Submission by the Data Protection Commission to the Joint Committee on Justice, Home Affairs and Migration on the General Scheme of the Criminal Law (Sexual Offences, Domestic Violence and International Instruments) Bill.

24 November 2025

The Data Protection Commission

The Data Protection Commission (DPC) is the independent national authority in Ireland responsible for safeguarding the fundamental right of individuals in the European Union to have their personal data protected. Established under the Data Protection Act 2018, the DPC is the Irish supervisory authority for enforcing and monitoring compliance with the General Data Protection Regulation (GDPR), the Irish e-Privacy Regulations, and the EU Law Enforcement Directive. Its mission is to protect data protection rights by driving compliance through guidance, supervision, and enforcement.

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Introduction

1. The Data Protection Commission (DPC) sincerely thanks the Joint Committee on Justice, Migration and Home Affairs ('the Committee') for the opportunity to make a submission on the General Scheme of the Criminal Law Bill 2025 ("the Bill").
2. The DPC would like to note that statutory consultation on the Bill under Article 36(4) GDPR and Section 84(12) of the Data Protection Act 2018 has been commenced by the Department of Justice, Home Affairs and Migration ("the Department") and engagement in this process is ongoing.
3. Observations made by the DPC in this Submission to the Joint Committee reflects the matters communicated to the Department in the consultation process to date, and aim to provide analysis on data protection implications arising from the Bill, focusing on ensuring compliance with EU and national data protection standards and protecting the fundamental rights of individuals.

General Observations

4. The Data Protection Commission welcomes the publication of the General Scheme of the Criminal Law (Sexual Offences, Domestic Violence and International Instruments) Bill 2025 (hereinafter "the Bill"), which addresses challenges in combatting domestic violence, sexual abuse, and gender-based violence within the Irish criminal justice system, and wider society. The Bill includes significant measures such as the establishment of a public Domestic Violence Register of Judgments ("Jennie's Law"), the strengthening of sexual consent provisions, and measures on information sharing

between An Garda Síochána and schools regarding children impacted by domestic violence incidents (Operation Encompass).

5. The Bill specifically provides for the processing of the personal data of persons convicted of domestic violence offences, by way of publication to a Register (Head 5), and enables An Garda Síochána to notify designated persons in schools when a domestic violence incident has occurred in a child's home to facilitate early intervention support (Head 6). These provisions represent an important initiative to protect vulnerable children and support those affected by domestic violence through coordinated safeguarding responses.
6. The DPC notes that where a legislative measure gives rise to the processing of personal data, it, "should be clear and precise and its application should be foreseeable to persons subject to it, in accordance with the case-law of the Court of Justice of the European Union (the 'Court of Justice') and the European Court of Human Rights", (Recital 41 GDPR). Additionally, such a legislative measure, "shall meet an objective of public interest and be proportionate to the legitimate aim pursued", (Article 6(3) GDPR).

Heads of the General Scheme: Key Data Protection Observations

Head 5: Domestic Violence Register of Judgements

7. Head 5 of the Bill provides for the creation of a Register of Judgments in relation to Domestic Violence. This will entail the publication of Court judgments with regard to sentencing, at the discretion of the Court, where a person is convicted of one or more of the offences scheduled in Head 5.
8. The publication of details of criminal convictions and sentencing in a Register represents a high level of intrusion upon the rights and freedoms of the affected person, and in order for the processing of this personal data to be lawful it must be established that it meets a substantial objective of public interest and is proportionate to the pursuit of same. The DPC notes the critical importance of a clear articulation of the overriding public interest that justifies the processing and publication of personal

data concerning convicted offenders on the register, when balanced against the rights, freedoms and interests of the offender and society, as represented by the public interest. It is noted that the Register will record only certain criminal acts/ convictions, namely those set out in the legislation.

