

The SNaP logo, consisting of the letters 'SNaP' in a bold, white, sans-serif font, enclosed within a white speech bubble shape with a tail pointing towards the bottom left.

**SNaP**

Specific Needs and  
Protection Orders

## “Justice Sought, Justice Lost”

An assessment of the effectiveness of  
DVA protection orders and specific needs

SAFE Ireland 2016

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## 1 Introduction

Social science studies show that individuals suffering from physical or cognitive disabilities or mental illnesses are victims of physical, psychological and sexual violence significantly more often than their peers (Schröttle/Hornberg, 2013 and 2014; Schachner et al., 2014; FRA, 2014; WHO, 2003; Hughes et al., 2012). This begs the question whether and how protection measures against violence within intimate partner relationships are working for these people. *SNaP – Specific Needs and Protection* started out with the hypothesis that police and court protection measures in cases of violence in intimate social relationships are less often imposed when incidents involve women who need support in their daily lives or are in need of care (e.g. women with physical disabilities or mental problems), or do not (effectively) protect them from (further) violence. Two previous Daphne projects<sup>1</sup> showed that in particular the protection of older, dependent women or those in need of nursing care poses particular challenges to the police and/or the legal system. Protective measures aim to remove the perpetrator from the victim, only permitting limited, if any, contact between the perpetrator and the victim. Such protective measures, however, presuppose that the person to be protected is not in need of daily assistance from the perpetrator.

### Project Design

Scientific studies from different countries (cf. Hague et al., 2007; Ackerman et al., 2014; Schröttle et al., 2013) indicate that the current practice of protective orders is problematic because the support needs of victims with so-called specific needs are not considered or not adequately taken into account. With that in mind, the research teams in the partner countries<sup>2</sup> examined national protective measures for their suitability and efficiency for different victim groups with specific needs. On the country level, *SNaP* therefore focused on the following issues:

- Which victim groups can be identified by their “specific needs”?
- Are current legal provisions fully at their disposal, or are there limitations?
- What are barriers for an ideal protection of victims?
- What is the scope for improvement, what are alternatives to existing measures of protection against violence?

The study therefore focused on the lived practice, the essential issue was whether and how those involved are able to identify specific needs and how they react to them. Another point

<sup>1</sup> “Intimate Partner Violence against Older Women” ([www.ipvow.org](http://www.ipvow.org)) and “Mind the Gap” (<http://www.ipvow.org/en/research-reports/mind-the-gap>)

<sup>2</sup> Besides the project leader, the Institute of Conflict Research (IKF, Austria), the participants include ZOOM - Gesellschaft für prospektive Entwicklungen e.V. and the German Police University (DHPol) (both Germany), CESIS – Centre for Studies for Social Intervention (Portugal), Safe Ireland (Ireland) and the University of Białystok (Poland).

we needed to clarify were the factors that influence decisions about imposing protective measures in cases with victims with specific needs. We analysed from the victim's perspective what prevented them from having recourse to measures of victim protection, and which problems confronted them when they turned to the police or other agencies.

In order to facilitate the understanding of the results, we will first outline the respective legal provisions for the protection against violence in the intimate social environment on the national level and present some statistics on protective measures (see Chapter 2).

On the basis of the research results, we also drafted an international policy paper to increase the awareness of politics, government agencies, lobbying organisations and victim protection facilities for specific needs and the consequences of ignoring them.

### Methodological Approach

As described above, our study aimed to identify victim groups with specific needs, to examine the implementation and effectiveness of protective measures for these groups, and to develop recommendations to improve their protection. To reach these goals, we chose a qualitative research approach<sup>3</sup> combining a number of methods and perspectives:

- Collection of data on legal provisions and regulations in operation and analysis of secondary evaluation of current victim protection measures.
- Collection of data on legal provisions for the protection against violence within the immediate social environment in five more countries. In this literature analysis, we collected data on relevant legal provisions, taking into account evaluations and experiences in Great Britain, Spain, New Zealand and the Netherlands as well as the U.S.A.
- Interviews with experts and practitioners from the fields of police work, the legal system and NGOs.
- Analysis of case files and interviews with victims of domestic violence.
- Expert meetings on the national as well as EU level. The aim of the national expert meeting was to present the results of our study and to reflect upon these findings together; but also to discuss the content and target audience of the policy paper.
- Finally, we held a final conference in Berlin in September 2016, to integrate the experiences and perspectives of other European experts and to benefit from their knowledge for the development of recommendations for future activities on the national levels, but also on the EU level.

### Terminologies

In the study, we focused on female victims of violence in intimate relationships who were over 18 years of age and met the criteria to apply for an under the Domestic Violence Act 1996 as amended, at the time of the abuse. We focused exclusively on intimate partner violence, while other research partners also took into account violence from – male and female – relatives, acquaintances, carers and fellow occupants in institutions.

As “groups with specific needs”, we initially understood the “traditional” fields of disability – physical, cognitive and mental handicaps. Discussion within the project teams, and not least

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<sup>3</sup> A quantitative empirical survey leading to sound data was not feasible within the financial framework of the Daphne III programme. On the one hand, such a survey would have required a very large sample in order to determine which victims are particularly vulnerable with regard to barriers in accessing victim protection measures. On the other hand, such a project would only have provided limited information, because it is difficult for research to reach the most vulnerable groups, such as victims with serious cognitive disabilities.

the inspiration from interviewed experts in all five countries, finally resulted in an expanded definition of “specific needs,” which not only allowed for person-centred characteristics, but was based on a more inclusive understanding of vulnerability and included structural, cultural and perpetrator-specific factors (cf. further discussion in Chapter 3).

While “protection order” is more or less a technical term with its meaning depending on the legal and socio-political framework, the meaning of “specific needs” is less straightforward.

In the context of the project, “specific needs” should not be considered as a stable feature of victims or victim groups. Rather, it refers to the interaction of person and situation. This is in line with an interactionist understanding of human behaviour (see e.g. Cantor/ Kihlstrom, 1987) or with a concept of “persons in context” (Shoda et al., 2007), the importance of which has been linked to societal tendencies of ever growing interdependencies (Hermans/ Dimaggio, 2007).

Specific needs arise and exist in given situations, they are not “permanently attached” to a woman via her ethnicity, disability status or other characteristics. In the field of violence in close interpersonal relationships, the project focuses upon frictions and mismatches between victimization experiences in specific (although possibly repeating) situations, individuals involved in and affected by these experiences, and measures taken to handle incidents and to prevent their reoccurrence.

The situations the project looks at are those where the use of protection orders is an option.

The main research perspective is characterized by the following questions:

- Where do tensions, frictions, or problems arise between the application of a standard protective measure and the situation of a victim of domestic violence (DV)?
- How do institutions handle these difficulties?
- How can problems be solved or at least diminished?

What has been said about “specific needs” also applies to a (related) notion of “victim vulnerability”. The term vulnerability has its origin in the Latin word for wound, *vulnus*. In a very broad sense, vulnerability can be understood as the capacity to be hurt or damaged, or as a person’s risk of encountering a bad outcome (cf. Aday, 2001; Spiers, 2000). A model presented by Turner et al. (2003) differentiates between a system’s exposure to hazards or risks, its sensitivity, and its resilience, hinging upon its capacities to adjust and cope. In the context of the present project, victim vulnerability – again focussing upon post-victimization issues – refers to a person’s odds of encountering negative case outcomes. Again, it is not some stable and generalized personal feature of “vulnerability” that is important for the project. The project looks at a kind of “situational victim vulnerability” in the sense of a lack or at least diminished capacity of using protection orders to enhance one’s safety. This situational vulnerability can be assumed to be more prevalent among certain groups of people than among others but still it is an interactionist concept linking the person in the post-victimization period, the situation

and the context within which she lives, and the measures at hand and the organizations being able to apply them.

### **Structure of the Report**

Chapter 2, “Legislative Basis for Emergency Barring Orders/ Civil Protection Orders and their Implementation” starts with an overview of the development of protection against violence in Ireland and its most important measures, which are then discussed in detail.

In Chapter 3, “Identification of Specific Needs and the application of Protection Measures”, we first present four broad categories of circumstance that (may) lead to (increased) vulnerability or specific needs. The chapter includes the perspectives of practitioners and experts regarding the awareness for and identification of specific needs of victims of violence as well as assessments on the effectiveness of protective orders for the groups we identified, possible alternatives to civil protection orders, and suggestions for improvement. This chapter also contains the findings from interviews with victims of domestic violence on their experience with protection measures and their perspectives on the effectiveness and appropriateness of those measures.

The results of our file analysis are presented in Chapter 4, “Victims with Specific Needs and Protective Orders”. Following the description of file access and an overview of the cases, we proceed to analyse the files, focusing mainly on the specific needs of the victim, the efficiency of the intervention(s) and the resources available to them.

In the final chapter, “Summary and Conclusions: Options for Improvement and Alternatives to Protective Orders”, we formulate recommendations to Government, police, legal professionals, and victim support organizations.

## **Legal Provisions on EBO and RO/PO and application of measures**

### **a. Overview on national development and policy background**

- i. Information about major changes in the past and foreseen changes in legislation;

This Chapter aims to explore the protective orders available to domestic violence (DV) victims in Ireland. The main developments will be summarised, including the different domestic violence orders (DVA orders) available and their eligibility criteria. Latest statistics available on the issuing and enforcement of orders are included, showing numbers of orders applied for and granted and breaches for the last full year (2015). The focus will then be on the effectiveness of domestic violence orders, and include an exploration of any existing evaluations particularly on DV victims with additional vulnerabilities and their experience of the orders. Finally,

research findings from recent Irish studies of the effectiveness of DVA orders for women with specific needs related to accessibility, dependency, cultural norms and situational or circumstantial vulnerabilities, will be discussed.

Domestic Violence policy and legislation in Ireland dates from the 1970's. The *Family Law (Maintenance of Spouses and Children) Act 1976* introduced barring orders as legal instruments to protect women in domestic violence situations, however the length of the order was a maximum 3 months. The *Family Law (Maintenance of Spouses and Children) Act 1981* sought to improve the 1976 Act by extending the maximum length of a barring order to a maximum of 12 months and introducing protection (temporary) orders from the initiation of court proceedings. Yet difficulties with the application of the law persisted, with some judges unwilling to act on one incident of violence, while other forms of abuse besides physical violence tended not to be recognised by the law.<sup>4</sup> The Act also failed to protect unmarried victims of domestic abuse.

Today law pertaining to domestic violence is mostly contained in the *Domestic Violence Act 1996* as amended. The *Domestic Violence Act 1996* was the first statute specific to domestic violence and was influenced by a number of reports from domestic violence advocates and experts. One such report was on the Second Commission on the Status of Women. The Act grants relief for spousal and partner misconduct and domestic violence<sup>5</sup>, by providing civil remedies (court orders) for the protection of intimate partners and children. *The Domestic Violence Act 1996*<sup>6</sup> was introduced to perform three functions:

- 1) To protect spouses, children and other dependent persons and persons in other domestic relationships where the threat to their safety or welfare is at risk because of the conduct of the other person in the domestic relationship;
- 2) To increase the powers of An Garda Síochána to arrest without warrant; and
- 3) To provide for the hearing at the same time of applications to court for other orders regarding custody and access, maintenance, conduct leading to the loss of the family home, restriction on the disposal of household chattels, and child care orders<sup>7</sup>.

The 1996 Act for the first time made provision for co-habitees in a relationship outside of marriage and their children, and it also affords protection for parents from violent children (adults). The court orders available under the Act are: Barring Order; Interim Barring Order; Protection Order; Safety Order.

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<sup>4</sup> Horgan, R. (1998)

<sup>5</sup> Nestor, J. (2011)

<sup>6</sup> An administrative consolidated version of the DVA 1996 including all amendments up to 30 June 2016 may be accessed via this weblink:

[http://www.lawreform.ie/\\_fileupload/RevisedActs/WithAnnotations/HTML/EN\\_ACT\\_1996\\_0001.htm](http://www.lawreform.ie/_fileupload/RevisedActs/WithAnnotations/HTML/EN_ACT_1996_0001.htm)

<sup>7</sup> Glynn, E. (2011)

In 2002 the 1996 Act was amended to ensure that the rights of both parties were upheld when the granting of an Interim Barring Order takes place *ex parte*<sup>8</sup>. In this situation, a copy of the order, affidavit or information grounding same, and a note of the evidence given during the hearing should be served on the respondent as soon as possible. The order will lapse after eight days. The *Domestic Violence Act 1996* was further amended in 2010 and 2011 by the introduction of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* and the *Civil Law (Miscellaneous Provisions) Act 2011* respectively, to extend the powers of the court to order protection of persons in cases of domestic violence. These Acts each amend the Domestic Violence Act 1996 so that:

- (i) a parent may now apply for a safety order against the other parent of their child, even where the parents do not live together and may never have lived together. This ensures that the full protection of the law is available where access to a child is an occasion of intimidation or even violence between disputing parents;
- (ii) the protections of the Act are available on the same basis to unmarried opposite-sex couples and same-sex couples who have registered a civil partnership (actual or dissolved);
- (iii) couples who were never married and who are not actual or former participants in a registered civil partnership, are no longer required to have lived together for a particular minimum period of time before one of them can obtain a safety order against the other.

The *Domestic Violence Act 1996* as amended has been criticised in recent years over the continued failure to extend protection to certain individuals from domestic violence. In 2013 the Joint Oireachtas Committee on Justice, Defence and Equality (a parliamentary committee) held a consultation, considered submissions and heard witnesses on reform of the current legal system of domestic violence protection. Its report was published in October 2014, and at the time of writing, the first draft of a new Revised and Consolidated Bill on Domestic Violence has been published and is scheduled to be published as a Bill (the next legislative stage) later in 2016.

- ii. Are the standards of international treaties and conventions met by national legislation as regards DVA orders?

### **Istanbul Convention**

Ireland has not yet ratified the Istanbul Convention. In order to ratify the Convention Ireland must first amend the domestic violence legislation to comply with Article 52 of the Convention which requires states to make Emergency Barring Orders available to domestic violence victims.

Issues have arisen with Article 52 of the Convention, with Government concerns based on the constitutionality of Article 52 and the possible incompatibility of such an article with Article 43

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<sup>8</sup> Ex parte hearing: common law term referring to a hearing, usually of an urgent nature, where only one side is heard

of the Irish Constitution which protects the right to private property. However, the fact that the Irish Courts already offer Barring and Interim Barring Orders to women experiencing domestic violence begs the question – what is the difference between Emergency Barring Orders and Interim Barring Orders? Dawson<sup>9</sup> argues that with the proper procedural safeguards in place an Emergency Barring Order would not constitute any more interference with a person’s constitutional rights than that of an Interim Barring Order. The Irish Supreme Court ruled in *DK v Judge Crowley*<sup>10</sup> that both Barring and Interim Barring Orders are constitutional providing there are safeguards in place. It is anticipated that the new legislation will include provisions to give statutory force to Article 52.

### **Victims’ Rights Directive**

Ireland has opted into the DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. The transposition date was 16 November 2015, and the legislation, now in draft form, is expected to be published later in 2016.

#### **b. Legal provisions in detail**

##### **i. Type of orders and responsible institutions**

#### **Emergency barring orders (by the Gardaí, the judiciary or others)**

Currently Irish domestic violence legislation does not contain provision for emergency barring orders. This is now scheduled to change by end 2016 as part of the process of ratification of the Istanbul Convention. Until then the situation in Ireland remains static, in cases where a woman may seek an order on a Friday and the court does not open until Monday morning, there may be no option but for that woman to remain at home with no form of protection with the perpetrator still in the house, if an emergency sitting of the local District Court cannot be arranged.

Under the *Non-Fatal Offences Against the Person Act 1997* the Gardaí do have the power of arrest for crimes of serious assault and other serious offences against the person, however it is likely that the perpetrator would be released in a matter of hours or would not be arrested at all because there was not enough evidence of serious crime. The Law Reform Commission in 2013<sup>11</sup> published a report which considered the proposition that a breach of a domestic violence order be considered a “serious offence” so that bail legislation could be used on a preventative basis. This cannot happen now, because breach of a domestic violence order is not regarded as a “serious offence” for purposes of refusing bail. The Commission did not uphold this proposition, as in their view, this reform could have unwanted adverse effects such

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<sup>9</sup> Legal and procedural barriers that female victims of violence face in accessing justice (Ireland) KATIE DAWSON BL

<sup>10</sup> *DK v Judge Crowley* [2002] 2 IR 744

<sup>11</sup> Law Reform Commission (2013)

as an interim barring order or protection order being denied (because the possible consequences for the respondent would be viewed as too serious).

### **Restraining order / Protection orders, known in Ireland as protection (temporary safety orders) and safety orders**

The initial application for all DVA orders takes place in a Civil Court, most likely a District Court, however a Circuit Court deals with applications in some cases; a breach of a domestic violence order is considered a criminal offence, to be dealt with in a criminal (District) Court.

#### **Barring Order**

A Barring Order requires:

- the respondent to leave the family home and to stay away from the home for the duration of the order.

The order may also prohibit the respondent from:

- using or threatening to use violence against the applicant or any dependent person;
- molesting or putting in fear the applicant or any dependent; or
- attending at or in the vicinity of, or watching or besetting a place where the applicant or any dependent resides.<sup>12</sup>

#### **Interim Barring Order**

An interim barring order may be granted when there is a risk of **immediate danger** to the victim and a protection order is considered to be inadequate for the circumstances. If granted an interim barring order carries the same requirements of the respondent as a barring order but is valid only for a maximum of 8 days before a hearing to confirm it must take place, and the respondent/perpetrator must be given due notice of this second hearing.

#### **Safety Order**

A Safety Order:

- Prevents a perpetrator from further harming or threatening to harm the applicant and his/her dependents;
- molesting or putting in fear the applicant or any dependent
- The respondent is not required to leave the home, however if the victim and perpetrator do not live together the court can order that the perpetrator does not watch or be near the victim's home.

#### **Protection Order**

While an applicant is waiting on a decision by the court regarding an application for a barring or safety order, they may be granted a Protection Order. The Protection Order provides the

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<sup>12</sup> [Domestic Violence Act 1996 \(No. 1\), s.3\(3\)](#)

applicant with the same protection afforded by a Safety Order, but lasts only until a decision has been made concerning the Safety or Barring Order application.

### **Relationships, type of violence and behaviour covered**

**Barring orders** including interim barring orders, are available to:

- The spouse or civil partner of a violent person, who can seek a Barring Order on his or her own behalf or on behalf of a dependent child, regardless of how long they have lived together or who owns all or most of the house;
- A co-habiting partner, who is not the spouse or civil partner of the respondent but who has lived with the respondent in an intimate and committed relationship for at least six of the previous nine months “immediately prior” to the application, can apply for a Barring Order on his or her own behalf or on behalf of a child. However, the applicant must have greater ownership rights in the family home than the respondent;
- Parents can apply for Barring Orders against their own adult child aged over 18, unless that child has greater ownership rights in the family home.
- Children (aged under 18) can apply for a Barring Order but will need an adult or the Child and Family Agency (Tusla) to apply on their behalf.
- The Child and Family Agency (Tusla) can also seek an order on behalf of an adult or his/her dependent children.

The major issue with the Barring Order under the amended 1996 Act is the restrictive eligibility requirements for applicants, identified by lawyers, DV organisations and academics:

(i) A duration of cohabitation requirement, in that the applicant must have lived with the respondent like husband and wife for a period of at least six months in aggregate during the previous nine months immediately prior to the application<sup>13</sup>.

(ii) A property test requirement, wherein the applicant must have sole or greater legal or beneficial interest in the property<sup>14</sup>.

Commentators<sup>15</sup> have argued that the current restrictions fail to take account of the financial position of either the applicant or respondent, and whether there are children or dependents involved. These restrictions can result in an applicant and child having to leave their home for protection.

Under the *Domestic Violence Act 1996 as amended*, **safety orders** are available to:

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<sup>13</sup> [Domestic Violence Act 1996 s.2\(1\)\(a\)\(ii\)](#).

<sup>14</sup> [Domestic Violence Act 1996 s.3\(4\)](#)

<sup>15</sup> Bergin Cross (2013)

- The spouse or civil partner of the respondent, irrespective of how long they have lived together, on his/her own behalf or on behalf of a child;
- An unmarried partner, who has lived as husband/wife with the respondent in an “intimate and committed relationship” before the application for the safety order was made;
- Parents of a child in common, either of whom can apply for a safety order against the other, even if they have never lived together;
- A parent can apply for an order against a child who is not a dependant (an adult child).
- Children (aged under 18) but will need an adult or the HSE to apply on their behalf.
- A person of full age (over 18) who lives with the respondent in a relationship, the basis of which is primarily non-contractual, i.e. not a lodger or tenant, and who may or may not be a relative (including adopted relative)
- The Child and Family Agency.

Again, although the eligibility criteria for a Safety Order have expanded in recent years, the remaining cohabitation criterion excludes women in an intimate dating or former dating relationship who have not cohabited with their partner. This restriction has been heavily criticised by advocates in the area, and commentators<sup>16</sup> have argued that it disproportionately affects younger women and teenagers.

#### **For what kind of living situation is it valid (institutions, private homes etc.)?**

The *Domestic Violence Act 1996* was introduced to protect individuals in their domestic settings: their own homes and the immediate vicinity of the home as far as barring orders are concerned, however protection and safety orders’ effect reaches beyond the home to wherever the applicant is.

#### **What types of violence / molestation / stalking are covered?**

Domestic violence has not been defined in Irish legislation thus far, however the definition of domestic violence widely used in Ireland and which has informed state policy is:

*“Domestic Violence refers to the use of physical or emotional force or threat of physical force, including sexual violence, in close adult relationships.... The term ‘domestic violence’ goes beyond actual physical violence. It can also involve emotional abuse; the destruction of property; isolation from friends, family and other sources of support; threats to others including children; stalking; and control over access to money, personal items, food, transportation and the telephone.”*

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<sup>16</sup> Dawson, Katie. "Legal and Procedural Barriers That Female Victims of Violence Face in Accessing Justice (Ireland)." Access to Justice. Paris. 04 Mar. 2015. Speech.

The definition was adopted by a Government Task Force<sup>17</sup> appointed to formulate a coherent strategy to tackle domestic violence in Ireland. The Law Society survey in 1999 found that there was considerable variation among judges regarding what constitutes domestic violence. There have been calls by domestic violence advocates, lawyers and academics in Ireland to define domestic violence in Irish legislation. So far this has not happened. Note that in Ireland, there is no specific criminal offence of domestic violence.

### **What can be ordered?**

The domestic violence orders available to victims in Ireland can

- remove the perpetrator from the family home,
- deter the perpetrator from using or threatening to use violence against the applicant or any dependant,
- forbid the perpetrator from molesting or putting in fear in the applicant or any dependant.
- In cases where the applicant and perpetrator do not live together it is possible to order the respondent to stay away from the home of the applicant.

A Safety Order allows the Court to order the respondent not to use or threaten to use violence on or put in fear or molest the applicant or any dependant. The Court can also order the perpetrator to stay away from the home of the applicant if they do not reside together.

A Barring Order gives the court the power to order that the perpetrator stay away from the family home, not use or threaten to use violence against the applicant or any dependant, that the perpetrator will not molest or put fear into the applicant or dependant.

### **Procedure: Is an application necessary / possible? If yes: Who may apply?**

**Protection Orders** are temporary Safety Orders which are generally applied for to the judge in the District Court by the applicant appearing on her own. While she must produce and swear a brief written information, these applications are held in private with a minimum of formality and if granted by the judge, will be valid until the final hearing of the Safety Order or Barring Order applied for. They cannot be applied for independently of an application for a Safety Order or Barring Order.

