harassment. <https://plan-international.org/publications/freetobeonline>

## 2. Protection

Protection of children experiencing domestic and child abuse is critical. We strongly believe that it cannot be separated from protection of the non-abusive parent, usually the mother. However, the interventions of systems that should protect children and families are often not based on this key principle and therefore may end up undermining rather than increasing child safety. The separation of duties and powers of the three systems (Criminal Justice, Child protection and Family Law) all too often result in the loss of sight of the child and their needs.

---

*“We find it very hard to stay out of it, we try to stop it but it doesn’t work. We want to help mam but we feel like we are not in control. We try to get away and go outside but this can be a very hard challenge. Our little brothers and sisters are relying on us and it’s our job to protect them.”*

---

### Family Law System

The Family Law system often does not work well for families separating in the context of domestic violence and child abuse. Separation does not necessarily end the abuse and in fact can increase it. Custody and access arrangements, whether arrived at through mediation or through the courts, do not prioritise the safety and well being of the child, which necessarily include the protection of the child **and** the protective parent, from ongoing abuse at the hand of the perpetrator. Instead Access Orders are often made that put the child and the protective parent at risk.

The ClwDSV group has recently engaged on this issue in a submission to the Family Justice Oversight Group Consultation. Our main points and recommendations (in bold) from this submission are summarised below<sup>4</sup>.

<sup>4</sup> For more information, the submission to the Family Justice Oversight Group Consultation is available here: <https://www.rcni.ie/wp-content/uploads/Joint-CLwDSV-Sub-to-the-Family-Justice-OG-FINAL.pdf>



*1. Interaction of the Criminal Justice, Family Law and Child Protection systems:*

A family where there is domestic abuse can be simultaneously involved in proceedings in the Criminal Court, in the Family Court and in the Child Protection system, or in any two of these systems. The interaction between these system is often problematic and can play against the safety of children and the non abusive parent, resulting in unsafe child custody and access arrangement that continue, and possibly escalate, the abuse of both. Children should be protected from criminal harm regardless of the perpetrator of the harm being a parent/guardian

- **Research in this area is urgently needed to understand these dynamics and patterns.**
- **The Family Justice Oversight Group should consider how to improve linkages and collaboration between the Family Law court, the Criminal Court and Child Protection, in order to center the safety and well-being of the child and support the non-abusive parent in all proceedings.**

*2. Mediation and Domestic Violence*

Mediation is not appropriate in Family Law cases where there is domestic violence and allegations of sexual abuse and abused parties should not be mandated or coerced into mediation with the abuser.

- **The Family Justice Review should establish criteria and thresholds to identify parties for whom mediation is not suitable. Should an abused party fully informed and freely decide to avail of mediation regardless, there should be clear principles, and mediation methods (e.g. shuttle mediation) established, outlining if and how it can safely be initiated and continued.**
- **No alternatives other than going to court are available in Irish Courts where mediation is inappropriate. The Family Justice Oversight Group should explore safe alternatives to remedy this gap.**

*3. The professionalization and regulation of Mediators*

Many mediators lack awareness on domestic violence and coercive control and how a history of abuse negatively impacts on mediation. Sexual violence and grooming may be little understood if at all.

- **The Family Justice Oversight Group should establish a process for the professionalization, regulation and training of Family Law mediators. To support this process, the Mediation Act 2017 should be fully enacted so that the profession is regulated and subject to a Mediation Council.'**

#### 4. *Access Hearings*

- Disclosure of domestic abuse can be very problematic in Access hearings. Women may not have hard evidence of abuse such as Garda reports or Domestic Violence orders and without such evidence it may be difficult for the woman to be believed. The first formal step a victim may take towards leaving an abusive relationship may be a separation, rather than contact with Gardai or applications to the Courts for protection orders. Their disclosure of abuse within Access hearings can then be characterized as a tactical strategy to prevent Access, rather than a legitimate concern for their own and her children's safety.
- **The Family Justice Oversight Group should ensure all Family Law professionals, including the judiciary, are trained to understand the dynamics and impacts of domestic abuse, including coercive control, in order to center the safety and well-being of the child and support the non-abusive parent in all proceedings.**

