



An Roinn Dlí agus Cirt
agus Comhionannais
Department of Justice
and Equality

Supporting a Victim's Journey

A plan to help victims and vulnerable witnesses in sexual violence cases



Foreword by the Minister for Justice

Victims of sexual crime too often feel alone and unsupported.

After suffering the most appalling abuse and violence, many victims feel they cannot come forward and report what happened to them.

Sometimes this can be because of a fear they won't be believed, or a fear of how the crime will be investigated. Many fear how they will be treated in court: how they could be traumatised again as they seek justice.

I want to remove that fear, support victims every step of the way and create a system centred around them. I want them to know they are not alone and we are here to help them seek the justice they deserve.

Victims will be treated with dignity, respect, care and understanding and perpetrators will know their crimes will be reported, investigated and prosecuted.

Supporting A Victim's Journey: A Plan to Help Victims and Vulnerable Witnesses in Sexual Violence Cases details how I, as Minister for Justice, will drive reforms which will reduce sexual violence and ensure our system works for those who need it.

There is wider work to be done in reducing the number of sexual crimes, too.

We will raise awareness, through public education campaigns, on consent and victims' rights. This will involve central government, the Health Service Executive, An Garda Síochána and others.

Tom O'Malley deserves our thanks for his thorough Review of Protections for Vulnerable Witnesses In the Investigation and Prosecution of Sexual Offences. Supporting a Victim's Journey takes forward the recommendations in his report with determination.

But this report is not the final say on how better we can support victims. Supporting A Victim's Journey is a living document and I will establish

a consultative body to ensure organisations and groups working with victims continue to have an input into how we will implement change.

We are already making progress. As of last month, every Garda Division in the country now has a Divisional Protective Services Unit, with specially trained officers now available nationwide when victims of domestic and sexual violence present to Gardaí.

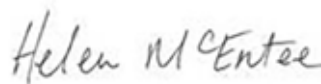
I was particularly pleased to have secured €2.3 million in the recent Budget to fund the reforms in Supporting A Victim's Journey.

And I am also working with Minister for Children, Disability, Equality and Integration Roderic O'Gorman on an audit of how responsibility for domestic, sexual and gender based violence is segmented across government and State agencies.

This will lead to a strong and effective government infrastructure to help tackle these awful crimes.

We are meeting our commitment in the Programme for Government to tackle the epidemic of domestic, sexual and gender based violence. Supporting a Victim's Journey is key part of that commitment.

Helen McEntee TD
Minister for Justice



Executive Summary

Introduction

The O'Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences recommendations are in 4 overarching themes:

1. Promoting better awareness of victims' rights legislation;
2. Promoting education about the meaning and importance of consent;
3. Improving inter-agency co-operation and information exchange; and
4. Ensuring consistency in service delivery.

The Review was prompted by concerns about the experiences of vulnerable witnesses in criminal proceedings for sexual offences. The recommendations and the actions in this Implementation Plan are intended to ensure that victims of sexual crime have access to information, are kept informed of the progress of investigation, are facilitated in giving their best evidence and are treated with respect and dignity throughout the process.

This Implementation Plan is a living document and additional actions with timeframes will be added in response to new and emerging issues. NGO submissions to the Implementation Group will be further considered and reflected in the implementation phase.

The O'Malley Report, the audit of how domestic, sexual and gender based violence (DSGBV) services are organised and development of a new national strategy on DSGBV during 2021 will deal with part of what needs to be done for victims of sexual crimes. In particular, the Group is conscious that the systems in place to support victims have grown up organically over time. Therefore, the Group recommend a review,

led by the Department of Justice, be carried out in consultation with the NGO sector of the supports, including grant funding, available from the Department, to be completed before the end of 2020. A key task in that review is to **map the journey that faces the victim** from the moment of the crime to the end of a prosecution and to any further legal processes involving the victim or the offender. The review will identify and make practical proposals to fill any gaps in the supports that are needed for the victim in that journey.

Provision has been made for funding of a number of initiatives in the 2021 Budget. In particular, an increased allocation of €2.3m to combat domestic, sexual and gender based violence has been provided for the Department of Justice in 2021.

Summary of the recommendations to implement the Report

Increasing **public awareness of the terms of the Criminal Justice (Victims of Crime) Act 2017 (1.1)** is a priority. A new and expanded Victims Charter was published in February 2020 and is available on the website www.victimscharter.ie. A range of additional steps will be taken to further publicise the legally enforceable provisions for victims set out in the 2017 Act, including through use of the Victims Charter, with implementation commencing in Q4 2020. These include further development of the website, distribution of print materials and awareness raising through the media.

The Government will run a **programme of public education on consent (1.2)**. This recommendation has been identified as an immediate priority by the Minister for Justice and the Minister for Further and Higher Education, Research, Innovation and Science (FHERIS). New public education and awareness-raising activities will include:

- Development of a standalone website on the meaning and importance of consent in the context of sexual relationships and sexual activity by Q1 2021,
- Delivery of a public awareness campaign, to be in place by end Q2 2021, and programmes of education and public awareness in the Higher Education sector through the implementation of the Framework for Consent in Higher Education Institutions.

The Programme for Government commits to the development of “inclusive and age appropriate Relationships and Sexuality Education (RSE) and Social, Personal and Health Education (SPHE) curricula across primary and post-primary levels”. Work on redeveloping the specifications for SPHE and RSE is planned to commence in 2021, with work on interim guidance to support teaching in schools currently underway.

The Health Service Executive Sexual Health and Crisis Pregnancy Programme (SHCPP) is currently producing a range of booklets to support parents. These include the topic of consent in an age appropriate manner. They are also supporting measures within youth work settings and direct digital communications to young adults including management of the website www.sexualwellbeing.ie. Tusla will ensure that the learnings from the Manuela programme will be incorporated into delivery of all relevant mainstream services.

Link with specialist sexual violence sector

Additional actions will be taken forward as part of the National Prevention Strategy on DSGBV in the Programme for Government. These include formalised operational links between the specialist sexual violence sector and post primary schools and examination of the idea of dedicated sexual violence prevention educational/advisory resource posts based in Rape Crisis Centres.

The Department of Health and the **HSE** will ensure that consent education for individuals with physical or intellectual disabilities is covered

in ongoing sex and relationships education and support for disability service users.

An Garda Síochána will participate actively in the programme of public education to facilitate an increase in understanding and awareness of consent and will utilise their media campaigns and interaction with victims.

There is a need for **greater inter-agency communication to ensure that all organisations are fully aware of the services provided by others (1.3)** and the Department of Justice will lead on this. The Department will ensure that the Victims of Crime Charter website highlights the services provided across agencies in a way that supports knowledge exchange across service providers as well as to the wider public.

Work has already commenced within the DSGBV Monitoring Committee on identification of specific training needs that can be addressed on an interagency basis.

A further mapping exercise to identify the nature, spread and level of services that may be encompassed by this implementation plan will be undertaken and completed, with relevant stakeholders, before the end of 2020.

The O'Malley Report (1.4) highlights the need to ensure that **facilities for victims and other vulnerable witnesses should be of a consistent standard**. Bringing court accommodation and Garda stations up to the standard required by contemporary society requires continued and sustained attention over the medium term and progress depends on the availability of capital funding in future years.

Both Vulnerable Witness and Victim Support rooms have been specified in the Courthouse Design Guide since the mid-2000s. Where some existing premises do not meet the required standard, retrofitting may be a satisfactory solution.

Special Victims Suites have been established at a number of locations including Dublin South, Dublin North, Cork City, Sligo, Donegal, Waterford, Limerick, Galway and Cavan. Plans are being made to provide a new suite in Kerry by Q1 2021.

The Barnahus Galway pilot project brings together health, medical, therapeutic and policing services for children and adolescents in a child centred way where sexual abuse is suspected. The intention is that full shared services will be provided in three locations: Cork, Dublin and Galway. Extension will be based on the experience of the pilot. A National Agency Steering Group will be established as a priority to move the project forward.

The Programme for Government commits to implementing a plan for future **refuge space**. There is a shortfall in emergency refuge spaces, an uneven spread geographically and a need to upgrade facilities to provide independent accommodation units for all residents.

Work being undertaken by Tusla, in collaboration with stakeholders, to identify the scale of provision needed will be considered by the Monitoring Committee for the National Strategy on DSGBV with a view to developing a consensus on what the needs are and how they can be best addressed.

Sexual Violence Support Services

Significant increases in demand for sexual violence supports continues. Substantial additional resources will be required in future to fully address the complex range of needs, geographical spread and numbers of clients presenting.

The O'Malley Report also addresses issues in relation to the **Investigation and Prosecution of Sexual Offences**. All frontline members of An Garda Síochána will be trained during 2021 and 2022 in the principles and practices for engaging with vulnerable victims and witnesses (2.1). Tusla

will contribute nationally and locally on engaging with children with disabilities. Arrangements for **Garda training to be regularly monitored by external experts (2.2)** will be in place by end Q1 2021.

Since September 2020, Divisional Protective Services Units (DSPUs) (2.3) are in operation in every Garda Division across the State.

An Garda Síochána will review in Q2 2021 and every 3 years thereafter the number and geographical spread of **special interview** suites so that all vulnerable victims have reasonable access (2.4) and the operation of these will be **periodically evaluated by an external expert (2.5)**.

Work on the establishment of the new Sexual Offences Unit in the ODPP's Office has already commenced. It is hoped that the first phase of the unit will be up and running by the end of 2020 and that it will be fully operational during 2021 (2.6).

Anonymity, Public Attendance and Media Reporting of Sexual Violence Trials: Recommendations 3.1 – 3.7 propose amendments to the sexual offences legislation. Scoping work will begin in January 2021 with a view to bringing draft Heads of legislation to Government before the end of 2021.

The O'Malley Report recommendations on **legislation for Preliminary Trial Hearings (4.1 and 8.2)** will be progressed with draft legislation to be published before the end of December 2020. The legislation will deal with **defence applications (4.2) to question a victim about his or her sexual experience** being notified to the Court at the preliminary hearing, and the Legal Aid Board notified accordingly, and ensure that **any issues (4.3) relating to an intermediary, and any other special measures required**, will be addressed at a preliminary trial hearing (this is both an operational and a legal matter; when a scheme of intermediaries is in place, liaison between the Courts and the relevant party and their legal

representatives will help deliver this objective). Following enactment of the legislation arrangements will be put in place to ensure that there **is an obligation (4.4) on both prosecution and defence, to disclose anything that may prevent the trial from commencing on the scheduled date, at the preliminary trial stage.**

ODPP will engage with the Department of Public Expenditure and Reform and other relevant stakeholders to determine appropriate **fees to be paid to lawyers in private practice representing either the prosecution or the defence (4.5)** for their work on preliminary trial hearings.

Provision will be made to allow the same barrister to represent the victim **in a questioning application and the actual questioning itself (in trials for sexual offences) (5.1.)**. The right to **separate legal representation (5.2) for victims to include trials for sexual assault** will be extended. Scoping work on the legislative amendments necessary will begin in January 2021 with a view to bringing draft legislative amendments to Government before the end of 2021.

Legislation will be published before the end of 2020 to provide where the defence intends to question a victim about other sexual experience **(5.4), it will be required to notify the judge conducting the preliminary trial and the Legal Aid Board (5.5)** should be immediately informed. The Board will endeavour to ensure that the victim is represented by counsel of the same seniority as the other parties.

It is important that victims should be aware of their **right to object to the disclosure of counselling records (5.6)** and this will be brought to the attention of victims and any persons who are advising them by the ODPP (including via NGOs), AGS and the Legal Aid Board.

Whether the disclosure of medical records (5.7) should be subject to a statutory regime similar to that for the disclosure of counselling records will be considered in a future review of the law relating to sexual offences as is being undertaken

by the Law Reform Commission. It is a complex matter in which extensive consultation will be required.

The Department of Health now lead on an examination of this issue which will include engagement with Health agencies and the broader health sector, including with regulators (e.g. the Medical Council). It is intended that this examination will be completed by the end of February 2021.

In order to address delays, **a positive obligation (5.8) will be imposed on all persons holding counselling records** to furnish those records promptly to the Director of Public Prosecutions on request. The Department of Health will complete by February 2021 an engagement with agencies under its remit to identify reasons for the delay. AGS will review before the end of 2021 the practice govern the collection and disclosure of **a victim's digital material and electronic data** in the context of the recommendation that there will be a **formal code of practice (5.9)**.

Information for Victims is addressed in recommendations 1.1 and 6.1. In addition to the development of the www.victim charter.ie ie a **Garda ACTIVE Mobility App (6.2) that will advise Garda members of the information they should provide to victims**, including appropriate contact details, will be operational by Q3 2021. This App will also be capable of sharing by electronic means, an e-version of the Victim Information Card and Victim Information Booklet in a language understood by the victim. The text would include contact details of the reporting member and the Garda Victims Services Office.

The Department of Justice will scope out and determine the extent of any legislative amendments required so that the **Legal Aid Board can provide free legal advice to victims of sexual offences, not just in cases where a prosecution is being taken (6.3)**, but in relation to a **wider range of sexual offences (6.5)** and to allow for **legal advice be granted to a parent, guardian or other responsible adult (6.5)** in certain cases.

The timeframe for completion of the scoping of these amendments is 31 January 2021 and we will ensure that conflict with the modern capacity framework established by the Assisted Decision-Making (Capacity) Act 2015 is avoided.

The ODPP currently offer pre-trial consultation with a victim/witness and the prosecution legal team. However, there are restrictions on the manner in which the prosecution can interact with victims to ensure the integrity of proceedings. AGS, in conjunction with others, will complete an examination in early 2021 of what is necessary to ensure that a **court familiarisation service (6.6) is available to every victim who is due to appear as a witness in criminal proceedings.**

The Department of Justice provides annual funding of some €2m to a range of civil society organisations to provide court accompaniment and other support services. The service is not available throughout the State and there is no formal training or qualification required. A review of these supports will take place before the end of 2020 to ensure that **victims of a sexual offence have some personal support (6.7) during criminal proceedings and that such a service is available to all victims of sexual crime throughout the country.**

The O'Malley Report recommends **(7.1 to 7.8) that a cohort of appropriately qualified intermediaries should be recruited and registered** and makes a number of detailed recommendations in that regard, including on the possibility of a joint register of intermediaries with Northern Ireland authorities.

The general thrust of the recommendations is that provision should be made for the use of appropriately qualified intermediaries whose essential role would be to assess the communication needs of vulnerable witnesses and to advise police, advocates and the court as to the steps that are needed to assist such witnesses to give their best evidence.

The Department of Justice will invite expressions of interest from 3rd level institutions to provide an appropriate training and accreditation for relevant professional to be recognised as intermediaries in February 2021 with a view to having agreement in place with a third level institution by April 2021.

The Department will also engage in parallel with CORU and other relevant stakeholders to agree who would host the register and in relation to the practical operational issues that need to be considered. Engagement will also take place with the Courts Service in relation to access to the register.

The Department will pilot for 12 months an approach to provision of the service in two areas (one urban Dublin area and one rural area) after which the Minister will be presented with a costed plan to extend the service throughout the State and with details of any legislative amendments that are desirable.

A significant focus of the Report is the need to **reduce delay.**

The Judicial Council's Sentencing Guidelines and Information Committee will progress in 2021 the recommendation to consider **drawing up a guideline on discounts for guilty pleas (8.1)** and also to sentencing guidelines for sexual offences, especially those offences in respect of which there are no judicially developed guidelines.

The Department of Justice will give effect to the recommendation **that further empirical research should be undertaken (8.3) on the processing of sexual offence cases** from the time at which a complaint is made until the case comes on for trial, in those cases where a prosecution is initiated. The action will be added to the Department's research programme for 2021.

The Department of Justice, in consultation with the Courts Service, will ensure that any **proposal for the appointment or allocation of additional judges to the criminal courts (8.4)** will be preceded

by an assessment of the impact which this would have on the court accommodation and facilities for victims and other persons participating in or attending sexual offence trials.

