

Thank you for your correspondence in relation to sentencing.

To ensure that judges are independent of Government, the separation of powers is enshrined in the Constitution. The courts are subject only to the Constitution and the law, independent in the exercise of their judicial functions and the conduct of any court case is a matter entirely for the presiding judge.

In accordance with the principle of judicial independence the court is required to impose a sentence which is proportionate not only to the crime, but to the individual offender, identifying where on the sentencing range the particular case should lie and then applying any mitigating factors which may be present.

The Director of Public Prosecutions (DPP) is also independent of Government in carrying out her work. This ensures the DPP makes unbiased decisions based on the evidence presented and it is for the DPP to decide whether someone should be prosecuted, and for what crime.

When it comes to sentences however, section 2 of the Criminal Justice Act 1993 provides an important safeguard, under which the DPP, and only the DPP, may apply to the Court of Appeal to have a sentence reviewed if it appears that the sentence imposed in a case is, in law, unduly lenient.

It is not open to a government, Minister or any other person to direct the DPP to take this step, this is a decision reserved for the DPP based on their evaluation of the sentence handed down.

This may be frustrating to read, however, the separation of powers is a constitutionally guaranteed cornerstone of our system of criminal justice and of our democracy.

The following information about ongoing work in the Department of Justice to prioritise the prevention of and to combat all forms of domestic, sexual, and gender-based violence (DSGBV), including by introducing new, stronger legislation to hold perpetrators to account and by improving supports for victims.

In 2022, the Department's five-year Zero Tolerance Strategy on DSGBV was published, which sets out an ambitious, whole of government, programme of reform to achieve a society which does not accept DSGBV or the attitudes which underpin these crimes (gov - Third National Strategy on Domestic, Sexual and Gender-Based Violence (www.gov.ie)).

One of the actions delivered under that strategy was increasing the maximum sentence for assault causing harm from five years to 10 years. This new maximum sentence can be applied if a judge feels it is appropriate to do so in the case of crimes committed from the date at which the relevant section of the relevant Act came into effect, namely 1 November, 2023.

Earlier this year, the new statutory DSGBV Agency, Cuan was established, which will be key to delivering on the ambition of the strategy. This includes in relation to prevention, education and awareness raising, training for all who come into contact with vulnerable victims (including the legal professions) and ensuring the right supports are there to protect and support victims of these hideous crimes.

A requirement in the new Judicial Appointments Commission Act 2023 was also introduced that the new Judicial Appointments Commission must consider what training or continuous professional development all candidates for judicial office have undertaken in making recommendations to Government regarding their appointment to judicial office.

A priority for the Government and for Cuan is the provision of safe accommodation, and planning and engagement to fulfil our commitment to provide 150 additional family refuge units, is underway. This is part of the Government's plan to double the number of refuge spaces within the lifetime of the Strategy and would represent the largest ever increase in the number of refuge spaces.

Other actions achieved under the Zero Tolerance Strategy to date include:

- Passage of the Family Courts Bill through both houses of the Oireachtas on 7 November 2024, which provides for the creation of dedicated Family Courts as divisions within the existing court structures;
- The Sex Offenders (Amendment) Act 2023 was signed into law;
- Introduction of standalone offence of stalking and non-fatal strangulation; and
- The Sexual Violence Survey 2022 was published by the CSO.

Key actions this year include work on the National Services Development Plan, increasing refuge spaces and safe homes, progressing further legislative reform, evaluating the effectiveness of awareness raising campaigns, and the development of a research and data plan to support collating DSGBV information across government departments and agencies.

In addition, the Judicial Council was established in 2019 and is currently prioritising work on developing sentencing guidelines in the District Court in relation to domestic violence. The Council is carrying out research to inform this work.

I would like to again thank you for your correspondence on this issue and again to assure you that both the Department and the Government are committed to achieving the aim of the Zero Tolerance Strategy, namely creating a society that does not accept any form of domestic sexual or gender-based violence and does not accept the attitudes that underpin such behaviour.

I am aware this is a lengthy reply, but I wanted to provide you, with information on some of the priority work that has been, and is being, undertaken to combat all forms of DSGBV and better support victims.

I hope the information provided is of assistance.

Yours sincerely,

Helen McEntee T.D.

Minister for Justice

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