#### 5. *Court Welfare System*

- When information on the welfare of the child is needed in private family law proceedings, they are obtained through a S47 Report or a S32 Report. The 2 main issues with this process are that firstly, there is no monitoring or review of the implementation of the recommendations in the reports and secondly that the quality and experience of the assessors providing the reports can vary widely and related to that the absence of regulation
- **The reform of the Family Court should review the efficacy of the system of use of S47 & S32 reports to meet the best interests of the child.**
- **Any such practices included in a Court Welfare system should be staffed by professional, regulated and trained assessors. The professions should not be self-regulated. Standards should be developed with all stakeholders and experts.**
- **There is an argument to be made that a child-centered, wrap around service should provide an assessment in advance of a family law case rather than only upon the direction of the court in individual cases. The role of the assessors would be to identify the needs of**

**the child and to provide an understanding of the child's choices and context, what is in their best interest and what they truly want.**

- **The Child's voice needs to continue to have a dedicated advocate regardless of the S47 or any other process, the GAL continues to have a vital role in ensuring the voice of the child is present and considered at all stages.**
- **The meeting of the child's needs should be ensured through an independent advocate (not the initial assessor) who is charged with the review and monitoring process and ensuring the child has publicly funded access to a range of services and supports to address said needs.**
- **The identified needs of the child should be publicly funded whether or not they were identified and/or court ordered through public or private family law cases.**

#### *6. Child Contact Centres*

- When the Court determines that access for a child should be supervised, there are currently no professional, state resourced, supervised access services the court can refer the family to
- In many cases the obligation for facilitating and attending court-mandated supervised access is placed with the abused parent (or friends and family) which is neither appropriate nor safe
- **A network of quality supervised child contact centers needs to be established as a matter of urgency. Such centres should be child centered and should be staffed by regulated and trained professionals. Training should include training on domestic and sexual violence and its impact on children.**

In addition to the recommendations above we would like to make the following 2 points:

#### **Transparency in Family Law**

The ClwDSV group agrees that there should be much better transparency in Family Court. Currently there is a lack of information and data on both outcomes of proceedings and on how decisions are made.

- The **statistical data** collected and published by the Courts Service is minimal and it is not possible to gain any meaningful data on domestic abuse in the Family or Criminal law systems, neither is there any data on when allegations of sexual abuse arise in family law, other than in relation to orders under the Domestic Violence Act 2018. **Courts Services collection and**

**publication of data relating to family law and DSGBV in particular needs to be significantly improved.**

- **Collation of data regarding children who are witnesses for the state giving evidence through the video link room is also needed. This should be broken down by location.**
- The **in camera rule** acts as a huge barrier to research, because, as it is currently framed, researchers and participants could be held in contempt of court if they discuss any proceedings. It also prevents survivors of domestic abuse from being able to tell their stories and having any meaningful input in Family law reform. **It is our position that the in camera rule needs to be reviewed urgently to allow much needed research and to increase transparency in the Family Court.**

### **Voice of the child**

The voice of the child is still most often not heard in proceedings which have a huge impact on their lives. It is imperative that the right of the child to be heard is upheld, and that they are provided with opportunities and choices to express their views in a child friendly process.

---

*“Some adults think children are stupid and they don’t know what they are talking about just because they are little but all children have a voice.”*

---

### **Child Protection System**

The Child Protection system and more generally society, places the responsibility for protecting children from domestic violence solely on the non-abusive parent, usually the mother, while the abuser remains invisible and unaccountable to the system.

In this context, Child Protection mandatory reporting can become problematic: the protective parent may be seen as failing to protect the children from the abuser or on the other hand to be characterized as vindictive if abuse allegations are categorized as unfounded. This is an impossible position for the

parent, which may result in unhelpful outcomes that do not create safety and stability for the child, and in the worst case scenario, the child being removed from the protective parent.

