



NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

**Response to the Department of Health and
Department of Justice's Consultation on a Draft
Domestic and Sexual Abuse Strategy**

May 2023

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Summary of Recommendations

The Northern Ireland Human Rights Commission (the NIHRC) recommends:

- 2.7 that a statement is included that makes it clear that the strategy is adopting a human rights-based approach, which includes compliance with Windsor Framework Article 2.**
- 2.8 that all relevant human rights standards are embedded into the strategy's priorities.**
- 2.9 that the Department of Health and Department of Justice undertake a human rights training needs analysis. This should be utilised to develop the necessary training to ensure a human rights-based approach, guided by the PANEL principles, is at the foundation in drafting, implementing, monitoring and evaluating the strategy.**
- 2.23 that the final strategy explicitly adopts a gender-sensitive approach, including providing for specialised, gender-sensitive, accessible support for victims of domestic and sexual abuse. The strategy should also recognise the structural and societal issues which result in domestic and sexual abuse disproportionately affecting women and should include measures to address these issues.**
- 2.26 that the final strategy acknowledges the impact of 'the Troubles' on domestic and sexual violence and abuse and outlines specific measures to be taken in this area to address the particular circumstances of a post-conflict society.**
- 2.32 that the Department of Health and Department of Justice assess the level of resources necessary and, with the NI Executive, ensure that the maximum available resources are effectively utilised and the necessary resources are ring fenced for the development and effective implementation of this strategy. The resources allocated should be long-term and should have sufficient flexibility to address needs as and when they arise.**
- 2.33 that the Department of Health and Department of Justice maintain a participatory process in the development of the budget relating to the proposed strategy and engage in meaningful consultation with those affected by the strategy and their representative organisations.**

- 2.34 that the Department of Health and Department of Justice ensure that external agencies, particularly civil society organisations, are appropriately resourced to ensure their long-term sustainability in the provision of services.**
- 2.41 that the final strategy includes a clear commitment to improve the collection of disaggregated data on domestic and sexual abuse and sets out specific measures for achieving this. Data should be collected in a way which reflects society in NI and enables comprehensive comparison with other parts of the UK.**
- 2.46 that in drafting the strategy, the Department of Health and Department of Justice develop a clear action plan for delivery of the strategy. This should include appropriate benchmarks and indicators for each agreed action.**
- 3.4 that the Department of Health and Department of Justice develop and publish a list of the key partners that will be relied on for delivery of the strategy.**
- 3.5 that the Department of Health and Department of Justice ensure that outsourcing of responsibilities is subject to a human rights-based procurement process and will be monitored for human rights compliance including compliance with UN CEDAW, the CoE Istanbul Convention and Windsor Framework Article 2.**
- 3.9 that the strategy includes targeted interventions to ensure that the commitments within are effectively applied in practice. This should include the provision of training for all relevant professionals in line with the requirements of Article 14 of the CoE Istanbul Convention and the EU Victims' Directive.**
- 3.12 that the Department of Health and Department of Justice give due consideration and priority to the opinions and views of victims and their representative organisations throughout implementation and evaluation of the strategy. Mechanisms to effectively collate and ensure meaningful engagement with views expressed by victims and their representative organisations should be identified and committed to within the strategy.**
- 3.14 that engagement with individuals with lived experience is conducted with support and in a sensitive and appropriate manner so as not to re-traumatise victims.**

- 3.16 that the final strategy clearly identifies areas of cross working with the Gillen Review implementation teams to ensure a comprehensive and coordinated approach in delivery.**
- 4.6 that the strategy includes awareness-raising campaigns that are gender-sensitive, promote equality between women and men and challenge stereotypes.**
- 4.7 that the final strategy includes measures to ensure the dissemination of accessible information on available support services. This should include campaigns that are targeted at groups that are identified as facing additional barriers to accessing support. Information should be fully accessible, including that it is tailored to a range of communication requirements. For example, through the provision of language translations, large print, easy read and audio versions.**
- 4.13 that the Department of Health and Department of Justice engage with the Department for Education to ensure that the domestic and sexual abuse strategy is embedded into relationship and sexuality education in all schools in NI.**
- 4.17 in partnership with other relevant Departments, the strategy includes measures to address the exacerbating effect of the persistent and sharp rise in cost of living on domestic and sexual abuse. This should include ensuring that specialised services are accessible and adequately funded.**
- 4.21 that the strategy includes measures to prevent online-based and technology-related domestic and sexual abuse, as well as support for those affected. Measures should be adaptable to take account of new developments.**
- 5.6 that the strategy makes explicit provision for persons who are at an increased risk or who face additional barriers to accessing support for domestic and sexual violence and abuse, including but not limited to, deaf and disabled persons, ethnic minority communities, LGBTQIA+ persons, older persons, and those living in rural communities. This should include ensuring that specialised services are consistently available and fully accessible.**

- 5.9 that the Department of Health and Department of Justice ensure that support is available, regardless of immigration status, and that sufficient refuge places are available in NI according to need.**
- 6.6 that Pillar 4 of the strategy outlines provisions for gender-sensitive training of criminal justice professionals and other employees that would have contact with victims on domestic and sexual abuse, including on the experience of marginalised groups such as disabled persons, LGBTQIA+ persons, and persons of national or ethnic minority background. Gender-sensitive training should also include a specific focus on the links between domestic abuse and offending.**
- 6.9 that the final strategy should include specific measures to ensure accessible services, including health and justice for individuals in any form of detention who have been victims of domestic or sexual abuse.**
- 6.13 that Pillar 4 of the final strategy includes measures to ensure the best interests of the child are a primary consideration regarding a child’s involvement in any related court proceedings and evidence gathering, for example by making specific reference to the Barnahus approach.**

1.0 Introduction

1.1 The Northern Ireland Human Rights Commission (the NIHRC), pursuant to section 69(1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI). The NIHRC is also mandated, under section 78A(1) of the Northern Ireland Act 1998, to monitor the implementation of Article 2 of the Windsor Framework, to ensure there is no diminution of rights protected in the “Rights, Safeguards and Equality of Opportunity” chapter of the Belfast (Good Friday) Agreement 1998 as a result of the UK’s withdrawal from the EU.¹ In accordance with these functions the following statutory advice is submitted to the Department of Health and Department of Justice in response to their consultation on the draft domestic and sexual abuse strategy.

1.2 The NIHRC bases its advice on the full range of internationally accepted human rights standards, including the European Convention on Human Rights (ECHR), as incorporated by the Human Rights Act 1998, and the United Nations (UN) system and treaty obligations of the Council of Europe (CoE) and United Nations (UN). The relevant regional and international treaties in this context include:

- European Convention on Human Rights 1950 (ECHR);²
- European Social Charter 1961;³
- CoE Convention on Protection of Children against Sexual Exploitation and Sexual Abuse 2007 (CoE Lanzarote Convention);⁴
- CoE Convention on Preventing and Combating Violence against

¹ The Windsor Framework was formerly known as the Protocol on Ireland/Northern Ireland to the UK-EU Withdrawal Agreement and all references to the Protocol in this document have been updated to reflect this change. (see Decision No 1/2023 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 laying down arrangements relating to the Windsor Framework).

