

Submission to  
The Joint Committee  
on Justice, Defence and  
Equality on the issue of  
Domestic Violence.

**June 2013.**

## **About *SAFE Ireland***

SAFE Ireland is the only national organisation representing frontline domestic violence services in Ireland. We have 39 members providing domestic violence support services across 26 counties. Our aim is to centre-stage the needs and experiences of women and their children who are affected by domestic violence.

We lead research and disseminate good practice to our members, other professionals and statutory bodies. We collate the experience of our member services and give them and the survivors a voice, sharing the experiences and the enormity of domestic violence in our country. We work in collaboration with our members, government departments, state agencies and relevant stakeholders to progress a change agenda. We want society to take responsibility for the eradication of violence against women.

SAFE Ireland represents services which protect women and children. It is accepted at the UN and the EU that domestic abuse and violence is gendered issue. Our organisation has developed years of expertise based on the experience of thousands of women and children who have been subjected to the tyranny of violence by an abusive partner who, in the main, have been men.

## **Our Aim is Singular and Simple**

The perception that it is impossible to solve the issue of domestic violence itself blocks any meaningful progress on the issue.

The State's policing of crime and protection of victims within personal relationships is maybe complex, but it is not impossible.

SAFE Ireland wants Ireland to be the safest country in the world for women and children. The aim is singular and simple. We want society to take responsibility for the eradication of abuse and violence against women.

We believe it is time to stop seeing the solution to this as related only to the woman, deep-rooted in her choice to stay or to leave an abusive violent relationship. Ireland must start to hold perpetrators of abuse and violence to account. Irish society and the systems that represent us must recognise the part we all play in maintaining the status quo – *that this is a personal or family problem, which is impossible to solve.*

We need to orchestrate educated collaboration across State institutions, the domestic violence services, the media and greater society in order to break apart the stereotypes of the victim and abuser and to replace our shame culture with one of openness and care.

The State must acknowledge its blind spots when it comes to seeing the crimes and neglect which day after day occur in the tyranny of the family across the country.

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## 1. EXECUTIVE SUMMARY

SAFE Ireland believes that one day, Ireland can be proud to be the safest country in the world for women and children.

We want nothing less than a complete transformation of Ireland's approach to: the prevention of domestic violence; the protection of those subjected to this violence; and the prosecution of the perpetrators of these horrific crimes. The reality of the statistics on this violence is that in the main the victims and survivors are women and children and that the perpetrators are men.

In Ireland, we have no criminal code specifically dealing with domestic violence. There is no provision for the crime of domestic violence in Irish criminal law. It is generally not understood and as a result we have systematically 'domesticated' gross violations of women and children's dignity, integrity and human rights. Our State's and society's response reinforces the silence that facilitates domestic violence. Crimes are hidden in a civil law legal system that is not transparent and is largely unaccountable.

SAFE Ireland believes that Irish society, and this Committee, must know the secrets of and understand the truth of domestic abuse and violence. Those who represent us in the State and its institutions must understand the truth of domestic abuse and violence. The State must acknowledge its blind spots when it comes to seeing, and neglecting, the crimes which day after day occur in the tyranny of the family across the country.

Ireland has made reparations for our apparent ignorance of the treatment of our most vulnerable in the Residential Institutions and now the Magdalene Laundries. But domestic abuse and violence happens every day within the family and in personal relationships. It offends the individual and society as a whole. We can't ignore it any longer.

We have been collating data and carrying out research on domestic violence in Ireland since 2007. We now have a bank of knowledge with which to make evidence-based, Ireland specific, recommendations. We are currently completing the most comprehensive research project ever into the way in which the legal system interacts with domestic violence.

Based on what women have told us in our current research projects, we believe it is imperative that there is a root and branch review of the Irish legal system in order to address the systemic failures by state services to respond appropriately and effectively to the women and their children who are seeking protection, justice and support because of the gross violations perpetrated against them.

Domestic violence is an enormous and horrific problem in Ireland. In 2011, over 11,000 women and children sought support from a domestic violence support service here. The forthcoming FRA prevalence study which surveyed over 1,500 women in Ireland is indicating that 80% of women who experience violence have not reported the violence to any state or non state services. The most recent World Health Organisation report has found that 1 in every 4 'ever-partnered women in Europe reported lifetime intimate partner

violence experience'. What we see and what we hear about is only the tip of the iceberg. As the national network of domestic violence services, we witness on a daily basis the widespread gross failures of our state's legal and social systems to protect these women and their children. The State is failing in its constitutionally mandated purpose, specifically through the Courts, to vindicate the personal rights of the citizen. Women, and our member services, consistently tell SAFE Ireland that the Irish legal system fails to protect women and their children and that it fails to hold the perpetrators of these crimes to account.

We now want to see this system radically overhauled. It is time that it actually worked for the women and children who so desperately need its protection and support.

## 2. SIX KEY RECOMMENDATIONS

1. Conduct a root and branch review of the Irish legal system to address the systemic failures evidenced by research.
2. Explore the benefits of developing a comprehensive legislative definition for domestic violence, which encompasses 'coercive control' and explicitly recognises these violations of human rights within Irish criminal law.
3. Implement a specialist domestic violence courts model based on the 'One Judge One Family' models. Within this model, formalise the role of specialist DV advocates to ensure that victims have access to an advocate throughout their process of seeking protection and justice.
4. Provide consistent nationwide 24-hour access to state supports, from protection to court access, to all women and their children seeking immediate and long term protection from a violent perpetrator.
5. Invest significantly in preventative public awareness campaigns and ensure a whole of government response to the issue to bring about educated collaboration across State institutions, the domestic violence services, the media and society.
6. Define "domestic violence" in Irish Housing Legislation and ensure that the definition of a "homeless person" is broadened under the Section 2 of the Housing Act 1998 to specifically include a category of applicants who became homeless as a result of domestic violence.

There is no provision for the crime of domestic violence in Irish criminal law. It is generally not understood and as a result we have systematically 'domesticated' gross violations of women and children's dignity, integrity and human rights. Our State's and society's response reinforces the silence that facilitates domestic violence. Crimes are hidden in a civil law system that is not transparent and is largely unaccountable.

### 3. SOCIETAL STARTING POINTS

Our submission is based on a number of stark starting points or truisms which help mask, reinforce and indeed contribute to the continued prevalence of domestic violence in this country.

1. The perception that it is impossible to solve the issue of domestic violence blocks meaningful progress on the issue. The State's policing of crime and protection of victims within personal relationships is complex, but it is not impossible.
2. Male violence against women and children in this country is a widespread epidemic. As a nation we have only begun to realise the extent and pervasiveness of this violation of women and children's human rights.
3. The impact of this violence perpetrated against women by their male partners predominantly, most likely witnessed and felt by their children<sup>1</sup>, lasts for lifetimes and recycles through generations.
4. The pervasiveness of this violence is often facilitated by Irish society's conservatism, gender biases and the constitutional prioritisation of property and protection of the traditional family unit over the safety of and basic human rights of victims of abuse and violence.
5. We have no criminal law for domestic violence. As a result, in Ireland, we have systematically 'domesticated' the greatest violations of women and children's dignity, integrity and human rights. We have reinforced the silence that facilitates domestic violence by hiding the realities in a civil law system that is not transparent and which is largely unaccountable.
6. Too often the default response to public awareness-raising about male violence against women is to ask 'what about the men'? This question ignores the fact that the overwhelming majority of people living in Ireland who have been grossly violated by their partner are women and the significant majority of those responsible for these gross violations are men. These facts and statistics bear out worldwide.
7. The veil of secrecy that is maintained by our society's reinforcement of shame and guilt through victim-blaming messages and a repeated failure to focus on the actions of the perpetrator, all combine to facilitate the horrific prevalence of this issue.
8. The family is on a constitutional pedestal in Ireland, but some family units are not

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<sup>1</sup> If they have children

worthy of that position. For some 'family' is tyrannous, enslaving the people within it. It is where mental abuse and physical violence are domesticated and somehow tolerated or ignored by society. A new definition of family, which includes all personal relationships, must mean a place which is safe and safety must be above all other defining features.

