



RAPE CRISIS
NETWORK
IRELAND

Guide to the Legal Process

for **Survivors** of Sexual Violence



Guide to the Legal Process for Survivors of Sexual Violence

Rape Crisis Network Ireland is very happy to announce the publication of a guide to the legal process for survivors of sexual violence. This is a comprehensive and useful resource.

The aim of this Guide is to provide information on our legal system and on the various supports available to survivors of sexual violence. We have compiled this information from the perspective of the survivor facing the legal implications of the crime, from taking the first steps towards reporting the sexual violence which they have suffered, and later having to consider how best to cope with their role in the legal system. It is about empowering survivors, by arming them with valuable information not only on the law, but also on the support services which are available to them before, during and after engaging with the legal process.

This Guide has incorporated and distilled years of expertise from member Rape Crisis Centres who support hundreds of survivors of sexual violence every year.

This Guide begins with an overview of the criminal justice process, from the point of trying to decide whether to report the crime, through to the DPP's decision whether or not to prosecute, to sentence or other final point. Then it sets out the principal legal issues which a survivor will, or may, encounter on their journey through the criminal justice system in some detail, and goes on to provide information on the various supports which are available. There are also sections on other avenues of redress, such as civil litigation, making an application to the Criminal Injuries Compensation Tribunal, and making a complaint under the Victims Charter. There is a dedicated reference section on the multiplicity of statutes which can impact on a survivor's case and a table of sexual offences for easy reference. There are also valuable insights on the impacts of sexual violence from the perspective of survivors themselves, experienced Rape Crisis counsellors and Court and Garda Accompaniment volunteers, and at every turn, there is practical advice for survivors of sexual violence.

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Miriam Duffy
Chair
Rape Crisis Network Ireland
July 2012

¹ Hanly, Scriver and Healy (2009), Liffey Press

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Part I: Step-by-step guide to the criminal justice process

"I was looking for a code book, a guide book all the time for a long, long time of what to expect next so I could be prepared. And no such things exists of course, but I asked advice from the Rape Crisis Centre and I used the hotline continually which was great because you really do need people to talk to ... and as you grow, you do get stronger, you do ... you do recover ... you do ... become stronger in yourself ... you become far more appreciative of where you've been, what you've been through and who you're becoming now."

(Survivor, Rape & Justice in Ireland, 2009)

The legal process is daunting and complex. Information is available publicly which survivors can use to inform themselves about the law and therefore better prepare themselves for engaging with the legal process. This Guide aims to provide basic information to survivors of sexual violence about the legal process, both criminal and civil. This Guide is aimed at survivors who have engaged with the legal system and those considering doing so. The Appendix to this Guide provides links to services which provide further information and advice for survivors in addition to a range of support services which are available nationwide and information on other publications which provide greater detail on certain issues of concern for survivors.

If a survivor makes the decision to report sexual abuse to the authorities, the criminal process begins and can take a long time to complete. Research has found that the average length of the criminal process from reporting stage to sentencing is 33 months.

There are 4 main stages in the criminal process:

1. Reporting to the Gardaí, Garda investigation and evidence gathering
2. Decision of the DPP, including charging the accused person and issues of bail
3. Going to Court
4. Sentencing

Reporting to the Gardaí

If you have experienced any form of sexual violence in your life you might want to think about reporting this to the Gardaí. You can get support and assistance in making this decision. If the abuser is someone you know, or even a family member, it can be particularly beneficial to get support about reporting. Many survivors choose to report a crime of sexual violence because they don't want it to happen to someone else, because they want what was done to them recognised as a crime that has damaged their life and sometimes they want to report because they don't want the perpetrator to go unpunished.

As many reported crimes of sexual violence will not be prosecuted, or will not go to court due to lack of evidence, deciding to report can give rise to mixed feelings as to whether or not it is worth it.

“The overwhelming majority of clients who come to a Rape Crisis Centre initially do not want to report to the Gardaí or anyone. This is usually for a couple of reasons. One is that they simply do not recognise that what was done to them was actually a crime. It is scary to think what happened is/was a crime; it makes it much more difficult to think about and work through. Not seeing it as a crime helps the victim protect themselves at the time. It is a defense mechanism. It is normal. Once someone starts to think about such an event as a crime, their feelings may change and they may want to report it.

Regardless of the outcome, if you report to the relevant authorities you are saying to the perpetrator “No, you may not do this to me and get away with it”. Whether the DPP takes the case or not you will have stood up for yourself and the perpetrator will have had to answer difficult questions. Sometimes that view can help victims. You may also be alerting the Gardaí and others to the possible danger posed by this person.

It is a fact that very few clients regret making a complaint to the Gardaí, again regardless of outcome. It can really help the healing process if the authorities, that is, the Gardaí and the DPP, take you and your situation seriously.

(Rape Crisis Centre Manager, 2012)

The criminal legal process begins once a crime is reported to the Gardai. When you contact or go to a Garda Station to report a crime, the Garda will arrange to have a statement taken from you. The policy of the Gardai is to have this statement taken by a person of the same gender as you, where possible. In some cases, it may not be possible to make a full statement immediately and the Gardai may make an appointment for you to come back on another occasion or they may call to a location convenient to you to take the statement. It is possible to ask your local Rape Crisis Centre to arrange for the Gardai to come to the Centre to take your statement. It is also possible for you, with a support person if you wish, to meet with a Garda and talk to them about what would happen if you reported – you can ask as many questions as you like and find out what it is like to meet with a Garda. You can then take time to decide whether or not you want to make a report or go any further. Your rape crisis centre can arrange this with a Garda. This may be a good way of helping you to decide to report or not.

If English is not your first language, or if you are not comfortable speaking to the Gardai in English, you can ask for an interpreter to be present when you are giving your statement.

If you choose to report the sexual violence, the Gardai will take a statement from you. A statement is a legal document and it should set out the incident in full detail. It is important to tell the Gardai all of the details of the crime when you are making a statement. Sometimes, the Gardai will take a short statement initially and then return to take one of greater detail when you have had some time to recover. You can request a copy of your statement and it will usually be provided to you. You can request it from the investigating Garda or the local Superintendent. There is no legal obligation on the Gardai to give you a copy of your statement and it may be withheld for operational reasons however this does not happen often. You will usually be given a copy of your statement once you request it.

“You’ll be talking about a very personal, distressing event in your life so it’s natural to feel embarrassed and get upset during the statement. Ask for a break if you need to, and remember the Gardai are accustomed to taking statements and also understand that you might be upset. The Gardai will be looking for as much detail as possible so try to prepare yourself for that. Give yourself plenty of time and have someone to contact for support if you need it when you’re finished. You may be feeling tired, emotional and a bit fragile afterwards so try to have a bit of time and space when there will be no other demands on you.”

(Rape Crisis Centre Manager and staff, 2012)

“It is good to have support with you while you are making a statement. It will help you. It is not however helpful if you have someone with you that you do not feel free to speak in front of. For example, if your mother is insisting she come with you, but you do not want her to hear the details of what happened because you are embarrassed. In that case, it is important that she is not there. Some survivors do not want anyone with them and are happy to make the complaint without support. Again this is your decision.”

(Rape Crisis Centre Manager, 2012)

Taking statements from child survivors

It is the practice of the Gardaí to record interviews with children who are the victims of violent or sexual crimes. This is not the case with adult victims of sexual offences and their account is obtained via a statement to the Gardaí. In the case of a vulnerable person, such as a person with an intellectual disability, the Gardaí will also video record that person's statement.

The recorded interview of the child or vulnerable person can be accepted as evidence in criminal proceedings however, that person can be asked questions about the account given in the interview and this would usually be done via a live television link so that the child or vulnerable person does not have to come into the courtroom. The court has discretion not to accept the recorded interview if it would be unjust to the accused person to do so. The court may also allow such a recording to be used in evidence however it may give directions as to the weight to be attached to such evidence. Only children under 14 years and vulnerable adults are interviewed in this way although an application to give evidence via television link can be made in respect of any witness, including an adult witness. However, as an adult survivor, the general rule is that you must give your evidence in court and the court will only allow video-link evidence in very limited circumstances.

As the parent of a child who has been sexually abused, you can accompany your child when he or she is making a statement to the Gardaí. However, it may be the case that an older child, for example, a teenager, may not want their parent in the room when the details of the incident are being discussed. There is expert help available for children who have been subjected to sexual violence, for example via organisations such as CARL and Barnardos which can provide information and support. Experienced rape crisis staff and volunteers can also provide Garda accompaniment services for children however rape crisis centres

do not see children under 14 years of age. Contact details for relevant support agencies are contained in the Appendix to this Guide.

“Those who have survived childhood abuse can grow very much alone, developing harmful ways of keeping the sad bad memories down. I see the counsellor as a real support, as a friend alongside me, and as a safety contact in times of anxious disturbance.”

(Survivor, 2008)

Practical advice for survivors who have made a statement to the Gardaí

“Once you make a decision to report, the process has its own way of unfolding so that many things are out of your control. This can feel difficult. Once a statement of complaint has been taken, there is a process that has a life of its own. This time will be difficult and it may be slow, it will bring up difficult feelings perhaps and it will be a time for a lot of support.

(Rape Crisis Centre Manager, 2012)

“You’ve done everything you can for now so try to put it out of your head – it can take a long time for the remainder of the investigation and then for the DPP to make a decision. Try not to put your life on hold waiting for it. Making the statement can stir up memories and feelings – this is natural and Rape Crisis Centre counsellors are available to offer support if you need it.”

(Rape Crisis Centre Manager and staff, 2012)

Sexual Assault and Treatment Units (SATU’s)

In some cases, the Gardaí may refer you to a Sexual Assault and Treatment Unit (SATU) for a full forensic and medical examination. This is a specialised unit with staff fully trained in the area of sexual violence. If the incident took place some months or even years before you report it, you are unlikely to be referred to a SATU since there is less chance of obtaining forensic evidence. However, forensic evidence can be obtained for up to 7 days after the sexual assault so it may still be possible to obtain some evidence even after a number of days have passed. You may attend at a SATU service without having reported the sexual abuse to the Gardaí. You can contact the SATU unit directly to make an appointment or a Rape Crisis Centre can do this on your behalf. In this situation, you will be examined by the SATU professional however forensic evidence cannot currently be stored for future use.

Rape Crisis Centres provide accompaniment services to SATU's which means that a trained support worker from a local Rape Crisis Centre can attend at the examination with you to provide information and support. You can ask your RCC supporter any questions you need to and ask her to ring someone on your behalf if needs be.

Sometimes, the medical professionals at a SATU service will refer you to other medical services for treatment or continued care. SATU's are located in the following areas: Dublin, Galway, Limerick, Mullingar, Waterford, Donegal and Cork and the contact details for each SATU is contained in the Appendix to this Guide.

In emergency situations, if the sexual violence has just occurred you (or your friend) can contact any Rape Crisis Centre via their helpline (or a direct line) and a trained staff member or volunteer will accompany you to the SATU.

The Gardaí and staff at the SATU service will also inform you of the Rape Crisis Centre support services available in your local area. Contact details for SATU accompaniment services are also contained in the Appendix to this Guide.

"A nurse in the SATU once told me she was glad that I was there because while the staff are busy doing paperwork and setting up the examination room, it is good to know that someone is sitting with the survivor. As support workers we are the only ones who are there solely for the survivor. I am there when she arrives and I stay until she leaves the unit. Sometimes the appointment can last more than 4 hours. I think that it makes a difference, that she knows I am in the next room and that she can check back with me whenever she wants to."

(Rape Crisis Centre Psychological Support Worker Accompanying Survivors to SATU, 2010)

Garda investigation

The Garda investigation will involve interviewing any potential witnesses and obtaining physical evidence, such as CCTV where applicable. If you have attended at a SATU service, the Gardaí will obtain the forensic evidence collected at that medical exam. The Gardaí may also obtain your medical records from your GP or other medical service that you attended after the incident. The Gardaí will take statements from witnesses (where applicable) including professionals that you might have attended after the incident. This includes your GP or hospital staff.

If you name the perpetrator in your statement, the Gardaí will question that person. This means that the person will be arrested and held in a Garda Station during which time the Gardaí will put questions to that person about the incident. Gardaí may also take forensic evidence from the accused person for use as evidence in the case. In most cases, the accused person will be questioned and released until a decision is made on the prosecution of the case. It is very rare that the accused will be taken into custody (that is, held in prison) until the trial. The investigation and decision making process usually takes a number of months. The Victims Charter of An Garda Síochána states that the Gardaí will tell the victim the name, telephone number and station of the investigating Garda. Further, the investigating Garda will outline the procedure to you and ensure that you are kept informed of the progress of the case, including whether a suspect is charged.

The Charter also states that the Gardaí will show special sensitivity in relation to sexual offences and in that respect, the services of a Garda and doctor of the same gender will, as far as possible, be made available. Furthermore, victims will be told about the availability of local specialist agencies dealing with sexual offences such as local Rape Crisis Centres and victim support services.

“The investigative process can be very slow. It can be a long time with periods of lots of phone calls and lots of activity interspersed with times when it feels like nothing is happening. The very best way to deal with this time, which can last months or even years, is to let it happen. Get on with your own life when you can. Eventually as time passes and as you do begin to recover, you will find your own way to deal with this. You should also have realistic expectations of the Gardaí and other agencies.”

(Rape Crisis Centre Manager, 2012)

Role of the Office of the Director of Public Prosecutions (DPP)

Once the Gardaí have completed their investigation it is their duty to compile a Book of Evidence. The Book of Evidence is a compilation of all of the evidence that the Gardaí have gathered in their investigation. In less serious cases, the Gardaí can take the decision to prosecute but this does not apply to sexual offences.

The Book of Evidence is sent to the office of the DPP who will make the decision whether or not to prosecute the accused person based on the strength of the

evidence contained in the Book of Evidence.² Sometimes a delay can occur if the DPP receives a book of evidence and then requests that further investigations be carried out by the Gardaí or further statements be obtained. In practice, it often takes several months for the DPP to make a decision in a case involving sexual violence.

The DPP is independent when carrying out her job. This means that no-one can make the DPP prosecute a particular case nor stop her from doing so.

If the decision is made to prosecute the DPP will decide which charges are to be brought against the accused person. In some cases, the incident reported can include a number of different criminal offences. However, the DPP determines which charges should be brought and in which court. It may be the case that the accused person is charged with a less serious offence than the one actually committed as there is insufficient evidence to charge that person with the more serious offence. This decision will be very upsetting for you and it is important that you have appropriate support in place during this time.

In cases where the sexual abuse took place over a long period, for example, in cases of child sexual abuse, the accused person will be charged with a number of 'sample counts'. This is often because the incidents of sexual abuse are too numerous to count or charge the person with. Charging the accused person with a number of sample counts takes into account the type of abuse that took place and the frequency of it. The court will be aware that the charges in question are sample charges and will take this matter into account when sentencing the accused person.

The DPP may decide not to prosecute in any case and is not required to give reasons to the victim for doing so. The DPP will inform the investigating Garda of the reasons for not prosecuting but the Gardaí may not disclose those reasons to a victim. A large number of sexual abuse cases are not prosecuted and the most recent figures from the office of the DPP show that in 2009, a decision was made not to prosecute in 73% of sexual offence cases. This means that there is a very good chance that your case will not reach court. However, if your case does reach court, there is a very good chance that the accused person will be convicted. In 2009, 29 rape cases were heard before the Central Criminal Court and the perpetrator was convicted in 79% of those cases.