² Article 31, UN Refugee Convention 1951.

³ Ratified by the UK 1951. Further guidance is also taken from the body of case law from the European Court of Human Rights (ECtHR).

⁴ Ratified by the UK in 1962.

⁵ Ratified by the UK in 1991.

Women 2011 (CoE Istanbul Convention);⁵

- UN Convention on the Elimination of Racial Discrimination 1965 (UN CERD);⁶
- UN Convention on Civil and Political Rights 1966 (UN ICCPR);⁷
- UN Convention on Elimination of Discrimination against Women 1981 (UN CEDAW);⁸
- UN Convention against Torture 1984 (UN CAT);⁹
- UN Convention on the Rights of the Child 1989 (UN CRC);¹⁰ and
- UN Convention on the Rights of Persons with Disabilities 2006 (UN CRPD).¹¹

1.3 In addition to these treaty standards, the following declarations and principles provide further guidance in respect of specific areas:

- CoE Committee of Minister Recommendation 13;¹²
- CoE Parliamentary Assembly Resolution 1697;¹³
- CoE Committee of Ministers Recommendation to Member States on the Promotion of Human Rights of Older Persons.¹⁴
- UN Declaration on the Elimination of Violence against Women;¹⁵
- UN CEDAW Committee General Recommendation No 24;¹⁶
- UN Human Rights Committee General Comment No 32;¹⁷
- UN CEDAW Committee General Recommendation No 27;¹⁸

⁵ Ratified by the UK in 2022.

⁶ Ratified by the UK in 1969.

⁷ Ratified by the UK 1966.

⁸ Ratified by the UK 1986.

⁹ Ratified by the UK 1988.

¹⁰ Ratified by the UK 1991.

¹¹ Ratified by the UK 2009.

¹² CM/Rec (2007)13, 'Recommendation 13 of the Committee of Ministers to Member States on Gender Mainstreaming in Education', 10 October 2007, at para 44.

¹³ Council of Europe, 'Parliamentary Assembly Resolution 1697 (2009): Migrant Women: at Particular Risk from Domestic Violence', 20 November 2009.

¹⁴ 7 CM/Rec (2014)2, 'CoE Committee of Ministers, Recommendation to Member States on the Promotion of Human Rights of Older Persons', 19 February 2014.

¹⁵ UN General Assembly, 'Declaration on the Elimination of Violence against Women', 20 December 1993.

¹⁶ A/54/38/Rev.1, 'UN CEDAW Committee General Recommendation No 24: Article 12 of the Convention (Women and Health)', 1999.

¹⁷ CCPR/C/GC/32, 'UN Human Rights Committee General Comment No 32: Article 14 on the Right to Equality Before the Courts and Tribunals and to a Fair Trial', 23 August 2007, at para 29.

¹⁸ CEDAW/C/GC/27 'UN CEDAW Committee, General Recommendation No 27: Older Women and Protection of their Human Rights', 16 December 2010.

- UN CRC Committee General Comment No 13;¹⁹
- UN CEDAW Committee General Recommendation No 35;²⁰
- UN CAT Committee Concluding Observations 2019;²¹ and
- UN CEDAW Committee Concluding Observations 2019.²²

1.4 The NIHRC further advises on the UK Government's commitment in Windsor Framework Article 2(1) to ensure there is no diminution of rights, safeguards and equality of opportunity in the relevant section of the Belfast (Good Friday) Agreement as a result of the UK's withdrawal from the EU. This is given effect in UK law by section 7A of the EU (Withdrawal) Act 2018. In addition, Section 6 of the Northern Ireland Act 1998 provides that the NI Assembly is prohibited from making any law which is incompatible with Windsor Framework Article 2. Section 24 of the 1998 Act also provides that all acts of the Department should be compatible with Windsor Framework Article 2. The relevant EU law in this context includes:

- EU Directive on Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime.²³

2.0 General Comments

Human rights-based approach

2.1 The NIHRC welcomes express reference to human rights standards such as the EU Victims Directive;²⁴ the CoE Istanbul Convention; the ECHR; the UN

¹⁹ CRC/C/GC/13, 'UN CRC Committee General Comment No 13: Right of the Child to be Free from Violence', 18 April 2011.

²⁰ CEDAW/C/GC/35, 'Committee on the Elimination of Discrimination against Women General Recommendation No 35: Gender-based Violence Against Women, Updating General Recommendation No 19', 14 July 2017.

²¹ CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 7 June 2019.

²² CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the UK Eighth Periodic Report', 8 March 2019.

²³ EU Directive 2012/29/EU, 'European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

²⁴ NI Human Rights Commission, 'Response to Call for Views: Domestic Abuse Strategy and Equally Safe Strategy – A strategy to tackle violence against women and girls', (NIHRC, 2022), at 9; To avoid duplication, the NIHRC directs readers to its previous submission to the Departments on the Domestic Abuse Strategy for an explanation as to why the EU Victims' Directive remains relevant under Article 2 of the Windsor Framework (formerly known as the Protocol on Ireland/Northern Ireland).

CEDAW; the UN CRC; the CoE Lanzarote Convention; and the UN CRPD. However, the reference to relevant human rights standards could be strengthened in a number of ways.

- 2.2 The final strategy should consider the full range of human rights treaties that have been ratified by the UK. For example, the issue of domestic violence has also been addressed under Article 16 of the European Social Charter 1961.²⁵
- 2.3 Consistent with a human rights-based approach the strategy should set out the normative framework relating to domestic and sexual abuse.²⁶ The strategy should set out how it will develop the capacity of the Department of Health and Department of Justice, as the principal duty-bearers, to meet their obligations and encourage rights holders to claim their rights.
- 2.4 The Human Rights Act 1998 and sections 24 and 26 of the NI Act 1998 require a human rights-based approach. The substantive content of the strategy should be informed by all relevant human rights standards, in particular, the CoE Istanbul Convention. The CoE Istanbul Convention provides a legal framework for European countries to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence. It can also be used as an indicator of best practice and provide guidance on how to develop legislation in relation to sexual offences.
- 2.5 Article 2 of the Windsor Framework requires the UK Government and NI Executive to ensure that there is no diminution of rights, safeguards and equality of opportunity, as set out in the relevant chapter of the Belfast (Good Friday) Agreement 1998, as a result of the UK's withdrawal from the EU. That chapter refers to the "civil rights... of everyone in the community"

²⁵ European Committee of Social Rights, 'Conclusions XXI-4 - Netherlands Curaçao - Article 16', 5 December 2019.