#### **4. OVERVIEW OF SUBMISSION**

This submission is based on SAFE Ireland's growing body of knowledge. We have invested in gathering this knowledge over the past six years in order to build an evidence-based bank of information to replace the dearth which existed up to then. We have documented harrowing testimonies from women about their repeated exposure to violence, threats to their lives, repeated physical and sexual violence, destruction of their property, physical violent assaults on them during pregnancy and exposure of children to their fathers' violence.

As the focus of this committee is Justice, Equality and Defence, this submission focuses in the main on the legal system's response to the crimes perpetrated against survivors of domestic abuse and violence. It contains extracts from our upcoming publication of our research into **The Irish legal system and Domestic Violence**. These institutions are critical for women and children. This research will be published in September 2013.

In addition, and in order to provide the Committee members with a comprehensive picture of the reality of domestic violence in Ireland, the submission outlines:

- Experiences that women have shared with us directly, combined with existing academic knowledge and the national databank of statistics which we have collated since 2007.
- An exploration of the impact that current state policies and practices are having on women and their children as they seek protection and support.
- A brief overview of how domestic violence affects children based on Irish research.
- The current supports available to victims of domestic violence.
- An outline of the importance of primary prevention strategies.

## 5. WHAT OUR RESEARCH TELLS YOU ABOUT DOMESTIC VIOLENCE IN IRELAND

### A. The Numbers

Since 2007, SAFE Ireland has collated comprehensive national, annual statistics. It has carried out a national, annual one-day census which combined provides a benchmarked record of the prevalence and complexity of domestic violence in this country.

#### Year on Year Increase

SAFE Ireland has seen a year on year increase in the numbers of women and children looking for safety. In 2011, nearly 8,000 women and over 3,000 children received support from a domestic violence service, representing an increase of 56% in the number of women looking for safety since 2007 and a 15% increase in numbers since 2010 alone.

In total, just short of 4,000 people – 1,686 individual women and 2,142 individual children - were admitted to refuge. This is an increase of nearly 10% in the number of women being admitted to emergency refuge since 2007, at a time when capacity has stayed almost static. The biggest increase recorded was nearly 68% in the number of women who received supports outside of refuge or emergency accommodation such as counselling, advocacy or court accompaniment.

Statistics for 2011 also reveal that on 2,537 occasions, services were unable to accommodate women because a refuge was full or there was no refuge in the area. The corresponding figure for children was 2,302.

In 2011, 42,383 helpline calls were answered compared to 27,774 in 2008 (data for helplines was not collected in 2007).

#### Lifetimes of Abuse

Our latest One-Day Census shows that On Just One Day (November 6th, 2012), 22 pregnant women were among the 537 women and 311 children who were accommodated and/or received support from a domestic violence service in Ireland. The census also shows that domestic abuse affects women of all ages and at all life stages. Forty women accessing domestic violence services on that day were over the age of 56, with 14 over the age of 65. The majority – 346 women – were aged between 26 and 45, with 65 young women aged between 16 and 25 also looking for support. A total of 117 women and 152 children were accommodated in refuge and 21 women could not be accommodated because there was not enough space.

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## **B. The Irish Legal System's response to domestic violence**

In 2012, we started to work on the most comprehensive research to date on the way in which our legal system responds to domestic violence.

The project largely came about from staff and volunteers in our member services telling us how difficult the journey through the legal system was for many of the women and children that they support. More recently, we listened to women's accounts given as part of the SAFE Ireland "Healing the effects of trauma" research project. A group of women who survived domestic violence were asked to list the crimes committed by their partners against them and their children. All of the women told us that there had never been any criminal prosecution for the litany of crimes committed against them. This is disturbing when you hear that the crimes committed include: - repeated rapes; child abuse; murder of the unborn child; attempted murder; threats to kill, assault causing harm; harassment; mental torture; bullying; stalking; and false imprisonment.

Abusers committed these crimes but they were not punished, reprimanded or deterred in any way from doing so again. Few, if any, were even reported as or treated as criminal even though the women against whom they were committed had reported these to state institutions such as the HSE, hospitals, An Garda Síochána, Court Clerks, legal professionals and Judges.

Often these abusers used the family court system, access to their children and financial control through spousal maintenance to continue to control, abuse and violate these women and their children after the relationship had substantively and even legally ended.

It appears that the State is failing in its constitutionally mandated purpose, through the Courts, to vindicate the personal rights of the citizen. These women and our member services that support them, consistently tell SAFE Ireland that the Irish legal system fails to protect women and their children and that it fails to hold the perpetrators of these crimes to account.

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### **Cutting Edge Research**

The SAFE Ireland Domestic Violence and the Irish legal system project is the first in-depth exploration of domestic violence and the law. The research combines desk-based research with qualitative research.

In our desk research we have looked at the following:

- Legislative Definitions of Domestic Violence
- Overview of Irish Domestic Violence Legislation and related legislation
- Overview of International Law and Domestic Violence
- Other Country Case Studies – In particular Spain and Sweden
- Specialist Domestic Violence Courts

Working with our member services we identified women who had experience of the legal system. We also interviewed workers who provide court accompaniment and advocacy services.

### **Top Line Evidence**

#### **1. Positive outcomes are possible**

Improvements in other countries' legal systems have positively affected women's accounts of how they were treated, of the system itself and of society's perception of the crime inflicted on them.

#### **2. Small pockets of protection highlight systemic failures**

Our research also shows that there are small, specific parts of the legal system and certain places around Ireland where the system works - women are given the protection that they need, their children are provided for, and sometimes perpetrators are held to account. But our findings are that these small pockets of good practice starkly highlight the failings of the system as a whole. SAFE Ireland can see through its network of member organisations that where women

and their children are safe it is partly because of chance and partly because of the design of some knowledgeable, willing individuals, collaborating with other knowledgeable, willing individuals. We also see what happens when those individuals retire or move on. This is not good enough. The system has to be robust enough in its protection of women and their children to withstand any changes in its constituent parts.

### **3. The system itself is dangerous and traumatising**

Most of the women who met with the team working on the Irish legal system project gave accounts of a system which is dangerous and traumatising.

They are not safe in their own homes. They are not safe in their country. They are not heard and society's view of them, of the perpetrator of the crimes against them and the nature of these crimes is perversely distorted. A hideous act, such as beating a pregnant woman so that her baby is born with black eyes is not treated as a crime.

Our submission is that when women realise that they need support or need to leave an abusive relationship, their survival depends on a system which is neither equipped to recognise nor meet their needs. It often puts them in even greater danger and further traumatises them. It results in one of modern societies biggest lies: - the woman who can leave, but won't leave<sup>2</sup>. This wholly inaccurate characterisation is a block to progress on the issue of domestic violence the world over.

Most of the women who met with the team working on SAFE Ireland Domestic Violence and the Irish Legal System project gave accounts of a Irish system which is itself dangerous and traumatising. They are not safe in their own homes. They are not safe in their country. They are not heard and society's view of them, of the perpetrator of the crimes against them and the nature of these crimes is perversely distorted.

### **4. The system is chronically fragmented.**

The overall service women and children require, from the point at which they seek the law's protection, to the point at which they can live a safe life again is fragmented. The system is known more for its gaps than for what it can do, from the content of the legislation to the

<sup>2</sup> Leslie Morgan Steiner, 2013 TED Talk [http://www.ted.com/talks/leslie\\_morgan\\_steiner\\_why\\_domestic\\_violence\\_victims\\_don\\_t\\_leave.html](http://www.ted.com/talks/leslie_morgan_steiner_why_domestic_violence_victims_don_t_leave.html)

"... we victims know something that you usually don't – it's incredibly dangerous to leave an abuser. Because the final step in the domestic violence pattern is: kill her. Over 70% of domestic violence murders happen after the victim has ended the relationship. ... Other outcomes include: long term stalking...,denial of financial resources and manipulation of the family court system to terrify the victim and her children who are regularly forced by family court judges to spend unsupervised time with the man who beat their mother. And still we ask – why doesn't she just leave?"

