



THE BAR
OF IRELAND

The Law Library

**SUBMISSION TO THE JOINT COMMITTEE
ON JUSTICE
VICTIM'S TESTIMONY IN CASES OF RAPE
AND SEXUAL ASSAULT**

February 2021

INTRODUCTION

The Council of The Bar of Ireland (“the Council”) is the accredited representative body of the independent referral Bar in Ireland, which consists of members of the Law Library and has a current membership of approximately 2,150 practising barristers. The Bar of Ireland is long established, and its members have acquired a reputation amongst solicitors, clients and members of the public at large as providing representation and advices of the highest professional standards. The principles that barristers are independent, owe an overriding duty to the proper administration of justice and that the interests of their clients are defended fearlessly in accordance with ethical duties are at the heart of the independent referral bar.

The Council has prepared these submissions at the invitation of the Joint Committee on Justice in consideration of the topic of “**Victim’s testimony in cases of rape and sexual assault**”.

CONTEXT

1. The Sexual Abuse and Violence in Ireland (“**SAVI Report**”) found that in the year 2000, from the point of victim complaint to Court conviction, there was an overall prosecution success rate of 4.91% for sexual assault offences insofar as 549 offences were reported to Gardaí, 401 offences were detected by Gardaí, prosecutions were commenced in 130 cases and 27 court convictions occurred.¹ Almost 20 years later, the CSO’s initial recorded Crime Detection Statistics ² reported in 2019 that the detection rate for reported sexual offences was 12%,³ the lowest detection rate of any crime. ⁴ By way of contrast, the CSO’s initial recorded Crime Detection Statistics for 2019 had a detection rate of 87.9% for controlled drug offences and 84% for public order and other social code offences. ⁵ The SAVI Report also reported that 42% of women and 28% of men reported some form of sexual abuse or assault in their lifetime.⁶ In terms of criminal justice reform efforts, there is doubtless a strong social and moral impetus to focus reform efforts on this area of the law, to evaluate recent reforms and to improve the experiences of victims of sexual offences should they choose to engage with the criminal justice system.

¹ McGee, H. M. & Dublin Rape Crisis Centre. 2002. *The SAVI Report: Sexual Abuse and Violence in Ireland*, Dublin, Liffey Press in association with Dublin Rape Crisis Centre - Centre Table 4.31, p. 136

“results of cases dealt with on indictment (i.e. referred to Director of Public Prosecution) or summarily (not referred) were combined. In this report, all cases were reported as concluded.”

² According to the CSO website, “Recorded Crime Detection statistics provide a snapshot of the extent to which crime incidents reported to An Garda Síochána (AGS) have been detected. A crime is considered detected when AGS have identified and sanctioned a suspected offender for the crime. The publication is based on data recorded by AGS on its PULSE (Police Using Leading Systems Effectively) and FCPS (Fixed Charge Penalty System) databases.” Additionally, these CSO statistics are “under reservation.” According to the CSO website “these statistics are categorised as Under Reservation. This categorisation indicates that the quality of these statistics do not meet the standards required of official statistics published by the CSO. An Garda Síochána have undertaken to introduce an effective data quality management system for the production of crime statistics and this work is underway. The categorisation of Statistics Under Reservation applies to all statistical outputs sourced from PULSE in the interim.”

³ A marginal improvement might be expected when these figures are reviewed as was the case in 2018.

⁴ CSO Figure 1.1, Detection Rates for Crime Reported in 2019 by Selected Offence Groups, data extracted 1 September 2020 - <https://www.cso.ie/en/releasesandpublications/ep/p-rcd/recordedcrimedetection2019>.

⁵ CSO Figure 1.1, Detection Rates for Crime Reported in 2019 by Selected Offence Groups, data extracted 1 September 2020 - <https://www.cso.ie/en/releasesandpublications/ep/p-rcd/recordedcrimedetection2019/>.