²⁶ UN Population Fund 'The Human Rights-Based Approach'. Available at: <https://www.unfpa.org/human-rights-based-approach>

and affirms “in particular” a non-exhaustive list of rights and also includes the rights of victims to remember as well as to contribute to a changed society.²⁷ The NIHRC has also identified other ways in which victims’ rights are within scope, for example to the extent that EU law underpins the rights in the European Convention on Human Rights (ECHR) and relate to the equality commitments in the relevant chapter of the Belfast (Good Friday) Agreement. The UK Government has recognised that the EU Victims Directive falls within scope of Article 2 of the Windsor Framework.²⁸

2.6 The PANEL principles can also be used as a guide to developing a human rights-based approach in practice. These principles are:

- **Participation** – provides that people should be involved in decisions that affect their rights.
- **Accountability** – provides that there should be monitoring of how people’s rights are being affected, as well as remedies when things go wrong.
- **Non-Discrimination and Equality** – ensures that all forms of discrimination must be prohibited, prevented and eliminated and that people who face the biggest barriers to realising their rights should be prioritised.
- **Empowerment** – provides that everyone should understand their rights and be fully supported to take part in developing policy and practices which affect their lives.

²⁷ Belfast (Good Friday) Agreement, 10 April 1998, at Part 6 on Rights, Safeguards and Equality of Opportunity.

²⁸ UK Government, ‘UK Government Commitment to No-diminution of Rights, Safeguards and Equality of Opportunity in NI’ (NIO, 2020); Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

- **Legality** – provides that approaches should be grounded in the legal rights that are set out in domestic and international laws.²⁹

2.7 The NIHRC recommends that a statement is included that makes it clear that the strategy is adopting a human rights-based approach, which includes compliance with Windsor Framework Article 2.

2.8 The NIHRC recommends that all relevant human rights standards are embedded into the strategy's priorities.

2.9 The NIHRC recommends that the Department of Health and Department of Justice undertake a human rights training needs analysis. This should be utilised to develop the necessary training to ensure a human rights-based approach, guided by the PANEL principles, is at the foundation in drafting, implementing, monitoring and evaluating the strategy.

Gender-sensitive approach

2.10 Human rights law requires that an individual's specific characteristics or needs are taken into account and that, where necessary, positive action or special measures are taken to ensure that individual is not discriminated against.³⁰

2.11 Article 14 ECHR protects against discrimination in the enjoyment of another ECHR right on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Domestic and sexual abuse affect women and girls disproportionately.³¹ Therefore, in respect of

²⁹ European Network of National Human Rights Institutions, 'Human Rights Based Approach'. Available at: <https://ennhri.org/about-nhris/human-rights-based-approach/>

³⁰ For example, *Opuz v Turkey*, Application No 33401/02, 9 September 2009.

³¹ CAT/C/GBR/CO/6, 'UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI', 7 June 2019, at para 56; CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI', 14 March 2019, at para 29.

the enjoyment of substantive rights such as Article 2 (right to life),³² 3 (freedom from torture)³³ and 8 (right to physical and psychological integrity) ECHR rights,³⁴ Article 14 may also be engaged. In such cases, the State is obligated to identify and address the disproportionate, discriminatory impact of domestic and sexual abuse and gender-based violence.³⁵

2.12 The ECtHR, considering Article 14 of the ECHR, found it not to be discriminatory to treat differently or “to correct ‘factual inequalities’”.³⁶ Indeed, “in certain circumstances a failure to attempt to correct inequality through different treatment may in itself” be discriminatory.³⁷

2.13 The UN CAT Committee and UN CEDAW Committee have highlighted domestic and sexual abuse as a persistent issue in NI.³⁸ Both UN Committees have highlighted the disproportionate impact on women and girls and the need for gender sensitive policies to provide protection, prosecution and redress.³⁹

2.14 In 2019, the UN CEDAW Committee recommended that the UK Government and NI Executive ensures that the policy of commissioning services does not undermine the provision of specialised services for women who are victims of gender-based violence.⁴⁰

2.15 The UN CEDAW Committee’s General Recommendation No 35 further advises States to “examine gender-neutral laws and policies to ensure that

³² *Case of Centre for Legal Resources on Behalf of Valentin Campeanu v Romania* (2014) ECHR 14.

³³ For example, *Levchuk v Ukraine*, Application No 17496/19, 3 September 2020; *Bevacqua and S v Bulgaria*, Application No 71127/01 & *A v Croatia*, Application No 55164/08, 14 January 2011.

³⁴ *X and Y v the Netherlands*, Application no. 8978/80, 26 March 1985, at para 22.

³⁵ For example, *Opuz v. Turkey*, Application no. 33401/02, 9 September 2009.

³⁶ *Taddeucci and McCall v Italy* (2016) ECHR 604, at para 81.

³⁷ *Ibid.*

³⁸ CAT/C/GBR/CO/6, ‘UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 7 June 2019, at para 56; CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019, at para 29.

³⁹ *Ibid.*

⁴⁰ CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019, at para 29.

they do not create or perpetuate existing inequalities and repeal or modify them if they do so".⁴¹

- 2.16 Article 16 of the UN CRPD further requires States to "protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects", emphasising that states should "ensure that protection services are age-, gender- and disability-sensitive".
- 2.17 Article 6 of the CoE Istanbul Convention refers to the need for gender-sensitive policies providing that "parties shall undertake to include a gender perspective in the implementation and evaluation of the impact of the provisions of the Convention and to promote and effectively implement policies of equality between women and men and the empowerment of women".⁴²
- 2.18 GREVIO, the independent expert body responsible for monitoring the implementation of the CoE Istanbul Convention has criticised countries such as Albania, Denmark and Finland for adopting a gender-neutral approach to legal provisions and policies that address domestic violence.⁴³
- 2.19 GREVIO has advised that "the gender-neutral approach taken by states parties fails to address the specific experiences of women that differ significantly from those of men thus hindering their effective protection"⁴⁴ and that "the gender-neutral approach fails to recognise domestic violence as a social mechanism that helps keep women in a subordinate position to men".⁴⁵

⁴¹ CEDAW/C/GC/35, 'UN CEDAW Committee General Recommendation No 35: Gender-based Violence Against Women, Updating General Recommendation No 19', 14 July 2017 at para 29 (d).

⁴² Article 6, CoE Convention on Preventing and Combating Violence Against Women and Domestic Violence 2011.

⁴³ GREVIO, 'Mid-term Horizontal Review of GREVIO Baseline Evaluation Reports' (CoE, 2022), at 19.

⁴⁴ GREVIO, '1st General Report on GREVIO's Activities' (CoE,2020), at 25.

⁴⁵ Ibid.

