

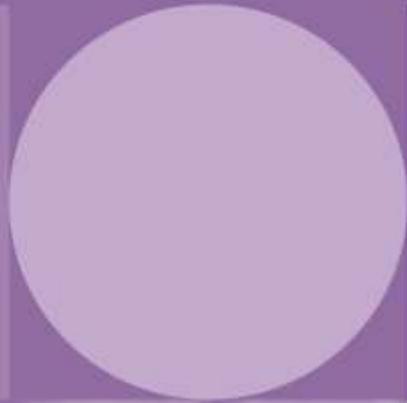


**WOMEN'S AID**

Listening. Believing. Supporting.

# Submission to the review of Part 4 of the Criminal Law (Sexual Offences) Act 2017

Women's Aid, September 2020.





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## Introduction

Women's Aid is pleased to respond to the Department of Justice's call for submissions on the review of Part IV of the Criminal Law (Sexual Offences) Act 2017.

Women's Aid is a leading national organisation that has been working in Ireland to stop domestic violence against women and children since 1974. In this time, the organisation has built up a huge body of experience and expertise on the issue, enabling us to best support women and share this knowledge with other agencies responding to women experiencing domestic violence. We strive to make women and children safe from domestic violence by offering support to women and their families and friends, providing hope to those affected by abuse and working for justice and social change. We operate the 24hr National Freephone Helpline 1800 341 900 and we also provide a number of one to one support services including face-to-face support, court accompaniment, family law and legal clinics in the Greater Dublin Area. We also deliver training and advocate to raise awareness, and affect policy and law reform and improved responses to women and children affected by domestic abuse.

Women's Aid was part of the Turn Off the Red Light campaign to end prostitution and sex trafficking in Ireland. Led by an alliance of over 70 stakeholders from civil society organisations to unions, non-governmental organisations and individuals, the campaign successfully advocated for the introduction of the legislation now known as Part IV of the Criminal Law (Sexual Offences) Act 2017. Women's Aid supports this legislation as we believe that criminalising the sex buyer while supporting the person in prostitution, or at risk of prostitution, is the best way to prevent commercial sexual exploitation. We believe that prostitution is a form of violence against women and that it is, in many ways, similar to domestic violence.

Like women experiencing domestic violence, women engaged in prostitution experience emotional, physical, sexual and financial abuse. Coercive control is central to both situations with abusers using isolation, emotional and economic dependency as well as threats of violence and the



use of actual violence as tactics of abuse. The impacts that domestic violence and prostitution have on women are also similar. They include psychological harm such as Post Traumatic Stress Disorder, depression and anxiety and low self-confidence, as well as physical harm and severe injuries.

At Women's Aid, we also sometimes hear from women experiencing or escaping domestic violence who are coerced into prostitution by abusive partners, or due to lack of opportunity to generate any other form of income. We know that poverty and homelessness can make women vulnerable to entry into prostitution and this can be exacerbated by non-payment of maintenance from their children's fathers. Fundamentally, we know that both prostitution and domestic violence act as direct barriers to the realisation of women's human rights and the actualisation of true, sustainable gender equality in our society.

We believe that legislation rooted in partial-decriminalisation in order to both reduce demand, and better support those who are in prostitution, is an effective way of protecting persons vulnerable to exploitation. By 'partial decriminalisation' we mean legislation (and supporting policies) which decriminalise any individual who is themselves in prostitution, but not those who drive demand and who profit from the prostitution of others: buyers, pimps, procurers and traffickers. This is also known as The Equality Model, or the Nordic Model. The goal of the Equality Model is essentially to protect women while deterring men from buying sex in an effort to reduce demand and ultimately end exploitation. The Equality Model/partial-decriminalisation was approved as the best model to address prostitution by the European Parliament in 2014<sup>1</sup> and by The Council of Europe in 2014<sup>2</sup>.

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<sup>1</sup> European Parliament (2014) Sexual Exploitation and Prostitution and its Impact on Gender Equality, A7-0071/2014. Available at: <https://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2014-0071+0+DOC+XML+V0//EN#title3> (Accessed 21 August 2020)

<sup>2</sup> Parliamentary Assembly Council of Europe (2014) Prostitution, Trafficking and Modern Slavery in Europe. Available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20716> (Accessed 21 August 2020)



It is our belief that this legislation should be implemented fully in the spirit in which it was intended and that the adequate resources in terms of funding, training and other supports be made available in order to do so.