⁶ McGee and Dublin Rape Crisis, 2002, p. xxxiii

2. Victim testimony in cases of rape and sexual assault is a particularly important way to think about these broader issues. Testimony is effectively words spoken to a Court – a story told. Victim testimony has a legal and evidential role within a criminal trial. However, from a victim’s perspective, testimony is their account, their truth and their voice. The hearing of this voice is closely linked to effective outcomes in the realising of justice for victims. Therefore, considering victim’s testimony captures key challenges of reform in this area of the criminal law.
3. Recent statutory reform efforts have seen the practice of criminal law adapt to a more nuanced understanding of the importance of victim’s testimony in cases of rape and sexual assault. The challenge of modern criminal practice is to prioritise continued reform efforts and to ensure that protections that exist are executed to a high standard. In circumstances where past failures are being remedied, safeguarding avenues of reform and providing oversight and accountability to reform processes becomes particularly important.

How Victim’s Testimony in Cases of Rape and Sexual Assault is Currently Conducted within the Criminal Justice System in Ireland/the Criminal Justice System in Other Common Law Jurisdictions.

4. Overview of How Victim’s Testimony in Cases of Rape and Sexual Assault is Currently Conducted within the Criminal Justice System in Ireland

4.1. A victim’s testimony will be given to the court in the course of the trial. This will usually be given live, with the victim appearing in court either in person or by way of a video link. The testimony will comprise an examination in chief, conducted by prosecution counsel, during which she or he will be guided through the giving of evidence by a series of non-leading questions based on the statement that will have been previously given to a member of An Garda Síochána. On completion of the examination in chief, the victim will be cross-examined by defence counsel to test the evidence given and allow the witness comment on any contrary case that might be made by the accused person. In the case of certain victims, a video recording may have been made of an interview that the witness previously had with a Garda specialist interviewer and this video will be played as the direct evidence of the victim, thereby dispensing with the examination in chief. At the end of the trial, should the accused be convicted of the offences charged, the victim can choose to give victim impact evidence in the course of the sentencing hearing.

4.2. Dr. Miriam Delahunt B.L. provides a concise non-exhaustive list of assistance and support measures available to vulnerable witnesses on the website *vulnerablewitness.com*.⁷ Dr Delahunt provides details of various protections that are also available to a victim outside the trial process. Some of the principal protections available to a victim in the course of the trial are briefly summarised below.

4.2.1. A victim is entitled to anonymity by virtue of s.7 Criminal Law (Rape) Act, 1981;

⁷ <https://www.vulnerablewitness.com/support-measures-available>.

- 4.2.2. The hearing will be otherwise than in public by virtue of provisions such as s.6 Criminal Law (Rape) Act, 1981 as amended; s.20 Criminal Justice Act, 1951 as amended; ss.19 & 20 Criminal Justice (Victims of Crime) Act, 2017; or s.34 Domestic Violence Act, 2018. Those permitted to be in the courtroom when a hearing is conducted otherwise than in public include persons accompanying or supporting the victim and *bona fide* representatives of the press.
- 4.2.3. A victim has the right to be accompanied in court by a parent, relative, friend or support worker. In practice the support worker will usually be a person from one of a number of victim support groups. See for example s.20 Criminal Justice (Victims of Crime) Act, 2017.
- 4.2.4. One or more special measures can be used during the victim's testimony such as:
- 4.2.4.1. Evidence via video link (see s.13 Criminal Evidence Act 1992 or s.39 Criminal Justice Act, 1999);
 - 4.2.4.2. The placing of a screen between the witness and the accused (see s.14A Criminal Evidence Act, 1992);
 - 4.2.4.3. Evidence through an intermediary (see s.14 Criminal Evidence Act, 1992); or
 - 4.2.4.4. The use of a video recording of a specialist Garda interview (see s.16 Criminal Evidence Act, 1992).
- 4.2.5. A restriction on the cross-examination of a victim about previous sexual history without the leave of the court and the availability of separate legal representation for the victim where such an application is made or allowed (see ss.3 & 4 Criminal Law (Rape) Act, 1981 as amended). There is also a restriction in relation to the cross-examination about the private life of a victim (see s.19 Victims of Crime Act, 2017);
- 4.2.6. There are restrictions on the cross-examination of a victim by an accused person (as opposed to through counsel) (see s.14C, Criminal Evidence Act, 1992 as amended); and
- 4.2.7. Restrictions on the disclosure to the defence of counselling records without either the consent of the victim or the leave of the court (see s.19A Criminal Evidence Act, 1992).
- 4.3. In addition, victims have available to them the use of dedicated witness suites where available. Where such suites are not available, steps should be taken to provide such facilities.
- 4.4. The list at 4.2 above, and other measures detailed in Dr Delahunt's list, provide an arsenal of legal protections for victims which come into play during the many steps of a victim's engagement with the criminal justice system. For example, a victim may choose not to give testimony unless they are fully informed of what a criminal trial will involve by the Gardaí to whom they lodge their initial complaint. It may come into play in the run up to a case at the initial stages of a trial when decisions are made about how a victim will give testimony. These

