

July 2024

**Input to the
Courts Service
ICT, Digital and
Data Strategy
2024-2027**

Women's Aid



Supporting
women
through
generations



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 impact of domestic violence and abuse on women and children in Ireland and providing high quality, specialised, integrated, support services. More information on Women's Aid is available on our website www.womensaid.ie.

Women's Aid welcomes the opportunity to input into the Courts Services ICT, Digital and Data Strategy.



Women’s Aid Input into the Courts Services ICT, Digital and Data Strategy 2024-2027

Your Views and Recommendations
<p>Are there any topics, outcomes or concerns relating to the above themes that you would like the strategy to address?</p> <p>Are there other themes you would like to see addressed?</p> <p>Do you have any other suggestions for the upcoming ICT, Digital and Data strategy?</p>
<p>Women's Aid believes that ICT can be of great assistance in optimising access to and experience of the courts, by reducing the need for in person appearances and by providing better communication and linkages between different part of the court system, therefore we appreciate the progress made so far in the implementation of the ICT strategy, and particularly the increase in technology enabled Courts.</p> <p>We agree with the proposed themes with the caveat that provisions must be made for court users who do not have access to technology or need additional support in using it.</p> <p>We have the following suggestions in relation to actions/outcomes for the revised strategy:</p> <p>1. Remote applications and hearings of orders under the Domestic Violence Act 2018</p> <p>For many women escaping domestic violence, the courts premises can be unsafe as they risk encountering the abuser in the waiting areas or coming/leaving the Court. Moreover, access to the courts could be difficult for certain women due to disability, geographical isolation, lack of money, transport or childcare.</p> <p>We support women who are heavily pregnant or who have just given birth, currently they can be required to spend hours and hours in a court building, to apply for an order or for the full hearing- women are waiting ALL day in court. Remote access would allow for greater efficiency, as well as improved safety and increasing a victim-centric approach.</p> <p>In short, remote proceedings would remove many of the above barriers for women and facilitate them accessing Domestic Violence orders.</p> <p>A recent pilot initiative in Tipperary concluded whereby remote hearings for ex-parte protective orders were applied for via remote procedures, with the support of the local specialist Domestic</p>

Abuse service Cuan Saor. This pilot produced a very positive evaluation report. The findings of this evaluation and its recommendations for a wider roll out of this process for ex-parte protective orders under the Domestic Violence Act 2018, and expansion of the process for any other potentially applicable proceedings should be a priority action for the Courts Service as this process may support victims' safety and increase the accessibility of the Courts Service to more marginalized, vulnerable or disabled people.

Women who may be marginalised or experience additional barriers or disadvantages could greatly benefit from remote hearings, as physical access to the court may be particularly difficult for them. It is vital that any initiative to access courts remotely includes mechanisms to reach them and include them.

Recommendation 1

The revised ICT Strategy should:

- a) Review and action recommendations arising from the pilot project evaluation providing for remote hearings of ex-parte applications for orders under the Domestic Act 2018. Create mechanisms to appropriately extend the process nationally and to adapt to expand access to remote hearings other appropriate proceedings.
- b) Consider the extension of remote hearings particularly for family law proceedings, other than ex-parte protective order applications in any cases where domestic violence is a feature of the relationship.
- c) Mechanisms to effectively reach/assist women who may be marginalized or experience additional barriers or disadvantages, including language barriers and disability should be explored and put in place for all remote hearing initiatives.

2. Use of ICT for notifications of orders to respondents and relevant Garda station

In our experience many women still have to notify the abuser themselves of an order having been granted, which puts women at risk of violence, retaliation or intimidation. Moreover, if there are no witnesses/records to the notification of the order, the perpetrator can subsequently lie about having been notified and therefore can get away with breaches.

When an order is granted, the Court will send a copy of such an order to the local Garda station by post. Women's Aid is aware of cases where communication from the courts to the local

Gardaí in relation to domestic violence orders was not adequate or not immediate enough.

It is important than when responding to a Domestic Violence incident or call out, the Gardaí are aware of the existence of orders, therefore they should be notified asap. Any changes to the orders, including extensions or variations should also be immediately communicated. ICT should be used to speed up and make automatic these vital communications.

Recommendation 2

That the revised ICT Strategy:

- a) explore technologically new ways to improve serving of orders under the Domestic Violence Act to the respondent, such as emails or texts.
- b) improve communications between the Courts and the Garda so that Garda stations are immediately and automatically informed about Domestic Violence Orders being granted/varied/extended/revoked.

3. Case information flow between Family, Child Care and Criminal courts/proceedings.

In our experience a woman may have several proceedings in different courts all going on at the same time or in a short period. For example, she may be pursuing an application for or renewal of an order, applying for or responding to custody /access and separation/divorce proceedings in the Family Law Court while one or more criminal proceedings for offences against her by the abuser are in train in the Criminal courts. In some cases, there may also be child care law proceedings.

Unfortunately, often the Family Law Court, including Child Care law and the Criminal Law Courts effectively operate as silos and there is not enough information flowing on the same case between the 2 systems. This can result in unsafe outcomes for women and children, for example when unsafe access is granted or when the risks posed by an abuser are not well understood due to the lack of a comprehensive picture¹.

It is vital that Family Law and Child Care law proceedings determining children's matters is informed of any criminal proceedings against the abuser and of their outcomes to make custody,

1 Women's Aid, Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System, 2019. Available here: https://www.womensaid.ie/app/uploads/2023/07/unheard_and_uncounted_-_women_domestic_abuse_and_the_irish_criminal_justice_system_full_report.pdf

access, and other relevant orders, safe for children and their non-abusing parent. It should also be made aware of proceedings still ongoing and not finalised.