- 2.20 Furthermore, the UN Declaration on the Elimination of Violence against Women advises States to “ensure that re-victimisation of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions”.⁴⁶
- 2.21 Recitals 17 and 18 of the EU Victims’ Directive recognise that women are disproportionately affected by gender-based violence, including violence in a close relationship and sexual violence.⁴⁷ The recitals identify that women victims require specialised support and protection because of a high risk of secondary and repeat victimisation.⁴⁸ Recital 18 accepts that violence in a close relationship can be worse for women if they are “dependent on their partner financially, socially or as regards her right to residence”.⁴⁹ The EU Directive contains specific provisions to deal with gender-based violence, including identifying specific protection needs and accessing special measures during criminal proceedings.⁵⁰
- 2.22 The draft strategy notes that “women are disproportionately affected and more likely to experience multiple incidents and different types of domestic and sexual abuse”.⁵¹ However, none of the four pillars clearly articulate targeted measures to address this. Domestic and sexual abuse can affect everyone, with the strategy seeking to ensure measures are in place to assist all victims. However, statistics clearly demonstrate that domestic and sexual abuse disproportionately affects women and girls.⁵² Therefore, the proposed priorities should include specific recognition of this disproportionate effect and commit to effective measures to address this.

⁴⁶ A/Res/48/104, ‘UN General Assembly Declaration on the Elimination of Violence against Women’, 1993, at Article 4(f).

⁴⁷ Recitals 17 and 18, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

⁴⁸ Ibid.

⁴⁹ Recital 18, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

⁵⁰ Articles 22 and 23, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

⁵¹ Department of Health and Department of Justice, ‘Draft Domestic and Sexual Abuse Strategy: 2023-2030’, (DOH and DOJ, 2023) at 18.

⁵² Police Service NI, ‘Trends in Domestic Abuse Incidents and Crimes Recorded by the Police in NI 2004/2005 to 2020/2021’ (PSNI, 2021), at para 5.

2.23 The NIHRC recommends that the final strategy explicitly adopts a gender-sensitive approach, including providing for specialised, gender-sensitive, accessible support for victims of domestic and sexual abuse. The strategy should also recognise the structural and societal issues which result in domestic and sexual abuse disproportionately affecting women and should include measures to address these issues.

Domestic and sexual abuse in a post-conflict society

2.24 The UN CEDAW Committee notes that “all forms of gender-based violence, in particular sexual violence, escalate in the post-conflict setting”.⁵³ It also states that the “failure to prevent, investigate and punish all forms of gender-based violence, in addition to other factors such as ineffective disarmament, demobilization and reintegration processes, can also lead to further violence against women in post-conflict periods”.⁵⁴

2.25 The CoE Istanbul Convention similarly recognises “the potential for increased gender-based violence both during and after conflicts”.⁵⁵

2.26 The NIHRC recommends that the final strategy acknowledges the impact of ‘the Troubles’ on domestic and sexual violence and abuse and outlines specific measures to be taken in this area to address the particular circumstances of a post-conflict society.

Resourcing

2.27 Article 8 of the CoE Istanbul Convention states:

parties shall allocate appropriate financial and human resources for the adequate implementation of integrated

⁵³ CEDAW/C/GC/30, ‘UN CEDAW Committee, General Recommendation No 30: Women in Conflict Prevention, Conflict and Post-Conflict Situations’, 1 Nov 2013, at para 4.

⁵⁴ Ibid, at para 35.

⁵⁵ CoE Istanbul Convention, Preamble.

policies, measures and programmes to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by non-governmental organisations and civil society.

2.28 The obligations to respect, to protect and to fulfil human rights are relevant.⁵⁶ Respect requires that there is an “overarching framework within which rights... are to be promoted and respected”.⁵⁷ Protect requires that States “refrain” from violating rights and that any restrictions on rights that are permissible are necessary, proportionate and in pursuit of a legitimate aim.⁵⁸ Fulfilment is achieved through adopting “legislative, judicial, administrative, educative and other appropriate measures in order to fulfil... legal obligations”.⁵⁹ There is also a requirement to ensure that maximum available resources are utilised,⁶⁰ particularly in the context of socio-economic rights. This requires that “every effort has been made to use all resources that are at... [a State’s] disposition”.⁶¹ There should be no regressive steps, including acts of omission or of commission, which deprive people of existing rights. However, in exceptional circumstances, any retrogressive measures “require the most careful consideration” and “need to be fully justified by reference to the totality of the rights...and in the context of the full use of the maximum available resources”.⁶²

2.29 The effective allocation of resources is a key element in the enjoyment of human rights and requires States not only to distribute existing resources, but also to effectively mobilise resources within a country.⁶³

⁵⁶ Article 2(1), UN ICCPR.

⁵⁷ CCPR/C/21/Rev.1/Add.13, ‘UN Human Rights Committee General Comment No 31: Nature of the General Legal Obligation Imposed on States Parties to the UN ICCPR’, 29 March 2004, at para 5.

⁵⁸ Ibid, at para 6.

⁵⁹ Ibid, at para 7.

⁶⁰ Article 2(2), UN ICESCR; Article 4(2), UN CRPD.

⁶¹ E/1991/23, ‘UN ICESCR Committee General Comment No 3: The Nature of States Parties’ Obligations’, 14 December 1990, at para 10.

⁶² E/1991/23, ‘UN ICESCR Committee General Comment No 3: The Nature of States Parties’ Obligations’, 14 December 1990, at para 9.

⁶³ UN Human Rights Office of the High Commissioner, ‘Realising Human Rights Through Government Budget’ (OHCHR, 2017).

2.30 The draft strategy advises that “in the absence of an Executive, that draft budget was not agreed and the future funding picture is uncertain”.⁶⁴

2.31 The draft strategy also states that “the allocation of funding and work to be progressed will be considered as part of the development of annual delivery plans”.⁶⁵ The NIHRC is concerned that the delivery of the finalised strategy will be subject to annual funding considerations. This would create uncertainty for those involved in the delivery of the strategy and prevents long-term planning in implementation.

2.32 The NIHRC recommends that the Department of Health and Department of Justice assess the level of resources necessary and, with the NI Executive, ensure that the maximum available resources are effectively utilised and the necessary resources are ring fenced for the development and effective implementation of this strategy. The resources allocated should be long-term and should have sufficient flexibility to address needs as and when they arise.

2.33 The NIHRC recommends that the Department of Health and Department of Justice maintain a participatory process in the development of the budget relating to the proposed strategy and engage in meaningful consultation with those affected by the strategy and their representative organisations.

2.34 The NIHRC recommends that the Department of Health and Department of Justice ensure that external agencies, particularly civil society organisations, are appropriately resourced to ensure their long-term sustainability in the provision of services.

⁶⁴ Department of Health and Department of Justice, ‘Draft Domestic and Sexual Abuse Strategy: 2023-2030’ (DoH and DoJ, 2023) at 35.

⁶⁵ Ibid.