See for reference, "Judge 'sick to the teeth' of withdrawal of testimony", <http://www.irishtimes.com/news/judge-sick-to-the-teeth-of-withdrawal-of-testimony-1.538973> "He told Garda Inspector Pat McMorrough that this was not the fault of Gardaí, who showed great patience, but that something should be done to call a halt to these cases where people were "falling into love again" and giving "mealy-mouthed excuses to the court"

response of An Garda Síochána, and from the capacity of domestic violence services to the availability of legal professionals and psychologists working in family, criminal law and the courts.

Within the institutions that women need we see a lack of real understanding of what is being heard. Those who have to work with the issue of domestic violence are given no or inadequate training or support.

We have an inability to process the horror that such acts can happen within the family. We have no ready solution and a system full of gaps. The only way we can respond to it then is to fall back on long-held beliefs and stereotypes and to remain resigned that it is ‘impossible to solve the issue of domestic violence’.

## **5. Reforming Irish Legal System/Key Emerging Themes**

Our research both answers and raises critical questions. It explores whether defining domestic violence would improve the outcome for victims, or, whether it would make the legal system more prohibitive? We look at how existing legislation is being used to prosecute domestic violence crimes.

We ask why there is such a gap in publicly available information or data of any sort. For example, the levels of prosecutions for non-fatal crimes committed against intimate partners. The Probation Service estimates that less than 3% of men on probation are linked to domestic violence related prosecutions. How can the availability and quality of this data be improved? Is it possible (and necessary) to legislate for ‘coercive control’ and ‘patterns of abuse or violence’ in order to account for the fact that domestic violence is more often than not a combination of multiple crimes and civil wrongs which the perpetrator deliberately executes in order to control the victim? Would specialised domestic violence courts improve outcomes for victims? What approaches internationally have been successful in holding perpetrators accountable and protecting and supporting victims?

### **Three Emerging Themes**

We submit as a sample in this submission just three themes or issues emerging from our work which have a damaging impact on the lives of women and children:

1. The need for a legal definition of domestic violence.
2. The answer to the question: “why doesn’t she leave?”.
3. The dangers of a fragmented system.

We have dealt with each of these themes using a case-study format to highlight the issue from the perspective of people's lived experiences – to show how our statutory failure to define domestic violence and to provide a joined up system of response is impacting the lives of women and children.<sup>3</sup>

In all our dealings with the legal and legal system, it has never been mentioned that what he did to me was criminal or that he could be prosecuted. I think that they minimise domestic violence. I don't think that the judges get training in how a power imbalance can develop between spouses and how vulnerable one spouse can be, for whatever reason. Or that just because somebody hits you in a way that it doesn't bruise, it doesn't mean that you're not terrified.

## **The need for a legal definition of domestic violence**

### **No Statutory Definition**

In Ireland there is no statutory definition of domestic violence. The Garda Síochána Policy Statement on Domestic Violence defines it as:

“The physical, sexual, emotional, or mental abuse of one partner by another partner in a relationship which may or may not be based on marriage or cohabitation and includes abuse by any family member against whom a safety order or a barring order may be obtained by another family member”

Would a definition of domestic violence which encompasses coercive control, as the UK has introduced, and psychological abuse better inform the legal system of what it is seeing?

The Irish Government chose a gender neutral policy definition for domestic violence. We need to look at whether this masks the reality – that domestic violence, in the vast majority of cases, is male violence against women. Do we, as they have done in Sweden, need to legislate for violence against women as a distinct subset of violence that occurs in intimate relationships, whether those relationships are spousal, co-habiting or dating?

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3 All names, locations and family details have been altered. The content of the case studies have also been altered in order to make the content anonymous where they are the subject of in camera proceedings. The interviewee's words have been edited so that her identity cannot be guessed from her speech. SAFE Ireland is also aware of the public interest served in breaking the silence. So, we balance protecting the identity of the women, the anonymity of those mentioned in the case studies with shining a light on this serious issue. SAFE Ireland has taken care when making these alterations not to change the meaning. Any attempt to identify an individual or family from an account in this submission is pointless, as these women

## Not a Crime

There is no provision for the crime of domestic violence in Irish criminal law. There are a range of offences under Irish law which may be used to prosecute offences of domestic violence. These include Non-Fatal Offences Against the Person Act 1997, Criminal Law (Rape) Amendment Act 1990, Criminal Legal Public Order Act 1994, Child Trafficking and Pornography Act 1998, Sex Offenders Act 2001, Criminal Law (Sexual Offences) Act 2006, Criminal Law (Human Trafficking) Act 2008 and Criminal Law (Defence and the Dwelling) Act 2011. While the list of legislation mentioned above provides for the criminalisation of forms of domestic violence such as assault and sexual violence, provision is not made for coercive control nor are repeated patterns of violence legislated for.

## International Learning

The definitions of domestic violence contained in the laws of other countries include a range of acts that result in physical, mental or sexual injury. Some have adopted broad definitions that can be interpreted to take into account any illegal act that results in harm or injury. Others provide specific examples of acts that constitute domestic violence.

The United Nations notes that it is advisable to have a detailed definition in the law that captures women's experience of violence in all its manifestations. This reduces the scope for judicial discretion, thereby guarding against the influence of patriarchal biases in judicial decision making. By and large, most countries have covered all forms of domestic violence including, in particular, psychological, sexual and economic abuse. The inclusion of sexual violence is particularly significant as it rules out any tolerance of rape within marriage. Ireland must learn from international best practice.

## ***“They’re having a Domestic”***

The common reaction to domestic violence can be summarised by the phrase often used in police forces and in common parlance: “They’re having a domestic”. This phenomenon makes society and those in our institutions blind to behaviour that would be punished if it happened in public, or between two people not in an intimate relationship. In other words, it affects how we see the crime.

We need to change the effect that this minimising has on those who represent our society - on legal professionals, medical professionals, on judges, and on An Garda Síochána.

The continued treatment of domestic violence as a lesser crime feeds into our incomplete and dangerous understanding of abusive relationships. What has been described as ‘the lawlessness of the home’ comes in part from the fact that those who meet it at the front line are not adequately educated, trained or supported in this work.

## CASE STUDY 1

### **Sarah's Story – When Psychological Abuse Isn't Enough**

Sarah has been with her partner for over 10 years. They have two children and live close to their respective families. The relationship became increasingly difficult after the birth of their second child. Sarah's account is of control and psychological abuse which she felt the Gardaí and the Courts did not recognise as domestic violence. This appears to be because her partner's method of controlling her was through threats to kill himself, to kill her, to kill the children and her extended family. On one occasion he attempted to hurt her family and was arrested for this one incident. However, the link between this incident, for which he was charged, and the domestic abuse was not made either by the Gardaí or the civil court where her domestic violence orders and other family law orders were being made. The only threat of the intervention by the State was a threat made, not to him, but to her, by the Gardaí that her children would be taken from her if she did not resolve the situation at home.