We believe that Child Protection interventions need to shift the responsibility of abuse from the protective parent and provide them instead with appropriate, holistic and ongoing support while placing accountability for safe interactions on the abusive parent.

There are a number of promising models which should be considered for a consistent national model, for example:

- the Safe and Together Model,<sup>5</sup> which is a framework for working with children and families living with domestic violence, that aims to improve how child welfare systems and practitioners respond to the issue of domestic abuse, but is applicable to all statutory and non statutory practitioners, It is a child-centered intervention which maintains the focus on safety, agency and dignity of the child and the protective parent, while viewing the behaviour of the abuser as a harmful parenting choice .
- the Dublin Safer Families Services (used by the Daughters of Charity Child and Family Service) who work systemically with the family, is child centered, works with the parents and children to increase family safety, prevent and stop violence and holds the perpetrator to account.

Social workers need core training on identifying and responding to domestic and sexual violence including coercive control. This is currently not standardized in Social Worker training. The prevalence of DSGBV means that this should be something all social workers are specifically skilled in. We do not believe their generalized skills are sufficient to address these issues safely.

Finally, there is no training for social workers in engaging with fathers who choose to abuse, nor any training in grooming tactics, and on how to avoid professional capture and collusion. The National Strategy needs to urgently address this gap.

5 <https://safeandtogetherinstitute.com/about-us/about-the-model/>

## **Counselling/ therapeutic support**

Children may need counselling / therapeutic support to recover from domestic and sexual abuse. In Ireland there are very few specialised and affordable support programs for children and they are not available throughout the country. It can be very difficult to find affordable, specialised therapists specifically trained on DSGBV and children. In addition, a barrier is that the consent of the perpetrator is often needed for the children to access therapeutic services.

The National Strategy should include provision of free therapy/counselling services for children exposed to domestic and sexual violence and ensure that the existing HSE National Consent Policy provision that enables children to access DSGBV counselling without needing the perpetrator's, alleged or otherwise, consent is robust, normalized and adhered to.

---

*“Sometimes we feel it in our bodies too, we might get weak, our eyes might go black, we get a pain in our belly, our bones start to hurt and sometimes we don't feel like eating a lot.”*

---

### 3. Prosecution

The pillar of prosecution focuses inter alia on the rights of victims in the criminal courts.

#### **Children as victims in the Criminal Courts**

According to the Criminal Justice (Victims of Crime) Act 2017, victims of crime should be afforded a number of rights, including protection during investigation and judicial proceedings; rights to access information and support; certain safeguards for their privacy and individual assessment of their specific protection needs.

It is our experience that children who are victims of domestic abuse are not always given these right, even when they are primary victims or co-victims, for example when the perpetrator assaults both the child and the other parent.

When children are secondary victims, the criminal proceedings, and any victim rights under Criminal Justice (Victims of Crime) Act 2017, must focus on the mother as victim and the children's needs as secondary victims of the crime because they have witnessed it but have not identified themselves as primary victims of the crime, are not recognized formally by the legislation. However, in practice, some effort may be made to meet these needs by An Garda Siochana or Tusla (e.g. by an appropriate referral to a specialist child support service).

When children experience domestic abuse, they should be identified as victims in their own right and therefore, recognized as rights holders in their own capacity. The process of identifying the child as a victim must be given consideration including the child's context, visibility to the process and capacity to ensure they are appropriately identified to activate their rights.

In any case where they are secondary rather than primary victims of crime, they should have the benefit of some rights analogous to those afforded to primary victims. These rights should extend to the right to information about specialist support services, to be referred to those services with consent, to information about the criminal justice process in general and to be accompanied when making an initial

report to An Garda Síochána, including by an appropriate person, now afforded to primary victims of crime under Section 7 CJVoCA 2017.