Data collection

- 2.35 The UN CEDAW Committee, in its 2019 concluding observations on the UK, recommended that the UK Government and NI Executive “systematically collect and publish data, disaggregated by sex, gender, ethnicity, disability and age, throughout the whole of its territory to inform policymaking and assess the impact of measures taken”.⁶⁶
- 2.36 The UN CEDAW Committee has also advised that all data should be “disaggregated by type of violence, relationship between the victim/survivor and the perpetrator, and in relation to intersecting forms of discrimination against women...”⁶⁷
- 2.37 Article 11 of the CoE Istanbul Convention also highlights the importance of data collection and research, which must be disaggregated if it is to be helpful.
- 2.38 This issue of data collection has been raised by the UN Independent Expert on Sexual Orientation and Gender Identity, Victor Madrigal-Borloz who has advised that “lack of data about lesbian, gay, bisexual, trans and gender-diverse persons renders the community invisible to policymakers and government duty bearers”.⁶⁸
- 2.39 Furthermore, Recital 64 of the EU Victims’ Directive highlights systematic and adequate statistical data collection as an essential component of effective policymaking in the field of rights set out in the Directive.⁶⁹

⁶⁶ CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019, at para 26(d).

⁶⁷ CEDAW/C/GC/35, ‘Committee on the Elimination of Discrimination against Women General Recommendation No 35: Gender-Based Violence Against Women, Updating General Recommendation No 19’, 14 July 2017 at para 49.

⁶⁸ A/HRC/41/45, ‘UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity Report on Data Collection and Management as a Means to Create Heightened Awareness of Violence and Discrimination Based on Sexual Orientation and Gender Identity’, 14 May 2019, at para 20.

⁶⁹ Recital 64, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

2.40 The draft strategy advises that plans to collect data will be developed once appropriate indicators have been finalised.⁷⁰

2.41 The NIHRC recommends that the final strategy includes a clear commitment to improve the collection of disaggregated data on domestic and sexual abuse and sets out specific measures for achieving this. Data should be collected in a way which reflects society in NI and enables comprehensive comparison with other parts of the UK.

Monitoring

2.42 Effective monitoring is essential to ensuring human rights compliance and is a recurring requirement of human rights standards.⁷¹ For monitoring to be effective it “should assess both the steps taken and the results achieved” and “national strategies, policies and plans should use appropriate indicators and benchmarks, disaggregated on the basis of the prohibited grounds of discrimination”.⁷²

2.43 Comprehensive monitoring requires a State to “establish and/or strengthen effective national machinery, institutions and procedures, at a high level of Government, and with adequate resources, commitment and authority”.⁷³

2.44 The strategy could be improved by the inclusion of clear actions associated with each outcome. Actions should be specific, measurable, linked to achievable outcomes, realistic and time bound.

⁷⁰ Department of Health and Department of Justice, ‘Draft Domestic and Sexual Abuse Strategy: 2023-2030’ (DoH and DoJ, 2023) at 21.

⁷¹ E/C.12/GC/20, ‘UN ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights’, 2 July 2009, at para 41; ‘UN CEDAW Committee General Comment No 6: Effective National Machinery and Publicity’, 1988, at para 1(b); CRC/GC/2003/5, ‘UN CRC Committee General Comment No 5: General Measures of Implementation of the UN CRC’, 27 November 2003, at para 45.

⁷² E/C.12/GC/20, ‘UN ICESCR Committee General Comment No 20: Non-discrimination in Economic, Social and Cultural Rights’, 2 July 2009, at para 41.

⁷³ ‘UN CEDAW Committee General Comment No 6: Effective National Machinery and Publicity’, 1988, at para 1(b).

2.45 The indicators listed in “how will we know we are making a difference?” should be clearly linked to a specific action and should define measurements for progress. The Department of Health and Department of Justice should further ensure that indicators and benchmarks are disaggregated so that the consequence of the strategy for groups disproportionately affected by domestic and sexual abuse can be effectively monitored.

2.46 The NIHRC recommends that in drafting the strategy, the Department of Health and Department of Justice develop a clear action plan for delivery of the strategy. This should include appropriate benchmarks and indicators for each agreed action.

3.0 Pillar 1: Partnership

Procurement processes

- 3.1 Article 7 of the CoE Istanbul Convention provides that States must have “comprehensive and co-ordinated policies ... and offer a holistic response to violence against women”.
- 3.2 Pillar 1 references engagement with and data sharing from ‘key stakeholders’. This should be clarified and defined and should include public authorities and organisations that have overall responsibility to deliver the services linked to this strategy.
- 3.3 The strategy currently states that many of the proposed actions contained within will rely on cooperation with civil society organisations. The Department of Health and Department of Justice should ensure that human rights considerations are embedded within their procurement processes as required by the Procurement Policy Note on Human Rights.⁷⁴

⁷⁴ Department of Finance, ‘Procurement Policy Note PPN 05/21 Human Rights in Public Procurement’ (DoF, 2021).

This should include ensuring that a due diligence process is adhered to when awarding contracts and requiring external agencies to demonstrate their compliance with human rights standards including UN CEDAW, the CoE Istanbul Convention and Windsor Framework Article 2.

3.4 The NIHRC recommends that the Department of Health and Department of Justice develop and publish a list of the key partners that will be relied on for delivery of the strategy.

3.5 The NIHRC recommends that the Department of Health and Department of Justice ensure that outsourcing of responsibilities is subject to a human rights-based procurement process and will be monitored for human rights compliance including compliance with UN CEDAW, the CoE Istanbul Convention and Windsor Framework Article 2.

Training

3.6 Article 15 of the CoE Istanbul Convention requires states to:

- 1) provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of this Convention, on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation.
- 2) encourage that the training referred to in paragraph 1 includes training on co-ordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence covered by the scope of this Convention.

- 3.7 The UN CEDAW Committee has explained that States should ensure the availability of “gender-sensitive training to enable health care workers to detect and manage the health consequences of gender-based violence”.⁷⁵
- 3.8 Article 25(1) of the EU Victims’ Directive directs States to ensure that all relevant officials likely to come into contact with a victim, such as police officers and court staff, receive both general and specialist training. Article 25(4) identifies that, subject to the nature and level of the practitioner’s contact with the victim, “training shall aim to enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner”.⁷⁶ Recital 61 of the Directive specifies that training should be gender sensitive where relevant, and take account of the specific needs of the victim.⁷⁷
- 3.9 The NIHRC recommends that the strategy includes targeted interventions to ensure that the commitments within are effectively applied in practice. This should include the provision of training for all relevant professionals in line with the requirements of Article 14 of the CoE Istanbul Convention and the EU Victims’ Directive.**

Meaningful engagement

- 3.10 The UN CPRD Committee’s General comment No 7 provides an example of best practice in the inclusion of people with lived experience in the formulation of policy, requiring public authorities to “give due consideration and priority to the opinions and views of organisations of persons with

⁷⁵ A/54/38/Rev.1, ‘UN CEDAW Committee General Recommendation No 24: Article 12 of the Convention (Women and Health), 1999, at para 15.

⁷⁶ Article 25, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

⁷⁷ Recital 61, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

disabilities when addressing issues directly related to persons with disabilities".⁷⁸

3.11 The NIHRC welcomes the inclusion of "increased opportunities for victims' voices to be heard and ensuring the strategy's delivery is underpinned by intersectionality" as an identified action with Pillar 1 of the draft strategy.⁷⁹ Clear mechanisms should be in place that ensure victims can meaningfully engage with each stage from developing through to evaluating implementation of the strategy.

