

Tackling Violence Against Women

Fianna Fáil policy document

June 2022

Introduction

The killing of Ashling Murphy in January 2022 and the unlawful killing of many other women in recent years were not just brutal acts of violence that shocked the nation, they also highlighted the fear that exists amongst women in our society for their personal safety. These brutal deaths enabled women in Ireland to talk about their fear. More importantly, Ashling Murphy's death and the death of other women through acts of violence forced society to listen to that fear.

But it should not have required brutal killings for this very real fear to be heard and taken seriously.

These brutal acts of violence have highlighted the need for our society and our political system to address that fear urgently and comprehensively, and to take an honest look at how the system responds and meets the needs of women.

We continue to see, in Ireland and elsewhere, male violence being perpetrated against women, and women being fearful because of the threat of violence. This is a problem that is not to be measured solely by counting the number of women who have been killed or who are missing. Those events represent every woman's worst nightmare and they contribute enormously to the general sense of fear. However the problem extends beyond those harrowing statistics and the unlawful killing of women.

This is a problem that should be measured by the assaults on women, most of which go unreported.

This is a problem that should be measured by the volume – and acceptance of – harassment of women as they go about their daily life, with most of it going unchallenged.

This is a problem that should be measured by the intimidatory control that is exerted over women, most of which remains hidden behind doors or in silence.

We see this manifesting itself most often where a man abuses a woman he is in a relationship with simply because he believes that he should be able to assert control over that woman.

We also see this manifesting itself where some men simply believe they have the right to use intimidation or violence to control or impose themselves on or attack a woman they do not know.

As we stand today, there are some men in Ireland who believe that women should be controlled by and submissive to them, and that violence and coercive control is an acceptable way of achieving those aims. Changing this requires a dramatic change in the views those men have of women and in what they see as acceptable behaviour. This needs to be led by all of us.

What we have done to date to protect women from the threat and fear of violence is not enough. It is unacceptable that many women are fearful of being out in public on their own whatever the time of day or night and in whatever circumstances.

We know that many women and girls face additional barriers and vulnerabilities due to additional social discrimination, for example based on their ethnicity, ability, age or immigration status and this needs to be tackled.

The time is long overdue for this to change. Too many women and too many families have suffered. We need to ask ourselves what sort of a society we want to live in safely, and what is needed to make this happen.

Male violence against women including domestic violence remains extensive in the EU and has also been exacerbated by the pandemic.

The scale of violence against women is great and it comes in different and insidious forms such as domestic violence, sexual assault, rape, sexual harassment, stalking, female genital mutilation, forced marriage, child marriage, prostitution and trafficking.

There are many different types of costs to this: not least that failing to address violence against women including domestic violence costs money – an estimated €289 billion a year.

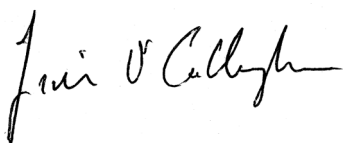
We know that men are also victims of domestic violence and sexual assault, and our focus here does not come at the expense of their protection and safety.

There are many different factors that need to be tackled and we need a whole of society response where we all play our part - not just a criminal justice response - to ensure that we confront this threat not just to women but to society, and that we ensure that victims of crime access justice and safety.

This document sets out what the Fianna Fáil party sees as needed across the:

- criminal justice and family law sectors;
- supports and service provision, and
- education and culture change.

We need a zero-tolerance approach to violence against women and this will require all of us - as a society - to commit to change. Enough is enough.



Jim O'Callaghan TD



1. Criminal Justice and Family Law Sectors

Tougher laws and sentencing

There is a small but significant cohort of men in our society who carry out violent acts on others with a sense of impunity. Our society should not tolerate such violence and we need to send out this clear message at as early a stage as possible.

Part of the solution to this problem is the strengthening of our laws so that all violence is met with a tougher response. We need to see those convicted of serious violence against women receiving sentences that are longer. There also needs to be more certainty as to the length of sentence that a perpetrator will receive if convicted of such acts of violence. Our political system has the power to introduce tougher laws to deter this type of criminal activity and this needs to happen urgently.