## **Assessing the extent to which the objectives of the Act have been achieved**

Women's Aid welcomes all actions and initiatives undertaken with regards to the implementation of the Act. However, we believe that this implementation is lagging with the first conviction of a person paying for sexual activity only taking place in January 2019 – almost two years after the commencement of the Act in March 2017. For this reason, it is our considered opinion that it is currently too soon to provide a meaningful assessment of the extent to which the objectives of the Act have been achieved. It is also too soon to conduct a meaningful analysis of the differential impacts of the enforcement of the Act and of other public policy interventions and relevant social changes on the extent of achievement – as the terms of reference set out.

Survivor and activist Mia De Faoite noted recently in relation to the implementation of the Act:

‘New law does not change society overnight, and in Ireland it’s still in it’s infancy. There is a need to be vigilant and monitor its implementation to ensure the spirit of gender equality underpinning the law is realised’<sup>3</sup>.

The implementation of new legislation takes a substantial amount of time as well as significant levels of training and awareness-raising. For this reason, we believe that the level of analysis needed to quantify the success of this legislation is far too ambitious at present and is beyond the remit of this review, with regard to the requirements for same set out in the Act itself. The Covid-

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<sup>3</sup> Shannon, G. (2020) *The Implementation of the Criminal Law (Sexual Offences) Act 2017, Part IV – An Interim Review*. Available at: <https://www.immigrantcouncil.ie/sites/default/files/2020-01/2020HLWGInterimReportSOA2017ByGeoffreyShannon.pdf> (Accessed 29 July 2020)



19 emergency has also delayed much needed public policy interventions to promote public awareness on the issue which is integral to the implementation of the legislation.

Nonetheless, we would like to reiterate some marked improvements for women affected by prostitution as noted by Ruhama, the only non-governmental organisation that exclusively offers in-depth supports to women affected by both prostitution and sex trafficking. Ruhama provides an important insight into the lives of those affected by the sex trade, informed by their frontline work with service-users, many of whom are marginalised and vulnerable.

They note that, since the commencement of the law Women accessing Ruhama services report feeling more confident in reporting incidences of violence to An Garda Síochána. They say that prior to the 2017 Act, women in on-street prostitution frequently felt at risk of criminalisation under 1993 prostitution laws for public solicitation and that high levels of mistrust of the Gardaí were reported amongst women in prostitution. Raising awareness of the decriminalisation among women in street prostitution has been a key component of Ruhama's outreach services since the law changed, and an important one.

Ruhama has also, since 2012, been delivering specialist training to members of An Garda Síochána, in conjunction with specialist Gardaí, to raise awareness of the dynamics and impacts of the commercial sex trade on those in prostitution, and to encourage a sensitive and victim-centred policing approach to prioritise targeting of criminal organisers, traffickers and buyers, while offering support and assistance to those prostituted. This training is welcome and should be scaled to ensure greater reach and impact, in conjunction with the roll out of the implementation of the law.

Women's Aid also note some pro-active Initiatives on the part of the Garda National Protective Services Bureau (Operation Quest) to be more responsive to individuals in indoor prostitution who have been victims of the many serious crimes inherently associated with the commercial sex trade



everywhere (robbery, assault, sexual assault etc.) which have proved successful. These engagements have resulted in reporting by victims and led to perpetrators being apprehended in a number of serious cases. This offers a good model of positive police intervention which should be replicated across the country to encourage marginalised persons who are victims of crime to report without fear of criminalisation or other negative repercussions.

It must be noted that the crimes investigated, noted above, were perpetrated both before and after the change of the legislation, and against individuals in a range of situations including shared, individual and hotel accommodation. There is no evidence to suggest that they were caused/encouraged/exacerbated by the changes to the law itself, as some others may claim. Prostitution is inherently dangerous and harmful, no matter the jurisdiction and no matter the legislation. The object of Ireland's Sexual Offences Act 2017 is to increase **harm minimisation**, not to eliminate harm as this is simply not possible within this exploitative trade.