² A booklet on the Role of the DPP is widely available and can be downloaded from the website of the Office of the DPP – www.dppireland.ie. A link to this booklet is contained in the Appendix to this Guide.

It can be particularly difficult to prosecute sexual offences because the perpetrator generally ensures that the offences take place in private and that there are no independent witnesses to the crime. This usually means that it is difficult to persuade a jury that the accused person is guilty beyond reasonable doubt and this influences the DPP's decision whether or not to prosecute. When a decision is made not to prosecute the accused person, it does not mean that the authorities do not believe that you have been abused. In the vast majority of cases, the prosecution does not happen because there is not enough evidence.

The main reason that the DPP decides not to prosecute is a lack of evidence or weak evidence. The DPP's Guidelines to Prosecutors set out the factors to be taken into account by the DPP in deciding whether to prosecute. The general rule is that a prosecution should not be instituted unless there is a "prima facie" case against the suspect. This means there is admissible, substantial and reliable evidence that a criminal offence known to the law has been committed by the suspect. The evidence must be such that a jury, properly instructed on the relevant law, could conclude beyond a reasonable doubt that the accused was guilty of the offence charged. This means that the DPP will not prosecute where there is no reasonable prospect of securing a conviction.

If the DPP decides not to prosecute the accused person will be told of the decision not to prosecute and all charges against that person will be dropped. If fresh evidence comes to light, the DPP may review the decision not to prosecute and this issue will be considered in more detail below.

A decision not to prosecute can be devastating for you as a survivor of abuse. It is very important therefore that you are supported at this time. For many survivors, the process of reporting sexual abuse can be valuable in itself. It may assist you in getting closure and moving on with your recovery. You may feel that you have regained control of your life and of your recovery. It may also help that the perpetrator has been required to account for their behaviour to the Gardaí, even if there is no punishment. You may also feel that you have protected somebody else from being abused.

"If your case is not prosecuted by the DPP it will be disappointing and it may resurrect some difficult feelings. It may be hard to remember that the DPP not taking a case is not a reflection on you personally, though it may feel like it. There are so many reasons why the DPP does not take a case. For many survivors, it is a time of some relief if the case is not being taken."

It may be a case of “Ok now I will move on, I have done all I could”. For others it is a time of anger.

Whatever your feelings are, they will pass eventually. You will move on from it and remember it is quite rare for any victim to regret making the statement. Standing up for yourself and reporting such a crime is significant in itself and can be part of your healing process. The DPP not taking the case does not change the truth of what happened. It is really important at this time to have support, to have people around you who can reassure you that they believe you, care for you and who see your strengths.

If the DPP decides to go ahead with the prosecution it is often welcome but it also means this particular period of your life is going to go on longer. It is a time of high tension and fear and you will need good quality support.”

(Rape Crisis Centre Manager, 2012)

“You stood up to your abuser and although he will not be prosecuted on this occasion he knows that you’re not silent or scared anymore. This took a lot of strength and courage on your part and you have done everything you possibly could do.”

(Rape Crisis Centre Manager and staff, 2012)

Reviewing the DPP’s decision

Staff from the office of the DPP will not meet with victims to discuss any case although a victim (or their family member) may write to the DPP to request a review of the decision not to prosecute. While there is no legal time limit on requesting a review of the decision of the DPP, it should be done as soon as possible after the decision has been made.

A victim may request in writing a review of the decision not to prosecute by the Office of the DPP. This review will be carried out by a person in that office who was not involved in the initial decision-making process. However, the DPP’s own information booklet indicates that reversing a decision not to prosecute will only take place where new and compelling evidence is available to the DPP. In most cases, this means that the DPP is unlikely to change her original decision.

Charging the accused person

Where the DPP decides to prosecute the sexual abuse, the accused person will then be charged with the offences. Charging a person is a legal process whereby the allegation is formally put to that person. The types of offences that the accused person is charged with will dictate which court the case will be heard in. The Gardaí will charge the accused person however that person does not have to plead guilty or not guilty until the matter comes to court. The case will be mentioned in court on a number of occasions before a trial date is given and the accused person will not plead guilty or not guilty until that trial date has been given.

The Victims' Charter of An Garda Síochána states that the investigating Garda will inform the victim if the accused person has been charged and the nature of those charges. The accused person will be required to appear in the District Court at the early stages of the case for procedural reasons and usually, the case will be transferred to a higher court to be dealt with by that court. Issues such as bail and the service of the book of the evidence on the accused person are dealt with by the District Court

Attending at court

Rape Crisis staff can accompany you at any stage of the court process- before, during and after court hearings. You can contact your local Rape Crisis Centre and trained staff or volunteers will organise to attend at court hearings with you. Contact details for Rape Crisis Centres nationwide are contained in the Appendix to this Guide.

You are entitled to go to the early court hearings if you choose to but you are not required to attend. You are not permitted to address the court until you are called as a witness. At a later stage, the accused person will be arraigned, that is where s/he pleads guilty or not guilty. This is usually carried out on the first day of the trial. If the accused person intends to plead guilty it is often the case that the Gardaí will be made aware of this prior to a trial date being set. If this is so, you should be informed as soon as possible.

If the accused person pleads guilty, this means you will not have to take part in a trial. It means that the perpetrator has admitted what he or she has done to you. In some cases, the accused person may plead guilty to a less serious charge and this will have been agreed with the prosecution in advance. If there is no trial,

you will not have to give evidence but you may, if you choose, tell the sentencing judge about the impact that the sexual violence has had on you. This will be considered in further detail below.

In some cases, the accused person will plead guilty to some charges and not guilty to others. For example, the accused person may admit to touching you inappropriately but deny having sexual intercourse with you. In this situation, a trial will still take place in order to try to prove the facts which the accused person denies. You will still be required to give evidence before the court.

Bail

When an accused person is charged, they are usually released on bail unless the Gardaí object to bail. A court can grant bail even if the Gardaí object. If a court refuses bail, the accused person will be kept in prison until the case is heard. Most often, the accused person will be released on bail. Research has found that that majority of persons who are accused of rape are released on bail until the trial.

Persons on bail are subject to conditions, one of which is that they do not contact or interfere with the witnesses in a case including the victim. If a person breaches the terms of their bail the Gardaí can apply to the court to revoke bail and seek to have that person held in custody until the trial. It is important to inform the Gardaí immediately if you feel threatened or harassed by the accused person. The Garda Victims Charter states that the Gardaí will inform the victim if the accused is in custody or on bail and any conditions attached to that bail.

Protection from threats or intimidation

In cases where the perpetrator is known to the victim, some survivors of sexual abuse will express anxiety about their personal safety. This is especially so in cases of intimate partner abuse. It may be necessary therefore to get advice about the options available to you to protect yourself and your family from intimidation by the accused person or their associates.

Harassment and intimidation can be dealt with via the criminal or the civil law.

In the first instance, the Gardaí should be immediately informed of any such anxiety so that additional terms and conditions can be added to the accused person's bail conditions. However, if the perpetrator has not been charged with

the offence or a decision has been made not to prosecute that person, the options are more limited. The criminal offence of harassment exists which could allow the Gardaí to charge that person with that offence if necessary.

A number of options exist under the civil law also and family law is especially relevant in cases where the survivor and the perpetrator are known to each other. Barring, safety and protection orders are available against spouses, partners, former partners, adult children and persons in other non-contractual type relationships. Safety orders and protection orders are also available however a barring order, which would require the abusive person to leave the family home and remain away for a lengthy period, is not available against a person who has a greater legal interest in the property in question than the person applying for the order. For example, if the abusive person owns the property that you are living in together and you do not, then it is not possible for you to obtain a barring order to remove them from their own property.

The law also allows persons who have a child in common but who have never lived together to apply for safety orders. The court may make a safety order or barring order when *'it is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant or any dependent person so requires'*. 'Welfare' is defined to include 'the physical and psychological welfare of the person in question'. It is not necessary for the applicant to prove actual violence or cruelty before an application can be made to the court.

Applications under this law can be made to the District Court and legal aid is available for persons who qualify by way of a means test. There are criminal penalties available for breach of protection, safety or barring orders and Gardaí have various powers of arrest under this legislation.

Privacy and confidentiality at the reporting stage

The Garda Síochána Victims Charter states that the Gardaí will be especially sensitive to the victims of sexual offences. This includes being interviewed by a Garda of your own gender, where possible. A victim's statement of their complaint will be included in the Book of Evidence which the Gardaí compile and if a decision is made to prosecute the accused person, that book of evidence must be given to the accused person and their legal advisors. No details of this Book of Evidence can be made public. The media are not entitled to report any potentially identifying details about a case that has yet to be heard before the courts.

There are many stages of the criminal process at which a survivor could inadvertently compromise their own privacy. Survivors should never talk to or engage with the media in any way in advance of making a complaint or the case going to trial. There is a very real danger that this could prejudice, that is, seriously damage, the case with the risk that the perpetrator will not be prosecuted.

Sometimes survivors are asked to disclose additional private information when making a report about sexual violence. This can include medical records which are not directly related to the incident. It may also include private information such as any psychiatric history and records held by counsellors or therapy centres. You are not obliged to make any of this information available and it may be a good idea to get some legal advice before you agree to hand over any private information. Sometimes, a survivor will be asked to sign a waiver in respect of private materials at a very early stage in the criminal process, such as when you have made a statement to the Gardaí. It is important not to sign any such waiver or agreement until you have had appropriate legal advice about its implications or at least until you have had some time to consider it yourself.

Delay during the criminal process

The criminal process is quite lengthy and delays can occur at many stages which can add to survivor concerns and anxiety. Remember, you are entitled to be kept informed of the progress of the case by the investigating Garda who liaises with the Office of the DPP and the prosecution legal team. Both the Gardaí and the Office of the DPP have stated, via their Victims' Charters, that they will keep victims informed during the criminal process. If you are not satisfied with information provision during the criminal process, you can make a complaint. Details of the complaints procedures including contact information are contained in the Appendix to this Guide.

Common reasons for delay during the criminal process are:

- The complexity of the case, including the number of witnesses who may have to be interviewed, records obtained, CCTV obtained (where applicable), forensic and scientific analysis of evidence which can take some time to complete
- If the case is a complex one, the DPP may take some time to reach a decision on the prosecution

- When the matter comes to court, an important witness may not be available due to illness or some other matter beyond their control
- The defence legal team may not be ready to proceed
- The court list may be full and there may be no court or judge ready to hear the case
- The defence team may have started legal proceedings preventing the trial from going ahead. This is known as judicial review.

Judicial review can cause a significant delay to a case and can in fact end the criminal procedure entirely. The most common type of judicial review taken in sexual offence cases seeks to have the High Court prevent the case from going ahead because the investigation or prosecution has taken too long or there has been such a delay in the case that the accused person cannot get a fair trial. The criminal process will be delayed for a quite a while when a judicial review is pending. If the High Court agrees to stop the trial, the accused person cannot be prosecuted further and will go free. If the High Court refuses the accused's application, the trial will begin. However, it is open to the accused person to seek to appeal to the Supreme Court and if the Supreme Court agrees to hear the appeal, the case will be delayed for a significant period of time, most likely for a number of years.

Delays are an unacceptable aspect of our legal process and it is important that survivors are aware in advance of the potential for such delays. In some cases you will be informed that a case is going ahead for example in one month, but this could change at the last minute, including on the day that the trial is due to start. This will be very upsetting for you and can damage your recovery as you are likely to have prepared yourself for that trial date. You may want to ensure that you have support, such as from a rape crisis centre during this time.

The length that a case will go on for once it begins will vary depending on the complexity of the case. You can expect that the case will be heard for 3 to 4 days at least and then the jury may take some time to consider their verdict. Your role in court proceedings is considered in more detail below.

Withdrawing complaints

There are various reasons why a victim of a sexual offence may consider withdrawing their complaint. Research has indicated that decisions to withdraw usually happen shortly after the report is made to the Gardaí or at the stage when the file is with the DPP pending a decision to prosecute. If you decide to withdraw your complaint, you will often be asked to sign a document confirming that you have chosen to do so.

If you withdraw your complaint, it may be possible to proceed with that complaint at a later date however, it is often more difficult for a prosecution to take place in those circumstances.

If the victim is a child, the DPP may consider that there is a public interest in continuing with the prosecution even if the child indicates that they do not want to proceed. In that event, the matter would proceed to court on the basis of the statement given by the victim when making their complaint to the Gardaí. It is open to the DPP to take this decision in respect of an adult victim also although this is rarely done.

Going to court

Many survivors of rape will be unfamiliar with the courts therefore going to court for the first time as the victim of a serious crime will be a daunting experience. The Courts Service has produced a diagram which explains the roles of each individual in the courtroom which is available to download from their website. A link to the diagram is available in the Appendix to this Guide.

The following information is aimed at providing you with as much knowledge as possible in advance of going to court. It will also direct you to various publications where further information and support is available to you.

You can arrange to meet with the prosecution solicitor and barrister in advance of the trial. While you cannot discuss any of the evidence that you will give at the trial with the prosecution, you can ask questions and find out some information about the court procedure at this meeting. Pre-trial meetings are discussed in more detail in a later section.

Venue of trial

Survivors may take the opportunity to familiarise themselves with the court room in advance of the trial. A consumer liaison officer of the Courts Service will arrange for you to visit the courtroom in advance of the trial, or a rape crisis support worker can arrange this for you. The role of the customer liaison officer is also to give the contact details of voluntary organisations that offer support to crime victims. Rape Crisis Centre staff or volunteers can attend at court in advance with you. This is often very helpful since it may make you feel more comfortable in your surroundings if you are aware of them in advance. It may also make the process of giving evidence before the court less traumatic.

Every case will start in the District Court and an accused person is required to appear before this court so that the Book of Evidence can be formally served on them by the Gardaí. The District Court then sends the majority of sexual offences to a higher court to be heard.

The venue and type of court that the case will be heard in will depend on the offences that the accused person is charged with. Hearings in the District and Circuit Courts will take place in the locality in which the offence took place but hearings in the Central Criminal Court usually take place in Dublin. On occasion, the Central Criminal Court will sit outside of Dublin. Where evidence is to be given via video-link, it may be necessary to move the case from your locality as the courthouse may not have those facilities.

Court facilities

Some courts have better facilities than others. The Courts Service Victims Charter undertakes to provide victim waiting areas in almost all courthouses, especially those recently re-furbished. Circuit courts, that is, local courts may not have separate waiting areas for victims but it may be possible to book a room at the courthouse in question for the duration of the trial. Courts Service customer liaison officers may be able to organise this or you can ask your local Rape Crisis Centre to organise this on your behalf. A dedicated victim suite with four rooms and a reception area is available in the Courts of Criminal Justice in Dublin, where a large number of sexual violence cases are heard. The Charter also states that video-link facilities are available in a number of courthouses but that a hearing may be moved to a location that has such facilities if the court grants leave to hear such evidence in that way.

The Courts Service will organise an interpretation service if you do not speak English. If English is not your first language and you do not feel comfortable giving your evidence in English, you will be provided with an interpreter. You should inform the investigating Garda of your need for an interpreter as soon as possible.