In her own words:

*"...I was pottering around doing my housework and he came and he was, you know - get downstairs, do this and that. I said - I'm not dealing with you while we're fighting, I'm not doing this. He said to me, if you love me you'd come downstairs or I'm going to hurt myself. I didn't think he meant it. I went down about ten minutes later and he was trying to kill himself. He told me it was my fault, that I was a bad mother and everything. I ended up having to get the guards that night.*

*The following day it was like nothing had happened. But he went up to my father's house and he had a row and he told him - don't you worry, you'll never see your daughter or grandchildren ever again. So my father rang the guards. He also told me he had no problem killing me and the kids. The following day, he said he was depressed, that he didn't mean it - you know I love you – that sort of thing. Because of the kids and because he said afterwards that he didn't mean it and would get help, I stayed. For about a week or two everything was grand and then he started back on me again, criticising me, harassing me. He never physically did anything to me, if you know what I mean.*

*Another time he was being abusive to me and threatening to kill himself if I didn't do what he wanted. And I said to him - I'm after ringing the guards and I'm after ringing an ambulance and you can deal with them. I'm not doing it, you can deal with them. He laughed at me and he started to take some tablets, because normally*

*he'll start taking tablets and I'd run to him. But this time I didn't. The guards and the ambulance came out and he was saying to the ambulance man - I don't know why she hurts me so much that I feel I have to kill myself. Then the Garda said to me - I hope to God you haven't got the kids in this environment because I'm telling you this, if this continues, (because this is our fourth time out with him), it's not him we're going to be taking, it's the kids, because they can't be in this environment.*

*The first time I went to court I didn't have [the domestic violence court accompaniment service] with me. I was applying for a domestic violence order. But for the whole 15 minutes I was in the courtroom the Judge's take on it was - well if you're leaving him and you're not going to talk to him, who is going to support him, who is going to help him? The judge said to me - can you not speak to your friends and ask them to support him? I felt that that judge was telling me - well, if you hadn't have left him he wouldn't have done it. I know now that I have some support that it's not my fault, but on that day I had no one.*

*I went to the courts for my protection and I walked out thinking - they are more worried about him than they are about me. He says he's going to kill me and they're asking me can I not do something to help him.*

*So I got a solicitor and eventually I got my protection order, and an interim barring order. I had to come back to get the final barring order. I wanted to move the kids back into their house. But the first thing the solicitor said when we got there was - oh, this judge is not going to give you a barring order, we'll drop the barring order and we'll look for just another safety order, or a protection order. My solicitor told me - there is not enough grounds for it - he didn't do anything, he hasn't hit you. And I said - no he hasn't, but only because I left before he got the chance to hit me. But he threatened to kill me and my kids. So they just said we'll get you a safety or a protection order, it's just as good, but he can live in the house with you. And I said - well I can't go home then, I'll stay with my sister. So finally we got the safety order and he gave an undertaking to leave the house, but I was back and forth to the court."*

## **2. Why doesn't she leave?**

### **Freeze Mechanism**

SAFE Ireland is carrying out a sister project to the project on the Irish legal system and the issue of domestic violence looking at the effect that trauma has on women and children. Studies like this, in the 1970's found 'battered wife syndrome' to be responsible for women's inability to leave.

Emerging SAFE Ireland research on the effects of trauma on women's help seeking abilities shows that long term abuse activates a "freeze mechanism". Some women living with abuse do not immediately take in the very messages and information that are designed to help them find safety – things like information leaflets, helpline numbers or lists of services, for example.

### **The System Traps Her**

In Ireland, however, the trauma resulting from perpetrators violence is often further exacerbated by a system that is itself traumatic for a woman to deal with and navigate. In Ireland where refuges have limited space and where the legal system neither names what has happened to these women as crimes or even as sufficient enough to get a civil protection order, women do not feel supported in leaving.

They know that society and the system as a whole treats the abuse and violence as separate to all the other areas of their lives that should be interconnected under the protection of the family law system – issues such as financial orders on separation or divorce, child access and custody and so on. They know, or soon learn, that the legal system itself is hierarchical and perhaps patriarchal, in the sense of that word that it is authoritarian and prescriptive in nature and that abusers are increasingly more educated about and good at using the system to continue the control and abuse, even after a civil or criminal court order is made.

We heard many accounts of situations where abusers cite violence against them in defence of their partner's application for a domestic violence order. Women described situations where courts interpreted that a second domestic violence order 'cancelled out' the first. Gardai said that they couldn't police a house where both adults had domestic violence orders, particularly where there were children, because removing both parents would leave the children unattended. It seems that the system often defaults to a 'no order for anyone' solution to this dilemma.

Similarly, difficulties in getting reports on the welfare of children for the purpose of either

the domestic violence orders or for access and custody is cited as a reason not to get a report at all. The child's voice is therefore not heard. The result can be that access orders, whether supervised or not, are then made forcing children to spend time with a parent who has abused and violated their mother.

Women are often left with a choice to leave but to face homelessness as a result. They can leave and live with the knowledge that their children are being forced to be with their violent father under court determined access orders. Or, they can stay in the relationship and manage their and their children's survival for as long as they can.

Further on in this submission we look at other factors, beyond legal issues, such as housing, that impact on women's help seeking abilities.

## CASE STUDY 2

### **Noreen's Story – Watching her children grow up with domestic violence**

Noreen was married to the “perfect man” – handsome, an educated professional, successful. To the outside world everything seemed perfect. However, his behaviour changed when she was pregnant with their first child. He started to control her every move, from switching on the heat to accounting for every penny. His behaviour got worse during her second pregnancy. She endured emotional, physical and financial abuse. She attempted to look for help but couldn't bring herself to admit that what she was living with was domestic abuse. It was only when her daughter started to self-harm that she realised the trauma they were all living with. Her husband admitted domestic violence but was not prosecuted. He used the system to his advantage. Against her judgement, her children had to go on unsupervised access visits with a father who regularly locked them in the house or didn't feed them. She spent decades looking for support for herself and her children. She gave up counting her trips to court after 43 appearances.

*“It's just very difficult to describe when you're married to an intelligent, charming man and then you all of a sudden have glimpses of another person altogether. Someone who is just cold and mean, and you want to recapture the man you thought you married. And you are pregnant with your first baby and he shoves you against the wall because you turned on the heating, or he screams into your face. All of a sudden he hits you because you're just a burden. And then he comes home and - I'm so sorry, I have a very stressful job. And he did, he travelled a lot abroad, you know, he had a high-powered job and I felt sorry for him. And then the baby was born and I was very happy. But it got worse. I had mastitis but was not allowed to buy a breast pump because it cost money. He tried to show me how to express milk with my hand - because that's cheaper. Or you have to keep a ledger of every expense. Then you go to your priest and he says to you that you have to leave, to pack up and go, because there's something wrong. He referred my husband for counselling but it escalated; I tried everything: you change your look, you change your attitude, you go back to work.*

*You know, you don't have money. You get an allowance from your husband, and then you have to pay for everything from cable TV to nappies, and he checks how much it costs. And you're on your own, you have no friends, because you're taking care of a baby and keeping down a full time job. I was living in a house with no curtains, no heating; I was warming bottles on a hotplate. But from the outside it looked lovely.*

*Then I got pregnant with his son, and he kicked me because he was stressed. But he made sure he didn't kick my stomach. And I was in and out of hospital because I was bleeding, and they*

*were worried I was going to lose the baby.*

*It's very difficult to explain. That a good-looking, intelligent man could do this. People were envious that I married so well. And it makes you question your sanity, you know. So you make excuses. I went to a solicitor and she said, we'll apply for a Barring Order, this is domestic violence. I said, no, no, no, it's not domestic violence, he's just stressed and, you know, I'm fat and I know I'm not a good mammy and I'm not a good housekeeper, you know, I can't clean properly.*

*But my children were being affected by things. My little girl started to self harm. I told my GP but my husband blocked the treatment, and that frightened me. My husband is very litigious. He started to attack the social workers because they found that there was domestic violence. I got private rented accommodation and counselling was supposed to start for both children but their father wouldn't give consent. Then the HSE started to backtrack. They said - it's parental acrimony, not domestic violence.*