In relation to **training**, the O'Malley Report stresses the need for appropriate training for the **judiciary and legal professionals (5.3, 9.1 – 9.3)**, possibly within existing Continuous Professional Development (CPD) frameworks, including on the law about questioning of victims during sexual offence trials, specialist training on understanding of the experience of victims, and the questioning of witnesses who are especially vulnerable by virtue of youth or disability.

In relation to judges, the Judicial Council anticipate that training will be completed in 2021.

The **Bar of Ireland's existing** CPD programme is equipped to incorporate relevant multidisciplinary training, as envisaged by the Report. The Council's CPD programme already incorporates training for barristers dealing with vulnerable witnesses and the Bar will develop a course of CPD suitable for barristers in line with these recommendations

The **Law Society** will examine if their "Trauma Awareness Skill Training for Lawyers working with Children and Young People" programme can be adapted to facilitate the training recommendations in the report. It is envisaged the Annual Criminal Law Conference in March 2021 could provide the training for the criminal practitioners.

The modalities of providing specialist training for legal professionals to deal in a professional capacity with victims of sexual crime will also be considered by the Department of Justice in consultation with the relevant legal professional and training bodies and in the light of the **LSRA's Report on the education and training of legal professionals**.

Bar of Ireland members will be required to earn a certain number of CPD points in relation to the prescribed training on a regular basis. The

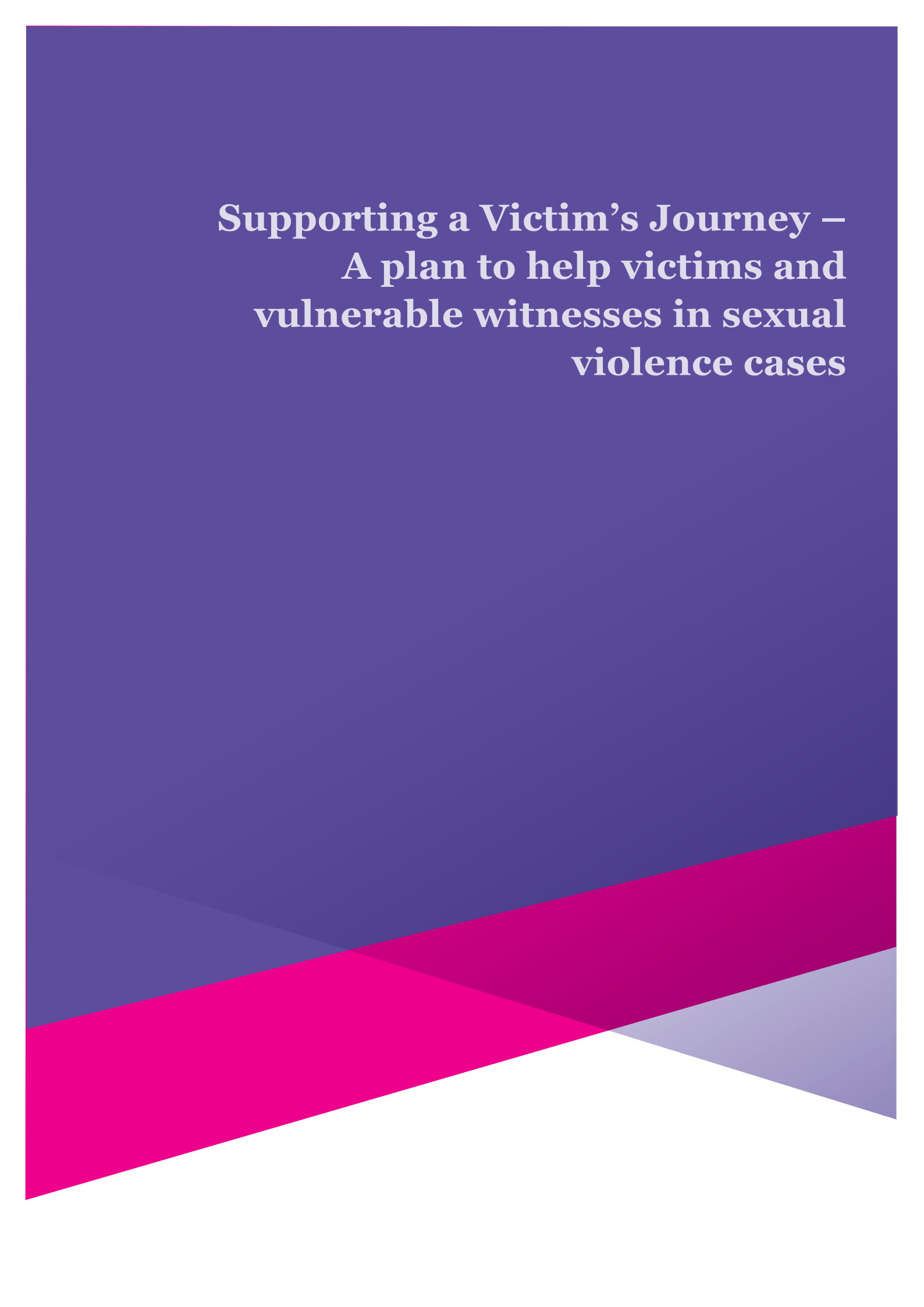
Council will assume responsibility for the roll-out of mandatory training for members. The recommendation **(9.4)** that the professions provide the ODPP and the Department of Justice and the Legal Aid Board, upon request, **a list members who have satisfactorily completed the prescribed training** will be considered by the relevant stakeholders having regard to data protection legislation and inter alia case law in relation to right of a defendant to engage a solicitor of his or her choice in Q1 2021.

The Department of Justice will lead on implementation of the recommendation **(9.5)** that **all personnel in State Agencies who are likely to have to deal with victims of sexual crime should have appropriate training**. Specific proposals will be developed as part of the 3rd National Strategy on Domestic, Sexual and Gender-Based Violence, which will be in place by the end of 2021. Within the architecture of the next Strategy, the Department will finalise proposals to **appoint a planning and implementation committee (9.6)**, to devise and develop a specialist training programme for legal professionals who deal with victims and other vulnerable witnesses in sexual offence cases. Civil Society organisations will participate in this work.

The professions of counsellor and psychotherapist are designated for regulation under the Health and Social Care Professions Act 2005. The significant and complex body of work required to meet recommendation **(9.7)** that **all those who provide counselling, therapy and related services to victims of sexual crime have appropriate training** has commenced. Counselling is provided by a variety of different professionals who may include doctors, nurses, social workers and others, many of whom are already regulated.

This recommendation also applies to everyone, including legal practitioners and other professionals, **involved in restorative justice programmes related to sexual offending**. A mapping exercise to identify bodies involved in the delivery of restorative justice is currently being undertaken. This information is to be

published in January 2021. Once this study is complete, the Department will establish a multi-agency group to scope requirements for a more integrated consistent, visible and high quality restorative justice service for vulnerable victims who wish to pursue that pathway.

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Supporting a Victim's Journey – A plan to help victims and vulnerable witnesses in sexual violence cases

Introduction

On 5 August 2020, the Minister for Justice, Helen McEntee, T.D, published the O'Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences.

On publishing the Report, the Minister announced that she would develop an implementation plan, working with the NGO sector and stakeholders, and would report back to Government with a detailed plan of action and timelines for delivery within ten weeks. The Report contains over 50 recommendations, with four overarching recommendations:

1. Promoting better awareness of victims' rights legislation;
2. Promoting education about the meaning and importance of consent;
3. Improving inter-agency co-operation and exchange of information, especially in relation to services for victims; and
4. Ensuring consistency in service delivery.

The Minister indicated that a number of actions would be immediately prioritised. These include:

- Working with the Legal Aid Board to ensure the victims of sexual crime can access the legal advice and support they need.
- Establishing a single, comprehensive source to inform victims of sexual crime of their rights and of the services available to them.
- Starting a public awareness campaign around the meaning of consent.
- Completing the rollout of the Garda Divisional Protective Services Units across the country within two months. This means every division of An Garda Síochána will

have a specialised unit for the investigation of sexual violence, human trafficking, child abuse and domestic abuse.

- Prioritising the drafting of legislation to provide for preliminary hearings to help avoid delay in sexual offences cases.
- Ensuring the development of the necessary specialist programmes of training for serving members of An Garda Síochána, legal professionals and others who are participating in a professional capacity in sexual offences investigations and trials, including engagement with the newly established Judicial Council about training for judges.

Among the issues dealt with in detail in the O'Malley report, and which have been considered as part this implementation plan, are:

- The investigation and prosecution of sexual offences
- The anonymity of victims and defendants, public access to sexual offence trials and media reporting
- The trial of sexual offences
- Information for victims
- Use of intermediaries
- Reducing delay in the trial process
- Training

Background Information to Review

This Review was prompted by widely shared concerns about the experiences of vulnerable witnesses in criminal proceedings for sexual offences. In particular, there was unease in the wake of a trial in Belfast Crown Court in 2018, which has come to be known as the 'Belfast rugby rape trial'. The then Minister for Justice

and Equality, Charlie Flanagan TD, requested the Review to examine key aspects of the criminal justice process as it relates to vulnerable witnesses, and to identify ways in which the treatment of such witnesses might be improved.

The Review Group included representatives from the main agencies involved in the investigation, prosecution and trial of sexual offences: An Garda Síochána, the Office of the Director of Public Prosecutions, the Courts Service and the Probation Service. It was chaired by Tom O'Malley, Barrister, Commissioner at the Law Reform Commission, Senior Lecturer in Law at National University of Ireland Galway and author of the definitive legal texts on sexual offences law in Ireland.

The report from the Review Group describes the constitutional framework within which the rules and practices relating to the investigation, prosecution and trial of criminal offences, including sexual offences, must operate. It also provides a summary of the many progressive statutory measures that have been introduced in recent years to assist victims of sexual crime, especially during trial.

Overall, the recommendations are intended to improve the present system by ensuring, as far as possible, that victims of sexual crime have access to information and advice from the time at which the offence was committed, that they will be kept informed of the progress of investigation, that they will be facilitated in giving their best evidence if called as witnesses and that they will be treated with respect and dignity throughout the process.

Several of the recommendations are intended to assist all vulnerable witnesses, whether they are victims of an offence or otherwise. The vulnerability of children both as victims and witnesses is an important horizontal principle to be recognised by implementing bodies in all actions of the implementation plan. This applies across facilities, supports, information, and training - all which should be based on principles of child friendly justice.

Work of Implementation Group and consultation with civil society

The Implementation Working Group met on three occasions and also met with the NGO representatives on the Monitoring Committee for the National Strategy on Domestic, Sexual and Gender-Based Violence, representatives of frontline refuge services, the Bar Council and the Law Society and received submissions from a number of these organisations.

Membership of the Group is at Appendix 1.

Further work

This Implementation Plan sets out the actions which will be taken in 2020 and 2021 to give effect to the recommendations contained within the Tom O'Malley report. The Plan is intended to be a living document and not set in stone, so additional actions can be added. This will allow for feedback to be taken on board from stakeholders and from the NGO sector as we implement the plan.

The Minister for Justice will chair a high level implementation group of state bodies to ensure that the Plan is fully delivered.

The implementation plan sets out an ambitious programme of legislative reform. In drafting new legislation, we will have to ensure that the provisions are balanced and full consideration is given to any unintended consequences. In any criminal trial, the accused person enjoys the full benefit of the presumption of innocence and any amendments that are needed to benefit vulnerable witnesses, should not confer an unfair disadvantage on any other party.

The Group is grateful to the various NGOs who made submissions, many of which raised specific points that will need to be considered in that drafting work. These submissions will be considered in the detailed implementation of the report's recommendations and consultation

will take place in regard to implementation. An overarching point made in a number of submissions about sexual offending taking place also in the context of domestic abuse will be addressed in the implementation of the Report's recommendations.

Wider context and issues that need to be addressed in supporting victims of sexual, and of domestic and gender-based violence

The focus of the O'Malley Report recommendations has regard to its terms of reference and accordingly the recommendations have a particular focus on the position of victims within the criminal justice system, and in particular, the provision of supports during the investigation and prosecution of an offence.

In the course of the Group's work, attention was drawn to a range of important issues that impact on victims more generally. These issues include resourcing of refuges and other services for victims of domestic, sexual, and gender-based abuse. The Programme for Government contains the following commitment:

"Conduct an immediate audit, to be concluded within nine months of the formation of the Government, of how responsibility for domestic sexual and gender-based violence is segmented across different government agencies, and develop proposals on what infrastructure is needed to ensure that the issue is dealt with in the most effective manner possible. This audit will be undertaken in conjunction with NGOs and service providers".

Over the last decade work in this area has been conducted through successive whole-of-Government DSGBV strategies, with coordination led by the Department of Justice. The current strategy runs from 2016 to 2021 and, among other priorities, focused on the work involved in ratifying the Istanbul Convention

which was successfully concluded in 2019. It will be important that work continues on the Strategy's outstanding actions parallel to this review. A review of the outstanding actions has been conducted to inform the forthcoming 3rd National Strategy on DSGBV, to be developed and agreed by Government before the end of 2021. The new strategy will reflect the outcome of this review.

The commitment to an audit, contained in the Programme for Government, recognises the degree of fragmentation in relation to policy and services tackling DSGBV at present. The audit will provide recommendations on an architecture that will much more effectively realise other and new Programme commitments in this area, prioritising better outcomes in terms of prevention, but also in responding to victims' needs, and more generally in terms of eliminating societal attitudes that underpin violence towards women and girls.

As outlined above, this audit will be undertaken by an external consultant with meaningful involvement from relevant NGOs and service providers, as well as input from Departments and agencies. Notwithstanding the audit process, and without wishing to pre-empt its outcome, the Implementation Working Group has addressed some of the wider resourcing and support issues brought to attention, as set out below.

In particular, we are conscious that the systems in place to support victims have grown up organically over time and reflect the availability of services locally – and in the case of court accompaniment and related services – the existence of active NGOs in the locality that are able and willing to provide support services. The recommendations in the O'Malley Report, although important and valuable, reflect only part, albeit a substantial part, of what needs to be done. The Group accordingly recommends that a review of the supports, including the grant funding available from the Department of Justice, should be undertaken and completed before the end of 2020. The purpose of the review is to:

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| <ul style="list-style-type: none">a) Map the journey that faces the victim, from commission of the crime, through to trial of the offender and to any post-trial or post-conviction hearings or processes that arise in which the victim's voice should be heard;b) Identify stages in that journey where supports are absent, including gaps arising at points where responsibility transfers from one agency to another;c) Develop proposals to meet the additional needs identified at b) and to ensure that services are available throughout the State on an accessible and equitable basis;d) Quantify the resources needed to achieve this objective; ande) Present proposals for quality assurance of funded services, including in relation to standard setting, training and accreditation of staff and volunteers and independent inspection and oversight of quality services. | <p>This review will be led by the Department of Justice and carried out in consultation with the NGO sector.</p> <p>The implementation of the recommendations will be subject to the availability of the necessary resources including funding. Provision has been made for funding of a number of initiatives in the 2021 Budget. In particular, an increased allocation of €2.7m to combat domestic, sexual and gender based violence has been provided in the Department of Justice budgetary allocation for 2021. The estimated costings will be subject to more detailed analysis in the context of implementation. A number of the recommendations will result in the introduction of demand-led statutory entitlements for which it will be necessary to provide funding. These matters will be addressed in the context of discussions on budgetary allocations at the appropriate time.</p> |
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Acronyms

AGS	An Garda Síochána
CLA	Criminal Legal Aid
CORU	Regulatory Body for Health, Care and Social Care Professions
CPD	Continuing Professional Development
DCEDIY	Department of Children and Youth Affairs/Department of Children, Disability, Equality and Integration
D/Education	Department of Education
D/FHERIS	Department of Further and Higher Education, Research, Innovation and Science
D/Health	Department of Health
DOJ	Department of Justice
DPER	Department of Public Expenditure and Reform
DPSU	Garda Divisional Protective Services Unit
DSGBV	Domestic, Sexual and Gender-based Violence
HEA	Higher Education Authority
HEI	Higher Education Institution
HSE	Health Service Executive
ICT	Information and Communications Technology
ITE	Initial Teacher Education
LAB	Legal Aid Board
LGBT+	Lesbian, Gay Bi-Sexual, Transgender, +
LSRA	Legal Services Regulation Authority
NCCA	National Council for Curriculum and Assessment
NGO	Non-Governmental Organisation
NUIG	National University of Ireland Galway
NWCI	National Women's Council of Ireland

ODPP/DPP	Office of the Director of Public Prosecutions
PQ	Parliamentary Question
PULSE	Police Using Leading Systems Effectively (computer system used by AGS)
RCC	Rape Crisis Centre
RJS4C	Restorative Justice Strategies for Change
RSE	Relationships and Sexuality Education
SATU	Sexual Assault Treatment Unit
SHCPP	HSE Sexual Health and Crisis Pregnancy Programme
USI	Union of Students in Ireland

High Level Goals

Recommendation 1.1

Recommendation 1.1

Steps should be taken to increase public awareness of the terms of the Criminal Justice (Victims of Crime) Act 2017.

