

Submission on the General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill

Irish Human Rights and Equality Commission

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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

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Recommendations

Introduction

1. The Commission recommends that the DSGBV Agency Bill include a long title or preamble which sets out the human rights and equality framework by which the State is bound.¹

Ensuring a Victim/Survivor Centred Agency

2. The Commission recommends the immediate revision of refuge accommodation commitments in the Third National Strategy with a view to expanding its capacity to comply with the Council of Europe standards.
3. The Commission recommends that Head 14(b) be amended to provide that the Agency will ensure that the provision of such refuge accommodation will take into account the needs of structurally vulnerable victims.
4. The Commission recommends that Part 5 of the General Scheme be amended to include provision to ensure that service providers take measures to ensure the accessibility of specialist support services to structurally vulnerable groups.
5. The Commission recommends that Head 14(c) be amended to include an additional subsection providing that the Agency shall ensure standards for service provision and governance in respect of the services and accommodation referenced at (a) and (b) have due regard to the Public Sector Equality and Human Rights Duty.
6. The Commission recommends that Head 14, which assigns responsibility for domestic violence shelters to the Agency, be expanded further to explicitly include a shelter for victims of trafficking who have been subjected to gender-based violence, at a minimum this will include female victims of trafficking for the purposes of sexual exploitation.

¹ [Draft General Scheme of a DSGBV Agency Bill](#), Department of Justice (March 2023)

Public Sector Equality and Human Rights Duty

- 7.** The Commission recommends that Head 27 be amended to provide that a multiannual performance framework must be developed with regards to the obligations of the Public Sector Equality and Human Rights Duty.
- 8.** The Commission recommends that Head 28 be amended to provide that a corporate plan shall, in accordance with the Public Sector Equality and Human Rights Duty, set out an assessment of the human rights and equality issues the Agency believes to be relevant to the functions and purpose of the Agency and the policies, plans and actions in place or proposed to be put in place to address those issues.
- 9.** The Commission recommends that Head 29 be amended to provide that an annual statement must be developed with regards to the obligations of the Public Sector Equality and Human Rights Duty.
- 10.** The Commission recommends Head 31 (2) be amended to provide that an annual report shall, in accordance with the Public Sector Equality and Human Rights Duty, include a report regarding the developments and achievements in relation to the Agency's policies, plans and actions to address the human rights and equality issues the Agency believes to be relevant to the functions and purpose of the Agency.
- 11.** The Commission recommends that an additional subsection be added under Head 11(1) to state that the Chief Executive is required to have regard to the Public Sector Equality and Human Rights Duty in performing the functions of their role.
- 12.** The Commission recommends that an additional subsection be added under Head 13 to state that the members of staff of the Agency are required to have regard to the Public Sector Equality and Human Rights Duty in the performance of their functions.
- 13.** The Commission recommends that an additional subsection be added under Head 14(2) to state that the Agency is required to have regard to the Public Sector Equality and Human Rights Duty in the performance of its functions.
- 14.** The Commission recommends Head 17 be amended to state that the Board is required to have regard to the Public Sector Equality and Human Rights Duty in the performance of its functions.

15. The Commission recommends that the State take steps to ensure public bodies bound by the Public Sector Equality and Human Rights Duty include equality and human rights obligations in agreements with contractual partners, in order to prevent rights violations in outsourced public functions.

Data Collection

16. The Commission recommends that Head 14(1) be amended to provide that the Agency will be responsible for developing and overseeing a comprehensive statistical database containing robust data on DSGBV which is compliant with the State's obligations under Article 11 of the Istanbul Convention.
17. The Commission recommends that the statistical database be routinely audited for completeness against international instruments and best practice guidance.²
18. The Commission recommends that the Agency prioritise the improvement of clear disaggregated equality data on violence against women and girls, including data on disability, ethnic status and human trafficking.
19. The Commission recommends that the State work with stakeholders to develop a comprehensive statistical database containing robust data on DSGBV from different administrative sources.

Specific Observations on the General Scheme:

Interpretation (Head 2)

20. The Commission recommends that a full and comprehensive but open-ended definition of Domestic, Sexual, and Gender-Based Violence that includes elder abuse and abuse of disabled people in institutional settings, and by professional caregivers in the home, should apply to the Agency and its functions. The State should

² See: European Institute for Gender Equality (EIGE), [EIGE's indicators on intimate partner violence, rape and femicide: EU state of play](#) (2021); United Nations, [International Convention on the Elimination of All Forms of Racial Discrimination](#) (1965); United Nations, [Convention on the Elimination of All Forms of Discrimination Against Women](#) (1979); United Nations, [Convention on the Rights of Persons with Disabilities](#) (2008); Council of Europe, [Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011).

consider whether this definition of Domestic, Sexual, and Gender-Based Violence should be set out under Head 2.

- 21.** The Commission recommends that the definition of ‘Service provider’ under Head 2 be amended to remove “other than for profit”.
- 22.** The Commission recommends the DPP and the Legal Aid Board be listed under “public service body” under Head 2.

Exchange of documents and information including personal data (Head 5)

- 23.** The Commission recommends that Head 5 be amended to include an additional subsection requiring the Agency to establish data sharing arrangements with the relevant public bodies and service providers which shall define the principles and procedures the parties shall adhere to in the exchange of documents and information, including personal data.
- 24.** The Commission recommends that Head 5 be amended to include an additional subsection that states data sharing arrangements will be in accordance with law, and personal data will only be processed to the extent that is necessary and proportionate for the purpose of the performance of the functions of the Agency.
- 25.** The Commission recommends that Head 5 be amended to include an additional subsection that sets out that data sharing arrangements made by parties bound by the Public Sector Equality and Human Rights Duty shall be developed with regards to the obligations of the Public Sector Equality and Human Rights Duty.

Chief Executive (Head 10)

- 26.** The Commission recommends that the designation of a person to the role of CEO should happen through a fair and transparent competitive process.
- 27.** The Commission recommends that Head 10(5) be expanded to require the Minister to also agree with the Board (as well as PAS) on the selection criteria and process that are to apply to the competition.
- 28.** The Commission recommends that Head 10 be amended to state that the Minister and Board must be satisfied that the person the Minister designates as CEO in

advance of the Agency's establishment day is suitable by reason of his or her possessing such relevant experience, qualifications or expertise as is appropriate.

29. The Commission recommends that Head 10 include an additional subsection to state that where the Minister does designate a CEO in advance of the Agency's establishment day, there will be a limited contract period for the CEO and that a competitive process through PAS will occur (in which the designated CEO may participate).
30. The Commission recommends that the removal or suspension of the CEO based on 'stated reasons' be defined in the legislation.

Functions of the Chief Executive (Head 11)

31. The Commission recommends that Head 11 be amended to include an additional function providing that the CEO implement the policies, procedures and decisions of the Board.

Agency Staff (Head 13)

32. The Commission recommends that Head 13 be amended to allow external candidates to be eligible to become members of the staff of the Agency.
33. The Commission recommends that Head 13 be amended to include an additional subsection providing that staff appointed to the Agency will possess such relevant experience, qualifications or expertise as is appropriate having regard to the particular functions of the Agency.

Functions of the Agency (Head 14)

34. The Commission recommends that Head 14(1)(d) be expanded to include explicit reference to other groups who may require accessible information, such as deaf and disabled people.
35. The Commission recommends that Head 14(1) be amended to include specific reference to engaging with men and boys.
36. The Commission recommends that Head 14(1)(j) be amended to allow the Agency provide advice, or make proposals to, the Minister and *other department officials*

on matters pertaining to the functions of the Agency and on policy matters relating to DSGBV.

- 37.** The Commission recommends that Head 14 (2)(a) be amended to provide that the Agency will consult as appropriate with, and consider recommendations from, public service bodies, *voluntary sector bodies involved in service delivery*, international bodies, civil society organisations, other persons with relevant expertise, service users including children and young persons, *victims and survivors*, and the public.
- 38.** The Commission also recommends that the legislation should provide that, in performing its functions, the Agency shall collaborate as appropriate with civil society organisations, voluntary sector bodies involved in service delivery, public service bodies, and other relevant stakeholders.
- 39.** The Commission recommends that Head 14 be amended to include an additional function providing that the Agency may generate policy.

Establishment of Board (Head 17)

- 40.** The Commission recommends provision be made under Head 17 to include a requirement for a self-assessment annual evaluation of the Board's performance, including consideration of the balance of skills, experience, independence and knowledge on the Board, and its diversity.

Membership of the Board (Head 18)

- 41.** The Commission recommends that Head 18(2)(a) be amended to explicitly state that membership of the Board includes persons with experience in DSGBV, including victim/survivors.

Functions of the Chief Executive (Head 19)

- 42.** The Commission recommends that Head 19(2)(a) be amended to provide that PAS will ensure that such group or panel it recommends for appointment to the Minister includes persons who have experience in DSGBV, including victim/survivors.

- 43.** The Commission recommends that Head 19(6) be amended to provide that PAS will ensure that such group or panel it recommends for appointment to the Minister represents the diverse nature of Irish society.

Expression of Opinion on Government policy (Head 33 and 35)

- 44.** The Commission recommends that any provision restricting freedom of expression be removed from Head 33 and 35 of the legislation.

Arrangements with service providers (Head 36)

- 45.** The Commission recommends that Head 36(2) be amended to provide that funding will be provided on a multi-annual basis to ensure the effective provision of services from service providers.
- 46.** The Commission recommends that Head 36(8) be amended to provide that service providers will not be required to provide personal data on individuals or service users that would cause them to breach data protection law, and that any request for information by the Agency that contains personal data will be processed in accordance with data protection laws.