*I believed that even if they were right. Even in a case of parental acrimony, surely children should be seen and heard. Even if it is to tell the therapist and the court that both parents are to blame and that their welfare is at risk. When my daughter eventually started therapy, I think one or two sessions in, my husband insisted he sit in on the sessions. Then therapy was stopped. But nobody saw the red flags. I was begging, my GP was begging, I had a daughter who needed help and I had no support other than the refuge. She was only 10 years of age. Despite everything, unsupervised access over the weekends was granted by the court. When I complained to the judge that the children refused to go on access with their dad, the judge said - then we'll just take the children out of the equation, they won't have an option. When they did go with him for the weekend, they'd come back saying he doesn't feed them. Or, he would lock the front door, the kids can't leave, or he would lock them outside that they have to stay outside, he would punish them. There were so many court cases.*

*The kids didn't know if they were coming or going. You know, it was so confusing. With a child who I was told had to be kept steady, with a father who had admitted to domestic violence, and who had since admitted to hitting his children, (there was an incident when the children were on an access visit and I had to call the guards because he hit my son so hard the kids thought his hand was broken).*

*I stopped counting at 43 court appearances. After all these years, I have nothing. My name is on the family home, so I'm still tied to him. I can't get a rent allowance, I can't go on the housing list, and I can't get a loan. If my car breaks down I can't get a loan now because he's*

*not paying the mortgage. I'm already with the Irish Credit Bureau because my credit rating is destroyed. But I don't care about any of this. What really bothers me is that access was not looked at properly, nor was the welfare of my children.*

*I gave evidence that this man held me by my hair, driving with one hand, holding me down with the kids sitting in the back seat, because I didn't behave on our walk as I should have. But a Circuit Court judge found that I was alienating my children from their dad.*

*Do you know what really alienated the children from their dad? Not being fed. Being put in the corner of the street because one of the children couldn't make up his mind about lunch. This man killed a pet rabbit in front of his children. They're not allowed to have toys, mobile phones or access to a telephone just in case they call me, no computer games, nothing.*

*In all our dealings with the legal and legal system, it has never been mentioned that what he did to me was criminal or that he could be prosecuted. I think that they minimise domestic violence. I don't think that the judges get training in how a power imbalance can develop between spouses and how vulnerable one spouse can be, for whatever reason. Or that just because somebody hits you in a way that it doesn't bruise, it doesn't mean that you're not terrified.*

*I don't know how women can be heard. You have to understand that this is my shame for the rest of my life, and nobody can make me feel any other way. I feel responsible for choosing a father for my children who treats them like this. And I live with that every day, every day."*

Any suggestion about plugging the gaps in the system through which victims and perpetrators fall is met now with the response - we can't afford the plugs. That is simply not true. During the 15 years or so of Ireland's great prosperity we did nothing meaningful to meet this issue. The problem with the solution has never been money; it has been understanding and the will to make a change.

### **3. The dangers of a fragmented system**

The system for protecting women and children in Ireland is largely obsolete. The problem with the solution has never been money; it has been understanding and the will to make a change.

It needs a root and branch overhaul. Any suggestion about plugging the gaps in the system through which victims and perpetrators fall is met now with the response - we can't afford the plugs. That is simply not true. During the 15 years or so of Ireland's great prosperity we did nothing meaningful to meet this issue.

Where there is understanding and the will to do things well, the benefits are huge for women and children. There are pockets of good practice around the country where the system works. Where the courts work with An Garda Síochána and with the local domestic violence service. These are pockets where stereotypes and preconceptions about domestic violence are trumped by solid data based evidence and where the default position is the physical well being and welfare of the vulnerable until such a time as the issue is resolved. These unexpected pockets of good practice need to become what all women and children in Ireland can expect.

#### **Judicial inconsistency leads to uncertainty**

There are a number of immediate actions, already within our statutes, which if enacted consistently, could streamline proceedings and make women's experience of the judicial system less traumatic overnight.

Section 9 of the 1996 Domestic Violence Act empowers the court to deal contemporaneously with the issues of access, maintenance, restriction on conduct, the disposal of household chattels and orders under the Child Care Act, 1991. There is no need to institute separate proceedings. In the case of maintenance matters, there is a requirement for the mutual exchange of particulars of property and income and some District Courts will not deal with maintenance on an impromptu basis without statements of means being exchanged in advance.

However, our research, like the 1999 Law Society's Law Reform Committee's survey, shows a considerable reluctance among judges to deal with these associated matters during domestic violence proceedings. What is even more damaging is that we have a situation whereby it is often the norm that if a judge deals with an access issue that she has heard in the past, he or she will not hear mention of the domestic violence '*because it has been dealt with*' or because the violence was against the mother and not against the children.

The 1999 Law Reform Committee's report says that this variation in practice creates uncertainty as to the practical outcome of domestic violence proceedings and creates difficulty for lawyers in advising their clients. Not possessing any information on why many judges decline to deal with related issues contemporaneously, the Law Reform Committee suggested training for judges along with other measures which would encourage this 'fast-track' approach.

Fourteen years on from this report, little has changed. From the daily experience of SAFE members, either this training has not occurred or has been ineffective.

### **Multi-agency Framework**

SAFE Ireland also believes that the use of a multi-agency framework designed to meet the specific needs of domestic violence victims is a moral imperative. This would include such things as: improved support and advocacy for victims; enhanced information sharing; greater victim participation and satisfaction; reduction in charging alterations and reductions; reduction in the use of undertakings and settlements; 'one case-one judge' policies; and a shorter legal process.

## CASE STUDY 3

### **Lisa's Story – The system's struggle to believe**

Lisa was married and had a three year old child. She ran a business and kept a small farm. She lived at the family home for eight years. Then her husband changed, almost overnight.

In her own words:

*I am self-employed and married. We have a three-year old child. Before we married his parents gave us a house on their land. I finished the house, well, I say "I" because at that time I had more money because I was working hard and I had some savings. I finished the floors, painting, tiles and then we lived there, happily, for eight years. I had my own farm, my poultry, dogs and pigs. The last three years I had my vegetable garden and we didn't have to buy any fruit or vegetables. I planted fruit trees that will be there for life. I put lots into this, physical energy and money. It was my home.*

*But last year things went suddenly wrong. I caught my husband taking a photo of my business account bank statement. He wouldn't explain why. Then he stopped working. I wanted to help him, but he was getting aggressive with me. Not physical but mental. You know, laughing at me all the time. My family were supposed to visit us from abroad and he cancelled their tickets and told me this with a big smile on his face. He blocked me out of the family computer. He locked all the doors in the house. Only my bedroom was unlocked. I asked - why are you hurting me? He said: I am not hurting you; I'm not even touching you.*

*Then one day something I did made him really angry. He grabbed our child in a very aggressive way, put him in the van and started driving. I grabbed the child and we started to fight. He started beating me and I was trying to get away. I put the child in the car and went to the local Garda station. The Garda on duty did absolutely nothing. He just wrote it down and then he said - well, it is only the once, like, and it was during an argument.*

*The child was crying and I said, well, I want to report domestic violence. But the Garda didn't want to deal with me. He said - go to a solicitor, there is nothing I can do. You need some court order or something. I mean I was bruised, not the face but my arms were bruised. He could see - I was wearing a small t-shirt. He didn't take a statement from me. He just took my details and said - you have to go solicitor. But, I don't have a solicitor; I've never needed one. The Garda also said - to be honest with you it is not enough to throw him out of the house. If you get a court order then you can. I explained that I didn't want him thrown out of the house; I wanted help.*

*I started walking the main street of the town with the child in my arms. I was crying and shaking, and the child was crying. The bruises were coming up on my arms. I went to every solicitor and they looked at me, a foreigner. They don't want to deal with me. They would say - Oh no, no we don't do family law. One solicitor rang around for me and sent me to another firm but it was Friday and I was told that the family law solicitor finished early on Fridays. I was told to ring maybe on Monday.*