This is a priority for the Department of Justice. A new and expanded Victims Charter was published in February 2020 and is available on the website www.victimscharter.ie. The Charter, which was developed with input from organisations across the criminal justice sector as well as civil society organisations, sets out the rights held by victims throughout the criminal justice process as well as the supports and services available to them.

A range of additional steps will be taken to further publicise the legally enforceable provisions for victims set out in the 2017 Act, including through use of the Victims Charter. These will include:

1. Further development of the Victims Charter website, to include functionality such as a search function for services by location, type of service and so on; and a step-by-step guide to victims of what to expect in the criminal justice sector;
2. The inclusion, as part of the development of the Victims Charter website, relevant information to raise awareness of the existence and content of the Victims of Crime Act 2017;
3. Regular awareness raising activities through social media as well as through media opportunities and messaging for the Minister and Department through Departmental and Government channels;
4. Physical promotion of the existence of legally enforceable rights and of the Charter through print materials distributed to public locations including

Garda stations, emergency rooms, post offices, public libraries and so on; other promotional materials including boards or pull-outs for display in Garda stations; Printed materials to be translated into Irish and to other major languages; a guide to navigate the new victims charter website to be developed and sent to community and frontline workers;

5. Maintenance of the network of champions established in relevant state bodies in relation to the Charter;
6. An annual conference with relevant state and social and community groups will be considered;
7. Consideration will be given to digital audio (radio ads) produced by an external creative agency and run on local and national radio in two annual bursts of activity.

Steps 1, 2 and 4 can be delivered in Q4, 2020. Steps 3, 6 and 7 will require a procurement process. To allow sufficient time for procurement, contract finalisation, preparation and production of an audio campaign roll out would be feasible by end Q1, 2021.

The website www.victimscharter.ie will allow for links with other relevant websites, including those of the DPP and An Garda Síochána. AGS has confirmed their commitment to participating in future public awareness campaigns and will promote increased awareness through the specific and tailored interaction with the media outlets, victims and other stakeholders. An Garda Síochána provide training to members in relation to the Victims Act and employ a range of methods to ensure victims can access information, both electronically and manually. Such methods will ensure facilities for those who are disabled or not proficient in the use of the web etc.

AGS have produced a 'Victim Information Booklet', translated into 37 languages, and have uploaded it to the Garda website regarding information on the rights of victims. All victims reporting to AGS are furnished with a business card which contains information on how the victim can access such information.

Recommendation 1.2

There should be a government-sponsored programme of public education on the meaning and importance of consent in the context of sexual relationships and sexual activity.

Achieving a greater awareness of the meaning and importance of consent in the context of sexual relationships and sexual activity is a concern for all of society. To achieve the required change of culture in regard to consent will require a multi-faceted campaign delivering consistent messages across a range of fronts to ensure all of society are encouraged to appreciate and understand the meaning and importance of consent. While the education sector can play a significant role across both the post primary and tertiary sectors in ensuring a long term embedding of the appropriate culture towards consent, for maximum effect the public education process necessary requires effective communications aimed at all members of society.

New public education and awareness-raising activities will be pursued specifically on the meaning and importance of consent. This will include:

- Development of a standalone website on the meaning and importance of consent in the context of sexual relationships and sexual activity.
- Delivery of a public awareness campaign on the topic including traditional as well as social media. Consultation with stakeholders will be carried out to identify the preferred and most effective method of doing so, from among a range of options, including.

- o Introducing content on consent to the existing Department of Justice “No Excuses” Sexual Harassment and Sexual Violence campaign

OR

- o Partnering with an NGO to provide funding to expand an existing consent-related campaign, e.g. the ‘It Stops Now’ campaign run by USI and NWCI with funding from the European Commission; or the Dublin Rape Crisis Centre ‘#100 Consent’ campaign being conducted on social media;

OR

- o Development, with D/FHERIS, of a new public awareness campaign specifically focused on consent. This would include wholly new content developed with an external creative agency on topic, as well as potentially also repurposing of previous successful campaigns internationally¹.

Additional resources will be required for delivery of a public awareness campaign. Final costings will depend on which of the three options for delivery is chosen.

In relation to the broader public awareness and education initiatives, detailed later in this section,

- The standalone website on consent will be completed by Q1, 2021
- Timelines for delivery of the public awareness campaign will depend on which of the three options for delivery is chosen, following consultation with stakeholders. The final of the three options would require a procurement process. To allow sufficient time for procurement, contract finalisation, preparation and production of the awareness campaign by end Q2, 2021.

¹ See e.g. the Thames Valley Police redubbing an original video called **Tea and Consent** as part of their **Consent is Everything** campaign.

This recommendation has been identified as an immediate priority for implementation by the Minister for Justice, in conjunction with the Minister for Further and Higher Education, Research, Innovation and Science (FHERIS).

Programmes of education and public awareness activity will be carried out in the Higher Education sector through the implementation of the Framework for Consent in Higher Education Institutions². This is an integrated framework launched by Department of Education and Skills in 2019 which supports awareness and education activities in Higher Education Institutions (HEIs). Actions being undertaken include:

- Consent training and education for students and staff including:
 - o Active Consent workshops
 - o Bystander Intervention Workshops
- Anonymous report and support tools will be rolled out in all HEIs
- National survey on harassment, sexual harassment and bullying of staff and students in HEIs is to be launched this year followed by the dissemination of findings
- Public awareness campaign around issues surfaced by the Framework, and to support those who might be affected.

D/FHERIS note that some HEIs have begun working with post-primary schools. Both D/FHERIS and Department of Justice will examine options for outreach programmes on consent or development of specific modules for second level. Any outreach programmes on consent or development of specific modules for post primary level would need to link and be consistent with the work being undertaken by the Department of Education and Skills and the NCCA.

D/FHERIS advises that additional resources are required for implementation, including

- Staff costs (monitoring of implementation of framework and oversight of national projects)
- National projects (e.g. roll out of consent training, roll out of report and support tool, annual survey on harassment, sexual harassment and bullying of staff and students)
- Multi-annual public awareness campaign around issues surfaced by the Framework, and to support those who might be affected supported by all higher education institutions will be expected to work with the Department of Further and Higher Education, Research, Innovation and Science, the Higher Education Authority, the National Advisory Council, and the sectoral representative bodies
- Ongoing support of national projects.

Additional resources (not yet quantified) would be required for outreach programmes on consent or development of specific modules for second level.

Implementation of the D/FHERIS Framework in Higher Education Institutions is ongoing and in progress. The timescale for these activities include:

- Initial national awareness campaign in conjunction with key Higher Education stakeholders: Q2 2021
- HEI Action Plans on tackling sexual violence and harassment due to be submitted by HEIs by February 2021 (will involve actions related to training, education and awareness raising)
- Framework Implementation progress updates due to be submitted to the HEA Q3, 2021

² <https://assets.gov.ie/24925/57c394e5439149d087ab589d0ff39c92.pdf>

The National Council for Curriculum and Assessment (NCCA)

It is important that consent awareness raising campaigns are embedded in post-primary level and this will also require a consideration of the issue of appropriate sexual education in primary and post-primary schools.

The Programme for Government commits to the development of 'inclusive and age appropriate Relationships and Sexuality Education (RSE) and Social, Personal and Health Education (SPHE) curricula across primary and post-primary levels, including an inclusive programme on LGBTI+ relationships and making appropriate legislative changes if necessary'. Work in this regard is already underway. The National Council for Curriculum and Assessment (NCCA) was requested in 2018 to conduct an extensive review of relationships and sexuality education including not just curriculum but how it is taught in schools. It was asked to look at a number of specific issues including developments in healthy, positive, sexual expression and relationships, LGBTQ+ matters, safe use of the Internet, social media and its effects on relationships and self-esteem. The final report of the Review was published in December 2019³. The report recommends the development of a single integrated curriculum for RSE and SPHE in schools. Work on redeveloping the specifications for SPHE and RSE is planned to commence in 2021. It will include engagement with key education stakeholders and a further process of public consultation before the new curriculum is finalised.

Pending commencement later in 2020 of a comprehensive update of the curriculum, the NCCA was asked to begin work in January 2020 on interim guidelines to support the teaching of SPHE/RSE in schools. The NCCA is currently developing this interim guidance for SPHE and RSE across primary and post-primary levels. These support materials will be made available in the form of an online toolkit. They will provide guidance on how the current curriculum can

be approached in a more holistic way. The materials involved will be brought to the NCCA development groups from October 2020. It is anticipated that some guidance materials will be published before the end of 2020 and that they will be supplemented incrementally during 2021.

Work on a single online access point for RSE resources began in January 2020. The NCCA has worked collaboratively with the teacher professional development support services and other relevant groups in completing an audit of current teaching and learning resources relevant to SPHE/RSE and has compiled a comprehensive resource list which will be published as part of the online toolkit for SPHE/RSE. This will provide a single, online access point for up-to-date resources.

The NCCA is to commence development of an overall framework to inform the development of future SPHE/RSE resources. Work on updating or developing new specifications for SPHE/RSE will commence in the NCCA in 2021, beginning with a focus on Junior Cycle. This work will include engagement with all the key education stakeholders as well as a further process of public consultation before any new curriculum specifications are finalised. The NCCA curriculum development process includes extensive stakeholder consultation. The development of an updated RSE/SPHE curriculum will take approximately 12-18 months.

The NCCA is to examine opportunities for SPHE/RSE within the new Junior Cycle Wellbeing area of learning. The NCCA has established two development groups, one for primary and one for post-primary, to oversee the work in this area and support the development of guidance material for schools. These groups were unable to commence their work over recent months due to the COVID-19 restrictions on public gatherings. However, the NCCA plans to convene meetings with these groups from October 2020 and this will allow them to review significant work that has been progressed.

³ <https://www.ncca.ie/en/updates-and-events/consultations/review-of-relationships-and-sexuality-education-rse>

Other recommendations in the report in relation to Initial Teacher Education (ITE) and Continuing Professional Development (CPD) regarding SPHE and RSE are being reviewed by the Department with a view to putting enhanced supports in place.

Health Service Executive

The HSE Sexual Health and Crisis Pregnancy Programme (SHCPP) supports the delivery of the SPHE curriculum and has updated the Busy Bodies resource booklet for 5th and 6th class children to include the topic of consent and is currently involved in the development of a Junior Cycle SPHE curriculum resource, which has several stimulus activities related to consent.

Within the home-setting, the HSE SHCPP addresses the issue of consent within their broad remit to promote the development of healthy sexuality and its appropriate expression. It is currently producing a range of booklets for parents to support them with talking to their children about relationships and sexuality entitled, 'Making the Big Talk, many small talks'. This includes the topic of consent in an age appropriate manner.

The HSE SHCPP further supports the promotion of the topic of consent within youth work settings. It funds the National Youth Council of Ireland and Foróige in the development and delivery of RSE programmes. This supports the capacity of youth workers to address consent within the broader context of sexual health and wellbeing with their service users.

The HSE SHCPP also manages direct digital communications to young adults on the topic. This includes management of the website www.sexualwellbeing.ie which includes information on sexual consent and consent in practice, and search ads using sexual consent search terms to direct people to the website are run. The HSE SHCPP also promotes sexual wellbeing messages through social media channels (Facebook, Instagram and Twitter). Sexual consent is part of the messaging to engage and educate young

people 18-30 on the topic of active, on-going consent and to signpost people to the www.sexualwellbeing.ie consent information.

The Manuela Programme

Following the large scale consent education pilot of the Manuela Programme (September 2017–March 2020), and its associated independent evaluation (funded by EU, Tusla and Manuela Riedo Foundation), a bid for a follow-up 'Consent-Ed' project has the possibility of receiving funding by the EU to start in January 2021. This will be based on the Manuela Project recommendations to revise, extend and test the consent education with younger and existing age cohorts, with proposed integration into the 2nd level RSE curriculum. The learnings from the Manuela programme will be incorporated into delivery of all relevant mainstream services.

Link with specialist sexual violence sector

The focus on sexual violence prevention, proposed through national consent awareness and education would be further supported, were a formalised operational link established linking the specialist sexual violence sector and post primary schools and education personnel to support safe and joined-up consent and prevention education. It should be noted that almost all education/prevention work is done on an ad hoc basis and does not have an identified funding stream.

Regardless of how curricular integration happens in education settings, expertise and capacity to deal with issues of consent and sexual violence are required to support schools in this work. Whilst considerable consultation with stakeholders would be required prior to commissioning on the specific scope and outcomes of preventative activities, the concept of dedicated sexual violence prevention educational/advisory resource posts based in Rape Crisis Centres in strategic geographical locations would map onto the experience and developments to date.

These actions could be taken forward as part of the National Prevention Strategy on DSGBV committed to under the Programme for Government, which will may include an opportunity to further identify the responsibilities across all stakeholders.

Consent education for individuals with physical or intellectual disabilities

With regard to providing consent education to individuals with physical or intellectual disabilities, D/Health will engage with HSE and disability service providers to ensure that this is covered in ongoing sex and relationships education and support for disability service users. The question of development of easy to read materials and relevant programme content on this topic (and in the light of s 21 and 22 of the Criminal Law (Sexual Offences) Act 2017, and Articles 13, 16 and 23 of the UN Convention on the Rights of Persons with Disabilities), and the provision of additional training to staff involved in delivering such programmes will be considered.

D/Health will participate in any cross-departmental programme of public education on the meaning and importance of consent in the context of sexual relationships and sexual activity. As part of this the HSE will contribute to a cross-sectoral exploration of how the topic of consent could be jointly addressed and is open to the possibility of expanding on current initiatives and/or the development of new actions in line with identified needs. D/Health notes that a generic programme of public education is unlikely to be effective in all health settings - for example, in relation to people with intellectual disabilities. Instead, targeted education and support delivered via disability organisations and disability services may be more effective.

In terms of timescale, and to take the disability sector as an example, it is envisaged that preparation of courses and materials, training of disability service staff and programme implementation would take about 18 months to roll out once full buy-in had been achieved. This is based on the assumption of delivery of

appropriate content for children with disabilities would be done via the Department of Education and Skills programmes of sex and relationships education in schools.

An Garda Síochána

AGS are committed to participating in any proposed programme of public education to facilitate an increase in understanding and awareness of consent and can utilise their media campaigns and interaction with victims.

Recommendation 1.3

In order to promote a victim-centred approach to the provision of services, there should be greater inter-agency communication to ensure that all state agencies, voluntary organisations and non-governmental organisations dealing with vulnerable victims are fully aware of the services provided by others.

The Department of Justice will lead on this, building on the work undertaken in implementation of the Victims Directive, and in the course of development of the next National Strategy on Domestic, Sexual and Gender-Based Violence (DSGBV). In particular, the Department will ensure that the recently established Victims of Crime Charter website highlights the services provided across agencies in a way that supports knowledge exchange across service providers as well as to the wider public.

Work has already commenced within the DSGBV Monitoring Committee on identification of specific training needs that could be addressed on an interagency basis. Priorities include understanding the impact of trauma and effective communication and supports for working with vulnerable victims.