The application process for an **Interim Barring** order, again most usually in the District Court, involves the victim telling her story in an affidavit (written pre-sworn formal statement) or brief sworn information in prescribed form. They may be assisted by the court clerk in doing so. A copy of this document will be given to the respondent at latest after the hearing. An interim barring order may be granted without the knowledge of the respondent (ex parte) but

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<sup>17</sup> Task Force on Violence Against Women (1997) *Report of the Task Force on Violence Against Women*.

he/ she must be served immediately with the order usually by Gardaí together with a note of the evidence and a copy of the affidavit or information. In the same way as a Protection Order an Interim Barring Order only takes effect when the perpetrator has been notified. A full hearing should take place within 8 days of the interim barring order being granted, at which the interim order may be confirmed. The respondent must be given notice of this second hearing.

An application for a **Barring Order** or **Safety Order** takes place in the District Court most usually and are each held in private, generally with both parties present. The respondent will be provided with a copy of the applicant's information or affidavit to review. The Judge has the power to hear evidence from a third party witness e.g. a Garda, but does not always do so. Each party gives evidence, and each can call witnesses to support their case and/or submit other evidence, such as medical reports.

#### **(How) is risk analysis undertaken?**

Currently there is no systematic risk analysis being undertaken in our courts nor are there official risk analysis tools in use across the broader legal system. Risk to the applicant is determined solely by the Judge where there is evidence that the safety or welfare of the applicant is under threat. The Gardaí currently do not conduct systematic risk analysis in cases of domestic violence either, however this is expected to be introduced in the near future. The Probation Service alone employs formal risk analysis tools in domestic violence cases. Where a person has been convicted of an offence involving domestic violence and awaits sentence, the Probation Service is tasked with analysing the level of risk that the perpetrator will re-offend for the court. The Probation Service policy on domestic violence says that Probation Officers must have knowledge of the risk factors associated with domestic violence when discussing a case with an offender. If an officer has received training, they must carry out the Spousal Assault Risk Assessment (SARA).

#### **For how long is it valid?**

A **Barring Order** when granted by the District Court can be made valid for up to three years, after which time an application to extend the period can be made. If a Barring Order is made by the Circuit Court there is no specific time limit as to how long it can be made valid for. If a Barring Order is granted to protect a dependant also it will usually be valid until that dependant has reached the age of 18.

A **Safety Order** can be made valid for 5 years by the District Court, and before the order expires an applicant can apply renew the order for a further 5 years or less. Similar to a Barring Order the Circuit Court can make a Safety Order with unlimited validity. Also a Safety Order put in place to protect a dependent expires once the dependant reaches the age of 18, they can then reapply for a Safety Order if they so choose.

**Protection Orders** remain in place until a decision has been reached regarding an application for either a Barring or Safety Order.

**Interim Barring Orders** will remain in effect for a maximum of 8 days „unless, on application by the applicant for the barring order and on notice to the respondent, the interim barring order is confirmed within that period by order of the court“<sup>18</sup>.

### **How is it monitored?**

When a domestic violence order is granted there is no formal monitoring mechanism in place to examine whether the order is effective or not.

Where there is a breach of said order, it is for the victim to make contact with the Gardaí, at which point the respondent to the order should be arrested where there is evidence of the breach. The breach of the order will be dealt with in a criminal (District) court.

### **What happens in case of violation?**

Under S.17 Domestic Violence Act 1996 if any domestic violence order is breached by the offender the Gardaí have immediate powers of arrest without warrant, also entry and search of any premises where the respondent is suspected to be. It is a summary (minor, ie District Court only) offence to breach a domestic violence order and anyone found to do so may be fined up to €1,904.61 or sentenced to a term of imprisonment of up to 12 months, or both.

Section 17 of the 1996 Act also determines it an offence if a respondent, “while a barring order or interim barring order is in force refuses to permit the applicant or any dependent person to enter in and remain in the place to which the order relates or does any act for the purpose of preventing the applicant or such dependent person from so doing”.

The offence of breaching a domestic violence order is heard in open court and any decision may be appealed. Note that in these criminal proceedings for breach, the victim has only the status of a witness for the State (prosecutor), she does not have any independent status or legal representation, though she may well have the support of a trained accompaniment support worker.

## ii. [Interrelation of emergency and other protection orders in Ireland](#)

Emergency Barring orders are currently unavailable in Ireland, as described previously there is work being undertaken to introduce this mechanism, however the Domestic Violence Act 1996 does make provision for the granting of temporary Protection Orders or Interim Barring Orders.

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<sup>18</sup> See section 4 of the Domestic Violence Act 1996 as amended (see reference supra for weblink to full text)

While an applicant is waiting for a safety or barring order application hearing, a protection order may be automatically granted for the intermittent period, which will then be reviewed at the next court appointment for a full application hearing. A protection order holds the same power as a safety order, in exceptional cases an interim barring order may be granted to immediately remove the violent offender from the home.

There is no interrelation between barring orders and safety orders, having a safety order does not guarantee that a barring order will be granted, nor does not having a safety order before applying for a barring order hinder the application.

However, upon application to the court for either domestic violence order, the applicant must be certain as possible of the suitability of a particular order to their case; a court can only grant an order that was applied for. If an applicant realises that for example a safety order would be appropriate to their situation but has applied to the court for a barring order, the applicant may not be granted any order and instead have to file a new application.

- iii. [Alternative measures for separating victim and offender \(e.g. \(interim\) detention of perpetrator, known as remand in custody in Ireland\)](#)

The *Non Fatal Offences against the Person Act 1997* is relevant to cases of domestic violence particularly where the couple are not married or cohabiting. Under the 1997 Act which is a criminal act, a person can be charged with the offence of assault, assault causing harm or serious harm, or with the offence of making threats to kill or cause serious harm. Other offences that a person can be charged with under this Act are coercion, harassment or endangerment. Gardaí have the power to arrest an offender where there is sufficient evidence, however it is unlikely that bail will be refused pending trial for any of these offences.

Depending on the facts, a perpetrator may also be charged with any sexual offence or offence against children. However, only a few persons accused of a sexual offence are likely to be denied bail until their trial, if any.

In civil family courts, 'undertakings' by the perpetrator may be offered as a substitute for a full hearing and possible court order. An undertaking is a promise given that he (for example) stay away from the victim, or refrain from using violent behaviour towards the victim. If the undertaking takes the form of a promise given on oath before the judge (a "sworn" undertaking), it has the force of a court order, breach of which is regarded as contempt of court, a criminal offence. However, no power of arrest can be attached to it. Some solicitors might encourage women to settle for an undertaking from the perpetrator in order to avoid a full court hearing; however, it has become apparent that many perpetrators hold no regard for

the consequences of breaking an undertaking. Without a power of arrest, enforcement is difficult.

Finally, in non-family civil courts, it is possible for an applicant victim to begin civil proceedings against the violent partner in respect of the torts (civil wrongs) he committed, such as assault, and in the course of those proceedings for „civil damages“ (monetary compensation), also to apply for a court order known as a civil injunction restraining the violent partner from doing whatever is specified in the order – committing further violence e.g. The procedures involved are relatively lengthy and complex, failure to achieve the desired result puts the applicant at the financial risk of having to pay the other side’s legal fees as well as her own, the court hearings are held in open court, and for these reasons they are undertaken rarely. These proceedings are not examined or discussed further in this Report.

**c. Implementation and data**

i. Data sources and statistics - description of available national data

The Courts Service publishes statistical information on domestic violence orders applied for and granted in the previous year. Because of the in-camera rule in family law cases the information available to the public is quite limited. Irish Family Courts were opened to reporting when the *Civil Liability and Courts Act 2004* was introduced and allowed a relaxation of the in-camera rule, and limited media reporting on family law cases was permitted.

Unfortunately, information regarding the gender, age or ethnicity of the applicant is not collected, neither is information on specific needs of applicants. Data is available on breaches of domestic violence orders, how many were prosecuted, withdrawn or struck out. No demographic information on respondents is collected by either Courts Service or CSO.

The latest data available from the Courts Service relates to 2015. In total there were 14,374 applications under the domestic violence legislation – a 6% increase on 2014.

**Evaluations and studies – what was carried out?**

There is no quantitative evaluation of the domestic violence legislation, the orders it provides for and implementation of those orders in Ireland. There has been research on domestic violence in Ireland in more general areas (the nature and experience of women) and there has also been research on the domestic violence and the legal system and policy context in Ireland, however rarely has the focus been on domestic violence orders specifically, and even less often has attention been focused on women with specific needs women and their experience with domestic violence orders.

In 1997 a Government appointed Task Force on Violence Against Women published a report exploring the extent and nature of domestic violence, developing a national strategy, and the barriers victims faced in Ireland to achieving a remedy. The Report included numerous recommendations for the improvement of law enforcement and legislation on domestic violence, some of which have been implemented such as the widening of eligibility criteria for orders to include those with a child in common and other recommendations that have not been implemented to date, e.g. monitoring of the domestic violence legislation. The report does not elaborate specific measures for marginalised groups of women, though it identifies the need for them.

In 1999 a report commissioned by Women's Aid, *Safety and Sanctions*, explored the experiences of women throughout the legal system and aimed to generate baseline quantitative and qualitative data on how domestic violence cases are processed in Irish civil and criminal justice systems, particularly court outcomes and outcomes of Garda action. The report does not specifically focus on the experience of women with specific needs, vis a vis domestic violence orders.

Also in 1999, the Law Society's Law Reform Committee advocated for reform of the domestic violence legislation. It surveyed all members (lawyers) who had relevant practical experience and focused attention upon shortcomings in the legislation, making recommendations for positive change.

The Garda Inspectorate report on Crime Investigation<sup>19</sup> examined the Gardaí's response to domestic violence and provided an insight on the domestic violence legislation in practice by the Gardaí. The report uncovered the failure of the Gardaí in some cases to follow their own Domestic Violence policy. SAFE Ireland's recommendations from research conducted in 2013 resemble those of the Law Reform Committee's 15 years previously; the same issues need to be addressed. Most recently in 2015 SAFE Ireland launched a report<sup>20</sup> which examined women's experiences of seeking legal remedies to domestic violence and abuse in the Irish legal system. This report and another on the criminal justice response to domestic violence victims, are discussed briefly later in this Chapter.

### **Duration until decision?**

Waiting times in courts vary across the country. The Courts Service reports that the time taken in 2015 for domestic violence applications to be heard in the family law court/ district court ranged from the next sitting day for urgent interim applications (all District Courts) to a 9 week wait for full (non-interim) applications (in one District Court). Overall 16 District Courts heard

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<sup>19</sup> Garda Inspectorate (2014)

<sup>20</sup> Lawlessness in the Home, SAFE Ireland (2015)

domestic violence applications at the next sitting of the court, while the remaining courts heard applications in some places within a week to, as previously mentioned, 9 weeks in another.

**Table 1 District Court Waiting Times shown in Weeks<sup>21</sup>**

<b>Court Location</b>	<b>Domestic Violence Applications</b>
Athlone	2
Ballina	N/S
Bray	1-3
Carlow	12
Carrick-on-Shannon	N/S
Castlebar	N/S
Cavan	N/S
Clonakilty	2-4
Clonmel	2-5
Cork	8
Donegal	4
Dublin	12
Other	
Dundalk	4-8
Ennis	5
Galway	1
Kilkenny	4-8
Letterkenny	5
Limerick	9
Longford	1
Loughrea	N/S
Mallow	N/S
Monaghan	N/S
Mullingar	N/S
Naas	2-4
Nenagh	N/S
Portlaoise	N/S
Roscommon	N/S
Sligo	N/S
Tralee	4
Trim	8-12

<sup>21</sup> Taken from Court Service Annual Report 2013

Tullamore	N/S
Waterford	N/S
Wexford	N/S
Youghal	N/S

### Number of applications / decisions?

Applications to the District Court under the domestic violence legislation increased by 6% to 14,374 from 13,528 in 2014. There was a 2% increase in applications for safety orders (5,626 as compared to 5,499 in 2014) and a 16% increase in applications for protection orders (5,108 as compared to 4,406 in 2014). Applications for interim barring orders showed a 5% increase (731 as compared to 699 in 2014) while applications for barring orders showed a slight decrease from 2,671 in 2014 to 2,638.

The following table includes a summary of the orders applied for and granted by the District Court in 2015.

Table: District Court Domestic Violence Trends 2011 to 2015:

<b>District Court: Domestic violence: Trends</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>2012</b>	<b>2011</b>
Barring order applications	2,638	2,671	2,738	2,789	2,763
Barring orders granted	859	877	1,167	1,165	1,043
Protection order applications	5,108	4,406	4,529	4,192	3,403
Protection orders granted*	4,225	4,024	4,142	3,849	3,085
Safety order applications	5,626	5,499	5,334	5,026	3,755
Safety orders granted	1,917	2,029	2,381	2,255	1,513
Interim barring order applications	731	699	674	648	731
Interim barring orders granted	563	569	522	520	569
Other applications	271	12	-	-	-
Orders granted	263	0	-	-	-

\*Some interim barring orders were granted on foot of applications for protection orders. Likewise some protection orders were granted on foot of interim orders.

In terms of percentages of orders granted, it will be seen that many more temporary or interim orders were granted than long-term orders in 2015 in the District Court. Expressed as percentages, 83% of PO's and 77% of IBO's sought were granted, while 34% of SO's and 33% of BO's sought were granted in that period.

There were 50 applications for DVA orders in the Circuit Court in 2015, 3 more than in 2014.

### Who applies for orders, who receives orders?

Information on the demographics of applicants or respondents of orders is not available from the Courts Service.

**Rate of violation – type of violation:**

The Irish Government Draft Response to CEDAW list of issues dated July 2016<sup>22</sup> reported recorded breaches, those which get as far as court, and convictions. The type of violation is not recorded by the Central Statistics Office so is not included. The following tables summarise figures from 2013 to 2015:

**Table A: Breach of Domestic Violence Order recorded by An Garda Síochána 2013-2014** – source: *Draft Response to CEDAW List of Issues 4 July 2016, Department of Justice and Equality (latest available)*

Year	All	Breach of Interim Barring Order	Breach of Protection Order	Breach of Barring Order	Breach of Safety Order
2013	1,459	41	451	358	60
2014	1,728	54	559	428	68

**Table B: Outcomes of Breach of Domestic Violence Orders 2013 - 2015 in Court** - source: *Draft Response to CEDAW List of Issues 4 July 2016, Department of Justice and Equality*

For all Orders	2013	2014	2015
<b>Total Overall</b>	1,136	1,344	1,532
<b>Total Convictions</b>	289	320	357

Note: If an offence received more than one order it appears twice on report  
 Note: Query is based on offence code but if free text code was supplied, it would not be reported on.

Total convictions for 2015 were 357, a 24% increase on 2013 (289). The most common sentence on conviction over each of the three years was wholly suspended sentence, in 2013: 102, in 2014: 115, and in 2015, 120.

<sup>22</sup> Available online at: [www.upr.ie](http://www.upr.ie)

- ii. Results of evaluations and studies and additional information concerning statistics

### **Research about the decision making process**

In principle, a Safety Order will be granted when the court considers there are reasonable grounds to believe that a person's physical/ psychological safety/ welfare is at risk. In the case where the applicant and the perpetrator are not married or in a civil partnership the following factors will be considered

- The length of time the people involved have lived together.
- The type of duties carried out by either person for the other or for their family.
- If any payment or other consideration was made by one person to the other for living expenses.
- Other matters the court considers appropriate in a particular situation.

At present there are no guidelines for granting orders under the *Domestic Violence Act 1996*. The Law Reform Commission (1999)<sup>23</sup> observed the lack of uniformity across the court system in relation to orders. The Law Society Survey from 1999<sup>24</sup> also found that there was considerable variation between the evidence considered satisfactory for granting an order by different judges, 15 years later SAFE Ireland research<sup>25</sup> from 2014 also supports this finding.

### **Connection / interrelation of orders with other legal measures or support systems**

Under Section 9 of *Domestic Violence Act 1996*<sup>26</sup> Irish Courts have the power to deal with other issues such as maintenance, custody or access, conduct leading to the loss of the family home, child care orders, and restriction on the disposal of household chattels along with the issue of application for a domestic violence order without have to initiate separate proceedings. Also, since 2015, a judge making a decision on an application for an order in child-related proceedings (custody, access, maintenance e g), must do so in the best interests of the child or children concerned. The list of factors to be considered in deciding what is in their best interests, includes for the first time any "household violence", (*Children and Family Relationships Act 2015*).

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<sup>23</sup> Law Society of Ireland, Law Reform Committee, Domestic Violence: The Case for Reform (May 1999).

<sup>24</sup> Law Society of Ireland, Law Reform Committee, Domestic Violence: The Case for Reform (May 1999).

<sup>25</sup> SAFE Ireland (2014)

<sup>26</sup> *Domestic Violence Act 1996* s.9

iii. How effective are orders?

The 1997 Task Force on Violence Against Women Report included a priority recommendation that “appropriate mechanisms should be put in place to enable the operation of the *Domestic Violence Act, 1996* to be monitored and kept under review in order to gauge its effectiveness in dealing with the victims of domestic violence”. There has been no official review by Government of the effectiveness, or consistency of implementation, of this Act to date, however it has been amended a number of times.

Research and commentary on domestic violence and the legal system in Ireland has been forthcoming from the Law Reform Commission, Women’s Aid, Amnesty International, the Crime Council and a number of smaller reviews by academics in the field, however little attention has been paid to the actual effectiveness of domestic violence orders for women. SAFE Ireland have conducted qualitative research into the effectiveness of the legal system as a whole from first point of contact with the Gardaí through to court hearings<sup>27</sup>. It showed that in some areas where policy was followed by the Gardaí, and DVA orders were granted and enforced, the system worked well for women. However, in other areas where practice was not so good, applications for DVA orders were denied or breaches of orders not investigated or sanctioned. It became apparent that Gardaí were sometimes unsure as to what constituted a breach of an order and thus refrained from arresting an offender. However, it was beyond the scope of this research to determine the effectiveness of domestic violence orders throughout the whole system, or for women with additional vulnerabilities or specific needs.

The Garda Inspectorate Crime Investigation Report<sup>28</sup> (2014) examined crime investigations, and uncovered some disturbing examples of domestic violence investigations by the Gardaí. The Inspectorate found that there was a clear difference in the service provided to victims where a DVA order was in place already, and where no such court order existed. It was noted that an arrest is unlikely to take place unless there is a barring order in place. Where a domestic violence crime had clearly taken place but there was no order in place, the report states that there was very little evidence of positive action being taken, instead Gardaí advised victims to apply for a domestic violence order. It is fair to say that it is not always possible to make an arrest if there is no order in place and therefore no breach, or if the evidence does not appear to be strong enough to constitute an *arrestable* offence. However there was evidence that arrests were not always made where they could have and should have been: “The sample conducted by the Inspectorate shows that out of 10,373 DVSA [domestic violence sexual assault] calls, only 247.. calls had a ..result recorded as Prisoner to Station (PTSN)...<sup>29</sup>” The Report goes to say that arrests were generally made in domestic violence cases for a breach of a barring order rather than for a crime such as assault.

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<sup>27</sup> Lawlessness in the Home, SAFE Ireland 2015, available online at [www.safeireland.ie](http://www.safeireland.ie)

<sup>28</sup> Garda Inspectorate (2014)

<sup>29</sup> Garda Inspectorate Report on Crime Investigation (2014), page 150, available online at [www.gsinsp.ie](http://www.gsinsp.ie)

**Implementation: What do we know about it? (basis: evaluation, studies, data, statistics)**

**Main problems – any information about specific needs victims?**

As previously stated there has been no large quantitative study carried out on the effectiveness or implementation of domestic violence orders and this is also true of the implementation of these orders in cases where victims have specific needs. It is difficult in Ireland to ascertain information on women with specific needs and domestic violence as generally this information is not collected.

The CEDAW committee has requested that the Irish Government provide in the 4<sup>th</sup> report 'comprehensive statistical information on the types and frequency of violence against women, including domestic violence, the number of complaints brought by women and the results of investigations'. While the report by the Irish Government does provide information on domestic violence there is no information included on the types of violence experienced by women, and/or on any additional specific needs. Comprehensive research has not been carried out to determine the extent to which women with additional specific needs, related for example to a disability or to membership of a minority community, , experience domestic violence in Ireland.

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The 1997 Report of the Task Force on Violence Against Women<sup>31</sup> advised that "Violence and abuse of women occurs in every group in society, among the young and the elderly, among Traveller and settled women, among women with disabilities, among migrant women and women from ethnic minorities, among lesbian women, prostitutes, and women suffering from AIDS/HIV. Discrimination can create further barriers in giving women options and support to leaving violent partners".

One of the key elements in developing a national strategy on domestic violence for the Taskforce 1997 was to take the needs of marginalised women always into account in the implementation of policy and practice<sup>32</sup>. Cosc, the National Office for the Prevention of Domestic, Sexual and Gender Based Violence, now has overall responsibility for the development and implementation of this strategy. *The 1<sup>st</sup> National Strategy on Domestic, Sexual and Gender-based Violence 2010 - 2014*<sup>33</sup> was published in 2010. It included actions to identify and promote suitable State service responses to domestic and sexual violence for vulnerable or high-risk groups (including Travellers, people with a disability, older people, migrants, and young people). The midterm review<sup>34</sup> of the strategy did not include a progress update on this action.

<sup>30</sup> Submission of the Irish Human Rights Commission to the UN Committee on the Elimination of Discrimination Against Women

<sup>31</sup> Task Force on Violence Against Women (1997) *Report of the Task Force on Violence Against Women 1997*

<sup>32</sup> Amnesty International (2010)

<sup>33</sup> Cosc (2010)

<sup>34</sup> Cosc (2012)

The 2<sup>nd</sup> *National Strategy on Domestic, Sexual and Gender-based Violence 2016-2021* also includes similar actions.<sup>35</sup> To date, there has not been any new action or activity progressed in relation to these groups under the 2<sup>nd</sup> Strategy.

The former National Steering Committee, established by recommendation of the Taskforce, was tasked with undertaking research and needs assessment nationally, and to examine policy and practice perspectives of all women including marginalised women. This research has not been undertaken to date. The NSC has now been replaced with a new National Strategy Monitoring Committee.

Although no specific study has been carried out on the implementation of DVA orders in Ireland, common themes can be traced across other research with regard to the implementation of DVA orders for some women with specific needs. Relevant findings will be discussed below.

### **Ethnic Minority Women and Traveller Women**

Travellers are an indigenous, predominantly European, ethnic group. The 2011 Census<sup>36</sup> indicates that there are 29,573 Travellers in Ireland, accounting for just over half of one per cent (0.6%) of the total population. Travellers are seen as a distinct community with a differing culture, value system and traditions to the majority of the population, leading a nomadic lifestyle, with strong familial networks and strong ties with the Catholic faith. Travellers are acknowledged as one of the most marginalised and disadvantaged groups in Irish society.<sup>37</sup>

The Women's Health Council<sup>38</sup> conducted research into the impact and nature of domestic violence affecting ethnic minority and Traveller women in Ireland. Although their study did not focus on DVA orders, it did uncover some issues with the enforcement of barring orders by the Gardaí for Traveller women. Traveller interviewees felt that domestic violence was seen as a part of Traveller culture by the Gardaí, and this reduced their motivation to enforce barring orders. The research recounts the case of one Traveller woman with an interim barring order who was unable to get Gardaí to respond to a breach, leaving her in great danger. The All Ireland Traveller Health Study<sup>39</sup> also found that access to DVA orders for Traveller women was a major concern.

