

NEW LEGISLATION SETS STALKING AS SEPARATE CRIMINAL OFFENCE

Gender-based violence and harassment of women has come to the fore more than ever this year, and now for the first time in Ireland legislation will be put in place to protect against crimes based on gender, and to categorise stalking as a standalone criminal offence. Deirdre O'Flynn reports.

Sixty per cent of people who have been sexually harassed have experienced it in the workplace, most of whom were women, according to a 2021 survey of 940 people, undertaken by the Dublin Rape Crisis Centre (DRCC).

Almost one in four of those who experienced workplace sexual harassment said that the harassment happened at work-related events,

meetings, or conferences.

The DRCC discussion paper on workplace harassment mentioned that, under the Employment Equality Acts, employers have a legal responsibility to prevent and address sexual harassment in the workplace.

Another report, the 2021 Matrix Recruitment Workplace Equality Survey, showed that the number of people who reported experiencing sexual

harassment at work almost doubled from 10% in 2019 to 18% in 2020; this fell to 17% during 2021.

According to the report on the survey of over 1,100 workers, *“sexual harassment can take many forms and does not have to happen when you are in the physical presence of the offender. Comments at virtual meetings or pictures shared of a sexual nature, unsolicited texts and emails are common examples of sexual harassment”*.



The Non-Fatal Offences Against the Person (Amendment) (Stalking) Bill characterises the offence of stalking as “repeated, unwanted behaviour that occurs as a result of fixation or obsession and causes alarm, distress or harm to the victim and to provide for related matters”.

ONLINE HARASSMENT

For many women in particular, remote working and working from home during the pandemic brought harassment – and the harasser – into their homes.

A survey in November and December 2020 by the UK women’s rights charity, Rights of Women, found that harassers took advantage of online work platforms and social media during the pandemic.

As a result, nearly one in two women who experienced sexual harassment at work reported experiencing some to all of it online. And 15% of women who experienced sexual harassment at work reported an increase in online harassment whilst working from home during the pandemic.

Una Ring was subjected to months of harassment in 2020, which included threats of rape, and stalking by a former work colleague. “In the 18 months we worked together, there were no red flags, this came out of nowhere,” said Ring, who lives in Youghal, Co Cork.



According to a survey by the Dublin Rape Crisis Centre last year, within a workplace context, 60% of people who sexually harassed, most of whom were women, experienced it in the workplace.

From abusive text messages to letters left on her car windscreen, vandalism of her car and house, her stalker was finally caught by members of An Garda Síochána outside her house at night – armed with a crowbar, a rope, duct tape, and a sex toy. In February 2021, her stalker was jailed for five years.

LEGISLATION ON STALKING

As a result of her experiences, Una and another stalking victim, Eve McDowell set up Stalking.ie – one objective was to make stalking a separate criminal offence.

“The intent with stalking is completely different – the end game with stalking is rape or murder or both,” said Ring, who reported her stalker to Gardaí in June 2020 “in case he did something else”.

Within weeks of restrictions being lifted that month, her stalker was back, undertaking a four-hour round trip to vandalise her car outside her home. “His being charged with harassment was an insult to what I went through – stalking needs to be a separate offence.”

Senator Lisa Chambers became aware of the experiences of both Ring and McDowell and joined them in their campaign. In February, a bill proposed by Senator Chambers to have stalking

categorised as a standalone criminal offence passed its final stage in the Seanad.

Just before ‘Health & Safety Times’ went to press, the Bill had passed the second stage in the Dáil, and is set to become law, so that stalking will now be categorised as a standalone criminal offence. It had previously been prosecuted under a charge of harassment as part of the Non-Fatal Offences Against the Person Act 1997. “However, harassment doesn’t really cover stalking, which is insidious and relentless and has a long-term impact on people. It’s trying to cover too much under one offence,” she stressed.

Indeed, in 2016, the Law Reform Commission (LRC) recommended that stalking be made a distinct offence from harassment. The LRC looked at Scotland, England and Wales in 2016 where there was an increase in prosecutions and convictions when stalking was made a standalone offence. “There was a three-fold increase in reporting and a two-fold increase in prosecutions,” the Senator noted.