Recommendation 3

The revised ICT Strategy should include:

- a) an information technology solution devised to make sure that all information related to a domestic violence case is available to the relevant Court, including both civil and criminal proceedings resolved and ongoing.
- b) a provision that information on breaches of orders and on other domestic violence related criminal offences should be automatically and promptly communicated by the Criminal court to Family Courts determining access and custody and other related matters involving children and adults at risk of ongoing abuse and harm.

4. Improving victims experiences in court

ICT has a role to play in improving victims' experiences when attending court. For example, it can be used to optimise list management to avoid women having to wait around for a hearing or to improve case management in complex and ongoing cases.

Importantly, ICT improvements are necessary to ensure vulnerable victims have the possibility to give evidence via video-link both in relevant criminal cases and in hearings for Domestic Violence orders as per S19 of the Criminal Justice (Victims of Crime) Act 2017 and S25 of the Domestic Violence Act 2018. We are encouraged to hear there has been progress on this and recommend all courts to be provided with necessary ICT infrastructure rapidly both to allow for remote hearings and for protected hearings of vulnerable witnesses or civil order applicants.

An online portal whereby members of the public can complete forms online, upload relevant supporting documentation and book Family Law appointments without having to go into the Court premises is also very helpful for all court users, including survivors of domestic abuse.

Recommendation 4

The revised ICT Strategy should:

- a) continue the expansion of technology-enabled courts as a priority

- b) explore ways in which ICT can improve court lists and case management
- c) develop the proposed online portal for court users to include mechanisms to complete forms, upload relevant documents and make Family Law appointments

5. Data Collection

Data collection in relation to domestic violence is absolutely inadequate in both the Family and the Criminal courts.

In relation to civil matters, there is no information on the number or type of Family Law cases (such as divorce, separation, Custody and Access) where domestic violence is a significant factor. There is no data in Ireland in relation to how many families separate in the context of domestic violence or child abuse and whether allegations and findings of domestic abuse /child abuse are taken into account in determining Custody, Access and Guardianship. This is a significant gap when evaluating existing or devising new policy and legislation on Family Law.

While data is available on orders applied for and granted under the Domestic Violence Act, such data is still not dis-aggregated by sex/gender, relationship, age, ethnicity and disability of victim and perpetrator as per “gold standard” of data collection agreed in the Second National Strategy on Domestic, Sexual and Gender-based violence years ago.

In relation to the criminal justice system, there is even less data routinely available. Domestic violence crime includes a number of offences, for example murder, assault of various degree, sexual assault, rape, stalking, damage to property, threats to kill, breaches of orders etc.

However, there is no data available in relation to how such offences are prosecuted and their outcomes and sentencing in domestic violence cases, as the relationship between offender and victim is not recorded by the Courts, nor is their gender.

There is also no available data (to our knowledge) that would help to evaluate the use of relevant new provisions, such as special sittings of the District Court under S24 or the effectiveness of new offences, such as Coercive control under S39 of the Domestic Violence Act 2018.

The lack of such data prevents important analysis of how the criminal justice system deals with domestic violence offenders and of the effectiveness of domestic violence policy and related legislation. Moreover, the lack of data promotes the continued invisibility of domestic violence

in the criminal justice system.

The Istanbul Convention (Article 11) requires that parties "collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention". The Istanbul Convention Explanatory Reports details these requirements as follows: "as a minimum requirement, recorded data on victim and perpetrator should be disaggregated by sex, age, type of violence as well as the relationship of the perpetrator to the victim, geographical location, as well as other factors deemed relevant by Parties such as disability. Recorded data should also contain information on conviction rates of perpetrators of all forms of violence covered by the scope of this Convention, including the number of protection orders issued"².

The European Institute for Gender Equality has published a series of detailed recommendations which Women's Aid strongly support in this regard³.

In the past few years, a number of specific new offences dealing with domestic, sexual and gender-based violence and have been added to Irish legislation, such as:

- Coercive control (Section 39 of the Domestic Violence Act 2018)
- Sharing of intimate images without consent and grossly offensive communication (S2, S3, S4 of the Harassment, Harmful Communications and Related Offences Act 2020)
- Stalking (S23 of the Criminal Justice (Miscellaneous Provisions) Act 2023)
- Strangulation and suffocation (S21 and S22 of the Criminal Justice (Miscellaneous Provisions) Act 2023)

It is essential that data is collected on the use and effectiveness of these new measures, including charges and sentencing.

Recommendation 5

2 Council of Europe, Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence– CETS 210 – page 15, paragraph 76, available at <https://rm.coe.int/16800d383a>

3 Recommendations to improve data collection on intimate partner violence by the police and justice sectors: Ireland, EIGE, November 2018, available at <https://eige.europa.eu/publications/recommendations-improve-data-collection-intimate-partner-violence-police-and-justice-sectors-ireland>

The revised ICT strategy should include urgent goals on collection and publication of domestic violence data for both the Family and the Criminal courts. This should include development of ICT solutions to:

- a) collect statistical and anonymised data on prevalence of divorce, Custody and Access cases with allegation of domestic violence/child abuse in the Family Law Court and on the outcomes of such cases
- b) provide for disaggregation of data on Domestic Violence orders by sex, age, type of violence as well as the **relationship** of the alleged perpetrator to the victim
- c) provide for disaggregated data by sex of victims and perpetrators and **relationship** between them on non-specific DV criminal offences, in particular sexual offences, assault causing harm, threats to kill and damage to property, which are very common in domestic violence
- d) collect data on the offences of coercive control, sharing of intimate images without consent, stalking, suffocation and strangulation, disaggregated by sex and relationship.

Ends.