Safe Ireland Submission to Joint Committee on Justice, Home Affairs and Migration on the General Scheme of the Criminal Law (Sexual Offences, Domestic Violence and International Instruments) Bill 2025

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1. About Safe Ireland

Safe Ireland National Social Change Agency works to eradicate Domestic, Sex, Gender and Sexuality-Based Violence (DSGSBV) in Ireland.

We have four distinct functions:

1. Investigate causes and effects of domestic, sex, gender and sexuality-based coercion and violence (DSGSBV) to engage/advance government strategy, policy, practice and provision responses in Ireland
2. SURVIVORS: develop and deliver best frontline refuge, support and community-based services to victim-survivors
3. SERVICES: support the coordination and development of the SI Network in sustaining skilled community-based pathways out of abuse.
4. SECTOR: proactively engage with government strategy, policy, practice and provision to enhance civil society and local community response-capacities

This is achieved through collaborations with our network of affiliated independent frontline DV services; national and local government; local communities; professionals; public bodies; academic institutions; philanthropists; and corporate partners.

There are thirty-seven DV affiliate organisations in Safe Ireland's Network. Each deliver a range of services; national and local crisis helplines, information/advocacy, crisis-refuge and move-on accommodation, Garda / Court accompaniment, immediate emergency supports/ Welfare advice, Adult and Child emotional/therapeutic support.

Our core strategic focus is to create meaningful pathways out of coercive control and transform social responses to sex, gender, and sexuality-based violence in all communities*. Safe Ireland prioritises the safety of women, girls and boys.

**Safe Ireland engages with all identity/issue/geographically based communities in responding to DSGSBV, as it presents.*

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2. Introduction

Safe Ireland welcomes the General Scheme of the Criminal Law (Sexual Offences, Domestic Violence and International Instruments) Bill 2025 as a meaningful opportunity to strengthen protection, prevention and accountability in domestic, sexual, and gender-based violence (DSGBV). In particular, we recognise the intention behind Head 5 to create a public Register of Judgments following convictions on indictment for serious domestic violence related offences, and Head 6 to allow for information sharing between An Garda Síochána and schools in relation to domestic violence incidents.

However, we identify significant gaps in the General Scheme that risk limiting its effectiveness. In this submission, we provide observations and recommendations which aim to ensure the legislation delivers meaningful protection for survivors while

supporting Ireland's obligations under the Istanbul Convention, the EU Directive 2024/1385, and the commitments of the Third National Strategy on DSGBV.

Our submission focusses on:

- Part 3, Chapter 1 of the General Scheme → Head 5 on the insertion of a new Part 5 in the Domestic Violence Act 2018 (i.e. Domestic Violence Register).
- Part 3, Chapter 2 of the General Scheme → Head 6 on the insertion of new section 58 in the Domestic Violence Act 2018 (i.e. Information sharing with schools).
- We also provide a brief statement on other provisions in the General Scheme.

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3. Head 5: Domestic Violence Register

Head 5 of the General Scheme seeks to create a publicly accessible Register of Judgments ("the Register") in relation to convictions on indictment for scheduled domestic violence-related offences, published by the Courts Service. The Register has the potential to be a powerful tool for transparency, and an effective means of affirming societal condemnation of DSGBV while supporting the Prosecution Pillar of the Third National Strategy. Moreover, naming the perpetrator may serve as a deterrent to future abuse.

However, Head 5 has critical limitations when viewed from the perspective of survivor protection, prevention and international human rights standards, including the Istanbul Convention. As a result, it falls short of delivering meaningful protection for survivors and potential future victims – especially children and new partners. Our central recommendation is to keep the public Register workable, and to create a separate, risk-based, restricted-access Domestic Violence Disclosure Scheme to protect those at demonstrable risk.

3.1. Scope of "Relevant Person"

3.1.1. Observation

It is critical that the Register has real operational consequences and is fully reflective of the issue of DSGBV in Ireland. However, the definition of "relevant person" under Head 5 excludes children and adult dependents, both of whom are often victims of domestic violence. Their exclusion from this definition will undermine the Register's protective capacity. It also is a missed opportunity to deliver on the Third National Strategy's Protection Pillar, the aim of which is to "ensure that victims/survivors (adults and children) have access to safety, support and advocacy" (p.27).