3.12 The NIHRC recommends that the Department of Health and Department of Justice give due consideration and priority to the opinions and views of victims and their representative organisations throughout implementation and evaluation of the strategy. Mechanisms to effectively collate and ensure meaningful engagement with views expressed by victims and their representative organisations should be identified and committed to within the strategy.

3.13 Recital 57 of the EU Victims' Directive makes specific reference to the fact that victims of abuse in close relationships as well as those who experience sexual abuse tend to experience a high rate of secondary and repeat victimisation, of intimidation and of retaliation. It therefore advises that particular care should be taken when assessing whether such victims are at risk and will benefit from special protection measures.⁸⁰

3.14 The NIHRC recommends that engagement with individuals with lived experience is conducted with support and in a sensitive and appropriate manner so as not to re-traumatise victims.

⁷⁸CRPD/C/GC/7, 'UN CRPD Committee General Comment No 7: Participation of Persons with Disabilities, Including Children with Disabilities, Through Their Representative Organizations, in the Implementation and Monitoring of the Convention', 9 November 2018, at para 23.

⁷⁹ Department of Health and Department of Justice, 'Draft Domestic and Sexual Abuse Strategy: 2023-2030' (DoH and DoJ, 2023), at 23.

⁸⁰ Recital 57, Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

Gillen Review

3.15 The draft strategy acknowledges the close link between the domestic and sexual abuse strategy and the work being taken forward under the Gillen Review.⁸¹ While significant progress that is being made in legislative and policy developments, further action is required to ensure full implementation of the Gillen Review recommendations and measures.

3.16 The NIHRC recommends that the final strategy clearly identifies areas of cross working with the Gillen Review implementation teams to ensure a comprehensive and coordinated approach in delivery.

4.0 Pillar 2: Prevention

Awareness raising

4.1 Article 13 of the Istanbul Convention entails:

entails the running of public awareness-raising campaigns or programmes on a regular basis that address and explain these issues in a gender-sensitive manner. Awareness-raising activities should include the dissemination of information on equality between women and men, non-stereotyped gender roles, and non-violent conflict resolution in interpersonal relationships. Moreover, the drafters considered it important that any campaign highlight the harmful consequences for children which violence against women and domestic violence may have in its direct or indirect form.⁸²

4.2 States should also ensure:

⁸¹ Department of Health and Department of Justice, 'Draft Domestic and Sexual Abuse Strategy: 2023-2030' (DoH and DoJ, 2023) at 11.

⁸² CoE, 'Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence' (CoE, 2011), at para 91.

the dissemination of concrete information on available government or non-government preventive measures. This means the wide dissemination of information leaflets or posters or on-line information material on services which the police or the local community offers, contact information of local, regional or national services such as helplines or shelters and much more.⁸³

4.3 The UN CRC Committee also states that:

States should address all forms of gender discrimination as part of a comprehensive violence-prevention strategy. This includes addressing gender-based stereotypes, power imbalances, inequalities and discrimination which support and perpetuate the use of violence and coercion in the home, in school and educational settings, in communities, in the workplace, in institutions and in society more broadly.⁸⁴

4.4 Article 26(2) of the EU Victims' Directive requires States to take all appropriate action aimed at raising awareness of rights set out in the Directive. The EU Directive identifies that awareness raising should target groups at higher risk, such as children, victims of gender-based violence and violence in close relationships.⁸⁵

4.5 The NIHRC welcomes the inclusion of awareness raising within pillar 2 of the strategy. However, this priority area can be strengthened by making clear provision for gender-sensitive awareness campaigns and the dissemination of fully accessible information on support services.

⁸³ Ibid, at para 93.

⁸⁴ CRC/C/GC/13, 'UN CRC Committee, General Comment No 13: Right of the Child to be Free from Violence', 18 April 2011, at para 72(b).

⁸⁵ Article 26(2), Directive 2012/29/EU, 'Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime', 25 October 2012.

4.6 The NIHRC recommends that the strategy includes awareness-raising campaigns that are gender-sensitive, promote equality between women and men and challenge stereotypes.

4.7 The NIHRC recommends that the final strategy includes measures to ensure the dissemination of accessible information on available support services. This should include campaigns that are targeted at groups that are identified as facing additional barriers to accessing support. Information should be fully accessible, including that it is tailored to a range of communication requirements. For example, through the provision of language translations, large print, easy read and audio versions.

Relationship and sexuality education

4.8 Article 14 of the CoE Istanbul Convention states that:

parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education.⁸⁶

4.9 The Committee of the Parties to the Lanzarote Convention (Lanzarote Committee) has stated that:

the fact that children are frequently victims of sexual violence within the family framework and by persons close to them or

⁸⁶ Article 14 Convention on Combatting and Preventing Violence Against Women and Domestic Violence.

in their “circle of trust” should be highlighted and considers that the school environment is particularly appropriate to do so.⁸⁷

4.10 The CoE Committee of Ministers has further advised that young people should be taught “to consider and interpret relationships with reference to gender equality, human rights, power relations and violence”⁸⁸ and that girls and boys should be “made aware of the dangers of exploitation, sexual abuse and trafficking to which they are exposed”.⁸⁹

4.11 In its jurisprudence the ECtHR has also identified that the role of relationship and sexuality education in the prevention of sexual violence and exploitation.⁹⁰

4.12 The NIHRC welcomes the recognition of the role of education in schools in promoting understanding of domestic and sexual abuse. Education on domestic and sexual abuse should take place within a programme of comprehensive relationship and sexuality education. As with all elements of this strategy, specific consideration should be given to the experience of marginalised groups including, but not limited to, deaf and disabled persons, LGBTQIA+ persons, and persons of national or ethnic minority background.

4.13 The NIHRC recommends that the Department of Health and Department of Justice engage with the Department for Education to ensure that the domestic and sexual abuse strategy is embedded into relationship and sexuality education in all schools in NI.

⁸⁷ Committee of the Parties to the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (Lanzarote Committee), ‘2nd Implementation Report: Protection of Children Against Sexual Abuse in the Circle Of Trust’ (CoE, 2018), at para 45.

⁸⁸ CM/Rec(2007)13, ‘Recommendation 13 of the CoE Committee of Ministers to Member States on Gender Mainstreaming in Education’, 10 October 2007 at para 44.

⁸⁹ Ibid, at para 47.

⁹⁰ *AR and LR v Switzerland*, Application No 22338/15, Judgment of 18 January 2018.