We need to toughen laws associated with all levels of violence and, in particular, we need to target perpetrators when they start displaying behaviour that is threatening and which may lead to more serious violence unless checked at an early stage.

Increasing penalties for serious assault or unlawful killing alone will have limited effect. We know that the damage has likely been done by the time those offences occur and the opportunity to divert a young man from violence has been lost. Also, penalties may well be severe enough in legislation, but not in sentencing practice.

Tougher laws need to target people who engage in all levels of criminal violence against others, particularly women. The following changes are urgently needed to tackle this issue through early intervention.

Legislate against stalking

The Non-Fatal Offences Against the Person (Amendment) (Stalking) Bill 2021 was introduced by Senators Lisa Chambers, Mary Fitzpatrick and Erin McGreehan in July 2021. In its 2016 Report on Harmful Communications and Digital Safety, the Law Reform Commission recommended that a specific stalking offence should be enacted and it said that stalking is an aggravated form of harassment characterised by repeated, unwanted contact that occurs as a result of fixation or obsession and causes alarm, distress or harm to the victim.

This element of intense obsession or fixation, which creates an unwanted intimacy between the stalker and the victim, differentiates stalking from harassment. The Commission analysed developments in Scotland, England and Wales where specific stalking offences were introduced in 2010 and 2012 respectively and it concluded that the experiences of these jurisdictions strongly suggest that the introduction of specific stalking offences led to an increase in reporting and prosecution of stalking. The Commission specifically said that stalking as an offence also carries great significance for its victims because of the “hidden” nature of the crime, as well as its aggravated nature compared to the crime of harassment.

Prohibit sexual harassment in public places

Article 40 of the Istanbul Convention on preventing and combating violence against women and domestic violence requires countries to take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, should be subject to criminal or other legal sanction.

At present in Ireland that is not the case.

Legislation prohibiting sexual harassment should be introduced immediately to ensure that Ireland's laws are consistent with the Istanbul Convention.

A person should be guilty of an offence if they engage in any form of unwanted conduct of a sexual nature towards another person and either:

- i. intends to cause that other person harassment, alarm or distress; or*
- ii. is reckless whether the conduct has that effect.*

We need to send a clear message to women that this sort of behaviour will not be tolerated anymore, and they are supported.

Such legislation would give statutory recognition to the fact that it is unacceptable intentionally or recklessly to harass sexually another person.

The introduction of this legislation should be accompanied by a clear public information campaign highlighting the unacceptability of this type of behaviour, where someone can go for help, and the consequences for perpetrators.

Strengthen bail laws

In 1996, 75% of voters approved of the Sixteenth Amendment to the Constitution which provided that a court can refuse bail to a suspect where it feared that while at liberty that suspect would commit a serious criminal offence. We know that a significant percentage of crime carried out is carried out by individuals on bail, including rape and sexual assaults. In 2016 individuals on bail were charged with 24 rapes and sexual assaults.

Our bail laws need to be strengthened to remove this risk. Those accused of rape or sexual assault or serious assault who have previous convictions for rape or sexual assault or serious assault should be refused bail unless there are exceptional circumstances. Bail applications are not victim centred, with little or no consultation with victims. Many of the offences committed by perpetrators of domestic violence are summary offences with a maximum sentence of less than 5 years. Under our bail laws, bail can only be refused for offences where the maximum sentence is greater than 5 years. We support the proposal made by Women's Aid in their 2019 Unheard and Uncounted report which suggested that our Bail Act should be extended to cover all offences with a domestic violence motive, including summary offences.

Tougher sentences for sexual assault and violent offences

At present the maximum sentence that can be imposed by a court for sexual assault is a fine and/or a maximum term of 10 years imprisonment. The maximum sentence for assault causing harm is a fine and/or a term of imprisonment not exceeding 5 years. The maximum sentence for a threat to kill or cause serious harm is a fine and/or a term of imprisonment not exceeding 10 years. The maximum sentence for harassment is a fine and/or term of imprisonment not exceeding 10 years. Sentences are decided by judges based on the individual circumstances of each case.

However, it is open to the Oireachtas to set maximum sentences.

