



Laura Pathe

Clerk to the Joint Committee on Tourism, Culture, Arts, Sport and Media

Dear Laura,

**Meeting to discuss “A safe and respectful working environment in the arts”.**

Thank you for the invitation to meet with the Joint Committee on Tourism, Culture, Arts, Sport and Media (the “Joint Committee”) and for the opportunity to submit this briefing document in advance of the meeting.

For ease of reference, we have numbered the paragraphs below. Our opening statement is attached separately.

**BACKGROUND**

1. FairPlé is a volunteer organisation, established in January 2018. Our mission is to achieve gender balance in the production, performance, promotion, and development of Irish traditional and folk music, advocating for equal opportunity and balanced representation for all. As our work progressed, it became increasingly evident that it was impossible to separate issues around gender representation and gender-based discrimination from issues of gender-based harassment, abuse and violence. Inequality in terms of representation was being supported by a workplace culture which permitted, or at least turned a blind eye to, harassment and assault of women.
2. From the outset, our members began receiving, unprompted, confidential disclosures of gender-based harassment and assault from women across the spectrum of the traditional music and dance scene. The issues being raised came to wider public attention during 2020, when serious allegations of sexual abuse, assault, harassment and coercion in the Irish folk and traditional music scene were brought to light by the #misefosta campaign.
3. Some of the Committee may be aware of the RTE Primetime investigation into the allegations raised by members of #misefosta. Further details of the investigation, which was the subject of a Primetime special broadcast can be found here: <https://www.rte.ie/news/investigations-unit/2020/0723/1155183-misefosta-calls-halt-to-sexual-wrongdoing-in-traditional-music/>.
4. The disclosures received by FairPlé very much reflect the findings of the recent Irish Theatre Institute Report, ‘Speak Up: A Call for Change’ (the “ITI Report”), a copy of which can be found here: <https://www.irishtheatreinstitute.ie/resources/speak-up-call-it-out/>. It is also important to note that activists of FairPlé consulted with the ITI on the research survey which informed this report.

5. Since forming, we have pursued a diverse campaign to raise awareness of these issues and to seek substantive structural change, including running panel discussion events, jointly organising an academic symposium and ongoing political lobbying. We have developed guidelines, in collaboration with the Rape Crisis Network, on how to deal with sexual harassment in music sector settings, alongside information on support services available across the island of Ireland (see: <https://www.fairple.com/sexual-harassment>). We have also developed a template anti-harassment policy for use by festivals and venues, based on a Finnish Festival example and which can be applied across a broad range of events (<https://www.fairple.com/anti-harassment-policy>).
6. In addition, we created a directory of women traditional and folk performers: <https://www.fairple.com/directory>. This was created to address claims that there was a lack of suitably qualified women in the tradition, by providing a directory for promoters, venues and other artistes.
7. Detailed reports of the work undertaken to date by FairPlé and our ongoing work can be found on our website: <https://www.fairple.com/report> and <https://www.fairple.com/rollingreport21>.

### **A SAFE AND RESPECTFUL WORKING ENVIRONMENT IN THE ARTS**

8. As the members of the Joint Committee will be aware, the nature of the workplace in the arts is often more fluid when compared with other sectors or professions. The workplace in traditional and folk music can range from office spaces to tour buses, rehearsal rooms, venues, educational facilities as well as to informal spaces, such as the traditional pub-based session. This is combined with more fluid working practices, with many musicians being engaged on a freelance and self-employed basis and others still performing on an amateur/semi-professional basis. Working conditions can often be precarious, with a strong reliance on inter-personal relationships and established networks.
9. It will come as no surprise that many of the issues encountered in the traditional and folk environment are mirrored across the arts, evidenced by the establishment of organisations with similar aims to FairPlé in the comedy sector (<https://comedysafetystandards.com/>), the writers and poets' sectors (<http://www.wakeupirishpoetry.ie/>; <https://transwritersunion.com/>) and the theatre sector (<https://www.rte.ie/brainstorm/2018/1122/1012586-how-waking-the-feminists-set-an-equality-agenda-for-irish-theatre/>). These issues were highlighted, starkly, in the ITI Report.
10. However, what is uniquely problematic to our environment is the pervasive attitude that our indigenous tradition is pure, untouched and unaffected by the external influences which are held solely responsible for the problems some feel only exist elsewhere. We have a society and a tradition which strongly encourages hero worship, often coming at the expense of victims. Added pressure is put on those victims to forgive and forget for the good of the tradition, and refusing to do so is seen as disloyal and somehow unpatriotic.
11. These power dynamics and enabling characteristics of the scene, in addition to the nature of the tight-knit community (i.e. everyone knows each other) have fostered a culture of silence. Perpetrators are enabled to re-offend while simultaneously maintaining their vaulted position within the tradition, as they continue to receive funding.

