June 2025

NWC Submission to the General Scheme of Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025

National Women's Council

Introduction

The National Women's Council (NWC) is the leading representative organisation working for women's rights and equality across the island of Ireland, founded in 1973. We work together with our almost 200 member groups across the island of Ireland and a growing community of individual supporters to deliver on our purpose – to achieve women's rights and equality. Our Vision is a feminist Ireland that is just and caring, where everyone thrives. Our Mission is to lead transformative action to achieve women's rights and equality through mobilising, influencing and building solidarity.

NWC chairs the National Observatory on Violence Against Women an independent network of over 37 grassroots and national organisations. Currently, NWC on behalf of the Observatory on VAW and in collaboration with Cuan is undertaking work to explore survivor structures for engagement in government policy.

NWC welcomes the opportunity to input in relation to the General Scheme of Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, particularly Parts 2, 5 (Head 19) and 12 (Head 39). We cautiously welcome this Bill, as it represents a progressive step towards safeguarding survivors' rights in court systems and address women's sexual exploitation. To operate as intended, we are calling for the legislation to be more survivor centred and trauma informed in order to have a victim centred justice system.

Part 2: Use of electronic technology in court proceedings

In 2023, NWC launched research on the Intersection of the Criminal Justice, Private Family Law and Public Law Child Care Processes in Relation to Domestic and Sexual Violence[1], emphasizing the need for a victim-centered approach in legal proceedings, and advocating for comprehensive reforms that address the unique needs of survivors. The report also highlights that victims often experience secondary victimization within the court system. Such experiences can deter victims from seeking justice and prolong delays that can jeopardise proceedings, cause serious disruption and distress to defendants and victims.

[1] Egan, N. and O'Malley Dunlop, E. (2023) A Report on the Intersection of the Criminal Justice, Private Family Law and Public Law Childcare Processes in Relation to Domestic and Sexual Violence. Department of Justice and the National Women's Council. Available at: https://www.nwci.ie/images/uploads/NWC_DoJ_DSV_Justice_Report.pdf

NWC welcomes measures improving the quality of evidence, without the witnesses of sexual crimes in particular being traumatised unnecessarily by their engagement with the criminal justice system[2]. The integration of technology to reduce the burden on survivors, such as enabling victims to give evidence or participate in hearings via video link or other remote technologies, is particularly welcomed, as well as optimising the delivery of justice by reducing the need for in-person appearances. It provides a valuable option for women for whom travelling to a court may be unsafe or unfeasible.

NWC Recommendations. Facilities and training for trauma informed uses of technology should be ensured across the country and those in contact with victim-survivors to facilitate a safe and effective use of technology for victims-survivors of DSGBV. Alternatively, adequate and accessible options should be provided.

Part 5. Head 19: Amendment of section 19A of Criminal Evidence Act 1992

As stressed by the Council of Europe report in respect of Ireland[3], the legal obligation for therapists and support services to disclose in court their therapy and counselling notes upon the request of the defence or the prosecutor reflect a lack of gendered understanding of violence against women. The access and disclosure of victim's personal information such a counselling notes and previous sexual history are used to discredit women as unreliable and untrustworthy witnesses, and clearly constitutes a disincentive for women to come forward and seek the needed help. The deletion of subsection (17) can lead to more scrutiny of the disclosure of counselling records, ensuring that they are only released when necessary and in the best interests of justice, as a step towards the protection afforded to individuals in legal proceedings, as the counselling records are not released without due process and careful consideration by the court.

NWC shares Dublin Rape Crisis Centre and One in Four's concerns[4] on this Bill, that need to be addressed in order to work as intended and lead to a more victim-centred criminal justice system (e.g. protecting the privacy of victims and survivors, safeguard their access to support, and remove rather than reinforce the barriers they face in seeking justice):

[2] Dublin Rape Crisis Centre (2019) Submission on the Development of a Long Term Strategy for Court Services. Available at: https://www.drcc.ie/assets/files/pdf/drcc_2019_submission-on-the-development-of-a-long-term-strategy-for-court-services_feb_2019.pdf

[3] Group of Experts on Action against Violence against Women and Domestic Violence (2023) GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Available at: https://rm.coe.int/grevio-s-baseline-evaluation-report-on-legislative-and-other-measures-/1680ad3feb

[4] https://www.drcc.ie/news-resources/cautious-welcome-for-announcement-on-counselling-notes/

- the new legislation risks creating additional delays to trials and this could dissuade victims and survivors from pursuing justice;
- the legislation only protects counselling notes, so all other relevant personal records belonging to survivors (e.g. medical records) can still be requested by the defence and are not covered;
- disclosure hearings can be very stressful for survivors and a victim-centred approach is needed.

NWC Recommendations. To ensure that this section operates as intended, the legislation should ensure it is not contributing to additional delays in trials. The legislation should be amended to expand protections beyond counselling notes to all other personal records belonging to victims-survivors, and it should embed a victim-centred approach to disclosure hearing process.

Part 12: Head 39: Amendment of Criminal Justice (Sexual Offences) Act 2017 - "Offences relating to offer of accommodation offered in exchange for sexual activity"

Head 39 introduces two new offences, the offering and advertisement a tenancy or a licence in exchange for engaging in sexual activity with another person in lieu of payment, criminalising the behaviour commonly known as "sex for rent".

Provisions encompass different rental agreements, including tenancy and "rent-a-room" situations, which take the form of licence arrangements, one of the most vulnerable groups renting in Ireland, with very limited rights. A welcomed distinction, as per NWC launched Research[5] in 2024 into Sex for Rent exploitation.

NWC is concerned that the application of the Criminal Justice (Sexual Offences) Act 2017, including section 45 has been limited overall, in terms of challenges in enforcement, very low prosecution numbers for public sexual misconduct offences and underreporting. Further research and data collection is necessary to comprehensively assess the impact of this provision and to further improve it for the implementation of this amendment, and tackle sex for rent exploitation overall.

NWC Recommendation. A review must be conducted to assess if these new provisions are working as intended, including the operation of this section on the safety and well-being of persons victim of sex for rent exploitation. A report should be produced and published.

NWC would be very pleased to discuss this submission in person should the opportunity arise to do so.

[5] National Women's Council (2024). 'Sex For Rent' An NWC Report on Sexual Exploitation and Sexual Harassment in the Rental Housing Market. Available at: https://www.nwci.ie/images/uploads/NWC_Sex_For_Rent_Research.pdf

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