Pre-trial meetings with Prosecution

In serious cases, such as sexual offences, the Office of the DPP together with the investigating Gardaí can organise a pre-trial meeting between the prosecution legal team and you, the victim. You can arrange this through the investigating Garda. The purpose of this meeting is to explain to you what is going to happen in court however the prosecution cannot discuss the actual evidence that you will give at trial.

Pre-trial meetings can be very positive and helpful for you as a survivor as it will give you an opportunity to ask questions about the trial process and seek information and clarification about matters that you may not understand fully. You are not permitted to discuss the evidence that you will give at the trial with the prosecution but you can ask questions about the trial procedure, for example, how long it will take, whether you have to be present for all of the case, who will be permitted in the courtroom, whether the case will be reported in the media, where you should sit during the case and how to get the attention of the solicitor or barrister during the trial if you need to. If you have any questions or are unsure about any aspect of the court procedure, you should raise those concerns at this meeting. It is advisable therefore that you attend at this meeting if you can.

Your role in court proceedings

The survivor's role in criminal proceedings is as a witness for the State. All prosecutions are taken by the DPP on behalf of the people of Ireland and therefore a criminal prosecution involves the State prosecuting the accused person, rather than you prosecuting the accused person. The State will have a solicitor and a barrister acting on its behalf in the prosecution and it is important to know that those persons do not act for you directly. You, as a victim, are not entitled to be legally represented at a criminal trial except in one very limited situation, which is discussed below.

It is likely that you will be one of the first witnesses to give evidence at the trial. You will first be asked questions by the prosecution barrister whose role it is to present the evidence in the case. You will then be cross-examined by a barrister representing the accused person who will ask you questions and seek

to find any inconsistencies in your evidence. You will be cross examined on the statement that you made to the Gardaí and you are not permitted to have a copy of the statement with you when you give your evidence. You must give your evidence from memory. You can request a copy of your statement from the investigating Garda and although you have no legal right to the document, it is usually provided in advance of trial.

For most people, cross examination is often the most difficult part of the case as it can be lengthy and personalised, including very personal statements and comments about you. The defence may try to make out that you are somehow of an unreliable character and should therefore not be believed by the jury. In many cases, the accused person will claim that you consented to the sexual activity and the cross examination by the defence barrister will try to show that this was the case. You will have to answer questions that are difficult and embarrassing for you during cross examination.

The prosecution barrister is entitled to complain to the judge if he or she considers the questions being asked to be irrelevant or unfair, but this is not always done. The judge has the power to stop a particular line of questioning but may allow lines of questioning that make you very uncomfortable or are embarrassing for you. You can object personally to a question being asked of you but the judge may still require you to answer it.

It is possible to ask for a short break when you are giving evidence and this may be granted by the judge. However, it is vital that you do not speak to any person about your evidence during this break because if you do, it could lead to a valid claim of unfairness by the accused person and the trial may be halted and the accused person will go free.

It is very important that you do not discuss the evidence that you are going to give at trial with any person before the trial takes place. You are not permitted to rehearse your evidence with any person and if you do, it may cause the trial to collapse and the prosecution will not be continued.

In some cases, the judge may order that only one witness is entitled to be in the court room at any one time so that each does not hear the other give evidence. You may have a friend or support person with you at all times during the trial but you cannot discuss your evidence with this person. Rape Crisis Centres provide court accompaniment services where a trained staff member or volunteer will attend at the trial with you and will provide you with support and information.

“For a survivor of sexual violence, a case getting to court can be a huge milestone on a long, difficult road. It will be an experience that will be full of emotion, distress and some possible reliving of the incident. All survivors will, more than likely, have a very deep wish and hope for justice. Most survivors believe that their story and their case is a strong and compelling one.

Court is intimidating for anyone and it is always stressful. But for most survivors of sexual violence it is particularly difficult regardless of whether it is a recent incident of rape or child sexual abuse that happened a long time ago. For survivors of child sexual abuse, authority figures can be difficult to deal with.

Stress can make many people behave in unpredictable ways. During the court process, a survivor might find themselves becoming awkward and angry, or even very quiet and passive and particularly eager to please. To be as ready as you can and to be as strong a witness as possible, there are some things that are worth thinking about and doing before the court date. You may be confident and capable in your everyday life but going to court is a place where you may be so intimidated that you become afraid or so nervous that you lose your confidence. If the abuse is some time in the past and you have some distance from it, you may be surprised at how going to court can make you feel. You may experience some of those difficult feelings that were there in the early days just after the event or some of the feelings you may have numbed. Seeing the perpetrator can be a shock. This is normal and preparing for it can really help.

The followings are some things that you can do to help you to prepare for court:

- ***Always have a support person with you whether it is while you make a statement or when you are going to meet with the prosecution legal team. Bring someone you trust. You won't remember everything you hear so it can be good to have a witness. You may misunderstand things and having someone else you trust there, to clarify what you heard is usually helpful. Sometimes survivors feel that they do not want to burden close friends or family and they try to do everything alone. This may not be helpful. You need as much safe, strong support as you can find. Rape Crisis Centres can provide this support.***

- ***It is most helpful to have had some counselling before you go to court. This is particularly important with sexual violence and really important if the sexual abuse happened sometime in the past. The impact of talking in a courtroom about something that is deeply private and that affected the survivor deeply can cause emotions to be stirred that are not expected. Speaking with someone trained in a sympathetic setting can really help. It helps get some distance from the emotions and trauma and reduces the possibility of being overwhelmed in the courtroom.***
- ***It is very important that you meet with the prosecuting barrister and solicitor before the case. It will help you to get a sense of them and you can ask questions and get information before going to court. Sometimes survivors do not feel free to challenge or ask the prosecution legal team questions about something that is important or that is puzzling them. Survivors sometimes assume that if something was important the prosecution team would have noticed. This is not the case. No one knows your story like you do. They need your help too. Survivors withhold information sometimes because they do not think it is important or because to speak about it would upset them too much. Do not withhold any information from the prosecution team or investigating Gardai at any time. It can be very damaging to your case if you do.***
- ***You get one shot at giving evidence. Often people finish giving evidence and then think of all the things they could have said. This is normal. Taking your time when you give your evidence and taking breaks when the barrister or judge suggests it can be really helpful. You can also ask the judge to take a short break if you feel that you need it. It can help you to collect your thoughts. Many survivors want to “get it over with” once they are in the witness box but taking your time can be important.***
- ***Emotions are normal and the judge and court personnel will be well used to them. Don’t be afraid to be upset or angry. This is your story and your time to tell it. If you do get upset, allow the emotion and resume your evidence when you have collected yourself. Survivors may judge themselves very harshly if they become overwhelmed. When someone is in the grip of an emotion or feeling they cannot think clearly. Learning to let the emotion or feeling pass is really helpful. Having some counselling beforehand can really help.***

- ***Some survivors have people supporting them in court that they would prefer were not there for different reasons. It is essential that there is no one in court “supporting” the survivor that that person is uncomfortable with. This includes loved ones, partners and friends. If you do not want them to hear the evidence or if there is tension with any person, they should not be in court. Family and friends may really want to be there for you but you may need their support in other ways. Explain that you do not want their presence in court. You may really need your family to listen to you and not attend court but you may need contact with them later in the evening or afterwards. Your family and friends need to be made aware of your real needs. This is not a time to look after anyone else’s needs but your own. Having trained support can really help you to think through about what you need for the court case in terms of support. They can also support you in explaining to friends and loved ones what you need.”***

(Rape Crisis Centre Manager, 2012)

Vulnerable witness evidence

A survivor who is less than 17 years of age can be permitted to give their evidence to the court via video-link, as can a vulnerable adult, that is, a person who has an intellectual disability. An adult survivor can apply to give their evidence via video-link and the court can rule on whether this is permissible or not. The general rule is that the victim must give their evidence in person and the court will only depart from this where there are good reasons to do so. It is rare that an adult survivor will be permitted to give their evidence via video link.

A child or vulnerable person may also give their evidence via a specially trained intermediary who is appointed by the court. All persons in court must remove their wigs and gowns if a child or vulnerable person is to give evidence via video-link since the presence of such features are likely to intimidate vulnerable witnesses.

Separate legal representation at trial

There is one limited circumstance in which you as a victim will be entitled to have your own legal representation at the trial. If the accused person’s legal advisors want to ask you questions about your sexual experience generally, including your sexual experience which is not connected to the incident, they must apply to the court, usually in advance of the trial commencing in order to do so. You will

be provided with free legal advice and representation in court by a solicitor and barrister. This service is provided free of charge by the Legal Aid Board, the details of which are set out in Part III. The investigating Garda will organise the meeting with the legal aid solicitor for you and this will be done in the weeks leading up to the trial. Sometimes, the issue is not raised by the defence until a few days before trial so the meeting with your solicitor and barrister may have to be arranged very quickly or may even take place on the morning of the trial. You will meet with your solicitor and barrister in advance of the trial but you may not discuss the evidence that you will give at the trial with your legal advisors. The purpose of this meeting is principally to explain the role of your legal representatives and the procedure that will take place in court.

You will be represented by a barrister when the defence applies to question you on your past sexual history. Your barrister will argue on your behalf at this hearing and seek to exclude the evidence and questions that the defence is seeking to ask of you. The judge will then decide whether to allow that evidence or not.

In some cases, an issue about your sexual history will emerge during the trial and the defence may bring an application to question you about this. If this occurs, you will be granted free legal advice by a solicitor and barrister but you may only be given a short time to consult with your legal advisors. It can be as little as 30 minutes before the application is made to the court. This will be difficult as you may not have prepared for this. You should be aware that the application to ask you questions about your sexual history can be made both before the trial begins and during the trial.

The separate legal representation and application procedure applies to rape, rape under section 4, aggravated sexual assault, defilement, or attempts to commit any of those offences only. Sexual assault is excluded from the legislation therefore it is not necessary for the defence to get the permission of the court before questions about sexual experience can be asked in such a case. You will not have separate legal representation in this instance and you will not be entitled to apply to stop such questions being asked. It is possible for the prosecution legal team to object to questions that are being asked of you but this may not happen. It is also open to the judge to stop any line of questioning that he or she considers inappropriate or unfair. In reality, if the accused person is charged with sexual assault, you are more likely to be asked questions about your sexual past and you will be required to answer those questions. It is important therefore that you have support during this time as it will be a very difficult and traumatic part of the legal process for you.

Excluding the public from the court

Survivors should be aware of the people who are likely to be in the courtroom during the trial and particularly when you are giving evidence. People who have assigned roles in the criminal process must remain in the courtroom at all times so do not be surprised if there appears to be more people in the room than you would expect. The judge and jury members will be in the courtroom throughout the case, as will the court registrar who sits in front of the judge and a stenographer who takes a transcript of everything that is said during the trial. The judge's assistant is entitled to remain in the room. At various stages of the trial, the jury may be required to leave the courtroom so that legal arguments can take place. You are not permitted to communicate with or speak to the jury members in any way and it will cause the trial to be stopped if you attempt to do this. This rule is applied very strictly and also applies to the accused person. If a jury member attempts to communicate with you, you should inform the prosecution legal team immediately.

Members of the Gardaí will be present in court, including an exhibits officer if there is evidence such as clothes or a weapon to exhibit during the trial. Forensic specialists may be present as well as any other witnesses that are due to be called to give evidence in the case. The prosecution legal team consists of a solicitor and a barrister and in some cases, two barristers must be present in court. The accused person's legal team which may consist of the same will also be present. Generally, the accused person is not entitled to have a family member in court unless that person is a child. The accused person must remain in court during the entire legal process including when you give your evidence.

Members of the public are excluded from some but not all trials for sexual offences. The public are excluded from a trial for a rape or aggravated sexual assault offence. The public are also excluded from incest cases. Therefore, the public are not automatically excluded from trials for sexual assault, buggery or defilement offences. However the court has discretion to exclude the public from any other trial where the content is of an indecent or obscene nature. The prosecution can make an application to the court to exclude the public and you can ask that such an application be made if you prefer. You can do this by discussing it with the prosecution solicitor or barrister in advance of the trial starting. If you have arranged a pre-trial meeting with the prosecution, you should discuss the issue at that meeting.

Members of the press are entitled to remain in the court during all trials. A survivor may have a friend or relative with them in court for the duration of the case and this includes a support worker from a victim support agency.

In all cases the verdict and sentence are pronounced in public.

Anonymity

The survivor and the accused person are entitled to anonymity in most sexual offence cases. If convicted of the offence the perpetrator can be named. It is not possible to reveal the identity of an accused person who is not found guilty at trial. Where the victim is a child or the perpetrator is a child (ie under the age of 18), it is not permissible to publish details of the case that identifies the parties.

In some cases, it may not be possible to name the convicted person without giving away the identity of the victim. For example, where a child has been sexually abused by a relative, the name of the convicted person will also be withheld since naming the relative is likely to identify the victim too.

An adult survivor of a sexual offence may choose to waive their anonymity once the accused person has been convicted, provided the convicted person is not less than 18 years of age. If you want to waive your right to anonymity, you should inform the prosecution barrister and solicitor and the court may permit you to do so.

There are restrictions in relation to what can be reported about a case in the media, principally that no information that identifies or would be likely to identify either the victim or the accused person can be published. Details of the abuse that took place and the evidence that was given at trial can be published by the media but only to the extent that the information published could not lead to the victim or the accused person being identified. If you are very concerned about potential media coverage of the case, you should discuss this with the prosecution legal team at the pre-trial meeting. The prosecution can make an application to the trial judge to warn the media about reporting on the case and especially about any details of the case which might identify you or make it easy for you to be identified. The judge can then give directions to the media about the information that can and cannot be reported. However, the judge cannot restrict all media coverage of the case so it is likely that some details will be published in the media. You should be prepared for this.

Expenses of going to court

The Gardaí are responsible for paying witness' expenses which can include the cost of travelling to the location of the court, meals and in some cases, accommodation costs. This will be particularly relevant if the case is taking place in the Dublin as you may need to stay overnight. You should contact the Garda investigating your case in order to discuss expenses.

Verdict

In any case which is heard before a jury, that jury must decide whether the accused person is guilty of the offences or not. If the case is heard in the District Court, the District Court judge will make that decision having heard the evidence in the case. It is possible for an accused person to be found guilty of some offences and not guilty in relation to others. If this occurs, the accused person can only be sentenced in respect of the offences of which s/he has been found guilty. If the accused person is found not guilty in respect of the charges before the court, the criminal legal process usually ends at this point.

"A not guilty verdict can make you feel that you have failed in some way, that your evidence was not good enough. None of this is true. A court case is about evidence and everyone involved will be doing their own job to the best of their ability. Support and people who believe in you in and outside the courtroom are essential."

(Rape Crisis Centre Manager, 2012)

"Survivors gain strength from facing their abuser in court. It can be a key point in their personal healing giving a sense of empowerment and control over their life. This includes a sense that they have regained the strength to do something about the assault. There is power in knowing that their story is on 'record'. It brings closure, and a sense of moving forward."

