



Submission to the Legal Services Regulatory Authority (LRSA)

INTRODUCTION

This submission under section 34(1)(a) of the Legal Services Regulation Act, 2015, is made by the following Rape Crisis Centres, who work together on common issues as members of the Irish Rape Crisis Centre Managers Forum and constitute half of all of the Rape Crisis Centres in Ireland.

We are:

1. Athlone (Midland) Rape Crisis Centre, based in Athlone with outreach by appointment in Longford and Mullingar.
2. Dublin Rape Crisis Centre, based in Dublin City Centre with outreach in Coolock and Tallaght.
3. Galway Rape Crisis Centre, based in Galway with outreach in Gort, Ballinasloe and Tuam.
4. Kilkenny Rape & Sexual Abuse Counselling Centre, based in Kilkenny.
5. Tipperary Rape Crisis & Counselling Centre, based in Clonmel with outreach in Carrick-on-Suir, Cashel, Thurles and Tipperary town.
6. Wexford Rape and Sexual Abuse Support Service, based in Wexford, with outreach in Gorey, Enniscorthy, New Ross and Wexford town.

Rape Crisis Centres provide crisis counselling and long-term therapy to those who have experienced rape, sexual assault and childhood sexual abuse. The services include helplines, one-to-one counselling, Garda and court accompaniment, training programmes, policy interventions and public awareness campaigns to prevent sexual violence. This work has prompted social, political and cultural changes in Ireland. This submission is informed by the experiences of the women and men accessing these services who are victims of sexual violence and who have engaged with legal practitioners working within the criminal justice system.

Training – General

It is the experience of victims with whom we have contact that solicitors and barristers lack sufficient insight into the nature of the crime and harm of sexual violence and the impact that it has on an individual. In particular, they are not trained specifically how to deal with a traumatised victim. Such training is available and is accessed by other professionals. No legal practitioner should deal with a traumatised person without that specialist knowledge and training as it can actually re-traumatise a victim of crime.

It is important that legal professional have both an understanding of the complex nature of sexual violence and that victims are treated with appropriate levels of empathy to avoid secondary victimisation by the criminal justice system. To ensure that this is consistently achieved, a commitment to adequate initial and continuing education and development for all legal staff of is essential. The level of training needs to be appropriate to the level of contact legal practitioners have with the victim, to enable them deal appropriately with situations as they present.

In addition, Article 25 of the EU Victim’s Directive specifically requires the training of persons who engage with victims of crime, such as the Gardaí (Police) and the court service.¹ The Directive provides that Member States should have due regard to the independence of the judiciary and lawyers; however, it stipulates that training should be made available to Judges, prosecutors and lawyers so as to make them aware of victim’s needs. The directive has been transposed into Irish law, particularly through the Victims of Crime Act 2017.

Training – Court Practitioners

In addition to the general training that all practitioners who may encounter vulnerable victims of sexual violence should have, there is a need for further and better understanding and knowledge by those practitioners who engage in court proceedings.

The nature of sexual violence is such that complainants in these cases are often particularly vulnerable, whether by virtue of age, disability, their often intimate relationship to other parties in the proceedings or other personal circumstances. That in turn makes the task of representing or cross-examining them a delicate one, with potentially distressing implications if handled insensitively. The effective handling by legal professionals of vulnerable witnesses, both complainants and defendants is crucial for the good and fair administration of justice and requires skill, experience, education and understanding.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>

While all complainants of sexual violence are vulnerable during the hearing of the case, the situation is particularly exacerbated during the criminal trial process. They face unique challenges in the criminal justice system. They are at the same time both victim and state witness, with their credibility being under scrutiny to a highly unusual degree as so many of these crimes occur in intimate settings where the victim and perpetrator are known to each other and only they can attest to the circumstances of the charges before the court.

For such complainants of sexual violence, the process of testifying can be a particularly harrowing ordeal: given the intimate nature of the offence, the often intimate relationship between the victim and the perpetrator and the need to recount the explicit sexual details in the formal and unfamiliar setting of the courtroom, in the presence of the accused. Indeed, we have had clients describe their experiences in court as being tantamount to a 'second assault'. The trauma of the trial is exacerbated especially if their testimony and character were subjected to insensitive or even ignorant questioning.

Self-Care

We are also conscious that working in the area of sexual violence imposes its own strains on practitioners. If this is not recognised and addressed, it may not only impact on future clients, but also on the well-being of the practitioner. We would therefore submit that the Authority should seek to ensure that practitioners are given a framework in which they will recognise the risks and the symptoms of vicarious traumatisation and to pay additional attention to self-care and to actively seek peer or professional support while working with victims of sexual violence.

A victim's engagement with the criminal justice should be one of professionalism, commitment and care for the quality of the experience which in turn can increase the confidence of victims of sexual violence in the justice system and provide such victims with better access to justice.

RECOMMENDATIONS

- All legal practitioners who may in any way deal professionally with victims of sexual violence should be equipped with sufficient understanding of the nature of intimate sexual violence, and of the impact of the trauma on victims through initial and CPD training.
- All those involved in prosecuting, defending, or otherwise bringing to trial cases, involving sexual violence, should undertake further specialist training in how to ensure that they treat the victims of such violence with adequate respect for their rights and in a way that does not cause victim re-traumatisation.

For any further information on any of our observations above, please contact, on behalf of the group:

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