Persons providing supplemental services (Head 37)

- 47.** The Commission recommends that Head 37(5) be amended to provide that service providers will not be required to provide personal data on individuals or service users that would cause them to breach data protection law and any request for information by the Agency that contains personal data will be processed in accordance with data protection laws.

Introduction

The Irish Human Rights and Equality Commission ('the Commission/IHREC') is both the national human rights institution and the national equality body for Ireland, established under the Irish Human Rights and Equality Commission Act 2014 ('the 2014 Act'). The Commission is also the Independent National Rapporteur on the Trafficking of Human Beings;³ the Independent Monitoring Mechanism under the UN Convention on the Rights of Persons with Disabilities ('UNCRPD');⁴ and will be assigned the role of the Coordinating National Preventative Mechanism under the Optional Protocol to the Convention against Torture, pending ratification.⁵ We have a statutory mandate to keep under review the adequacy and effectiveness of law and practice in the State relating to the protection of human rights and equality, and to examine any legislative proposal and report our views on any implications for human rights or equality.⁶

We welcome the opportunity to provide our submission on the *General Scheme of the Domestic, Sexual and Gender Based Violence Agency Bill* ('General Scheme'). The prevalence of domestic, sexual and gender based violence ('DSGBV') in Ireland has been described by the State as "disturbingly high".⁷ An independent Government audit (commissioned in 2020) to examine how effective Ireland's structures are for policy development and policy implementation in relation to DSGBV found that despite some positive developments, there remain policy deficits, ineffective policy implementation, funding gaps, unclear institutional arrangements and responsibilities, and issues with data collection, all of which are hindering

³ IHREC, [Commission Takes on New Role as Ireland's National Rapporteur on the Trafficking of Human Beings](#) (22 October 2020).

⁴ The Assisted Decision-Making (Capacity) (Amendment) Act 2022 amended the *Irish Human Rights and Equality Commission Act 2014* to provide a statutory basis for our designation as the Independent Monitoring Mechanism under the UNCRPD. .

⁵ The Draft General Scheme of the Inspection of Places of Detention Bill was published in June 2022. This Bill will provide for the designation of sectoral National Preventive Mechanisms that will act as national inspection bodies of places of detention, and we will be the Coordinating National Preventive Mechanism. This will allow Ireland to ratify the Optional Protocol to the Convention against Torture. For our observations on the draft legislation, see IHREC, [Commission proposed as Coordinating National Preventative Mechanism under Inspection of Places of Detention Bill](#) (8 November 2022).

⁶ Section 10(2)(c) of the Irish Human Rights and Equality Commission Act 2014.

⁷ See statistics set out in: Laura Foley, [Gender-Based Violence in Ireland](#) (2022), p. 1.

Ireland's progress to tackling gender-based violence.⁸ We support the establishment of a new statutory agency ('Agency') with responsibility DSGBV to tackle the challenges identified in the audit and as part of the State's broader efforts to combatting DSGBV.⁹

The Agency's objectives include responsibility for the delivery of support services for victims of DSGBV; responsibility for the implementation of the Third National Strategy on DSGBV; responsibility for monitoring the planned increase in the number of refuge spaces available for victims of DSGBV; and to assist in developing permanent structures to deliver further refuge accommodation over the long term. There is an opportunity with this legislation to set out in law an effective, practical and functional Agency that protects the human rights and equality of victims and survivors of DSGBV, particularly structurally vulnerable groups disproportionately affected by DSGBV.¹⁰ The legislation must commit the State to the adequate provision of specialist support services for all victims and survivors and establish an Agency with the adequate expertise and experience needed to effect real change.

In addition, there is an opportunity for the State to be cognisant of its obligations under the wider framework of human rights and equality¹¹ (which is core to combatting DSGBV) and

⁸ See: Higgins, M., and O'Malley, E., [Domestic, Sexual and Gender Based Violence: An Audit of Structures](#) (2021), p. 4.

⁹ See references to legislative and policy developments throughout this report, including the publication of the Third National Strategy on Domestic, Sexual and Gender-Based Violence in June 2022.

¹⁰ For the purpose of this submission, we define a structurally vulnerable person as someone who is particularly vulnerable to violations of their rights due to political, economic, social and cultural structures. Instead of focusing on the personal characteristics of individuals and groups and viewing them as lacking agency or inherently vulnerable, 'structural vulnerability' refers to the structures in place which render certain sectors of the population particularly vulnerable to human rights abuses. See: IHREC, [Ireland and the Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (Jan 2023) p.22.

¹¹ These obligations include the European Convention on Human Rights Act 2003; the European Convention on Human Rights (ECHR, 1953) and the European Court of Human Rights' jurisprudence; the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979) and CEDAW's General Recommendations; the International Covenant on Civil and Political Rights (ICCPR, 1966); the International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966); the UN Convention on the Rights of the Child (CRC, 1989); the UN Convention on the Rights of Persons with Disabilities (UNCRPD, 2006); the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (the Palermo Protocol); UN Security Council Resolution 1325 on women, peace and security; the 2014 European Parliament resolution on sexual exploitation and prostitution and its impact on gender equality; the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007) and the Committee of Ministers to the Council of Europe Recommendation Rec(2002)5 on the protection of women against violence. Ireland is also bound by relevant EU Directives and regulations, in particular in the areas of judicial cooperation in

to set out to meet the requirements of this human rights and equality framework in the legislation. Of particular note is the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (the Istanbul Convention), the EU Victim's Rights Directive,¹² the Anti-trafficking Directive¹³ (and its proposed changes¹⁴), and the new EU-wide proposal for a directive to combat violence against women and domestic violence.¹⁵ Explicit reference should be made to the wider human rights and equality framework and the commitments and obligations the State.

The Commission recommends that the DSGBV Agency Bill include a long title or preamble which sets out the human rights and equality framework by which the State is bound.

criminal matters (especially as regards crime prevention and the rights of victims of crimes), equality between women and men and asylum policy.

¹² [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA](#)

¹³ [Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.](#)

¹⁴ [Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.](#)

¹⁵ On 8 March 2022, the European Commission adopted a [new EU-wide proposal for a directive to combat violence against women and domestic violence](#). The proposal seeks to introduce targeted minimum rules on the rights of this group of crime victims, and to criminalise the most severe forms of violence against women and of cyber violence.

Relevant human rights and equality standards

The legislation engages with a number of human rights and equality issues as protected by the Irish Constitution, the European Convention on Human Rights ('ECHR'), European Union Law, and international human rights law. These include, but are not limited to:

- The right to life;
- The right to liberty and security of person;
- The right to freedom from torture and degrading and inhumane treatment;
- The right to respect for Private and Family Life;
- The right to freedom from discrimination;
- The protection of personal data; and
- The right to good administration.

General Observations on the Bill

Ensuring a Victim/Survivor Centred Agency

The establishment of the Agency has been described by the Government as being central to achieving its goal of Zero Tolerance.¹⁶ The Government's Zero Tolerance Strategy is clear in seeking to embed a victim/survivor-centred approach that places the needs and priorities of victims/survivors of DSGBV at the forefront of responses.¹⁷ The State must ensure that the Agency, as central to combating DSGBV and protecting the victim/survivors of such violence, is victim/survivor focused and that the legislation governing the Agency adequately safeguards the equality and human rights of the victim/survivors it will be providing services to.

A key responsibility of the Agency will be overseeing and supporting the provision of refuge accommodation for victim/survivors of domestic violence (Head 14 (b) and (c)). The Istanbul Convention states:

'Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.'¹⁸

The purpose of refuge is to ensure immediate, preferably around the-clock, access to safe accommodation for victims, especially women and children, when they are no longer safe at home.¹⁹ DSGBV is the leading cause of homelessness for women and children in Ireland.²⁰ As a result, victims and survivors often remain in dangerous situations due to a fear of

¹⁶ Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), p. 3.

¹⁷ Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), p. 10.

¹⁸ See Article 23 of the [Istanbul Convention](#).

¹⁹ See Article 23 of the [Istanbul Convention](#).

²⁰ See IHREC, [Ireland and the Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (January 2023), pp. 61 -63.

becoming homeless, or are forced to stay in refuge accommodation for long periods of time. This also impacts the provision of specialised DSGBV accommodation services, as refuges are forced to turn down new referrals due to capacity issues.²¹ Failure by the State to provide access to immediate protection will mean it is in violation of the United Nations Convention on the Elimination of all Forms of Violence against Women.²²

Although the Third National Strategy commits to double the number of available refuge spaces by 2026,²³ we have previously expressed concern that this falls significantly short of international standards.²⁴ The Strategy pledges to provide 280 refuge spaces, which is considerably lower than the approximately 675 spaces needed to comply with Council of Europe guidelines.²⁵ There is an acute need to increase refuge accommodation provision, in light of increases in DSGBV prevalence,²⁶ the broader context of the national housing crisis,²⁷ and data indicating that the majority of refuge requests are refused due to capacity issues.²⁸ The State must ensure the functions of the Agency under Head 14(b) and (c) are performed in compliance with Council of Europe standards to ensure the adequate protection and safeguarding of victim/survivors of DSGBV.

²¹ *Ibid.*

²² CEDAW Committee Recommendation No. 19 para 24 (r) (iii); Beijing Platform Strategic Objective D1 para 125 (a), echoed by the Secretary General at p80 of his report; CEDAW Committee Decision 2005 Communication No.2/2003.

²³ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 25.