The maximum sentences set out above are too light and, more importantly, courts are handing down sentences that on occasion are inappropriately low. There needs to be sentencing guidelines to overcome this inconsistency in sentencing. There also needs to be the collation of more data on sentencing from the courts to give greater visibility on sentencing standards and on the relationship between the perpetrator and victim.

Our law should specify a threshold of imprisonment that should apply if a person is convicted of any of these offences and has a previous conviction for one of these offences. Repeat offending is a clear characteristic of our criminal justice system and if offenders are repeatedly engaging in acts of violence the State needs to ensure that a more severe and tougher response through imprisonment is delivered.

We are aware, however, that because of the Supreme Court decision in *Ellis v The Minister for Justice and Equality*, the Oireachtas is not permitted to enact a law that distinguishes, for more severe punishment, a limited group of people convicted of an offence on the grounds that they had previously committed another similar serious offence. Nonetheless, that decision did not preclude presumptive or indicative minimum sentences. These should be examined and enacted by the Oireachtas to achieve a more effective response and deterrent against such violent crimes.

Finally, we also considered applying tougher laws to men convicted of offences against women but believe that such a provision would be open to constitutional challenge because of its potential violation of the principle of equality contained within Article 40.1 of the Constitution.

Improve access to protection orders

The family law process can be very demanding for those who need to make frequent visits to the court.

When a victim of domestic violence first makes contact with the Gardaí, a risk assessment should be conducted on that victim, and the risk posed by the offender assessed. It is vital that this risk assessment does not become a 'tick box' exercise, and that adequate training in conducting and interpreting responses to risk assessments be given to Gardaí. Unless done properly, these assessments could create enhanced risk by creating blind spots to potential harm.

Consideration should be given to changing our laws to enable the authorities to secure immediate protection for the victim if the risk posed by the offender causes concern and a delay in securing a protection order from the court can have catastrophic consequences for the complainant. There is provision already under Section 11 of the Domestic Violence Act 2018 for the Child and Family Agency to apply on behalf of a party for protective orders. Extending this role to the Gardaí would enable additional protection.

It is important that immediate action can be taken by Gardaí when safety, barring and protection orders are breached.

Strengthen knife crime laws

A society that is prepared to tolerate knife crime by young men will become a more violent and threatening society.

The number of people treated as in-patients in Irish hospitals in 2019 for knife assault injuries was 9% higher than in 2018. Also, the number of knives being seized by Gardaí is increasing every year which is a sign of increased knife carrying, especially amongst young men.

Consequently, the penalties for carrying a knife with intent to cause harm should be increased. At present, the maximum sentence for such an offence is a fine and/or a term of imprisonment not exceeding 5 years. This should be doubled to 10 years.

Increase wrap-around supports during the courts process

We need to ensure that victims of rape, sexual assault or any assault who make a complaint that is prosecuted in court are always given detailed information about the court process and that they are entitled to legal assistance in respect of that prosecution.

Work continues around educating the judiciary and associated services about the need for particular sensitivity around cases involving violence against women. We need to continue to work to ensure that our courts are more considerate and caring for the needs of victims. This has improved in recent years but there is still a requirement that victims and their families are given greater recognition and practical support during the court process. More broadly, courts and the judiciary must become more aware of how court processes can be weaponised to extend control over ex-partners in domestic violence cases. All court assessors and experts should be required to have extensive domestic violence training.

Victim impact statements given in court should be preserved and available – with the consent of the victim – after the trial process so that the narratives of victims' experiences are preserved.

Women who are subjected to domestic violence require the protection not just of criminal law but also family law. Many of the facilities provided by the State for the practice of family law are unsuitable and inappropriate for the needs of all users.

We need a full audit of our courthouses to assess their suitability to cater for domestic violence victims and those bringing applications. The vast majority are inadequate, and victims have to wait in crowded corridors with their aggressors. Separate meeting rooms must be provided not only for those applying for orders under the Domestic Violence Act 2018, but also women in court for divorce, separation and child matters in a context of domestic violence. Coercive control and abuse plays out in all court proceedings if it is a factor.

Review the civil legal aid system

We know that many solicitors are not taking on work under the private practitioner scheme, particularly for domestic violence cases.