Watson and Parson's 2005 study on domestic violence in Ireland also contained insight on the experience of Traveller women applying for protection under the *Domestic Violence Act 1996*. Focus groups with Traveller women revealed issues with access to protection. Similarly to the

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<sup>35</sup> Insert weblink for 2<sup>nd</sup> National Strategy

<sup>36</sup> Central Statistics Office (2012)

<sup>37</sup> Allen and Forster (2010)

<sup>38</sup> Women's Health Council (2009) Women's Health Council (2009) *Translating Pain into Action, A Study of Gender Based Violence and Minority Ethnic Women in Ireland* Accessible at: [http://www.womensaid.ie/download/pdf/whc\\_gender\\_based\\_violence.pdf](http://www.womensaid.ie/download/pdf/whc_gender_based_violence.pdf)

<sup>39</sup> UCD (2010) *All Ireland Traveller Health Study, Our Geels*. Dublin: UCD.

Women’s Health Council research Traveller women have little faith or trust in the legal system to protect them due to prejudices they have encountered in the past.

The willingness of the Gardaí to enforce a barring order is not the only issue faced by Traveller women in Ireland. Allen and Forster found that Traveller women may face multiple barriers to getting an order in the first place: Traveller women are usually a part of a tight knit family lifestyle, which places emphasis on the sanctity of marriage and women may be surrounded by family members who do not want to see the marriage fail. This discourages her from seeking protections and encourages her to stay in the abusive relationship. Literacy issues may also make it harder to get a DVA order, as there may not be anyone to help complete the forms. Women also identified travelling to and from town with their children to complete the application process, as well as waiting for ages in court to be heard, as obstacles.

Families within the Traveller community often live very close to each other, often on the same halting site. This is very difficult for a woman who has a barring order in place against a perpetrator living close by. One woman from Allen and Forster research explained that although she had a barring order which banned her husband from their caravan, he simply moved to another bay of the same halting site and continued to harass her. Exchange House Travellers Services<sup>40</sup> also identified difficulties with enforcing barring orders, particularly on halting sites.

### **Migrant Women**

Residency and visa issues make it harder for migrant women in violent relationships to get protection. In Ireland it is often the case that a woman’s residency status may be dependent on her spouse and that status is obviously based on the continuation of the relationship. Nasc the Irish Immigrant Support Centre among others successfully campaigned for reform of the system to allow domestic violence victims the opportunity to leave a violent relationship without fear of deportation. As a result, the Irish Naturalisation and Immigration Service Ireland published guidelines for changing the residency status of migrant victims of domestic violence.

The Women’s Health Council research<sup>41</sup> found that some migrant women were unable to have DVA (barring) orders enforced. For instance, one migrant woman was granted an interim barring order, was then told to return home alone and inform the perpetrator that there was now a barring order in place against him. For a migrant woman in Ireland without friend or family support, this was an extremely isolating and dangerous experience.

### **Women with a disability**

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<sup>40</sup> Exchange House (2007) Domestic Violence: Developing a Response, Available on: [www.exchangehouse.ie](http://www.exchangehouse.ie)

<sup>41</sup> Women’s Health Council (2009)

There is as yet no research on the effectiveness of DVA orders for women with (any kind of) disability in Ireland. In 2001 a study was undertaken on behalf of Women’s Aid<sup>42</sup> on the feasibility of research in this area and found that violence against women with disabilities shares features with violence against other women in the sexualised nature of much of the violence, the multiple forms of violence used and the intentional use of violence as a means to gain power and control by the perpetrator. Wilson found that there were also multiple barriers that may prevent women with disabilities accessing protection due to a number of factors including difficulties in naming and identifying abuse both by women and service providers; women’s isolation and low self esteem; poor attitudes among public service providers who may not believe women’s accounts of the violence against them; practices in NGO organisations that do not have the skills to work with women with disabilities; and issues of physical access to premises where services are delivered.

More recently the Irish Council for Civil Liberties have published a study<sup>43</sup> which highlighted protection gaps for people with disabilities who become victims of crime. The report does not focus on domestic violence victims, however. According to the report there are very limited specialised supports for these victims, whose quality of evidence may be reduced because of the disability, as they pass through investigative, prosecutorial and trial stages of the process. They also found that the lack of statistical information on victims of crime with disabilities in Ireland as striking when compared with other countries. Crime prevalence rates experienced by people with disabilities of any kind, do not exist in Ireland. Irish national crime surveys do not include people with disabilities as a sub group.

SAFE Ireland’s research<sup>44</sup> on women’s trajectory through the legal system seeking protection from domestic violence turned up an issue regarding barring orders and women living with a disability. One participant in the research had a disability which meant she depended on the perpetrator of her abuse as a carer. Because of the dependant nature of the relationship a barring order would not be practicable.

### **Older women**

Elder abuse in Ireland is not legislated for separately instead protection for individuals experiencing violence in a domestic setting may be sought under the *Domestic Violence Act 1996* as well as other criminal law acts applicable to the general population. The National Centre for the Protection of Older People (since dissolved) published a review<sup>45</sup> of the legislation in place to deal with elder abuse. The report details the components of Mental Capacity and Mental Health Legislation, Criminal Law, Civil Law, and the Domestic Violence legislation that may apply to elder abuse. It<sup>46</sup> argued that abuse of older women in a domestic or institutional

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<sup>42</sup> Wilson (2001)

<sup>43</sup> [‘International Review of Legal Provisions and Supports for People with Disabilities as Victims of Crime’](#)

<sup>44</sup> SAFE Ireland (2014)

<sup>45</sup> National Council for the Protection of Older People (2010)

<sup>46</sup> National Council of Aging and Older People (1998)

setting be treated separately other forms of adult abuse such as domestic abuse or abuse of people with learning disabilities. The NCAOP have also said that because of the distinct causal factors and manifestations involved in elder abuse, it is necessary to devise distinct interventions. They welcomed the introduction of the *Domestic Violence Act 1996*, noting the increase in older people applying for barring orders against adult children.

According to the Law Reform Commission<sup>47</sup> domestic violence legislation is more commonly used by or on behalf of spouses and children and does not seem to have been widely used by or on behalf of vulnerable older people. In 1999, it<sup>48</sup> proposed that provisions permitting parents or elderly relations to apply for protective orders against abusive relations or persons other than an adult child be introduced. These should include safety or barring orders against such relations or persons residing in the home and safety orders against those residing elsewhere

## Conclusion

The *Domestic Violence Act 1996* in Ireland was a welcome step in dealing with the problem of domestic violence in this country. It was a major improvement to previous responses; the first time in Ireland domestic violence was legislated for specifically and widened greatly the eligibility criteria. However, there has been criticism of the Act, especially of the over-restrictive eligibility criteria leaving some domestic violence victims ineligible for protection. There are also concerns around the lack of guidelines for Judges in the application decision making process.

Data collection is an area in which Ireland must improve. Amnesty International have noted that the prevention of domestic violence has been hindered due to the lack of information available. Data collection in Ireland is considered to be "inadequate and fragmented"<sup>49</sup>. It was further noted that data was primarily gathered via the Courts Service and An Garda Síochána crime statistics, and so has been considered to be very limited data collection. There is a clear lack of varied data from other possible sources such as doctors, emergency departments and so forth. According to Amnesty International these may give "a more accurate national picture of the prevalence and nature of violence women are experiencing".<sup>50</sup>

It can also be concluded from this report that there is a distinct lack of research on the effectiveness of domestic violence orders for victims of domestic violence in Ireland, or how they work for women with multiple specific needs. There has been relatively little research done overall in the area of domestic violence however, some small scale insightful studies have been completed. More are needed.

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<sup>47</sup> Law Reform Commission (2003)

<sup>48</sup> Domestic Violence: The Case For Reform, A report by the Law Society's Law Reform Committee (1999)

<sup>49</sup> Amnesty International, 2010, p.7

<sup>50</sup> Ibid

What can be deduced from the existing research is that the effectiveness of DVA orders relies on the willingness of the appropriate agencies to enforce them. The research also however uncovered instances where the system failed to protect women because of a lack of clear guidelines around the criteria necessary for granting an order, or what constituted a breach of an order.

Most recently, research carried out by SAFE Ireland into victims' needs in domestic violence related criminal proceedings looked at how breach proceedings<sup>51</sup> are dealt with, and recommended that all prosecutors of domestic violence should ensure that the charges brought reflected the gravity of what had happened. Sometimes what has happened warrants a serious criminal charge in addition to the minor charge of breach.

The totality of the research carried out in Ireland to date shows that women with specific needs, especially multiple specific needs, may actually be more susceptible to the system's failures.

What can be deduced from the existing research is that the effectiveness of DVA orders relies on the willingness of the appropriate agencies to enforce them. The research also however uncovered instances where the system failed to protect women because of a lack of clear guidelines around the criteria necessary for granting an order, or what constituted a breach of an order. The research carried out in Ireland shows that vulnerable women may actually be more susceptible to the system's failures.

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<sup>51</sup> INASC National Report, published by SAFE Ireland March 2016, available online at [www.safeireland.ie](http://www.safeireland.ie)  
 (INASC: Improving Needs Assessment and Victim Support in Domestic Violence related Criminal Proceedings)

## **2 Identification of specific needs and the application of protection measures (DVA orders) - the perspectives of practitioners, experts and some women**

### **Qualitative component of research**

This section of the report gives an overview of the qualitative analysis of structured interviews conducted with 10 women, 10 legal practitioners, and 13 support service practitioners (in DV victim support services and other specialist services supporting specific groups, for example migrant women, women with disabilities and Traveller women).

Women participants were all 18 years old or over on 01/01/2014, and eligible to apply for DV orders under the Domestic Violence Act (1996), as amended, between January 2014 and March 2016, and who had accessed a DV service. Women were recruited for interviews via SAFE Ireland network members across Ireland.

Practitioner participants included barristers, solicitors, Courts Service staff, and non-statutory support services personnel (Domestic Violence Services staff, psychologists and advocates). Practitioner interviewees were recruited through professional and other networks of contacts.

The interviews aimed to explore the effectiveness and appropriateness of DVA orders under current Irish law (the Domestic Violence Act 1996 as amended) to protect women with specific needs from further DV. The specific needs emerging from the interviews were examined under four predetermined headings which are not always mutually exclusive – accessibility, dependency, culture and situational vulnerabilities. The structured interviews also sought to elicit individual observations on use and adequacy of DVA orders for women with specific needs. Use and adequacy were examined under the themes of threshold, appropriateness, treatment by statutory agencies and effectiveness.

The rationale behind the qualitative interviews with practitioners and women was to provide in-depth and contextualised insights into how women with specific needs experience the Family Courts in terms of efficiency, appropriateness and outcome. The interview questions are both open and closed ended allowing practitioners and women the opportunity to speak about individual experiences of the process and immediate and medium-term outcomes. Both practitioners and women provide suggestions for measures or responses from State agencies that could improve experiences and/or protection outcomes for such women seeking protection through DVA orders.

All participants were informed of the research aims and objectives, planned use of their data and gave their explicit consent to be interviewed and recorded. Confidentiality and anonymity

is provided by anonymising data and no identifying information from the interviews is used in relation to any quote or reference in this report. Interview data was captured using templates to note and document interviewees' responses and in some cases interviews were recorded by two researchers with a third researcher writing the report without knowing the identity of the participants. Direct quotes from interviewees appear in the text in italics.

**a. Identification of vulnerable groups and specific needs: Which groups are identified and what makes them vulnerable in general and with regard to DVA orders?**

The qualitative research asked if practitioner participants had encountered, among clients during the research period, any of 16 specific needs that, in the context of DV and the DVA order process, could put the woman at risk of inappropriate, ineffective protection or no protection at all. Research participants were also asked to identify any further specific needs groups or hard-to-reach groups. The specific needs highlighted by the research are identified and examined under four general headings - accessibility, dependency, social and cultural norms, and situational vulnerabilities. The headings are neither mutually exclusive nor all-inclusive. Specific needs often present as complex needs situations, with women having several specific needs.

Among the participants, legal representatives are more likely than women or DV support services to view specific needs as universal. Under a universal view of DV, all victims of domestic violence are considered as having specific needs due to the coercive control dynamic, psychological and physical effects of victimisation, violence, and other abuse. Under a specific view, each victim is assessed individually, in accordance with Victims' Directive, Article 22, 'to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings'. Enormous personal resources are called upon to escape a controlling perpetrator and to assert one's right to legal protection, during what may be a period of escalating risk of violence. Specific protection needs are equally likely to be present during the civil DVA order process as under criminal proceedings.

No specific need is found to be unique to any one population group, although participants do identify certain social, religious and ethnic population groups as having specific needs. In terms of policy formulation, identifying ethnic or culturally defined population groups as having specific needs endorses segregated services and stereotyping or profiling. However, where a universal view of specific needs is applied, it is incumbent on the policy maker to attend to the diversity of needs. The finding here is that specific needs exist independently of population group. Any focus on special measures for ethnic, religious or culturally defined population

groups could be to the detriment of the wider hidden or unlabelled population of women with similar specific needs. A strict policy focus on universality of need may eclipse rare yet acute specific needs.

Solicitors and Courts Service personnel working with victims of domestic violence who participated in the research noted that they cannot speak about those people who do not approach them. DV support services raised concerns about a wider range of specific needs than legal and courts representatives. Some generalisations were made with reference to distinctive population groups. Examples include Traveller women being noted as being likely to apply for temporary DVA orders and being unlikely to follow through to permanent orders. Roma women and Muslim women are noted as being under-represented as applicants for DVA orders in proportion to population size. The research attempts to extrapolate from the experiences of women who do approach the courts and DV services the specific needs of the hidden population who are unwilling or unable to reach the courts or DV services.

### Examples from the research

The four headings show that specific needs of victims may be pre-existing needs, may be created/exploited by the perpetrator or, created by the DVA order process. These are important contextual distinctions in the assessment of specific needs. Specific needs can be very closely related to the main obstacles that victims must overcome in order to apply for DVA orders. Obstacles or weak points in the protection system have a significant impact on the extent to which the instruments are accessible, effective and appropriate for victims with specific needs.

#### i. Accessibility

This heading could include women who have specific needs with respect to physical and practical access to Gardaí, court and Courts Service, domestic violence services and refuges, and to continued support services. This heading could also include isolated, rural, migrant, and older women; women without independent access to transport for essential journeys; women whose movements and/or finances are controlled by the perpetrator; and women who cannot communicate fluently in English language (written or spoken); and women living in communities where local Gardaí are non-responsive to DV. Inaccessible protections are inappropriate and ineffective protections.

Participants provided examples from their experience that expanded upon the criteria proposed by the research questions, adding examples for the existing criteria and new specific needs.

Table: Accessibility

<b>Accessibility as identified in structured interview</b>	<b>Additional accessibility related specific needs as identified by participants</b>
Language difficulties: poor command of English and/or other communication difficulties	<ul style="list-style-type: none"> <li>• Women who need interpreters;</li> <li>• Women with literacy issues;</li> <li>• Women with hearing impairment;</li> </ul>
Transport difficulties, defined as having no independent means of transport for essential trips	<ul style="list-style-type: none"> <li>• Women without freedom of movement;</li> <li>• Women living in isolation (women without trusted confidante, rural isolation, women working for the perpetrator/in home/on farm);</li> <li>• Women living in non-integrated communities (closed social, institutional or ethnic groupings);</li> <li>• Women unable to access information, without knowledge of the system;</li> <li>• Women under financial control (no access to funds for independent transport)</li> </ul>
<b>Are you aware of any other specific needs related to accessibility</b>	<ul style="list-style-type: none"> <li>• Ineligibility due to dating or non-cohabiting relationship, including DV from non-cohabiting family members;</li> <li>• Women living in community where local Gardaí are non-responsive to DV;</li> <li>• Women who find the threshold for VSS or refuge too high (where based on local address, habitual residence condition (HRC), or PPS number);</li> <li>• Women who need emergency protection orders when courts are not sitting, and/or need 24/7 access to protection;</li> <li>• Women who cannot be accommodated refuges and emergency accommodation because there are insufficient places;</li> <li>• Women with fear of legal system and/or Gardaí and/or social services;</li> <li>• Women who experience discrimination or perceived discrimination by statutory or other services;</li> <li>• Women who are advised not to apply for protection orders;</li> </ul>

Access to transport is seen as a real difficulty for all women by all participants, sometimes due to the controlling nature of the perpetrator, and due to additional financial concerns imposed by the process. The court process, including applications for maintenance, custody and access, will require repeated attendance over many days and many meetings with lawyers. Access to court can be made even more difficult by the perpetrator after a DVA order is granted,

especially where the woman has limited freedom of movement and no independent access to transport and childcare. Freedom of movement is often a real concern for DVA order applicants.

Local availability of refuges and services, including 24/7 availability are important themes in terms of access.

*"She says she would be dead without the high level of support that she got from the local DV support service and refuge, some of which was beyond the normal expectations of services."*

The counselling process, for women and children, is seen by practitioners as very important to the success of the DVA order, both prior to, during and following the court hearings.

*"I also think that children affected by DV should be treated professionally for it without delay, and this should be routine and should be integrated with DVA order systems and with custody and access applications and other aspects of family law, and parenting courses for the parents, where necessary. This is what social work should be, not with a view or the threat of the children being taken into care, ... acknowledging that this affects children and that they may need some support from outside the family unit to survive it less scathed than how we leave them now."*

Access to support, which is typically provided by non-governmental organisations, and interpreting and sign language for support services, are not always reached by all women and children. The EU FRA data says that only 24% of women in Ireland who had experienced physical or sexual violence by a partner had made contact a doctor/health centre or health institution, 21% had made contact with the Police and only between 8%-12% had made contact with a Shelter or Victim Support Service.<sup>52</sup> DV support services have different outreach models, and most have developed an informal interagency network for referrals and try to meet women in the place that she nominates as safest for her. Travelling to meet a woman requires more resources in terms of travel and time but is crucial in terms of access.

*"We can reach everyone if they reach us first – isolated communities – rural areas, homes with one car or no car. We can and do travel to meet her but she needs to contact us first. Middle aged women in rural communities have difficulty accessing services. If they can say something to the GP, they might reach us that way."*

The use of interpreters was highlighted as a concern for women needing a minority language interpreter and women needing sign language interpreters. While an interpreter may be available, advance notice is needed by the courts, and concerns were raised about the impartiality of some minority language interpreters. Also it was noted that an interpreter is less likely to be able to impart nuance, tone and detail as successfully as the first person.

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<sup>52</sup> EU Fundamental Rights Agency, <http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

All access issues may be seen to be exacerbated for women who do not have the support of their extended family. Women living in isolation are women without a trusted confidante or supportive community and may include individual women in both rural and urban settings, women living/working on farms, and women who work at home. Migrant women living in non-integrated communities or living in cultural isolation also face additional issues of accessibility.

*"If women can't get to a DV services and get entry there how can other agencies work with them on their other issues, such as addiction. We need to be part of the change not re-enforcing the barriers for women with specific needs."*

*"Until our client came to the refuge she was not aware of DVA process/DV legislation in Ireland. The perpetrator of violence against her had accessed the DVA process himself against our client. Our client had been very isolated and controlled within the relationship and her understanding of English was minimal as was her spoken English. Interpreters were utilised throughout the DVA process and without them it would have been extremely difficult for our client to navigate the process."*

Courts Service can and do support people with disabilities and people with language or other communication difficulties when they come to court, if supports are requested in advance. Women with literacy, hearing and language support needs were seen as unlikely to be able to access required information and support services independently, and to need additional supports throughout the process. However, where the applicant has not already reported to the Gardaí or been in touch with a victim support service, these supports are unlikely to be requested in advance and therefore may not be available.

Emerging from this research are a cohort of women who are being advised that, despite eligibility for DVA orders, there is no point in applying.

*"The court clerk told her that she wouldn't get the DVA order as she had not come forward sooner and had withdrawn earlier orders."*

Barring orders in particular, and also safety orders, are perceived by some participants as being infrequently granted, and therefore not worth applying for.

*"Women in general not just women with specific needs, are finding it increasingly difficult to convince courts that they should get even a safety order not to mind a barring order."*

A situation is described where it is no longer the judge that is making the protection decision as a filter is introduced before the case gets to court. Perceptions of difficulty are not backed up by statistics (as such court statistics do not exist) and may be preventing women from protection. The absence of statistics and monitoring in Ireland is an issue, as are the assumptions that cannot be tested due to lack of such data.

ii. [Dependency](#)

This heading could include women with disabilities; women with diagnosed mental health conditions; women depending on a carer perpetrator; women dependent on partner for maintenance or legal right to remain in the country; women with dependent children; women with dependent perpetrator; women with no housing alternative or at risk of homelessness; women without a trusted confidante.

Table: Dependency

<b>Dependency as identified in structured interview</b>	<b>Additional dependency related specific needs as identified by participants</b>
Insecure living situation where woman is dependent on perpetrator for home, does not own home, wholly or mainly financially dependent on perpetrator	<ul style="list-style-type: none"> <li>• Women with no housing alternative;</li> <li>• Women renting from the Council or RAS scheme where perpetrator's name is on tenancy agreement;</li> </ul>
Dependency on others (including perpetrator) for everyday tasks (such as washing, dressing, eating, housework)	<ul style="list-style-type: none"> <li>• Women dependent on perpetrator for childcare;</li> </ul>
Extra care needs related to old age	
Perpetrator dependent on woman for care needs and/or financially	
Physical disability (can be more than one)	<ul style="list-style-type: none"> <li>• Women with hearing impairment;</li> </ul>
Intellectual or learning disability	
<b>Are you aware of any other specific needs related to dependency?</b>	<ul style="list-style-type: none"> <li>• Mental health issues;</li> <li>• Women with dependent children;</li> <li>• Women with children with disabilities;</li> <li>• Women dependent on perpetrator for legal right to remain in country;</li> <li>• Women highly dependent on perpetrator, (money, language, access to information, freedom of movement);</li> </ul>

Practitioners and women participating in this research spoke of the impact of complex dependency needs. Women who are highly dependent on a carer or perpetrator (for example, for delivery of essential medication, for legal leave to remain in the country, for physical assistance with essential daily tasks, for assistance with learning disabilities; for parenting

assistance) are likely to have specific needs under multiple headings. Dependency has a direct effect on accessibility and attrition for women with multiple-vulnerabilities.

DVA orders are found to be inappropriate or make lives more difficult for specific groups of women.

*"Women who cannot instruct solicitors, women who cannot afford Legal Aid, women who cannot describe their situation to the judge so that the full extent of their situation is not clear, women who are too acquiescent in the witness box – women who are not legally represented – the Legal Aid (lack of) problem is huge – women who are not allowed by judge to submit written evidence who cannot speak for themselves."*

The costs of legal representation and the lack of appropriate and available free legal aid is a repeated concern across all specific needs. Women with disabilities require specialist legal representation.

*Access to a capable lawyer with a good understanding of disability issues, is a bit of a lottery. Accompaniment services need to have specialist knowledge to do a good job with disabled clients; and disability services don't want to know very often, about DV in intimate relationships. We end up fulfilling a lot of roles including supporter and accompanying person, but we cannot be formal advocates in courts and we are not 'appropriate adults' either."*

It is observed that women with mental health and acute housing difficulties do not follow through with longer-lasting safety or barring orders because they do not have enough support at the time of application. More inter-agency work (and training for inter-agency workers) could assist highly-dependent women, who may not be accessing the DVA order process or completing beyond temporary protection order due to lack of support or under duress in a position of high dependency on the perpetrator. Skilled support workers should be routinely available to accompany and advocate for women.

*"They would have big problems accessing housing especially supported housing, and also problems accessing family supports very often. Also very importantly, several abusive partners were doing essential tasks for the disabled person, e.g. to do with childcare and self-care, housework and so on."*

It is noted that the effectiveness of a DVA order is dependent on the conscience of the perpetrator.

*"Effectiveness of DVA Order as a deterrent often comes down to the conscience of the perpetrator"*

It is also noted that in cases where the woman remains psychologically coerced by the perpetrator, the victim is more likely to avoid or fall-out of the process.