(Rape Crisis Centre Manager and staff, 2012)

The victim of a crime may not appeal the decision of a jury. The DPP cannot appeal a decision or sentence from the District Court. The DPP can appeal a case on a point of law without affecting the outcome of the case. There is also a very limited ground of appeal available to the DPP since the introduction of new laws on this issue recently.³ A re-trial can be ordered by the Supreme Court where the

³ Criminal Procedure Act 2010, section 23.

judge excluded compelling evidence at trial which it rules should have been included in the case. Under this new law, the DPP may also apply to the court for the re-trial of a person where compelling new evidence has emerged or where evidence has emerged of interference with or intimidation of witnesses at the first trial. In both cases, the courts are obliged to take the interests of victims into account in deciding whether to order a re-trial or not.

Appeals by the convicted person

The convicted person has a right to appeal their conviction to the Court of Criminal Appeal where that person was convicted in the Circuit Court or Central Criminal Court. Where the conviction occurred in the District Court, a full appeal is heard by the Circuit Court.

A convicted person may succeed in getting a conviction overturned by a higher court. In some cases, the higher court may order a re-trial however it may also order that no re-trial take place.

A re-trial means that the full trial must begin again, which means that you will have to go to court and give evidence again. A transcript of the first trial will be available to the judge, the prosecution and the defence legal teams at the second trial. As the victim of the crime, you can also request a copy of the transcript however only a judge can decide whether or not to grant it to you.

Appeals by the DPP

A victim cannot appeal a sentence imposed by a court. However, the DPP can appeal a sentence which is considered to be 'unduly lenient' or too favourable to the convicted person. Only the DPP can decide to appeal a sentence however the victim or victim's family, or indeed any lawyer acting on behalf of a victim, can ask the DPP to consider appealing a sentence. The DPP cannot appeal a sentence imposed in the District Court.

If the sentence is imposed by the Circuit Court or the Central Criminal Court, the sentence can be appealed to the Court of Criminal Appeal where three judges will decide if the sentence imposed was appropriate or not. There are three options open to the Court of Criminal Appeal: the sentence can be reduced, the sentence can be increased or the sentence can be approved.

Victims' role in sentencing

If the accused person pleads guilty, there will be no trial before a judge and jury and the matter will proceed directly to sentencing. Often the sentencing will be delayed for a number of weeks or even months at the request of the defendant's legal team so that various reports and references can be sought for the convicted person. In many cases, this means that the accused person will remain on bail until sentenced by the court although it is open to the court to hold the perpetrator in prison until the sentencing date since legally, he or she has now been convicted of a criminal offence. The courts are inconsistent on this issue and some judges may allow the convicted person to remain on bail while another will not. If you have any concerns about your safety if the convicted person remains on bail, you should inform the investigating Garda immediately. The prosecution legal team can then decide whether to make an application that the convicted person should be refused bail while awaiting sentence. The final decision will rest with the judge.

Victim Impact Statements

As a victim of a crime, you are legally entitled to inform the court of the impact of the crime on you. You can do this via a Victim Impact Statement which the court is required to seek in sexual offence cases. You can write this Victim Impact Statement yourself or with the help of a support organisation or a counsellor or psychologist. The Gardaí can also assist you to write your victim impact statement. Guidance on compiling your Victim Impact Statement is available on the RCNI website and a link to this document is contained in the Appendix to this Guide. The defendant's legal advisors are permitted to view your victim impact statement before it is presented to the court and may object to some of its contents. It is also possible for the defence to cross-examine you on the contents of the statement but this is rarely done.

You can choose to deliver the statement personally by addressing the court yourself from the witness box or a member of An Garda Síochána can read it to the court on your behalf. Where the victim is a child under 14 years of age or a person with a mental disorder (whether that person is a child or of full age), a family member, parent or guardian may give evidence as to the effect of the offence on the person concerned. A child or any person giving such evidence may now apply to the court to give evidence as to impact via video-link.

Sentencing

A convicted person will be sentenced by a judge. When sentencing a convicted person, the judge is obliged to take into account both the circumstances of the offence (including the impact of the offence on the victim) and the circumstances of the offender.

Maximum sentences are provided for in the laws governing sexual offences. No minimum sentences are provided by law for sexual offences. Sentences imposed on persons convicted of sexual offences can vary widely and in many cases, survivors will consider that the sentence imposed by the court does not adequately reflect the seriousness of the offence and the impact that it has had on their life. For example, the maximum sentence for the crime of rape is life imprisonment however in reality, life sentences are not often imposed. For example, it is possible for a person convicted of rape to get a sentence of 18 months imprisonment or even a suspended sentence. Only the DPP can appeal a sentence if she considers it to be unduly lenient, that is, too light. The accused person can appeal a sentence that he or she considers to be too harsh. Appeals are considered in more detail in a later section. The penalties for sexual offences have been set out in Part II.

Determinate sentences of imprisonment

Many sex offenders will be sentenced to a term of imprisonment for a specific period. However, the prison authorities apply a remission policy whereby prisoners automatically receive one quarter remission in their sentence conditional on them being of good behaviour whilst in prison. Offenders may also be permitted temporary release from prison when they are nearing the end of their sentence. This often means that prisoners will be permitted to go home on the occasional weekend subject to them returning to prison at a designated time. Risk to the community is one of the factors that the Irish Prison Service takes into account when deciding whether to grant temporary release.

In most sexual offence cases, the convicted person will be sentenced to a term of imprisonment but the term of the sentence can vary widely. In cases of child sexual abuse which took place a long time ago, the age of the convicted person is a very significant factor for the court to consider. In many cases, the courts do not impose long terms of imprisonment on elderly offenders which can be very difficult for a survivor who has gone through the trauma of a criminal trial in addition to the trauma of the sexual abuse itself.

Suspended sentences

Suspended sentences or partially suspended sentences are common in Ireland. The law allows a judge to impose a prison sentence but also to suspend all or part of that sentence subject to the convicted person agreeing to certain conditions. For example, a judge might impose a sentence of imprisonment for 10 years with the final two years suspended. This means that the convicted person will serve the 8 year sentence and the suspended part of the sentence effectively orders the convicted person to be of good behaviour for the term of the suspension. If that person breaches any of the terms of the suspension, or becomes involved in another offence, then the sentence is re-activated and the convicted person will serve the additional two years of the original sentence.

Life Sentences

A life sentence means that a convicted person will be subject to that sentence for the remainder of their life. There is no set term of imprisonment of a life sentence and the decision as to when a person is released from prison is not a matter for the courts. In practice, the convicted person will be released by the order of the Minister for Justice, on the recommendation of the Parole Board. A person serving a life sentence is eligible to apply to the Parole Board after serving 7 years of their sentence and the average sentence served by a prisoner serving a life sentence is approximately 17 years.

A life sentence does not end once the offender is released from prison as that person remains under supervision in the community for the remainder of their life. One of the many factors that the Parole Board takes into account when making its recommendation to the Minister for Justice is whether the convicted person poses a risk to the community. The Annual Reports of the Parole Board indicates that it is rare that the Parole Board would consider releasing a sex offender who has been given a life sentence, however the Board is obliged to consider releasing all long term prisoners.

In cases where the convicted person has been sentenced to more than 14 years imprisonment, they are treated in the same manner as life sentence insofar as they may apply for release after serving 7 years. If the convicted person received a sentence of between 8 – 14 years, that person is entitled to apply to the Parole Board after half the sentence is served.

Support during the sentencing process

There is a good chance that the accused person will not receive a sentence that you consider to be appropriate. This means that you should have support both during and after the sentencing process. It may be shocking for you that the convicted person may get a short term of imprisonment or even none at all if a suspended sentence is imposed. It is important that you are prepared for this possibility in advance and having appropriate supports in place will help you to deal with this.

“A guilty verdict can be welcome but there is the additional strain of sentencing the convicted person. Each step brings a new tension or fears. Many survivors worry that the sentence will not reflect the seriousness of the crime. Having gone through a court case and to have a sentence handed down that does not reflect how you feel can be hard to deal with. Going to court is about the law and is not necessarily going to feel like justice was served. However, a guilty verdict is a success in that the evidence has backed up your story and the person will pay in some way.

After a court case, regardless of outcome, there can be a feeling of anti-climax or loss. It is all over and the states of high tension and anxiety will be less and this can be a really difficult time. Once a case is over, those around you will move on and will expect you to do so. It will be hard for you to adjust to this.

You may want to talk and go over things at this stage so Rape Crisis Centres can help you at this time. Regardless of the outcome, Rape Crisis Centre support workers value the courage it takes to pursue a complaint and follow through.”

(Rape Crisis Centre Manager 2012)

“I call it [RCC] my home. Why? Because it is the place I feel happy and comfortable to express about anything and I know that the people in the Centre understand. I call it a place for safety and I am not ashamed of what I say.”

(Survivor, 2008)

Appeals of sentences imposed

Survivors' role post-sentence

Through the Irish Prison Service Victim Liaison Scheme, you can be kept informed of any developments in a prisoner's detention including whether that person is being considered for release by the Parole Board.

The Prison Service Victims Charter provides that it will try to rehabilitate all offenders sentenced to prison so that other people will not become victims of their crimes; make sure that in all cases of temporary release they take into account any possible risk to the victim; make every effort to prevent an offender in prison from causing further upset to victims; tell the Garda Síochána about the release of all sex offenders; and tell victims when the offender is to be released from prison whether on temporary release or at the end of their sentence (if requested to do so). The Prison Service will also tell victims about other relevant developments regarding the prisoner's sentence such as transfers between prisons or parole board hearings if requested to do so. Victims may also make a submission to the Parole Board where the offender's case is being considered by the Board.

Victims of crime or a family member may write to the Prison Service to request that they be kept informed of any proposed release or any other important developments in the offender's detention. Contact details are contained in the Appendix to this Guide.

Monitoring of sex offenders post-release

The obligation on sex offenders to register was created in 2001 and it requires that persons convicted of certain sexual offences register their details with the Gardaí for a specified period of time. The details of the sex offenders register are not available to members of the public, however, the Gardaí have a specialised unit dedicated to monitoring sex offenders nationwide. The convicted person is required to supply information to the Gardaí within 7 days of release or imposition of sentence if the sentence is non-custodial. This information includes their name, date of birth and place of address and the convicted person must notify the Gardaí if there is a change of address and if they intend to be outside of the jurisdiction for a period of 7 days or more. Failure to comply with these requirements is a criminal offence.

The law sets out certain exceptions whereby individuals convicted of sexual offences in certain circumstances will not be subject to registration requirements and these are set out in the table below.

The Table below contains a list of those offences for which a convicted person will be required to register as a sex offender.

OFFENCE	REQUIRED TO REGISTER AS SEX OFFENDER
Rape	Yes
Rape under s.4	Yes
Sexual Assault (including indecent assault)	Yes unless the victim was 17 years or older at the date of the commission of the offence AND the convicted person was not sentenced to a punishment involving deprivation of liberty, that is, no sentence of imprisonment was imposed by the court.
Aggravated sexual assault	Yes
Defilement of children offences	Yes unless the convicted person has been convicted of an offence related to children under 17 years AND that convicted person is not more than 24 months older than the victim. All persons convicted of offences related to children under 15 years must comply with requirements of Act.

The law requires sex offenders to comply with the registration obligations for differing periods of time according to the sentence imposed for the offence. These periods are set out in the Table below. Lesser periods apply to persons who were under 18 years of age at time of the commission of the offence.

SENTENCE IMPOSED	REQUIREMENT TO REGISTER AS SEX OFFENDER
ADULT OFFENDERS	
2 years – Life imprisonment	Indefinite requirement
6 months – 2 years	10 year requirement
Less than 6 months	7 year requirement
Suspended or non-custodial sentence	5 year requirement

Table continued >

CHILD OFFENDERS

6 months to 2 years	5 year requirement
Less than 6 months	3 ½ year requirement
Suspended or non-custodial sentence	2 ½ year requirement

The requirement to register begins at the time the convicted person is released from prison or from the date of sentence if that person was not sentenced to a term of imprisonment. The law also created post-release supervision orders whereby the sentencing judge is required to consider whether post-release supervision is required bearing in mind the need to protect the public, to prevent the commission of further offences, and the need to rehabilitate the offender. If the court believes that post release supervision is necessary, that supervision is carried out by the Probation Service. The court may impose any term of supervision that it deems necessary subject to the overall limitation that the period of the sentence, together with the period of supervision, cannot exceed the maximum sentence applicable to the offence for which the person was convicted. Other conditions may be attached to the post-release supervision including prohibiting that person from doing certain things that the court considers necessary for the protection of the public from serious harm and also requiring that person to undergo any treatment that the court considers necessary including psychological counselling or other appropriate treatment.

A convicted person must inform their employer of their conviction for sexual offences if their employment consists of regular and necessary unsupervised contact with children or mentally impaired persons. Failure to inform the employer is a criminal offence. It is also an offence to apply for such employment once convicted of a sexual offence.

Part II: Understanding the legal process

Taking the step of disclosing sexual abuse to someone can be one of the most difficult choices that any person could take. It is even more difficult to make the decision to disclose the abuse to the Gardaí and many survivors choose not to do this. The legal system is a complicated, lengthy and a sometimes painful process for survivors of sexual violence. Many of the key agencies in the criminal process such as the Gardaí, the Courts Service and the Director of Public Prosecutions are guided by their respective Victims' Charters, to have some understanding of the needs of victims and to be especially sensitive towards victims of sexual crimes. This Guide aims to provide information for survivors about the operation of the legal system, their rights within that system and the special protections available for victims of sexual violence.

Research has found that one of the key concerns of survivors throughout the legal process is a lack of information, principally, not being informed about the progress of the case. It is vital that survivors have easy access to information that can provide clarity and re-assurance at various points in the legal process. Access to information can also redress the power imbalance that survivors often feel during the criminal process, namely that their rights are secondary to that of the accused person's and that they have little or no control over proceedings. This information is aimed at redressing some of that imbalance.

Civil law and criminal law

The legal process in Ireland is divided in two ways: the criminal law and the civil law. Each operates independently of each other and a person who has been the victim of a sexual offence can engage with either or both processes if they choose. You can also choose not to engage with either process if you wish.

The criminal process involves making a complaint to the Gardaí, who must investigate that complaint and if there is enough evidence the person accused of the crime can be brought to court and prosecuted. The result of engaging in the criminal process is that the accused person can be sent to prison if found guilty in addition to other penalties which could be imposed by a court. During the criminal process, the perpetrator is commonly referred to as 'the defendant' or

‘the accused’ while the survivor is often referred to as ‘the complainant’, that is, the person making the complaint.

The civil process is very different and involves you suing the accused person for the harm that they have caused by perpetrating the sexual abuse. During the civil process, the perpetrator is referred to as ‘the defendant’ and the survivor is known as ‘the plaintiff’. The outcome may be that the judge decides in your favour and awards you compensation which the perpetrator must pay. There are consequences for you if you lose your civil action against the perpetrator. The civil legal process is discussed in more detail in Part IV.

A key difference between the criminal law and the civil law is that during the criminal process you, as the victim, appear as a witness for the State. This is because the law views crimes committed against persons as crimes against all the people of the State. The title of a criminal case therefore will be People (Director of Public Prosecutions) vs Joe Bloggs (the perpetrator). The Director of Public Prosecutions represents the State in criminal proceedings and you, as the victim, are the main witness in the prosecutor’s case. You are not in control of criminal proceedings even though the crime was committed against you. During the civil process, you have more control over proceedings since the case is being taken by you personally, rather than by the State on your behalf.