Finally, children as witnesses may be entitled to the benefit of some special measures under Part III of the Criminal Evidence Act 1992 as amended, It is necessary to monitor that these measures are consistently applied.

## Support needs

There is a huge gap in support services for victims of domestic abuse in the criminal and family courts. In particular, services are needed to support children when they are victims of crime or witnesses to a crime against a parent or other member of the family, to build the child's confidence in the system. Support services should be established throughout the country and be of high and consistent quality, so that children & families do not need to travel to avail of victim support services within the criminal justice system. Support should be provided for the child and mother before, during and after negotiating the Criminal Justice System. As part of this a point of contact for families for ongoing advocacy phone support for their time within the CJS should be provided.

Children living with an abuser do not feel safe and do not feel they can talk. When the child comes forward and reports abuse the system needs to deliver or at least respond, being honest about its limits. Mechanisms for children to name the abuse, to know it is safe to come forward and to feel heard need to be developed.

As mentioned above the same family can be involved in proceedings in the Criminal and the Family Court. The Child Protection system can also be involved. The child needs to be supported in any or all of the various systems they may be involved in as a victim of domestic abuse.

This group believes that it would be very helpful for children to have **one safe point of contact/advocate** who would help them feel safe when they come forward, support them to be heard in all systems, explain the proceedings being honest and clear about what is possible to achieve, and provides ongoing case management and outcomes monitoring in all 3 systems.



A review of the Child's Journey across these 3 systems (Criminal Justice, Family Law and Child Protection) is also needed to identify and address gaps and inconsistencies. This needs to be resourced, as it is an extensive piece of work.

## 4. Coordinated Policy

Children experiencing domestic abuse are often invisible in the various systems which should work together to protect them.

As mentioned above, the lack of coordination between the Family Law, Criminal Justice and Child Protection systems is extremely problematic. However domestic abuse impact also on other areas of children's lives. It can negatively impact on their schooling, put them at risk of deprivation, poverty and homelessness, impact on their health, including mental health and risk of substance abuse and negatively affect their future. Unfortunately there has been very little visibility of children experiencing DSGBV in previous relevant strategies, whether they were child specific strategies or more general ones.

**It is essential that children and young people experiencing DSGBV are made visible and their needs considered across all national strategies**, including in particular the forthcoming Better Outcomes Brighter Futures II National Policy Framework for Children and Young People. These strategies should be explicitly linked into the National Strategy.

There is also a need for a National Strategy on child sexual abuse, including online sexual abuse and child sexual exploitation in the sex industry. Alternatively, explicit actions to tackle child sexual abuse can be included in the 3<sup>rd</sup> National Strategy on DSGBV.

Female Genital Mutilation is another form of gender-based violence that impacts on young girls, mostly underage. It needs to be properly actioned through the development of a National Action Plan to combat FGM.

Most government departments/agencies have a role to play in combating domestic, sexual and gender based violence. **Each department/agency should have a specific policy on DSGBV and this policy should recognise children as victims/survivors and include specific actions in relation to children and young people.** Each department/agency should also have roles specifically tasked with the policy

implementation and monitoring. NGOs working in this area should be resourced to provide insight and collaboration with the state's parties working in this area.

There is also a need for more data and research on children experiencing any form of DSGBV to inform and support the development of strategies and policies. Both research and actions should be intersectional and inclusive, looking at the needs of different children and families, including victims with disability, migrants, Travellers, LGBT children.

Finally, the CLwDSV group agrees that clear lines of accountability need to be established through an independent mechanism to ensure that domestic, sexual and gender-based violence is consistently prioritised and properly resourced and that real progress is made. This could take the form of an independent Rapporteur, dedicated Minister/ Cabinet Committee or Agency with adequate resources and powers to develop recommendations and monitor their implementation.

ENDS

For any queries and further information please contact CLwDSV Chair, DrClíona Saidléar on [cliona@rcni.ie](mailto:cliona@rcni.ie)

Or 087 2196447