A full review of the civil legal aid system is needed to ensure that many victims of domestic violence are not prevented from accessing justice. An increase in funding and expansion of eligibility rules for victims of domestic violence is urgently needed.

Establish a central child maintenance collections agency

A central child maintenance collections agency run by the State should be established, as part of the commitment to reform our child maintenance system and address key issues as contained in the Programme for Government.

When a woman gets a maintenance order there can often be non-compliance which can impact upon her and children or she can be ‘targeted’ through this as a continued method of control. It is then her responsibility to make another application to court to seek further orders because of the non-payment. This archaic system needs to change so that we have a central child maintenance collection agency that does not require ongoing court applications.

Comprehensive policing supports

Allocate Garda staff to tackle violence against women

Unprovoked and gratuitous violent attacks on people in public places could be deterred and reduced as a result of greater Garda visibility in those public places. It is pointless having large numbers of Gardaí doing administrative work in stations. That work should be carried out by civilian members of the force, enabling more Gardaí to be out in the community.

In terms of community supports, the roll out of Small Areas Policing Programme will go towards ensuring that adequate levels of Community Gardaí are in place on the ground.

Safer public transport for women

All Irish rail and bus services, including DART and Luas, should also be required to have security provided on their transport systems and a zero-tolerance policy towards any type of harassment of women.

The establishment of a dedicated public transport Garda division will allow for the effective and timely follow up of all forms of antisocial and criminal activity on public transport, including deterrence.

Track day to day violence against women

The daily harassment of women is not acceptable. We need to support the Gardai to establish a portal where gratuitous acts of violence can be reported. One of the difficulties with combatting acts of male violence against women is that many bystanders feel very hesitant about getting involved. They don't know what to do. An online portal should be available for information to be communicated direct to the Gardai about acts of violence that occur in the public place. This will act as an invaluable tool to allow them to investigate and prosecute such offences.

Unfortunately, there are many public places throughout the country – whether it be in parks or other city streets - where criminal activity takes place openly and without any apparent Garda response. Open drug taking or fights in broad daylight appear to be tolerated as part of normal society. Such behaviour is not acceptable and there should be no type of criminal activity that can take place with impunity in any public place.

If men believe that breaking the law can be done openly then they will not regard other laws for the protection of women or the prohibition of violence as deserving of respect.



2. Supports and service provision

A single and integrated service provision response

The Programme for Government acknowledged that there is an epidemic of domestic, sexual and gender-based violence. There needs to be a more integrated approach to combatting domestic violence and to resourcing the services charged with supporting survivors at all stages.

The Programme for Government is committed to the development of a domestic violence prevention strategy and it is important that this results in an integrated approach combatting domestic violence rather than it being compartmentalised or siloed across different parts of the State.

A survivor has the right to have a single point of contact with State services and not to risk being retraumatised by retelling their situation and/or to risk falling between service provision gaps.

A fit for purpose response

Our service providers working in the area of violence against women do an incredible job in respecting the dignity of each survivor and helping them to stay safe, feel supported and to rebuild their life and that of their children.

Sufficient – and secure – funding is needed to maintain and establish safe accommodation in every county so that women have the option of available accommodation close to home and their support network. This will support women to make their application for a domestic order in the locality where they have engaged with services and supports. We urgently need delivery of at least 400 family units for victims of domestic violence. A variety of accommodation is needed: refuge, safe at home, transitional accommodation and permanent options are needed, and full wrap-around services are needed at all points of the journey out of abuse.

Local authorities should work with service providers to provide the accommodation, particularly in those 9 counties where there are no refuges.

Approval was given by Minister Darragh O'Brien to adjust certain funding arrangements that normally apply to the Capital Assistance Scheme (CAS) to support the development of new domestic violence refuges. Recognising the important role the Department of Housing, Local Government and Heritage plays in assisting those fleeing domestic violence, a dedicated staff member at Principal Officer level should be made available to assist Local Authorities and Approved Housing Bodies in their applications.

We also need to ensure that our rape crisis centres are adequately resourced so that all the needs of victims of sexual crimes are met, including the cost of counselling and education provision.