Another key difference between the civil and criminal process is the level of proof required. Where the civil process is concerned, in order to succeed in your case, you will have to prove that the perpetrator carried out the acts that you accuse them of on the balance of probabilities. This means that you have to show that it is more likely than not that the person did the things that you say, that there is a 51% chance that you are correct. The standard of proof is much higher during the criminal process and the prosecution must prove that the accused person carried out the offence with which he is charged beyond a reasonable doubt. This is a more difficult standard of proof to reach than the civil standard and it means that if there is a reasonable doubt about the accused’s guilt, then that person must be acquitted, that is, found not guilty. Also, if a doubt arises in respect of any issue during a criminal trial, the accused person is legally entitled to gain the benefit of any such doubt. For example, if, in the course of a trial, an argument arises about a specific piece of evidence such as CCTV footage, and there is a doubt as to the whether that CCTV footage has been legally obtained, then the accused person is entitled to benefit from that doubt, thereby excluding that CCTV footage as evidence in the trial. The criminal process is therefore balanced in favour of

the accused person. This means that it is difficult to secure a conviction against an accused person.

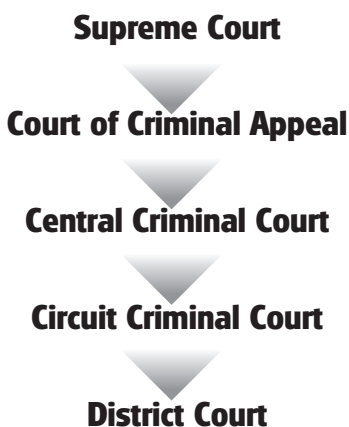
You can choose to take a civil and criminal case against the perpetrator of the abuse. You can pursue both cases at the same time but may be legally advised to deal with the criminal proceedings first and only to considering bringing a civil action once the criminal case is over. You are not required to bring criminal proceedings or even to report the sexual abuse to the Gardai in order to bring a civil action against the perpetrator of the abuse. You can also bring a civil action even if the perpetrator was found not guilty at trial.

Court structure in Ireland

Survivors of sexual violence should be aware of the operation of the court system in Ireland. The courts are operated by the Courts Service of Ireland and their website includes a section for victims going to court in addition to a number of documents produced specifically to guide survivors through the court system. Details of this website are contained in the Appendix to this Guide.

Criminal courts

The criminal court structure is based on a system of precedent. This means that the decision of a higher court will be binding on a lower court. The following is the structure of the criminal courts in Ireland, beginning with the highest court:



The District Court and Circuit Criminal Courts are considered to be the lower courts while the Central Criminal Court, Court of Criminal Appeal and Supreme Court are the higher courts. Generally, the decision of a lower court can be appealed to a higher court and the decision of the higher court is binding on the lower court. The issue of appeals is considered in greater detail in Part I.

Sexual offences can be tried in the District Court, Circuit Criminal Court and the Central Criminal Court. In practice, very few sexual offences are tried in the District Court since many sexual offences by law are required to be tried by the higher courts and certain conditions must be met before a sexual offence can be tried by the District Court. The sentencing jurisdiction of the District Court is confined to 12 months for any one offence subject to an overall maximum of 24 months for any number of offences for which sentence is passed at the same time.

The Circuit Criminal Court tries sexual offences before a judge and jury and the only sentencing limit that applies in this court is that provided by law for the offence with which the person is charged. The most serious sexual offences, namely rape and aggravated sexual assault, must be tried in the Central Criminal Court before a judge and jury.

Role of judge and jury

In the legal process, the role of the judge is to decide on all matters of law and also to sentence the accused person, if found guilty.

A jury consists of 12 people who are selected at random to hear the case against an accused person. Jury members are drawn from the electoral register in the area in which the case is to be heard. Members of the jury must have no connection to the case being heard, which means that they cannot know the details of the case in advance, nor can they know you, the survivor, or the accused person. If you know or recognise one of the people that has been selected for the jury in your case, you should inform the prosecution solicitor or barrister immediately. This should be done during the jury selection process and not afterwards. The prosecution can then bring the issue to the attention of the judge who will decide whether or not it is appropriate for that person to remain on the jury.

The role of the jury is to decide all questions of fact and in sexual offence cases (except those heard in the District Court), it is the jury that will decide if the accused person is guilty or not. The jury must make their decision in secret and jury members are not permitted to be questioned about how or why they made

their decision. The jury has no role in sentencing an accused person since this role is reserved for the judge alone.

There is no jury in the District Court therefore, if the accused person is to be tried before the District Court, it will be by a judge sitting alone. The judge will find the accused person guilty or not guilty and sentence the person accordingly.

Location of court

A criminal offence will usually be tried in a court in the area in which the offence took place so if the rape took place in Dublin, the trial will usually take place in Dublin. Occasionally, there are special circumstances which require a trial to take place elsewhere for example where specialised court facilities such as video link are only available at another venue. The law provides that certain sexual offences can only be tried by the Central Criminal Court. The Central Criminal Court generally sits in Dublin but it will occasionally move to hear cases outside of Dublin. For all other sexual offences, the case will be heard in the Circuit Court in which the offence took place.

Civil courts

The civil court structure is governed by monetary jurisdiction which means that the amount of money that you are claiming in damages will determine which court your case is heard in. Like the criminal courts, the civil court structure is based on a system of precedent where the decision of a higher court binds the lower court. The following is the structure of the civil courts in Ireland starting with the highest:

Supreme Court



High Court



Circuit Court



District Court

The District Court is governed by a monetary limitation of €6,348.69 so if your claim for damages against the person who sexually abused you exceeds this amount, you must make your case in a higher court. The jurisdiction of the Circuit Court is limited to €38,092.14. The High Court does not have a limitation on its jurisdiction. In practice, most claims for damages arising from sexual abuse will exceed the jurisdiction of both the District and Circuit Courts therefore most cases take place in the High Court. This means that the High Court can award any damages it deems appropriate in your case.

Civil cases are heard by a judge sitting alone who will decide whether you have proved your case and if so, the amount of damages that you will be awarded. The civil procedure generally does not involve a jury however in certain limited cases, a jury can hear a case in the High Court.

Civil legal procedure is considered in greater detail in Part IV.

Sexual offences

The term ‘sexual violence’ encompasses all non-consensual sexual contact between persons. The criminal law relating to sexual violence is contained in a variety of pieces of legislation each of which provides a maximum sentence for the offence created by that legislation. The following Table contains a list of the most commonly prosecuted sexual offences including the court that will hear the case and the maximum sentence provided by law for that offence:

OFFENCE	COURT	MAXIMUM SENTENCE
Rape	Central Criminal Court	Life imprisonment
Rape under section 4	Central Criminal Court	Life imprisonment
Sexual assault	Circuit Court (District Court can hear case in certain circumstances)	10 years imprisonment. If victim under 17 years of age, maximum sentence is 14 years
Aggravated sexual assault	Central Criminal Court	Life imprisonment
Defilement of a child under 15 years	Circuit Court	Life imprisonment

Table continued >

Defilement of a child under 17 years	Circuit Court (District Court can hear case in certain circumstances)	5 years or 10 years if 'a person in authority'. Subsequent convictions attract 10 years or 15 years if 'person in authority'
Sexual intercourse or buggery with a mentally impaired person.	Circuit Court	10 years for completed offence, 3 years for first attempt and 5 years for second attempt.

Before considering each of the above offences in detail, there are some factors that are common to sexual offences which you should be aware of.

Consent

The issue of consent is central to all sexual offences. Except in the case of children or in cases of incest, where consent is present there will be no offence. This is because the law does not allow children to consent to most sexual activity. The law in relation to incest provides that certain blood relatives are not permitted to engage in sexual intercourse.

There is no general definition of consent and the laws relevant to sexual offences do not define consent. The courts have generally accepted that consent must proceed from the will of the person free from any incapacity or impairment. A good definition of consent is contained in the UK law which states 'a person consents if he agrees by choice and has the freedom and capacity to make that choice.'

Failure by the victim to resist or 'fight off' the perpetrator, does not amount to giving consent to the act in question. The courts have also consistently held that consent obtained through threats or force, through fraud or by impersonation is not true consent for the purposes of the law. Where the victim has taken alcohol and/or drugs (whether voluntarily or not) to such an extent that that person has lost their ability to choose to agree to sexual activity or not, then consent cannot exist in the eyes of the law. For example, if you have passed out or lost consciousness, then you are considered to be incapable of consenting to sexual activity. You may be more reluctant to report the abuse to the Gardaí or even to disclose it at all if you had been drinking at the time the abuse happened. The fact that you have been drinking does not change the fact that you have been sexually abused.

Age and consent

While 18 years is the age at which a child becomes an adult, the law in relation to sexual offences is different. The criminal law offers specific protection to children in the context of sexual violence by providing that children cannot consent to most sexual activity. This means that even though the child may have given 'consent', the law will disregard that 'consent' since a child is legally incapable of giving consent to certain sexual activities. The legislation that governs sexual offences against children specifically provides that is not a defence for the accused to prove that the child against whom the offence is alleged to have been committed consented to the sexual act. The general age of consent to a sexual act is 17 years of age for males and females. This includes all penetrative sexual acts. Penetrative acts include insertion of the penis into the vagina, anus or mouth or the insertion of an object into the vagina. A child under 15 years of age may not consent to acts amounting to sexual assault which usually involve touching and other non-penetrative sexual acts.

Gender

Many sexual offences are gender neutral since the offences can be committed by both males and females. Some sexual offences such as rape under the 1981 Act can only be committed by a man against a woman. Others such as rape under section 4, sexual assault or aggravated sexual assault can be committed by a person of either sex. Female children under 17 years of age cannot be prosecuted for having sexual intercourse even though the male who has sexual intercourse with her may be prosecuted, even if he too is under 17 years of age.

Prosecuting children for sexual offences

Originally, a boy under 14 years of age was conclusively presumed to be incapable of committing a rape because he was deemed too young to be physically capable of it. However, the law now provides that children can be prosecuted for sexual offences and the offences of rape, rape under section 4, and aggravated sexual assault can be committed by a child aged 10 years and older. For all other sexual offences, the child must be 12 years or over before charges can be brought. However in any cases where it is proposed to charge a child under 14 years of age with any offence, the consent of the DPP must be sought.

Rape

Rape under the Criminal Law (Rape) Act 1981 is an offence which can only be carried out by a male person on a female person. Rape under this Act refers to natural intercourse only, that is, the insertion of the male's penis into the female's vagina. To prove that you have been raped, it must be shown that the accused person penetrated your vagina with his penis. There is no requirement of emission since penetration, however slight, is sufficient. In order to be guilty of rape, it also must be proved that at the time of the sexual intercourse, the accused person either knew or was reckless as to whether or not you consented to the sexual intercourse. This is why consent is central to the issue of sexual offences. The woman in question must know what it is she is consenting to. In order for consent to flow from the will of the person, they must freely choose to engage in the sexual intercourse free from any threats or fear and must not be under the influence of alcohol and/or drugs (whether consumed voluntarily or not) to the extent that she is unable to give or refuse consent. She must also have the capacity to consent insofar as she is not asleep, unconscious and she must be at least 17 years of age.

It used to be the case that a man could not be convicted of raping his wife however this is not now the case.

Rape under this Act can attract a maximum sentence of life imprisonment and it is one of the offences which must be tried by the Central Criminal Court.

Rape under section 4

This offence is so-called since it is an offence of rape created by section 4 of the *Criminal Law (Rape) (Amendment) Act 1990*. The offence under this section involves a sexual assault that includes penetration (however slight) of the anus or mouth by the penis, or penetration (however slight) of the vagina by any object held or manipulated by another person. It does not include penetration of the anus by a hand held object.

Rape under section 4 attracts a maximum sentence of life imprisonment and since it is considered a 'rape offence', it is one of those offences which must be tried in the Central Criminal Court.

Sexual assault

Sexual assault is also known as indecent assault and can encompass every type of non-consensual sexual contact falling short of rape. The offence of sexual assault can be used to charge varying levels of seriousness in sexual violence. There are two elements to the offence of sexual assault. The first is an assault which involves any non-consensual touching or a reasonable apprehension of touching while the second part requires a sexual element which is referred to as 'in circumstances of indecency'. For example, a simple touching of another person with your hand on their shoulder would not be considered indecent even if the person does not consent to it. However, touching someone on their buttocks or genitalia without their consent would be considered indecent due to the sexual nature of the act. Any number of acts can amount to sexual assault, therefore the law does not define the type of activity that is involved in a sexual assault.

Consent is a key issue in relation to sexual assault. If there is consent, then no assault can take place regardless of the circumstances. However, a child under 15 years of age cannot consent to an act amounting to sexual assault.

Sexual assault is tried by the Circuit Court however it may be tried in the District Court if certain conditions are met. There are 3 requirements which must be satisfied before the offence can be tried in the District Court; the court is of opinion that the facts proved or alleged constitute a minor offence; that the accused, on being informed by the court of his right to be tried with a jury, does not object to being tried in the District Court; and the Director of Public Prosecutions consents to the accused being tried summarily for such offence.

The penalty on conviction in the Circuit Court is 10 years and 14 years where the offence was committed against a child victim. Where the person is convicted in the District Court, the maximum sentence that can be imposed for any one offence is 12 months subject to an overall limitation of 24 months in respect of a number of offences.

Aggravated sexual assault

The offence of aggravated sexual assault is one of the most serious sexual offences known to criminal law attracting a penalty of up to life imprisonment. The offence involves a sexual assault which includes serious violence or the threat of serious violence or is such as to cause injury, humiliation or degradation of a grave nature to the person assaulted. Only the Central Criminal Court can try a charge of aggravated sexual assault.

Defilement of children

The offence of defilement of children is commonly known as 'statutory rape'. The original law only protected young girls however the new laws apply to both males and females. The law differentiates between children under 15 years and children under 17 years with the former attracting greater punishment. The old law only referred to carnal knowledge, meaning natural sexual intercourse, that is, vaginal intercourse however the new law which was introduced in 2006 includes sexual intercourse, rape under section 4, buggery (anal intercourse) and aggravated sexual assault. The new law also provided for greater penalties where the person convicted was a 'person in authority' in respect of the child.

An accused person can defend himself by saying that he or she did not know that the child was under the age of 17 years however he must prove this. While a male child can be charged with any offence under this law, a female child cannot be charged with an offence because she participated in an act of sexual intercourse. However, the law also provides that no proceedings can be brought against any child under this legislation without the consent of the DPP.

The penalties for the offence are different depending on the age of the child. Where the child is under 15 years of age, the maximum sentence is life imprisonment. Where the child is under 17 years of age, the maximum sentence is 5 years or 10 years if the guilty person is someone 'in authority' over the child. The penalties increase to 10 years and 15 years respectively in the case of a second conviction. The law also allows the District Court to try defilement offences where certain circumstances are met. In this case, the maximum sentence that could be imposed is 12 months for any one offence.

Sexual activity with mentally impaired persons

Persons with intellectual disabilities are protected from sexual exploitation under the law since it may be the case that such a person is incapable of understanding and therefore giving consent to the sexual act. The law provides that a person who has, or attempts to have, sexual intercourse or commit an act of buggery with a mentally impaired person is guilty of an offence. This does not apply in cases where the parties are married or believe with reasonable cause that they are married. This offence is gender neutral therefore a female person can be convicted of having sexual intercourse with a male person who is mentally impaired. A buggery offence can only be committed by a male.

