



# Consultation on Review of the Equality Acts

By the Department of Children, Disability, Equality,  
Integration and Youth.

Submission by Women's Aid

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Women's  Aid



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As a leading social change organisation, working towards achieving an equal Ireland, with zero tolerance of domestic abuse and all other forms of violence against women, Women's Aid welcomes the opportunity to offer our views to the Department on the important topic Equality and in the context of the current review of the Equality Acts.

This submission makes a number of recommendations, which are summarised below.

### Summary of Recommendations

1. Women's Aid believes that further clarity is needed on the substance of the proposal to amend the 'Gender Ground' of the Equal Status Act and the process of review which informed this before any amendments are decided on
2. Women's Aid suggests that further and more detailed review of the considerations being given to amending the 'Gender Ground' of the Equal Status Act may be warranted, to include a more detailed and comprehensive stakeholder consultation. The Law Reform Commission could be tasked with this review.
3. Consideration should be given to the addition of 'sex', in conjunction with 'gender'/'gender identity' to accommodate clear and distinct protections for all stakeholders.
4. Current definitions of the terms 'sex' and 'gender' need also to be scrutinised to identify existing conflation and potential conflict in any future amendments.
5. Equality legislation should be inclusive of the rights of marginalised groups, particularly Trans men and women, non-binary and intersex people.
6. Equality legislation should equally offer a clear and coherent tool to assist in the prevention and combating of all forms of male violence against women and to achieve equality for women.
7. Women's Aid support to the call for the addition of a socio-economic ground to the Equal Status Act.



## Introduction

Women's Aid is a national, feminist organisation working to prevent and address the impact of domestic violence and abuse including coercive control, in Ireland since 1974.

We do this by:

- advocating, influencing, training, and campaigning for effective responses to reduce the scale and impacts of domestic abuse on women and children in Ireland

and

- providing high quality, specialised, integrated, support services

More information on Women's Aid is available in the appendix below and on [womensaid.ie](http://womensaid.ie).

The Minister for Children, Equality, Disability Integration and Youth has put the Equality Acts (Equal Status Acts 2000-2018 and the Employment Equality Acts 1998-2015) out to consultation with a view to legislative, practice, redress and policy change.

It is critical that women's voices are heard and that their perspectives are considered on all areas of equality legislation review and development.

## Limitations of this Submission

Women's Aid appreciates the opportunity to make a submission on the review of the Equality Acts. We are aware of the multiple areas of legislation that relate to Equality, and all are important. Given our remit, and due also to constraints of time, we will respond briefly and specifically in relation the importance of these Acts on efforts to achieve women's equality and to prevent and combat all forms of violence against women and children. Therefore, Women's Aid focus will be on the proposed amendment to the 'Gender ground' of discrimination in the Equal Status Act 2000.

However, the broad scope of law that is required to address gender discrimination is beyond our scope. It should be taken as read that Women's Aid, as an organisation committed to social equality for women support the broad gamut of equalities legislation that addresses gender inequality however, for this submission we will focus more narrowly.

Indeed, it should also be understood that Women's Aid considers the pervasive structural inequalities which may be addressed in other aspects of Equality legislation as gendered forms of discrimination, which persist and are barriers to women's enjoyment of equal rights and opportunities. From the gender pay gap, burden of care, employment inequalities, lack of representation at leadership levels there is a strong evidence base to confirm that these inequalities, supported by misogynistic gender stereotypes (based on binary construct of defining what is feminine and masculine and the behaviours and attitudes expected of men and women, and derived from social constructions that change over time and cultures) all contribute to global pandemic of VAWG and act as demonstrable barriers to women's and girls' safety and security by creating an enabling environment for such violence to thrive.

These inequalities based in traditional gendered stereotypes are also serious barriers to men and boys benefiting from a healthy and more equal society.

Therefore, protection of women and tools to press for equality in all aspects of life are still urgently needed to achieve system and structural change and must be clearly enshrined in our Equality legislation.

#### **Amending the Gender Ground for Discrimination: Clarifying the Proposal.**

We will focus on the proposed amendment to the 'gender ground' of the Equal Status Act 2000.

The 'gender ground' is currently described in the Act as *'between any two persons, the discriminatory grounds (and the descriptions of those grounds for the purposes of this Act) are: (a) that one is male and the other is female (the "gender ground")'*,



Women's Aid are also asking however, and in the first instance before any actions are taken to amend legislation, that the Department provide further clarity on what the question under consultation is.