²⁴ See, IHREC, [Ireland and the Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (2023), pp. 67-68; IHREC, [Ireland and the Rights of the Child](#) (2022), p. 38.

²⁵ The Council of Europe has set the standard at one place per 7,500 of the population and one family place per 10,000 of the population; Council of Europe, [Combatting violence against women: minimum standards for support services](#) (2008), p. 18. As of figures available in November 2022, Ireland's population is 5.06 million, necessitating 675 individual units and 506 family units.

²⁶ Laura Foley, [Gender-based violence in Ireland](#) *Geary Institute for Public Policy* (2022), p. 4.

²⁷ We previously noted in 2017 the trend of victims and survivors remaining in refuge accommodation for long periods of time due to non-availability of longer-term accommodation, a direct impact of the housing crisis: IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 62. This crisis has continued to worsen in the intervening years.

²⁸ 62% of the time a National Helpline referral to a refuge accommodation provider was declined due to full capacity in 2021; Women's Aid, [Annual Impact Report 2021](#) (2022), p. 27. In 2021, 3000 requests for refuge could not be met; Safe Ireland [Pre-Budget 2023 Submission](#) (2022), p. 5.

The Commission recommends the immediate revision of refuge accommodation commitments in the Third National Strategy with a view to expanding its capacity to comply with the Council of Europe standards.

The importance of emergency accommodation being accessible to all has been a key learning from the Group of Experts on Action against Violence against Women and Domestic Violence's ('GREVIO') review of the implementation of the Istanbul Convention in other jurisdictions.²⁹ Our consultations have indicated that high demand for services can exacerbate barriers faced by structurally vulnerable groups.³⁰

The Government identified in its Zero Tolerance Strategy that certain groups can be at a higher risk of DSGBV than others, for a variety of reasons including poverty, exclusion, disability, legal status, ethnicity, sexuality, language barriers, addiction and mental health issues. The Government further identified groups at a higher risk of DSGBV as disabled people, international protection applicants, individuals living in direct provision (including women being targeted for prostitution), trafficked persons including young gay men being trafficked for prostitution, as well as Travellers, Roma and members of the LGBTI+ community.³¹

We find that the General Scheme does not sufficiently protect and safeguard the equality and human rights of victim/survivors. In our submission to GREVIO, we recommended that the State address the particular needs of structurally vulnerable victims and survivors,

²⁹ TUSLA, Review of the Provision of Accommodation for Victims of Domestic Violence (February 2022), p.15.

³⁰ This issue was raised during a focus group meeting with women accessing the SAOL Project's services. The SAOL Project is a person-centred, community based programme for women in treatment for drug addiction. See also Merchant's Quay Ireland, [A space of her own: The need for gender specific services for women experiencing homelessness and addiction](#) (2021).

³¹ Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), p. 44.

including young women³² and girls,³³ older women,³⁴ minority ethnic women,³⁵ migrant women,³⁶ Traveller and Roma women,³⁷ disabled women,³⁸ LGBT+ women,³⁹ victims of

³² According to Women's Aid, one in five women is subjected to abuse by the age of 25; and just over half of these young women experienced the abuse before the age of 18: Women's Aid, [Annual Impact Report 2021](#) (2021), p. 9.

³³ In 2021, Women's Aid received 5,735 disclosures of abuse against children: Women's Aid, [Annual Impact Report 2021](#) (2021), p. 9. This is of particular concern given that exposure to intimate partner violence can have long-lasting effects on a child's socio-emotional and neurological development: I. Mueller and E. Tronick, "Early Life Exposure to Violence: Developmental Consequences on Brain and Behaviour" (2019) *Frontiers of Behavioural Neuroscience*. As noted elsewhere in this report, a child who witnesses violence should also be considered a victim of violence, due to the detrimental effect it can have on their physical and mental wellbeing. More information on this can be found here: Barnardos, [A Shared Understanding of Childhood Domestic Violence and Abuse](#) (2021).

³⁴ Safeguarding Ireland have expressed concern over the impact of legislative gaps on older women, including that the definition of a dependent person under the *Domestic Violence Act 2018* does not cover a large group of persons (mainly older people), some of whom may lack decision-making capacity and may be subjected to violence by a family member: see Safeguarding Ireland, [Domestic Violence Act 2018](#) (2019), p. 3. See also, Age Action, [Why We Need a Commissioner for Ageing and Older Persons](#) (2022) which highlights that 3,871 notifications of abuse for persons aged over 65 was reported in the HSE's National Safeguarding Report 2021 and that immediate family members are identified as persons of concern in these reports.

³⁵ Women's Aid highlighted that proportionally, more minority ethnic women seek the support of GBV services compared with the general female population. In 2021, 942 calls to their 24hr National Freephone Helpline service related to women that identified as part of a minoritised group. 548 calls were facilitated in 30 languages; 43% of the calls were facilitated in an EU language with the remainder facilitated through a non-EU language. See Women's Aid, [Annual Impact Report 2021](#) (2021), p. 23.

³⁶ IHREC, [Submission to the Anti-Racism Committee: Developing a National Action Plan Against Racism](#) (2021), pp. 19-23; see also IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (2019), pp. 102-108.

³⁷ There is a lack of data on violence affecting Traveller and Roma women. In 2009, 37% of women accessing refuge accommodation identified themselves as Travellers. See the Women's Health Council, *Translating Pain Into Action: A study of Gender-based Violence and Minority Ethnic Women in Ireland*, 2009.

³⁸ There is very little research on disabled women's experiences. The Fundamental Rights Agency in an EU-wide survey in 2014, found that 34% of women with a health problem or disability have experienced physical or sexual partner violence, compared with 19% of women who do not have a health problem or disability. See Fundamental Rights Agency, 'Violence against women: an EU-wide survey' (2014). Recent research from NUI Galway found 40% of disabled female students reporting experience of rape (compared with 27% of non-disabled students). See NUIG, [Sexual violence and harassment experiences in a national survey of higher education institutions](#) (2020). In 2021, 7% of victims and survivors attending support services organised by Rape Crisis Network Ireland had a disability, while 4% of victims and survivors availing of Women's Aid supports had a disability; Rape Crisis Network Ireland, [Rape Crisis Statistics 2021](#) (2022) p. 23; Women's Aid, [Annual Impact Report 2021](#) (2022) p. 23. Ireland is obliged to take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects; [UN Convention on the Rights of Persons with Disabilities](#), Article 16. See also Committee on the Rights of Persons with Disabilities, [General Comment no. 3 on Article 6 – Women and Girls with Disabilities](#) (2016).

³⁹ Sexual violence against LGBT+ people in particular is under-researched in Ireland, despite high levels of incidence as identified by civil society. Research amongst LGBT+ people in 2016 found that 14.9% of participants disclosed being sexually attacked (GLEN, BeLoNG To, 2016). There is also demonstrably high levels of sexual violence perpetrated against Trans people (TENI, 2013). See also Rape Crisis Network Ireland, [Finding](#)

trafficking,⁴⁰ women with addiction issues,⁴¹ and women in prostitution.⁴² We are of the view that the functions of the Agency under Head 14 of the legislation should be strengthened to ensure the provision of support services and refuge accommodation meet minimum European Union standards⁴³ and are compliant with the Istanbul Convention.⁴⁴

The Commission recommends that Head 14(b) be amended to provide that the Agency will ensure that the provision of such refuge accommodation will take into account the needs of structurally vulnerable victims.

We have previously recommended that service providers take measures to ensure the accessibility of specialist support services to structurally vulnerable groups, including

[a Safe Place](#) (2016), p. 6. In recently published IHREC-supported research, participants had experienced harassment and violence because they are LGBT+ Traveller or Roma. 40% of participants had experienced some form of physical attack due to being LGBT+ Traveller or Roma (41.9%), attacked sexually (7%) or attacked with a weapon (20.9%). National Action Group for LGBT+ Traveller and Roma Rights, '[Unveiling Inequality - Experiences of LGBT+ Travellers & Roma](#)' (2022), p. 10.

⁴⁰ See IHREC, [Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (June 2022), p. 41.

⁴¹ Women with addiction issues face high rates of sexual violence, coercive control, and other forms of DSGBV. COVID-19 exacerbated issues of DSGBV, often leaving women isolated in abusive situations; Merchant's Quay Ireland, [A space of her own: The need for gender specific services for women experiencing homelessness and addiction](#) (2021), p. 2.

⁴² Women in prostitution in Ireland have significant concerns of violence: see Interim Report of the High-Level Working Group, [The Implementation of the Criminal Law \(Sexual Offences\) Act 2017, Part IV – An Interim Review](#) (2020) and Dr. M O'Connor and R. Breslin, Shifting the Burden of Criminality Dr Monica O'Connor and R. Breslin, [An analysis of the Irish sex trade in the context of prostitution law reform](#) (2020).

⁴³ Article 9(3) of [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime](#) recognises that specialist support services 'shall develop and provide: (a) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation; (b) targeted and integrated support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling.' Recital 17 of the Directive also recognises that 'women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence'. For more information on minimum standards please see, Council of Europe, [Combating Violence against Women: Minimum Standards for Support Services](#).