Cost of living

- 4.14 The UN CEDAW Committee has recognised the impact of socio-economic circumstances on violence against women noting that “lack of economic independence forces many women to stay in violent relationships”.⁹¹
- 4.15 The UN CEDAW Committee has also noted with concern “that austerity measures [in the UK] have resulted in cuts in funding to organisations that provide social services to women, including those that provide services for women only”.⁹²
- 4.16 The NIHRC welcomes the inclusion of financial abuse in the definition of Domestic Violence and Abuse in the draft strategy and considers this issue to be pertinent with the persistent and sharp rise in the cost of living. Recital 18 of the EU Victims’ Directive identifies that the impact of domestic abuse is worsened where a victim is financially dependent on their partner and that this disproportionately affects women. There is the risk that the persistent and sharp rise in cost of living may exacerbate the issue of financial abuse, as well as create an additional barrier to those seeking to flee from all forms of domestic abuse.⁹³

4.17 The NIHRC recommends that, in partnership with other relevant Departments, the strategy includes measures to address the exacerbating effect of the persistent and sharp rise in cost of living on domestic and sexual abuse. This should include ensuring that specialised services are accessible and adequately funded.

Online and digital abuse

- 4.18 In *Buturugă v Romania* (2020), the European Court of Human Rights (ECtHR) emphasised the need to comprehensively address the

⁹¹ A/47/38, ‘UN CEDAW Committee General Recommendation No 19: Violence against women’, 1992, at para 23.

⁹² CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019, at para 29.

⁹³ Grainne Conolly, ‘Cost-of-living crisis trapping women in abusive relationships, charity says’, *BBC News*, 1 December 2022.

phenomenon of domestic violence in all its forms.⁹⁴ The ECtHR found that, by not taking into account the link between cyberbullying and domestic violence, the authorities had violated Article 8 ECHR by failing to take into consideration the various forms that domestic violence could take.

- 4.19 The draft strategy recognises the role of technology in perpetrating domestic and sexual abuse. However, the strategy does not include any measures to address this form of abuse.
- 4.20 Furthermore, consideration should be given to the fact that new forms of domestic and sexual abuse using technology are emerging and developing rapidly. This requires the strategy to acknowledge this reality and be sufficiently flexible to adapt to the ever-changing landscape. For example, there have been increasing reports of the use of cyber ‘stalkerware’, which are highly intrusive spy applications that monitor someone's activities and communications without their knowledge or consent.⁹⁵ Devices such as Apple AirTags have also been used as a tool for stalking.⁹⁶
- 4.21 The NIHRC recommends that the strategy includes measures to prevent online-based and technology-related domestic and sexual abuse, as well as support for those affected. Measures should be adaptable to take account of new developments.**

5.0 Pillar 3: Support

Specific needs

- 5.1 The UN CEDAW Committee, in its 2019 Concluding Observations on the UK, noted “with particular concern the inadequacy of laws and policies to protect women in NI (from gender-based violence)”.⁹⁷

⁹⁴ *Buturuga v Romania* (2020) ECHR 11.

⁹⁵ European Parliamentary Research Service, ‘Combating Gender-based Violence: Cyber Violence’ (EPRS, 2021).

⁹⁶ James Clayton & Jasmin Dyer, ‘Apple AirTags - A perfect tool for stalking’, *BBC News*, 20 January 2022.

⁹⁷ CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019, at para 29.

- 5.2 The UN Declaration on the Elimination of Violence against Women notes that some groups of women are at a heightened risk of violence including “women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflict”.⁹⁸ Pursuant to that UN Declaration, States should “adopt measures towards the elimination of violence against women who are especially vulnerable to violence”.⁹⁹
- 5.3 The EU Victims’ Directive further requires all victims of crime be recognised and treated in a respectful and sensitive manner, without discrimination of any kind based on any ground including, but not limited to, race, membership of a national minority, residence status and disability.¹⁰⁰
- 5.4 Article 9 of the EU Victims’ Directive provides for specialist support for victims with specific needs including “victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling”.¹⁰¹
- 5.5 The NIHRC welcomes the recognition that certain groups face additional barriers in accessing support. However, more detail is required to ensure protection for those groups in practice. For example, particular consideration should be given to deaf and disabled persons,¹⁰² racial and

⁹⁸ A/Res/48/104, ‘UN General Assembly Declaration on the Elimination of Violence against Women’, 1993.

⁹⁹ *Ibid*, at Article 4(l).

¹⁰⁰ Recital 9, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

¹⁰¹ *Ibid*.

¹⁰² UN CRPD, Preamble, at para q; CRC/C/GC/9, ‘UN CRC Committee General Comment No 9: Rights of Children with Disabilities’, 27 February 2007, at para 42; CEDAW/C/GBR/CO/8, ‘UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI’, 14 March 2019, at para 29; CEDAW/C/32/D/2/2003, *AT v Hungary*, 26 January 2005, at para 9.4.

ethnic minorities,¹⁰³ migrants,¹⁰⁴ LGBTQIA+,¹⁰⁵ older persons¹⁰⁶ and rural communities.¹⁰⁷

5.6 The NIHRC recommends that the strategy makes explicit provision for persons who are at an increased risk or who face additional barriers to accessing support for domestic and sexual violence and abuse, including but not limited to, deaf and disabled persons, ethnic minority communities, LGBTQIA+ persons, older persons, and those living in rural communities. This should include ensuring that specialised services are consistently available and fully accessible.

Immigration status

5.7 The Council of Europe Resolution 1697 invites Member States to “adopt dedicated action plans addressing the specific needs of migrant women who are victims of violence, including domestic violence...”.¹⁰⁸

5.8 The NIHRC remains concerned about the No Recourse to Public Funds Status,¹⁰⁹ which prevents those with a variety of visas from accessing safe refuge accommodation or other support.

¹⁰³ CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the UK Eighth Periodic Report', 8 March 2019 at para 24; Council of Europe, 'Parliamentary Assembly Resolution 1697: Migrant Women At Particular Risk from Domestic Violence', 20 November 2009, at para 4.2.

¹⁰⁴ CEDAW/C/GBR/CO/8, 'UN CEDAW Committee Concluding Observations on the Eighth Periodic Report of the UK of Great Britain and NI', 14 March 2019, at para 29; CEDAW/C/52/D/32/2011, *Jallow v Bulgaria*, 28 August 2012, at para 8.5; Council of Europe, 'Parliamentary Assembly Resolution 1697: Migrant Women At Particular Risk from Domestic Violence', 20 November 2009, at para 4.2.

¹⁰⁵ A/HRC/41/45, 'UN Independent Expert on Protection Against Violence and Discrimination Based on Sexual Orientation and Gender Identity Report on Data Collection and Management as a Means to Create Heightened Awareness of Violence and Discrimination Based on Sexual Orientation and Gender Identity', 14 May 2019 at para 14.

¹⁰⁶ A/RES/46/91, 'UN Principles for Older Persons', 16 December 1991; 7 CM/Rec (2014)2, 'CoE Committee of Ministers, Recommendation to Member States on the Promotion of Human Rights of Older Persons', 19 February 2014, at 5; CEDAW/C/GC/27 'UN CEDAW Committee, General Recommendation No 27: Older Women and Protection of their Human Rights', 16 December 2010, at para 37 and 38.