legal protections most obviously come into play when a victim gives testimony in court and the interplay between the victim's testimony and the law/evidential rules is realised.

5. *Criminal Justice (Victims of Crime) Act 2017 (hereinafter, the "Act" or the "2017 Act")*

5.1. Two relevant provisions of the 2017 Act which provide enhanced protection to victims' testimony are Sections 15 and Section 19. Section 15(1)(c) of the Act provides for consideration as to what extent the victim may, due to their particular vulnerability to secondary and repeat victimisation, intimidation and retaliation, benefit from (i) special measures during the course of an investigation of the alleged offence, and (ii) special measures during the course of any criminal proceedings relating to the alleged offence. Section 19 of the Act provides for special measures during criminal proceedings such that where a victim of an alleged offence has been assessed under Section 15 and specific protection needs have been identified that the Garda Síochána or the Director of Public Prosecutions will address the following provisions in determining whether to make an application to the Court:

(a) the exclusion of the public or any particular person or persons from the court during such criminal proceedings:

(b) directions under Section 21 regarding the questioning of the victim in respect of his or her private life: and / or

(c) measures under Part III of the Criminal Evidence Act 1992 enabling the victim to give evidence through a live television link or an intermediary or enabling a screen or other similar device to be used in the giving of evidence.

6. *Part III of the Criminal Evidence Act 1992*

6.1. Section 30 of the 2017 Act extends protections afforded to vulnerable witnesses under Part III of the Criminal Evidence Act 1992 to sexual offences. As such, victims of sexual offences can give evidence through television link (Section 13 of the Criminal Evidence Act, 1992, as amended). To date this has been the most commonly used of the various protections afforded under the relevant legislation.⁸ Additionally, the court, on application by the prosecution or the accused, may exercise its discretion and require that any questions to be put to the witness be put through an intermediary (Section 14 of the Criminal Evidence Act, 1992, as amended) or erect a screen such that the Accused is physically guarded whilst giving testimony (Section 14A of the Criminal Evidence Act 1992, as amended). Pursuant to Section 14AA of the Criminal Evidence Act, 1992 (as amended), the Court, in making these decisions, shall have regard to the need to protect the victim from secondary and repeat victimisation, intimidation or retaliation and will take into account the nature and circumstances of the case, and the personal characteristics of the victim.

⁸ Charleton & McDermott, *Criminal Law & Evidence*, 2nd ed. para. 2.77

- 6.2. Section 19A of the Criminal Evidence Act, 1992 (as amended by Section 39 of the Criminal Law (Sexual Offences) Act 2017 and by Section 30 of the 2017 Act) deals with disclosure of third-party records. In particular, Section 19A deals with the law surrounding the court's exercise of discretion as it relates to the disclosure of counselling records.⁹ Section 19A was a significant development in the law relating to the disclosure of a victim's counselling records and brought some much-needed clarity. Where a complainant has waived her or his right to non-disclosure, the procedures set out in the section do not apply. Otherwise, where the defence seeks the disclosure of such records or the prosecution intends to disclose them, an application must be made to court, during which the complainant and the person holding the records have an entitlement to be heard and be legally represented. The court will determine whether the contents, or any part, shall be disclosed. S.19A(10) list the factors to be taken into account by a court in determining whether the records should be disclosed. To a degree, it involves a balancing between the interests of the complainant and the likelihood of any harm that might be caused to her or him by the disclosure and the interests of an accused, the accused's ability to defend the charges against them and the risk of an unfair trial.
- 6.3. The *Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences* (the "O'Malley Report") makes the following recommendation in relation to Section 19A¹⁰:

6.3.1. "*Effective steps should be taken to bring the existence of section 19A of the Criminal Evidence Act 1992 regarding the disclosure of counselling records to the attention of victims and any persons who are advising them. It is important that victims should be aware of their right to object to the disclosure of such records*".

7. Prior Sexual History Evidence / Separate Legal Representation

- 7.1. Under the Criminal Law (Rape) Act, 1981 as amended, the issue of a complainant's previous sexual experience, whether with the accused or any other person, can only be raised with the leave of the trial judge. In general terms, the test that will be applied by a trial judge is whether it is more likely than not that the particular question or line of cross-examination, if allowed, might reasonably lead a properly directed jury to take a different view of the complainant's evidence from that which they might take if the questions were not allowed. Broadly, where the questioning is sought to be introduced for the purpose of in some way attacking the complainant's character, it will not be allowed. Where it is relevant to the issue of whether the complainant was consenting to the sexual intercourse or that the accused mistook her or him as so consenting, it is likely to be allowed.
- 7.2. The application is generally made at the outset of a trial, although it may not always be apparent at that stage that an application will be necessary. Once the prosecution has been notified of the intention to make an application, the complainant will be put on notice and advised of her entitlement to be separately legally represented. This can necessarily cause

⁹ *Ibid* para. 11.142

¹⁰ O'Malley, 2020, Appendix 4, p. 136

some delay while the Legal Aid Board instructs counsel and the solicitor and counsel take instructions from the complainant. Should the court allow the questioning, the complainant's legal representatives will remain in court while she or he gives evidence.

7.3. It is anomalous that the entitlement to be separately legally represented when the question of previous sexual history is in issue does not extend to sexual assault cases. This should be corrected. Such correction is recommended in the O'Malley Report.

7.4. Charleton & McDermott note that:

A recent New Zealand study found that questioning about the complainant's prior sexual history (including with third parties) was introduced in 43% of recent cases.³⁴¹ According to Scottish statistics, applications to admit sexual history evidence have been made in 72% of sexual offence trials (with 20% of such evidence relating to third parties) and 7% of the applications were refused.³⁴² In Ireland, figures have estimated between a third and two-thirds of trials involve sexual history evidence being admitted."¹¹

7.5. Section 21 of the Act provides protections in relation to questioning in respect of the private life of a victim in any proceedings relating to an offence and reads as follows:

"21. In any proceedings relating to an offence, where a court is satisfied that—

(a) the nature or circumstances of the case are such that there is a need to protect a victim of the offence from secondary and repeat victimisation, intimidation or retaliation, and

(b) it would not be contrary to the interests of justice in the case,

the court may give such directions as it considers just and proper regarding any evidence adduced or sought to be adduced and any question asked in cross-examination at the trial, which relates to the private life of a victim and is unrelated to the offence."

7.6. The O'Malley Report makes several suggestions in relation to such applications with which the Council agrees. These include, where possible, the earlier hearing of such applications where greater notice and information are given to a complainant a where the complainant is afforded legal representation more on a par with that available to the prosecution and defence. There is currently a Bill before the Oireachtas that would, if enacted, allow the earlier hearing of such applications. The O'Malley Report includes the following recommendations¹²:

¹¹ Charleton & McDermott, *Criminal Law & Evidence*, 2nd ed. paras. 11.136-11.138

¹² O'Malley Report, 2020, Appendix 4, p.136.