⁴⁴ See Article 23 of [Istanbul Convention](#). The scope of the article is clarified in the Convention's Explanatory Report. See: Council of Europe, [Explanatory Report of the Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011).

through the diversification of staff to reflect service users,⁴⁵ provision of language interpreters and cultural mediators,⁴⁶ provision of material supports to facilitate the safety of victims and survivors and their children, and the active involvement of affected communities in their design and delivery.⁴⁷ We have also previously recommended that the State ensures the adequately resourced provision of specialised, accessible and multi-disciplinary services and refuge spaces for child victims/survivors of violence, stating that cultural, ethnic, disability and other identities should be taken into account in the provision of services and supports.⁴⁸

The Commission recommends that Part 5 of the General Scheme be amended to include provision to ensure that service providers take measures to ensure the accessibility of specialist support services to structurally vulnerable groups.

The Commission recommends that Head 14(c) be amended to include an additional subsection providing that the Agency shall ensure standards for service provision and governance in respect of the services and accommodation referenced at (a) and (b) have due regard to the Public Sector Equality and Human Rights Duty.

As Ireland's Independent National Rapporteur on the Trafficking of Human Beings, we want to highlight that the gendered character of trafficking⁴⁹ requires a gender-specific approach

⁴⁵ Irish Traveller and Roma Women, [Alternative Report to GREVIO on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (2022), p. 10.

⁴⁶ We have previously noted that the quality of support services is compromised by lack of interpreters, including Irish Sign Language interpreters. As a result, family members and friends of victims can be used to informally interpret in healthcare contexts, raising privacy, accuracy and consent issues. IHREC, [Statement on the Ratification of the Council of Europe Convention on preventing and combatting violence against women and domestic violence](#) (2019), p. 7. For comments regarding the need for cultural mediators to ensure services and supports are victim and survivor centred, see: IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 26.

⁴⁷ IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022) p. 41. For additional comments on the importance of survivor voices being heard in service delivery, see IHREC, [Ireland's Actions Against Trafficking in Human Beings. Submission by the Irish Human Rights and Equality Commission to the Council of Europe Group of Experts on Action against Trafficking in Human Beings \(GRETA\)](#) (2021), p. 18.

⁴⁸ IHREC, [Ireland and the Rights of the Child, Submission to the Committee on the Rights of the Child on Ireland's combined fifth and sixth periodic reports](#) (August 2022), pp. 39-40.

⁴⁹ For details of the gendered disaggregated data see factsheets, [Evaluation of the Implementation of the EU Anti-Trafficking Directive Irish Human Rights and Equality Commission – June 2022.](#)

to the prevention of trafficking in human beings and in assistance to its victims, as Article 1 of the EU Anti-Trafficking Directive provides. Over the years, the human trafficking response has developed separately from the established gender based violence ('GBV') support infrastructure, such as women's shelters and rape crises networks. This differs from the practice in other EU countries where existing GBV expertise is utilised and expanded to include victims of trafficking.

Due to the complete absence of gender-specific shelters for victims of trafficking, the present accommodation for victims of trafficking is deeply problematic, leaving victims at further risk of harm, re-trafficking and further victimisation. The obligation imposed by Article 12(1)(a) of the Council of Europe Convention on Action against Trafficking in Human Beings was recently considered in the Irish context by the Group of Experts on Action against Trafficking in Human Beings (GRETA) in its Third Evaluation Report (2022) stating:

In its second report, GRETA urged the Irish authorities to review as a matter of priority the policy of accommodating presumed victims of trafficking in accommodation centres for asylum seekers, with a view to ensuring that the accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services⁵⁰...GRETA once again urges the Irish authorities to set up, as a matter of priority, specialised accommodation facilities for victims of THB and to ensure that accommodation is gender-sensitive, appropriate and safe, and that victims are provided with specialised services. In addition to better support and protection of the victims, this would also be in the interest of the investigation⁵¹.

We have continuously called for the establishment of specialised accommodation facilities for victims of trafficking. Such accommodation must be gender-sensitive, appropriate and safe. The majority of victims of human trafficking are homeless migrants.⁵² The provision of

⁵⁰ Para 202.

⁵¹ Para 205

⁵² IPAS provided the Commission with a snapshot picture of all victims of trafficking accommodated in the month of December. In December 2021, IPAS reported that they operated to almost full capacity (10577 resident), including 84 different centres spread around Ireland. Just 77 or less than one percent (0.7%) among them were victims of trafficking, including 11 male and 66 female victims. It was reported that 18 of them were victims of trafficking for labour exploitation and 2 were victims of trafficking for forced criminal activities. The vast majority, 44, were trafficking for sexual exploitation,

safe and appropriate housing is an internationally accepted priority need for trafficked victims. Safe accommodation is central to a victim's recovery both as an independent individual and to support them to give their best evidence in any criminal investigation or prosecution.

The use of Direct Provision accommodation for victims of trafficking has been roundly criticised by GRETA, Civil Society and IHREC, as well as in reports by the OSCE and the US State Department. Despite this, no specialist accommodation has been made available⁵³. It is of particular note that many victims of trafficking do not claim international protection and many are EEA citizens, therefore the entire International Protection system is irrelevant to their residence rights in the State.⁵⁴

In 2020, a single-gender, specialised shelter for victims of trafficking who experienced GBV was procured by the Department of Justice and the arrangements were advanced (the premises were designated and refurbishment underway). However, due to the transfer of the accommodation service from Department of Justice to the new Department of Children, Equality, Disability, Integration and Youth, these arrangements were discontinued and the shelter plan has not progressed. Given the recognised intersection between trafficking and gender-based violence and the central role of the Department of Justice as the National Anti-Trafficking Coordinator, the Commission believes that the Agency should be responsible for the overseeing of the specialist shelter for victims of trafficking.

The Commission recommends that Head 14, which assigns responsibility for domestic violence shelters to the Agency, be expanded further to explicitly include a shelter for

and further 13 were reported as victims of torture. The data shows that victims of human trafficking represent 0.7% of the residents accommodated by IPAS. Commission Template

⁵³ The US State Department's [2020 Trafficking in Persons report](#) noted a lack of specialised services in the centres for all victims, but especially for female victims who had been traumatized due to psychological, physical, or sexual violence. It also noted that victims who were in the asylum process remained in direct provision accommodation while a determination was being made in relation to their claim for international protection, which could continue for years. It noted that while the government, including a parliamentary committee, acknowledged the lack of adequate accommodation and planned to develop alternative government-funded accommodation, officials took no concrete steps during the reporting period. See US State Department (2020) [Trafficking in Persons Report](#), p. 271

⁵⁴ Profile of victims of trafficking in IPAS. Of the 77 victims reported by IPAS as their residence in the month of December 10 were EEA nationals (13%), and 67 were third country nationals. Of the third country nationals, 16 held international protection status. Four victims of trafficking held Temporary residence permit. 45 victims were claiming international protection. (source: Commission Template)

victims of trafficking who have been subjected to gender-based violence, at a minimum this will include female victims of trafficking for the purposes of sexual exploitation.

Public Sector Equality and Human Rights Duty

The General Scheme makes no reference to Section 42 of the Irish Human Rights and Equality Commission Act 2014 ('the Public Sector Equality and Human Rights Duty'). Section 42 of the Irish Human Rights and Equality Commission Act 2014 ('IHREC Act 2014') imposes a legal obligation on public bodies to have regard to the need to eliminate discrimination, promote equality of opportunity and protect the human rights of those to whom they provide services and staff when carrying out their daily work.⁵⁵ As a public body, the Agency will be legally required to comply with its statutory obligations under the Public Sector Equality and Human Rights Duty.⁵⁶

Under Section 42(2) of the IHREC Act 2014, the Agency will be required to 'Assess, Address and Report' – to undertake an assessment of the equality and human rights issues pertaining to its purpose and functions; to devise policies, plans and actions to address the issues raised in the assessment; and to report annually, in a manner that is accessible to the public, on progress and achievements. These requirements have to be set out in the Agency's strategic planning and reported on in its annual reports.⁵⁷ We have previously recommended (prior to the publication of the General Scheme) that the Agency's design

⁵⁵ See Section 42 of the [Irish Human Rights and Equality Commission Act 2014](#).

⁵⁶ Section 2(1) of the [Irish Human Rights and Equality Commission Act 2014](#), a public body for the purposes of the Public Sector Equality and Human Rights Duty includes - a Department of State, a local authority, the Health Service Executive, a university or institute of technology, an education and training board, any other person, body or organisation established under statute, or under any scheme administered by a Government Minister, excluding the Defence Forces, a company wholly or partly financed by or on behalf of a Government Minister, in pursuance of powers conferred by or under another enactment, a company where the majority of shares are held by or on behalf of a Government Minister. In addition, any other person, body, organisation or group financed wholly or partly out of moneys provided by the Oireachtas, may, in the public interest, be prescribed as a public body by the Minister for Justice and Equality, following consultation with the Irish Human Rights and Equality Commission.

⁵⁷ For guidance on implementing the obligations under Section 42, see IHREC, [Implementing the Public Sector Equality and Human Rights Duty](#).

and strategic plan should be in compliance with the Public Sector Equality and Human Rights Duty from inception.⁵⁸

Part 4 of the General Scheme sets out the Governance and Accountability of the Agency. Under Head 27 the Minister may develop a multiannual performance framework to provide the Agency with policy guidance, direction and prioritisation parameters for the preparation of its corporate plan; under Head 28 the Agency shall prepare and adopt a corporate plan to be submitted to the Minister (within 6 months after coming into operation and for each ensuing three year period); Head 29 provides that the Ministers shall develop an annual statement to provide the Agency with specific policy guidance, direction, prioritisation and resource parameters in respect of each year for the preparation of its annual business plan; Head 30 provides that the Agency shall submit a business plan to the Minister for the following year; and, under Head 31 the Agency must submit an annual report to the Minister on its activities and performance during the preceding year.