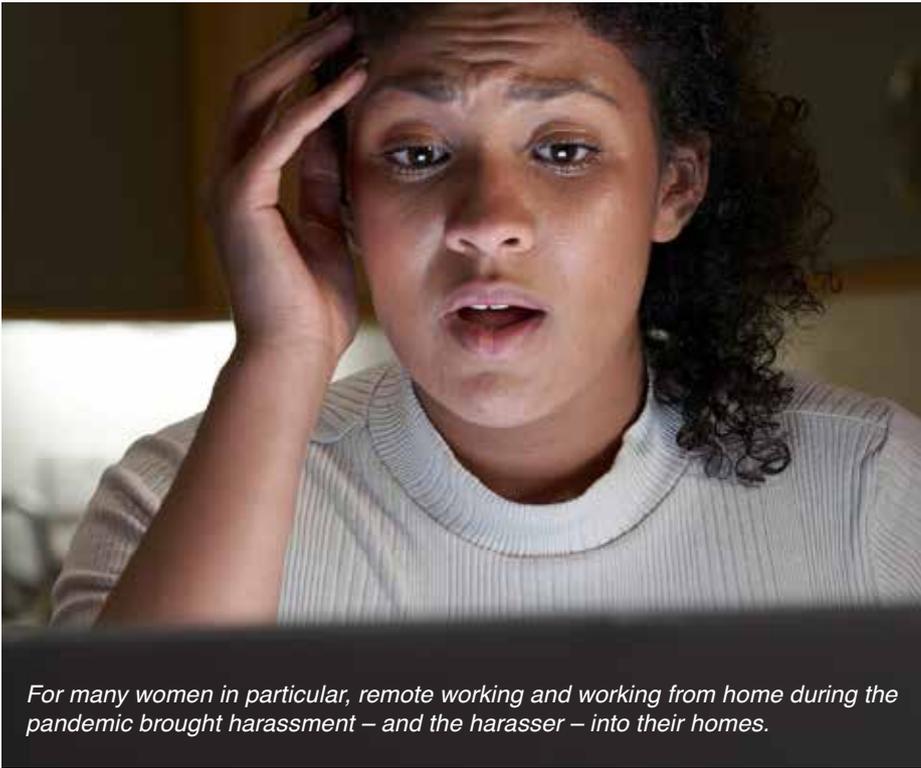
Chambers’ Non-Fatal Offences Against the Person (Amendment) (Stalking) Bill characterises the offence of stalking as “repeated, unwanted behaviour that occurs as a result of



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‘Stalking Ireland’s Una Ring and Eve McDowell pictured with Senator Lisa Chambers (left) and Justice Minister Helen McEntee (right) met on 26 January 2022 to discuss implementing stalking legislation in Ireland. (Source: Stalking.ie on Twitter).



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our curriculum to include compulsory programmes in primary and secondary level schools, bringing the programmes into our sporting institutions and youth services. We need to transform our third level institutions to adopt a zero-tolerance approach.

“It means policy change in our education system to ensure the casual sexism that girls and women experience is unacceptable. It means stronger legislation towards street harassment, and stronger enforcement toward harassment in the workplace.”

A STANDALONE OFFENCE

In January in Dáil Eireann, Justice Minister McEntee said the act of stalking was already covered by existing law, and she had proposed changes to make the law both clearer and stronger.

These included an explicit reference to stalking as a criminal offence; making it clear that stalking includes watching or following a victim, even where they are not aware of being watched or followed; making it clear that impersonating the victim, and then communicating with a third party, is illegal; updating the law to ensure that it covers all forms of modern communications.

So, now that the new legislation is to be enacted later this year, stalking will be cited as a standalone criminal offence in a new Section of the Non-Fatal Offences Against the Person Act.

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STATUTORY AGENCY PROPOSALS

In February, Justice Minister Helen McEntee TD outlined proposals to establish a new statutory agency on domestic, sexual and gender-based violence. The proposed agency would be responsible for the delivery of services, ensuring standards, leading awareness campaigns and leading research.

In addition, a public consultation on the third National Strategy for Domestic Sexual and Gender-based Violence opened in February.

Chambers agreed that there’s a completely different approach this year to tackling gender-based violence and harassment. And now that the stalking legislation has been passed, she said that there will be an increase in refuge places. Furthermore, the newly established Committee on Gender Equality, of which I’m a member, will report at the end of the year.

“Ultimately, people should feel safer and more comfortable in making a complaint. The increase in conversations and openness on these issues will

encourage others to come forward and make it more difficult to be a perpetrator.”

According to Orla O’Connor, Director of the National Women’s Council of Ireland, “ultimately, it is important today that our conversations focus on prevention, on creating a zero-tolerance culture towards misogyny and sexism that permeates our society and creates the context in which gender-based violence occurs.

“This means, for example, changing



“Ultimately, people should feel safer and more comfortable in making a complaint. The increase in conversations and openness on these issues will encourage others to come forward and make it more difficult to be a perpetrator,” noted Senator Lisa Chambers.