9. The Department's explanatory note to Head 5 advises that the public interest objective behind the creation of the Register is derived from "Zero Tolerance: Third National Strategy on Domestic, Sexual & Gender-Based Violence 2022-2026" of the Government of Ireland, and from Ireland's commitments under the Istanbul Convention of the Council of Europe on preventing and combating violence against women and domestic violence. The Register will ensure that relevant convictions for serious domestic violence offences are effectively made public to assist people who are in or considering entering into a relationship with a person to ascertain whether they have a history of domestic violence convictions.
10. The creation of the Register will require the processing of personal data of the convicted person, which falls under Article 10 GDPR: "Processing of personal data relating to criminal convictions and offences". Article 10 provides that:

> *"Processing of personal data relating to criminal convictions and offences or related security measures based on Article 6(1) shall be carried out only under the control of official authority or when the processing is authorised by Union or Member State law providing for appropriate safeguards for the rights and freedoms of data subjects. Any comprehensive register of criminal convictions shall be kept only under the control of official authority."*

The provision of safeguards for the rights and freedoms of affected persons (including perpetrator, victim and potential victim(s) of the proscribed criminal acts) will be central to the lawfulness of data processing in the Register, and the determination of the proportionality of entries to and publication on the Register.

11. The DPC notes that while the Register will contain the personal data of the offender, there is considerable potential for the public identification of the victim following publication, and further serious impact in their own lives. We welcome, therefore, the requirement that victim consent be obtained prior to publication, where possible, as a protective measure for their rights and freedoms. It will be important to ensure that any consent obtained from the victim will reflect a voluntary, informed decision made with full understanding of consequences and risks that may arise from their being identified as a result. Setting out the conditions under which the victim's identity might be safeguarded will be important in allowing victims make an informed decision in this respect.
12. The DPC also recommends that a mechanism for victim withdrawal of consent be considered for addition to the provisions of Head 5. It is foreseeable that in certain situations, adverse outcomes may arise for victims after publication, and for the safeguard of consent to be meaningfully effective, they should be facilitated in withdrawing it.
13. With regard to the safeguarding of the rights of both the convicted offender and the victim, the DPC notes the proposal that the Court will have discretion as to whether a judgement should be published, and that conviction will not automatically lead to publication of personal information on the Register. This discretionary approach will assist in ensuring that publication is proportionate, by reflecting the individual circumstances, the sensitivity of the case, and the competing interests at stake on a case-by-case basis.
14. The DPC notes the provision of a procedure allowing a convicted person to apply to the Court for removal of their judgement after three years, assessed against rehabilitation efforts or any subsequent convictions, as well as the position and views of victim. This reflects important data protection considerations, principally that personal data processing should be necessary and proportionate to achieve the intended purpose, and should cease if the purpose no longer pertains.
15. There are additional, operational details regarding the Register that will need to be addressed in due course, such as the technical specifications around publication.

Noting that the purpose of the Register is identified as being to assist people who are in or considering entering into a relationship with a person to ascertain whether they have a history of domestic violence convictions, consideration should be given to technical measures to prevent the obtaining of Article 10 personal data of offenders by web-scraping of an online publication. We note in this regard that once personal data is captured on-line, it can be technically difficult to remove it, particularly if URL links with the personal data proliferate.

16. In general terms, the Register must comply with the foundational data protection principles of lawfulness, fairness, transparency, purpose limitation, data minimisation, accuracy, integrity, and confidentiality. The DPC notes, in this regard, that in the operation of the Register the DPC will not be the Supervisory Authority, but rather the Assigned Judge under the provisions of Section 157(1) of the Data Protection Act, 2018, - this being the named judge assigned by the Chief Justice as competent for supervision of data processing operations of the courts when acting in their judicial capacity.