The Commission recommends that Head 27 be amended to provide that a multiannual performance framework must be developed with regards to the obligations of the Public Sector Equality and Human Rights Duty.

The Commission recommends that Head 28 be amended to provide that a corporate plan shall, in accordance with the Public Sector Equality and Human Rights Duty, set out an assessment of the human rights and equality issues the Agency believes to be relevant to the functions and purpose of the Agency and the policies, plans and actions in place or proposed to be put in place to address those issues.

The Commission recommends that Head 29 be amended to provide that an annual statement must be developed with regards to the obligations of the Public Sector Equality and Human Rights Duty.

The Commission recommends Head 31 (2) be amended to provide that an annual report shall, in accordance with the Public Sector Equality and Human Rights Duty, include a report regarding the developments and achievements in relation to the Agency's policies,

⁵⁸ IHREC, [Ireland and the Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (January 2023), p.

plans and actions to address the human rights and equality issues the Agency believes to be relevant to the functions and purpose of the Agency.

To ensure equality and human rights are at the core of how the Agency executes its functions, the legislation should make reference to the Public Sector Equality and Human Rights Duty with regards to the functions of the Chief Executive (Head 11), the staffing of the Agency (Head 13), the functions of the Agency (Head 14), and the functions of the Board (Head 17).

The Commission recommends that an additional subsection be added under Head 11(1) to state that the Chief Executive is required to have regard to the Public Sector Equality and Human Rights Duty in performing the functions of their role.

The Commission recommends that an additional subsection be added under Head 13 to state that the members of staff of the Agency are required to have regard to the Public Sector Equality and Human Rights Duty in the performance of their functions.

The Commission recommends that an additional subsection be added under Head 14(2) to state that the Agency is required to have regard to the Public Sector Equality and Human Rights Duty in the performance of its functions.

The Commission recommends Head 17 be amended to state that the Board is required to have regard to the Public Sector Equality and Human Rights Duty in the performance of its functions.

In addition, we have previously recommended that the State take steps to ensure public bodies bound by the Public Sector Equality and Human Rights Duty include equality and human rights obligations in agreements with contractual partners in order to prevent rights violations in outsourced public functions.⁵⁹ We have previously provided views on procurement by the State when outsourcing aspects of a State service (in this instance in the context of the State ending Direct Provision and establishing a new reception system). We provided that the procurement processes when outsourcing aspects of a State service

⁵⁹ IHREC, [Ireland and the International Covenant on Civil and Political Rights](#), (2022) p. 10.

should be underpinned by international human rights standards and the Public Sector Equality and Human Rights Duty.⁶⁰

We reiterate these recommendations and believe that there is an opportunity in this legislation for the State to strengthen the protection of the rights of service users by including reference to equality and human rights obligations with regards to the Agency's arrangements with service providers (Head 36) and persons providing supplemental services (Head 37).

The Commission recommends that the State take steps to ensure public bodies bound by the Public Sector Equality and Human Rights Duty include equality and human rights obligations in agreements with contractual partners, in order to prevent rights violations in outsourced public functions.

Data Collection

The systematic and adequate collection of disaggregated data is crucial not only to document the prevalence of DSGBV in Ireland, but also to inform the legal and policy frameworks regulating the prevention, response and prosecution components.⁶¹ Head 14(k) of the General Scheme provides that the Agency commits to undertaking research projects and evaluation on issues relating to domestic, sexual and gender based violence and to assist in the development of statistical information appropriate for the planning, delivery and monitoring of programmes and services for persons affected. While we welcome this data collection function, the provision does appear to limit the function to statistical information relevant to the planning of services for victims. We call for a much stronger data collection function for the Agency under this legislation that is compliant with the State's obligations under Article 11 of the Istanbul Convention.⁶²

⁶⁰ IHREC, [Recommendations on the White Paper on Direct Provision](#) (December 2020), Section 3.3, Procurement and the Public Sector Human Rights and Equality Duty.

⁶¹ Irish Observatory on Violence Against Women, [Shadow Report to GREVIO in respect of Ireland](#) (August 2022).

⁶² Article 11 of the Istanbul Convention requires the collection of data to support the aim of preventing and combating violence against women and domestic violence in Europe. The scope of the article is clarified in the Convention's Explanatory Report, and includes the collection disaggregated relevant statistical and survey data at regular intervals and the requirement to conduct research to study the causes of the violence and the

WIHREC, the UN Committee on the Elimination of Discrimination against Women (‘CEDAW’) and the UN Human Rights Committee have all raised concerns about the limited data and research available in the Irish context on DSGBV, including the reliability of existing data.⁶³ A State audit found that the absence of a proper data system impedes the planning of services and strategies and the understanding of what is and is not working, ultimately leading to gaps in service provision.⁶⁴ We note the State’s policy developments designed to address these deficits⁶⁵ and that these policy developments align with a broader agenda to improve human rights, gender equality and related data.⁶⁶

methods to prevent it. The Convention requires that the collection of data is co-ordinated by a national body, provided to the group of experts convened under Article 66, and made available to the public. See: Council of Europe, [Convention on Preventing and Combating Violence Against Women and Domestic Violence](#), (2011), p. 5; Council of Europe, [Explanatory Report of the Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011).

⁶³ Irish Human Rights and Equality Commission, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 59; Irish Human Rights and Equality Commission, [Submission to the Commission on the Future of Policing](#) (2018); and Committee on the Elimination of Discrimination against Women, [Concluding observations on the combined sixth and seventh periodic reports of Ireland](#) (2017), p. 7; Human Rights Committee, [Concluding Observations on the fifth periodic report of Ireland](#), para 23.

⁶⁴ Higgins, M., and O’Malley, E. , [Domestic, Sexual and Gender Based Violence: An Audit of Structures](#) (2021), p. 37.

⁶⁵ Ireland’s Second National Strategy on Domestic Sexual and Gender-based Violence 2016-2021 emphasised the importance of research and data in support of its overarching objectives. Under the coordination goal, the high level objectives of the Third National Strategy has advanced this agenda, committing to ensuring an effective, robust research and evaluation strategy, and developing enhanced coordination of data collection strategies. The Implementation Plan commits to a range of actions, including a monitoring and implementation framework, periodic prevalence studies and a rolling research agenda. It also sets out commitments to a coordinated approach and liaison with European partners. These actions will be delivered by the Department of Justice, in partnership with the statutory DSGBV agency or the Central Statistics Office (CSO). See: Department of Justice, [Second National on Domestic Sexual and Gender-based Violence 2016-2021](#), (2016).; Department of Justice, [Third National Strategy on Domestic, Sexual & Gender-Based Violence](#), (2022); Department of Justice ,[Third National Strategy on Domestic, Sexual and Gender-based Violence Implementation Plan](#), (2022), pp. 44-45.

⁶⁶ The UN Sustainable Development Goal 5 commits to achieving gender equality and empowering all women and girls. The SDG Indicators measure progress against these targets and depend on prevalence statistics at a national level. See: United Nations, [Sustainable Development Goals Indicators](#) (2022). The UN’s Evidence and Data for Gender Equality (EDGE) project seeks to improve the integration of gender issues into the regular production of official statistics for better, evidence-based policies. See: United Nations, [Evidence and Data for Gender Equality \(EDGE\)](#) (2022). The Council of Europe collects relevant data under the Group of Experts on Action against Trafficking in Human Beings (GRETA). See: Council of Europe, [Action against Trafficking in Human Beings Publications and Studies](#) (2022). Equality data developments at a European level include the European Commission’s Subgroup on Equality Data, and the European Institute for Gender Equality’s (EIGE)

Through our Strategy Statement, we commit to improving the collection of disaggregated data by the State.⁶⁷ We previously expressed our regret that Ireland was one of two Member States⁶⁸ who failed to collect data for just one of the EIGE indicators developed to support States in achieving the minimum requirements for data collection on intimate partner violence, rape and femicide under the Victims' Rights Directive⁶⁹ and the Istanbul Convention⁷⁰, and have previously recommended that the State work with stakeholders to develop a comprehensive statistical database containing robust data on DSGBV from different administrative sources.⁷¹ We continue to call for all State agencies to maintain clear disaggregated data on groups specified in the Equality Acts;⁷² the proposed additional ground of socio-economic discrimination; and on human trafficking.⁷³ We further note the obligation to make this data available to the public.⁷⁴

The Commission recommends that Head 14(1) be amended to provide that the Agency will be responsible for developing and overseeing a comprehensive statistical database

Gender Statistics Database. See: European Commission, [Equality Data](#) (2022).; European Institute for Gender Equality, [Gender Statistics Database](#) (2022).

⁶⁷ Irish Human Rights and Equality Commission, [Strategy Statement](#) (2022), p. 15.

⁶⁸ European Institute for Gender Equality (EIGE), [Indicators on intimate partner violence, rape and femicide](#) (2021).

⁶⁹ Council of Europe, [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime](#) (2012).

⁷⁰ The two jurisdictions collecting data for just one of EIGE's indicators are Romania and Ireland. Ireland collects data on Indicator 8: Rape Victims, although it is noted that this is not disaggregated by sex. European Institute for Gender Equality (EIGE), [EIGE's indicators on intimate partner violence, rape and femicide: EU state of play](#), (2021), p. 18.