Based on the findings of the review, DCEDIY/ Tusla note the importance of coordination across a range of victim supports. This includes court familiarisation/accompaniment and legal advice services funded by DOJ, counselling; refuge and emotional and advocacy supports offered by Tusla-funded services and other cross-Government services such as social welfare and housing supports. The specific needs of vulnerable groups should be particularly considered, especially groups where disproportionate levels of DSGBV has been reported.

A mapping exercise to identify the nature, spread and level of services that may be encompassed by this implementation plan will be undertaken and completed, with relevant stakeholders, before the end of 2020.

The audit of how responsibility for DSGBV services are segmented across different government agencies, committed to under the Programme for Government, along with the development of the Third National Strategy on DSGBV will assist in identifying the pathways for victims to services, their needs at key points and the availability and accessibility of key sources of information at critical stages.

Recommendation 1.4

The facilities for victims and other vulnerable witnesses should be of a consistent standard throughout the country.

Court and Garda station accommodation

Bringing court accommodation and Garda stations up to the standard required by contemporary society requires continued and sustained attention over the medium term and progress depends on the availability of capital funding in future years. Cases involving jury trials (i.e. more serious offences) will be prioritised. Jury trials take place mainly in county towns (25 venues outside Dublin) and in many cases good quality facilities already exist. Outside county towns, the Courts Service has approximately 65 other venues which are used primarily for District Court cases. These present a longer-term implementation challenge.

Both Vulnerable Witness and Victim Support rooms have been specified in the Courthouse Design Guide since the mid-2000s and have been included in all Provincial City/County Town courthouse capital projects (where relevant trials could take place) since that time. It is already planned to include further facilities in the Provincial City/County Town venues included in the current National Development Plan i.e. Hammond Lane Dublin, Galway, Tralee, Roscommon, Wicklow Town, Port Laoise, Naas and Navan. The timeframe for development of Hammond Lane is estimated at five years. A number of jury trial venues (including, but not limited to Port Laoise and Bray) do not have adequate victims facilities and these will be prioritised. In some cases retrofitting may be a satisfactory solution. In other cases retro-fitting may not be required.

The time frame for delivery for any individual venue is 3-5 years from a decision. As the provision of the facilities is already included in the standard courthouse design, the cost will be included within the anticipated overall replacement/refurbishment costs for each of the named venues.

Special Victims Interview Suites:

The Criminal Evidence Act 1992 contains provisions relating to the taking of evidence of children under 14 years of age (or persons with an intellectual disability). These provisions deal with the taking of evidence from vulnerable persons and involve meeting the legal requirements surrounding evidence as well as having the necessary support systems in place to which An Garda Síochána (AGS) can refer the children concerned.

Because of the sensitivity of these cases it would be inappropriate to have such facilities in Garda stations.

A working group was established a number of years ago to oversee the setting up of a number of non-Garda premises to facilitate the recording of witness interviews with young persons under fourteen years of age and persons with intellectual disability (the Department of Justice and An Garda Síochána sourced the relevant premises). Special Victims Suites have been established at a number of locations including Dublin South, Dublin North, Cork City, Sligo, Donegal, Waterford, Limerick, Galway and Cavan. Plans are being made to provide a new suite in Kerry by Q 1 2021.

Barnahus

The Onehouse, Barnahus Galway pilot project brings together health, medical, therapeutic and policing services for children and adolescents in a child centred way where sexual abuse is suspected. Based on the Icelandic 'Barnahus' model, it establishes a set of principles and operational protocols to facilitate the different agencies working together in a consistent and child centred way. The model works on the basis that the child and family have all their meetings with the various forensic, child protection, health, therapeutic and policing professionals in the Barnahus (one house). Ultimately, the project aims to develop better pathways and reduce the re-traumatisation of children reporting child sexual abuse by preventing the repetition of their experiences.

An interdepartmental group comprising Departments (Department of Children and Youth Affairs, Department of Health and Department of Justice) with three agencies (Tusla, Health Service Executive and An Garda Síochána), worked towards establishing this model. A detailed plan has been created to guide the development of Barnahus as a national service. This has been reviewed by all Agencies and Department representatives and will be signed off at the next meeting of the Interdepartmental Group, scheduled for 29 October. An immediate priority action of this plan is the establishment of the National Agency Steering Group to move the project beyond the pilot. Barnahus has a small permanent team based in the house with the other professionals present as required. The principles of the Barnahus model have been operating in Galway since the launch of the pilot in September 2019.

When Barnahus is established as a national service, it is anticipated that full shared services will be provided in three locations: Cork, Dublin and Galway. The aim is that the Barnahus will cater for children up to 18 years, with close engagement with the HSE's SATU services in relation to older teenagers. Extension of the

model will be on the basis of the experience of the Galway pilot.

Refuges

The audit of responsibility for DSGBV committed to under the Programme for Government, and proposals on the most appropriate infrastructure to respond nationally to DSGBV, along with the views of the Monitoring Committee for the National Strategy on DSGBV, will inform the provision of facilities for victims of DSGBV. The Programme for Government also commits to implementing a plan for future refuge space. A review of the provision of safe emergency accommodation for victims of domestic violence is currently being undertaken by Tusla. Both the needs of victims and the processes for commissioning of refuges or other safe emergency accommodation are being considered as part of this review. The findings of this review, the findings of the audit of responsibility for DSGBV supports committed to under the Programme for Government and the recommendations of the National Monitoring Committee for the Second National Strategy on DSGBV to which the review being undertaken by Tusla will be brought for consideration, will inform future provision of emergency refuge provision.

It is recognised that there is a shortfall in emergency refuge spaces nationally, and an uneven spread of spaces throughout the country. There is also an acknowledgement, particularly since the outbreak of COVID-19, that existing communal refuge facilities should be upgraded to allow for independent accommodation units for all residents. This can be expected to accrue significant costs. Addressing these needs will require further attention and additional capital resourcing.

It is anticipated that the question of responsibility for capital costs for the development of refuges will be addressed as part of the Programme for Government audit and accordingly the Group's report does not pre-empt the outcome of that examination.

In addition to capital costs, delivery of additional family units of accommodation would require significant strategic funding, planning and collaboration between Government Departments, local authorities and State agencies. Work by Tusla in collaboration with stakeholders to identify the scale of provision needed is ongoing. Issues around resourcing and responsibilities will fall to be considered by relevant stakeholders and will be discussed by the Monitoring Committee for the Second National Strategy on DSGBV with a view to developing a consensus on what the needs are and how they can be best addressed. Strategic alignment between Government Departments, local authorities and State agencies around prioritisation, planning and resourcing of refuges, ensuring alignment between capital and revenue costs, will be required, regardless of where specific responsibilities lie.

Sexual Violence Support Services

Significant increases in demand for sexual violence supports continues. It is possible this is due to societal factors and visibility of the issue, with indications that the numbers of clients seen in RCCs increased by 13% between 2017 and 2018. Substantial additional resources will be required in future to fully address the complex range of needs, geographical spread and numbers of clients presenting. There will also be requirement for a full assessment of costs.

Investigation and Prosecution of Sexual Offences

Recommendation 2.1

Recommendation 2.1

All serving members of An Garda Síochána engaged in front line policing should be trained in the principles and practices to be followed when engaging with victims of sexual crime, and with other witnesses (including suspects) who may be vulnerable by virtue of age, disability or some other factor.

In line with the Criminal Justice (Victims of Crime) Act 2017, AGS are required to deliver to all Gardaí robust training on the provisions of the Act and of the obligations falling to AGS. The policy on victims has gone through a fulsome consultation process involving the DPP and NGO bodies, that policy will inform training for Gardaí. As class-room training is not now an option for AGS due to Covid-19 restrictions, a blended approach involving e-learning, virtual training and webinars are to be utilised for victim training. A dedicated resource for the development of victim training has been secured and that development is advanced.

The requirements to train frontline staff in the principles and practices to be followed when engaging with victims of sexual crime, and with other witnesses is already being provided to staff allocated to Divisional Protective Service Units (DSPUs). The relevant training on engagement with victims will be included in planned victim training to be provided to all staff in 2021. DPSU staff receive training on understanding the victim's perspective. This training is delivered by a victim of child sexual abuse. The training will be provided to all members of An Garda Síochána during 2021 and 2022.

At interagency level both locally and regionally, individuals in AGS have invited Tusla to provide awareness talks on DSGBV issues, and local

Garda management have invited Tusla to provide training. Tusla have also been invited nationally to participate in the 'blended learning' approach. A representative from Tusla will provide a recorded online presentation on engaging with children with disabilities.

Recommendation 2.2

The specialist training provided for those members of An Garda Síochána assigned to interview victims and other vulnerable witnesses, as well as the training provided for Garda recruits, should be regularly monitored by external experts to ensure that it is of the requisite standard and that it conforms with best international practice.

This recommendation will be implemented by end Q1 2021. Discussions have taken place with the Garda College and a process is underway to identify suitable candidates for consideration.

sector to provide feedback on DPSU operations where relevant or when necessary.

Recommendation 2.3

Urgent steps should be taken to ensure that there is a complete roll out of Divisional Protective Services Units as soon as possible.

All Divisional Protective Services Units (DSPUs) have been established since September 2020 and are in operation in every Garda Division across the State. DPSU staff receive intensive specialist training and victim feedback is by-and-large positive. This specialist training will increase in the coming months to ensure the newly established units are fully operational and officers are fully trained as soon as possible. Staffing levels in DSPUs is based on anticipated work volume. AGS will keep staffing levels under review.

Through the monitoring committee of the Second National Strategy for Domestic, Sexual and Gender Based Violence, on which AGS are represented, there is provision for the NGO

Recommendation 2.4

An Garda Síochána should keep under review the number and geographical spread of special interview suites throughout the State in order to ensure that all vulnerable victims have reasonably convenient access to such a suite.

A review of the use, frequency and availability issues arising regarding Interview Suites will be undertaken by Q2 2021 to gauge if there are a sufficient number of suites available to meet demand. The findings of this report will determine if an application for addition suites is required. AGS will ensure that such a review will be conducted every three years.

commensurate with the requirements.

Work on the establishment of the new Sexual Offences Unit in the DPP's Office has already commenced. It is hoped that the first phase of the unit will be up and running by the end of 2020 and that it will be fully operational during 2021.

Recommendation 2.5

The operation of the specialist interview suites should be periodically evaluated by an external expert who would seek the views of victims who had been interviewed within them, relevant members of An Garda Síochána and others.

AGS will utilise the same external expert engaged in the monitoring of specialist training referenced in recommendation 2.2. Discussion have taken place with the Garda College and a process is underway to identify suitable candidates for consideration.

Recommendation 2.6

We recommend that the additional funding promised to the Office of the Director of Public Prosecutions to establish and maintain the new Sexual Offences Unit be delivered

**Anonymity, Public Attendance and
Media Reporting of Sexual
offence trials**
Recommendation 3.1

Recommendation 3.1 to 3.7

- 3.1 Victims in all trials for sexual assault offences should remain entitled to anonymity, irrespective of the outcome of the trial.
- 3.2 Introduce legislation to extend anonymity to victims in trials for offences contrary to ss. 21 and 22 of the Criminal Law (Sexual Offences) Act 2017. These sections deal with sexual abuse of persons with mental illness or a mental or intellectual disability.
- 3.3 Accused persons in all trials for sexual assault offences, and not just in trials for rape offences as at present, should be entitled to anonymity unless convicted. If convicted, they may be identified unless to do that would lead to the identification of the victim.
- 3.4 Persons accused of any offence contrary to ss. 3 to 8 of the Criminal Law (Sexual Offences) Act 2017 (which outlaw various forms of child sexual exploitation) should be entitled to anonymity on the same basis as now applies to an accused on trial for a rape offence.
- 3.5 The definitions of “published” and “broadcast” in the Criminal Law (Rape) Act 1981 should be reviewed to ensure that they are sufficiently comprehensive to cover publication in electronic media, including social media.
- 3.6 Express statutory provision (in terms similar to those currently contained in s.6 of the Criminal Law (Rape) Act 1981) should be made for the exclusion

of the public from the trials of other sexual offences that are not covered by existing legislation, where a victim may be called upon to give evidence or where there is a risk that the victim's identity might be publicly revealed.

- 3.7 Those provisions in, for example, s. 6(4) of the Criminal Law (Rape) Act 1981 and s. 29(2) of the Criminal Law (Sexual Offences) Act 2017 which require that, even where a trial is held otherwise than in public, the verdict and sentence (if any) must be announced in public should be repealed.

In relation to recommendations 3.1 – 3.7 (in respect of a series of amendments to the sexual offences legislation), scoping work to determine the necessary approach will begin in January 2021 with a view to bringing draft heads of the legislative amendments to Government for approval before the end of 2021.

The proposed amendments to the legislation dealing with sexual offences will need detailed consideration from a policy perspective throughout the development of a general scheme of a Bill and the subsequent drafting process. This will include engagement with stakeholders and careful assessment of implications and costings. Progress will be subject to other government legislative priorities and further work will be necessary to determine whether any amendments to legal aid legislation might be required to give full effect to these recommendations.

Other relevant legislative amendments which will be of assistance to victims in their progression through the system will also be considered in conjunction with those recommended in the Report.

Preliminary Trial Hearings

Recommendation 4.1

Recommendation 4.1

Legislation should be introduced, along the lines proposed in the General Scheme for a Criminal Procedure Bill drawn up in 2015 by the Department of Justice, to provide for the establishment of preliminary trial hearings. We recommend the introduction of the necessary legislation as soon as possible.

Although many of the aspects of preliminary hearings identified can be implemented without legislation – in particular the case-management aspects around disclosure, readiness to proceed, etc. primary legislation will be necessary to provide for substantial elements, for example those relating to the admissibility of evidence.

The 2015 general scheme of the Criminal Procedure Bill contains provisions dealing with preliminary hearings, which will now be progressed in drafting as an immediate priority. It is intended that draft legislation on preliminary hearings will be published before the end of December 2020. If necessary, in order to meet this timescale, preliminary hearings may be broken out of the wider criminal procedure legislation and progressed separately. The DOJ, ODPP and Courts Service will work closely to ensure that the proposed legislation achieves the objectives envisaged by this recommendation.

This will form part of the legislation on preliminary trial hearings, to be published by the end of December 2020.

Recommendation 4.2

Without prejudice to the other matters that may be addressed at a preliminary hearing, any defence application to be made at trial to question a victim about his or her sexual experience under the terms of s. 3 of the Criminal Law (Rape) Act 1981 should be notified to the Court at that hearing, and the Legal Aid Board notified accordingly.

Recommendation 4.3

Any issues relating to the appointment or role of an intermediary, and any other special measures required for vulnerable witnesses, should also be addressed at a preliminary trial hearing.

This is both an operational and a legal matter which will require provisions in relation to the preliminary trial hearing itself to be in place. Many special measures can be addressed through liaison between the Courts and the relevant party and their legal representatives, following a scheme for the training, accreditation and hosting of a register for the engagement of intermediaries being put in place. Any legislative requirement will form part of the legislation on preliminary trial hearings, to be published before the end of December 2020.

Recommendation 4.4

There should be an obligation on both prosecution and defence to notify the judge conducting the preliminary trial hearing of any outstanding matters relating, for example, to disclosure that may prevent the trial from commencing on the scheduled date.

There have been no obstacles identified to immediate implementation of this recommendation, once the necessary legislative arrangements for preliminary trial hearings are in place.

Recommendation 4.5

Lawyers in private practice representing either the prosecution or the defence should be duly remunerated for their work in preparing for and attending preliminary trial hearings.

The ODPP will engage with the Department of Public Expenditure and Reform and other relevant stakeholders to determine appropriate fees to capture the full spectrum of pre-trial hearings provided for in the relevant legislation.

Consideration will need to be given to the integration of any changes to the Criminal Legal Aid (CLA) scheme for pre-trial hearings into the overall CLA scheme. It is not possible at this stage to set a timescale for pending the necessary legislation being enacted, following publication at the end of 2020.