As stated in the Programme for Government, the Government commitment is to 'amend the gender ground in equality legislation, to ensure that someone discriminated against on the basis of their gender identity is able to avail of this legislation'. There is an inference that the amendment will be one that would either replace the existing 'gender ground' which is defined in law as 'that one is male and the other is female' with 'gender identity' or by adding 'gender identity' as a protected characteristic. However, rather than make such an assumption, we would respectfully ask the Minister and the Department to clarify what the question under consultation is and to also give further information about the extent and substance of the review which informed this proposed action.

There are a number of national strategies under active development which have critical intersections with and require recourse to a robust framework of equality legislation. Those of us working on gendered violence and indeed those who might be considered the 'women's sector' have not been part of any policy process on this specific matter to date, notwithstanding our very active participation in consultation for the development of the new National Domestic Sexual and Gender Based Violence Strategy (hereafter DSGBV).

We would like to understand how the implications for combating 'gender based violence', heretofore based on a foundational interpretation of gender as a binary of male and female, have been given careful consideration while also ensuring accommodation and consideration for other key stakeholders including in particular members of the LGBTQI+ community. It is unclear to us if or how efforts to tackle DSGBV, and achieve women's rights and equality has to date been given

consideration on the part of Government in preparation for the proposal to amend this section of the Equal Status Act.

### Current Legislation

A quick examination of some of the current pieces of legislation within the scope of the Review illustrates the lack of consistency in language, and definitions, which are intended to give protection and 'equal' treatment to women in law:

**Employment Equality Act 1998 & Miscellaneous Provisions:** The current legislation refers to the *Gender Ground* which is then qualified as meaning 'sex' and further distinguishes these as two classifications as being 'man' and 'woman'. It is both explicit and implied that *sex* is the defining characteristic, that the word *gender* is an assigned meaning for *sex*, and that the two sex categories implied are man and woman. The changing social interpretations of gender, as being distinct from sex, gives rise to different interpretations of these provisions, some of which may conflict with intended equality protections for women.

**Equal Status Act 2000:** Protections for women under this legislation are defined exclusively on the grounds of *gender*. It is reasonable to assume that protection on the characteristic of sex was implied in the Act.

**Equality Act 2004:** This legislation uses both sex and gender as interchangeable terms but the amendments are grounded on the European Council Directives on sex discrimination.

**Equal Status Amendment Act 2012:** Protections for women under this legislation are defined exclusively on the grounds of *gender*.

Whilst it is noted that the terms sexual orientation, and sexual harassment, occur throughout the legislation (both of which are etymologically rooted in the word *sex*) they are also variously subjected to the term *gender*. It is apparent from this ambiguity of language, that there is **significant potential for unintended consequences of conflict to arise between the explicit and implicit interpretations of these terms**. In this regard, the Minister must ensure that dedicated and adequate space be afforded to scrutinise the language and definitions of the current legislation and any future



amendments, to ensure that legislation can mitigate against discrimination on the basis of sex, of gender, gender identity and of sexuality.

At present our Equality Act has evolved in a way that may prove problematic. If a review and subsequent amendments are to be made to rightly assure that there are mechanisms to achieve and vindicate equal rights (including the right to live without targeted male violence) this needs careful attention to assure that that these potential unintended consequences do not arise.

**Addressing the Rights of All in any Amendment to the Gender Ground for Discrimination.**

We share concerns with other colleagues that proposals for expanding the recourse to the gender ground, which has long been interpreted as a strict binary on which to based calls for equality between women and men, could risk a serious and long term harm to this global fight for women's equality and particularly to the combating of male violence against women.

To disrupt this ground is very problematic if a thoroughly considered accommodation cannot be found, to ensure **all** stakeholders rights are vindicated. We have significant concerns about the lack of clarity as to the degree to which there has consideration of these stakes to date and, therefore; our submission calls on the Department and relevant bodies to ensure due diligence in reviewing potential unintended consequences of expanding the interpretation of the 'gender ground'

We do also firmly recognise the important need to ensure appropriate access and recourse to marginalised and minoritised groups with different gender identities. Women's Aid offers support to all women, including transgender women.

We acknowledge that while all women share similar experiences of discrimination, harassment, sexism, inequality and oppression on the basis of their sex and gender, not all women are equally or similarly disadvantaged nor have equal access to resources, power and privilege. Our feminism incorporates analysis and action that considers how other forms of systemic oppression and

discrimination can intersect with and impact on women's experiences of sex, gender, sexuality, and their experiences of inequality, discrimination, harassment, violence and abuse.