⁷¹ IHREC Press Release, [Commission Calls for Urgent Implementation of Domestic Homicide Review Against Backdrop of Rising Number of Femicides](#) (20 January 2023)

⁷² We have previously commented on the importance of disaggregated data on disability and minority ethnic women. See Irish Human Rights and Equality Commission, [The Impact of COVID-19 on People with Disabilities Submission by the Irish Human Rights and Equality Commission to the Oireachtas Special Committee on COVID-19 Response](#) (June 2020) p. 4.; Irish Human Rights and Equality Commission, [Submission to the Joint Committee on Key Issues affecting the Traveller Community](#) (2021), p. 9. Pavee Point have also called for an ethnic identifier. See: Pavee Point, [Submission to the Joint Oireachtas Committee on Justice, Equality and Defence on the issue of domestic violence](#) (2013), p. 4; Irish Traveller and Roma Women, [Alternative Report to GREVIO on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#), (2022).

⁷³ Irish Human Rights and Equality Commission, [Trafficking in Human Beings in Ireland](#) (2022), p. 30

⁷⁴ Council of Europe, [Explanatory Report of the Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011), p. 11.

containing robust data on DSGBV which is compliant with the State's obligations under Article 11 of the Istanbul Convention.

The Commission recommends that the statistical database be routinely audited for completeness against international instruments and best practice guidance.⁷⁵

The Commission recommends that the Agency prioritise the improvement of clear disaggregated equality data on violence against women and girls, including data on disability, ethnic status and human trafficking.

The Commission recommends that the State work with stakeholders to develop a comprehensive statistical database containing robust data on DSGBV from different administrative sources.

⁷⁵ See: European Institute for Gender Equality (EIGE), [EIGE's indicators on intimate partner violence, rape and femicide: EU state of play](#) (2021); United Nations, [International Convention on the Elimination of All Forms of Racial Discrimination](#) (1965); United Nations, [Convention on the Elimination of All Forms of Discrimination Against Women](#) (1979); United Nations, [Convention on the Rights of Persons with Disabilities](#) (2008); Council of Europe, [Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011).

Specific Observations on the General Scheme

Interpretation (Head 2)

We note that the General Scheme does not contain a definition of DSGBV, however, domestic violence, sexual violence, and gender based violence are defined in the Third National Strategy by reference to key international standards.⁷⁶ The strategy also recognises the importance of employing an intersectional approach to address DSGBV, particularly with regard to “more excluded identity groups” such as Travellers, other ethnic minorities, migrants, disabled people, members of the LGBTI+ communities and others.⁷⁷

However, whilst we welcome definitions of DSGBV in the Strategy that are devised by reference to Ireland’s key international obligations, we are concerned that there may be gaps in these definitions and a lack of specificity in relation to the abuses perpetrated against certain individuals and groups. In this regard, we have previously highlighted the troubling history of institutional abuse of women and children in Ireland requires a proactive approach to ensuring zero tolerance of DSGBV against disabled women in institutional, residential, foster and respite care settings. We are of the view that violence perpetrated by residents or carers in settings such as public and private nursing homes and mental health institutions should be recognised as domestic violence, given that the abuse is taking place where the victim/survivor is domiciled. Similarly, violence perpetrated by professional caregivers in the home must be treated as DSGBV and addressed in relevant policies and strategies.⁷⁸ We are also concerned that there is no recognition of elder abuse as a form of DSGBV.⁷⁹

⁷⁶ Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), p. 11-12.

⁷⁷ Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), p.12.

⁷⁸ IHREC, Ireland and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Jan 2023) p. 89-90; Disabled Women’s Group, Submission to the Third National Strategy on Domestic, Sexual and Gender Based Violence (2022), p. 15.

⁷⁹ In HSE published statistics there was a 10% increase year on year of safeguarding concerns reported to the HSE between 2020 and 2021. Those aged over 65 accounted for 33% of adults who were the subject of notifications. See, HSE, [National Safeguarding Office Report 2021](#), p.29. Article 25 of the Charter of Fundamental Rights of the European Union protects the rights of the elderly to live a life of dignity and to

The State should ensure that a full and comprehensive but open-ended definition of DSGBV applies to the Agency and its functions. In this regard, the State should consider the range of domestic, regional and international standards that provide definitions relevant to DSGBV. The State should also consider whether this definition should be included under Head 2.

The Commission recommends that a full and comprehensive but open-ended definition of Domestic, Sexual, and Gender-Based Violence that includes elder abuse and abuse of disabled people in institutional settings, and by professional caregivers in the home, should apply to the Agency and its functions. The State should consider whether this definition of Domestic, Sexual, and Gender-Based Violence should be set out under Head 2.

Head 2 of the General Scheme defines 'Service provider' as:

"Service provider" means a person involved in the provision (other than for profit) [emphasis added] of services which, in the opinion of the Agency, are consistent with the Agency's functions under Head 14(1)(a)..."

We are of the view that the standards of services set out under Head 36 (arrangements with service providers) should also be applicable to arrangements made with for-profit service providers and that the definition set out under Head 2 should be expanded to include all those who provide services.

The Commission recommends that the definition of 'Service provider' under Head 2 be amended to remove "other than for profit".

Under Head 2 public service bodies are defined and listed. The Office of the Director of Public Prosecutions ('DPP') and the Legal Aid Board are not present in this list and it is our view that both should be listed given the important role both public bodies have in the protection and support of victims of DSGBV and prosecuting offenders.

participate in social and cultural life. See, [EU Charter of Fundamental Rights](#) (2000). Article 1(2) of the European Charter of the rights and responsibilities of Older People in need of long-term care and assistance states that elder people have the right to respect for and protection of their physical, psychological, emotional, financial and material welfare. See, [European Charter of the rights and responsibilities of Older People in need of long-term care and assistance](#) (June 2010).

The Commission recommends the DPP and the Legal Aid Board be listed under “public service body” under Head 2.

Exchange of documents and information including personal data (Head 5)

Head 5 provides a statutory basis for the sharing of documents and information, including personal data, between the Agency, other public bodies and service providers. Head 5(1) sets out that the cooperation that is referred to in Head 4 (which sets out that public service bodies and service providers shall cooperate with the Agency and with each other) includes the exchange of documents and information, including personal data. Head 5(2) provides that the Agency may request personal data from or disclose personal data to a public service provider.

The sharing of personal data between public bodies and third body service providers raises data protection concerns which must be addressed in the legislation. We note that Head 5 states that the sharing of personal data under Head 5 can only take place in accordance with law and to the extent that is necessary and proportionate for the purpose of the performance of the functions of the Agency. However, the provisions under Head 5 are vague on how the sharing of personal data should take place and what governance is required for such exchange.

Individuals whose personal data are collected, stored, shared, or otherwise ‘processed’ (‘data subjects’) are entitled to expect that public sector bodies will only handle and share their personal data lawfully, fairly, and in a transparent manner. Their data should only be processed where it is relevant, essential, and necessary to provide them with public services or to carry out another public function.⁸⁰ Irish and EU laws on data protection including the General Data Protection Regulation (‘GDPR’), the Law Enforcement Directive (‘LED’), and the Data Protection Acts 1988 to 2018 (‘Data Protection Legislation’) govern public bodies’ collection, storage, handling, disclosure and other uses of personal data.

⁸⁰ Data Protection Commission, [Guidance on Data Sharing in the Public Sector](#) (2019), p. 2.

The Data Protection Office recommends that any data sharing arrangements in the public sector should generally:

- Have a basis in primary legislation;
- Have a clear justification for each data sharing activity;
- Make clear to individuals that their data may be shared and for what purpose;
- Be proportionate in terms of their application and the objective(s) to be achieved;
- Share the minimum amount of data to achieve the stated public service objective;
- Have strict access and security controls; and
- Ensure secure disposal of shared data.⁸¹

We also wish to draw attention to the decision of the Court of Justice of the European Union (CJEU) in the case of *Bara & Others*.⁸² The *Bara* judgment, which focused upon a public sector data sharing arrangement, re-iterated the importance of informing data subjects about the processing of their personal data (which includes sharing that personal data) as it affects the exercise by the data subjects of their rights.⁸³

Given the particularly sensitive nature of DSGBV, it is essential that individuals whose personal data may be processed under Head 5 are fully protected under the legislation and that a requirement for robust data sharing arrangements be set out clearly to ensure the

⁸¹ Data Protection Commission, [Guidance on Data Sharing in the Public Sector](#) (2019), p. 2.

⁸² [Bara & Others \(C-201/2014\)](#).

⁸³ See Court of Justice of the European Union, [Persons whose personal data are subject to transfer and processing between two public administrative bodies must be informed in advance](#), Press Release No 110/15 (2015).

rights of such individuals are protected.⁸⁴ It is also important that any provisions on personal data comply with the State's obligations under Article 65 of the Istanbul Convention so as not act as a barrier to victims' access to services.⁸⁵

The Commission recommends that Head 5 be amended to include an additional subsection requiring the Agency to establish data sharing arrangements with the relevant public bodies and service providers which shall define the principles and procedures the parties shall adhere to in the exchange of documents and information, including personal data.

The Commission recommends that Head 5 be amended to include an additional subsection that states data sharing arrangements will be in accordance with law, and personal data will only be processed to the extent that is necessary and proportionate for the purpose of the performance of the functions of the Agency.

The Commission recommends that Head 5 be amended to include an additional subsection that sets out that data sharing arrangements made by parties bound by the Public Sector Equality and Human Rights Duty shall be developed with regards to the obligations of the Public Sector Equality and Human Rights Duty.

