

## Rape Crisis Network Ireland Press Release

26<sup>th</sup> February 2014

### State's justice response to sexual violence crime can serve victims better

RCNI today, 26<sup>th</sup> February 2014, welcomed the **Joint Oireachtas Committee on Justice, Defence and Equality focus on sexual violence today** and called on the committee and its membership to champion the improvements in the treatment of victims in the justice system as outlined by the RCNI today in the interest of justice and prevention.

**Fiona Neary, RCNI Director** said, 'being treated with dignity and respect at every step of the way is critical to good legal process and reducing attrition. Appropriate training at every location, from the Garda at the help desk of the local station to the judge in the central criminal court, is an important way to deliver and achieve this.

'Today we had the opportunity to put to the Justice Committee a range of solutions we have recommended in justice policy, practice and legislation which would greatly improve how the justice system meets the needs of victims and delivers justice and prevention.

'RCNI's oral submission today is based on our far reaching and thorough written submission, arising out of decades of specialist advocacy and service delivery, which provides the government and legal system with many ways in which the retraumatising of victims of crimes can be reduced in terms of their contact with the criminal justice system.'

#### For information contact

**Clíona Saidléar**  
**0872196447**

#### Notes:

#### Key RCNI Recommendations for the justice system practice, policy and legislation in relation to sexual violence crimes:

##### Pre-trial: Procedure:

- Bail granted before conviction should always be subject to stringent conditions, and
- breach of bail should be dealt with promptly, and severely if proved;
- pre-trial hearings and active case management before (and during) trials should be the norm to avoid delay and uncertainty as far as possible for complainants (and others);
- disclosure of counselling records should be regulated by statute and ruled upon by judges; the law on evidence of other sexual experience should be clarified by statutory change and/or more detailed rules (both before and during trial);
- survivors reporting sexual violence crimes to the Guards should be given both general information about their role and the process, and specific information on their own case;
- survivors should be protected from unnecessarily oppressive, prolonged, or repeated questioning during investigation;
- survivors should have the right to be accompanied to a Garda interview and to Court, unless exceptionally there are very good reasons why that should not be allowed in a particular case;

- the DPP should give reasons to the survivor wherever s/he decides not to prosecute, and
- legal advice should be available to the survivor at all stages of the criminal justice system as of right;[1]

**Pre-trial: Substantive Law:**

- Existing provisions on sexual crimes against those with intellectual disabilities, should be overhauled;
- specific offences of “grooming”, voyeurism and unlawful sexual activity by someone in a position of trust or authority, should be enacted;
- “honest belief” in consent **or** age of complainant, should be “honest and reasonable”, and
- there should be a positive definition of consent to sexual activity.

**At Trial: Procedure:**

- Special measures should be normally made available to all complainants as of right;
- personal cross-examination of the complainant by the accused should not be allowed;
- evidence of demeanour, dress, should not be allowed in relation to victims of child sexual violence, whatever their age;
- case management rules should empower judges to curtail unnecessarily oppressive and/or prolonged cross-examination of complainants;
- sentencing should be as transparent and consistent as possible, in accordance with agreed guidelines, and should reflect fully the gravity of the offence and its impacts; and
- compensation should not be awarded if the complainant does not want it, and never in lieu of another sentence.[2]

**B: Non-Legal Changes:**

**Pre-Trial: Specialist Gardaí:**

- Garda investigations of sexual crimes should all be conducted by dedicated specialists whose training includes substantial input from specialist victim support experts in the impacts of sexual violence (and of the criminal justice system) on survivors; and
- prosecution lawyers, whether court advocates or not, should all undergo similar training, and should be encouraged and incentivized to become specialists in sexual violence.

**Pre-Trial and During Trial: Training:**

- At every level, our judges, and indeed, other court staff, should have access to information and education from experts in the impacts of sexual violence on its victims, and in every case, the training should be relevant to the particular role of the criminal justice personnel concerned.

**ENDS**