The Trial of Sexual Offences

Recommendation 5.1

Recommendation 5.1

Section 3 of the Criminal Law (Rape) Act 1981, as amended, which governs the questioning of victims at sexual offence trials, should be retained in its present form, but there should be an additional provision allowing the barrister who is briefed to represent the victim when an application is being made to engage in such questioning to continue to represent the victim while the questioning, if permitted by the trial judge, is taking place.

All of the recommended amendments to the sexual offences legislation will be progressed together (see recommendations 3.1 – 3.7 above). Scoping work to determine the necessary approach will begin in January 2021 with a view to bringing draft heads of the legislative amendments to Government for approval before the end of 2021. Progress will be subject to other government legislative priorities. Further work will be necessary to determine whether amendments to legal aid legislation might be required to give full effect to this recommendation.

The ODPP will liaise with the LAB on the operational implications once the relevant legislation is enacted. The LAB notes that this recommendation would extend the scope of the service so that the representative remains effectively for the entire length of the complainant's evidence, including if they were called back to give further evidence. This will increase the cost of the service.

application is made to question a victim about other sexual experience) should be extended to include trials for sexual assault.

The ODPP will liaise with the LAB on the operational implications once the relevant legislation is enacted.

All of the recommended amendments to the sexual offences legislation will be progressed together. Scoping work to determine the necessary approach will begin in January 2021 with a view to bringing draft heads of the legislative amendments to Government for approval before the end of 2021. Progress will be subject to other Government legislative priorities.

Recommendation 5.2

The right to separate legal representation for victims under section 3 of the Criminal Law (Rape) Act 1981 (in circumstances where an

Recommendation 5.3

Appropriate steps should be taken to ensure that judges and lawyers are familiar with section 21 of the Criminal Justice (Victims of Crime) Act 2017, especially as it relates to the questioning of victims during sexual offence trials.

Information on training for judges and lawyers is set out at Section dealing with training.

Legal Aid Board should be immediately informed. The Legal Aid Board, in turn, should endeavour to ensure that the victim is represented by counsel of a level of seniority similar to that of counsel representing the prosecution and defence.

This recommendation has been examined on the basis that the prosecution should be responsible for informing the LAB.

The Terms and Conditions of the Barristers Panel do not currently provide a rate for Senior Counsel in these cases and it would be necessary for the Board to amend the Terms and Conditions and for these amended terms and conditions to be consented to by the Minister for Justice and the Minister for Public Expenditure and Reform. Further work will also be needed to determine if any amendments to legal aid legislation might be desirable to give full effect to this recommendation.

Recommendation 5.4

Where the defence intends to apply to the trial judge for leave to question a victim about other sexual experience under the terms of s. 3 of the Criminal Law (Rape) Act 1981, it should be required to notify the judge conducting the preliminary trial hearing of that intention. It is only in exceptional circumstance that such an application should be permitted at trial unless it has been notified at the preliminary trial hearing.

This recommendation will be dealt with under the preliminary hearing legislative architecture. The 2015 general scheme of the Criminal Procedure Bill contains provisions dealing with preliminary hearings, which will now be progressed in drafting as an immediate priority. It is intended that draft legislation on preliminary hearings will be published before the end of December 2020. Further consultation with the Courts Service and the ODPP will take place in the course of the drafting process.

Recommendation 5.5

Once notification has been given at a preliminary trial hearing of intention to apply for leave to question a victim at trial under the terms of section 3 of the Criminal Law (Rape) Act 1981, the

Recommendation 5.6

Effective steps should be taken to bring the existence of section 19A of the Criminal Evidence Act 1992 regarding the disclosure of counselling records to the attention of victims and any persons who are advising them. It is important that victims should be aware of their right to object to the disclosure of such records.

The ODPP already has publicly available information on section 19A and has developed memorandums of understanding with a range of NGOs in this regard. The ODPP will also support AGS in disseminating information to victims and their legal representatives in conjunction with AGS. Notice of section 19A and its provisions can be included in the array of information provided to victims by AGS on initial contact and this information will be capable of being sent electronically into the future.

Victims' information on section 19A will be available for release to the public by AGS in Q1 2021. It will be provided initially on the Garda Website and electronically thereafter as the Garda Active Mobility app is developed.

The Legal Aid Board will also take measures to publicise this provision within the overall framework of the existing measures it takes to publicise its services.

Recommendation 5.7

Further consideration should be given to the question of whether the disclosure of medical records should be made subject to a statutory regime similar to that applicable to the disclosure of counselling records.

This will be considered in a future review of the law relating to sexual offences such as is being

undertaken by the Law Reform Commission. It is a complex matter in which extensive consultation will be required.

D/Health notes the important link to previous recommendation 5.6 and highlights that while the report finds it a cause of concern that Section 19A of the Criminal Evidence Act 1992 was clearly intended to protect the privacy of victims in respect of their counselling records, and is being so seldom used, s. 19A of the Act applies solely to counselling records.

A counselling record is defined as:

"any record, or part of a record, made by any means, by a competent person in connection with the provision of counselling to a person in respect of whom a sexual offence is alleged to have been committed ('the complainant'), which the prosecution has had sight of, or about which the prosecution has knowledge, and in relation to which there is a reasonable expectation of privacy."

Medical records therefore do not come within this definition and are subject to the ordinary rules of disclosure, even though they may include information in respect of which there is also a reasonable expectation of privacy. The Working Group therefore recommend that in any future general review of the law relating to sexual offences, such as that being undertaken by the Law Reform Commission, consideration should be given to the question of whether the disclosure of medical records should be subject to a set of rules similar to those now governing counselling records.

The Department of Health will lead on an examination, with D/Justice and the DPP, of whether the disclosure of medical records

should be made subject to a statutory regime similar to that applicable to the disclosure of counselling records. This examination will include engagement with D/Health agencies and the broader health sector, including with regulators (e.g. the Medical Council). It is intended that this examination will be completed by the end of February 2021

Recommendation 5.8

A positive obligation should be imposed, by statute if necessary, on all statutory or public bodies, voluntary bodies and independent counsellors holding counselling records to furnish those records promptly to the Director of Public Prosecutions once requested to do so.

This recommendation is intended to address delay, rather than to extend the scope of the existing disclosure provisions. It applies only to situations where victims have given their voluntary consent to the release of their counselling records or where the release of the records has been ordered by a court in accordance with section 19A of the Criminal Evidence Act 1992. It will be addressed as part of the package of legislative amendments to be developed to give effect to the Report's recommendations.

While statutory obligations regarding furnishing counselling records to the DPP would be a criminal justice, rather than a health, matter, D/Health will engage with its agencies under the remit of its Department to identify the reasons for any delays in furnishing records which might be causing difficulties for the DPP. This exercise will be completed by February 2021. Insofar as a non-statutory obligation is concerned, D/Health will arrange a campaign to promote timely responses to the DPP on the part of agencies under its remit.

as text messages, social media and internet usage. There should be a periodic evaluation of the process and, as part of that, feedback should be sought from victims as to their experience of this aspect of the criminal investigation.

This recommendation will impact on the investigative function of AGS. Material disclosed will be dealt with in accordance with ODPP policies on disclosure and on the basis of undertakings from defence solicitors.

Collection of evidence by AGS relative to a sexual crime investigation, particularly where that evidence is required from the victim is dealt with on a case-by-case basis. It is acknowledged that in the aftermath of a sexual crime the collection of digital evidence such as evidence from a phone is difficult and stressful. Only where necessary and where evidence is required from the phone or other device to prove or disprove the allegations will such evidence be collected.

The collection of all evidence is governed by the rules of evidence and particularly the best evidence rule, which in the majority of cases requires the original device as evidence. An Garda Síochána will review the practice of the collection of such evidence in 2021.

The Legal Aid Board will input into any code of practice as required.

Recommendation 5.9

A formal code of practice should be established to govern the collection and disclosure of a victim's digital material and electronic data such

Information for Victims

Recommendation 6.1

Recommendation 6.1

The Department of Justice or an appropriate state agency should establish a website, the existence of which would regularly be brought to public attention, containing comprehensive information for victims of sexual crime. This information should be presented in a clear and accessible manner and deal with matters such as the reporting of sexual offences, the trial process, the availability of legal advice, and the availability of counselling, therapeutic and other assistance for victims.

A new and expanded Victims Charter was published in February 2020 and is available on the website www.victimscharter.ie. The Charter, which was developed with input from organisations across the criminal justice sector as well as service providers, sets out what the rights held by victims throughout the criminal justice process as well as the supports and services available to them.

Detail on measures to further expand and enhance this website, with a view to better informing victims of their rights, are set out in the response to Recommendation 1.1.

It is proposed to implement this recommendation for a website in relation to victims of sexual crime by adding a new dedicated section to the Victims Charter website setting out in a clear and accessible way the full range of issues listed in this recommendation; along with searchable directories of services available.

This option is considered preferable to the development of a standalone website aimed only at victims of sexual crime. Users of other relevant sites, including for example public awareness campaign related websites, will also point towards

this section of the Victims Charter website and the Department will also work to boost the site in online search engine results. This will be done through Search Engine Optimisation and also launching a paid search campaign for six months following the launch of the new website.

Recommendation 6.2

An Garda Síochána should develop a Garda ACTIVE Mobility App that will advise Garda members of the information they should be providing to victims in accordance with the Criminal Justice (Victims of Crime) Act 2017. The App should also, where possible, be capable of sharing to a mobile device, an email address or other information telecommunications app, an electronic version of the Victim Information Card and Victim Information Booklet in a language understood by the victim.

Section 7 of the Criminal Justice (Victims of Crime) Act 2017 created a statutory obligation on AGS to provide a significant amount of information to victims of crime on first contact.

The current system for compliance is a paper Victim Information Card. On each card is direction to the website and crime victims' helpline. Blank fields are provided for the member of An Garda Síochána and Garda Victim Service Office details.

A business case to develop an App has been prepared for approval. This App will allow a member to provide once off contact with victims/witness in the form of a text message at the scene of an incident. The aim is to have it operational by Q3 2021.

It is intended the message would include a link/links to victims' information and a short message about their rights. The text would include contact details of the reporting member and the Garda Victims Services Office.

Recommendations 6.3 – 6.5

- 6.3** Section 26(3A) of the Civil Legal Aid Act 1995 should be amended to provide that the Legal Aid Board may provide free legal advice to victims of sexual offences (and not just in cases where a prosecution is being taken).
- 6.4** The range of offences to which section 26(3A) of the Civil Legal Aid Act 1995 applies should be extended to include sexual assault and the offences created by sections 3 to 8 of the Criminal Law (Sexual Offence) Act 2017 (which outlaw various forms of child sexual exploitation), section 18 (which relates to a sexual act by a person in authority with a young person aged between 17 and 18 years) and sections 21 and 22 (which relate to the sexual abuse of persons with mental illness or a mental or intellectual disability).
- 6.5** Section 26(3A) Civil Legal Aid Act 1995 should further be amended to provide legal advice, in appropriate circumstances, to a parent, guardian or other responsible adult where the victim is a child or a person with a mental illness or intellectual disability. This would not apply where the parent or other responsible adult is the suspected or alleged offender.

There are two separate changes which are involved in recommendation 6.3 – (1) removing the restriction that requires a prosecution to have been instituted (2) widening the range of offences for which the service is available (Rec 6.4). Primary legislation will be required to give effect to this recommendation.

The Report acknowledges the potential demand these extensions might place on the Legal Aid Board's law centres and suggests that the extended service might be provided by way of a solicitor's panel if the Board's law centres were unable to cope with the demand. It is to be noted at the outset that this is a suggestion based on the group's expectations regarding demand for the service and not a formal recommendation.

It is the Legal Aid Board's preference to build on existing expertise and to provide additional services by establishing a dedicated in-house unit to operate the service.

The Assisted Decision-Making (Capacity) Act 2015 provides a modern legal framework in which supports are provided for persons whose capacity to make decisions is at issue. This recommendation falls to be considered – insofar as it refers to adult persons with diminished capacity – in that context and its implementation should not conflict with the presumption of capacity which is the foundation of the 2015 Act.

The Department of Justice will scope out and determine, subject to advice, the extent of legislative amendment that is required to give effect to recommendations 6.3, 6.4 and 6.5. The focus of this will be on adjustments necessary, as recommended in the Report, to the Civil Legal Aid Act 1995 as amended by the Civil Law (Miscellaneous Provisions) Act 2008. As part of this exercise, it will be determined what legislative framework is optimal to give effect to the recommendations, having regard to other legislative work that will be required in the Department to give effect to other recommendations in the O'Malley Review, including matters relating to preliminary trials and procedural changes in the manner of

representation in relevant proceedings. The amendment of Section 26(3A) of the Civil Legal Aid Act 1995 to provide legal advice at every point from the offence onwards and to cover all sexual offences, will be a priority here.

The implications and feasibility of the legislative changes recommended will be considered in the Department in consultation with the relevant stakeholders particularly in terms of determining potential or likely financial implications of the proposed changes. Specifically any proposed changes or extension to the provision of legal advice / support in respect of sexual offences as provided for under the Civil Legal Aid Act will require to be scoped out and determined. In this context a regulatory impact assessment will require to be prepared, in tandem with the preparation of relevant Heads of amendments.

The timeframe for completion of the scoping exercise to determine what proposed legislative amendments are necessary in respect of these recommendations is 31 January 2021.

Recommendation 6.6

A court familiarisation service should be available to every victim who is due to appear as a witness in criminal proceedings. We recommend that the present witness familiarisation programme operated by the Director of Public Prosecutions and An Garda Síochána should continue and, further, that it should be available to all victims of sexual crime throughout the country. We further recommend that a similar service be available to victims in District Courts outside Dublin where generally An Garda Síochána will have carriage of the prosecution.

The ODPP already offer pre-trial consultation with the prosecution legal team. This consultation is again offered if a case is appealed to the Court of Appeal or Supreme Court. However, there is a distinction between this and a court familiarisation visit which is something that could be done without prosecution lawyers present whereby a victim or witness simply has an advance tour of facilities. In relation to the latter type of visit there may be a role for NGO/AGS/ Court Services to work together.

There are restrictions on the manner in which the prosecution can interact with victims to ensure the integrity of proceedings. ODPP will examine how they deal with the explanation of those restrictions as part of their overall information process for victims and consider whether any further information needs to be added by early 2021.

Liaison with other stakeholders will be needed to assess the full requirements to roll out this initiative throughout the State. AGS will complete an examination of what is necessary to implement this recommendation early in 2021.

Consideration is also required of the position of child witnesses of abuse, or child victims, in how such a familiarisation programme might operate. It is important that processes are put in place to allow a child or young person to feel as comfortable as possible when providing evidence. There is a need for timely hearings for victims. This is especially necessary for children, where delays can have significant impact on the child's development and recovery from the assault. There is a real need to video evidence from the child at the time of the disclosure to capture their testimony.

Recommendation 6.7

Victims of a sexual offence should be entitled to have some personal support during criminal proceedings relating to the offence. We strongly commend the support now operated on a voluntary basis in the Criminal Courts of Justice in Dublin and in some other court venues, but we recommend that steps be taken to ensure that such a service, or an equivalent service of equal standard, is available to all victims of sexual crime throughout the country.

The Department of Justice provides annual funding of some €2m to a range of civil society organisations to provide this service. The service is not available throughout the State and there is no formal training or qualification required before the NGO becomes eligible for grant aid.

As indicated in the introduction to the report, the Group recommends that a review of the supports, including the grant funding available from the Department of Justice, should be undertaken and completed before the end of 2020. The purpose of the review, which will consider submissions which have been made to the Department by NGOs, is to:

- a) Map the journey that faces the victim, from commission of the crime, through to trial of the offender and to any post-trial or post-conviction hearings or processes that arise in which the victim's voice should be heard;
- b) Identify stages in that journey where supports are absent, including gaps arising at points where responsibility transfers from one agency to another;
- c) Develop proposals to meet the additional needs identified at b) and to ensure that services are available throughout the State on an accessible and equitable basis;
- d) Quantify the resources needed to achieve this objective; and
- e) Present proposals for quality assurance of funded services, including in relation to standard setting, training and accreditation of staff and volunteers and independent inspection and oversight of quality services.