Chief Executive (Head 10)

Head 10 of the General Scheme sets out the appointments and conditions of the Chief Executive Officer ('CEO') of the Agency. Under Head 10 the Minister may designate the first CEO in advance of the establishment day of the Agency (subsection 3). This designation can happen without an open competition and the only requirement on the Minister is that they 'shall' consult with the Board prior to making the appointment (subsection 2). We find that this process is not transparent enough and that any designation of a person to the role of CEO should happen through a fair and transparent competition.

⁸⁴ The Zero Tolerance Strategy lists 'Prioritising confidentiality and seeking consent in information-sharing protocols' as one of the key elements of its victim/survivor-centred approach. See, Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), Table 1.1, p.11.

⁸⁵ See Article 65 of the [Istanbul Convention](#).

Under Head 10 where the Minister does not designate a person to the role of CEO, the Minister shall invite the Public Appointment Services ('PAS') to recommend a suitable appointee on foot of a competitive process (subsection 4). In designating this person, PAS must satisfy itself that the person they recommend to the Minister has "such relevant experience, qualifications or expertise" as is appropriate to the role (subsection 6). We are of the view that where the Minister designates a CEO in advance of the Agency's establishment, the Minister and the Board should also be required to satisfy themselves of the same standards as set out for PAS - that the CEO designated shall have "such relevant experience, qualifications or expertise" as is appropriate to the role.

Head 10(8) sets out that the CEO shall hold office under a written contract of service for such period as is specified in the contract, and subject to such terms and conditions as are specified in the contract, as may be determined by the Minister with the consent of the Minister for Public Expenditure and Reform. To ensure that the process for the designation of a CEO is transparent and fair, there should be a limited contract time for a CEO designated by the Minister in advance of the Agency's establishment with the view that the competitive process through PAS will occur (in which the designated CEO may participate). The Minister should also be required to consult with the Board on this.

The Commission recommends that the designation of a person to the role of CEO should happen through a fair and transparent competitive process.

The Commission recommends that Head 10(5) be expanded to require the Minister to also agree with the Board (as well as PAS) on the selection criteria and process that are to apply to the competition.

The Commission recommends that Head 10 be amended to state that the Minister and Board must be satisfied that the person the Minister designates as CEO in advance of the Agency's establishment day is suitable by reason of his or her possessing such relevant experience, qualifications or expertise as is appropriate.

The Commission recommends that Head 10 include an additional subsection to state that where the Minister does designate a CEO in advance of the Agency's establishment day,

there will be a limited contract period for the CEO and that a competitive process through PAS will occur (in which the designated CEO may participate).

Under Head 10 the Minister may ‘for stated reasons’ (and having consulted with the board) suspend or remove the CEO from office. We note that this ground for removal is insufficiently clear or precise. We are of the view that ‘stated reasons’ should be defined within the legislation.

The Commission recommends that the removal or suspension of the CEO based on ‘stated reasons’ be defined in the legislation.

Functions of the Chief Executive (Head 11)

In addition to the functions listed under Head 11, the CEO should be provided with an additional function to implement the policies, procedures and decisions of the Board.

The Commission recommends that Head 11 be amended to include an additional function providing that the CEO implement the policies, procedures and decisions of the Board.

Agency Staff (Head 13)

Head 13 of the General Scheme sets out the terms around the staffing of the Agency, including provisions allowing for the transfer of current staff from the Child and Family Agency (‘TUSLA’) to the Agency. Head 13 provides that the Minister may appoint as many of his or her officers as he or she determines to be staff of the Agency and that the Minister for Children, Equality, Disability, Integration and Youth may (having consulted with the Minister) designate employees of the Child and Family Agency to become members of staff of the Agency as officers of the Minister.

Head 13 limits the independence of the Agency with regards to having control over its staffing and eliminates external candidates from being eligible to become members of the staff of the Agency. The importance of having staff with experience and expertise, and funding, for the Agency to successfully perform its functions is highlighted in the Third

National Strategy.⁸⁶ This restriction on staffing the Agency may prevent potential candidates with the required expertise and experience from other Government Departments, public bodies, civil society organisations, front line service providers, voluntary service providers, victim-survivors, and those from other relevant sectors, from becoming staff of the Agency.

Head 13 also does not set out any requirements for staff being transferred or appointed to have the relevant competencies required for administering the functions of the Agency, or any requirement for staff to have the commitment, understanding, experience and expertise on DSGBV to administer the functions of the Agency (which are reflected in the requirements of the CEO and the Board).

The Commission recommends that Head 13 be amended to allow external candidates to be eligible to become members of the staff of the Agency.

The Commission recommends that Head 13 be amended to include an additional subsection providing that staff appointed to the Agency will possess such relevant experience, qualifications or expertise as is appropriate having regard to the particular functions of the Agency.

Functions of Agency (Head 14)

Head 14 sets out the core statutory functions proposed for the Agency.⁸⁷ Head 14(1) sets out a list of specific functions.⁸⁸ Head 14(1)(d) provides that the Agency shall compile,

⁸⁶ Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), p. 8.

⁸⁷ Head 14(2) provides that in performing its functions the Agency will consult appropriately with relevant stakeholders and have full regard to both the level of resourcing available to it and to relevant Government policies. Head 14(3) provides that the Minister may by order assign additional functions to the Agency. Head 14(4) provides that the minister may, following consultation with the Board, revoke an order under this Head. Head 14(5) states that any order made by the Minister under this Head shall be laid before each house of the Oireachtas as soon as may be after it is made. Heads 14(6) and (7) provide that the Agency shall have all such powers as it needs to perform its functions and that it shall be independent in its functions, subject to other relevant provisions of the Act.

⁸⁸ These functions are to plan, commission and fund the provision of support services for victims of domestic, sexual or gender-based violence and persons who may be at risk of any such form of violence; oversee and provide support for the provision of refuge accommodation for victims; prepare and publish standards for service provision and governance in respect of the services and accommodation (and monitor adherence to

maintain and appropriately promote and distribute information regarding services available nationally to victims of DSGBV. This provision includes explicit reference to including information for children and young persons. We consider that this provision should be expanded to include explicit reference to other groups who may require accessible information, such as deaf and disabled people.

The Commission recommends that Head 14(1)(d) be expanded to include explicit reference to other groups who may require accessible information, such as deaf and disabled people.

The Istanbul Convention provides that men and boys must be actively encouraged to contribute to preventing all forms of violence. Article 12(4) of the Istanbul Convention states:

‘Parties shall take the necessary measures to encourage all members of society, especially men and boys, to contribute actively to preventing all forms of violence covered by the scope of this Convention.’

Furthermore, recommendation No. 35 of the Committee on the Elimination of Discrimination Against Women (‘CEDAW’) on gender based violence against women notes that States parties adopt and implement effective legislation and other appropriate preventative measures to address the underlying causes of gender-based violence against women, including patriarchal attitudes and stereotypes⁸⁹ and gender related factors, such

those standards); compile, maintain and appropriately promote and distribute information (including information for children and young persons) on DSGBV services; develop and implement general and sector-specific information campaigns; engage and consult with the domestic, sexual and gender-based violence sector and other relevant stakeholders; provide assistance to the Minister in the development and evaluation of a national strategy and implementation plan; coordinate the implementation of any national strategy and any implementation plan; provide advice and support to other public bodies, civil society organisations and service providers in the development of relevant training and educational programmes; provide advice or make proposals to the Minister in relation to the functions of the Agency and on policy matters related to DSGBV; and undertake, commission or collaborate in domestic and international research projects and evaluation on issues relating to DSGBV and to assist in the development of statistical information appropriate for the planning, delivery and monitoring of programmes and services for persons affected.

⁸⁹ CEDAW, [General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19](#) (2017), Section B, para 30(a).

as men’s entitlement and privilege and social norms regarding masculinity.⁹⁰ Head 14 should therefore make specific reference to engagement with boys and men.

The Commission recommends that Head 14(1) be amended to include specific reference to engaging with men and boys.

The Government has acknowledged that the response to DSGBV is a cross departmental issue.⁹¹ Therefore, under Head 14(1)(j), provision should be made to allow the Agency provide advice, or make proposals to, other department officials on matters pertaining to the functions of the Agency, and on policy matters relating to DSGBV (and not only to the Minister).

The Commission recommends that Head 14(1)(j) be amended to allow the Agency provide advice, or make proposals to, the Minister and *other department officials* on matters pertaining to the functions of the Agency and on policy matters relating to DSGBV.

The Third National Strategy acknowledges that a key principle for the Department of Justice in the detailed design phase of the set up for the Agency will be to work with the specialist and community based support organisations in a spirit of co-design to ensure that the new structure avoids the issues that limited effectiveness in the past.⁹² The Third National Strategy is clear on the importance of this type of collaboration as it marked a new way forward to work in a genuine collaborative way between the Department of Justice and civil society organisations.⁹³

Head 14 (2)(a) states that the Agency will:

⁹⁰ *Ibid*, para 19.

⁹¹ [Department of Justice](#); Department of Children, Equality, Disability, Integration and Youth, [Ministers McEntee and O’Gorman welcome publication of review of accommodation for victims of domestic violence](#), Press Release (February 2022).

⁹² Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), p. 22.

⁹³ *Ibid*, p. 44.

‘consult as appropriate with, and consider recommendations from, public service bodies, international bodies, civil society organisations, other persons with relevant expertise, service users including children and young persons, and the public’.