Penalties for the full offence are imprisonment for a term not exceeding 10 years while attempts to commit such an offence attract a maximum sentence of 3 years imprisonment for a first conviction and 5 years for any subsequent convictions. These offences are tried by the Circuit Court. No person may be charged with an offence under this section without the consent of the Director of Public Prosecutions.

Part III: Special measures for survivors of sexual violence

Profile of sexual violence in Ireland

Crimes of sexual violence are very common in Ireland and can have devastating and lasting effects on survivors. Sexual offences are also some of the most difficult crimes to investigate and prosecute, often involving a lengthy investigation process, lengthy trial process and in many cases, the accused person will be acquitted. Support for survivors of sexual violence is in the public interest and is known to encourage reporting, reduce the number of survivors who fail to report or drop out of the criminal justice process along the way, deter potential offenders and re-offenders, and increase victim recovery. The majority of survivors of sexual abuse will never report it to the Gardaí. Rape Crisis Network Ireland National Statistics for 2011 show that 30% of survivors who attended at Rape Crisis Centres reported the abuse to the Gardaí. The number of people attending at Rape Crisis Centres and using support services has also increased in recent years.

"I have visited the RCNI website numerous times to look at statistics and inform myself, mainly in an effort to remind myself that I am not alone."

(Survivor, 2010)

Two significant pieces of research which were published in the last ten years that examined the criminal justice process from the point of view of survivors are the Sexual Abuse and Violence in Ireland Report (SAVI) which was published in 2002 by the Dublin Rape Crisis Centre and Rape & Justice in Ireland: A National Study of Survivor, Prosecutor and Court Responses to Rape (RAJI) which was commissioned by the Rape Crisis Network Ireland in 2009.

The SAVI Report found that 42% of women reported some form of sexual abuse or assault in their lifetime with 10% reporting abuse involving penetrative acts. 28% of men reported some form of sexual abuse in their lifetime, while 3% experienced penetrative sexual abuse. Figures from the SAVI Report also indicated significant re-victimisation with 27.7% of women and 19.5% of men abused by different perpetrators both as children and adults. In the case of women, experiencing penetrative sexual abuse in childhood was associated with a sixteen-fold increase in risk of adult penetrative sexual abuse. The figures are the

same in respect of men. Childhood sexual abuse is therefore an important marker of increased risk of adult sexual violence.

The most common lasting injury to victims of sexual violence is psychological. Survivors of rape and child sexual abuse very commonly suffer from a severe form of psychological injury called Post Traumatic Stress Disorder (PTSD). Recovery periods can be lengthy, with notable improvements usually not until the third or fourth year. A sub-category of PTSD has been defined as Rape Trauma Syndrome (RTS). The RAJ research indicated that there may be a correlation between positive recovery and obtaining redress through the criminal justice system. However, obtaining redress through the criminal justice system is not the only, nor indeed the primary goal of the therapeutic process. The most important consideration is achieving positive recovery and healing after the traumatic abuse. In many cases, a survivor will achieve this through counselling and support rather than by going to court.

“No matter what decisions you make, attending to your recovery from any sexual violence is the most important thing. That you hold your head up and take those steps again back into your life or into a new life, is what matters most. Get help because you deserve it. Whether you report or don’t, you have survived. That on its own is in defiance of the perpetrator. Remember that this period in your life will one day be over and it is important that whilst you cannot change what happened to you, you can manage its effects in your life by looking after yourself and your needs in a pro-active way.”

(Rape Crisis Centre Manager, 2012)

“Without this service I would never have had the courage to continue.”

(Survivor, 2009)

Disclosing sexual violence

Many survivors do not disclose sexual violence for some time after it has occurred. Research has shown that most people disclose abuse to a friend first and later to family members. Some people will disclose abuse during counselling or therapy for the first time. In many cases, and especially in cases of child sexual abuse, a victim does not disclose the abuse until some time after it has occurred which may be months and even years after the abuse took place. The courts regularly hear cases where the abuse took place decades before and although a lengthy delay in disclosing the abuse creates additional difficulties in the prosecution of offences, it does not mean that those offences will not be prosecuted.

When you disclose sexual abuse, you may be encouraged to report it to the Gardaí as soon as possible. There are advantages to this including the possibility of collecting forensic evidence and the availability of other evidence such as witnesses or CCTV. However, recent research has also shown that in some cases, victims are discouraged from reporting the abuse by persons close to them. This can be a knee-jerk reaction to the traumatic event but of course it will impact on your resolve to report. Ultimately, the decision to report the crime or not is a matter for you as an adult. There are many support services available to you if you decide to report the abuse including during and after the legal process. Rape Crisis Centres provide a free court and Garda accompaniment service whereby you can be accompanied while you are making a formal statement to the Gardaí about what happened, and also an accompaniment service to court during the trial by a trained Rape Crisis Centre staff member or volunteer. Since the majority of people do not report sexual abuse, Rape Crisis Centre staff and volunteers are trained to assist you in making a positive recovery without you having any involvement with the legal process.

“This can be a long and difficult process, there is no certainty of either trial or conviction and you won’t have any control over those decisions.

Think about the reasons you’re doing this – you may feel it will bring closure and satisfaction and this may not be the case, whether a conviction is secured or not. It’s important to work through your feelings about the abuse as well as reporting it.

Be sure you’re doing this for yourself, and not because others are pressuring you into it – they may be doing so with the best of intentions but this needs to be your decision.”

(Rape Crisis Centre Manager and staff, 2012)

The following are the thoughts of two survivors of sexual abuse; one who did report it to the Gardaí and the other who did not:

“At first I went home and slept. Next morning I woke up..... I called on my best friend and sat through the whole thing word for word and she told me to go to the doctors and he made the same sense as my friend did. Decided to report the incident”

(Survivor, Rape and Justice in Ireland, 2009)

“I did not report the rape because I was too ashamed at what happened to me at my age. I didn’t think anyone would believe me and I did not want my children to find out what had happened to me”

(Survivor, Rape and Justice in Ireland, 2009)

It is never acceptable for the Gardaí or other professionals in the criminal process to discourage you from reporting sexual abuse. This is because the decision to report or pursue a case is yours alone. The Gardaí have a duty to investigate all complaints made to them however the decision as to whether to prosecute the perpetrator is made by the DPP and not the Gardaí. Survivors have reported differing experiences when dealing with the Gardaí and while some experiences were very positive, others were not.

“They explained everything and if I ever needed to talk to anyone I only had to pick up the phone. They also called to see how I was doing.”

(Survivor, Rape and Justice in Ireland, 2009)

“She [i.e., the Garda] understood how I was feeling and told me I could take as long as I needed and [was] free to stop whenever I wanted.”

(Survivor, Rape and Justice in Ireland, 2009)

“I was made to feel ashamed and dirty. Tarnished with the ‘she was drinking’ label. I was made to feel that it was just ‘sex.’ It was a devastating blow”

(Survivor, Rape and Justice in Ireland, 2009)

Contact details for making a complaint in respect of your treatment by a professional during the criminal process are contained in the Appendix to this Guide.

The first person that you disclose the sexual violence to can be legally significant. A special rule of evidence relates to ‘recent complaints’, that is, where the survivor tells another person about the sexual violence very soon after it has taken place. It is important that you tell the Gardaí about persons that you disclosed the offence to immediately after its occurrence when you are being interviewed. This may be important at trial.

“A reason that survivors don’t report may be that they think they won’t be believed or they cannot face telling the Gardaí or the HSE or indeed anyone. It is hard to make a complaint and it is hard to go through the event or events with strangers. As a survivor, you may feel you have put it all away and that you are basically ok, so why put yourself through all that stress and anxiety? You may well be right. What we have seen often though is that you may also regret not reporting some months or years later. Survivors often change their minds after they have spent some time in counselling or working to recover from what happened to them. Counsellors at Rape Crisis Centres often hear clients say “I wish I had reported to the Gardaí.” It can be very hard if you find out later that there were other victims.

There is no right or wrong decision here. Counsellors in Rape Crisis Centres encourage survivors to report any sexual crime but do not have any opinion apart from supporting someone with whatever decision they make.

(Rape Crisis Centre Manager)

Special position of child survivors of abuse

Where the victim of the sexual abuse is a child, complex legal issues arise including that other legal obligations might require that the abuse be reported to the authorities by the person to whom it is disclosed. This applies even if the child in question does not want to report the abuse. For example, Children First National Guidance 2011 requires that all professionals who receive disclosures of abuse, including sexual abuse, are obliged to pass information relating to the abuse to the HSE Child and Family Services if the abuse took place when that person was a child and there is a current risk to children from the perpetrator. This applies even if the person disclosing the abuse is now an adult. The reason for this rule is to protect children who may be currently exposed to risk from someone who has abused children in the past.

In other cases, for example, where a child has been the victim of sexual abuse and the child states that they do not want to make a complaint against the perpetrator of the abuse, the decision may be made to prosecute the perpetrator as it would be in the public interest to do so. This could occur where a teenager is engaged in a sexual relationship with an older person but does not believe that their relationship is abusive. The DPP exercises her discretion when deciding to prosecute such cases, however it is very rare that the DPP will continue with a prosecution when the victim has indicated that they do not want to proceed.

Children and vulnerable witnesses are subject to special rules during the interview and trial process. These are considered in more detail in Part I.

Free legal advice for survivors

Legal aid in the form of free legal advice is available for survivors of sexual violence in two circumstances. These services are provided by the Legal Aid Board and locally by individual Law Centres the locations of which can be accessed by visiting www.legalaid.ie or by contacting the Legal Aid Board on Locall: 1890 615 2000. The Legal Aid Board has also produced a Victims' Charter which forms part of the larger Victims' Charter of the Department of Justice and Law Reform.

Legal advice is available to the complainant in the prosecution of the following offences:

- A rape offence
- Aggravated sexual assault
- Defilement of children offences
- Incest

The details of each of these sexual offences are set out in details in Part II above. A survivor seeking legal advice in such cases is not required to undergo a means test and will not be placed on a waiting list. The Legal Aid Board is committed to providing this legal advice as soon as is reasonably possible. A survivor will receive advice from a solicitor and in some cases, a barrister. It is not available to persons who have not reported the abuse and it is not available where the DPP has made the decision not to prosecute the perpetrator.

A survivor of sexual violence is generally not entitled to be legally represented at the trial of the accused person. However, where the accused person intends to raise issues about your sexual history, then you are entitled to separate legal representation which is provided free of charge by the Legal Aid Board. A solicitor and barrister will be provided in order to protect your interests when you are being cross examined about sexual experience. You are entitled to this representation where the accused person has been charged with the following:

- A rape offence (including rape under section 4)
- Sexual assault/Aggravated sexual assault
- Defilement of a child offences

A person who avails of this service is not required to undergo a means test and will not be placed on a waiting list.

If you are a survivor of abuse in need of legal advice but do not fit the criteria for free legal advice outline above, there are other options available to you. You could avail of the free legal advice clinics provided by FLAC (Free Legal Advice Clinics) nationwide on a regular basis. Many solicitors and barristers volunteer their services to FLAC on a regular basis so that members of the public can obtain free legal advice at the clinics. For more details on this valuable service contact www.flac.ie for a list of clinics operating nationwide. The Citizens Information service also provides a limited amount of information about the criminal justice

process but does not directly provide legal advice. Further details are available on www.citizensinformation.ie.

A further option is to contact your local Rape Crisis Centre or other sexual violence support service which can then help you to find appropriate legal support, sometimes through a free legal clinic provided by the Centre itself. Finally, a survivor of sexual violence may choose to engage their own solicitor to advise them on matters related to their case however this may not be affordable for all survivors.

Impact of delayed reporting of sexual offences

The issue of delay is highly relevant to the prosecution of crimes of sexual violence since many victims are reluctant to report the crime or come forward for a significant period after the abuse took place. This is particularly relevant where the abuse took place in childhood but the survivor has only disclosed such abuse as an adult. While there is no time limit after which a sexual offence cannot be brought to the Circuit Court or Central Criminal Court, a lengthy delay between the offence itself and its detection and prosecution allows the accused person to make various arguments in order to seek to prevent the trial from going ahead.

It is a long-standing principle of Irish law that the accused person has a right to trial with reasonable expedition, that is, as soon as reasonably possible since delays tend to impact significantly on the ability to secure a fair trial for the accused person. While there are no set periods after which an accused person cannot be prosecuted, each case will be examined on its own merits by the courts in order to establish if the accused's rights have been prejudiced, that is, seriously damaged by the delay.

A number of factors can be highlighted as reasons which might cause the DPP not to prosecute a case, or indeed which may be relevant to the High Court where an application is made to stop a trial from going ahead. These include: that vital witnesses may no longer be available or the accuracy of memories can no longer be relied on, the scene of the crime may be altered or destroyed, records may no longer be available, and almost certainly, there will be no forensic evidence.

However, the courts have recognised a special category of cases namely allegations of sexual abuse of children where the concept of 'dominion' has evolved. That concept involves a recognition that in some cases the victim may

have been under the control of the accused person, or in fear of them, such to the extent that they were physically or most often, psychologically incapable of reporting the abuse to the authorities until many years later. In some cases, the capacity to speak about the abuse may only arise as a result of counselling and therapy. The courts have found that the reason for the delay in such cases is due to the accused person's own actions and therefore is a highly relevant factor for the court in determining whether the delay will stop the trial from going ahead. In many cases, especially those where the sexual offences occurred many years ago, the accused person will bring a judicial review in an attempt to halt the trial or to stop it from going ahead at all. The effect of a judicial review is considered in Part II.

Part IV: Civil law remedies for survivors of sexual violence

Financial compensation and civil proceedings to recover damages

The relevant courts and their limitations in respect of civil matters have been set out in Part II. If a survivor is considering engaging in the civil legal process, there are many factors to consider. The first is that you will have much more control over civil proceedings than criminal proceedings because of the limited role played by the victim in all criminal proceedings. When you lodge a civil complaint against another person, it is you who will decide most matters of importance in respect of that case. The second important factor to consider is that there are greater personal risks for the survivor in the civil process since there can be significant financial implications of not succeeding in your civil claim. An award of costs against a survivor would have a devastating impact on a survivor's recovery, not to mention their financial situation. Another significant factor is that the civil process will not be available as an option for many survivors since a civil action is only worth pursuing if the perpetrator is of means or has some property which a court judgment could attack. If the perpetrator has no property or money and is not in employment, then it would be futile and ultimately costly to seek to pursue that person for damages. You may have been sexually abused by a person who was in the employment or under the control of another agency at the time the abuse took place. For example, in the case of abuse by a teacher or other instructor working for a school, it may be possible to sue the Board of Management of that school for damages for the harm caused to you by their employee.