3.1.2. Recommendation

We recommend expanding the definition of "relevant person" to include dependent persons of the survivor, such as children and adult dependents, ensuring convictions for offences against these vulnerable individuals are accurately captured. In the alternative,

these individuals should be included in our proposal for a Domestic Violence Disclosure Scheme (see section 3.3). This aligns with the Protection Pillar commitment to recognise children as victims (Zero Tolerance Strategy, pp. 20, 27, 29) and with the Implementation Plan's child-centred actions (pp. 38-39, 60).

3.2. Scope of "Relevant Offences"

3.2.1. Observation

The current list of "relevant offences" under Head 5 excludes offences which are strongly linked to coercive control and DSGBV escalation, such as breaches of civil orders, stalking and harmful communications. These omissions risk presenting an incomplete picture of domestic violence offending and undermine the Register's stated purpose of enabling individuals to assess risk in intimate relationships. While these offences are often prosecuted summarily, they represent serious patterns of abuse and are recognised as domestic violence indicators.

3.2.2. Recommendation

We recommend expanding the definition of "relevant offences" to include high-risk offences, specifically:

- Section 2 of the Harassment, Harmful Communications and Related Offences Act 2020 (distributing, publishing, sharing or threatening to share intimate images without a person's consent with the intent to cause harm or being reckless as to whether harm is caused).
- Section 4 of the Harassment, Harmful Communications and Related Offences Act 2020 (distributing, publishing or sending threatening or grossly offensive communication to another person, with the intent to cause harm)
- Section 10 of Non-Fatal Offences Against the Person Act, 1997 (harassment and stalking)
- Section 33 of the Domestic Violence Act 2018 (breaches of civil orders under sections 6 to 10 of the Domestic Violence Act 2018).

Including these offences will ensure the Register accurately reflects the continuum of domestic violence in Ireland and provides meaningful protection. It also directly supports the Prosecution Pillar outcomes of accountability and transparency (Third National Strategy, p. 46) while drawing on the justice sector data improvements in the Implementation Plan (pp. 55-57).

If proportionality concerns arise, in the alternative, we propose a tiered model:

- Tier 1: Indictable offences – full sentencing remarks published.
- Tier 2: High-risk summary offences – limited disclosure (offender name and offence type only).

If public disclosure of summary offences is not possible, these offences should at minimum be captured within the proposed Domestic Violence Disclosure Scheme (see section 3.3 below).

3.3. Domestic Violence Disclosure Scheme

3.3.1. Observation

While the General Scheme aims 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" (p. 10), it limits the Register to criminal "judgments" and omits determinations made by the courts on civil orders under sections 6–10 of the Domestic Violence Act 2018. This exclusion risks further marginalising survivors of domestic violence by rendering invisible a major category of court decisions that are often the only formal record of serious and ongoing risk.

It is critical to address the major blind spot of the General Scheme where perpetrators are subject to safety/barring/protection orders. Civil orders are granted only after a court assesses evidence and risk, so their existence should lawfully inform any method of disclosure or publication.

3.3.2. Recommendation

Note: the following recommendations are framed to comply with the current *in camera* requirements. However, we note that the Department of Justice's report on the *in camera* rule (May 2025) highlights serious transparency and access-to-justice concerns, ultimately recommending primary legislation to modernise the rule (p. 219). We strongly support these reforms in parallel with this Bill.

We recommend the inclusion of a statutory duty for proactive risk-based disclosure to potential victims in high-risk cases, so that civil orders, criminal records and other risk indicators are considered together rather than in isolated silos. This may act as a restricted-access disclosure scheme similar the Domestic Violence Disclosure Scheme (DVDS), ("Clare's Law"), which allows:

- Individuals or concerned third parties (e.g. family members) to request information from police about a partner's history of violence ("right to ask"), and
- Police to proactively disclose where there is a credible risk of harm, ("right to know").

We suggest that the Register serve as a public accountability record, while this separate disclosure scheme allows for protective, confidential disclosures to those demonstrably at risk, thereby creating a more robust, comprehensive framework to address the complexities of DSGBV, while balancing survivor safety, access to justice, and perpetrator accountability. A disclosure scheme complements the Prosecution Pillar by ensuring that justice outcomes translate into real-world protection for those at risk. It also supports the Implementation Plan's explicit commitment to develop "an appropriate domestic violence

disclosure scheme" to "ensure a person in an intimate relationship can be informed of a serious risk to them where a new partner has a history of domestic violence (Action 3.6.2, p. 50).