7.6.1. *“The right to separate legal representation for victims under section 4A of the Criminal Law (Rape) Act 1981 (in circumstances where an application is made to question a victim about other sexual experience) should be extended to include trials for sexual assault”.*

7.6.2. *“Where the defence intends to apply to the trial judge for leave to question a victim about other sexual experience under the terms of s. 3 of the Criminal Law (Rape) Act 1981, it should be required to notify the judge conducting the preliminary trial hearing of that intention. It is only in exceptional circumstance that such an application should be permitted at trial unless it has been notified at the preliminary trial hearing”.*

7.6.3. *“Once notification has been given at a preliminary trial hearing of intention to apply for leave to question a victim at trial under the terms of section 3 of the Criminal Law (Rape) Act 1981, the Legal Aid Board should be immediately informed. The Legal Aid Board, in turn, should endeavour to ensure that the victim is represented by counsel of a level of seniority similar to that of counsel representing the prosecution and defence”.*

8. Pre-Trial Hearings / Ground Rules Hearing

8.1. Ground rules hearings are hearings, held either before a trial or at its commencement, where “ground rules” are set for the fair and effective participation of vulnerable witnesses and defendants in criminal proceedings. In general, the court will hear representations from the prosecution and defence and, where appropriate, any intermediary, about issues relating to the treatment and participation of the vulnerable witness and any steps or protections necessary to assist the giving of evidence. Issues will often include the manner and duration of any questioning and the timing of breaks, if necessary. While it remains an informal procedure in Ireland, it is underpinned by legislation in England & Wales. One of the issues is that, until legislation allows for pre-trial hearings, the ground rules hearing can only take place at the commencement of the trial. Such legislation is presently being considered by the Oireachtas.

8.2. The O’Malley Report makes the following recommendations¹³:

8.2.1. *“Legislation should be introduced, along the lines proposed in the General Scheme for a Criminal Procedure Bill drawn up in 2015 by the Department of Justice and Equality, to provide for the establishment of preliminary trial hearings. We recommend the introduction of the necessary legislation as soon as possible”.*

8.2.2. *“Any issues relating to the appointment or role of an intermediary, and any other special measures required for vulnerable witnesses, should also be addressed at a preliminary trial hearing.”*

9. Cross-Examination by the Accused

¹³ O’Malley, 2020, Appendix 4, p. 135

- 9.1. Section 14C of the Criminal Evidence Act, 1992 (as amended) provides that, where a person is accused of a sexual offence, the court may exercise its discretion to direct that the accused may not personally cross-examine the victim of the alleged sexual offence. albeit the accused's legal representative or the court's choice of legal representative may cross-examine the victim of the alleged sexual offence. The judge may also give a warning to the jury to prevent any perceived prejudice to the accused person by virtue of the exercise of this section.

The Effect the Current Process has on Victims/the Accused/Practitioners and How an Alternative System can be Applied in Ireland

10. The Effect the Current Process has on Victims

- 10.1. When developing reform proposals in this area it is important to seek advices from victims of rape and sexual assault who have already been through the experience of giving testimony in Court. It is also important to seek advices from key stakeholders who work with victims in this area.
- 10.2. Perhaps government affiliated and independent academic research could be funded at PhD, Research Fellow or research project level such that qualitative and quantitative methods could be adopted to find out what effect the current process has on victims.
- 10.3. An important question to pose is what does justice look like for victims of sexual assault and rape? Many victims of serious sexual assaults and rape have not engaged with the criminal justice system. There is extensive academic commentary on alternative and or complimentary avenues of reform such as restorative justice.
- 10.4. Any legal reform efforts should give serious consideration to matters such as victim trauma, secondary victimisation and restorative justice schemes.
- 10.5. Many victims will be acutely aware of their own experience as a victim and of the oral testimony that they are giving however they will likely not be at all familiar with the formal legal processes of a criminal trial. Therefore, there is an informational bridge that must be built by the nexus of professionals who work in this space to guide the victim through the process such that these rights and protections are realised. It is noted that recommendations for the better communication of information to victims are contained in the O'Malley Report. As reforms are made it is important that the views of victims of sexual offences should be considered.