A review of eligibility for supports across services must take place to ensure full accessibility. In the case of social welfare supports, immediate access to supplementary welfare support is needed for victims of domestic violence. A comprehensive review of requirements for a co-signature for forms in the case of domestic violence situations is also needed, such as in the case of someone claiming as a dependant under the social insurance record of their spouse, civil partner or cohabitant under the Treatment Benefit Scheme to have their spouse or partner to complete a dependant spouse application form.

Provide clear housing supports

It is unacceptable that women and children leaving a refuge or without housing due to a domestic violence situation cannot access housing supports due to confusion over their eligibility for accommodation. Departmental Housing Circular 40/2014 was circulated to all local authorities on the issue of discretion in the case of those separated and with a claim on the family home which has not yet resolved. A further circular urgently needs to be issued to all local authorities reaffirming the discretion which they have in determining eligibility for social housing supports in such cases.

The 'Fresh Start' principle in new Government housing schemes means that people who are divorced or separated and have no interest in the family home will be eligible to apply for Government schemes such as the First Home Scheme, the Local Authority Home Loan and Local Authority Led Affordable Purchase Schemes. A new awareness campaign is needed to inform people of the 'Fresh Start' principle.

Resource providers to identify and report domestic violence

Hospitals and GP surgeries should be able to access ongoing training to support their ability to detect cases where domestic abuse could be at play.

The creation of a national helpline run by trained staff would provide a professional and confidential outlet for staff in schools, hospitals and GP surgeries to seek immediate advice and to report domestic violence concerns.

Resource the Gardaí to respond effectively

The Gardaí play a central role in combatting violence against women, particularly domestic violence. The Divisional Protective Services Units (DPSU) within An Garda Síochána should be fully resourced and trained to combat this crime.

Increased visibility by the Gardaí in policing certain criminal activity has a strong deterrent effect. There will be increased visibility of domestic violence policing as a result of the development of these DPSUs within our Garda Síochána.

To ensure oversight, a dedicated Domestic Abuse Garda should be assigned in every station at the ranks of Sergeant or above, with a 'domestic violence champion' similar to a 'human rights champion' also appointed in each station.

All Gardaí should be trained to recognise and respond, and a clear process to escalate domestic violence cases from divisional unit to DPSUs should be formalised for complex and high-risk cases.

Introduce the right to information

We know that many women find themselves in relationships with men who have a history of being abusive in previous relationships.

People convicted of domestic violence or violence against a partner or former partner should be placed on a register of domestic violence offenders which should then be accessible to those who enter into a subsequent relationship with that convicted offender if the gardaí believe this is necessary to protect the safety of the new partner.

This register would not be publicly available but information on partners could be accessed by persons in relationships where the gardaí believed it was necessary to warn new partners of high risk people who may not otherwise think to ask about their partner.

Introduce statutory domestic violence leave

The introduction of statutory domestic violence leave is overdue. A woman experiencing domestic violence should not face barriers in terms of earnings or access to take time off work, including to attend court to secure orders against their perpetrator.

Clear statutory guidelines and entitlements will help remove preventable barriers to women staying safe and accessing legal, accommodation and health supports.



3. Education and culture change

Teach respect for women early and often

To change the culture around violence against women, children from an early age and in school need to be informed about:

- respect for each other and what a respectful relationship looks like
- the equality of the sexes
- the unacceptability of using violence against others
- the requirement for consent to be given in all sexual engagements

An education programme to teach and promote healthy and respectful relationships should be available in our primary schools. This should include age-appropriate discussions on gender inequality and toxic, narrow representations of masculinity of which violence can be a product.

Failing to educate all children about the inappropriateness and unacceptability of violence is doing them a grave disservice.

This should continue at secondary school level and above, with the national roll-out of the established “Bystander Intervention” programme in all secondary schools, PLCs and third level institutions.

Teacher training should be provided to help recognise signs of violence and to escalate concerns.

Hold online providers to account

An effective digital response is central to tackling violence against women, and all digital and social media operators should be required to work with Gardaí and communities to commit to a safer communities’ charter to remove and report all violence on their platforms.

We are all aware of the impact that online activity has had on many aspects of Irish life. The prevalence of violent imagery and clips online is having a significant impact on children and young people’s developing perceptions of sexuality and usual behaviour. We need urgent legislation to ensure that internet providers and social media companies are liable for ensuring that any type of violent imagery is not available to children.