*"It seems to depend on the extent to which they get support, from DV services in particular, and also on the extent to which they have distanced themselves psychologically from the violence. I have met a few that just go for the judicial separation, and aim for a clean break without particularly pursuing the DVA aspect,*

*and the opposite, where there are many applications in the DC for DVA orders and others. I notice that the women who have been through the District Court looking for DVA orders are more ready to face judicial separation and have come through and past the violence, very often, whereas the ones who are seeking judicial separation alone, tend very often to be the ones that are still psychologically subjugated to the offender and really cannot face confrontation about the violence.”*

In the short-term, making an application for DVA order can increase abuse and trigger retaliation from the perpetrator, making the application period a time of increased specific needs for the victim. Additional DV and interagency supports at this time can help women to apply for and follow through with the process to achieve longer lasting and more effective protection.

*“We need to start from a position of understanding that we, who work in the system, are making a very bad situation, less bad. To believe we are curing it entirely, is to be naïve and unrealistic. We cannot change the fact that the perpetrator has and is committing acts of violence and abuse towards his partner and/or children. We cannot change his behaviour or that he believes women are deserving of it.”*

Various attitudes to the meaning and application of the law are held by individuals at all levels of responsibility in the process, with serious implications for women throughout the process. As in the section on accessibility, where women are seen to be advised not to apply for orders for which they are eligible, here a legal professional does not believe that enforcing the law and granting legal protection against future DV can impact perpetrator impunity. Individual members of the Gardaí, Courts Service and the legal profession are also seen to have a remarkable impact on attrition, and the inappropriate attitudes of individual legal representatives, Gardaí, and judges must be addressed by training.

Women with dependent children (and dependent children with disabilities) have further specific needs. They must also negotiate with the perpetrator, in the best interests of the children, entitlements to access, custody and maintenance, all separate legal processes. Women with several or many children are seen to be reluctant to go for DVA orders, or may avoid application until the DV is extremely severe and alternatives have been exhausted. The threat of losing the children to the perpetrator (abduction) may be a deciding factor, especially in non-national families, where the threat exists that the children could be taken out of the country by the perpetrator or his family. It is noted that children may be initially a deterrent and eventually a catalyst for making a DVA order application. Women with children often wait longer before making a DVA order application, and this step may only be taken as a result of the children speaking about or becoming involved in the DV.

### iii. Cultural norms

This heading could include some groups of women living in non-integrated or closed communities; some Traveller women; women who live within a culture where domestic

violence is regarded as acceptable; women at risk from their own family for reporting perpetrator; women who live within a culture that does not allow or punishes attempts at recourse to justice; women who live in a culture where relationships are valued over the individual; women in cross-cultural relationships; women without trust in Gardaí. Further cultural issues that occur are threat of bride-price repayment; community or church mediation and decision making; violent repercussions for hurting male pride including feuding and honour killing; threat of curse being placed on victim and her family.

Table: Cultural norms

<b>Cultural norms as identified in structured interview</b>	<b>Additional cultural norm related specific needs as identified by participants</b>
Women who live in a culture where DV is normalised/expected	<ul style="list-style-type: none"> <li>• Women living within communities where religious or other community imposed leader or sanction resolves domestic violence;</li> </ul>
Women at risk of expulsion/punishment from cultural group if they pursue DVA orders or breaches	<ul style="list-style-type: none"> <li>• Women living in culture where separation or divorce is not accepted;</li> <li>• Women at risk of repercussions, reprisals, retaliation from perpetrator or community;</li> <li>• Women at risk of losing children (abduction by father's family);</li> <li>• Women at risk from own family for reporting dv;</li> </ul>
Membership of marginalised group (Travellers, Roma, LGBT, other)	
<b>Are you aware of any other cultural norm related specific needs?</b>	<ul style="list-style-type: none"> <li>• History of DV in current relationship;</li> <li>• Women who need to be in lasting, romantic, monogamous relationship;</li> <li>• Women living with/married to non-national men, women in cross-cultural relationships;</li> <li>• Women living in or coming from well-known or influential families, with diplomatic immunity, and/or with influence on Gardaí in Ireland or elsewhere;</li> <li>• Professional women, women who deliver support services (Gardaí force, army, social services, etc.)</li> </ul>

Cultural norms exist in all societies and have many implications on the effectiveness and appropriateness of domestic violence protection orders. Cultural norms also play a role in whether or not a victim identifies her situation as DV; is stigmatized by DV; and the extent to which she is free to report DV; is isolated from support; trusts the Gardaí; follows up on reporting DV to achieve legal protection; and whether she reports any breaches to DVA orders. From the perspective of the perpetrator, cultural norms may influence attitudes to female equality, sexual control, coercion, violence, alcohol use, financial control, and ultimately his respect for Gardaí and courts. It is observed that groups of women certainly exist that are effectively excluded or severely limited in access to legal protections, and that interventions and resources to reach these women are not in place.

A research bias exists towards those women who have come forward, disclosed violence, and applied for DV orders. In addition to this bias, it is clear that DV support services and refuge staff have a more diverse experience of women with cultural norm related specific needs than legal practitioners and Courts Service personnel do. This may highlight the fact that these women are under-represented in terms of accessing and achieving legal protection, or that these women went forward for orders, but a lack of needs assessment by Gardaí, legal representatives, and/or Courts Service meant that these needs went unnoticed at this level. While DV support services staff all raise concerns about diverse groups of women without access to legal protection, Courts Service personnel have less experience of hard to reach groups and respond that they can only speak as to what they observe. A concern is also raised that a limitation of the family law court process for DVA orders is that it may not encourage a full understanding of the role of cultural norms and less well understood forms of DV, and that judges lack training in this area.

Where the victim identifies that she needs help, cultural norms may restrict or prevent her accessing DVA orders. Of the hard to reach and ethnic minority groups that do approach services, some, including asylum seekers, Traveller, Roma, Muslim and West African women, are identified as actively avoiding the legal process or being restricted by their communities from the legal process. The restrictions can be related to freedom of movement but are more often cited as pressure from the community to deal with the situation within the community and a distrust of Gardaí and courts. A religious or community leader may become involved as a *de facto* mediator, and not always in the best interests of the women and children. Alternative means of resolution, such as kangaroo courts, are also noted. The community motivation may be related to distrust of the Gardaí and courts or higher trust in a community or religious leader; maintenance of harmful cultural traditions and beliefs; and/or belief that wives and children are the property of the husband/father/community. The motivation of the woman in these cases is often to avoid punishment, usually in the form of permanent exclusion or exile from her community or ethnic group as an unavoidable result of legal protection. In such cases, the DV is likely to reach extreme or life-threatening violence before external supports and DVA orders are sought, and Gardaí are less likely to be the first option.

Professional women are also identified as being hard to reach. It may be hard for professional women, particularly where they work in jobs delivering the social, health and justice services, to identify their situation as DV.

*“The stigma attached to applying an order is universal – no one wants to acknowledge or admit that their partner abuses them.”*

iv. **Situational or circumstantial vulnerabilities**

This heading includes temporary specific needs at the time of the violence and/or at the time of the DVA order being sought. Temporary specific needs could include pregnancy, insecure accommodation; prescribed accommodation; active addiction issues; perpetrators with alcohol or substance abuse issues; immigration status issues; mental health issues or trauma as a result of domestic violence; negative social consequences of making a DVA application; women or children with suicidal tendencies; women at risk of losing custody of children; women who do not receive counselling prior to court proceedings who may be judged negatively in court by undertrained judges; and/or women with criminal or prostitution background.

Table: Situational vulnerability

<b>Situational vulnerability norms as identified in structured interview</b>	<b>Additional situational vulnerability related specific needs as identified by participants</b>
Women with immigration status issues, including status dependency, fear of loss of status, undocumented	<ul style="list-style-type: none"> <li>• Women who fail to satisfy the Habitual Residency Condition (HRC)</li> </ul>
Women during pregnancy	
Women with active addiction issues	<ul style="list-style-type: none"> <li>• Perpetrator with active addiction issues (substance or alcohol misuse, prescribed or non-prescribed drug misuse)</li> </ul>
Women with criminal record, women involved in prostitution	<ul style="list-style-type: none"> <li>• Perpetrators with criminal connections, criminal record, previous convictions</li> </ul>
Women with psychiatric or psychological diagnosis	<ul style="list-style-type: none"> <li>• Perpetrators with psychiatric or psychological diagnosis</li> <li>• Women with mental health issues</li> </ul>

<p><b>Are you aware of any other situational vulnerability related specific needs?</b></p>	<ul style="list-style-type: none"> <li>• Women at risk of losing custody of /access to children, in fear of reporting DV to social worker;</li> <li>• Women living in prescribed accommodation (e.g. living in direct provision /halting sites /local authority housing);</li> <li>• Women under coercive control, duress or intimidation during process;</li> <li>• Women or child at risk of suicide;</li> <li>• Women who have not attended counselling prior to court process;</li> <li>• Child sexual abuse alert in case;</li> <li>• Women with no housing alternative;</li> <li>• Women with complex needs;</li> </ul>
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In addition to negatively impacting the victim’s ability to access protection, situational vulnerabilities may be used as part of the perpetrator’s tactics to isolate, frighten and coerce the victim. DVA orders are less than adequate for women with situational specific needs in a variety of ways. Examples from the research include vulnerabilities relating to mental health, pregnancy, immigration status, accommodation, women or children with suicidal tendencies, child sexual abuse. The demands of the court appearance and process on women in these situations can be overwhelming and court outcomes for women with situational vulnerabilities are perceived to be poor.

*“We are pro-active with our approach for our court based service, we have a clinic for the courts, there is follow on and support provided. The ongoing support and court advocacy does have an impact as women are more likely to follow up with issues and are taken more seriously”*

Mental health issues, including trauma as a result of the DV and active addiction issues may compromise the victim’s credibility or articulacy in court. It is noted that the victim and perpetrator must face each other in court, often having a negative impact on the victim’s ability to comprehensively describe her situation to the judge. Victims who have not accessed support prior to the court process and/or who are not accompanied by a trained advocate throughout the process are at a significant disadvantage in terms of outcome. Participants point to the lack of initial and continuous training for judges and Gardaí on DV as a contributing factor to poorer outcomes for these women.

*“Women with mental health issues can have difficulty facing change, more vulnerable to guilt inducing behaviour of perpetrator e.g. abandoning their duty to their husband or son, the conditioned role.”*

Women with active addiction issues are likely to find it more difficult to break away from the perpetrator and may experience lack of understanding from Gardaí and Judges. They may fear approaching the Gardaí if they are using a controlled substance or have had previous

experiences with the Gardaí. The connections between DV, mental health issues and addiction may not always be well understood or assessed.

*"I have experience of clients who themselves have substance abuse issues, who find it difficult to break away and also difficult to handle the legal process, i.e. giving instructions and being in control generally - these clients might not do so well in court if they don't present themselves well - I feel they are judged negatively in court sometimes."*

Pregnancy is frequently cited during the research as a period of vulnerability to increased DV. Pregnancy at the time of the DVA order being sought is also a situational vulnerability. During the research period, every research participant had encountered in their professional capacity women pregnant at the time of DV and/or the DVA order application. What stood out for the research participants was the frequency and severity of physical and sexual violence during pregnancy.

*"Violence against women who are pregnant really stands out to me – it happens when a woman is in her weakest state – for an onlooker like myself, it stands out. I think it makes women more aware of the violence and its possible effect on the unborn child."*

Women without family support also run a greater risk of homelessness. Women who are in state-provided or institutional accommodation, such as asylum seekers living in Direct Provision Centres, face additional barriers to avail of DVA orders. These women cannot consider alternative accommodation and may be required to remain with the perpetrator and their children in a single room or mobile home situation. Inability to leave or transfer from prescribed accommodation (such as halting sites, local authority housing or direct provision centres) or inability to find alternative private accommodation can prevent a woman from distancing herself physically from her perpetrator, making protection orders, if granted, impossible to apply. Accommodation is shown to be a cross-reaching element in achieving DVA orders, as it may determine access, dependency, cultural norms and situational vulnerabilities. There is a general shortage of affordable housing in Ireland at present, and homelessness is increasing. Refuge places across the country are an invaluable resource for thousands of women annually, but places are insufficient in relation to demand, and also, a temporary protection.

Asylum Seekers in Ireland live in privately run and managed hostels under a system called Direct Provision. There is little oversight of management, and staff are generally untrained in DV issues. Participants report residents living in fear of punishment by the management and fear of deportation or loss of status. Traumatized families live in small single rooms for many years, in large, overcrowded, and isolated institutions. Members of victims support services or the general public are generally not allowed access. Asylum seekers are not allowed to seek employment. There is a culture of not reporting matters to any authority and DV goes unnoticed, disregarded by the management, or dealt with by the DP system. Women in this

situation may be regarded as having many specific needs, usually including at a minimum language, isolation, cultural norms and fear of the authorities.

*"We are highly concerned about the safety of women in direct provision. It is not easy to access the centres and reach the women. There is no attention paid at an official level to the dangers of DV for women in direct provision. For example, staff in the centres have no training at all on trafficking issues, and as far as I know, none in DV issues themselves. Now we are exploring what we can do to help train them."*

There are many aspects of the legal immigration status process that may impact upon the effectiveness of DVA orders. Spousal dependence or joint/family applications for any form of visa or citizenship are perceived as a significant hurdle. It is difficult to change an application that is already in process or to separate a joint application into two separate applications. In most cases the right to remain in the State belongs to the main applicant (work, study and asylum visas, citizenship applications) and family members may fear losing the right to remain if they no longer live with the main applicant. Most visa applications will be put in jeopardy if any party to the application breaks the law, and women seeking DVA orders may be perceived by the community as sabotaging the perpetrator's visa or citizenship application. These are seen as deterrent factors for migrant women who might otherwise wish to apply for DVA orders.

*"In migrant families when the family court issues an order against the father maybe there should be simultaneous order preventing the partner or husband from removing the children from the State. Immigration controls on exits from the country should be tightened up when someone is travelling alone with the children – the officials should demand to see official permission from the other parent. The woman is trapped often with Stamp no 3 which prevents her from working and usually has very little income on which to survive she has limited rights to social welfare, and this can be the case even when she comes from a country from which a visa is not needed to enter Ireland. The loneliness and the lack of support is enormous."*

The Habitual Residence Condition is a requirement to prove right to reside and habitual residency in Ireland as well as sufficient connection to the State in order to qualify for social welfare payments and child-benefit payments. Irish citizens, European citizens and all people coming to live in Ireland may be affected by the HRC. Some of the negative effects of the HRC noted by participants are barriers to accessing refuges, council housing and housing schemes, and social welfare payments.

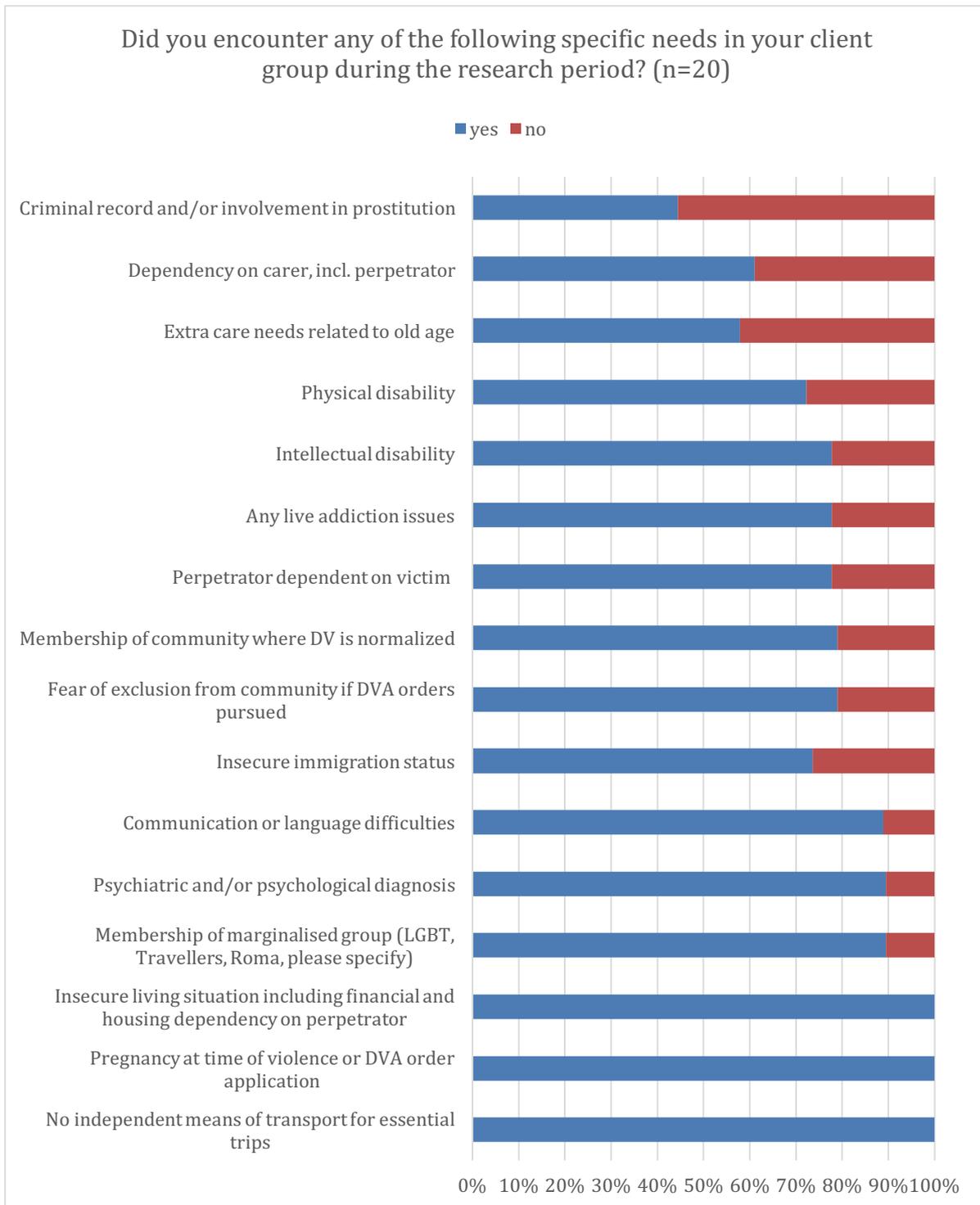
*"Women with additional barriers would find it more difficult to access services and support, this may lead to women staying longer in a violent relationship and there are impacts their help seeking processes, that take them longer to access the supports they need. Barriers to moving out of relationship and their choices maybe more limited and complex."*

Further examples noted by participants of situational vulnerabilities arising out of DV include PTSD, suicide risk (women and children with suicidal tendencies), child sexual abuse within



the context of the DV, depression and anxiety, damage to children’s emotional welfare, pre-existing homelessness, and homelessness as a result of DV. All of these specific needs are situational vulnerabilities that may also have complex effects in terms of access, dependency and culture, and are further negative social consequences of entering and following the DVA order process.

Table: Nature of Specific Needs. Did you encounter any of the following specific needs in your client group during the research period?



## b. Analysis of use and adequacy of DVA orders for SNVs

### i. Threshold

Frontline victim support services speak of women experiencing DV who do not ever seek or gain DVA orders.

*"The people who most need these orders are often the most unwilling to apply for them."*

There are numerous barriers that prevent women from accessing DVA orders and the question is whether the threshold is too high? Why do women live with violence rather than seek legal protection? It is clear from this research that many women live with violence due to fear. In very general terms, some of these fears are of the perpetrator and society, and some are of the legal process.

*"There needs to be a reduction in the level of fear of authority figures for these groups and generally for those who are being abused. A good initial response is crucial."*

*"There is fear in relation to the courts, telling one's story again and again, fearing the judge and fear of the consequences when the court is over. Women can be terrified of giving evidence, of being cross-examined by his solicitor. Sometimes it is as though he gets a slap while she feels dragged through mud and called a liar...so some women say 'what's the point?'."*

Addressing distrust of and fears of the Gardaí and of the legal process is a good place to start improving access for these SNVs. This requires closing information gaps, providing training on DV for judges, Gardaí and Courts Service, providing proactive outreach services that support women to report DV, establishing interagency support structures throughout the legal process, guaranteeing access to counselling and advocacy throughout the process, eliminating legal financial costs, and making courts physically and locally accessible for all.

*"If there were more supports with them or a simpler process for reporting breaches e.g. if one contact person deals with a case, it is good to have consistency."*

Implementing individual risk assessments and safety plans for SNVs and increasing the SNVs voice in the process can help victims and reduce future DV.

*"The children were taught a safety plan in the refuge, this did help them as we had to travel to court in different parts of Ireland and they were able to use the plan they were taught."*

Increased violence following disclosure and application for DVA order is a reality for many applicants and risk and individual specific protection needs must be assessed and monitored.

*"There are women who are less likely to apply for fear of the response they may get. A good few women who could have pursued an order figure that it is not worth her life, culturally where she is coming from the expectations on the value of her life are so low."*

Information can be a key to protection. Women do not always have access to reliable information, prior to or during the process, for many reasons including control of access to information by the perpetrator and poor practice by relevant agencies. Information is not always available in a fully accessible and understandable format at an accessible point of contact or first point of disclosure. Participants speak of Gardaí advising them verbally to contact the local DV support service. This practice does not fulfil rights to receive information as to their rights or their case in a manner which can be understood by the victim taking into account their language, intellectual and emotional capacity, literacy or any disability.

*"They are unsure of what a safety order means, that ignorance stops them applying for DVA orders"*

Participants speak of women experiencing DV who are not eligible for DVA orders. Women who are in or were in a dating relationship with the perpetrator, including women in non-cohabiting relationships, who have not had a child together; and women who experience DV from some family members are ineligible for DVA orders under Irish law. In addition to this, some categories of women cannot access all refuge services, for example those women who do not have Habitual Residence Status or a PPS number. Situations also arise where women are referred to the Courts by the Gardaí, only to find that they are not eligible for DVA orders.

*"There is a problem with Gardaí sometimes telling women they are entitled to apply for an order when this is not the case, they can get very upset when we explain that to them."*

The threshold or entry level to DV services, refuges, Gardaí, legal aid, and DVA orders can be a barrier to legal protection. Research points to the crucial role that all of the services play in accessing protection. Reducing all thresholds, which may require increased resources in places, e.g. refuge spaces, is key to improving access to DVA orders.

Recent changes to the Courts means that DV cases in Dublin are no longer heard in the local or district courts and are heard in a specialist family law court in Dublin city centre. This has had an effect on access for women, who now have to travel out of their comfort zone.

*"Before there was a court you could go down to [district court house in the local area] but now you have to go to Dolphin House in the city centre and you don't know where you are going and you have to ask and you have kids. I know a woman who by the time she found it the court was closed and she went back to the situation she was getting away from. Maybe that was the day she was ready but unfortunately there is too much red-tape. And it aggravates them [the men] as well, he will be asking where she was all day and she can't tell him so it's putting the woman in a situation of danger."*

There is a perception amongst practitioners, supported to some extent by Courts Service statistics, that Barring Orders are increasingly rarely granted, and that women are being advised not to apply for a Barring Order at first instance, and to apply for a Safety Order instead. Where this is the case, a filter is in effect preventing the Judge from granting Barring Orders, the highest form of protection that the courts can offer, as a judge can only grant an order

that is specifically applied for. In the past, applicants would typically apply for all the orders for which they were eligible, and the judge decide which order was most appropriate on the basis of the facts. A shift to applying for a single order has been observed, effectively removing the judge from the decision as to which order is most appropriate. It is not known whether this worrying trend may be linked to the recent increases in both the threshold and the fees for the legal aid scheme.