11. The Effect the Current Process has on the Accused

- 11.1. In every criminal trial an accused person has the benefit of a number of constitutional protections designed to protect against wrongful conviction. These include the presumption of innocence, the right to a trial in due course of law, the right to silence and the burden of

proof falling on the prosecution. It is important that these rights be realised and balanced with protections surrounding the testimony of victims.

- 11.2. The Council is not aware of any research into the effect that the current process has on the accused that might assist the Committee. Perhaps government affiliated and independent academic research could be funded at PhD, Research Fellow or research project level such that qualitative and quantitative methods could be adopted to find out what effect the current process has on the Accused.

12. *The Effect the Current Process has on Practitioners*

- 12.1. The issue of potential secondary victimisation or vicarious trauma has emerged as a significant concern for practitioners in Criminal Law, from both the prosecution and defence sides.

- 12.2. The study and evaluation of this issue is perhaps at a less-developed stage in Ireland than in other similar jurisdictions. One study was conducted in 2014 by Bulbulia, Quigley, Trimble & Gordon.¹⁴ The paper cites a number of international studies including one that suggests that criminal lawyers are considered to require a higher degree of emotional fortitude than those practising civil law. The authors describe the “armoury of resilience” that practitioners tend to develop to help protect against vicarious trauma. While their study group was relatively small, they describe the views of participants that the work can coarsen and harden a person. Several members of the group reported having experienced symptoms such as recurring nightmares, intrusive memories, or feelings of hypervigilance especially around personal safety or the safety of family members.

- 12.3. The authors of that study suggest that future research may focus on an understanding of the factors that sustain the professional well-being of those whose work exposes them to second-hand or vicarious trauma as well as the risks inherent in such work. Perhaps government affiliated and independent academic research could be funded at PhD, research fellow or research project level such that qualitative and quantitative methods could be adopted to further study this area.

- 12.4. In addition to the informal or formal measures that individual barristers utilise for themselves, the Bar of Ireland has developed a number of resources to assist members. There is a hub on the Bar’s website which guides members to external supports and internal resources. These include the Consult a Colleague Helpline, which is a confidential helpline whereby members can seek assistance from colleagues to discuss both personal and professional problems.

- 12.5. In an international context, the Bar of England & Wales has developed a dedicated website¹⁵ which provides well-being support to practitioners. Australian research includes a

¹⁴ Impact of Vicarious Trauma on Barristers Practising Criminal Law: An Armoury of Resilience – Bulbulia et al. Cork Journal of Applied Psychology (2015) 33-45

¹⁵ <https://www.wellbeingatthebar.org.uk/>

study into vicarious trauma in lawyers and mental health professionals. 36 lawyers and 30 mental health professionals participated in the study which found that lawyers were significantly more susceptible to experiencing symptoms of vicarious trauma than professionals in the mental health field who have received trauma-specific training and access to informed peer support. This suggests that trauma-specific training is important. A 2003 American study made similar findings.¹⁶ In the Australian state of Victoria a lawyer formerly employed in the Office of Public Prosecutions was awarded significant damages for PTSD arising from her work in that office's special sexual offences unit.¹⁷ Also in Australia, in 2019 a journalist was awarded significant damages against her employer for PTSD arising from vicarious trauma experienced in reporting criminal trials.¹⁸

12.6. The wealth of experience that judges, barristers and solicitors who practice in this area have is a valuable asset in reforming this area of the law. Law reform efforts should be made in consultation with these professionals whose daily judicial, advisory and advocacy practices are central to the outcome for those victims of sexual assault and rape who engage with the Criminal Justice System and trial process.

12.7. The O'Malley Report makes the following recommendations¹⁹:

12.7.1. *"All judges presiding over criminal trials for sexual offences and all lawyers appearing in such trials should have specialist training which equips them with an understanding of the experience of victims of sexual crime. They should also have training in connection with the questioning of witnesses who are especially vulnerable by virtue of youth or disability"*.

12.7.2. *"It is recommended that the Judicial Studies Committee, established by the Judicial Council Act 2019, should consider providing such training for judges"*.