*I didn't know about the domestic violence service at that stage and the Garda or the solicitors didn't tell me about it. Now, looking back, it would have made a difference if I had been referred to the domestic violence service, for support or even to find out where to go next.*

*I was afraid to go home at first. I went to a friend's house, but I had to go home - I had to take care of my farm animals. I took another friend and three of us went to the house. It was wide open and there was nobody there. Then my husband arrived and he was calm. We talked. I went to collect our child and came home because I thought - he is all right now. I put the child to bed and went to sleep. At 2 o'clock in the morning got a call from the police to say that my husband had reported his child missing. I said I am in the house and the child is in the house and we are all asleep. If you don't believe me come and check.*

*The next day he said he wanted a divorce and told me that I was not going to get anything. I didn't want a divorce. I didn't want to be thrown out of my home but I started to adapt to the idea. I didn't see myself as having much of a choice. My husband then started to intimidate me. He had a cousin who was ostracised from the family because he is violent and has a gun and is mentally unstable. Suddenly, after seven years of no contact with this cousin, my husband invites him to the house. This man is now in my garden, walking around my garden, going in the house and saying things like: "aren't you the good girl..."*

*I met a solicitor. I was advised that I needed to get an out-of-town solicitor, because anyone practicing in our town would be 'too close' to the situation.*

*That same day, When I arrived at the house it was unexpected. The cousin was running out of the house looking very guilty. My husband came out holding our child. I asked - what is going on here? Something was different. There were no birds, no animals. My garden had been destroyed - burnt and sprayed with weed killer; my strawberries, everything. That morning everything was green. Now it was all yellow, the trees were broken. I said to him - where are my animals? Holding the child, he looked in my eyes and he said - they disappeared; you will be next. I tried to grab the child but he pushed me and was gone. I tried to get into the house, but it was locked. He had changed the locks, he had killed my animals, he killed my garden and he threatened me. When, some days later I told the Gardai about my animals they*

wouldn't take a statement.

*I tried to grab the child but he pushed me and was gone. I tried to get into the house, but it was locked. He had changed the locks, he had killed my animals, he had killed my garden, he had threatened me and he had taken my child.*

*I rang my solicitor, and told her. She said - ring the guards, ring the guards now. I rang the guards and 2 guards arrived. I said I want my child; he is in his father's cousin's house down the road. I said my animals have disappeared and I have been locked out of the house. They took notes and tried to communicate with my husband's cousin; they had to force their way in. But the child wasn't there.*

*After three hours the Gardai came back. They found my house key and my husband's brother was holding our child. The police told me - you are not going to get the child and the father is not going to get the child. Your inlaws will have child for tonight because there is a family dispute. You have to sort this out through your solicitors, to get access to the child. He is also not allowed to lock you out. Here is the key. Go in and get the clothes for the child. I was hysterical seeing my child but not able to have him.*

*I want to have my child to me. I am not a drug addict, I am not an alcoholic. I am not a bad mother or a danger to my child, but they took my child overnight.*

*I went out that evening and when I came back about 3 hours later, somebody changed locks again. After the police had given me the key. I was devastated. I got in the car. I was also afraid. I rang the guards again and they arrived. They went to where my husband was staying, 'gave out to him' and got me another key. It didn't work so I went into town and slept on the floor of my office.*

*Then the nightmare of the legal system started. My solicitor tries to connect with his solicitor, but he is on holiday, or he is with another client, or he can't find my husband, or he doesn't have instructions. Monday gone. I sleep in my office again and I don't see my child. Tuesday, I speak to my child on the phone but I can't see him. I sleep in the same clothes I work in; I am like a ghost. I sit in my solicitor's office all day. My husband's solicitor is on the break. He is on the lunch. He is on the phone. He doesn't know where my husband is. Wednesday comes. I am suicidal. I didn't sleep for 4 nights. I am in the same clothes. I have no money, and I have no time because I am all day with my solicitor, crying, trying to do something. No application to court. Nothing. No ex parte application. Nothing, nothing. My solicitor is saying - we have to sort things out between solicitors, you know, between herself and himself, what instructions my husband is giving, what instructions I am giving... 'Access to the child'. It is new to me. I said, what do you mean "access"? This is my child. I want to see him. No, you can't see him.*

*Thursday arrived. I can't even ring to speak to my baby anymore because my husband's family are now upset with me that I brought the police into this 'private family matter'. That was my punishment on the Thursday.*

*When I told my solicitor that I would just have to go and take my child she started saying - oh, you need a private, quick mediation. You need mediation. I said I would do anything. I called the mediator she recommended on the phone and he was disgusted. He said - this is not a mediation case, it is a court case immediately. Who is your solicitor and his solicitor? I am going to talk to them and you will have your child tonight.*

*My solicitor still did not think this was a good idea, but she gave me a letter. To hand to his family as I took my child back. She recommended I go home or stay with a friend. His family would not take the letter. They said - we don't care about solicitors. They said the Gardai told them not to give the child to anybody.*

*So they called the Gardai and gave me the phone. I talked to the policeman who couldn't see why I couldn't take the child. She said, of course you can take the child. There is no problem. But the family called around until they found the original Garda dealing with the case. He got on the phone and said to me - Lisa, you have to listen to me very, very carefully. If you take this child now you will be arrested. The child will end up in the foster house and you won't see your child for a long, long time. That is what he told me, and I swear on my child's life - you will be arrested. You probably won't even be able to leave the State, when you will be arrested and you won't see your child for a long time and your child is going to a foster home or into care.*

*I rang my solicitor and she said - nobody can arrest you. So, I sat in my in-laws house saying that the police would have to remove me because I am not going anywhere without the child. Then my husband appeared. No one can find him and now they find him? They encouraged us to all move back into the family home with the plan for me to find rented accommodation and move out. I didn't ask why. Then the psychological pressure really began. You know, the cousin was stalking me for 5 days. He was behind me everywhere I went. He was driving behind me. I slammed on my brakes once to try to scare him off but it didn't work. He even drove behind me all the way to the Garda station and waited outside when I went in to report him. I went into the Garda and said - this guy is harassing me, driving behind me. The Garda said - oh, Jesus Christ. He went out, and spoke to my husband's cousin and came back and said - he says he is waiting for his wife. It was like I was the crazy one. I said - no, he has been following me for 2 days. He is my husband's cousin. And the Garda said - well, you see, if he was your husband I could do something, but because he is the cousin I can't do anything. In the end I went to the police 3 times and it was such a waste.*

*Anyway, then I moved out. Again, it was very bad. Both solicitors and I and my husband met in the court and we signed an agreement that he would pay half of my rent and half of the crèche fees and let me take my things from the house. I was to have custody of the child and his father had access a number of days. He broke the agreement the day I moved out because he wouldn't give me my stuff, but that was okay. I didn't want any more trouble even if it meant losing the little I owned.*

*Then he didn't pay for half of my rent for 6 months. Because I am selfemployed, I couldn't get State assistance and I went through hell. I had no money to live on. I would go to the shop with €5 and have to decide - will I get milk or will I get 2 nappies? I was hungry. A woman who a few months before had grown enough food to feed her family was hungry.*

*Because my husband kept the child's passport I couldn't leave the country to see my family and he blocked their visa applications to come and see me. I was completely isolated. If it wasn't for my friends here I don't know what I would have done. I am a hostage here. And no one will listen to me. My husband has looked for and got more access but the violence was never mentioned again. The threats on my life and intimidation and the killing of my animals was never looked at again.*