Intermediaries

Recommendation 7.1

Recommendation 7.1 to 7.9

- 7.1 A cohort of appropriately qualified intermediaries who have undergone a prescribed course of training on the role of intermediaries should be recruited and placed on a register. All intermediaries should have a professional background in speech and language therapy, social work, clinical psychology, occupational therapy or some cognate area.
- 7.2 The task of recruiting and training intermediaries should be undertaken by the Department of Justice or an appropriate state agency. With well-established systems of intermediaries now operating in our neighbouring jurisdictions, it should be possible to draw upon their experience and expertise in establishing a training programme and assessing persons for their suitability to act as intermediaries.
- 7.3 An adequate number of intermediaries should be appointed on a full-time basis, the precise number depending on the estimated demand for their services throughout the country.
- 7.4 Intermediaries, where needed, should be involved from the earliest stages of the criminal process and, in particular, should be available to assist at Garda interviews of victims, defendants or other potential witnesses who may be vulnerable on account of age or physical or mental disability.
- 7.5 Where at all possible, the same person should serve as intermediary in respect of a particular witness throughout the entire criminal process. An intermediary who has been involved in the Garda interview should continue to function in respect of the witness in question during the trial where one takes place.
- 7.6 The role of the intermediary should essentially be an advisory one. Having assessed the communication needs of a person being interviewed by An Garda Síochána or about to testify as a witness, as the case may be, the intermediary would advise legal representatives and the court as to the most appropriate way of questioning the witness so as to enable the witness to give their best evidence.
- 7.7 Intermediaries may nonetheless, on occasion, be called upon to play a more active role at the questioning of a witness as envisaged by s. 14 of the Criminal Evidence Act 1992. We therefore recommend that this section be retained.
- 7.8 An administrative structure should be put in place to maintain a register of qualified intermediaries, to arrange for the recruitment of additional ones where needed, and to arrange for the assignment of intermediaries, as required and on a case-by-case basis, for Garda interviews and criminal trials.
- 7.9 In the event that it proves difficult to recruit a sufficient number of appropriately qualified intermediaries within this jurisdiction, consideration should be given to entering into discussion with the relevant Northern

Ireland authorities with a view to having a joint register of intermediaries. However, everyone acting as an intermediary in this jurisdiction would be required to complete a training course on the criminal process in this jurisdiction and the role of intermediaries within it.

Noting that provision is made in the Criminal Justice (Victims of Crime) Act 2017 for intermediaries, the Report details the limited circumstances in which an intermediary can be appointed, recommends that these be expanded to commence from initial involvement in the criminal justice system (Garda questioning or making a complaint) and in a key passage (8.11) states:

The general thrust of our recommendations therefore is that provision should be made in this jurisdiction for the use of appropriately qualified intermediaries whose essential role would be to assess the communication needs of vulnerable witnesses and to advise police, advocates and the court as to the steps that are needed to assist such witnesses to give their best evidence.

In 8.14, the Report clarifies the proposed role of the intermediary:

The sole function of an intermediary is to assist in the communication process, whether between lawyers and witnesses during trial or, earlier, during police interviews. In this respect, their role is somewhat akin to that of an interpreter. The intermediary's loyalty is to the court. Indeed in some jurisdictions, it has been suggested that intermediaries should be formally classified and treated as officers of the court. On no account, should the intermediary be, or be perceived to be, an advocate or support worker acting on behalf of the person being assisted.

The Report envisages that intermediaries will be typically a speech therapist, clinical psychologist, social worker or occupational therapist who has significant relevant expertise and has undergone a suitable training course. The report also envisages that some intermediaries will be full time.

There are a number of elements that need to be addressed in an implementation plan:

- Provision of a suitable course of training. This can be taken forward by inviting expressions of interest from 3rd level institutions to develop suitable courses and accreditations, supported by grants from the Department, in consultation with other stakeholders;
- Registration and accreditation: The recommendation is for intermediaries to be available from the very first engagement with An Garda Síochána and in circumstances where a prosecution may not – or at least cannot be foreseen with certainty to – result. A body such as CORU (regulatory body for health and care and social care professions) may be appropriate for this purpose. Discussions will take place with the Department of Health in that regard.

The extent of demand is not clear and may not support a service with a physical presence in all regions, or full-time staff. The provision of the service in England and Wales – with a much larger population and consequently greater resources available – was following a pilot. The following measures will be taken to give effect to the recommendation:

- It is proposed to invite expressions of interest from 3rd level institutions to provide an appropriate training and accreditation for relevant professional to be recognised as intermediaries in February 2021 with a view to having agreement in place with a third level institution by April 2021;
- It is also proposed to engage in parallel with CORU and other relevant stakeholders to

agree who would host the register and in relation to the practical operational issues that need to be considered. Engagement will also take place with the Courts Service in relation to access to the register, and

- Pilot for 12 months an approach to provision of the service in two areas (one urban Dublin area and one rural area) after which the Minister would be presented with a costed plan to extend the service throughout the State and with details of any legislative amendments that are desirable (taking into account the O'Malley comments that the courts' inherent jurisdiction would allow appointment of intermediaries in any circumstances the court sees fit).

This approach will also allow an assessment of the need for and value of full-time intermediaries



Reducing Delay

Recommendation 8.1

Recommendation 8.1

The Sentencing Guidelines and Information Committee, established under the terms of the Judicial Council Act 2019, should consider giving priority to drawing up a guideline on discounts for guilty pleas and also to sentencing guidelines for sexual offences, especially those offences in respect of which there are no judicially developed guidelines.

This recommendation was considered by the Sentencing Guidelines and Information Committee at its meeting on the 28th of September 2020. This recommendation will be progressed in 2021.

case comes on for trial, in those cases where a prosecution is initiated. The purpose of this research would be to identify any problems that may contribute to delay and any measures that might be adopted to address those problems.

The Department of Justice will lead on this recommendation. The action will be added to the Department's research programme for 2021. Work will commence with an analysis using PULSE and Courts data on the progression of sexual assault cases. Essentially, this will look at the drop off levels at various stages: reporting > detected > charges > prosecution > verdict. The methodology will also include interviews with key stakeholders to garner their views on the challenges of undertaking sexual offences cases (some of the questions will be informed by the above analysis). This will include interviews with Gardaí, prosecutors/defence solicitors, advocate/support groups and also victims.

Recommendation 8.2

A system of preliminary trial hearings should be established. The governing legislation should allow, to the greatest extent practicable, for issues that may contribute to delay in the commencement of trials or to the adjournment of trials to be addressed at such hearings.

Although many aspects of preliminary hearings can be implemented without legislation – in particular the case-management aspects around disclosure, readiness to proceed etc., primary legislation will be needed to provide for substantial elements, for example those relating to the admissibility of evidence.

It is intended that draft legislation on preliminary hearings will be published before the end of December 2020.

Recommendation 8.3

Further empirical research should be undertaken on the processing of sexual offence cases from the time at which a complaint is made until the

Recommendation 8.4

Any proposal for the appointment or allocation of additional judges to the criminal courts should be preceded by an assessment of the impact which this would have on the court accommodation and facilities that are available, or that would be required, for victims and other persons participating in or attending sexual offence trials.

This is and will be done in consultation with the Courts Service as a matter of course to ensure that courtrooms, court registrars etc. are available. In 2019 sexual offence cases amounted to:

0.06% of offences finalised in the District Court
9.96% of offences finalised in the Circuit Court

In the Central Criminal Court they amount to a far greater proportion of offences but absolute numbers are relatively low, involving a total of 181 defendants in 2019, spread across six courts sitting full-time. It is highly unlikely that cases of a sexual nature would be listed in the Central Courts without consideration being given to appropriate facilities for victims. Implementation of this recommendation will also involve consultation with the ODPP so that the issue can be raised at any pre-trial hearing. It is important to establish on a case-by-case basis that facilities are available in advance of a trial date being given.



Training

Recommendation 9.1

Recommendation 9.1

All judges presiding over criminal trials for sexual offences and all lawyers appearing in such trials should have specialist training which equips them with an understanding of the experience of victims of sexual crime. They should also have training in connection with the questioning of witnesses who are especially vulnerable by virtue of youth or disability.

The Judicial Council advise that engagement has taken place with the Judicial Studies Committee in relation to implementation. Agreement has been reached that this is a priority area within the overall training strategy for the judiciary. It is anticipated that training will be completed in 2021.

The Bar of Ireland's existing Continuous Professional Development (CPD) programme is robust and equipped to incorporate relevant multidisciplinary training, as envisaged by the Report. The Council's CPD programme already incorporates training for barristers dealing with vulnerable witnesses with several seminars and workshops having taken place in recent years and months.

The Bar of Ireland will develop a course of continuing professional development suitable for barristers in line with the recommendations of the O'Malley report. The seminars and lectures constituting this course will be delivered by persons possessing relevant expertise, several of which will require expertise in specific non-legal fields. The training will be developed and delivered between October 2020 and October 2021 and delivered on an ongoing basis thereafter.

The Law Society will examine if their "Trauma Awareness Skill Training for Lawyers working

with Children and Young People" programme can be adapted to facilitate the training recommendations in the report. It is proposed that the training could include education around, rape myths, the role of intermediaries, the purpose of ground rule hearings and a greater understanding of disabilities. Training could also include information around trauma and how it impacts on the delivery of evidence. It is envisaged the Annual Criminal Law Conference in March 2021 could provide the training for the criminal practitioners.

For criminal solicitors, education needs may also include advocacy training around the examination and cross examination of witnesses. The COVID-19 emergency will limit capacity to do advocacy training given the participatory nature of the training.

Recommendation 9.2

It is recommended that the Judicial Studies Committee, established by the Judicial Council Act 2019, should consider providing such training for judges.

The Judicial Council advise that engagement has taken place with the Judicial Studies Committee in relation to implementation. Agreement has been reached that this is a priority area within the overall training strategy for the judiciary. It is anticipated that training will be completed in 2021.

Recommendation 9.3

The Law Society of Ireland and the Bar Council should take steps as soon as possible to provide specialist training for solicitors and barristers, respectively, who deal in any professional capacity with victims of sexual crime. This training can be delivered within existing CPD frameworks unless the professional bodies in question decide that such training can be more effectively provided by other means.

Provision of specialist training is addressed under 9.1 above.

The LSRA has recently finalised its statutory review of legal professional education and training under the Legal Services Regulation Act 2015, and has submitted this report to the Department of Justice.

The modalities of providing specialist training for legal professionals to deal in a professional capacity with victims of sexual crime will be considered by the Department in consultation with the relevant legal professional and training bodies and in the light of the LSRA's Report on the education and training of legal professionals.

Recommendation 9.4

The Director of Public Prosecutions, the Minister for Justice, the Legal Aid Board and any other public authority responsible for briefing professional lawyers in sexual offence trials should be entitled to receive, upon request, from the Law Society and the Bar Council a list of solicitors and barristers, respectively, who have satisfactorily completed the prescribed course of specialist training.

Bar of Ireland members will be required to earn a certain number of CPD points in relation to the prescribed training on a regular basis. The Council will assume responsibility for the roll-out of mandatory training for members. The requirement that the professions provide the DPP and the Department of Justice and the Legal Aid Board, upon request, a list of barristers who have satisfactorily completed the prescribed training from the Bar of Ireland will be considered by the relevant stakeholders having regard to data protection legislation and case law in relation to right of a defendant to engage a solicitor of his or her choice in Q1 2021.

Recommendation 9.5

Steps should be taken to ensure that all personnel in State Agencies who are likely to have to deal with victims of sexual crime should have appropriate training.

The Department of Justice will lead on implementation of this recommendation, and specific proposals will be developed as part of the 3rd national Strategy on Domestic, Sexual and Gender-Based Violence, which will be in place by the end of 2021.

The Legal Aid Board will take measures to ensure all staff dealing with victims of sexual crime have appropriate training. Legal professionals will participate in the training contemplated by recommendation 9.3. The Board will procure appropriate training for non-solicitor staff. The Board would intend to procure the above training as soon as the contemplated legislation on foot of this Report is enacted and with a view to completing the training prior to the commencement of the legislation but in any event within three months of the date of enactment.

The ODPP has a legal steering training committee that continually reviews training requirements. The committee arranges for the provision of training opportunities to its staff, to the state solicitors who represent the ODPP in courts outside of Dublin and to counsel who are retained to prosecute on behalf of the DPP in the courts. Training has been provided on many of the topics referred in the report including bespoke training on communicating with vulnerable witnesses, on the impact of offending behaviour on victims and on accessing special and protective measures for victims during court proceedings as well as the broader context of the Victims Directive. Further training on sexual violence, including in intimate relationships, will be provided in the context of the establishment of the Sexual Offences Unit. Training on resilience building to protect against secondary trauma and to support legal and other professionals in their work with victims is a necessary component of a training programme. This is something which is currently under consideration within the ODPP.

The ODPP, in conjunction with the Law Society and the Bar Council, is assessing possibilities for an accredited training programme on vulnerable victims for legal professionals. This may also

require the involvement of the Legal Service Regulatory Authority and the Honourable Society of Kings Inns. It is not possible at this stage to estimate feasibility, cost or time frame in relation to this initiative. It is envisaged that the assessment process will take in the region of twelve months. However, while the programme mentioned would be a part of ODPP ongoing training in the future, the existing training programme is already underway and is an ongoing process.

The ODPP recognises that many of the issues that arise in relation to supporting victims of sexual trauma are relevant to supporting victims more generally. In this regard, the ODPP would intend that much of the training that is provided to staff would and should also have applicability to the experience of victims of all offending behaviour.

Although an element of the training could be provided in-house with very little cost, many other components of the training would require the engagement of external professionals. Some of this training, particularly training involving communicating with vulnerable victims and witnesses, would necessitate the type of active participation and role play that can only be delivered over longer sessions and in smaller groups. Much of the training content will have to be specifically tailored to the unique role of the prosecution service.

ODPP will shortly commence the first roll out of this training for staff and will review thereafter in early 2021. This training is an ongoing process and will continue to be part of the overall office training programme into the future.

This will be done within the architecture of the next National DSGBV Strategy, which will be developed and in place by end-2021. Work has already commenced on addressing specific training needs that have been identified (see recommendation 1.3)

Statutory and non-governmental organisations have advised that they would welcome an opportunity to contribute to this work and this will be arranged.

Recommendation 9.6

The Minister for Justice should appoint a planning and implementation committee, with an appropriate range of expertise, to devise and develop a specialist training programme for legal professionals who deal with victims and other vulnerable witnesses in sexual offence cases.

Recommendation 9.7

Measures, including an inspection system, should be put in place to ensure that all those who provide counselling, therapy and related services to victims of sexual crime have appropriate training. This should also apply to everyone, including legal practitioners and other professionals, involved in restorative justice programmes related to sexual offending.

The professions of counsellor and psychotherapist are designated for regulation under the Health and Social Care Professions Act 2005 Act. Following its establishment in November 2018, the Counsellors and Psychotherapists Registration Board has begun the significant and complex body of work before the register can be opened and the title protected, including titles to be protected and minimum qualifications to be required of counsellors and psychotherapists. The profession of psychologist is also designated for registration under the Act which means that those psychologists who are counsellors and/or psychotherapists will in time be regulated under that Act. Both Registration Boards are working towards opening their registers, but it is not yet possible to indicate a date when the registers will open.

Currently medical and nursing staff operating in Sexual Assault Treatment Units (SATUs), under the remit of the HSE, have completed post graduate specialist education and there is an ongoing programme of Continuous Professional Development to ensure a more cohesive delivery of holistic care to patients by all professionals working across the service and to maintain and enhance the competencies of both clinical and administrative staff working in SATUs and to keep pace with medical and legal developments.