There should also be a clear and accessible path for victims of cyber violence to access support and remove online content. The establishment of an Online Safety Commissioner and the provision of take down orders as contained in the Online Safety and Media Regulation Bill 2022 will support this. Operation of a fast track mechanism for incidents of image based sexual abuse as in other jurisdictions is also needed.

Protect children from accessing pornography online

Our laws need to be changed to prohibit the distribution of online pornography to children and extend their existing protection from harmful publications and films.

Online pornography is getting increasingly violent and often presents women in a very submissive and dominated role. Internet providers and social media companies must shoulder greater responsibility in order to ensure that such material cannot be accessed by children.

We also need a public information campaign directed at highlighting the abusive and desensitising nature of pornography and violent images can have on young, developing brains as well as for adults.

Greater education resources and a national bystander intervention programme

Resources are needed to cultivate a culture of zero tolerance of all forms of sexual hostility, harassment and violence by society to actively contribute to a safe, supportive environment.

The development of an national tool kit to educate and support safe bystander intervention will help promote pro-social behaviour and attitudes. It is important that it can be adopted and adapted across all sectors, including sports, the youth sector, the arts, private industry and the public sector. Good examples in evidence already include the UCC Bystander Intervention Programme and the Green Dot Bystander Programme run mainly in schools and universities in the United States.

Good international evidence is available on interventions to help address gender-based violence in educational settings. This early – and on-going - intervention is critical and evidenced-based intervention examples include the Enhanced Assess, Acknowledge, Act (EAAA) Sexual Assault Resistance Programme in Canadian Universities, as well as the Fourth R Programme in Canada and the Keeping Safe Programme in schools in Northern Ireland.

Fund an on-going statutory research programme around violence against women

Violence against women is a criminal and societal problem and we need to fund a programme of on-going research into the incidence of violence within Irish society, particularly around gender-based violence and sexual assault.

This will help us continue to learn of the causes, prevalence and best methods to combat violence against women.

To support better knowledge and evidence based policy making, a review of administrative data collected by a wide range of agencies should take place. The holding of regular prevalence surveys on domestic violence as well as sexual violence is also needed.

Acknowledgments

Thanks go to all who provided comments and input, especially to Jason Poole and Claire Lott who represent the important voice of victims and their families that sits at the centre of this policy.

In early May 2022 Fianna Fáil held a series of webinars on the issue of violence against women to look at how we can best tackle this and to support organisations active in the area. The series of public online webinars discussed priority issues, concerns and areas for action and ran over 4 consecutive nights.

3 May 2022: Eliminating Violence Against Women: Understanding the Support & Service Response Required

Speakers:

Sarah Benson, CEO, Womens Aid

Mary McDermott, CEO, Safe Ireland

Shirley Scott, Head of Policy, Dublin Rape Crisis Centre

Brian Killoran, CEO, Immigrant Council of Ireland

Deputy Jennifer Murnane O'Connor

Moderator: Senator Mary Fitzpatrick

4 May 2022: Eliminating Violence Against Women: Tackling Violence by Challenging the Culture

Speakers:

Clare Austick, President, USI

Dr Elaine Byrnes

Orla O'Connor, Director, NWCI

Norah Casey

Senator Fiona O'Loughlin

Senator Erin McGreehan

Moderator: Deputy Niamh Smyth

5 May 2022: Eliminating Violence Against Women: Criminal Justice & Family Law Supports

Speakers:

Noeline Blackwell, CEO, Dublin Rape Crisis Centre

Dr Conor Hanly, School of Law, NUI Galway

Neasa Ní Fheinneadhá, Volunteer and Training Manager Ruhama

Senator Catherine Ardagh

Senator Lorraine Clifford Lee

Moderator: Deputy Jim O'Callaghan

6 May 2022: Eliminating Violence Against Women: Whole of Society Approach to Tackling Violence against Women

Speakers:

Jason Poole

Professor Louise Crowley, School of Law, University College Cork

Councillor Uruemu Adejinmi, Chair, Akidwa

Senator Lisa Chambers

Moderator: Deputy Paul McAuliffe



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