*"Something needs to be done about the impact of the Legal Aid changes on this group as applying for Legal Aid is extremely onerous for many of them - €130 is quite a barrier, also it takes a lot for a woman in this group to be expected to make contact with a lawyer herself."*

Many of the key concerns noted by both practitioners and women who have experienced DV are around high thresholds for DVA orders and legal aid. This research also indicates that fear of authority, limited supports and information gaps also mean that women who are eligible for DVA orders and legal aid are not accessing them. Individual assessment of victims in order to identify specific protection needs is not in place. The system is failing to identify and overcome individual specific needs in relation to accessing legal protection, and consequently DVA orders are simply not accessible for many women with a wide variety of acute and complex specific needs.

*"For some women in our client group, any change even a positive change in their living situation is very frightening and it is hard for them to envisage a more positive living situation that is different to the one they are in now. Many of these women are survivors, that is, they have survived very difficult challenges in other areas of their lives, so they can often feel that they can survive the violence from their abusive partner too, and that going for an order is not worth the disruption and loss of his essential practical services (to mind the children, cook meals, do other essential tasks)."*

Thresholds do not just deter women from applying for DVA orders, they also exist within the system for those women who do apply for DVA orders. Women report withdrawing applications under duress. Questioning the woman by Gardaí or courts as to why she has not pursued a previous DVA order application assigns responsibility to stop abuse with the frightened woman.

*"A garda asked her 'Why did you withdraw your [previous] case?' She explained that her ex had driven her to the police station and sent her in 4 times to insist on withdrawing her statement."*

Thresholds described by victims and practitioners in this research relate to poor collection of evidence by Gardaí following breaches, a tendency for both Gardaí and judges to show leniency towards breaches, a preference by judges for sworn undertakings over DVA orders, a high refusal rate for BOs, and strategic use of counter orders by perpetrators.

ii. Appropriateness of DVA orders

The DVA order is intended to establish safety for victims through measures such as creating distance between the victim and the perpetrator and imposing restrictions on the perpetrator's contact with victims. Under what circumstances would a woman experiencing DV not find a DVA order appropriate? Fears of increased violence or retaliation, lack of respect by the perpetrator for the DVA order or the authorities, lack of alternative emergency or long-term accommodation, and fears around the effects of an application on the children are validated by participants. The fact that DVA orders can create situations of increased violence and additional vulnerabilities makes them inappropriate for some women.

*"To my mind there are usually negative consequences for all women granted a DVA order."*

The fact that the perpetrator will be read the complaint is an example of a specific fear for many women.

*"For all women, not just those with specific needs, the perpetrator seeing the information about the case made by the applicant can put that applicant at risk (respondents have a right to see it)"*

Orders based on establishing distance are inappropriate when housing alternatives are not available. Alternative accommodation is believed to be an issue in almost every DV case, and judges may be unwilling to provide a barring order where the effect of the order will be to leave one party homeless. People who live in State-prescribed housing will rarely be provided with a housing alternative if they leave. This group includes people in social housing, Travellers living in halting sites (small State-provided rural or urban sites with basic facilities set aside for migratory members of the Travelling Community), people living in refuges, homeless shelters, transitional housing and Direct Provision (prescribed long-term hostel-type accommodation for all asylum seekers in ROI). Moving house and leaving a community, whether in a forced or voluntary situation, is always stressful.

*"People will absorb the violence rather than risk isolating themselves."*

DVA orders may also be inappropriate for women who fear for their personal safety (or children's safety) due to continuing or escalating violence as a result of the order, where no risk assessment and safety plan is made, and whose personal security cannot be protected. Increasing appropriateness entails risk assessments and safety plans, improving Gardaí response times and record keeping, establishing a zero-tolerance policy to DV, prosecuting and increasing penalties for breaches, ensuring maintenance payments are made, and improving enforcement. Individual assessments to identify specific protection needs, as provided for in Article 22 of the Victims' Rights Directive, are not routinely carried out by any of the relevant State agencies, although the Gardaí aim to have these assessments in place by the end of 2016.

Women may be putting their own personal safety as a far lower priority where children are concerned.

*"Women with many children seem to be reluctant to go for orders, not least because as difficult as their lives are with the violence, they would be even more difficult without any assistance from the abuser with the children."*

Family members may also apply pressure on women not to apply for orders in order to avoid further violence or because the violence has been minimised or the impacts of the violence are not fully understood.

*"She was advised by her family and friends not to go ahead with a DVA order as it would just aggravate her ex and his family"*

*"Her family feel that her ex needs support so they feed him and do his washing. The focus on the DV is blurred within the family, minimizing the violence and the impacts, and she indicated that this was problematic."*

Participants were asked to rate the appropriateness of the DVA order process as a means of ensuring protection and safety for women with specific needs. A 5-point scale was provided with point 1 being the least appropriate and point 5 being the most appropriate.

Point 1: So inappropriate that the situation was made worse by DVA process

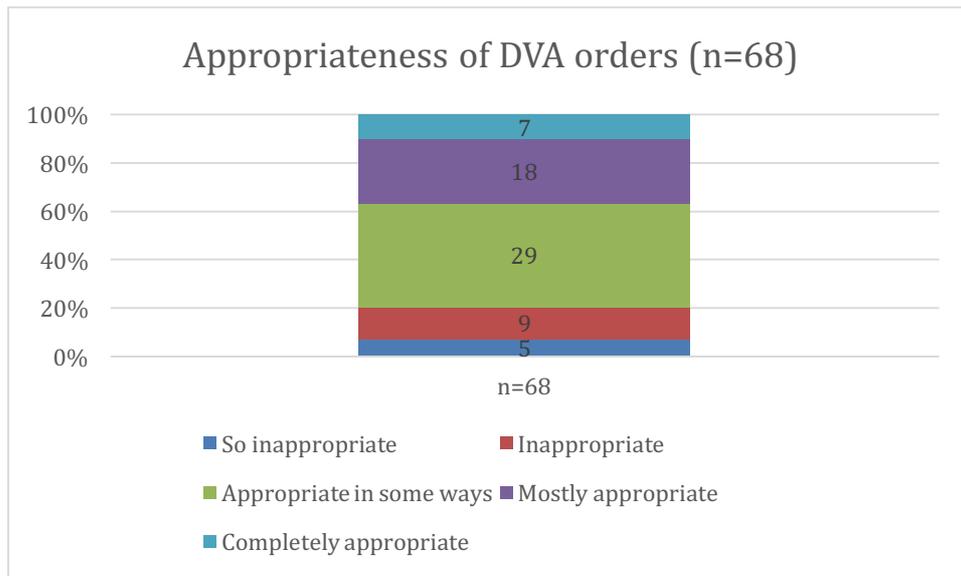
Point 2: Inappropriate

Point 3: Appropriate in some ways and not in others

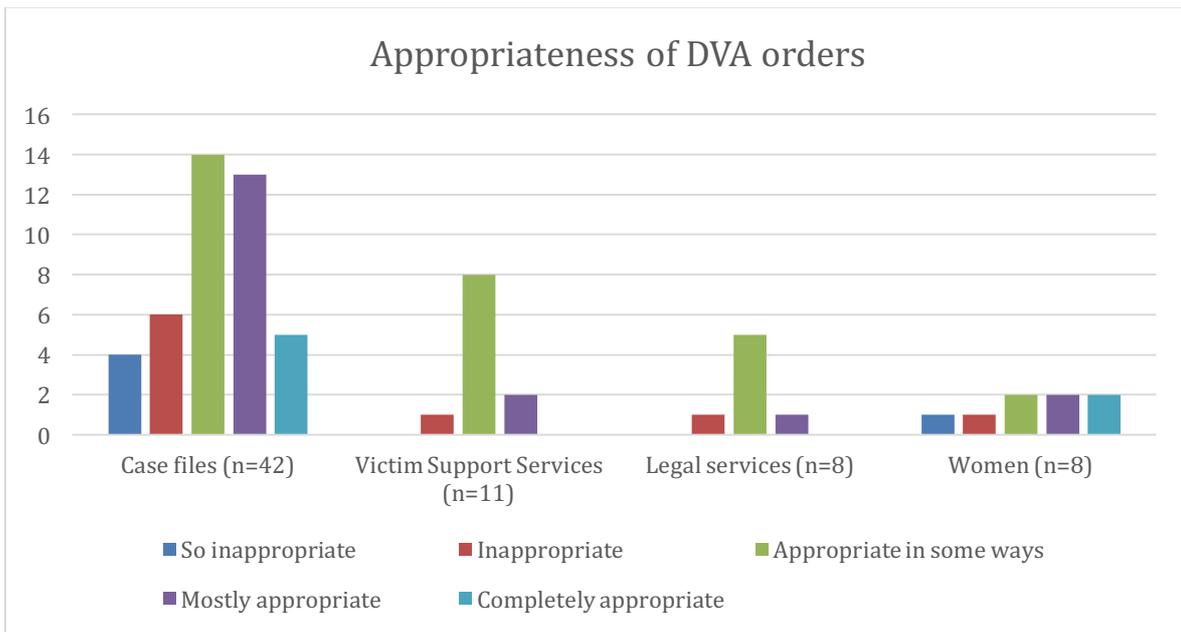
Point 4: Mostly appropriate

Point 5: Completely appropriate

Table: Appropriateness of DVA orders



- 1 in 10 women (10%) found DVA orders completely appropriate.
- 1 in 5 women (20%) found DVA orders inappropriate or so inappropriate that the situation was made worse by DVA process.



- None of the practitioners found DVA orders completely appropriate (point 5) or completely inappropriate (point 1).
- 70% of practitioners found that DVA orders were appropriate in some ways and not in others for this group (point 3).

iii. **Treatment of SNVs by statutory services: judges', Courts Service, Gardaí and legal representation**

Participants voiced concerns and criticisms at every level of the DVA order process. They also noted recent improvements and praised individual personnel. Systemic failures noted by research participants are many. These include the lack of needs, including risk assessment and safety management plans for victims; limited formalised inter- and multi-agency cooperation and communication; limited time in court given to hearing the details of the case; inconsistency in application of law and policy; lack of legal definition of domestic violence; lack of continuity or cohesion in application of law; absence of zero tolerance policy; lack of punishment for breaches; limits to free legal aid for victims. Participants in the research found that the legal system of DVA orders was in general not highly appropriate or effective for the specific needs of DV victims.

Consistency is the central theme that ties together every comment about Courts Service, judges and the Gardaí. Women who are experiencing DV need to know that they can implicitly trust the authorities and state services to be impartial and professional and apply the law consistently. One of the effects of inconsistency in practical application of law and policy is lack of trust in the Gardaí by victims. Another effect is that perpetrators may not respect the DVA order as served. The majority of participants gave examples of inconsistency in the practical application of policy. Recent improvements are noted, particularly in respect to the Gardaí. (A

new Garda policy on DV and a needs including risk, assessment model are being progressed, among several new positive developments.)

### **Judges**

DVA applications are generally heard in a District Court (the lowest court), in private. This means that there are few observers well placed to give an objective overview. Everybody present is a stakeholder, emotions run high and the situation is adversarial.

*"I think that regardless of specific needs, much depends on the judges' own interpretation of the law more so than on her needs or otherwise, and on judges' perceptions of how their words and actions would be viewed by High Court on judicial review. In protection orders, it is just the judge, the clerk and the applicant so no one has a barometer of what is a normal application – so consistency is always a potential issue – and rarely are there even lawyers present at this first stage. It is a bubble, with a black cloth around it, so that it is difficult to know what happens on all these applications and it is difficult for anyone to work out how the system might be made to work for oneself."*

The DVA order application may be made without the presence of the alleged perpetrator, and an interim decision may be made immediately. Safety orders, barring orders, custody, maintenance and access are also decided in the District Courts, and cannot be granted without the presence of the perpetrator. Appeals are heard in the Circuit and High Courts.

Several practitioners related incidents where judges behaved unprofessionally.

*"There was a stand-in judge who screamed at both of them. The judge questioned the woman as to why she was in Ireland. She was a UK citizen, queried her status and said 'get out of my court, I am the judge and you are a woman'. This behaviour has been reported through official channels."*

*"I feel our judges need more training in these issues generally. Some judges do not get the effect of e.g. sexual violence on women - I remember one judge who said to my client, "I bet you were enjoying it really "when she had suffered multiple rapes by her partner", and to another woman "your husband has had a lot to put with"."*

*"They can face very challenging attitudes from judges, inappropriate comments that seem to blame them rather than the abuser."*

The main observation was that women feel that they are not able to impart all the relevant information about their case and specific needs to the judge. Participants attribute this to the judge not asking the right questions, time pressure on the judge to decide the case, lack of language support, lack of preparation time spent with a legal representative, the adversarial context of the court, the lack of continuity in judges on subsequent court visits, or continued coercive control or intimidation by the perpetrator. The *inter partes* hearing can be very stressful, including the lengthy periods spent waiting in close proximity to the perpetrator for court appearances.

*"It depends on the response of the judicial system. Generally, women come out with a Safety Order, but a Barring Order would be more appropriate in cases, but hard to get. The man may be quiet in court, or many men nowadays seek counter orders"*

*"Incidents were handled in isolation in court so the history of her DV was not heeded which included high level violence. Sentences were suspended and partner went on to further breach and was jailed then. Her fear of partner hampered her greatly in court and she would have been helped if there was at least a screen between them. She chose not to use an interpreter but there were some struggles for her in responding to the counter allegations of her ex in court"*

*"She did not get enough time in court to tell her story although she got her order. She was asked two questions. On the day the judge had 70 cases and got through most of them."*

Crucial information about the context or extent of the DV on the individual and the children may be lost. Child protection needs and/or other issues in the case can distract from the domestic violence or render it invisible, and delay the case.

*"It depends on the specific need, some of the barriers are very real, such as an interpreter, etc. but those needs related to perceptions are harder to tackle. She may not be seen as a reliable witness by Gardaí or courts. DV comes off the table when anything else is in the picture."*

*"A Safety Order was granted after 15 months in court, the case was complicated by the child sexual abuse allegation and resulting access and custody and investigation issues. The legal and protection system were taken over with requiring evidence of the abuse and the court process was re-traumatizing. She was told that false allegations of CSA are commonly made by mothers. A full Barring Order would have been good initially."*

## **Courts Service**

The Courts Service is a management structure that provides support to judges, information on the courts system to the public, maintains the buildings and provides facilities for all users of the courts. Where victim support services operate a service in the courthouse there appear to be very good relationships with the Courts Service. Not all courts have a designated room where victims can meet in private with DV support services or separate waiting areas for victim and perpetrator. In most courts, the victim has to share the same waiting area with the perpetrator, creating privacy issues and opportunities for intimidation and re-victimisation. Many women are also meeting their legal advisor for the first time in this non-private environment, as there are rarely enough private consultation rooms. DV victim support services are non-governmental organisations with charity status and are under resourced. It is noted that victim support service workers can feel like guests in the court house and not an important part of the process, due to the lack of a formalised inter- or multi-agency approach.

Some participants voiced concerns that Courts Service personnel may be influencing women's decisions during the DV order application process through inappropriate comments. Courts Service personnel have told women that they will not be granted an order because they did not follow through with a previous application. Participants also claim that judges have refused to grant orders to women because they have not pursued a previous application.

The lack of privacy in the courts waiting areas is a concern, including having to queue and speak of confidential matters in public areas or through a hatch. This includes speaking to Courts Service and to legal representation. Childcare, or a child friendly area, are also not available. The perpetrator is likely to be waiting in the same area as the children.

As much as possible, Courts Service provide additional services to people with disabilities, language, hearing and literacy needs.

*"People with physical disabilities and people with language or other communication difficulties e.g. related to literacy, can be and are supported by Courts Service people as much as possible when they come to court."*

However, disability and communication needs are not always met, and interpreters are clearly not always available. There is a limited pool of minority language interpreters in Ireland and finding an impartial interpreter who does not know the perpetrator may not be possible. Off-site internet-based interpreter agencies are not used in court.

### **Gardaí**

Gardaí have a duty to investigate promptly and fully all incidents of DV reported to them, including those reported by a third party. They have a duty to obtain all available evidence and to record all incidents. They have powers of entry and arrest, including without warrant in certain circumstances, under the Domestic Violence Act, 1996, for example where the victim is someone who could apply for a barring or safety order. They also have powers of arrest where a breach of a DVA order is observed or an offence has been disclosed or complaint received. According to Gardaí policy on DV<sup>53</sup>, if there is likelihood of intimidation bail from the police station should not be granted, and Gardaí should object to the granting of bail in court. Gardaí have a duty to inform victims of supports and legal redress available to them, including addresses of statutory and non-statutory supports, and court procedures. They are also required to provide in writing their name and telephone number, and to contact the complainant within one month.

Consistency in the application of policy is noted as an issue for the Gardaí during the research period. Women who have repeatedly called the Gardaí or have had repeated DVA orders perceive that they are not taken seriously by the Gardaí. Women have been told that they are wasting Gardaí time by not leaving the DV situation, and believe that they experience slower response times in the event of repeated emergency call-outs.

*"I find the Garda response is very patchy depending on where you are in the country. Women often feel that Guards are judging them, putting the blame on the women and not taking them seriously "Are you going to leave them or do we have to keep coming out to you?" then in other places Gardaí can be very helpful, giving them great support following up the next day."*

Practitioners and women report that Gardaí do not explain their rationale for not making an arrest despite clear evidence of serious assault, or a DVA order being in place; that first contact responses with Gardaí can be poor; that Gardaí fail to collect evidence, or in one instance lost evidence; that Gardaí also do not always give clear information detailing available support services; that there is no single Garda contact throughout an application; and that Gardaí do

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<sup>53</sup> Garda Síochána (1996), *Garda Síochána Policy on Domestic Violence*, Dublin

not always follow-up DV cases at a later date. A more consistent and specialist response is required from Gardaí when women contact them in a DV situation.

*"A woman had an extended PO copy on her phone as her husband threw out all her documentation. The Gardaí disputed it was a valid PO but did not check their records. It was up to the woman to prove the order valid. Since then she has got a BO, but they work in the same factory."*

Participants also reported good experiences with Gardaí, including respectful feedback and ongoing contact. At least one participant reported feeling especially protected by inclusion in a scheme providing protection telephones to women, and referred to her house as being 'red flagged' in case of emergency. This woman made a clear distinction between poor responses of Gardaí in rural Ireland, where she had no confidence in Gardaí and "fantastic" responses in the capital city.

*"Knowing protection is there is massive and that the Gardaí are fully aware and responsive. 'It is a very difficult situation, don't know what I'd do without at PO, I hope to have a PO for another 5 years.' The house has been red flagged with Gardaí and this is reassuring too. 'I now have confidence in the Gardaí, before, (living in a rural location) I didn't.'"*

Gardaí continue to work with specialist victim support organisations in Ireland and across Europe to improve and update Gardaí around DV, intimate partner violence, sexual and gender based violence, child protection and needs and risk assessment. Recent austerity measures in Ireland temporarily closed Gardaí national training facilities and reduced available resources, hampering this work.

### **Legal representation**

Women speak highly of their legal representatives, who in some cases are the first point of information about DVA orders and DV victim support services. Women experiencing DV may approach a legal representative looking for a legal separation or divorce and be advised of eligibility for DVA orders. Conversely, women seeking DVA orders may be advised by their legal representative that DVA orders are difficult to get and that a legal separation or divorce may be easier to achieve.

Legal representation is expensive and DVA orders are time consuming.

*"Financial difficulties often follow a DVA order, because of the cost of proceedings themselves and the use of the court system – maintenance applications, access and custody are used to abuse her further. Access to court can also be very difficult for some women and made even more difficult in the wake of a DVA order being granted."*  
*"In particular those who don't meet the financial threshold for free legal aid but need a lawyer and who have to meet not only the DVA application costs but the access, maintenance, custody costs and for those to be successful the lawyers have to be able to spend time on them – take instructions, draft and settle proceedings and then hang around court for anything up to three full days to be heard."*

The threshold for legal aid is high, and even women who are eligible for legal aid may struggle to meet the mandatory payments.

*"Many women cannot afford the legal aid payments and so turn up to court without representation often facing the man who has a Counsel with him."*

Legal representation is highly recommended by victim support services for all DVA orders as it increases the likelihood of achieving legal protection, and may increase the likelihood that victims will understand and assert their right for legal protection, and follow through with the different phases where necessary. Women who cannot avail of a good legal representative may be disadvantaged in court in terms of lack of preparation for communicating their case clearly within the adversarial court room dynamic. Access to legal representation is not available for every woman, or is available only at the last minute.

*"Solicitors often meet the woman just before court hearing so are not prepared. There is no supporting evidence e.g. hospital note or GP letter. Victim Support Services often have to prompt women to get these documents. In my experience only one solicitor asked the service for a letter for court re: DV. Most never ask even where the woman is in refuge at the time."*

iv. Effectiveness of orders

*"I think it is hard to make anyone's life more difficult than it already is when their spouse or partner abuses and victimizes them with violence or the threat of violence. It is already as difficult as it can be because their partner is abusive and/or violent. Working from that starting point nearly all applicants' lives are made even more difficult, or a different kind of difficult by the order application process, at least initially. It makes their life difficult in a different way, and at least in the DVA order application there is the chance that in the long run may it may work out better for the woman. Some women are protected by the order, in that they report an improvement in perpetrator's behaviour."*

Effectiveness of DVA orders must be analysed on several levels, primarily whether the women granted them experience an end to or a reduction of DV, or other positive impacts. Participants also speak of women abandoning the process and returning to the perpetrator. Women are falling out of the system at every level and in many cases losing touch with victim support services. A DVA order may not be respected by the perpetrator, and may do little to change the control dynamic in the relationship, in the short or long-term. As this research has shown, DVA orders are hard to access, not always appropriate, and not granted lightly. After a lengthy and probably traumatic process, how can the effectiveness of legal protection be assured?

*"A woman with a first time order is likely to report a breach but a woman with a long term order, Safety Order or Barring Order, is less likely to report a breach due to Gardaí responses and the courts 'slap on the wrist' responses"*

A failure to respond effectively to breaches of the order by the perpetrator not only endangers the victim, but reduces victims' confidence in the protection system and encourages perpetrators to continue.

*"The perpetrator had much better English and could speak up for himself a lot better. The judge struck the breach charge out. There had not been enough time to arrange a translator at the time, in addition the fact that the breach of order was heard in court that is open to the public was also very intimidating for the client"*

Practitioners noted that they came across women who had been granted DVA orders but did not fully understand the terms of the orders. Examples given were women who did not realise that the order also included protection for the children, and that stalking or filming the woman constituted a breach. Women felt that they needed to enforce the order themselves, and that this was impossible in the circumstances.

*"There can be confusion amongst women about what constitutes a breach, women need to understand the terms of an order. Even the Gardaí may not deem an event as a breach. Court may give him another chance; it can be very inconsistent. If orders are not acted on straight away this reinforces a message that orders don't work"*

The reasons for withdrawing or discharging an order include retaliation (and fear of retaliation) from the perpetrator, fear of losing the children (custody and/or abduction), lack of support, challenges of court appearances, mental health issues, and financial cost.

*"The cost of the legal proceedings added to his almost inevitable refusal to pay maintenance for either her or the children and their ability to work and care full time for the children, puts all under financial pressure and makes even the wealthy poor"*

*"Sometimes, they are so fearful of the possible consequences for themselves of telling the whole truth in court that they downplay what happened to them"*

It is also noted that withdrawing or discharging an order may have a negative effect on any future application. This shows a lack of understanding among Gardaí and judges of the reality of DV.

*"My impression is that women who only get protection order in the first place and don't follow through, might find it difficult to convince the authorities that the violence is real and serious, if they come back later to look for a safety order or barring order."*

*"For victims that are dependent on the perp, especially where perp controls their movements, my impression is that DVA orders may not be terribly effective. The same applies to financial control by the Perpetrator"*

Participants note an increased use of counter orders, where the perpetrator counters the application by making his own application. Previous withdrawals of DVA order applications are also being used in court by the legal representative for the perpetrator.