Head 6: Information Sharing with Schools (Operation Encompass)

17. Head 6 introduces provisions to allow An Garda Síochána (AGS) to notify a designated contact person in a school that a domestic violence incident may have occurred in the household of a child attending that school, for the purpose of protecting the rights and welfare of the child. As per the Department's explanatory note, the public interest to be served by the processing of personal data under Head 6 is to implement Operation Encompass, an early intervention strategy to support children affected by domestic abuse.
18. The DPC notes that Head 6 uses the discretionary term "may notify", which creates ambiguity regarding the threshold or criteria that would trigger AGS to make a notification to a school. Effective implementation of this provision will require clear, transparent guidance to AGS members on when notification should occur. The DPC is of the view that it would be preferrable if application of this provision was consistent to child victims and not exercised wholly on the basis of individual member discretion.

19. The DPC further notes that Head 6 addresses the sharing of information relating to incidents that "may have occurred," meaning that AGS may be sharing data based on allegations or reports rather than confirmed incidents. The Bill or accompanying guidance should clarify that information shared must be accurate and up-to-date, and that corrections or clarifications should be communicated to schools.
20. In terms of the operation of this legal mechanism, the DPC notes that once AGS shares information with a school, the school becomes a separate data controller responsible for compliance with data protection law regarding that information. The DPC advises that schools must be instructed, likely through policy or circular, that this information must be handled with the utmost security and confidentiality and only disclosed to those who have a legitimate reason to be provided with the information, as the rights and freedoms of the child victim must be respected. Technical measures should ensure that the child's digital profile should not be associated with the collection, publication or storage of their personal data related to an offence, particularly once the child leaves the school in question, at which point the relevant data should be securely deleted.
21. Schools must implement robust technical and organisational measures commensurate with the sensitivity of the data, including secure storage, restricted access, and encryption where appropriate. Confidentiality obligations, access restrictions, policy and training should be some of the safeguards to be implemented.
22. While Head 6 requires only that the name of the child, and that a domestic violence incident may have occurred in the household, there should be consideration given to the rights and freedoms of parents, guardians, or other third parties who may be identified depending on the context of a specific situation, and any other information that may be known to the school. Such third parties may seek to exercise their own, or the child's, right under Article 15 GDPR to request access to personal data held by the school concerning the domestic violence incident and/ or separate GDPR rights including the right to rectification or erasure under Article 19 GDPR. Schools must be prepared to handle such requests appropriately, balancing the right of parents to access data with the legitimate safeguarding interests of the child and other parties.

23. The DPC notes the importance of clear retention periods for information held by schools. The principle of data minimisation requires that personal data be retained only for as long as it is necessary to achieve the legitimate purpose. The Bill or accompanying guidance should include defined retention periods as well as procedures for secure deletion and exceptions for mandatory retention, most particularly once the child leaves the school.

24. Head 12: "Child pornography" to be construed as "child sexual abuse material"

25. Head 12 of the Bill introduces a general provision to ensure that references to "child pornography" in any enactment, legal proceedings or other document shall be construed as references to "child sexual abuse material".

26. The DPC welcomes this provision, which will align the use of this terminology with the relevant international and European legal instruments, such as the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (also known as the Lanzarote Convention), and the most recent Commission proposals to combat child sexual abuse and child sexual exploitation at European level. Actions to combat the creation and distribution of child sexual abuse material by law enforcement agencies, online digital service providers, and other organisations can entail a significant amount of personal data processing, and this alignment will contribute to a consistent and harmonised understanding of the relevant terminology in the application of the national, European, and international law.

27. Conclusion

28. The DPC's focus in examining the General Scheme of the Criminal Law (Sexual Offences, Domestic Violence and International Instruments) Bill 2025 is on those provisions that relate to the processing of personal data, and identifying requirements to ensure that any such processing is compliant with the data protection legislative frameworks.

29. The DPC will continue in consultative engagement with the Department on the further preparation of the Bill, and on any resulting guidance, policies etc… to assist in ensuring the lawful, fair, and transparent processing of personal data.
30. The DPC again thanks the Committee for inviting its submission on the General Scheme and remains available to provide any clarifications or further assistance as may be required by the Committee in its deliberations.