12. We refer the Joint Committee members to the research carried out by Dr Úna Monaghan, as published in Ethnomusicology Ireland: <https://www.ictm.ie/121-stories-the-impact-of-gender-on-participation-in-irish-traditional-music-una-monaghan/>. Dr Monaghan's research provides a gendered insight into the impact of the environment created within the tradition.
13. Dr Monaghan's article features in an edition of Ethnomusicology Ireland which was dedicated to research on gender and sexuality within traditional music: <https://www.ictm.ie/category/issue-7/>. For those on the Joint Committee who would like to read further on this topic, we would recommend the work of Tes Slominski, 'Trad Nation: Gender, Sexuality and Race in Irish Traditional Music' (Wesleyan University Press, Middletown, Connecticut, 2020) and Helen O'Shea, 'The Making of Irish Traditional Music' (Cork University Press, 2008).

## WHAT ARE WE SEEKING?

14. FairPlé supports the recommendations set out in the ITI Report and welcomes the package of measures announced by Minister Martin in the wake of the ITI Report (<https://www.gov.ie/en/press-release/a07f0-minister-martin-announces-robust-suite-of-actions-in-response-to-pivotal-arts-sector-report/>).
15. However, while the Minister offered general support for the recommendations in full, we note that certain recommendations were omitted from the announced measures. We are concerned that the initial funding for implementation of the measures is not sufficient and want to ensure that the Department for Tourism, Culture, Arts, Gaeltacht, Sport and Media (the "Department") is committed to ensuring that these measures are not simply a 'one-off' but are followed through and followed up. To be effective, the measures need to be long-term and sustainable and fully funded.
16. We make the following observations on the Minister's proposals:
  - 16.1. We wholly endorse the ITI Report's call for a mobilisation of sectoral and institutional leaders, key talent and public figures to show leadership on the issues raised. Organisations such as Trad Ireland and ITMA have shown that it is simple to show such leadership (<https://www.trad-ireland.com/tradtalk>; <https://www.itma.ie/latest/news/mise-fosta>). We therefore continue to be disappointed by the lack of support from other leading institutions and figures, all in receipt of regular funding, for either our campaign or its sister campaigns, such as #mifefosta, as well as by their lack of response to the ITI Report. It is unfortunate to see no proposals for such mobilisation, which might have been quickly and easily achieved through the use of 'ambassadors' or similar models.
  - 16.2. We are pleased to see that the recommendations on strengthening reporting and support systems form part of the Minister's suite of measures. The development of and provision of online resources is particularly important, especially as many arts organisations may not have the capacity to develop these documents and policies themselves. The provision of resources to arts workers, such as counselling services, impartial HR advice, mediation services and legal consultation has the potential to be transformational if they are properly funded, accessible and available.
  - 16.3. We are disappointed that the recommendation to develop an anonymous, centralised reporting facility has not been specified amongst the Minister's proposals. We have for some time been calling for the establishment of an

independent body, which could provide this form of reporting facility and will return to this in greater detail below.

- 16.4. We are pleased to see the proposal that public funding will be contingent upon requirements to adhere to national guidelines and workplace safety (and reporting) processes. We will discuss this in greater detail below.
- 16.5. We note that besides a reference to carrying out further surveys, the Minister's proposals do not make any specific reference to supporting further research. We hope that further research will be supported and that this is included within the Minister's stated support for the continuation of the ITI's Speak Up ACTION project. We would like to acknowledge the tremendous work carried out by Jane Daly and Siobhán Bourke at ITI. We wish them well in their retirement, but we note with concern the loss of their expertise and experience.
- 16.6. The ITI Report recommends the development of an online register so that organisations can publicly commit to "Dignity at Work" Codes of Behaviour. It is unclear whether this register is being treated as part of the proposals for development of online resources. While we support the idea of a register in principle, it must be supported by reporting and monitoring mechanisms to ensure that organisations can't simply use this as 'gender-washing' or a box-ticking exercise without making substantive changes to their working practices and procedures.