¹⁰⁷ 'UN CEDAW Committee General Recommendation No 19: Violence Against Women', 1992, at para 24(o)'; E/C.12/2000/4, 'UN ICESCR Committee General Comment No 14: Right to the Highest Attainable Standard of Health', 11 May 2000, at para 12(b)(ii).

¹⁰⁸ Council of Europe, 'Parliamentary Assembly Resolution 1697: Migrant Women At Particular Risk from Domestic Violence', 20 November 2009, at para 4.2.

¹⁰⁹ NI Human Rights Commission, 'Submission to the NI Affairs Committee into the Experience of Minority Ethnic and Migrant People in NI' (NIHRC, 2021), at para 5.14.

5.9 The NIHRC recommends that the Department of Health and Department of Justice ensure that support is available, regardless of immigration status, and that sufficient refuge places are available in NI according to need.

6.0 Pillar 4: Justice

Training

- 6.1 The UN CAT Committee, in its 2019 Concluding Observations on the UK, raised concerns about sexual and domestic violence, recording increasing numbers of domestic abuse crimes and sexual offences, mainly against women, while also recording low prosecution and conviction rates.¹¹⁰ The UN CAT Committee recommended “that all domestic violence cases, in all United Kingdom (UK) territories and dependencies, are thoroughly investigated, that perpetrators are prosecuted and, if they are convicted, are punished with appropriate sanctions”.¹¹¹ Furthermore, that “victims have access to effective remedies and means of protection, including strong police protection”.¹¹²
- 6.2 The UN CEDAW Committee has advised that States should “provide mandatory, recurrent and effective capacity-building, education and training for members of the judiciary, lawyers and law enforcement officers other public officials is essential”¹¹³ which should promote understanding of “how gender stereotypes and bias lead to gender-based violence against women and inadequate responses to it”.¹¹⁴
- 6.3 Further, the EU Victims’ Directive requires States to “ensure appropriate training to identify victims and their specific needs is provided to police

¹¹⁰ CAT/C/GBR/CO/6, ‘UN CAT Committee Concluding Observations on the Sixth Periodic Report of the UK of Great Britain and NI’, 7 June 2019, at para 56.

¹¹¹ Ibid, at para 57.

¹¹² Ibid.

¹¹³ CEDAW/C/GC/35, ‘UN CEDAW Committee General Recommendation No 35: Gender-Based Violence Against Women, Updating General Recommendation No 19’, 14 July 2017, at para 30(e).

¹¹⁴ Ibid, at para 30 (e)(i).

services, court staff, lawyers, prosecutors and judges and for practitioners who provide victim support or restorative justice services”.¹¹⁵

6.4 UK data suggests that almost 60 per cent of women who are supervised in the community or in custody have experienced domestic abuse.¹¹⁶

Research by the Prison Reform Trust has also found that “there are strong links between women’s experience of domestic and sexual abuse and coercive relationships, and their offending”¹¹⁷ and that “the response of criminal justice agencies to women offenders affected by domestic abuse is key to breaking the cycle of victimisation and offending”.¹¹⁸

6.5 The NIHRC considers that the strategy could be strengthened by the inclusion of measures that address the co-existence of victimisation and offending. The NIHRC further notes that Pillar 4 of the strategy does not include provision for the training for professionals and other employees, including for example call handlers, receptionists and security guards, across a victim’s journey within the criminal justice system.

6.6 The NIHRC recommends that Pillar 4 of the strategy outlines provisions for gender-sensitive training of criminal justice professionals and other employees that would have contact with victims on domestic and sexual abuse, including on the experience of marginalised groups such as disabled persons, LGBTQIA+ persons, and persons of national or ethnic minority background. Gender-sensitive training should also include a specific focus on the links between domestic abuse and offending.

¹¹⁵ Recital 61, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

¹¹⁶ Ministry of Justice, ‘Supporting Data Tables: Female Offender Strategy’ (MoJ, 2018).

¹¹⁷ Prison Reform Trust, ‘There’s a Reason We’re in Trouble: Domestic Abuse as a Driver to Women’s Offending’ (PRT, 2017), at 4.

¹¹⁸ Ibid.

Accessibility

6.7 The UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders state that the “health screening of women prisoners... also shall determine... sexual abuse and other forms of violence that may have been suffered prior to admission”.¹¹⁹ Rule 7 provides:

- 1) If the existence of sexual abuse or other forms of violence before or during detention is diagnosed, the woman prisoner shall be informed of her right to seek recourse from judicial authorities. The woman prisoner should be fully informed of the procedures and steps involved. If the woman prisoner agrees to take legal action, appropriate staff shall be informed and immediately refer the case to the competent authority for investigation. Prison authorities shall help such women to access legal assistance.
- 2) Whether or not the woman chooses to take legal action, prison authorities shall endeavour to ensure that she has immediate access to specialized psychological support or counselling.
- 3) Specific measures shall be developed to avoid any form of retaliation against those making such reports or taking legal action.

6.8 While the draft strategy indicates that it will provide victims of domestic and sexual abuse with information and services and support them through

¹¹⁹ A/Res/65/229, 'UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)', 16 March 2011, at Rule 6.

the criminal justice process,¹²⁰ it does not specifically provide for those who are currently in detention.

6.9 The NIHRC recommends that the final strategy should include specific measures to ensure accessible services, including health and justice for individuals in any form of detention who have been victims of domestic or sexual abuse.

Best interests of the child

6.10 The UN CRC Committee has noted that the “right of children to have their best interests be a primary consideration in all matters involving or affecting them must be respected, especially when they are victims of violence...”.¹²¹

6.11 Article 24 of the EU Victims’ Directive sets out specific provisions to safeguard the rights of child victims during criminal proceedings.¹²² Pillar 4 does not make reference to support for children within the criminal justice system.

6.12 In 2020, the Criminal Justice Inspection NI found in the context of child sexual exploitation that “Public Prosecution Service NI staff instructions specific to child sexual abuse and exploitation were needed” and “where cases did progress to court, support for children was required”.¹²³ The Barnahus (children’s house) model was proposed as the preferred approach.¹²⁴

¹²⁰ Department of Health and Department of Justice, ‘Draft Domestic and Sexual Abuse Strategy: 2023-2030’ (DoH and DoJ, 2023) at 31.

¹²¹ CRC/C/GC/13, ‘UN CRC Committee General Comment 13: Right of the Child to be Free from Violence’, 18 April 2011, at para 3(f).

¹²² Article 24, Directive 2012/29/EU, ‘Directive of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime’, 25 October 2012.

¹²³ Criminal Justice Inspection NI, ‘Child Sexual Exploitation in NI: An Inspection of the Criminal Justice System’s Response’ (CJINI, 2020), at 80.

¹²⁴ Ibid.

6.13 The NIHRC recommends that Pillar 4 of the final strategy includes measures to ensure the best interests of the child are a primary consideration regarding a child's involvement in any related court proceedings and evidence gathering, for example by making specific reference to the Barnahus approach.

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