3.4. Consent Requirement

3.4.1. Observation

The General Scheme requires victim consent before a judgment can be published on the Register. Mandatory victim consent supports survivor autonomy and privacy, but risks limiting effectiveness where consent cannot be safely given. For instance, victims may feel unable to consent due to fear of retaliation, ongoing coercive control, or reputational concerns, particularly in small communities.

3.4.2. Recommendation

We recommend that consent should remain the default position, but in exceptional circumstances where consent cannot be obtained, and public safety is at stake, decisions should be guided by:

- Clear statutory criteria based on necessity, proportionality, and public safety;
- Multi-agency risk assessments; and
- Victim notification and support.

By legislatively embedding this nuanced consent framework with risk assessment and survivor-centred supports, the legislation can effectively balance public safety, transparency, and individual rights.

3.5. Definition of Judgment

3.5.1. Observation

The term "judgment" is not clearly defined in Head 5. This lack of clarity risks disclosure of sensitive material and inconsistent implementation in the Register.

3.5.2. Recommendation

We recommend that "judgment" is defined as sentencing remarks only. In other words, it should exclude trial transcripts, factual findings, procedural commentary and sensitive personal information, including victim impact statements, medical/psychological evidence, and child-related details. To strengthen this safeguard, a statutory requirement should be introduced mandating the anonymisation of victims, children, and third parties in any published judgment.

3.6. Removal of Judgments

3.6.1. Observation

As proposed, Head 5 allows for a convicted person to apply after three years for the removal of their judgment from the Register. Experience from domestic violence cases shows that perpetrators often manipulate legal processes to maintain control through, for example, repeated adjournments and/or exploiting the confidentiality of *in camera* proceedings. In the context of applications to remove judgments from the Register, some perpetrators may present superficial indicators of rehabilitation or exert pressure on survivors to support their application, thereby undermining the protective function of the Register. Allowing unrestricted or frequent applications for removal could create opportunities for procedural harassment, forcing victims to re-engage with the justice system unnecessarily and risking re-traumatisation.

3.6.2. Recommendations

Keeping judgments on the Register for a meaningful period reflects the Prosecution Pillar's focus on sustained accountability. Therefore, in line with the Government's objective of ensuring "perpetrators of DSGBV are held to account and prevented from victimising/re-victimising" (Third National Strategy, p. 46; Implementation Plan, p. 52), we recommend replacing the removal provision under Head 5 with the following principles:

1. Minimum five years post-sentence before first application.
2. Three-year gap between applications unless exceptional circumstances exist.
3. Court should consider public safety, victim views, and risk assessment reports.
4. Empower courts to dismiss vexatious applications and award costs.

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4. Head 6: Information sharing with schools

We welcome the inclusion of a statutory requirement for information sharing between An Garda Síochána and schools following domestic violence incidents. Head 6 represents an important step toward early intervention and child protection. However, the current drafting of Head 6 is limited in scope, risks inconsistent practice, and does not fully align with Ireland's obligations under EU Directive 2024/1385 and the Istanbul Convention. In essence, Head 6 creates a very broad disclosure power for An Garda Síochána to tell a school that a domestic violence incident "may have occurred" and to share the child's name with their school, with almost no statutory safeguards, definitions, timelines, or governance.

4.1. Children as Direct Victims of DSGBV

4.1.1. Observation

Head 6 treats children as indirectly affected by domestic violence, with no trauma-informed follow-up or referral pathways being mandated to support and protect them. This framing minimises the profound psychological and developmental harm that witnessing or experiencing coercive control, threats, or physical violence inflicts on children. EU Directive 2024/1385/EU (at para 13) recognises the following:

> "Due to their vulnerability, witnessing domestic violence can be devastating for children. Children who witness domestic violence within the family or domestic unit typically suffer direct psychological and emotional harm that impacts their development and run an increased risk of suffering from physical and mental illness, both in the short and long term. The acknowledgment that **children who have suffered harm caused directly by having witnessed domestic violence are themselves victims** marks an important step in protecting those children suffering because of domestic violence."

In addition, both the Third National Strategy and the Implementation Plan continuously reference engagement with "victim-survivors, including children", and explicitly state the objective of recognising and supporting children/young persons "as an individual victim-survivor who experiences DSGBV" (Third National Strategy, p. 29; Implementation Plan, p. 35).