*In preparing my case, because at this point I didn't really trust the solicitor, I rang the female Garda who had taken the photos of my bruises after my husband assaulted me. I asked for the number of abuse case, you know, that we did. She said - but I closed it. She said she called to my husband and that he said - okay, I won't do it again, I won't beat her again. So, she told me that the case was closed. I said - I needed the number of the case to prove the violence. She said that she thought we were back together and that the violence was 'only the once'. I think this was the specific domestic violence Garda in the station. I told her I was relying on her and she said - but he didn't beat you again. Now he understands and is behaving, you can't bring it against him anymore. I said - no, I want to bring it against him. Is it not enough he beat me once? She offered to meet me before court but she never rang me, she never did. She is gone. The solicitor I was given by legal aid sent her junior the day of my hearing. She called me the wrong name 3 times in Court until the Judge asked her - are you sure you know who your client is? She knew nothing about my case; she didn't tell me I could appeal the access decision. When I asked the private solicitor I had previously could we bring him back to court because he wasn't paying my rent as he agreed or paying for anything for the child I was told that the cost of the legal fees would be more than the arrears of the payment so there was no point. I have no faith in the free legal aid system. I have no faith in the judges. I don't believe in solicitors anymore. Then I came to the domestic violence service and they helped me. They told me that I am entitled to the rent allowance. I have only ever paid tax in this country; I have*

*never asked for anything until now. I am trying to rebuild my life and my business but it is hard when some months he pays for the crèche and rent and some months he doesn't. I have used the domestic violence court accompaniment service and it was useful but what I need is the right legal advice. The solicitor has to advise me and represent me.*

*I have lived here for nearly 20 years and I have never been abused discriminated against. If I was, I would have left. I love Ireland. I adopt their rules and regulations and everything of the country, but the judge, as soon as she called me, she said - Lisa, okay, where are you from? I told her where I was from and she said - What are you doing here? I said I live here and I have my family here. There is one judge, she is a District Court Judge and she has all the power in one hand. If you disagree with her decision there is no other way to go. You can't go to the other judge because it is only the judge in the district where you live. I have to go back to her to have the order varied and I was never told I could appeal. I was in Court one time before Christmas to ask for an access decision around Christmas and my case wasn't reached before 4 o'clock and so I didn't get before the judge until January, when it was too late. The court only hears family law cases once a month.*

*The Gardai need a place in each station where one Garda specialises in domestic violence and knows exactly what to do. It needs to be 24/7, to be useful. I didn't know where to go and nobody wanted to be involved, but then if I go to the person you must get involved, because it is your job. It is thought differently to any other crime. If a man in the street hurt you like that with your child, the Garda would deal with you. When it is personal they don't want to, it is not right. It is not right."*

## 7. OTHER FACTORS THAT IMPACT ON WOMEN'S HELP SEEKING

When women are in an abusive relationship, the perpetrator exerts power and control, including threats. He may monitor her phone, cut off access to the computer and the internet, isolate her from friends and family, give her just enough money and then scrutinise every bill to see where that money is being spent, to the last penny. This level of control and isolation makes it very difficult for women to make contact with support services which can help her escape the violence, control and abuse.

When a woman manages to make contact with the supports that she needs to escape violence, she very often comes in contact with a system that can be traumatic, frustrating and of no use to her. When a woman is able to escape violence, the least she should be able to expect is that the system works.

Our current state response does not provide the wrap-around support that women and their children need. For too many women, the struggle to be believed, to battle with bureaucracy, delays and the introduction of regressive policies in certain key areas, means that she gives up and is forced to choose instead to remain or return to her unsafe home.

There are pockets of good practice but unfortunately, the consistent failure of the “whole system” to centre stage the safety needs of women and children outweighs these pockets. This systemic failure is one of the greatest barriers to women's seeking protection from the ongoing violence.

### **Doors Closing on Safe Housing**

The way in which the state's overall response to women living with domestic violence is impeding their ability to escape is brought into sharp focus through the issue of housing and accommodation.<sup>4</sup>

Access to safe accommodation, including emergency provision, medium term and longer-term housing is a critical provision for victims of domestic violence including children. However, domestic violence is not defined in our housing legislation, which immediately impedes a woman's right to public housing and erects an immediate barrier to her seeking help.

To remedy this fundamental omission, it is recommended that “domestic violence” is defined in the Irish legislation and that the definition of a “homeless person” is broadened

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<sup>4</sup> SAFE Ireland has commissioned numerous papers and research on various aspects of Ireland's housing legislation and policies, including Research on Housing Legislation (2013) carried out by a team supervised by Dr. Padraic Kenna, School of Law, NUI Galway, and a Report on the Impact of the Habitual Residency Condition (2013)

under the Section 2 of the Housing Act 1998 to specifically include, among nine categories, a category of applicants who became homeless as a result of domestic violence. In addition, it is recommended that in determining housing need and in the absence of alternative accommodation, the a Local Authority shall have a particular regard to such homeless people.<sup>5</sup>

### **Shortage of Emergency Accommodation**

With regard to first-step emergency accommodation, there is a significant under supply of family units in refuges in Ireland. Currently there are 141 family units with a further 4 family units remaining unopened in Kildare since January 2012 due to inadequate funding. Our 2011 annual report showed that on 2,537 occasions, services were unable to accommodate women in refuge. Ireland has just one third of the refuge capacity recommended by the Council of Europe. With budget cutbacks, essential new refuges are not opening and existing refuges are finding it more difficult to maintain their services. But refuge accommodation is intended as short-term, emergency accommodation and it is critical that a woman and her children can be re-housed to the safest location suitable for their needs. Quite often this requires relocation for women and children from their home and community to an anonymous location that is kept private from the perpetrator.

### **Additional barriers for rural women**

Access to courts and Gardai is becoming increasingly difficult for women living in rural communities. Some of our members in Offaly and West Cork are very concerned by the proposed closures of district courts which will further inhibit women from seeking protection.

### **Other Barriers to Moving On**

The impact of austerity on statutory and community services has resulted in substantial delays in women being able to move on from refuge and/or to find safe housing. In addition, there is a lack of consistency, clarity, continuity and of standardised procedures, all of which creates unnecessary barriers for women and domestic violence services. Finally, report after report documents major discrepancies as to who receives Social Protection and Rent Allowance payments between local areas, counties and regions. The Habitual Residency Condition has created a significant barrier for many women who are seeking state social supports in order to live independently from an abuser.

These barriers persist across Ireland with evidence of great inconsistency of decision making from county to county and often from person to person. It is affecting women across multiple categories. It is having a particularly harsh impact on non-Irish women but is also affecting Irish women, many of who have to move to a new location for safety

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5 Research on Housing Legislation (2013)

or are returning home to escape violence. It is recommended by housing law experts that the application for social housing needs should be accepted by the local authority from the victim of domestic violence, irrespective of the residency of the applicant or her local connections.<sup>6</sup>

Below are five of the main barriers being met by women every day.

1. The requirement to have a local connection to a local authority is having a serious impact on victims of domestic violence who are often likely to move from their county for safety regions.
2. Women are finding it more difficult to secure adequate rent allowance. Rent Allowance has been decreased, deposits are harder to get from Community Welfare Officers, and overall payments from the Department of Social Protection have been reduced. Appeals on behalf of a woman for Social Protection payments or Rent Allowance can take up to a year, causing capacity issues in refuges.
3. Some counties require a woman to be resident or renting in the country for six months prior to receiving Rent Allowance, which is very problematic. Some counties require that a woman is actively pursuing a legal separation before she is entitled to receive Rent Allowance. Waiting lists for Legal Aid can delay her in seeking a separation plus it may not be an immediate legal decision she is prepared to make or indeed is safe for her to make.
4. In some areas if a woman owns a house or farm with her partner/husband she is not entitled to social housing or rental assistance. It is difficult to sell houses in the current climate and this tends to mean that she returns to her abuser.
5. Some areas have very little housing stock available, it may be in poor condition and where it is located may have a lot of anti-social behaviour. There can be a lack of transitional housing available.