12.7.3. *"The Law Society of Ireland and the Bar Council should take steps as soon as possible to provide specialist training for solicitors and barristers, respectively, who deal in any professional capacity with victims of sexual crime. This training can be delivered within existing CPD frameworks unless the professional bodies in question decide that such training can be more effectively provided by other means"*.

12.7.4. *"The Director of Public Prosecutions, the Minister for Justice and Equality, the Legal Aid Board and any other public authority responsible for briefing professional lawyers in sexual offence trials should be entitled to receive, upon request, from the Law Society and the Bar Council a list of solicitors and barristers, respectively, who have satisfactorily completed the prescribed course of specialist training"*.

¹⁶ Vicarious Trauma in Attorneys, Levin & Greisberg 24 Pace Law Review 245 (2003)

¹⁷ <https://www.abc.net.au/news/2020-02-20/former-prosecutor-awarded-435k-after-court-finds-opp-breache/11981966>

¹⁸ <https://lsj.com.au/articles/taking-on-the-trauma/>

¹⁹ O'Malley, 2020, Appendix 4, p. 139

12.7.5. “Steps should be taken to ensure that all personnel in State Agencies who are likely to have to deal with victims of sexual crime should have appropriate training”.

12.8. The Bar Council had, before the O’Malley Report, commenced the provision of training in areas related to vulnerable witnesses as part of its Continuing Professional Development programme and Advanced Advocacy courses. Since the publication of the report a working group has been established to develop a course of training as recommended in the report.

13. Useful Resources

13.1. Dr. Miriam Delahunt BL has collated important information in relation to vulnerable witnesses on her website <https://www.vulnerablewitness.com>.

13.2. The O’Malley Report (2020) provides a concise and contemporary review of this area. In particular, Appendix 4: Complete list of recommendations, pages 134-140, summarises key recommendations and reform proposals.

13.3. The ‘O’Malley Implementation Plan’ developed on foot of the O’Malley Report (2020) has seen the Department of Justice producing a document entitled *Supporting a Victim’s Journey: A plan to help victims and vulnerable witnesses in sexual violence cases* (http://www.justice.ie/en/JELR/Supporting_a_Victims_Journey.pdf/Files/Supporting_a_Victims_Journey.pdf) which captures their roadmap for reform in this area. Furthermore, a *Victim’s Charter* is available at <https://www.victimscharter.ie/>.

13.4. The *Report Into the Law and Procedures in Serious Sexual Offences in Northern Ireland Recommendations* (the “Gillen Report”) (2019) contains 16 key recommendations and 253 overall recommendations in relation to the law and procedures in serious sexual offences in Northern Ireland.

13.5. *The Advocate’s Gateway* is an excellent resource which “provides free access to practical, evidence-based guidance on vulnerable witnesses and defendants” and includes a litany of useful toolkits available for download (<https://www.theadvocatesgateway.org/>).

13.6. In an Irish context Dr. Conor Hanly and Professor Deirdre Healy have been a focal point for research in this area (see Hanly, C., Healy, D., Scriver, S. & Rape Crisis Network Ireland 2009, *Rape and justice in Ireland: a national study of survivor, prosecutor and court responses to rape*, The Liffey Press, Dublin).

13.7. The *Good Practice Guidelines* 2003 for An Garda Síochána based on the *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and witnesses, and using Special Measures*, England and Wales (Ministry of Justice) (March 2011), “assist the Specialist Interviewer in observing fair procedures while conducting the interview so that it may be admitted at trial” (Delahunt) (see - <https://www.vulnerablewitness.com/good-practice-guidelines-2003>).

- 13.8. *Criminal Procedure Rules and Practice Directions*, published 5 October 2020, England and Wales (Ministry of Justice) is available here (<https://www.gov.uk/guidance/rules-and-practice-directions-2020>).
- 13.9. The Advocacy Training Council's *Raising the Bar* 2011 is "the first major research project in England and Wales to focus on how best to train advocates in the handling of vulnerable people in court" and can be found here - <https://www.icca.ac.uk/raising-the-bar/>. *Raising the Bar* is a useful resource which includes toolkits for practitioners.