Counselling is provided by a variety of different professionals who may include doctors, nurses, social workers and others, many of whom are already regulated. For example, psychiatrists, some of whom practise psychotherapy, are regulated under the Medical Practitioners Act 2007. Also, counsellors/therapists working in the publicly-funded health sector are required to have minimum qualifications set by the Health Service Executive under the Health Act 2004.

Restorative justice

A mapping exercise to identify statutory and non-statutory agencies involved in the delivery of restorative justice is currently being undertaken as part of the “Restorative Justice Strategies for Change” (RJS4C) cross European project – the information is to be published on the Department of Justice funded project website in January 2021.

Once this study is complete, the Department will establish a multi-agency group to scope requirements for a more integrated consistent, visible and high quality Restorative Justice service for vulnerable victims who wish to pursue that pathway.

**Summary Implementation Plan for
O'Malley Review of Protections for
Vulnerable Witnesses in the
Investigation and Prosecution
of Sexual Offences**

Supporting a Victim's Journey

Victims of sexual crime too often feel alone and unsupported when they most need our help. We must remove any fear they have of reporting what happened to them, support them every step of the way and create a victim centred system.

IMPROVED REPORTING SERVICES

When you want to report an assault, and throughout the process, it will be easy to find out about supports and services. We will make those supports and services available to you throughout the process.

- o Accessible Information will be available on dedicated websites when you need it
- o Communication specialists will be available as intermediaries if you need extra help in understanding legal processes and questioning
- o Supports and facilities for victims will be of a high and consistent standard across the country



VICTIM CENTRED POLICING

Your views and needs will matter. This includes how, when and where you will make a statement.

- o When you report an assault, members of An Garda Síochána specially trained to deal with sexual assaults are now in place in every Garda Division and will be there for you
- o This training will now be given to every member of An Garda Síochána, and not just specialist members of the service
- o Every member of An Garda Síochána will be trained to understand your perspective and your needs



THE TRIAL AND SENTENCING

Throughout the trial, everything will be explained to you. Your rights will be protected. You'll be supported through the trial.

- o Lawyers and judges will receive training and education on how to question victims
- o Victims in all sexual assault trials will remain anonymous, no matter the outcome of the trial
- o Priority will be given to drawing up guidelines on sentencing for sexual offence cases



HELP TO PREPARE FOR THE COURT

You will have time to prepare for a trial and will be given support.

- o You can talk to others who have been through this process before
- o Free legal advice will be introduced for victims of sexual assaults, even if no prosecution is being made
- o Preliminary trial hearings will prevent delays and allow for notice to be given of any sensitive legal approaches that may be taken at trial



POST-TRIAL

Support will be there for you when the trial is over.

- o You will be given counselling, therapy and other services by qualified people
- o You can talk about your experience to make the system better for others



RELEASE

You will have a right to be heard at every stage of the process, including in applications for early release and lifting of restrictions.

- o Post release, you will be offered supports as you need them.
- o Your views will be heard by the Parole Board



AWARENESS AND EDUCATION

We will develop public awareness raising campaigns on Consent and Victim's Rights. Consent awareness will be further incorporated into primary, secondary and third level education.



An Roinn Dlí agus Cirt
agus Comhionannais
Department of Justice
and Equality

Summary Implementation Plan for O'Malley Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences			
Recommendation Number	Action	Timeline	Responsible Function/ Department
1.1	Increase public awareness of the Criminal Justice (Victims of Crime) Act 2017.		
	Develop Victims Charter website and distribute printed materials to public locations regarding Act.	Website and distribution of materials Q4 2020	DOJ (Transparency) AGS (supporting initiatives as appropriate)
	Launch Victim's Rights Awareness Raising Campaign.	Victim's Rights Campaign Q1 2021	
	Consider Annual Conference with state, social and community groups.	Annual Conference Q1 2021	
	Maintain network of champions in state organisations regarding Charter.	Ongoing	

Recommendation Number	Action	Timeline	Responsible Function/ Department
1.2	Government sponsored programme of public education on consent		
	Launch Consent website Q1 2021.	Consent Website Q1 2021	DOJ (Transparency)
	Launch Consent awareness rising campaign Q2 2021.	Consent Campaign Q2 2021	D/FHERIS
	Redevelop SPHE and RSE in 2021, publish interim guidance materials before end of 2020 to be supplemented incrementally during 2021.	SPHE and RSE Q4 2020 and 2021	D/Education
	Begin work on a single online access point for RSE resources in January 2020. The NCCA is to examine opportunities for SPHE/RSE within the new Junior Cycle Wellbeing area of learning, stakeholder meetings to commence October 2020.	HEI Action Plan Q1 2021	NCCA

Recommendation Number	Action	Timeline	Responsible Function/ Department
1.2	Government sponsored programme of public education on consent		
	Carry out programmes of education and public awareness activity in the Higher Education Institutions (HEIs), ongoing since 2019, national awareness raising campaign Q2 2021, HEI Action Plans by February 2021, submit Framework Implementation progress to the HEA Q3, 2021. Launch national survey on harassment, sexual harassment and bullying of staff and students in HEIs in 2020.	HEI Consent Campaign Q2 2021	D/Health
	Continue to produce HSE Sexual Health and Crisis Pregnancy Programme (SHCPP) a range of booklets for parents to support them with talking to their children about relationships and sexuality, including the topics of consent. The HSE SHCPP also manages www.sexualwellbeing.ie which includes information on sexual consent and consent in practice.	HEI Implementation Updates Q3 2021	AGS (to support initiatives as appropriate)
	Engagement between D/Health, HSE and disability service providers to ensure that consent is covered in ongoing sex and relationships education and support for disability service users. Put in place disability focused public education on consent after 18 months following buy in.	Launch HEI Survey Q4 2020	
	DCEDIY/Tusla bid made for "Consent Ed" project. If EU funding is received to start in January 2021.	HSE SCCPP booklets currently under development Ongoing Disability focused public education on consent in place after 18 months following buy in. DCEDIY/Tusla Consent-Ed Project Q1 2021	

Recommendation Number	Action	Timeline	Responsible Function/ Department
1.3	Greater inter-agency communication to promote a victim-centred approach to the provision of services.		
	Complete DSGBV Audit Q2 2021.	DSGBV Audit Q2 2021	DOJ (Criminal Policy)
	Complete mapping exercise to identify the nature, spread and level of services that may be encompassed by this implementation plan with relevant stakeholders, before the end of 2020.	Mapping Exercise Q4 2020	D/CDEIY/Tusla,
	Feed implementation plan into development of the next National Strategy on Domestic, Sexual and Gender-Based Violence (DSGBV). Complete work underway on identification of specific training needs and coordination across a range of victim supports.		D/Health

Recommendation Number	Action	Timeline	Responsible Function/ Department
1.4	Facilities for victims and other vulnerable witnesses should be of a consistent standard throughout the country.		
	Include further vulnerable witness and victim support facilities in the Provincial City/County Town venues included in the current National Development Plan.	Ongoing	Courts Service AGS
	Provide a new special victims interview suite in Kerry.	Onehouse Barnhaus model to be approved on 29 October	DOJ (Criminal Policy and Governance)
	Plan to guide development of Onehouse Barnhaus model nationally will be approved by Interdepartmental Group at meeting scheduled for 29 October.	Interview suite to be completed by Q1 2021	D/CDEIY/Tusla

Investigation and Prosecutions of Sexual Offences			
Recommendation Number	Action	Timeline	Responsible Function/ Department
2.1	All serving members of An Garda Síochána engaged in front line policing to receive specialist training for engaging with victims of sexual crime and vulnerable witnesses.		
	Provide Divisional Protective Service Units (DSPUs) specialist training for engaging with victims of sexual crime.	Ongoing	AGS
	Provide training for all members of An Garda Síochána on engagement with victims and understanding the victim's perspective.	All AGS Training 2021, 2022	AGS
2.2	Regular monitoring by external experts of specialist training provided by An Garda Síochána.	End Q1 2021 initially	AGS
2.3	Full roll out of Divisional Protective Services Units nationwide. Divisional Protective Services Units (DSPUs) have been established and are in operation in every Garda Division across the State since September 2020.	Roll out completed	AGS
2.4	An Garda Síochána to review the number and geographical spread of special interview suites throughout the State. Review of the use, frequency and availability issues arising regarding Interview Suites will be undertaken by Q2 2021. The findings of this report will determine if an application for additional suites is required. Conduct a review every three years.	Q2 2021 initially	AGS
2.5	Operation of specialist interview suites to be periodically evaluated by an external expert. Recruit external expert to monitor specialist training referenced in recommendation 2.2 for specialist interview suites. Suitable candidates are already in the process of being identified for consideration.	Q1 2021 initially	AGS
2.6	Establish new Sexual Offences Unit within Office of the Director of Public Prosecutions Establish the first phase of the Sexual Offences unit by the end of 2020, to be fully operational during 2021.	Q4 2020 Ongoing in 2021	ODPP

Anonymity, Public Attendance and Media Reporting of Sexual Offences Trials			
Recommendation Number	Action	Timeline	Responsible Function/ Department
3.1	Victims in all trials for sexual assault offences should remain entitled to anonymity, irrespective of the outcome of the trial.		
	Begin scoping work in January 2021, with a view to bringing draft heads of the legislative amendments to Government for approval before the end of 2021. Determine if any amendments to legal aid legislation might be desirable to give full effect to this recommendation.	Scoping Work begins Q1 2021	DOJ (Criminal and Civil Legislation and Criminal Policy).
	Consider other relevant legislative amendments which will be of assistance to victims in their progression through the system in conjunction with those recommended in the Report.	Government Approval of Draft Heads Q4 2021	LAB will be consulted on any amendments to legal aid legislation.
3.2	Introduce legislation to extend anonymity to victims in trials for offences contrary to ss. 21 and 22 of the Criminal Law (Sexual Offences) Act 2017.	Scoping Work Q1 2021	DOJ (Criminal and Civil Legislation and Criminal Policy).
	See recommendation 3.1.	Government Approval of Draft Heads Q4 2021	LAB will be consulted on any amendments to legal aid legislation.
3.3	Accused persons in all trials for sexual assault offences should be entitled to anonymity unless convicted.	Scoping Work Q1 2021	DOJ (Criminal and Civil Legislation and Criminal Policy).
	See recommendation 3.1.	Government Approval of Draft Heads Q4 2021	LAB will be consulted on any amendments to legal aid legislation.
3.4	Persons accused of any offence contrary to ss. 3 to 8 of the Criminal Law (Sexual Offences) Act 2017 should be entitled to anonymity on the same basis as now applies to an accused on trial for a rape offence.	Scoping Work Q1 2021	DOJ (Criminal and Civil Legislation and Criminal Policy).
	See recommendation 3.1.	Government Approval of Draft Heads Q4 2021	LAB will be consulted on any amendments to legal aid legislation.
3.5	The definitions of “published” and “broadcast” in the Criminal Law (Rape) Act 1981 should be reviewed.	Scoping Work Q1 2021	DOJ (Criminal and Civil Legislation and Criminal Policy).
	See recommendation 3.1.	Government Approval of Draft Heads Q4 2021	LAB will be consulted on any amendments to legal aid legislation.

Anonymity, Public Attendance and Media Reporting of Sexual Offences Trials			
Recommendation Number	Action	Timeline	Responsible Function/ Department
3.7	Victims in all trials for sexual assault offences should remain entitled to anonymity, irrespective of the outcome of the trial.		
	Legislative provisions which provide that where a trial is held otherwise than in public, the verdict and sentence (if any) must be announced in public should be repealed.	Scoping Work begins Q1 2021	DOJ (Criminal and Civil Legislation and Criminal Policy).
	See recommendation 3.1.	Government Approval of Draft Heads Q4 2021	LAB will be consulted on any amendments to legal aid legislation.

Preliminary Trial Hearings			
Recommendation Number	Action	Timeline	Responsible Function/ Department
4.1	Legislation should be introduced for the establishment of preliminary trial hearings.		
	Publish draft legislation on preliminary hearings before the end of December 2020.	Draft legislation published Q4 2020	DOJ (Criminal Legislation, ODPP Courts Service
4.2	<p>Any defence application to be made at trial to question a victim about his or her sexual experience under the terms of s. 3 of the Criminal Law (Rape) Act 1981 should be notified to the Court at that hearing, and the Legal Aid Board notified accordingly.</p> <p>This will form part of the legislation on preliminary trial hearings, see recommendation 4.1.</p>	Draft legislation published Q4 2020	DOJ (Criminal Legislation) ODPP Courts Service
4.3	<p>Any issues relating to the appointment or role of an intermediary, and any other special measures required for vulnerable witnesses, should also be addressed at a preliminary trial hearing.</p> <p>This is both an operational and a legal matter which will require provisions in relation to the preliminary trial hearing to be in place. Many special measures can be addressed through liaison between the Courts and the relevant party and their legal representatives, following a scheme for the training, accreditation and hosting of a register for the engagement of intermediaries being put in place.</p> <p>Any legislative requirement will form part of the legislation on preliminary trial hearings, to be published before the end of December 2020.</p>	Draft legislation published Q4 2020	DOJ (Criminal Legislation) ODPP Courts Service

Preliminary Trial Hearings			
Recommendation Number	Action	Timeline	Responsible Function/ Department
4.4	Legislation should be introduced for the establishment of preliminary trial hearings.		
	<p>Prosecution and defence will notify the judge conducting the preliminary trial hearing of any outstanding matters which may prevent the trial from commencing on the scheduled date.</p> <p>Immediately implement this recommendation, once the necessary legislative arrangements for preliminary trial hearings are in place.</p>	See Action 4.1	DOJ (Criminal Legislation) ODPP Courts Service
4.5	<p>Lawyers in private practice representing either the prosecution or the defence should be duly remunerated for their work in preparing for and attending preliminary trial hearings.</p> <p>ODPP will engage with relevant stakeholders to determine appropriate fees. It is not possible at this stage to set a timescale pending the necessary legislation being enacted, following publication at the end of 2020.</p>	Arrangements will be finalised following enactment of the legislation.	ODPP DJ (Policy and Service Delivery) DPER LAB

The Trial of Sexual Offences			
Recommendation Number	Action	Timeline	Responsible Function/ Department
5.1	Legislation should be introduced for the establishment of preliminary trial hearings.		
	<p>Provision to be made to allow the barrister who is briefed to represent a victim when an application is being made to engage in questioning of a victim at sexual offence trials while the questioning takes place.</p> <p>Begin scoping work in January 2021 and bring draft heads of the legislative amendments to Government for approval before the end of 2021. Carry out work to determine if any amendments to legal aid legislation are necessary to give full effect to the recommendation.</p>	<p>Scoping Work Q1 2021</p> <p>Government Approval of Draft Heads Q4 2021</p>	DOJ (Criminal Legislation) LAB will be consulted on any amendments to legal aid legislation

The Trial of Sexual Offences			
Recommendation Number	Action	Timeline	Responsible Function/ Department
5.2	Provision to be made to allow the barrister who is briefed to represent a victim when an application is being made to engage in questioning of a victim at sexual offence trials while the questioning takes place.		
	<p>The right to separate legal representation for victims under section 3 of the Criminal Law (Rape) Act 1981 (in circumstances where an application is made to question a victim about other sexual experience) should be extended to include trials for sexual assault.</p> <p>Begin scoping work to determine the necessary approach in January 2021 and bring draft heads of the legislative amendments to Government for approval before the end of 2021.</p>	<p>Scoping Work Q1 2021</p> <p>Government Approval of Draft Heads Q4 2021</p>	DOJ (Criminal Legislation)
5.3	<p>Appropriate steps should be taken to ensure that judges and lawyers are familiar with section 21 of the Criminal Justice (Victims of Crime) Act 2017, especially as it relates to the questioning of victims during sexual offence trials.</p> <p>Information on training for judges and lawyers is set out at in the Chapter dealing with Training.</p>	See Training Section	
5.4	<p>Where the defence intends to apply to the trial judge for leave to question a victim about other sexual experience, it should be required to notify the judge conducting the preliminary trial hearing of that intention.</p> <p>Draft legislation on preliminary hearings will be published before the end of December 2020.</p>	Q4 2020	DOJ (Criminal Legislation)