A survivor may have different expectations of civil proceedings and criminal proceedings therefore it is important to ensure that your expectations of the civil process are realistic and achievable. While the civil process in other contexts may be considered less traumatic than the criminal process, this is not necessarily so for survivors of sexual violence who may be forced to relive their trauma on a further occasion and without the safeguards of the special measures in place during criminal proceedings. For example, the law does not prevent your name being made public in civil proceedings unless you are a child. Members of the

public will not be excluded from the court unless the court agrees to an application to do so and the media are entitled to report on the case. You should also be aware that civil cases can be lengthy and delayed with cost implications arising on such delays. If the case is fully contested by the accused person, you will have to give evidence and be subjected to cross examination by a legal representative for the defendant. There are no legal limitations on the type of questions that can be asked of you during the civil process, though similarly, information about the defendant that would not be made available to the criminal court, such as previous convictions for similar offences, could be used as part of a civil case.

Furthermore, you should be aware that civil actions can be pursued even if the accused person was acquitted at trial or a decision was made by the DPP not to prosecute the accused person. This is so because of the differing burdens of proof in civil as opposed to criminal proceedings and it can be easier to prove your case to a civil standard.

Statute of Limitations and survivors of sexual abuse

The law provides a general time-limit in which you must normally bring your claim to court in civil proceedings. Generally, that limit is 6 years in cases where you would sue for damages arising from sexual abuse. However, the law was changed a number of years ago to take account of a person who may not have been in a position to report the abuse or pursue any action in respect of that abuse for a very long period of time. This was in recognition that the nature of sexual abuse, and in particular child sexual abuse, is that the victim is often unable to speak about the abuse, still yet bring a legal action in respect of it for many years after the abuse has taken place. The law has made a special allowance for persons in that situation however the court still retains discretion to dismiss a case on the grounds of delay.

Criminal Injuries Compensation Tribunal

The Criminal Injuries Compensation Tribunal runs the compensation scheme for personal injuries inflicted and loss incurred as the victim of a crime. The scheme is funded by the Department of Justice.

There are a number of limitations on the scheme, the principal one being that damages cannot be claimed for general pain and suffering. Only compensation for loss including loss of earnings, medical expenses and other certifiable losses may be claimed. The Scheme specifically excludes a claim for maintenance for a child born to a victim of a sexual offence. Furthermore, compensation will not be paid if the victim and the assailant were living together as part of the same household at the time the criminal offence took place. This exclusion can impact significantly on survivors of sexual abuse, especially in cases of intimate partner abuse.

Any compensation that a survivor receives in another setting, for example, via a civil claim or through a Redress scheme will be taken into account in the award of damages by the Tribunal. Social welfare payments or entitlements under sick leave schemes are also taken into account when assessing damages payable to a survivor.

There is a very short time limit for making a claim under the scheme which is three months although the Tribunal may consider applications after this time if a satisfactory explanation is provided with the application. However, reporting the crime to the Gardaí is a prerequisite for applications under the scheme as the Tribunal will examine the Garda Report when making a decision on whether to award compensation or not. A single member of the Tribunal decides the amount of compensation in each case and if the applicant is unhappy with that ruling, an appeal lies to a 3 member Board. Hearings are largely informal and are held in private. Applicants are permitted to bring legal advisors to the hearing however the Tribunal will not pay any legal costs.

Contact details for the Criminal Injuries Compensation Tribunal are contained in the Appendix.

Obtaining compensation during the criminal process

Sections 6 – 9 of the Criminal Justice Act 1993 set out the procedure whereby a court may consider issues of financial compensation during the criminal process. The Act allows the court in any proceedings, instead of or in addition to, dealing with the convicted offender in any other way to make a compensation order requiring that person to compensate the victim for personal injury or loss resulting from the criminal offence.

The compensation payable may not exceed the amount of the damages that, in the opinion of the court, the injured party would be entitled to recover in a civil action against the convicted person in respect of the injury or loss concerned. The court is required to take into account the means of a convicted person before making such an order and may order the payment of the compensation in installments or through the District Court Clerk if necessary. The Act allows a convicted person to apply to the court to have any installments reduced or even cancelled entirely.

The law also provides that where a compensation order has been made under the 1993 Act at trial and damages later fall to be assessed in civil proceedings, any amount paid under a compensation order is to be taken into account and the accused person shall only be liable to pay further damages if the award at civil proceedings exceeds that ordered by the court during the criminal action. If the amount paid under the compensation order exceeds the damages assessed by the civil court, the court may order that the amount of the excess be repaid by that person to the person against whom the compensation order was made.

There are two important factors to note about the operation of this legislation. The first is that criminal courts are often reluctant to raise the issue of compensation, especially in the context of sexual offences, for fear that an order to pay compensation may be seen as an inappropriate punishment for crimes of such a serious nature. Furthermore, a sentencing court will be conscious of avoiding any allegation that a convicted person is 'buying their way out' of a prison sentence simply by being in a position to pay compensation to the victim.

The second aspect of this legislation is that you will not be legally represented at the point of the trial where compensation is likely to become an issue. Therefore, it will be the role of the prosecution to seek your views on the issue of compensation, often at very short notice and with little time for consideration before a decision must be made. By discussing such matters in advance with legal advisors or other persons, survivors will have had time to consider their views on compensation and will be prepared to express their views should the matter arise at trial.

Conclusion

A survivor's perspective:

"I can't really remember much during the following weeks, the only way to describe my life was unemotional. Food was horrible and tasteless. My head was surrounded by a thick fog and everything moved slow. I couldn't laugh or cry it was like I forgot how to feel. My body was on automatic. I did what I had to do and never seemed to sleep properly. I kept asking myself, Why me? What have I done so wrong?"

Why hadn't I done things differently? The answer would never be that simple because I couldn't understand what I had done, I wanted so badly to kill that part of my life, I didn't want to die but I wanted to wake up and realise it was all a bad dream.

I started counselling 4 days after my rape. It has helped me so much to understand and get an answer to the questions I always ask myself. People don't understand something they have never been through.

Some people treat me like I did something wrong but they are ignorant. I have dealt with a rollercoaster of emotions but I have come out the other side much stronger, and I can live again. I honestly thought I would never feel this way again. Memories of that night have faded, it almost seems like a bad dream, but I will never fully forget it, it is at the back of my head. There is light at the end of the tunnel but you have to want to find it. I have found my feet again, and I have never had them so firmly on the ground. When I remember I let myself feel because that has really helped me. I have become someone I thought was long dead. The biggest lesson I have learned is that I have done nothing wrong, none of this was my fault. I can't help what happened to me but I helped myself get through it, and I am looking forward to closing this chapter of my life.

(Survivor, 2009)

Appendix

Support services for survivors of sexual violence

Rape Crisis Centres operate nationwide offering specialist support services for survivors of sexual violence including: helpline support, counselling, court accompaniment, SATU accompaniment, out-reach services, training, awareness-raising and lobbying. RCCs also provide support and information to family or friends who may be supporting someone who has experienced sexual violence.

Athlone (Midland) Rape Crisis Centre

Suites 5 and 6 Townhouse Centre, St. Mary's Square, Athlone, Co. Westmeath.

Contact: www.amrcc.ie or Freephone 1800 306 600

Belfast Rape Crisis and Sexual Abuse Centre (Northern Ireland)

29 Donegal Street, Belfast BT1 2FG.

Contact: 02890 329001/2 (within Northern Ireland) (To call from the Republic of Ireland add prefix 0044 or +44 and remove the first 0 from the phone number)

Carlow and South Leinster Rape Crisis Centre

72 Tullow Street, Carlow.

Contact: www.carlowrapecrisis.ie or Freephone 1800 727 737

Donegal Sexual Abuse & Rape Crisis Centre

2A Grand Central Canal Road, Letterkenny, Co. Donegal.

Contact www.donegalrapecrisis.ie or Freephone 1800 448 844

Dublin Rape Crisis Centre

70 Lower Leeson Street, Dublin 2.

Contact: www.drcc.ie or Freephone 1800 77 88 88

Galway Rape Crisis Centre

The Lodge, Forster Court, Galway.

Contact: www.galwayrcc.org or Freephone 1800 355 355

Kerry Rape Crisis Centre

5 Greenview Terrace, Princes Quay, Tralee, Co Kerry.

Contact: www.krsac.com or Freephone 1800 633 333

Kilkenny Rape Crisis & Counselling Centre

1 Golfview Terrace, Off Grangers Road, Kilkenny.

Contact: www.kilkennyrcc.ie Freephone 1800 478 478

Mayo Rape Crisis Centre

Newtown, Castlebar, Co. Mayo.

Contact: www.mayorapecrisiscentre.ie or 1800 234 900

Rape Crisis Midwest (Limerick)

Phoenix House, Punches Close, Rosbrien, Limerick.

Contact: www.rapecrisis.ie or Freephone 1800 311 511

Rape Crisis North East (RCNE)

59A Anne Street, Dundalk, Co. Louth.

Contact: www.rcne.ie or 1800 212 122

Sexual Violence Centre Cork

5 Camden Place, Cork.

Contact: www.sexualviolence.ie or Freephone 1800 496 496

Tipperary Rape Crisis & Counselling Centre

20 Mary Street, Clonmel, Co. Tipperary.

Contact Freephone 1800 340 340 or email trcc@eircom.net

Tullamore Regional Sexual Abuse & Rape Crisis Centre

4 Harbour View, Store Street, Tullamore, Co. Offaly.

Contact: tullamoreapecrisiscentre@eircom.net or Freephone 1800 323 232

Rape Crisis and Sexual Abuse Counselling Centre Sligo, Leitrim and West Cavan

42 Castle Street, Sligo.

Contact: www.srcc.ie or Freephone 1800 750 780

Waterford Rape Crisis and Sexual Abuse Centre

2A Waterside, Waterford.

Contact: www.waterfordrsac.ie or Freephone 1800 296 296

Wexford Rape & Sexual Abuse Support Service

Clifford Street, Wexford.

Contact: www.wexfordrapecrisis.com or Freephone 1800 330 033

One in Four Support is provided directly through individual psychotherapy, group therapy, advocacy/support, and 24 hour support on online message boards. Contact: www.oneinfour.org or 01 662 4070.

Connect is a free phone counselling service for any adult who has experienced abuse, trauma or neglect in childhood. The service is also available to partners or relatives of people with these experiences.

Contact: www.connectcounselling.ie or Freephone 1800 477 477.

Dignity 4 Patients is a patient support and advocacy organisation working with people who have suffered sexual assault or inappropriate sexual behaviour whilst a patient in a medical or therapeutic setting.

Contact: www.dignity4patients.org or 041 9845761.

Right of Place supports survivors of institutional child abuse and their families offering information, one to one meetings and group support.

Contact: www.rightofplace.com or Locall 1890 200 709.

Victim Support Northern Ireland is the charity which helps people affected by any type of crime. They provide emotional support, information and practical help to victims, witnesses and others affected by crime.

Contact: www.victimsupportni.co.uk or 028 9024 3133.

Email: info@victimsupportni.org.uk.

Services for children

CARI Helpline is a point of first contact for members of the public and professionals who have questions about child protection and issues around child sexual abuse. Experienced operators provide information and advice to individuals and professionals with concerns about child sexual abuse or children displaying sexualised behaviour. Appointments for therapists can be made. Contact: www.cari.ie or by phone 01 8308523.

ISPCC Childline provides a range of services for all children up to the age of 18. The Childline is open 24 hours a day, 7 days a week and can be reached by phone, text, email, online chat or through the website.

Contact: www.childline.ie or Freephone 1800 666 666.

Barnardos offers a variety of specialised services to provide support to children, parents and families. Contact: www.barnardos.ie or Freephone 1800 222 300.

Sexual Assault and Treatment Units (SATU) are available at the following locations:

Each SATU unit keeps a contact list for the nearest Rape Crisis Centre and if you are referred to a SATU or even if you attend without referral from another agency, trained staff at that SATU will contact the Rape Crisis Centre for you. Each Centre has a list of trained on-call staff and volunteers who respond to calls from SATU's. Alternatively, the Gardaí may contact SATU accompaniment services for you. If you prefer to arrange SATU accompaniment yourself, the contact numbers are set out below.

CORK SEXUAL ASSAULT TREATMENT UNIT

South-Infirmery – Victoria University Hospital, Old Blackrock Rd, Cork.

Tel: 021 4926100 Email: satu@sivuh.ie

Web: www.sivuh.ie/departments/sexualassaulttreatmentunit.html

Call Sexual Violence Centre Cork on 1800 496 496
for SATU accompaniment by trained staff or volunteers.

DONEGAL SEXUAL ASSAULT TREATMENT UNIT

Letterkenny General Hospital, Co. Donegal.

Tel: 074 9104436 Mobile: 087 0664593 Email: satu.letterkenny@hse.ie

Call Donegal Sexual Abuse and Rape Crisis Centre on 1800 448 844
for SATU accompaniment by trained staff or volunteers.

DUBLIN SEXUAL ASSAULT AND TREATMENT UNIT

The Rotunda Hospital, Dublin 1.

Tel: 01 817 1736 (9am – 4.30pm, Monday to Friday).

Outside of these times, contact the Rotunda hospital generally on 01 817 1700

Email: satu@rotunda.ie

Call Dublin Rape Crisis Centre on 1800 788 888
for SATU accompaniment by trained staff or volunteers.

GALWAY SEXUAL ASSAULT TREATMENT UNIT

Hazelwood House, Parkmore Road, Galway.

Tel: 091 765751 Mob: 087 6338118 Email: satugalway@hse.ie

Call Galway Rape Crisis Centre on 091 765751
for SATU accompaniment by trained staff or volunteers.

WATERFORD SEXUAL ASSAULT TREATMENT UNIT

Waterford Regional Hospital, Dunmore Rd, Waterford

Tel: 051 842157 Email: wrh.satu@hse.ie

Call Waterford Rape Crisis and Sexual Abuse Centre on 1800 296 296 for SATU accompaniment by trained staff or volunteers.

MULLINGAR SEXUAL ASSAULT TREATMENT UNIT

Midlands Regional Hospital, Mullingar, Co. Westmeath

Tel: 044 9394239 Unit Mobile Phone No: 086 0409952 Email: satu.mrhm@hse.ie

Call Tullamore Rape Crisis Centre on 1800 323 232 for SATU accompaniment by trained staff or volunteers.

MIDWEST SATU SERVICE (Limerick)

Midwestern Regional Hospital, Dooradoyle, Limerick.

This is an out of hours service operating from 6pm – 6am, Mon – Thurs with 24 hour cover throughout weekends and Bank Holidays. This service is activated when rape or sexual assault is reported to the Gardaí in any of the 3 counties Limerick, Clare and North Tipperary.

For further information contact Ann Ryan HSE annma.ryan@hse.ie or call 067 46629/086 0402292.

Call Rape Crisis Midwest on 1800 311 551 for SATU accompaniment by trained staff or volunteers.

Asylum and immigration

Irish Refugee Council Law Centre: services include advice clinics and early legal advice. Contact: lawcentre@irishrefugeecouncil.ie or 01 7645854.

Immigrant Council of Ireland has an Independent Law Centre providing legal advice and support for migrants and their families.

Contact: www.immigrantcouncil.ie or 01 674 0200.

Migrant Rights Centre Ireland actively mobilises and campaigns for policy changes that affect migrant workers and their families.

Contact: www.mrci.ie or 01 8897570.

The Integration Centre is committed to the integration and inclusion of people from immigrant backgrounds in Ireland.

Contact: www.integrationcentre.ie or 01 6453070.

Domestic violence

SAFE Ireland is a national network of domestic violence services that continues to develop and sustain services.