*"After a serious incident she inquired about DVA orders but did not apply. After subsequent incidents she did apply for a Safety Order and the Court told her that her ex had gone to court himself to look for a Safety Order, custody and access. He had quickly made the application when she was in the refuge, threatening to remove the children from her. Her earlier inquiry about DVA orders and not going forward for an order at that time was used against her in court by his barrister."*

Participants were asked to rate the effectiveness of the DVA order process as a means of ensuring protection and safety for women with specific needs. Data on effectiveness was also collected from the 48 women whose case files are analysed in the next chapter. A 5-point scale was provided with point 1 being the least effective and point 5 being the most effective.

Point 1: Counter-effective, overall situation is worse post DVA order process

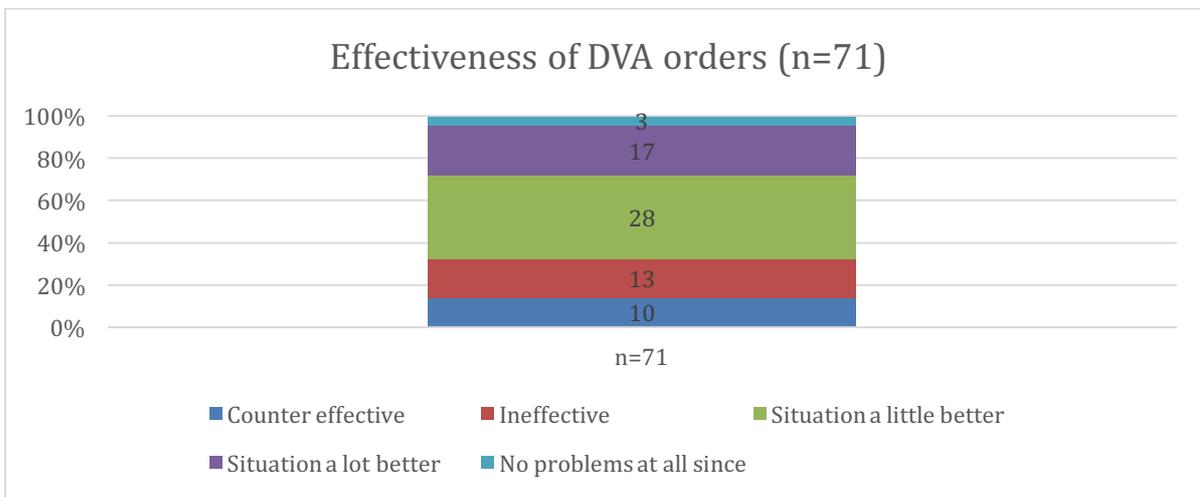
Point 2: Ineffective, situation as it was pre-DVA order process

Point 3: Situation a little better post-DVA order process

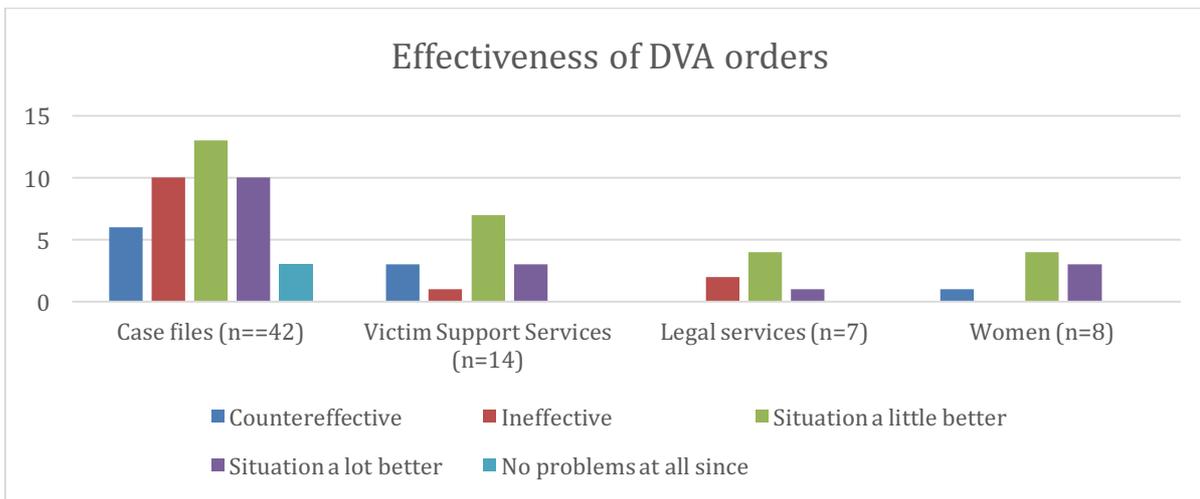
Point 4: Situation a lot better after DVA order process

Point 5: No problems at all post-DVA order process

Table: Effectiveness



- 3 out of 71 participants (4%) found DVA orders completely effective (no problems at all post-DVA order process).
- One in 4 (24%) found the situation a little better post-DVA order process.
- 39% of participants found that DVA orders were effective in some ways and not in others.
- One in 3 (32%) found DVA orders to be ineffective or counter-effective, with the overall situation the same or worse post-DVA process.



**The perspectives of the women with specific needs who were interviewed: a special focus**

The 10 women interviewees' perspectives on their experiences can be summarised below:

- ▶ **Fear** of the perpetrator and fear of the legal system inhibits women from seeking protection and also, there are information gaps and limited support.

Fear of repercussions from the perpetrator prevented one woman who was pregnant at the time from following through on a Barring Order application where there had been severe violence. Subsequently this made it harder for her to get a Safety Order or re-apply for a Barring Order, later. For another woman with a disability, her family and friends provided clear advice that she should not go further than an initial Protection Order, or it might be worse for her. The fear of the DVA process itself, and fear of involving the Gardai at all, was compounded for some women by the fear that social services would take their children away if they reported violence in the home to anyone.

It was clear that some interviewees did not always get information, or enough or appropriate information about the DVA order process from the Gardai whom they met. For several women who were not Irish, it was hard to grasp the whole DVA process, and/or understand the role of the Gardai or the support available from the local domestic violence service.

- ▶ Gaining a **DV order does not necessarily stop the violence** and can escalate it - An order is generally not a preventative measure

It was evident from the interviews that some perpetrators take no notice of a DVA order, and breach it with impunity; court proceedings and a possible criminal conviction and even custodial sentence are not deterrents for all perpetrators. However, some women did report that once the Safety Order was in place, there were no breaches. Most women who applied for them got a DVA order (usually a Safety Order), and most reported breaches of that order. Where the breaches resulted in conviction, the sentences imposed were mostly lenient; on some occasions, the breach was reported but the perpetrator was not charged with it.

- ▶ Women **get discouraged and lose faith** where breaches are not investigated or prosecuted, where evidence is not gathered, where leniency is applied by justice professionals and cases end in undertakings, not orders

It is hard for women to keep faith with the DVA process and with the Gardai after even one disappointing experience. A particular problem is that where perpetrators are arrested at the scene and detained by Gardai, they are usually soon released from custody, and there will be only be conditions attached to that release if they have been brought to court and charged with an offence which is not dealt with on the day but adjourned to a later date. Another difficulty reported is that Gardai did not always act on information that a breach had been committed, and sometimes when they did respond, they did so in terms of a warning only, not by a criminal charge. Some women reported that they themselves

had gathered evidence of the effects of abuse on children or of the aftermath of an assault to support their protection seeking efforts. Finally, not all court proceedings (whether for DVA orders or for breach) are resolved satisfactorily from the women’s point of view: women can be put under pressure to accept undertakings (which are not equivalent to court orders and do not have a power of arrest attached) in DVA order proceedings, and when a reported breach does reach Court, it may not result in conviction. If it does, the sentence is likely to be lenient. However, some judges do deliver appropriate penalties, and also, some Gardai do pursue criminal investigations for other crimes, such as assault, threats to kill, and criminal harassment.

- ▶ Some **attrition** could be said to result from the attitudes and advice of **professionals**

It is very daunting for a woman who has suffered severe violence and is in fear of more, to be told that she is unlikely to get a Safety Order, much less a Barring Order, because she felt unable to do so, due to threats to herself and her children, to go through with a previous application for a Barring Order. This is particularly the case where the woman is additionally vulnerable, e.g. through pregnancy, having one or more children with additional needs, and/or being a non-national without significant family and social supports. There seemed to be an attitude among some legal professionals that DVA orders are always hard to get, which is very discouraging to women in domestic violence situations and sometimes particularly so for women with identifiable additional vulnerabilities, or “specific needs”. There was a lot of pressure on women who were also seeking protection for their children and some women reported a level of suspicion of their motives and limited investigations and listening to children’s needs and experiences.

- ▶ **Affirmation of rights and having needs attended to** builds confidence to seek protection as well as building confidence in the justice system

There were several examples of very good practice to be found in the interviews, on the part of Gardai, judges and DV support service staff. These included regular contact from the Gardai and a compassionate and reassuring attitude from both the Gardai and the judges involved. Some Gardai were very good at explaining procedures and at providing information about support services, while some others did provide the contact details for the local DV support service but did not explain what they could do for the victim, and yet others did not explain the DVA process fully to the woman in the aftermath of a call-out to a domestic violence incident. Several women made very positive comments about DV services themselves, saying their confidence grew with the support from them over time and that confidence building approaches increased their confidence in their rights and willingness to access legal protection. There was one interviewee who felt that the DV support service approach, while very efficient, was a bit too formal and talked about just wanting to sit down and talk about her experiences – this was difficult to achieve. There were a number of women, particularly those with

psychiatric difficulties, who did not feel that the DVA process allowed for their specific needs and the effects of the abuse on them to be recognised and taken into account in court fully.

- ▶ **Individual assessment** of victims needs is not in place

While there is no formal needs assessment process for women in need of DVA orders, nevertheless there are some Gardai, judges and DV support staff who make every effort to meet those needs throughout any legal process, on an informal basis.

- ▶ **DV becomes less of a priority** when anything else is in the picture e.g. Child Protection, his mental health

Child protection issues seemed to “take over” the whole legal process once they were raised; and while they are paramount, nevertheless it seems there is often a failure to recognize the close relationship between children’s well-being and safety, and their experience of witnessing violence against their mother and/or being its victim themselves. It seems, listening to these experiences, as if the court’s attitude is that violence against the mother becomes less significant once child protection issues are raised. Another issue which often seemed to become the focus of the court hearing was any mental health difficulty on the part of the perpetrator; once raised, the court’s response tended to be positive and sympathetic, and the severe trauma caused to the woman and/or children by previous violence, seemed to diminish in importance. It did not seem to attract the same level of positive concern and sympathy, as the perpetrator’s difficulties.

## **b. How can DVA orders be improved?**

Research participants point to a number of systemic failures and omissions in the DVA order process, each one requiring a remedy. Suggestions from the research participants are summarised here and several of them are elaborated in the Conclusions section (Chapter 5).

### **i. Legal framework and implementation**

- Put in place needs assessment, risk assessment and safety management plans for victims;
- Formalise high level and local level inter- and multi-agency cooperation and communication;
- Increase time given to hearing the details of the case;
- Ensure consistency in application of law and policy;
- Provide legal definition of domestic violence;
- Provide continuity and cohesion in application of law;
- Provide free legal aid for all victims, and exempt all applicants from legal costs;

- Provide screens in court or other method to prevent intimidation of victim in court by perpetrator;
  - Provide separate waiting rooms for victims and perpetrator;
  - Provide training for judges and legal professionals on general DV issues and specialist issues (complex specific needs, e.g. disabilities and communication);
  - Provide formal system of using intermediaries or mediators in the Family Courts for people with capacity issues or intellectual disabilities;
  - Provide for formal handover processes ensuring continuum of care throughout the process;
  - Monitor and evaluate orders, specific needs, attrition rates, impacts of supports, impacts of protection measures;
  - Reduce delays between court appearances and amount of time women have to wait.
- ii. **Improved safety/personal security options for SNVs with DVA orders**
- Put in place needs assessment, risk assessment and safety management plans for victims;
  - Apply zero tolerance policy to breaches;
  - Standardize and apply punishment for breaches;
  - Improve trust between victims and Gardaí;
  - Gain trust and maintain contact with SNVs for duration of DVA order and safety management plan;
  - Increase access to advocacy and long-term support;
  - Provide immediate access to counselling for every SNV and access to child psychologist for children and parents;
  - Reduce fear of social workers/fear of loss of custody for reporting DV;
  - Consider whether children were present and targeted during DV and history of parenting into account in custody, access and maintenance decisions;
  - Ensure maintenance is paid;
  - Parenting courses *"In some cases, perhaps a parenting course in the less extreme cases might be effective. At a minimum it would send the message that choosing to behave in an abusive and violent way is damaging the children's health. Not all abusers grew up with abuse themselves, but many have, and many victims have also. I think early education **in** respectful, non-abusive behaviour towards partners, would be valuable."*
  - Ensure targeted, culturally appropriate information in minority languages and specially trained liaison workers for specific groups are made available both in the non-governmental DV services sector and in AGS and Courts Service.

- Free and immediate access to DV support services (including interpreting and sign language for these services, which are typically provided by non-governmental organisations) must be available for all women and children.
- Targeted information/education for ethnic minority communities is needed, which recognises violence against women, female sexual control, and coercion as cultural norms and identifies national and international legal protections against these traditional harmful practices.
- Listen to psychological support and DV services staff/advocates with respect to planning for resource needs, as they represent a wider range of women and cultural experiences than the Courts Service.

**d. What alternatives to these instruments exist for the protection of specific needs groups?**

**Judicial Separation:** Judicial separation may be applied for through the Circuit Court or the High Court. Judicial separation must be based on at least one of a number of grounds, including adultery, DV, existing separation or absence of normal marital relationship for at least one year prior to application. The court must make provision for spouses, dependent children, custody, maintenance and property.

**Deed of Separation:** A DS is a formal recognition of an existing separation of a married couple, and is only possible where both parties agree to terms. DS is legally binding when signed by both parties and precludes application for JS at a later date, and for this reason is unlikely to be used as an alternative protection strategy.

**Divorce:** Divorce will only be granted where the couple have lived apart for 4 out of the previous 5 years and reconciliation is not possible. Divorce in Ireland is a lengthy and costly procedure, adjudicated in the Circuit Court and can be adversarial, particularly on issues relating to property and assets.

Practitioners note that applicants for judicial separation and divorce may be either unaware that DVA orders may be applicable, or may be unwilling and unable to avail of such protections. Victims of DV who are unwilling or unable to speak about DV in court may opt to seek personal protection through judicial separation and divorce without the additional protection that DVA orders can offer. Such alternative measures may be preferred by some women as it is possible to keep the violence unspoken/unrecorded, which in turn may limit their protection from future violence and limit healing and psychological recovery.

Undertakings: A 'sworn undertaking' is a binding agreement on oath that the perpetrator commits to in court, in the presence of a judge. Breach of a sworn undertaking is contempt of court, however it does not have a power of arrest attached, so in practice it is difficult to enforce. 'Cross undertakings' are when both parties take the same oath, usually at the request of the perpetrator's legal representation. Practitioners responding in this research had little respect for undertakings as effective alternatives as perpetrators appear to have little respect for them and may even view them as a victory.

Criminal assault charges: Gardaí have powers of arrest for a wide range of violent crimes under criminal law. Whether or not a DVA order has been applied for or granted, physical and sexual violence are crimes under alternative legislation. Practitioners and women in this research were not asked specific questions about the use of alternative legislation and this could be an area for future research. Recent research on the experience of seeking a remedy through the Criminal Justice System was examined and system failings, outcomes and experiences were similar to the findings in this research.<sup>54</sup>

Refuge and other DV Support Services: Refuge for women and children seeking accommodation due to DV is mainly provided by the non-statutory sector. Women and children can access emergency and transitional housing, emergency food and clothing, various support, counselling and outreach services, including referral services, support groups for adults, and play therapy for small children. Refuges regularly report lack of capacity and turning away women and children in need, and limited accommodation options for women and children leaving the refuge. Accommodation and refuge is only a small part of the work of DV support services, who provide a wide range of supports including, emotional and practical support, referrals to other services and supports, counselling services, training and support groups, information, advocacy and court accompaniment, and child related supports.

Exile: Beyond the legal, statutory and non-statutory services for DV is exile. Participants attest that exclusion from community following disclosure of DV is not uncommon, and some women granted orders are also in forced into exile. It is not known to what extent exile is used by women as the sole protection strategy, where DVA orders are not accessible.

Moving away to another county to put geographical distance between the woman and the perpetrator, can have the additional benefit of bring the woman closer to support from her family of origin. This strategy was more of an option in the past before the housing shortage and when it was possible to move between local authority regions. Obliging the perpetrator to move county has also been used by Judges as a strategy to avoid granting DVA orders.

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<sup>54</sup> SAFE Ireland (2016) *INASC In Search of Justice: Women and the Irish Legal System*. SAFE Ireland, Athlone

Community and religious mediation and kangaroo courts: Research participants speak of women being subjected to decision making on their behalf by members of their community, either acting alone or in groups. These interventions vary greatly in practice and have not been researched to date.

### 3 Specific needs victims and protection orders – results and case studies from case file analysis

#### a. Case file analysis

##### i. Methodology for quantitative research

A structured case file analysis template was developed and utilised on case files of 50 women by DV support service personnel or a study researcher on site in DV services. All primary data was redacted and personal and local identifiers removed. Consent forms were developed and informed consent was obtained from the woman prior to analysis unless the service has a general consent utilised with all clients stating that anonymised personal data may be used for research purposes. Data was subsequently coded, analysed and charted.

The sample includes 50 women, using a purposeful sampling technique from case files in 10 DV support services across Ireland. DV support services were invited to contribute to the research by making a selection of their case files (which met the study criteria) available to be analysed as part of the study.

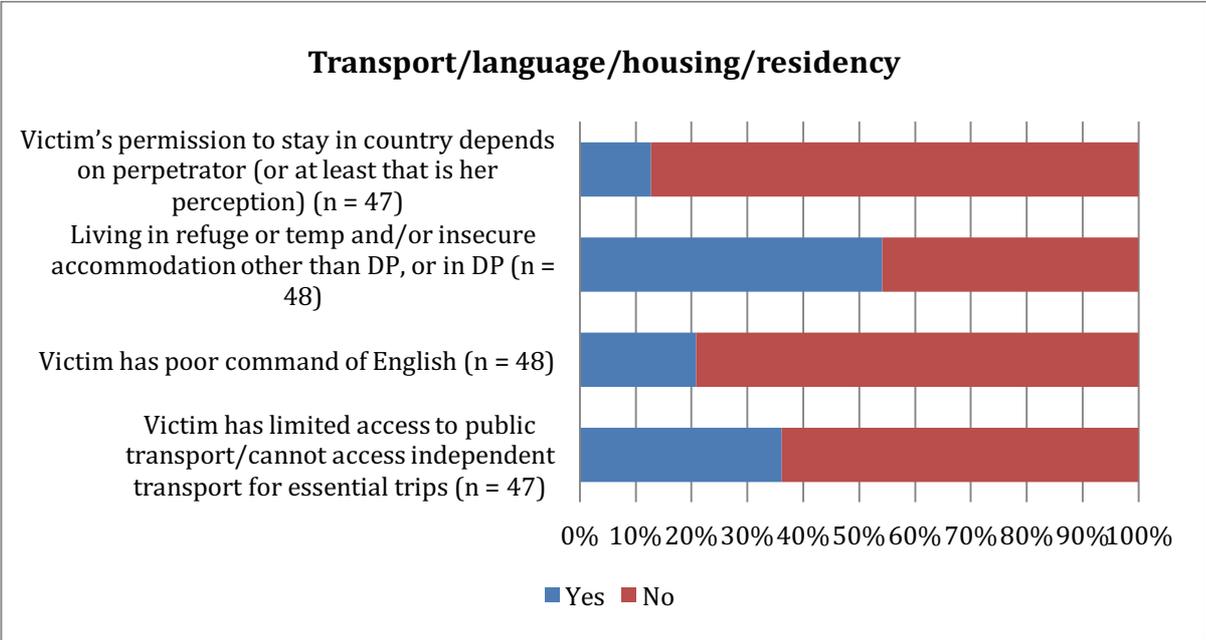
The n value in the following charts varies where data is not available. For example, not all of the 48 women applied for DVA orders, making some of the questions not applicable for these women and therefore the data is not available.

It is important to note that the data relates to the status of the women at the time of data collection and not at the time of the violence or DVA order. The data does not therefore include all of the specific needs experienced by the women throughout the DVA order process. For example, a woman who has spent 6 months in refuge accommodation may have left the refuge and be living in private rented accommodation at the time of the research. In this example, the woman would not be seen to be in refuge or temporary insecure accommodation.

ii. Data

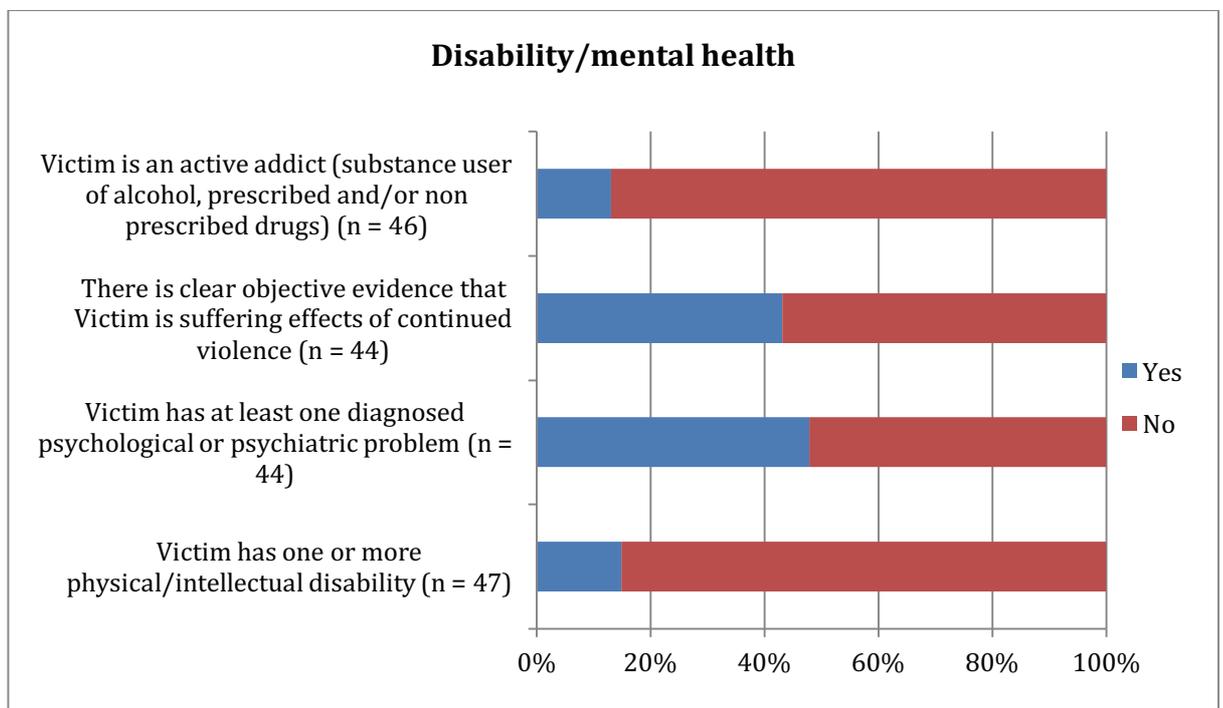
**1. Transport, language, housing, legal status**

- The most common specific need among the cohort was living in a refuge or temporary or insecure accommodation, with 1 in 2 of the women having long-term housing needs. Access to independent means of transport for essential trips (for example to court) was not available for more than 1 in 3 women.
- Language and communication was an issue for 1 in 5 women.
- Fears around security of immigration status affected 1 in 10 women.