With respect to Part IV of the 2017 Act itself, Women's Aid welcomes the convictions of those paying for sexual access to women in prostitution that have been made to date. The Garda Days of Action in 2019 saw almost 100 suspected sex buyers stopped and questioned in accordance with Part IV of the 2017 Act. Such initiatives are key to raising awareness of the legislation and holding those who pay for sexual access to people in prostitution to account.

## **Assessing the extent to which the Act's objectives have not been achieved**

There are numerous barriers to the full implementation of the Act, some of which we list here:

### **Barriers**

- **Insufficient resources.** Very little progress can be made based on legislative changes alone. Requisite fiscal supports are needed to fully realise the objectives of the Act. This should also include continuing and increased resources to offer support and assistance to those at risk of, or in prostitution to promote health, wellbeing and to assist exiting and recovery from trauma as required.



- **Progress that is too slow in terms of convicting those who have been found to have paid for sexual access to a person in prostitution.** Increased convictions, and public knowledge of these, will act as the primary deterrent to anyone considering or actively engaged in this behaviour.
- **Lack of public awareness with regards to the dangers of the sex trade** and the harms that women in prostitution are subjected to is also a barrier to successful implementation.
- **Lack of public awareness in relation to Part IV of the Criminal Law (Sexual Offences) Act 2017**, including awareness that individuals in prostitution should NOT be criminally targeted, as well as the fact that the purchase of sexual access to another person is a crime.
- **Research underway has not yet been published, to assist a review of the law's impact:** There is research currently commissioned by the HSE and Department of Justice being completed at the time of submission by UCD (S.E.R.P). The findings of this independent research should be reviewed in order to assess the current situation and experience of individuals in prostitution in Ireland before attempting to plan a terms of reference for assessing the overall success of a very new piece of legislation.

### **Recommendations:**

- **Increased action and initiatives targeting sex buyers** under Part IV of the Act from An Garda Síochána is recommended in order to hold those paying for sexual access to people in prostitution to account and to protect vulnerable persons in prostitution.
- **Further training for frontline Gardaí** to encourage a victim-centred and gender-sensitive approach to policing prostitution is needed and this training should continue to be appropriately resourced.
- **Public awareness** should remain a focus for the various stakeholders involved in protecting persons in prostitution in relation to the harms caused by prostitution and sex trafficking and the legislative framework that is in place.



- **Postpone broader assessment of success of the legislation until a more significant evidence base for success criterion can be established:** Examine the findings of forthcoming independent research on the Irish sex trade currently underway in S.E.R.P. UCD (forthcoming Q4 2020 est.), before considering and then designing a viable terms of reference and identifying mechanisms to effectively assess the broad based impact/success of the law.

## Conclusion

Women's Aid believes that prostitution is intrinsically exploitative, harmful and violent and that it is best tackled by targeting demand, while decriminalising the individual in prostitution, as the Criminal Law (Sexual Offences) Act 2017 aims to do. Targeting the sex buyer through Part IV of the Act, sends a clear message that 'buying sex' is not socially acceptable and rejects those narratives that sanitise and normalise prostitution, and which inflict sometimes irreversible damage on those exploited. However, we believe that it is premature to draw any definitive conclusions on the success of the Act in reaching its objectives as well as the impact it has had on vulnerable persons in prostitution or at risk of becoming engaged with prostitution at this time.

The focus now should be on ensuring adequate implementation of the Act through targeting and prosecuting sex buyers and public awareness raising with regards to the legislation as well as the inherent harms linked to prostitution. Practical and exit supports for the huge majority of women in prostitution who want to leave the sex trade should also be prioritised and further resourced as a matter of urgency. This must include greater access to social welfare supports for some vulnerable migrant's, which requires statutory action. Forthcoming research should be carefully reviewed. Only then and in due course will a full evaluation and assessment of the implementation of the legislation be justifiable and beneficial in terms of understanding how we can best support those that are most vulnerable in relation to prostitution in Ireland.



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Women's Aid would be very pleased to arrange to meet and further discuss any aspect of this submission with the reviewer and/or Department of Justice on request.

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