Details of domestic violence support services nationwide are provided through www.safeireland.ie or email info@safeireland.ie or call 090 647 0978.

Amen provides court accompaniment services, a confidential helpline, support services and information for men who have or are experiencing domestic violence.

Contact: www.amen.ie or 046 902 3718. Contact after hours at 086 194 7270.

Disability support services

The COPE Foundation is a voluntary organisation offering support services to persons for intellectual disabilities. Contact: www.cope-foundation.ie or 021 750 71731 (a details list of disability support services is available in the 'links' section of this website).

Disability Federation of Ireland is an advocate for the voluntary disability sector supporting organisations to enable people with disabilities.

Contact: www.disability-federation.ie or 01 454 7978.

The National Disability Authority is the independent state body providing expert advice on disability policy and practice, and promoting awareness.

Contact: www.nda.ie or 01 608 0400.

Inclusion Ireland, independent NGO providing advocacy, support and policy documents in relation to people with an intellectual disability.

Contact: www.inclusionireland.ie or 01 855 9891.

Addiction

National Drug Advisory and Treatment Centre aims to provide an integrated, person centred, specialist addiction service, supported by best practice and national leadership in academic excellence.

Contact: www.addictionireland.ie or info@dtcb.ie

Alcoholics Anonymous provides a full contact list for its services nationwide at www.alcoholicsanonymous.ie

Narcotics Anonymous provides a full contact list of its services nationwide at www.na-ireland.org

Gamblers Anonymous provides a full contact list of its services nationwide at www.gamblersanonymous.ie

Elderly

Age Action promotes positive ageing and better policies and services for older people. Contact: www.ageaction.ie or 01 475 6989.

Irish Association of Older People is an advocacy and support organisation. Contact: www.olderpeople.ie or 01 214 0737.

Older Women's Network (Ireland) is a nationwide network of women and women's groups. Contact: www.ownireland.ie or 01 884 4536.

Mental health

Mental Health Ireland is a national voluntary organisation. There are 105 local Mental Health Associations currently affiliated to Mental Health Ireland. While they are autonomous, they share the mission of MHI and participate in projects organised at national level. Contact details for mental health organisations and support services nationwide can be found via this website. Contact: www.mentalhealthireland.ie or 01 284 1166.

Samaritans Helpline provides 24 hour support for people experiencing feelings of despair or distress including those that may lead to suicide. Contact: www.samaritans.ie or 1850 60 90 90.

Aware provides depression support, information and education for people with depression and their families. Contact: www.aware.ie or 1890 303 302.

Minorities organisations

SPIRASI is a humanitarian, intercultural, non-governmental organisation that works with asylum seekers, refugees and other disadvantaged migrant groups, with special concern for survivors of torture. In partnership with others, SPIRASI enables access to specialist services to promote the well-being of the human person, and encourages self-reliance and integration into Ireland. Contact: www.spirasi.ie or 01 838 9664.

Akidwa is minority ethnic-led national network of African and migrant women living in Ireland. Contact: www.akidwa.ie or 01 834 9851.

Involve in partnership with Travellers is a national organisation which represents Centres of education and training and youth work projects nationally for Travellers. Contact: www.involve.ie or 090 649 8017.

Irish Traveller Movement is a national network of organisations and individuals working within the Traveller community. Contact: www.itmtrav.ie or 01 679 65 77.

Pavee Point is a national organisation promoting human rights for Travellers. Contact: www.paveepoint.ie

National Traveller Women's Forum is a network of Traveller women and Traveller women's organisations from throughout Ireland. Contact: www.ntwf.net or 091 771 509.

Sexuality

GLEN (Gay and Lesbian Equality Network) works for equality for lesbian, gay and bisexual people in Ireland. Contact: www.glen.ie or info@glen.ie or 01 672 8650.

LGBT Helpline is a non-judgmental and confidential service providing listening, support and information to lesbian, gay, bisexual and transgender (LGBT) people, their family and friends. Contact: www.lgbt.ie or 1890 929 539.

Sexual health and pregnancy

Irish Family Planning Association - Access to information, education, and health services regarding sex, sexuality, conception, contraception, safe abortion and sexually transmitted infections. Contact: www.ifpa.ie or 1850 49 50 51.

Positive Options is a crisis pregnancy counselling organisation.
Contact: www.positiveoptions.ie

HSE Crisis Pregnancy Programme is a national programme tasked with developing and implementing a national strategy to address the issue of crisis pregnancy in Ireland. Contact: www.crisispregnancy.ie or 01 814 6292.

Prostitution and trafficking

Ruhama is an Irish NGO which offers services and outreach to women in prostitution in Dublin. Contact: www.ruhama.ie or 01 836 0292.

Turn Off The Red Light is a campaign to end prostitution and sex trafficking in Ireland. It is being run by a new alliance of civil society organisations.
Contact: www.turnofftheredlight.ie or 01 674 0202.

Human Trafficking is an international web resource dedicated to stopping trafficking in human beings. Contact: www.humantrafficking.org

Poverty

European Anti-Poverty Network Ireland is a network of groups and individuals working against poverty. Contact: www.eapn.ie or 01 874 5737.

Money Advice and Budgeting Service is the national, free, confidential and independent service for people in debt or in danger of getting into debt.
Contact: www.mabs.ie or 0761 072000.

St Vincent de Paul is a national organisation providing practical support to those experiencing poverty and social exclusion. Nationwide contact details can be found at www.svp.ie or 01 838 6990.

Simon Communities of Ireland provides support services for homeless persons. Contact details for services nationwide can be found on www.simon.ie

Legal information for survivors

Rape Crisis Network Ireland (RCNI) is a specialist information and resource centre on rape and all forms of sexual violence with a proven capacity in strategic leadership. The RCNI role includes the development and coordination of national projects including expert data collection, supporting Rape Crisis Centres to reach best practice standards, using our expertise to influence national policy and social change. RCNI is a representative, umbrella body for our member Rape Crisis Centres who provide free advice, counselling and support for survivors of sexual abuse in Ireland. The RCNI website contains a publications section where RCNI National Statistics can be downloaded. This section also contains a booklet to assist you in composing a Victim Impact Statement which is available at the following link: <http://www.rcni.ie/uploads/VICTIMIMPACTSTATEMENTSREPORTSABookletforVictimsofCrimeMarch2011.pdf>

Contact: www.rcni.ie or 091 563676

Citizens Information is the national agency responsible for supporting the provision of information, advice and advocacy to the public on social and civil services.

Contact: www.citizensinformation.ie or 0761 074000.

Crime Victims Helpline is a national helpline which is there to listen, inform and where relevant, to refer people to support services in the local area of victims of crime.

Contact: www.crimevictimshelpline.ie or 1850 211 407.

Free Legal Advice Centres (FLAC) can be contacted at www.flac.ie or 1890 350 250 (information and referral line).

Legal Aid provides an accessible legal aid and advice service including the Refugee Legal Service. Contact: www.legalaidboard.ie. This website contains a list of contact details for Law Centres nationwide.

An Garda Síochána can be contacted at www.garda.ie where a range of information including a station directory, services and referrals can be accessed. In cases of emergency, call 999 or 112. The Garda Síochána policy on the investigation of Sexual Crime, Crimes against Children and Child Welfare which includes helpful information about interviewing and protecting children during the criminal process can be downloaded at the following link:

<http://www.garda.ie/Documents/User/WEB%20Investigation%20of%20Sexual%20Crime%20Crimes%20Against%20Children%20Children%20Welfare.pdf>

The Police Service of Northern Ireland (PSNI) can be contacted at www.psni.police.uk where a range of information including police station addresses and opening hours, services, supports (including a specific section on sexual crimes) and referrals can be accessed. In case of emergency, dial 999 and in non-emergency cases, dial 0845 600 8000.

The **Office of the DPP** can be contacted at www.dppireland.ie or 01 678 9222. Helpful documents on *'Going to Court as a Witness'* which can be accessed via the following link: http://www.dppireland.ie/filestore/documents/information_booklets_-_revised_july_2010/ENGLISH_-_Going_to_Court_as_a_Witness.pdf and *'The Role of the DPP'* which can be accessed via the following link: http://www.dppireland.ie/filestore/documents/information_booklets_-_revised_july_2010/ENGLISH_-_Role_of_the_DPP.pdf

The **Courts Services** can be contacted at www.courts.ie or 01 888 6000. Helpful information can be accessed via this webpage including advice for witnesses on who is who in the courtroom and advice for young witnesses. A link explaining who is who in the courtroom can be accessed at [http://www.courts.ie/Courts.ie/Library3.nsf/0/05C5EA6D17CF736580256F2C003B0337/\\$file/Whos%20who%20in%20court.pdf?openelement](http://www.courts.ie/Courts.ie/Library3.nsf/0/05C5EA6D17CF736580256F2C003B0337/$file/Whos%20who%20in%20court.pdf?openelement).

The **Irish Prison Service** can be contacted at www.ips.ie or 043 33 35100. Persons wishing to contact the Victim Liaison Scheme should contact: Victim Liaison Officer, Irish Prison Service, IDA Business Park, Ballinalee Road, Longford, Co. Longford or vlo@irishprisons.ie

The **Criminal Injuries Compensation Tribunal** can be contacted at email: criminalinjuries@justice.ie or www.justice.ie (see the 'other regulatory functions' section, which contains the application form and scheme details) or on 01 661 0604.

Victims' Charter

The following are the contact details for **complaints** in relation to compliance with the Victims' Charter which can be downloaded at the following link: <http://www.victimsofcrimeoffice.ie/en/vco/Pages/WP10000006>

Crime Victims Helpline: Service Co-ordinator, National Crime Victims Helpline, 3rd Floor, Block B, Harcourt Centre, Harcourt Street, Dublin 2.

Tel: (01) 408 6118 Fax: (01) 408 6125. Email: info@crimevictimshelpline.ie

An Garda Síochána: Your local Superintendent - contact details available in the telephone directory or from www.garda.ie or in writing to:

The Garda Victim Liaison Office, An Garda Síochána, Community Relations and Community Policing Section, Harcourt Square, Dublin 2.

Tel: (01) 666 3880 or (01) 666 3822 or (01) 666 3882 Fax: (01) 666 3801.

Email: crimevictims@garda.ie.

Alternatively, contact Garda Síochána Ombudsman Commission, 150 Abbey Street Upper, Dublin 1. LoCall: 1890 600 800. Tel: (01) 871 6727 Fax: (01) 814 7023.

Email: info@gsoc.ie or www.gardaombudsman.ie

Courts Service: Head of Customer Services, Courts Service, Phoenix House, 15–24 Phoenix Street North, Smithfield, Dublin 7. Tel: (01) 888 6000 Fax: (01) 888 6090 or www.courts.ie

Director of Public Prosecutions: Director of Public Prosecutions, 14 – 16 Merrion Street, Dublin 2. Tel: (01) 678 9222 Fax: (01) 661 0915 or www.dppireland.ie

Legal Aid Board: Customer Liaison Officer, Legal Aid Board, 47 Upper Mount Street, Dublin 2. Tel: (01) 644 1900 Lo-call: 1890 615 200, Fax: (01) 662 3661 or www.legalaidboard.ie

Criminal Injuries Compensation Tribunal: The Chairman, Criminal Injuries Compensation Tribunal, 13 Lower Hatch Street, Dublin 2. Tel: (01) 661 0604. Fax: (01) 661 0598 or email: criminalinjuries@justice.ie or www.justice.ie (see the ‘other regulatory functions’ section, which contains the application form and scheme details)

Relevant Government Departments and Offices:

Commission for the Support of Victims of Crime is a non-statutory independent body which operates under the aegis of the Department of Justice. Amongst its functions is to provide financial support to voluntary bodies that support victims of crime. Contact: www.csvc.ie or 01 476 8676. Email: vco@justice.ie or write to: Victims of Crime Office, Department of Justice and Equality, 2nd Floor Montague Court, Montague Lane, Dublin 2

Victims of Crime Office is in place to improve the continuity and quality of services to victims of crime, by state agencies and non-governmental organisations throughout the country. It works to support the development of competent, caring and efficient services to victims of crime and is a member of the Commission for the Support of Victims of Crime. Contact: www.vco.ie or call the crime victims helpline on 116 006. Email vco@justice.ie.

Department of Justice and Equality can be contacted at www.justice.ie or on 01 602 8202. Email: info@justice.ie

Cosc is the National Office for the Prevention of Domestic, Sexual and Gender-based Violence. Cosc was established in June 2007 under the Department of Justice with the key responsibility to ensure the delivery of a well co-ordinated “whole of Government” response to domestic, sexual and gender-based violence.

Contact: www.cosc.ie or 01 476 8680.

Email: cosc@justice.ie or write to:

Department of Justice and Equality, 2nd Floor, Montague Court, Montague Street, Dublin 2.

Department of Children and Youth Affairs focuses on harmonising policy issues that affect children in areas such as early childhood care and education, youth justice, child welfare and protection, children and young people's participation, research on children and young people, youth work and cross-cutting initiatives for children. A copy of Children First National Guidance can be downloaded via the following link:

http://www.dcy.gov.ie/viewdoc.asp?fn=viewdoc.asp?fn=/documents/Child_Welfare_Protection/ChildrenFirst.pdf

Contact: www.dcy.gov.ie or 01 6473000. Email: omc@dcya.gov.ie

or write to: Department of Children and Youth Affairs, 43-49 Mespil Road, Dublin 4.

Rape Crisis Network Ireland

Rape Crisis Network Ireland (RCNI) is a specialist information and resource centre on rape and all forms of sexual violence with a proven capacity in strategic leadership. The RCNI role includes the development and coordination of national projects such as expert data collection, strategic services development, supporting Rape Crisis Centres (RCCs) to reach best practice standards, using our expertise to influence national policy and social change, and supporting and facilitating multiagency partnerships. We are the representative, umbrella body for our member Rape Crisis Centres who provide free advice, counselling and support for survivors of sexual violence in Ireland.

RCNI provides a range of legal support services to its member Centres. The RCNI organisational structure includes a Legal Policy Director role which provides direct legal advice to Rape Crisis Centres and survivors in addition to drafting and implementing legal policies to meet best practice and statutory requirements. RCNI also organises training for Rape Crisis Centre staff and volunteers in two important areas namely: Court & Garda Accompaniment and Victim Impact Statements. The latter also includes legal updates on important changes in legislative policy and emerging legal issues. Court Accompaniment is a vital front line service where survivors can benefit from having a trained Rape Crisis staff member or volunteer accompany them to court throughout the trial to provide information, guidance and support.

RCNI is represented at national level on governmental initiatives such as the National Steering Committee on Violence against Women (NSC) and RCNI Legal Policy Director currently chairs its Legal Issues Sub Committee. RCNI makes submissions outlining its position on proposed legislation including most recently on the Criminal Justice (Withholding Information) Bill 2012 and the Draft Heads and General Scheme of the Children First Bill 2012. RCNI also regularly appears before Joint Oireachtas Committees to present its submissions and perspectives on important legal developments and proposed new legislation.

Disclaimer

Whilst every effort has been made to ensure the accuracy of the information/material contained in this document, the RCNI assumes no responsibility for and does not give any form of guarantee about, the accuracy, completeness or up to date nature of the information provided therein and does not accept any liability whatsoever arising from any errors or omissions.



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RCNI



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iPhone App



Android App

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