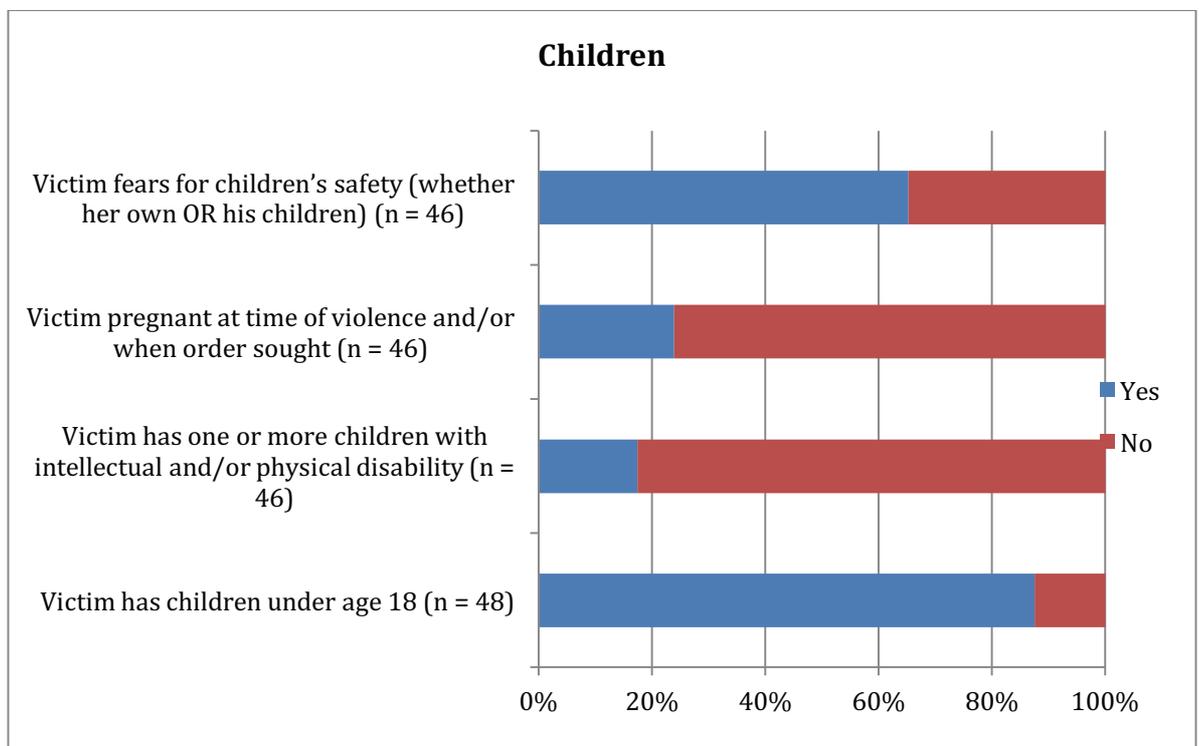
## 2. Disability and/or mental health issues

- Almost half of women have a diagnosed psychological or psychiatric problem following DV, with clear objective evidence that the effects of the violence continue to affect her.
- One in 7 women have a physical or intellectual disability.
- One in 8 women are addicted to substances such as alcohol, prescribed or non-prescribed medications



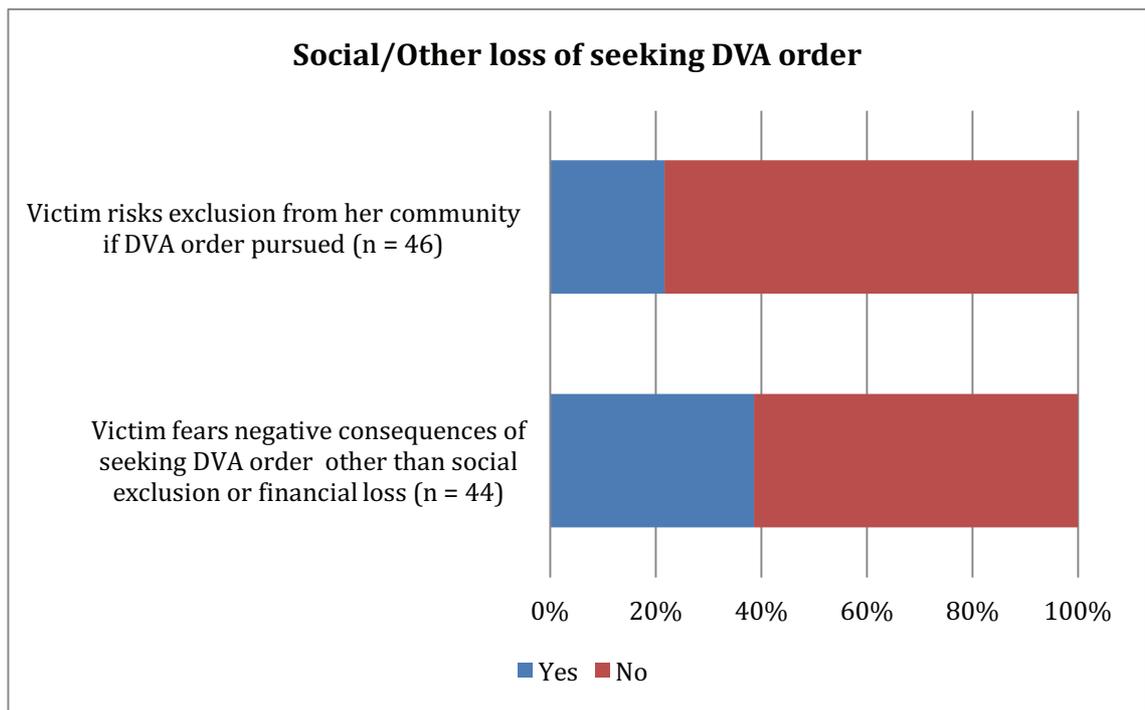
### 3. Children

- The most common specific need is being a mother - almost 90% or 9 out of ten women had children under the age of 18 years.
- The majority of women with children had specific fears for the safety of the children, whether her own or his children (65%)
- More than 1 in 5 women were pregnant at the time of violence or when seeking DVA order
- Almost 1 in 5 women have one or more children with an intellectual and/or physical disability



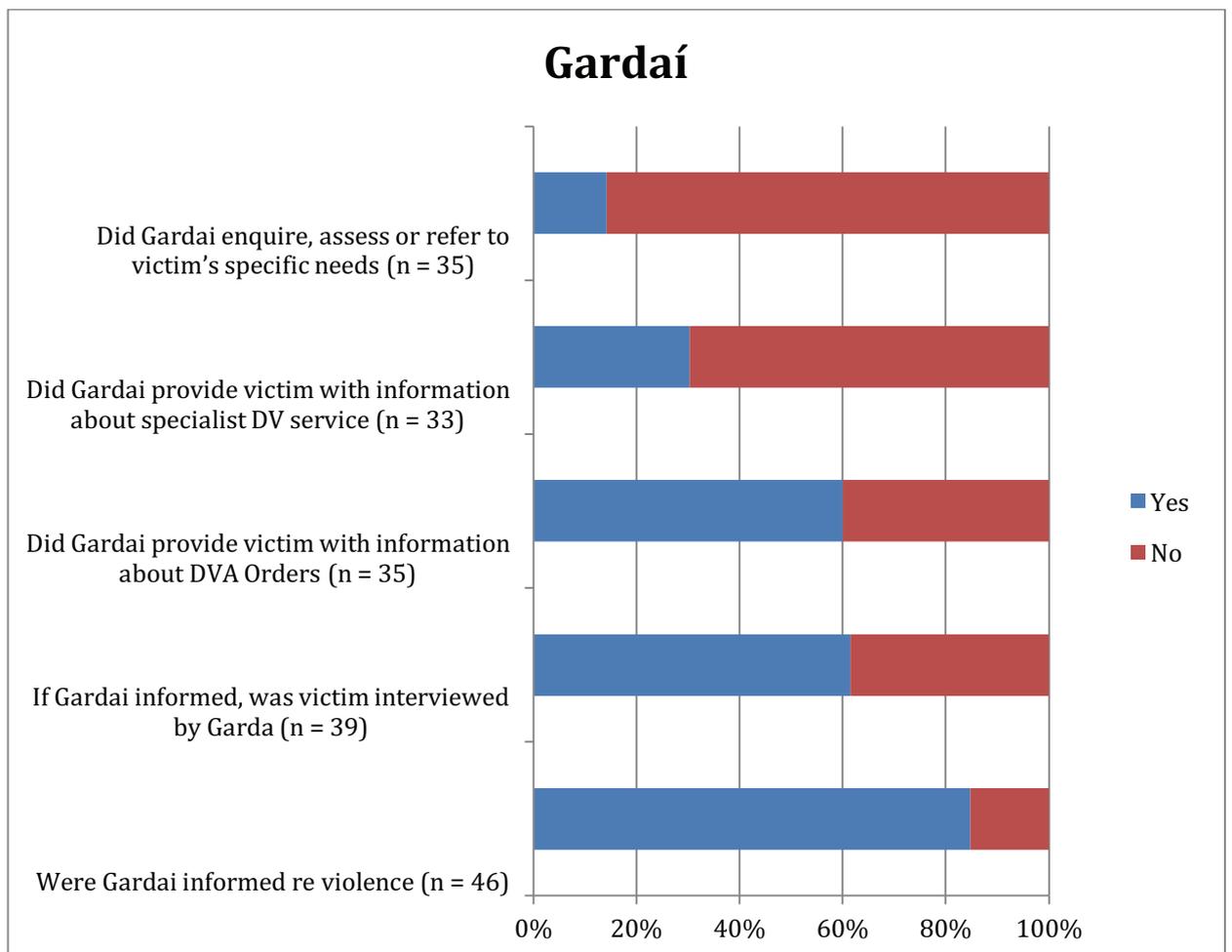
#### 4. Social exclusion, negative social consequences of seeking DVA order

- The specific need of risk of social exclusion from her community was found for 1 in 5 women
- Other negative social consequences of seeking a DVA order (excluding financial loss) were found for 40% of women.



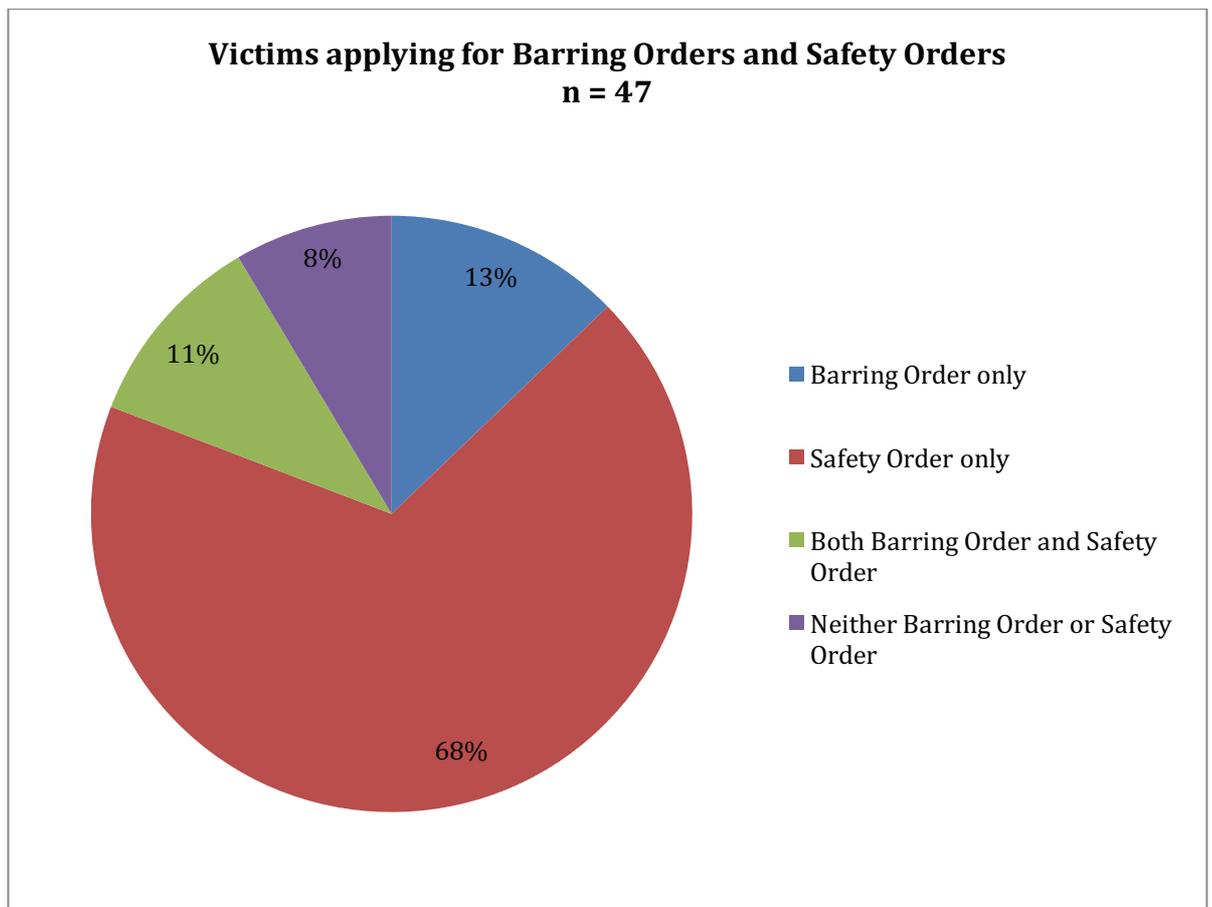
### 5. Gardaí

- Among this cohort, more than 8 out of 10 women reported the violence to Gardaí
- Following a report to Gardaí, 6 out of 10 were interviewed or provided with information about DVA orders
- 3 out of 10 women were provided with basic contact information about specialist DV support services
- Specific needs were referred to or assessed by Gardaí for 1 in 8 women



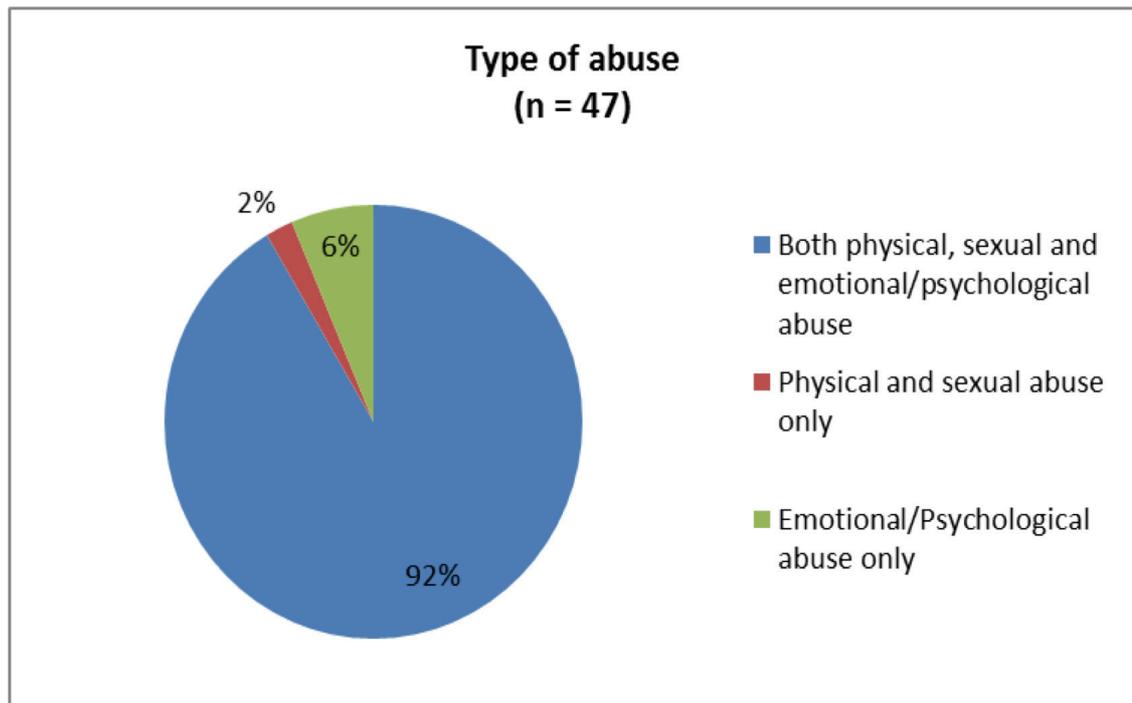
### 6. Applications for different types of DVA orders

- 7 out of 10 women applied for a Safety Order only (68%)
- 1 in 8 women applied for a Barring Order only (13%)
- 1 in 10 women applied for both Safety Order and Barring Order (11%)



## 7. Type of abuse

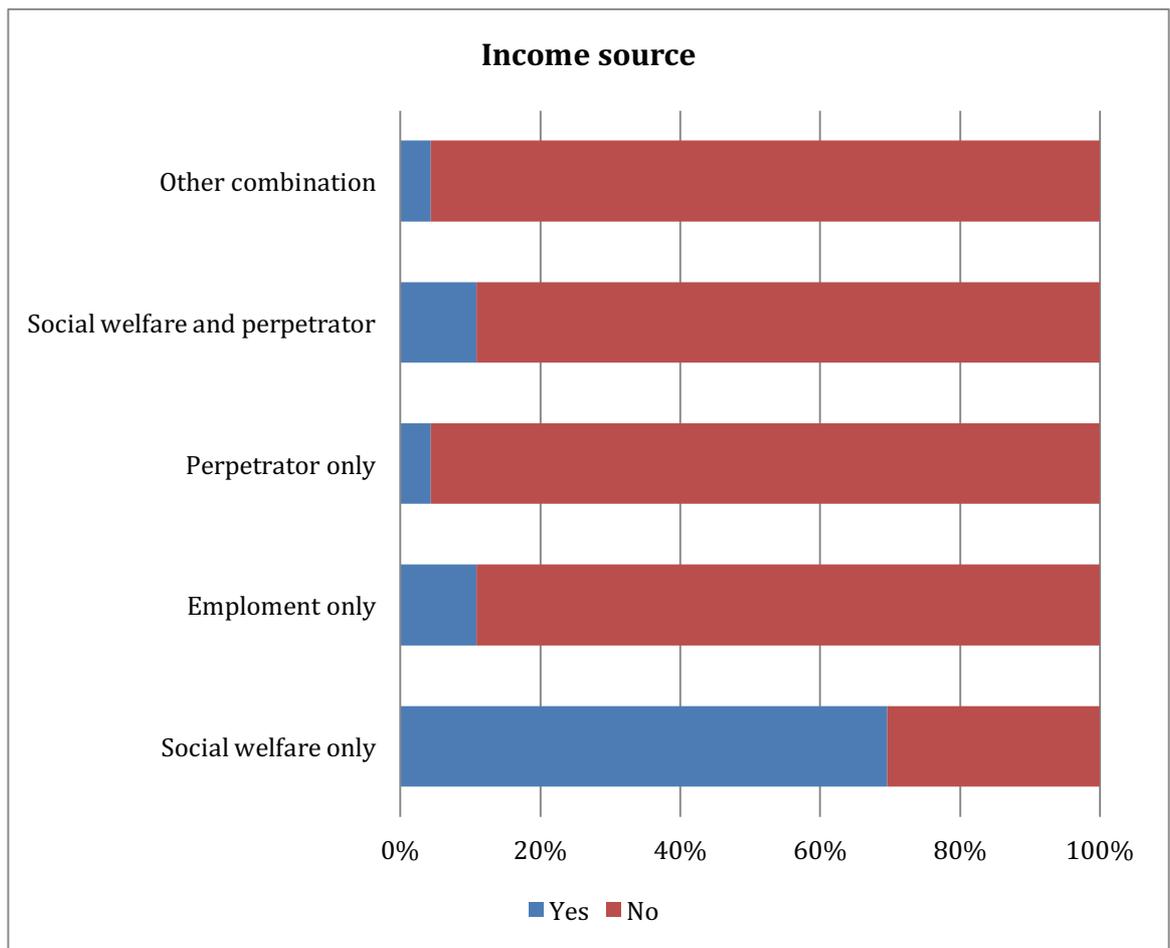
- Just 2% of this cohort experienced physical and sexual abuse without other forms of violence.
- 98% of this cohort experienced emotional and psychological abuse.
- 92% experienced both physical, sexual and emotional/psychological abuse.



*"I think what strikes me again now doing this work is how utterly destructive the non-physical abuse is for the woman's personality, parenting ability, financial security, housing security, among other things, and how vulnerable someone can become if they are subject to financial abuse in particular. The coercive control dynamic needs [to be] better identified and understood and a connection with what non-abusive behaviour is like. We also really underestimate the sexual abuse element of domestic violence. I also repeat that with domestic violence the perpetrator gives his or her victim all these other specific needs. I am conscious in my work that really unpacking all of this with my clients may be unfair where many, if not all, do not have the financial means to address their own needs and their children's needs for therapy, which when good and for long enough is really effective."*

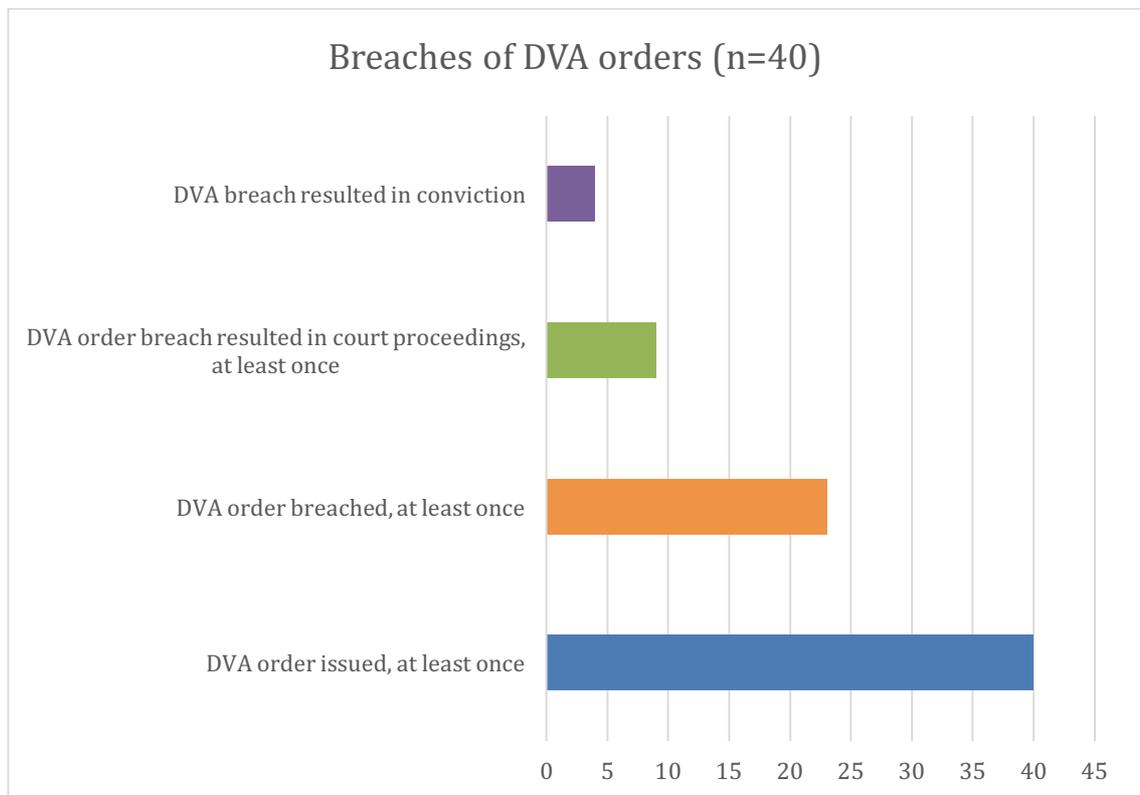
### 8. Income source

- 7 out of 10 participating women are reliant on social welfare payments as their sole source of income.
- 1 in 20 women rely on income from the perpetrator as their sole source of income.
- 1 in 10 women rely entirely on wages from employment.