4.1.2. Recommendation

We would therefore like to take this opportunity to advocate that we must recognise, in law, that children are victims, in their own right, when they see, hear or experience the effects of domestic violence. Notably, the UK has already legislated for this status and has coupled it with Operation Encompass. In addition to this recommendation, several targeted amendments to strengthen Head 6 are suggested below.

4.2. "Domestic Violence Incident Involving a Child"

4.2.1. Observation

Head 6, as currently drafted, covers "a domestic violence incident involving a child". There lacks clarity on what exactly is meant by this phrase.

4.2.2. Recommendation

We recommend that the "domestic violence incident involving a child" is defined to include the following:

- Where a child has been directly involved in an incident of domestic violence;

- Where a child has witnessed an incident of domestic violence;
- Where a child resides at the address where the incident occurred, even if not present at the time; and
- If the child is not present at the time of incident, due to being temporarily or permanently residing elsewhere.

4.3. Trained Designated Recipients

4.3.1. Observation

In its current form, Head 6 only ensures that a school is made aware that a domestic violence incident may have occurred – there is no legal obligation to act beyond awareness. Without a structured follow-up, this section risks being symbolic rather than substantive. In contrast, for Operation Encompass, police notifications must only be shared with a trained "Key Adult" in the education settings.

4.3.2. Recommendation

We recommend that the legislation include a requirement that disclosure must be given to a designated trained person e.g. a "Designated Liaison Person" (to use language from Tusla's Children First) or equivalent "Designated Safeguarding Lead" from the school, with documented training in trauma-informed practice.

4.4. Content of Disclosure

4.4.1. Observation

The current wording of Head 6 limits disclosure to "the name of the child concerned" and that "a domestic violence incident may have occurred." This is too narrow for schools to act meaningfully. In November 2025, the UK Home Office published a process evaluation of Operation Encompass. In this report, it was found that minimal context impedes appropriate support. For example, it was reported that a "lack of detail sometimes left staff feeling unprepared or that they needed more information before engaging a child".

In the same month, the Home Office published its statutory guidance for policing on Operation Encompass. This requires that the following details to be disclosed by police (p.13-14): name, date of birth and protected characteristics of the child (e.g. disability, race, religion etc); relationship to victim/perpetrator; police reference number; the location, time and date of incident; whether the child was present; the voice of the child; and the context and circumstances of the incident, including whether an arrest was made.

4.4.2. Recommendation

We recommend that the legislation empower the Minister to prescribe a concise set of data points by regulation to support safeguarding, including name and date of birth of

the child, police reference number, date, time and location of the incident, whether the child was present, and the voice of the child (in line with the Third National Strategy, p. 28-29; and the Implementation Plan, Action 4.7.1).

4.5. Governance, Monitoring and Data Protection

4.5.1. Observation

The Home Office review of Operation Encompass also highlighted that, in the absence of clear guidance, police forces adopted inconsistent approaches to data protection. The current statutory guidance on Operation Encompass (p.15) explicitly requires compliance with all applicable data protection laws.

4.5.2. Recommendation

We recommend that the legislation require the following:

- Confidential recording of all disclosures;
- Defined retention schedules for records;
- Staff vetting and secure transmission channels;
- Regular audits to ensure compliance;
- Oversight by Cuan, with anonymised data reporting for system monitoring; and
- Full alignment with GDPR, the Law Enforcement Directive 2016/680, and Children First principles.

This reflects the Third National Strategy's goal of providing a "fully comprehensive, co-ordinated, authoritative, monitored and evaluated response to DSGBV" (p. 46). It also is aligned with the Implementation Plan's aim to "ensure commonality of approach to the collection and sharing of data across the Justice Sector" (Action 4.3.3, p. 56).

4.6. Parallel Tusla Reporting

4.6.1. Observation

The statutory guidance on Operation Encompass (p. 4) stipulates that it does not "replace duties and responsibilities" set out in existing statutory guidance on safeguarding children, and it does not replace a safeguarding referral, adding that "anyone who has concerns about a child's welfare should make a referral to local authority children's social care" (p. 5).

4.6.2. Recommendation

We recommend that the legislation clarify that Garda notifications to schools occur alongside mandatory notifications to Tusla.

4.7. Delivery Deadlines

4.7.1. Observations

Head 6 does not specify when Gardaí must notify schools. However, Article 50 of the Istanbul Convention requires timely and coordinated responses. In contrast, the expectation for Operation Encompass is that notifications should reach schools "before the start of the next school day". According to the Operation Encompass statutory guidance document, "timeliness is key to making an effective Operation Encompass notification" (p. 12). Timeliness improves wraparound care for children by allowing schools to respond early to signs of trauma, stress or changes in behaviour. Without a statutory timeframe, the effectiveness of early intervention will be compromised.