Women's Aid recognises the links between all forms of oppression, abuse of and violence against women and the interconnection between forms of discrimination which women experience due to poverty, disability, immigration status, ethnicity, sexual orientation, gender and educational disadvantage.

Within the private sphere of home and intimate relationships, men's violence is focused on denying women sexual autonomy, reproductive choice and economic independence. Within the public sphere, the sexual violation of women through pornography, prostitution, sexual harassment, rape and sexual assault denies women the freedom to exercise their full human rights. Male violence prevents all women from fully participating in and benefiting from social, economic, cultural and political life.

It is for this reason that we urge the importance of care and a 360-degree review of the implications for any change to the gender ground in the Equal Status Act.

As a proposal, we would also not suggest recommending a further parsing of the term 'gender' (e.g. 'gender' and 'gender identity') without the addition of 'sex' as a separate category, as we have concerns that the current collapse of the term 'sex' into 'gender', once the binary interpretation is removed, becomes both inaccurate and incoherent.

Instead, we suggest inserting language well established in many other jurisdictions (and also in key conventions such as the Istanbul Convention) that incorporates **both** sex and gender. Retaining sex as an historically recognisable, shared, international scientific, sociological, economic and legal category, is a logical proposal.

If 'sex', were to be included, in conjunction with 'gender' and/or 'gender identity', this could potentially resolve the matter. Where the terms sex or gender need individual attention, then this

could be clearly set out with the attendant political issue stated as to the areas of work within each category.

We are emphatically not suggesting that 'gender' be removed, as there is a recognised need to create accommodations for trans and non-binary and intersex people. The recommendation that we will make is that there will be **more**, not less, room for all on this issue if the language and concepts reflect the continued actual lives and experiences of individuals and communities.

Crucially, this also by extension would allow for more coherent visibility of specific disadvantages and also violence and abuse targeted towards women, trans men and women, non-binary and intersex people, in respect of **equality data collection** to better inform appropriate analysis of needs and responses.

#### **Support for the Addition of a Social Economic Ground to the Equal Status Act.**

While Women's Aid has made this submission with a narrow focus, we do also wish to acknowledge that the first proposal specifically mentioned in the government's call is the addition of a **socio-economic ground** to the Equal Status Act 2000. Women's Aid work with our partners across the NGO sector on matters of poverty as we recognise that economic disadvantage is both a risk factor and an outcome of domestic, sexual and gender based violence. We commend our colleagues in peer civil society organisations who focus their expertise and advocacy in this area and broadly support the position in support of adding this ground to the Act.

#### **Conclusion**

An amendment to create distinct grounds of 'gender'/'gender-identity' in conjunction with a ground of 'sex' to give further distinction and clarity to the 'gender ground' of the Equal Status Amendment Act needs to be considered.



We believe that what we are suggesting may be a positive mechanism to give full inclusion and balancing of rights in our efforts to combat all inequality.

First however, greater clarity on review process to date, as well as clarity on what precisely is currently proposed is required. Additional scrutiny by the Department, and possibly bodies such as the Law Reform Commission, is then further warranted. Any suggestions made in this submission should be considered on their merits at the conclusion of such a process.

We additionally lend our support to the call for the addition of a **socio-economic ground** to the Equal Status Act 2000



## Appendix: About Women's Aid

Women's Aid is a national, feminist organisation working to prevent and address the impact of domestic violence and abuse including coercive control, in Ireland since 1974.

We do this by:

- advocating, influencing, training, and campaigning for effective responses to reduce the scale and impacts of domestic abuse on women and children in Ireland

and

- providing high quality, specialised, integrated, support services

## Our Frontline Services

### 24hr National Freephone Helpline 1800 341 300

Women's Aid operates the 24hr National Freephone Domestic Violence Helpline in the Republic of Ireland. The Helpline provides a listening ear, emotional support and practical information to women subjected to violence and abuse from their current or former partners. The Helpline also acts as a 'gateway' for direct referral to all other local specialist services across Ireland. It is the only free, national, domestic violence and abuse Helpline with specialised, trained Support Workers, fully accredited and quality assured by The Helplines Partnership.

### Women's Aid Telephone Interpretation Service

The 24hr National Freephone Helpline has a Telephone Interpretation Service facility covering 170 languages for callers needing support in their own language. Interpreters are available on the Language Line from 8am–8pm, 7 days a week.