### 9. Breaches of DVA orders

- More than half of DVA orders granted are breached at least once (57%).
- 4 out of 10 DVA orders that were breached at least once resulted in court proceedings (39%).
- 1 in 6 DVA orders that were breached at least once resulted in a conviction (17%).
- Less than half of court proceedings for DVA order breaches resulted in conviction (44%).



### **b. Case studies of complex needs**

The following case studies are hypothetical case studies, loosely based on examples provided by 21 practitioners, 10 women research participants and 50 case files. They do not describe actual women and all names are randomly assigned.

For the purpose of this research, specific needs clusters are combinations of needs presenting as very complex and acute protection needs. Any one combination may be absolutely unique or fairly typical. It is the diversity of possible combinations makes needs and risk assessment essential components of a DV order protection system. Clusters may be comprised of specific needs from any or all of the four categories (accessibility, dependency, cultural norms and situational vulnerabilities) and include cross-cutting needs. All of the various specific needs impact upon the woman, the choices she is able to make, and her progress towards and through the DVA order process.

Each case study will provide a summary of benefits, gaps, and problems related to threshold, appropriateness, statutory legal services, and effectiveness of DVA orders. Alternative protection measures, where utilised, will be noted in the outcomes.

- i. Specific needs cluster: DV during pregnancy, child sexual abuse allegation, breaches during access, judicial separation sought, legal aid solicitor advised SO not BO, intimidation at court, perpetrator had senior counsel.

Elaine is Irish, in her late 20's with 3 children under 5 years old. After approximately 5 years of DV culminating in DV during pregnancy, she sought judicial separation proceedings. Her legal aid solicitor advised her to apply for a SO, and a PO was put in place. During the SO application process one of the children alleged CSA, which resulted in a very protracted process of more than a year before the SO was granted for 2 years. Access was granted, and breaches were reported to Gardaí during access but no arrest was made despite evidence. Elaine felt that the reports were treated as vexatious. Access continued despite CSA allegations. The SO has not been respected by the perpetrator with repeated breaches, but no court appearances or convictions. Elaine felt that a BO would have been more appropriate for her needs (appropriate 2, effective 2) and that the effects of the DV and the breaches on herself and the other children were not sufficiently taken into account due to the CSA allegations.

- ii. Specific needs cluster: Children, repeated reliance on refuges over 12 years, ongoing DV and DV during pregnancy, all possessions and documentation in possession of perpetrator, perpetrator low respect for orders, fear of exclusion from community, fear of retaliation if orders applied for, dependent on perpetrator and social welfare for accommodation (state prescribed housing)

and income, ongoing traumatic effects of DV, family of perpetrator have 2 older children and are refusing to reunite them with mother.

Helen is Irish in her 30's, and has used refuges repeatedly to temporarily escape DV over 12 years. In this instance, she accessed a refuge in her 3<sup>rd</sup> trimester with 2 of her 4 children, no possessions and no documentation. She has not made an application for orders because she has seen men disrespect them and seen other women punished and socially excluded for applying. She currently has no access to social welfare payments due to inability to get mail, documentation or identification from perpetrator. She cannot gain independent accommodation from the state because she is joint tenant on the current accommodation. Her 5<sup>th</sup> child was born while staying in the refuge and refuge have advised her of her rights but no DVA order application has been made. Helen is receiving counselling and still in refuge accommodation and is expected to return to the perpetrator again. Example of cultural norms and lack of access to alternative accommodation making barring order inappropriate.

- iii. Specific needs cluster: Language needs, 3 children, isolated, highly dependent on perpetrator, no knowledge of services, insecure immigration status, fear of authorities, perpetrator has psychiatric diagnosis, perpetrator address unknown.

Maria is an EU national with language needs. She has experienced 4 years of DV and has 2 children. She has been highly dependent on perpetrator, with no family or support system or access to information in Ireland. She has insecure immigration status and very little understanding of her legal status. She arrived at the refuge with no documents, no phone, no possessions, no knowledge of Irish system, no knowledge of services, no access to social welfare and 2 children. She continues to have no access to finances due to lack of documentation and gets food and essential clothing from DV service. The perpetrators current address is not known and he has a psychiatric diagnosis. She is afraid of the authorities and did not apply for orders to date, refuge staff feel that she is unlikely to be granted orders.

- iv. Specific needs cluster: addiction, dependent children, fear for children's personal security, mental health issues, continued effects of DV, neighbour reported DV to Gardaí, Gardaí interviewed and referred to services. Application for SO made and withdrawn possibly under duress, no long-term accommodation.

Caroline is Irish in her 30s, she has active addiction issues, experienced extreme physical and sexual violence and violence against children, fears for children's safety, has mental health issues but is not receiving counselling currently. The children experience continued effects of violence. Someone else reported DV, and the Gardaí made referral to DV support services. Caroline accessed the refuge, was informed of her rights, applied for legal aid and a SO. The

application was later withdrawn, possibly under duress or due to chaotic lifestyle or addiction issues. Caroline didn't fulfil minimum payments on legal aid, and is now in homeless B&B accommodation with no long-term accommodation possibility. She has occasional contact with DV services.

- v. Specific needs cluster: Dependent children, one with intellectual and physical disability, reported to Gardaí, applied BO, IBO in place, living with perpetrator, financially dependent on perpetrator, but above threshold for legal aid. Breaches of IBO but no arrest. BO denied and access granted. Lack of continuity in legal system, different judge each time. SO applied for. PO in place and more breaches, but no court appearances or convictions.

Karen is in her 40's, a professional employed married woman with 4 children. One of her children has an intellectual/physical disability and her husband completely controls her finances. She reported DV to Gardaí, applied for a BO, and an IBO was in place as part of BO application. Karen's husband did not respect the IBO and was in the house when she called the Gardaí during a violent incident, and Karen left with her children to stay in a refuge during that incident. However, no breach was identified, and the family returned home. Several subsequent emergency calls to Gardaí were recorded before a breach was identified and the perpetrator arrested. The BO was not granted, and the judge asked the perpetrator for a sworn undertaking to leave home in a week for a week, and extended the IBO. Further aggression and intimidation occurs including in court at an access hearing but again no breach is identified. Access is granted. Aggression continues at access and a SO is applied for. At this point a PO is put in place while the SO hearing is pending. The perpetrator remains living with the family and Karen does not feel protected.

- vi. Specific needs cluster: physical disability, dependent on perpetrator for everyday needs, 1 child, repeated use of refuge, use of judicial separation as alternative, finally applied for and granted SO, no breach to date.

Angela has a physical disability and is dependent on the perpetrator for everyday needs. She has 1 child, and has repeatedly used a refuge, where she has been advised of orders before but didn't apply. Angel was as at hospital appointment when husband was violent, security called and she was taken to a DV support service. She decided to apply for judicial separation and the solicitor helped her to apply for an SO as well. Angela was granted a 3 year SO, no breach has been reported, she is not living with perpetrator who appears to respect the SO.

- vii. Specific needs cluster: language needs, no interpreter, child, PO, SO, IBO BO all granted, all breached, suspended sentences, finally prison. Lack of continuity in process, intimidation in court. Social housing in joint names until

perp voluntarily removes name, no long-term tenancy security after he is released from prison, no alternative accommodation provision

Jasmine is an EU citizen in her mid-30s. She has experienced physical and sexual and psychological violence over years. Jasmine has 1 child, and interpretation needs, although no interpreter was provided. An SO was granted, and after 3 breaches a BO was sought and an IBO granted. The BO was granted, and there were further breaches, suspended sentences, until the perpetrator was finally sent to prison. Jasmine is living in council housing which is rented in both names and he must voluntarily remove his name from the tenancy agreement, but won't. Jasmine is now seeking a divorce, fears for her life when he is released and BO runs out. She was unaware of full protections of BO in relation to the child. Incidents were handled in isolation in court so history of violence not understood. Jasmine experienced intimidation and language issues in court, many breaches and 2 suspended sentences before a 1-year prison term forced the perpetrator to comply with the law. Tenancy is still in doubt and access is expected to be granted following perpetrators release, despite a Child Welfare & Protection Report. An accommodation solution is still lacking as is respect for the BO by the perpetrator.

- viii. Specific needs cluster: isolation, older, protracted and escalating abuse by husband, mobility issues, no independent transport, BO sought, IBO in place, son abusive since BO application but not covered by IBO, under coercive control, perpetrator alcoholic

Sofia is 65 years old, living in rural Ireland. She has been married for 45 years and her children have left home. Abuse has escalated over 40 years and is ongoing and Sofia suffers from mobility issues, combined with a lack of independent transport, and rural and social isolation. She is seeking a BO, and her son who lives nearby is also abusive since the BO application. Her other children who might be supportive have emigrated. Sofia is under coercive control, with no financial independence, her husband is an alcoholic, and she is restricted by the shame she feels. Sofia is religious and will not apply for a divorce or separation and says that she 'has made her bed and must lie in it'. She continues to live with and near the two perpetrators, neither of whom respect the protection order which is now in place, although Sofia has not reported any breaches to Gardaí. Sofia cannot be said to be benefiting from protection.

*"At the moment, in Irish society we over-value marriage and long-term stable relationships – but we should never value the façade of the "un-broken home", but the reality of a happy relationship, quality not quantity of time you stuck it out should be what matters to society. The pressure to keep up this façade is too much for many people and women suffering DV find it difficult to admit that things are not perfect and to lose their feelings of shame around admitting it."*

## 4 Summary and conclusions: recommendations for improvements to DVA procedures for women with specific needs

### Summary

The mixed-methods research provided the opportunity to cross check data provided by victims and practitioners in order to come to a more fully informed perception of the research question. As the research shows, the qualitative data from each group validates the other group and the quantitative data.

The specific needs concepts or prompts that were used for the qualitative data were validated by participants and expanded on in open-ended questions. One of the most valuable contributions of the research is that it gives insight into the perceptions of those who attempt to gain DVA orders and protection from DV and fail for reasons of specific needs. Without this perspective it is not possible to attend to the cracks.

On the basis of the qualitative interview and case file analysis we can make the following summary findings:

- While some women are able to report that the situation has improved for them as a result of civil protection orders, many women are highly dissatisfied with the outcomes, and only a tiny minority find it entirely effective (4%) and appropriate (10%).
- The DVA order process is long, formidable and costly, and the rate of attrition high.
- Participants described specific needs in groups of complex and inter-related needs. Women never had a single specific need;
- Specific needs may be created by or taken advantage of by the perpetrator within a coercive control dynamic and this needs to be recognised by judges, Gardaí and all relevant agencies;
- Judges and Gardaí are seen as inconsistent in application of law and policy;
- Specific needs could arise out of the DVA order process in ways that could be prevented with more effective inter-agency cooperation;
- Barriers to accessibility are numerous, and many women with specific needs who could benefit from protection are seen to be not applying for DVA orders.
- Participant response varied according to status. Victims and DV support service workers voiced more concerns and were less satisfied with the process and outcomes than legal representatives and Courts Service.
- 98% of women report experiencing psychological/emotional abuse during DV, and 92% of women also experience physical and/or sexual violence.

### Conclusions

This report describes the specific needs of women applying for DVA orders and the impact those specific needs may have on legal protection outcomes. The 83 research participants have provided consistent evidence that must inform legislation, policy and training for

statutory bodies in Ireland. The research asked whether DVA orders were appropriate and effective for women experiencing DV in Ireland. The pillars of best practice in protection of victims from domestic violence emerged as almost entirely absent from the Irish context:

- Absence of systematic individual needs and risk assessment
- Absence of systematic judicial training and justice sector training
- Absence of systematic inter and multi-agency coordination
- Absence of efficient monitoring and data collection
- Absence of legal definition of domestic violence in Irish DVA legislation

Untrained individuals are providing protection on the basis of a non-existing definition with little or no assessment of individual risk, without monitoring.

There is no systematic individualised response and no standardised needs and risk assessment at present in Ireland and Article 22 of the Victims' Directive has not been implemented to date. The judge is currently mandated to assess risk and grant protection where necessary. However, the judge has only a brief window to gather the facts and decide the case. This is done in court on the basis of the facts presented on the day, without specialised DV training and in the absence of a risk assessment or brief from any other responsible agency. Individual and acute complex needs are not necessarily identified, noted or responded to.

The judiciary are not provided with the type of continuing training and professional development that is seen in other countries. Judges may attend conferences or training but it is not mandatory. Specialised training on DV has not been provided to all judges to date and some of the impacts of the lack of training for the judiciary and the rest of the justice sector, such as inconsistency and poorly informed decision making, are made evident in this research.

DV support services are noted as providing the only continuum of care for women applying for DVA orders. Other agencies offer more fragmented input and may only be in contact with the woman for distinct periods of the process. The protracted and discontinuous legal process is hard to navigate and the lack of formal interagency coordination and handover is impacting access and attrition. Justice requires the best protection measures in the context of the individual woman's specific needs, and this in turn requires inter-agency coordination. Not all women applying for DVA orders are in contact with all support services and/or reporting to Gardaí. Gardaí frequently provide information verbally and do not check that the information is received and understood. Worryingly, some women in possession of DVA orders do not understand the details of how the order may protect her, and/or whether the order covers her children. Concerns are raised that where women do not understand the supports, the process and the outcome, the protection is ineffective.

There are significant obstacles to accessing DVA orders, and women who are legally eligible for orders are not applying for a variety of reasons. It is absolutely vital that the first point of

disclosure of DV is ready and able to immediately protect, inform and refer the victim appropriately.

Gardaí are found to be inconsistent in application of law and policy, despite having considerable powers of entry and arrest without warrant in cases of DV. Time and time again, women report that they feel that they are not taken seriously, information is not provided, Gardaí response times are slow, records are not kept, contact is lost, and evidence is not collected.

Breaches of DVA orders are dealt with in the criminal courts if the Gardaí determine that an offence has occurred and if evidence is collected. In practice, women report that Gardaí response times for breaches are slow, Gardaí do not always agree with the victim that there has been a breach, or Gardaí decide that a further warning to the perpetrator is sufficient or appropriate for the situation. Prompt, zero-tolerance responses to breaches would send positive messages to women and perpetrators.

It is fair to say that Gardaí are now (2016) taking steps to introduce specialist investigative teams, to revise their Domestic Violence policy, and to bring in a new risk assessment protocol, among other innovative measures designed to reduce the evidential burden on the applicant/complainant, improve the quality of investigations and ensure the Garda response to victims of domestic violence is swift, compassionate, professional and appropriate.

Participants frequently acknowledge the crucial role that the various supports provided by DV support services play in accessing and staying with the DVA order process. Legal representatives and Courts Service also acknowledge the benefits to women of supports and advocacy. Individual women and specific needs are not acknowledged or prioritised in the system and general assumptions inform protection decisions by statutory agencies. As monitoring of application of policy and law is largely absent, without the DV support service sector data and research, almost nothing would be known about the context and reality of DV in Ireland.

In conclusion, women with specific needs find DVA orders less than appropriate or effective, and their specific needs are not identified or responded to. Further research could be done in terms of systemic failures, attrition, and post-DVA order satisfaction.

### **DVA Order Application Process: Recommendations from Professionals, Legal, DV specialist support services and non-DV specialist services**

- Support Gardai to put in place needs assessment, risk assessment and safety management planning (with local DV Services) for victims of domestic violence;

- Support Gardai in development and retention of Regional Protective Units, specialist units which will focus on DV related issues;
- Formalise high level and local level inter- and multi-agency cooperation and communication on justice-related DV issues, civil and criminal;
- All justice agencies and professionals involved should note that affirmation of rights and having needs attended to builds confidence to seek protection as well as building confidence in the justice system;
- Increase court time available to hear the details of the application for a DVA order;
- Ensure consistency as far as possible in application of law and policy across different Garda and Court Districts nationwide;
- Provide legal definition of domestic violence in DVA legislation, OR set out a list of factors to be taken into account when assessing the need for an order;
- Provide free legal aid for all applicants for DVA orders, and exempt all applicants from legal costs, ie assess them at a nil contribution for this kind of case;
- Provide for applicants for DVA orders to give evidence by video-link as the norm, or where necessary in the interests of justice, behind a screen, as methods of preventing intimidation of victim in court by perpetrator, in all inter partes DVA hearings;
- Work towards a system where evidence from the applicant is pre-recorded (both examination in chief and cross-examination), at least in criminal proceedings;
- Provide separate court waiting rooms for DVA order applicants and respondents at hearing;
- Provide training for judges and legal professionals, including Courts Services and Gardai, on general DV issues and specialist issues (complex specific needs, e.g. disabilities and communication);
- Ensure this training includes: the dynamics of domestic violence, its impacts on its victims (particularly the effect that trauma has on capacity to understand new and/or complex information about the case, and on decision making), the importance of good handover/referral systems, and the importance of recognizing and addressing unconscious bias;
- Provide formal system of using intermediaries in the Family Courts for people with capacity issues or intellectual disabilities, which draws on international best practice, and which allows for witnesses' responses to be relayed to the court through the intermediary, as well as the questions to be put to them;
- Provide for formal handover or referral processes ensuring continuum of care throughout the legal process;
- Monitor and evaluate orders, identification and management of specific needs, attrition rates, impacts of supports, impacts of protection measures;
- Reduce delays between court appearances and delays at court on hearing days;
- Facilitate Garda and Court accompaniment for victims of domestic violence as far as possible, as this is a significant support;

- Ensure that Gardai, legal professionals and Courts Service do all in their power both to provide full and accurate information (and where appropriate, advice) and ensure that such information or advice is understood fully by victims of domestic violence;
- Garda data collection systems: should identify DV incidents as such from earliest contact, should record them as such and should alert users to repeated contacts with same person or address;

### **Improved safety/personal security recommendations for Specific Needs Victims with DVA orders in place:**

- Apply zero tolerance policy to breaches, ie prosecute them whenever there is enough evidence to do so, unless there are exceptional reasons for not taking this course;
- Consider generating sentencing guidelines for breaches of DVA orders;
- Take all necessary steps to improve trust between victims and Gardaí, by focussing in training on the importance of providing reliable information, always ensuring that it is understood, maintaining ongoing contact, always showing sensitivity and conducting thorough investigations - and ensuring that this training is further embedded through effective line supervision at every level, and through ongoing CPD;
- As Garda officers, support workers, and legal representatives, maintain effective contact with SNVs for duration of DVA order and safety management plan;
- Provide immediate access to counselling for every SNV and access to child psychologist for children and parents;
- Reduce fear of social workers/fear of loss of custody for reporting DV, by effective, proportionate and transparent inter-agency protocols which reflect the concerns and fears of applicant women that they might lose their children if they complain to any official agency about the domestic violence they are experiencing;
- Consider whether children were present and targeted during DV and take history of parenting into account in custody, access and maintenance decisions, as is mandated now by Section 31 of the Guardianship of Infants Act 1964, as inserted by Section 63 of the Children and Family Relationships Act 2015;
- As support workers, legal representatives and judges, do everything possible and appropriate to one's role, to ensure that any maintenance needed and applied for by women applicants in DVA proceedings, is obtained from and paid by the respondent;
- Parenting courses for Respondents should be considered as a measure ancillary to, or independent of, DVA orders;
- Ensure targeted, culturally appropriate information in minority languages and specially trained liaison workers for specific groups are made available both in the non-governmental DV services sector and in AGS and Courts Service;

- Free and immediate access to DV support services (including interpreting and sign language for these services, which are typically provided by non-governmental organisations) must be available for all women and children;
- Targeted information/education for ethnic minority communities is needed, which recognises violence against women, female sexual control, and coercion as cultural norms and identifies national and international legal protections against these traditional harmful practices;
- Listen to psychological support and DV services staff/advocates with respect to planning for resource needs, as they represent a wider range of women and cultural experiences than the Courts Service;
- The timely and thorough investigation of DV related crimes should be identified in Garda Strategy and Policing Plan documents as a constant high priority, even in areas where there is a high volume of non DV related crime, and Gardai at high levels within the Force should not hesitate to seek increased resources aimed at reducing DV crime;
- Judges should assume that applicants for DVA orders with specific needs related to a learning or intellectual disability, have the capacity both to give instructions and to give evidence, in the absence of impartial and expert evidence to the contrary;
- Judges should avoid accepting undertakings, especially cross-undertakings unsupported by evidence, to resolve applications for DVA orders, save in exceptional circumstances, because they do not offer an applicant at risk any form of protection from violence;
- Dating or formerly dating, intimate partners (of either sex) should have the protection of the DVA.

## Acronyms and Glossary

AGS	An Garda Síochána, commonly referred to as the Gardaí (plural) or Garda (singular), Ireland's National Police Service
BO	Barring Order
Cosc	National Office for the Prevention of Domestic, Sexual and Gender-based Violence
DP	Direct Provision is the system for providing the basic food and shelter needs of asylum seekers in the Republic of Ireland, utilising hostel type accommodation provided by commercial contractors
DV	Domestic Violence
DVA	<i>Domestic Violence Act 1996</i> , as amended
Ex parte	DVA (or other civil) hearing before judge with only one party present (the applicant)
GP	General Practitioner, family doctor
Halting site	A serviced facility for caravans, mobile homes and residences for the accommodation of nomadic Travellers in Ireland
HAP Scheme	A form of social housing support operated by local councils for people with a long-term housing need
HRC	Habitual Residency Condition
HSE	Health Service Executive, national statutory health service agency
IBO	Interim Barring Order
INASC	EU Criminal Justice Programme funded project Improving Needs Assessment and Victims Support in Domestic Violence Related Criminal Proceedings
Inter partes	DVA (or other civil) hearing before judge where applicant and respondent both attend
IPV	Intimate Partner Violence
Oireachtas	The legislature of Ireland, also known as the Houses of the Oireachtas; composed of The President of Ireland, Dáil Éireann (House of Deputies) and Seanad Éireann (Senate)
PO	Protection Order
PHN	Public Health Nurse
PPS Number	Personal Public Service Number, a unique reference number required in Ireland to access social welfare benefits, public services and information in Ireland
RAS Scheme	Rental Accommodation Scheme is an initiative to cater for people who are in receipt of a state rental support payment and living in the private rented sector for 18 months or more with a long-term housing need
RIA	Reception and Integration Agency, the statutory agency responsible for procuring and monitoring the commercial contracts for housing asylum seekers under the Direct Provision system. Integration has not been part of the remit since 2007.
SI	Safe Ireland, the national social change agency working on DV in Ireland
SO	Safety Order
Traveller	Travellers are an indigenous minority and a self-defined group with a history of nomadism, representing approximately 0.5% of the population



Tusla

Child and Family Agency, the state agency responsible for child protection and family support services

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**Appendix 1:**

SAFE Ireland Domestic Violence Services who participated in SNaP Case File Analysis and/or Interviews with Staff or Women:

Sonass Domestic Violence Charity  
Adapt Domestic Abuse Service  
Adapt Kerry Women's Refuge and Support Services  
Saoirse Women's Refuge  
Dublin 12 Domestic Violence Service  
Offaly Domestic Violence Service  
Women's Aid, Dundalk  
Oasis House Women's Refuge  
Mayo Women's Support Service  
Ascend Domestic Abuse Service  
Carlow Women's Aid  
Cuan Saor Women's Refuge and Support Service  
Women's Aid  
OSS Cork



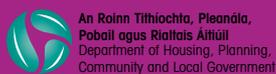
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