4.7.2. Recommendations

We propose adding a statutory timeframe for Garda notifications to schools (e.g., "as soon as practicable and no later than the start of the next school day"), aligning with Operation Encompass and Article 50 of the Istanbul Convention.

4.8. Early Years and EOTIS Settings

4.8.1. Observation

Head 6 does not extend to early years settings. In 2022, the UK piloted an "Early Years" Operation Encompass scheme, allowing police to share information with health visitors, nursery staff and childminders in relation to children under 4 years old. The pilot found that found that notifications to health visitors and childcare settings identified previously unknown domestic abuse in 62% of cases and enabled earlier safeguarding interventions for children under five. At present, Operation Encompass is being prepared for extension to childcare through Section 49B of the Domestic Violence Act 2021.

Operation Encompass statutory guidance also explicitly addresses children who are home educated or missing education (p. 9). It states that where a child is not enrolled in a school or is educated other than in an educational setting, notifications must be made to the relevant local authority. This ensures that safeguarding responsibilities are triggered even when the child does not attend a registered school.

4.8.2. Recommendation

We recommend legislative inclusion of early years settings and children EOTIS (Educated Other Than in School) in Head 6. This will close a critical gap, ensure timely support for all infants, and for children, regardless of their educational setting. It will also align Ireland with international best practice under the Istanbul Convention, which emphasises early intervention for child victims of domestic violence.

5. Summary of Recommendations

Head 5

1. Maintain Head 5 as a public, anonymised register of sentencing remarks only.
2. Expand list of "relevant offences" to include those closely connected to DSGBV escalation and coercive control (stalking, harassment, harmful communications and breaches of civil orders).
3. Create a new statutory Domestic Violence Disclosure Scheme, with the "right to ask" and "right to know".
4. Keep victim consent as the default and permit judicial discretion to publish where it is considered necessary for public safety.
5. In the removal provision, replace "three years from conviction" with "five years from completion of sentence," introduce a three-year interval between repeat applications, and allow courts to reject vexatious applications with costs.

Head 6

1. Define 'affecting or involving a child' to include witnessing, residing at the address even if not present, and temporarily or permanently living elsewhere.
2. Send notifications only to the school's designated person (e.g. "Designated Liaison Person") with documented training.
3. Require timeliness of notifications e.g. as soon as practicable and no later than the start of the next school day.
4. Empower the Minister to prescribe, by regulation, a concise minimum information set to provide context and support safeguarding.
5. Mandate confidential recording, retention schedules, and annual audits, with anonymised system monitoring by Cuan.
6. Confirm parallel Tusla notification obligations within Children First policies.
7. Extend notifications to registered early years settings and, for children educated other than in school, to the relevant local authority or Tusla Educational Support Service.

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6. Other Observations on the General Scheme

- Sexual Offences (Part 2): We welcome reforms to consent standards and urge swift implementation to maintain consistency across sexual offences.
- We also support the Heads that give effect to Directive 2024/1385 on violence against women and Directive 2024/1712 on trafficking, including removing dual criminality in specified offences and criminalising the knowing use of services provided by a trafficking victim. This aligns domestic law with EU standards and the Istanbul Convention, and it strengthens protection for women and children

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7. Conclusion

The Criminal Law (Sexual Offences, Domestic Violence and International Instruments) Bill 2025 represents an important legislative step within Ireland's broader commitment to Zero Tolerance under the Third National Strategy on DSGBV. Safe Ireland welcomes its intent, but as drafted, the General Scheme falls short of delivering real safety for women and children. To meet the commitments of the Third National Strategy, and our obligations under EU Law and the Istanbul Convention, the legislation must do the following:

- Strengthen the Register so it is workable and protective: expand the scope of offences and persons covered, clarify definitions, embed victim consent with safeguards, and introduce a risk-based disclosure mechanism alongside the public register.
- Ensure meaningful information sharing with schools: define what "involving a child" means, require trained designated recipients, set minimum data and reporting standards, and mandate timely notifications with governance and oversight.

If adopted, these changes will close gaps that leave survivors vulnerable, uphold Ireland's Third National Strategy and international obligations, and create a system that prioritises safety, accountability, and informed decision-making.

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