### Instant Messaging Support Service (IMSS)

The Women's Aid IMSS is a free, confidential and secure service where women can seek support and advice from fully trained Helpline Support Workers through instant messaging. The service is open daily and can be accessed through [womensaid.ie](https://www.womensaid.ie) or [toointoyou.ie](https://www.toointoyou.ie). The service is more easily accessible to women who feel they are at risk of being overheard by their abuser.

### **Face-to-Face Services in the Greater Dublin Area**

#### **One-to-One Support Service**

The Women's Aid One-to-One Support Service provides in-depth information and support to women who have been subjected to domestic violence and abuse throughout Dublin City and County. This ongoing face-to-face and phone support can include court accompaniment, safety planning, advocacy and referral support to external organisations. Our advocacy and referral work includes accompaniment to the local Gardaí to make statements; assistance with legal aid applications; support with immigration status within the context of domestic violence and abuse; advocating to Housing Authorities for women who are no longer safe in their homes; and support in accessing local refuges. Court accompaniment includes emotional support before, during and after the court proceedings, clarifying legal terminology and exploring further options. We support women with applications and hearings in the context of domestic violence orders as well as access, custody, maintenance, divorce and separation cases where domestic violence and abuse is present.

#### **Domestic Abuse Information and Support Service (D.A.I.S.) - A Drop-In Service for Women in Dolphin House Family Law Court<sup>1</sup>**

Based in the Dolphin House Family Law Court in Dublin, the Domestic Abuse Information and Support Service (D.A.I.S.) is a free and confidential drop-in service for women who are subjected to domestic violence and abuse. The service is available Monday to Friday 9.30am to 4.30pm and provides support and information on legal options and safety planning, and links women in with

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<sup>1</sup> formerly known as the Dolphin House Family Law Court Support and Referral Service



domestic violence and abuse services for ongoing support. Women's Aid runs this service in partnership with the Inchicore Outreach Centre.

### **High-Risk Support Project**

The High-Risk Support Project provides a multi-agency response to women at a high-risk of ongoing violence, abuse and homicide from their ex-partners and ex-spouses. Women's Aid works with An Garda Síochána and local domestic violence services to deliver a coordinated rapid response system for women and their families, which is generously supported by the Vodafone Foundation and the Department of Justice.

### **Women's Aid Maternity Project**

This is an innovative pilot project (2021-2024) which has the aim of enhancing maternity hospitals and unit's response to victims/survivors of domestic violence and abuse through a jointly created, delivered and operated Domestic Violence and Abuse Training, Awareness and Referral Programme. The project is a partnership between, Women's Aid and three Dublin Maternity hospitals and Cork University Hospital who will collaborate on delivery and evaluation of the key strands of the programme.

### **Women's Aid Law Clinic**

Our confidential and free legal information and assistance clinic supports women subjected to domestic violence and abuse who are representing themselves in domestic violence and family law proceedings. The clinic is run by volunteer lawyers from McCann Fitzgerald whose services are provided free of charge.

### **Working for Social Equality**

#### **Specialised Training**

Women's Aid's Training and Development Department has a proven track record of designing and delivering specialist domestic violence and abuse training to local and national organisations throughout Ireland. We support organisations in the statutory, community and voluntary sectors, as well as corporate bodies, to enhance and improve responses to women who are subjected to domestic violence and abuse. All Women's Aid training is informed and guided by our decades of experience directly supporting women and by models of best practice.

## **Public Awareness and Campaigns**

Women's Aid leads the way in raising awareness and providing information on domestic violence and abuse to victims and survivors, their families and friends, their communities and wider society. Our annual public awareness campaigns and communications activities are a vital way to highlight the prevalence, nature and impact of domestic violence and abuse, intimate relationship abuse and femicide.

Too Into You is a Women's Aid campaign and resource for young women (aged 18-25) to learn about their intimate relationships and seek support and advice if they are suffering or fear they may be suffering intimate relationship abuse. Friends, classmates, colleagues, family members and professionals can also access information about intimate relationship abuse here. The campaign highlights the hidden reality of many young intimate relationships.

We also engage with the media to promote the 24hr National Freephone Helpline and our other support services. The Women's Voices Testimony Project encourages and facilitates victims and survivors to tell their stories in a safe way to improve awareness on domestic violence and abuse and reach women in similar situations.

## **Influencing Government and Policy**

Women's Aid provides solution-based recommendations on improving preventions, legal responses, policies and protections to support women and children subjected to domestic violence and abuse, and we bring their concerns to a number of national and local fora. We make



submissions and meet with government ministers, policymakers and members of the Oireachtas to discuss a range of issues and collaborate with other agencies and organisations to bring about social and political change.

**Ends.**