Therefore, the General Scheme sets out that the Agency will only consult ‘as appropriate’, rather than in a manner that gives effect to the spirit of co-design and collaboration that the Third National Strategy identified as key to tackling DSGBV. We have previously advised that the new agency should engage with the lessons learned from its predecessor Cosc, the National Office for the Prevention of Domestic Sexual and Gender Based Violence.⁹⁴ In particular, it should ensure the meaningful engagement of all public and voluntary sector bodies involved in service delivery.⁹⁵ In addition, the contributions of civil society organisations must be acknowledged given the growing evidence on the effectiveness of these groups at combating DSGBV.⁹⁶

The Commission recommends that Head 14 (2)(a) be amended to provide that the Agency will consult as appropriate with, and consider recommendations from, public service bodies, *voluntary sector bodies involved in service delivery*, international bodies, civil society organisations, other persons with relevant expertise, service users including children and young persons, *victims and survivors*, and the public.

The Commission also recommends that the legislation should provide that, in performing its functions, the Agency shall collaborate as appropriate with civil society organisations, voluntary sector bodies involved in service delivery, public service bodies, and other relevant stakeholders.

⁹⁴ Cosc was established in 2007 and assisted with the creation and implementation of the First and Second National Strategies on DSGBV. See UN Women, [Global Database on Violence Against Women: Cosc, the National Office for the Prevention of Domestic, Sexual and Gender Based Violence](#) (2009).

⁹⁵ Review of the First National Strategy on DSGBV indicates that participating public bodies considered it to be “The Cosc Strategy”, and did not have a sense of ownership over it. Similarly, it was observed that NGOs saw themselves as external monitors, rather than as agencies involved in service delivery. McCormack, P., Development, Coordination and Implementation of National Strategies for the Prevention of Domestic, Sexual and Gender-Based Violence in Ireland (2017), p. 48, in Holt, S., Øverlien, C. and Devaney, J., [Responding to Domestic Violence: Emerging Challenges for Policy, Practice and Research in Europe](#) (2017).

⁹⁶ Johnson J. and Brunell L., [The Emergence of Contrasting Domestic Violence Regimes in Post communist Europe](#) *Policy and Politics* 34 (4), p. 578.

The Third National Strategy acknowledged that the lack of joined up Government approaches with regard to DSGBV has led to an uneven implementation of policy, and a lack of comprehensive state-wide service delivery, services and supports.⁹⁷ Based on these insights the Government decided to establish a coherent structure in the form of the Agency.⁹⁸ To ensure a coherent approach to DSGBV policy and service provision (alongside the other functions of the Agency listed under Head 14), the Agency should have the capacity to generate policy separate from the Minister.

The Commission recommends that Head 14 be amended to include an additional function providing that the Agency may generate policy.

Establishment and functions of Board (Head 17)

Head 17 establishes the Board as the governing body of the Agency. The remit of the Board as set out in the General Scheme is set out as predominantly governance, accountability and transparency. To ensure the effective functioning of the Board, provision should be set out to require a self-assessment annual evaluation of its own performance. Such evaluation of the Board should consider the balance of skills, experience, independence and knowledge on the Board, its diversity, how the Board works together as a unit, and other factors relevant to its effectiveness.⁹⁹

The Commission recommends provision be made under Head 17 to include a requirement for a self-assessment annual evaluation of the Board's performance, including consideration of the balance of skills, experience, independence and knowledge on the Board, and its diversity.

Membership of the Board (Head 18)

⁹⁷ Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), p. 10.

⁹⁸ *Ibid.*

⁹⁹ The Government has provided this review function in its Code of Practice for the Governance of State Bodies. See: Department of Public Expenditure, NDP Delivery and Reform, [Code of Practice for the Governance of State Bodies \(2016\)](#), p. 24.

Head 18 sets out the key provisions for membership of the Board. Membership of the Board should include individuals who have the relevant experience and expertise related not only to the functions of the Agency (as set out under Head 14) but individuals who have the relevant experience, expertise and understanding of DSGBV, including victim/survivors.¹⁰⁰

The Commission recommends that Head 18 (2)(a) be amended to explicitly state that membership of the Board includes persons with experience in DSGBV, including victim/survivors.

Recommendations for appointment as members of the Board (Head 19)

Head 19 sets out the process by which PAS is to recommend to the Minister persons for appointment to the Board (which is on foot of an open competitive process). In line with the recommendations made on Head 18 above, Head 19 should provide that PAS will ensure that such group or panel it recommends for appointment to the Minister includes persons who have experience in DSGBV, including victim/survivors. In addition, effort must be made under the legislation to ensure membership of the Board is diverse and representative.¹⁰¹

The Commission recommends that Head 18(2)(a) be amended to provide that PAS will ensure that such group or panel it recommends for appointment to the Minister includes persons who have experience in DSGBV, including victim/survivors.

The Commission recommends that Head 18(6) be amended to provide that PAS will ensure that such group or panel it recommends for appointment to the Minister represents the diverse nature of Irish society.

¹⁰⁰ Section 20(3)(a) of the [National Disability Authority Act, 1999](#) regarding membership of the Authority sets out that members would have knowledge or experience, either directly or indirectly, of matters pertaining to disability.

¹⁰¹ The Government has highlighted that there is a benefit to achieving diversity in its Code of Practice for the Governance of State Bodies. See: Department of Public Expenditure, NDP Delivery and Reform, [Code of Practice for the Governance of State Bodies \(2016\)](#), p. 24.

Expression of Opinion on Government policy (Head 33 and 35)

Head 33 (2)(a) of the General Scheme states that the Chief Executive Officer:

“shall not question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of any such policy”

Head 35 (1)(a) states:

“neither the chief executive, the Board or the chairperson shall, in any written submission to the Public Accounts Committee or another Oireachtas committee question or express an opinion on the merits of any policy of the Government or a Minister of the Government or on the merits of the objectives of such a policy”

We are of the view that these provisions restrict freedom of expression and should be removed from the legislation.

The Commission recommends that any provision restricting freedom of expression be removed from Head 33 and 35 of the legislation.

Arrangements with service providers (Head 36)

Head 36 provides that the Agency may enter into arrangements with not-for-profit service providers for the provision of DSGBV services pursuant to Head 14(1)(a). As set out under Interpretation (Head 2) of this submission, we are of the view that the standards of services set out under Head 36 should also be applicable to arrangements made with for-profit service providers, and as such, the definition of ‘service provider’ be amended.

Head 36(2) provides that funding is determined in respect of the financial year of the Agency. We wish to seek clarity on this provision as many not-for-profit organisations rely on multi-annual funding to carry out their work with victim-survivors of DSGBV. The importance of multi-annual funding for non-for-profit organisations to ensure the effective provision of services has been acknowledged by the State in its response to the COVID-

19.¹⁰² We previously recommended that to assist with strategic planning and the streamlining of DSGBV service provision by public bodies, sustained, multi-annual, equality budget-proofed and ring-fenced funding is required to facilitate the implementation of the Zero Tolerance Strategy.¹⁰³

The Commission recommends that Head 36(2) be amended to provide that funding will be provided on a multi-annual basis to ensure the effective provision of services from service providers.

Head 36(8) provides that the Agency may request information that it considers material to the provision of the service by the service provider. Given the sensitive nature of DSGBV, the confidentiality and data protection rights of service users must be safeguarded in the legislation.¹⁰⁴ This provision should set out in clearer terms that service providers will not be required to provide personal data on individuals or service users that would cause them to breach data protection law.

The Commission recommends that Head 36(8) be amended to provide that service providers will not be required to provide personal data on individuals or service users that would cause them to breach data protection law, and that any request for information by the Agency that contains personal data will be processed in accordance with data protection laws.

Persons providing supplemental services (Head 37)

Head 37(5) provides that the Agency may request a person to provide it with any information that it considers material to accountability in respect of the assistance provided. Heads 37(6) and 37(7) deal with the provision of information requested by the Agency. Similarly to Head 36(8), given the sensitive nature of DSGBV, the confidentiality and

¹⁰² [Department of Rural and Community Development, Minister O'Brien announces funding of €20.8 million for the community and voluntary sector](#) (June 2022), Press Release.

¹⁰³ IHREC, Ireland and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Jan 2023) p. 31

¹⁰⁴ The Zero Tolerance Strategy lists 'Prioritising confidentiality and seeking consent in information-sharing protocols' as one of the key elements of its victim/survivor-centered approach. See, Department of Justice, [Zero Tolerance Third Domestic, Sexual and Gender-Based Violence Strategy 2022-2026](#), Table 1.1, p.11.

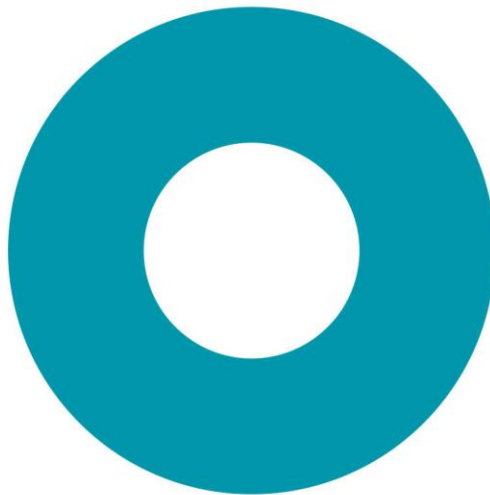
data protection rights of service users must be safeguarded in the legislation.¹⁰⁵ Head 36(5) should set out in clearer terms that service providers will not be required to provide personal data on individuals or service users that would cause them to breach data protection law.

The Commission recommends that Head 37(5) be amended to provide that service providers will not be required to provide personal data on individuals or service users that would cause them to breach data protection law and any request for information by the Agency that contains personal data will be processed in accordance with data protection laws.

¹⁰⁵ *Ibid.*



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