The Trial of Sexual Offences			
Recommendation Number	Action	Timeline	Responsible Function/ Department
5.5	Provision to be made to allow the barrister who is briefed to represent a victim when an application is being made to engage in questioning of a victim at sexual offence trials while the questioning takes place.		
	<p>Once notification has been given at a preliminary trial hearing of intention to apply for leave to question a victim at trial under the terms of section 3 of the Criminal Law (Rape) Act 1981, the Legal Aid Board should be immediately informed. The Legal Aid Board, in turn, should endeavour to ensure that the victim is represented by counsel of a level of seniority similar to that of counsel representing the prosecution and defence.</p> <p>Carry out further work to determine if any amendments to legal aid legislation might be desirable to give full effect to this recommendation.</p> <p>It will be necessary for the Terms and Conditions of the Barristers Panel to be amended and for these amended terms and conditions to be consented to by the Minister for Justice and the Minister for Public Expenditure and Reform.</p>	Q2 2021	LAB, DOJ (Civil Governance and Legislation) DPER
5.6	<p>Effective steps should be taken to bring the existence of section 19A of the Criminal Evidence Act 1992 regarding the disclosure of counselling records to the attention of victims and any persons who are advising them.</p> <p>ODPP already has publicly available information on section 19A and has developed memorandums of understanding with a range of NGOs in this regard. ODPP will also support AGS in disseminating information to victims and their legal representatives.</p> <p>Make available victims' information on section 19A to the public by AGS in Q1 2021. Provide initially on the Garda Website and electronically thereafter as the Garda Active Mobility app is developed.</p> <p>The Legal Aid Board will also take measures to publicise this provision.</p>	AGS Q1 2021	AGS ODPP and LAB will support measures

The Trial of Sexual Offences			
Recommendation Number	Action	Timeline	Responsible Function/ Department
5.7	Provision to be made to allow the barrister who is briefed to represent a victim when an application is being made to engage in questioning of a victim at sexual offence trials while the questioning takes place.		
	<p>Further consideration should be given to the question of whether the disclosure of medical records should be made subject to a statutory regime similar to that applicable to the disclosure of counselling records.</p> <p>This will be considered in a future review of the law relating to sexual offences such as is being undertaken by the Law Reform Commission.</p> <p>Examine, with D/Health as lead with DOJ and the DPP, whether the disclosure of medical records should be made subject to a statutory regime similar to that applicable to the disclosure of counselling records. Complete this examination by the end of February 2021.</p>	Q1 2021	D/Health DOJ (Criminal Policy) DPP
5.8	<p>Positive obligation to be imposed on bodies to furnish counselling notes promptly to the Director of Public Prosecutions once requested to do so.</p> <p>D/Health will engage with agencies under the remit of its Department to identify the reasons for any delays in furnishing records which might be causing difficulties for the DPP. Complete this exercise by February 2021.</p> <p>Arrange a campaign by D/Health to promote timely responses to the DPP on the part of agencies under its remit.</p>	Q1 2021	DOJ (Criminal Legislation) D/Health
5.9	<p>Establish a formal code of practice to govern the collection and disclosure of a victim's digital material and electronic data.</p> <p>Review by An Garda Síochána into the practice of the collection of such evidence in 2021.</p> <p>The Legal Aid Board will input into any code of practice as required.</p>	End 2021	AGS ODPP LAB

Information for Victims			
Recommendation Number	Action	Timeline	Responsible Function/ Department
6.1	Establish a website containing comprehensive information for victims of sexual crime.		
	A new and expanded Victims Charter was published in February 2020, see website www.victimscharter.ie . Detail on measures to further expand and enhance this website, with a view to better informing victims of their rights, are set out in the response to Recommendation 1.1.	Completed	DOJ (Transparency)
6.2	<p>An Garda Síochána should develop a Garda ACTIVE Mobility App that will advise Garda members of the information they should be providing to victims in accordance with the Criminal Justice (Victims of Crime) Act 2017.</p> <p>A business case to develop an App has been prepared for approval. The aim is to have it operational by Q3 2021.</p>	Q3 2021	AGS
6.3	<p>Establish a formal code of practice to govern the collection and disclosure of a victim's digital material and electronic data.</p> <p>Review by An Garda Síochána into the practice of the collection of such evidence in 2021.</p> <p>The Legal Aid Board will input into any code of practice as required.</p>	Scoping to be completed in relation to legislative requirements by Q1 2021	DOJ (Civil Legislation) LAB
6.4	<p>The range of offences to which Section 26(3A) of the Civil Legal Aid Act applies should be extended.</p> <p>See recommendation 6.5.</p>	Scoping to be completed in relation to legislative requirements by Q1 2021	DOJ (Civil Legislation) LAB
6.5	<p>Section 26(3A) Civil Legal Aid Act 1995 should further be amended to provide legal advice, in appropriate circumstances, to a parent, guardian or other responsible adult where the victim is a child or a person with a mental illness or intellectual disability.</p> <p>Carry out a scoping exercise to determine what legislative amendments are necessary in respect of these recommendations to be completed by 31 January 2021.</p>	Scoping to be completed in relation to legislative requirements by Q1 2021	DOJ (Civil Legislation), LAB

Information for Victims			
Recommendation Number	Action	Timeline	Responsible Function/ Department
6.6	A court familiarisation service should be available to all victims of sexual crime throughout the country who are due to appear as a witness in criminal proceedings.		
	Examination of what is necessary to implement this recommendation will be carried out by AGS in early 2021.	AGS Q1 2021	AGS, Courts Service ODPP NGO sector
	ODPP will examine how they deal with the explanation of restrictions in which the prosecution can interact with victims to ensure the integrity of proceedings as part of their overall information process for victims and consider whether any further information needs to be added by early 2021.	ODPP Q1 2021	
6.7	<p>All victims of sexual crime throughout the country should have access to personal support during criminal proceedings relating to the offence.</p> <p>Review the supports, including the grant funding available from the Department of Justice, to all victims of sexual crime throughout the country to be completed before the end of 2020.</p>	Q4 2020	DOJ (Criminal Policy and Funds Administration)

Intermediaries			
Recommendation Number	Action	Timeline	Responsible Function/ Department
7.1	A cohort of appropriately qualified intermediaries who have undergone a prescribed course of training on the role of intermediaries should be recruited and placed on a register.		
	<p>In response to recommendations 7.1 – 7.8</p> <p>Invite expressions of interest from 3rd level institutions to provide an appropriate training and accreditation for relevant professionals to be recognised as intermediaries in February 2021 with a view to having agreement in place with a third level institution by April 2021.</p> <p>Pilot, for 12 months, provision of the service in two areas (one urban Dublin area and one rural area) after which a costed plan would be prepared regarding extending the service throughout the State and details set out of any legislative amendments that are desirable.</p> <p>Engage with CORU and other relevant stakeholders to agree who would host the register and in relation to practical operational issues. Engagement will take place with the Courts Service in relation to access to the register.</p>	Q1 2021 and ongoing	DOJ (Criminal Policy) Courts Service ODPP
7.2	<p>The task of recruiting and training intermediaries should be undertaken by the Department of Justice or an appropriate state agency. It should be possible to draw upon experience and expertise in neighbouring jurisdictions in establishing a training programme and assessing persons for their suitability.</p> <p>See response to recommendation 7.1.</p>	Q1 2021 and ongoing	DOJ (Criminal Policy) Courts Service ODPP

Intermediaries			
Recommendation Number	Action	Timeline	Responsible Function/ Department
7.3	A cohort of appropriately qualified intermediaries who have undergone a prescribed course of training on the role of intermediaries should be recruited and placed on a register.		
	An adequate number of intermediaries should be appointed on a full-time basis. See response to recommendation 7.1.	Q1 2021 and ongoing	DOJ (Criminal Policy) Courts Service ODPP
7.4	Intermediaries, where needed, should be involved from the earliest stages of the criminal process and, in particular, should be available to assist at Garda interviews of victims, defendants or other potential witnesses who may be vulnerable. See response to recommendation 7.1.	Q1 2021 and ongoing	DOJ (Criminal Policy) Courts Service ODPP
7.5	Where at all possible, the same person should serve as intermediary in respect of a particular witness throughout the entire criminal process. See response to recommendation 7.1.	Q1 2021 and ongoing	DOJ (Criminal Policy) Courts Service ODPP
7.6	The role of the intermediary should essentially be an advisory one. The intermediary would advise legal representatives and the court as to the most appropriate way of questioning the witness. See response to recommendation 7.1.	Q1 2021 and ongoing	DOJ (Criminal Policy) Courts Service ODPP
7.7	Intermediaries may nonetheless, on occasion, be called upon to play a more active role at the questioning of a witness. See response to recommendation 7.1.	Q1 2021 and ongoing	DOJ (Criminal Policy) Courts Service ODPP
7.8	An administrative structure should be put in place to maintain a register of qualified intermediaries, to arrange for the recruitment of additional ones where needed, and to arrange for the assignment of intermediaries, as required and on a case-by-case basis, for Garda interviews and criminal trials. See response to recommendation 7.1.	Q1 2021 and ongoing	DOJ (Criminal Policy) Courts Service ODPP

Reducing Delay			
Recommendation Number	Action	Timeline	Responsible Function/ Department
8.1	<p>The Sentencing Guidelines and Information Committee should consider giving priority to drawing up a guideline on discounts for guilty pleas and also to sentencing guidelines for sexual offences.</p> <p>We will progress this recommendation in 2021.</p>	2021	Sentencing Guidelines and Information Committee Judicial Council
8.2	<p>A system of preliminary trial hearings should be established.</p> <p>Publish draft legislation on preliminary hearings before the end of December 2020.</p>	Q4 2020	DOJ (Criminal Legislation)
8.3	<p>Further empirical research should be undertaken on the processing of sexual offence cases to identify issue of delay.</p> <p>Include in the Department of Justice's research programme for 2021.</p>	2021	DOJ(Information Management)
8.4	<p>Any proposal for the appointment or allocation of additional judges to the criminal courts should be preceded by an assessment of the impact on victims participating in or attending sexual offence trials.</p> <p>Implement this recommendation in consultation with the Courts Service as a matter of course to ensure that courtrooms, court registrars etc. are available. Implementation of this recommendation will also involve consultation with the ODPP so that the issue can be raised at any pre-trial hearing.</p>	Ongoing	Courts Service

Training			
Recommendation Number	Action	Timeline	Responsible Function/ Department
9.1	All judges presiding over criminal trials for sexual offences and all lawyers appearing in such trials should have specialist training on experience of victims of sexual crime and questioning of witnesses who are especially vulnerable.		
	Training will be completed for members of the judiciary in 2021.	Judiciary 2021	Judicial Council
	Develop Bar of Ireland course of continuing professional development in line with the recommendations of the report. Develop and deliver this training between October 2020 and October 2021 and then on an ongoing basis thereafter.	Bar of Ireland Q4 2020 develop training and delivery thereafter	Bar of Ireland
	Examine and adapt Law Society training programme to facilitate the training recommendations in the report. Explore if the Annual Criminal Law Conference in March 2021 could provide the training.	Law Society Q1 2021	Law Society
9.2	It is recommended that the Judicial Studies Committee, established by the Judicial Council Act 2019, should consider providing such training for judges. Training will be completed for members of the judiciary in 2021.	End 2021.	Judicial Council
9.3	The Law Society of Ireland and the Bar Council should take steps as soon as possible to provide specialist training within existing CPD frameworks for solicitors and barristers, respectively, who deal in any professional capacity with victims of sexual crime.	Bar of Ireland Q4 2020	Bar of Ireland
	Provision of specialist training is addressed under 9.1 above.	Law Society Q1 2021	Law Society
9.4	The Law Society and the Bar Council will provide a list of solicitors and barristers, respectively, who have satisfactorily completed the prescribed course of specialist training. Require Bar of Ireland members to earn a certain number of CPD points in relation to the prescribed training on a regular basis. The Council will assume responsibility for the roll-out of mandatory training for members. The Bar of Ireland will consult with relevant stakeholders having regard to data protection legislation and case law in relation to right of a defendant to engage a solicitor of his or her choice in Q1 2021.	Q1 2021	Bar of Ireland Law Society

Training			
Recommendation Number	Action	Timeline	Responsible Function/ Department
9.5	All personnel in State Agencies who are likely to have to deal with victims of sexual crime should have appropriate training.		
	Develop specific proposals as part of the 3rd National Strategy on Domestic, Sexual and Gender-Based Violence, which will be in place by the end of 2021. The Department of Justice will lead on implementation	Q4 2021	DOJ (Criminal Policy) Legal Aid Board DPP
	Legal Aid Board will take measures to ensure all staff dealing with victims of sexual crime have appropriate training.	Ongoing and Q 4 2021 - DPP	DOJ (Criminal Policy) Legal Aid Board DPP
	The ODPP legal steering training committee continually reviews training requirements. Provide further training on sexual violence, including in intimate relationships, in the context of the establishment of the ODPP Sexual Offences Unit.	Ongoing and Q 4 2021 - DPP	DOJ (Criminal Policy) Legal Aid Board DPP
	The ODPP, in conjunction with the Law Society and the Bar Council, is assessing possibilities for an accredited training programme on vulnerable victims for legal professionals. This may also require the involvement of the Legal Service Regulatory Authority and the Honourable Society of Kings Inns. It is envisaged that this assessment process will take in the region of twelve months. Maintain existing training for staff, state solicitors and prosecuting counsel.	Ongoing and Q 4 2021 - DPP	DOJ (Criminal Policy) Legal Aid Board DPP
9.6	<p>The Minister for Justice should appoint a planning and implementation committee to develop a specialist training programme for legal professionals who deal with victims and other vulnerable witnesses in sexual offence cases.</p> <p>Implement this recommendation within the architecture of the next National DSGBV Strategy, which will be developed and in place by end-2021. Work has already commenced on addressing specific training needs that have been identified.</p>	Q4 2021	DOJ (Criminal Policy)

Training			
Recommendation Number	Action	Timeline	Responsible Function/ Department
9.7	All personnel in State Agencies who are likely to have to deal with victims of sexual crime should have appropriate training.		
	Measures, including an inspection system, should be put in place to ensure that all those who provide counselling, therapy and related services to victims of sexual crime have appropriate training.	RJS4C Q1 2021	D/Health HSE
	The professions of counsellor and psychotherapist are designated for regulation under the Health and Social Care Professions Act 2005 Act. Following its establishment in November 2018, the Counsellors and Psychotherapists Registration Board has begun the significant and complex body of work before the register can be opened and the title protected. The Registration Boards are working towards opening their registers, but it is not yet possible to indicate a date when the registers will open.		
	Continue mapping exercise to identify statutory and non-statutory agencies involved in the delivery of restorative justice which is currently being undertaken as part of the "Restorative Justice Strategies for Change" (RJS4C) cross-European project. Publish this information on the Department of Justice funded project website in January 2021.		
	Medical and nursing staff operating in Sexual Assault Treatment Units (SATUs), under the remit of the HSE, have completed post-graduate specialist education and there is an ongoing programme of Continuous Professional Development.		

Appendix 1

Implementation Group

Department of Justice

Marion Walsh, (Chair), Criminal Justice Service Delivery

Deaglán Ó Briain, Criminal Justice Policy

Laura Cooney, Criminal Justice Policy

Ross Wynne, Criminal Justice Policy

Antoinette Doran, Criminal Transparency

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Eddie O'Reilly, Department of Health

John Lohan, Department of Children, Disability, Equality and Integration (DCDEI)

Joan Mullan, Tusla

Declan Daly, C/Supt. An Garda Síochána

Dr. Ross Woods, Higher Education Authority

Neville Kenny, Department of Education and Skills

Noreen Landers, Office of the Director of Public Prosecutions

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Kevin O'Neill, Judicial Council

Kevin Fidgeon, Courts Service

Ursula Fernee, Probation Service



An Roinn Dlí agus Cirt
agus Comhionannais
Department of Justice
and Equality