## **8. THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN<sup>7</sup>**

SAFE Ireland's national statistics from 2011 revealed that 3,066 individual children received support from domestic violence services in one year. The recent SAFE Ireland national, annual One-Day Census shows that 311 children accessed and/or received support from a domestic violence service in just one day, November 6<sup>th</sup>, 2013.

<sup>6</sup> *ibid*

<sup>7</sup> Evidence for this section comes primarily from Irish studies carried out on the impact of domestic violence on children, including *Listening to Children: Children's Stories of Domestic Violence* (2007), F. Hogan and M. O'Reilly, Department of Health and Children; and *Listen to Me! Children's Experience of Domestic Violence* (2006), Children's Research Centre, Helen Buckley, Stephanie Holt and Sadhbh Whelan Trinity College for Mayo Women's Support Services.

Children are not just by-standers in homes where domestic violence is taking place. When children talk about the anxiety, fear and dread they endure when violence is part of their lives it belies any notion that it goes unnoticed by them. The majority of children who witness violence experience nightmares, spend a lot of their time afraid and often blame themselves for what they have witnessed.

Research has shown that domestic violence against mothers is a significant risk factor for child abuse. Some children may try to intervene and become involved in the violence, sustaining injuries themselves, however a significant number are directly assaulted by their father. The impact of being physically abused by a parent goes beyond the physical injuries; it has huge implications for the psychological well being of the child, with many children living in a constant state of fear.

Growing up in a household with domestic violence has significant impacts on the developmental progress – emotional and mental - of children. While children may be removed from abusive situations the result of living with domestic abuse for any length of time can have a lasting impact throughout the life cycle. Mothers often talk about the impact of violence on their children. They notice changes in their child's personality, they notice aggressive behaviour. Children can withdraw from their environment and become isolated. Mothers report that children feel stigmatised and never spoke of their home environment for fear of being bullied or rejected. They can suffer depression, low self esteem and social isolation. They can become fearful of all men. Evidence shows that violence passes from generation to generation. Boys who witness the abuse of their mothers are more likely as adults to abuse their partner. Girls learn that society accepts violence against women.

The parent-child relationship can be hugely damaged as a result of domestic violence. Often the child can become very close to the mother – protective almost - or on the other hand the relationship between mother and child can become very strained where the mother may be blamed for a family break-up. Evidence has also shown that in many cases the parenting capacity of the mother can be seriously undermined as a result of the abuse suffered. Abused women may lack the capacity to emotionally support their children after the psychological trauma they themselves have suffered. This impacts further on the child's risk of unhealthy emotional development. Often children assume the role of mother to younger siblings, which may lead to a feeling of loss of childhood in later years.

Evidence also calls into question the parenting capability of the abuser.<sup>8</sup> The relationship between father and child often suffers; fathers may become disinterested in the child or put

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8 Stephanie Holt, Domestic Abuse and Child Contact: Positioning Children in Decision-making Process' Child Care in Practice. 17(4), pp. 327-346 (2011)

their own needs ahead of the child which impacts negatively on the child's self-esteem and their capacity to trust adults.

Children require specialist care that puts the voice of the child first. Children come with their mothers to domestic violence services – that is a daily reality. Domestic violence services have to be equipped to deal with their specific needs, as individuals, and as victims.

## **9. Provision of Adequate Support to Victims of Domestic Violence**

SAFE Ireland member domestic violence services across the country provide a range of information, support and advocacy services to women and children experiencing or at risk from violence, abuse and control, every day of the year.

These services include safety, emotional and practical support, aftercare, support groups, transitional housing, court accompaniment and children's services. Nineteen of our members are also dedicated refuges that provide essential emergency accommodation to women and their children looking for immediate safety.

Victims of domestic violence have wide ranging support needs and SAFE Ireland members work with local partners to get to the women who so desperately need it. As a core part of working with women and children to address their safety needs and the impact of domestic violence, our member services have to navigate and respond to an array of legal, migration, housing, funding and language issues which a woman will present with to a domestic violence service.

The SAFE Ireland national, annual census gives a snapshot of the services and supports provided daily. On 6<sup>th</sup> November 2012, 27 women attended counselling services and 50 took part in training programmes or support groups. Sixty women were referred to a range of services including Social Work, Community Welfare Officers, Legal Aid, MABs, Housing Services, Rape Crisis Centres and other refuges.

In addition, SAFE Ireland members accompanied 22 women to court and a further 11 were accompanied to legal practice. On that day, 11 women were also accompanied to medical practice and two were referred to hospital. During these accompaniments, which also take place to rape crisis centres, social workers, drug and alcohol services or housing services, for example, workers provide women with emotional, safety related and practical support as well as information and advocacy.

SAFE Ireland members are essential conduits to helping women to find the supports that will allow them to move on with their lives. However, as outlined in the section above on barriers to women seeking help, these efforts are often thwarted by the disjointed nature

of the state response system; the lack of clarity, consistency, continuity and standardised procedures that women and their support workers encounter every day. Changing and bureaucratic procedures require extra time devoted to unnecessary meetings, paper work and travelling by support workers.

The greatest challenge to domestic violence services, however, is the threat of ongoing cutbacks in funding and state support. Domestic violence services are hardwired to help and so have continued to open their doors to women seeking their support, despite five successive years of funding reductions in many cases. However, they are near breaking point and any further cuts to services will mean that many will not be able to function adequately.

Already domestic violence services are being underfunded by the state. In order to remain open and to provide professional support to women and children, they have to fundraise independently to make up the shortfall in their cost base. If services are being forced to over-rely on independent fundraising because of further state cuts, they will be left in an untenable position – over-reliant on, and overstretched to secure, a source of income for core and essential services, that is unreliable and increasingly more difficult to obtain and maintain.

If the state is serious about providing safety to women living with abuse, control and violence, it must provide adequate funding and resources to the frontline services to which women invariably reach out for help.

## **10. Safeguarding the future - primary prevention**

The National Strategy on Domestic, Sexual and Gender-based Violence, 2010 – 2014, is focused on the development of a strong framework for sustainable intervention to prevent and effectively respond to domestic, sexual and gender-based violence. The primary prevention focus of the Government's strategy is to reduce the incidence of domestic, sexual and gender-based violence by changing the societal norms, practices and behaviors that support it.

COSC, the national implementation body responsible for delivering the strategy, has developed national guidelines for awareness raising in close collaboration with SAFE Ireland and the RCNI<sup>9</sup>. These guidelines are based on best international practice and evidence as well as domestic expertise and know how. They aim to encourage a shift from a focus of public awareness on the victim to an inclusion of a focus on the perpetrator and bystander, while also ensuring that information on support services is available to victims

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9 Rape Crisis Network of Ireland

and survivors. The guidelines also emphasise the importance that messaging does not increase the risk of perpetration and victim blaming.

In Ireland, however, the focus of awareness raising generally has been on secondary prevention measures such as providing victims with information and increasing societal awareness of the prevalence of male violence against women and girls. While campaigns to date have been targeted at specific audiences to increase their awareness or signpost them to services, few campaigns have focused on primary prevention messaging.

SAFE Ireland have recently launched 'MAN UP'<sup>10</sup> a groundbreaking national awareness raising campaign. This campaign puts the warped rationale of men who abuse out in the open. The more the perverse message of abusers is shared beyond the privacy of closed doors, the more it will be exposed, challenged and changed.

Primary prevention strategies are key to changing attitudes and behaviours. They are critical to reducing the perpetration of male violence against women. In order to deliver strong impact there needs to be substantial investment in public awareness campaigns that have strong prevention messages targetted at the bystander and the perpetrators. By reducing the perpetration of violence the costs of substantial upfront investment would be recouped over time. Similar rationale has been applied in the roll out of public health awareness campaigns e.g. [www.quit.ie](http://www.quit.ie)

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10 See [www.safeireland.ie](http://www.safeireland.ie) for more details



For more information visit our website:

**[www.safeireland.ie](http://www.safeireland.ie)**

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