### **The French approach to public funding of musical arts**

17. We hope that the Department will consider the work carried out in France to address issues of gender-based violence in the musical arts sector.
18. In December 2020, the French equivalent to the Arts Council for the music sector, Centre National de la Musique ("CNM") launched a Protocol for the Prevention of Sexual and Gender Based Violence (the "Protocol"). The CNM is the principal distributor of public funds to the music sector in France and with effect from January 2021, all organisations seeking such funding are required to comply with the terms of the Protocol. Funding can be withdrawn for non-compliance with or breaches of the Protocol.
19. Details of CNM's work and the Protocol can be found here: <https://cnm.fr/sujet/egalite-femmes-hommes/#prevention-des-violences-sexistes-et-sexuelles>
20. To support the implementation of the Protocol, the CNM has provided toolkits and training resources.
21. The English language version of the CNM website does not include a section on the Protocol; however, some browsers will provide a translation of the live pages on the French language version of the site. Here is a link to a short English language article published around the time of the Protocol's launch: <https://associationforelectronicmusic.org/2020/12/21/le-centre-national-de-la-musique-protocole-de-prevention-des-violences-sexuelles-et-sexistes-for-the-french-music-industry/>
22. In addition to launching the Protocol, CNM has allocated a fund of €1m for music projects specifically linked to gender equality or the prevention of gender-based or sexual violence.

## Reforms to public arts funding

23. As noted above, we are pleased to see the Minister's proposal that the allocation of public funding will be in line with the requirement to adhere to national guidelines and workplace safety (and reporting) processes. In our view, all public arts funding should be conditional upon applicants meeting certain conditions to address gender-based harassment, violence and abuse. We are looking forward to seeing details of the Minister's proposals.
24. We have previously provided our views on this issue to the Minister and thought it would be helpful to present our views here for the Committee.
25. The conditions should not be applied only to organisations or institutional applicants, but should also be applied to applications by individuals, particularly where those individuals are managing a project involving other artistes. The appropriate funding conditions should of course vary depending on whether the applicant is an organisation or an individual.
26. For organisations, we suggest that the conditions include:
  - 26.1. implementing and maintaining up to date relevant policies and procedures for the benefit of all staff, contractors, participants and audiences;
  - 26.2. implementing and maintaining up to date anti-harassment protocols for venues;
  - 26.3. reporting on the gender balance across their organisation and the funded projects, including but not limited to details of their Boards, staff, artists, technical crew and contractors;
  - 26.4. providing training for all staff, employees and contractors (including artists) on addressing gender-based harassment, violence and abuse in the workplace and in the artistic practice space;
  - 26.5. disclosure of any circumstances in which allegations of harassment, bullying or similar are upheld against any staff or employees engaged in the funded activities or in the course of any unfunded activity; and
  - 26.6. regular reporting to the funder on the ongoing management of all policies and protocols.
27. For individual applicants, we suggest the conditions include:
  - 27.1. certification that there are no allegations of harassment, violence, abuse or related behaviour which have been upheld against the individual, whether within a work context or otherwise, for example, convictions for sexual crimes, gender-based violence or similar offences;
  - 27.2. disclosure of any allegations of behaviour described above which have been upheld and of any convictions for sexual crimes, gender-based violence or similar offences;
  - 27.3. where the project involves collaboration with others, reporting on the gender balance of the project team and participants; and
  - 27.4. where the project involves the delivery of an event, implementing and maintaining an up-to-date anti-harassment policies and procedures for the benefit of all participants and audiences or providing confirmation that any

proposed venue has implemented such a policy or, where the event is part of a larger event or festival, that there is such a policy in place. As noted above, a template anti-harassment policy can be freely downloaded from our website.

28. Applicants should be required to set out how they have met the relevant conditions in their initial application for funding. Successful applicants should be obliged to report on any material changes of circumstances during the funded period, for example where an allegation of harassment is upheld against a staff member.
29. Public resources should be made available to funding applicants to help them to implement and comply with the proposed conditions, for example provision of training, template protocols and policies, guidance notes and/or allocated funding to allow organisations or individuals to access such resources.
30. To be clear, we are not suggesting that these conditions impose an obligation on the funding body to manage compliance by the applicant. They simply provide an additional set of criteria for determining whether an applicant is eligible and should remain eligible for funding. We are, however, asking for the establishment of an independent body to monitor equality issues within the sector and it is this body which might be given an oversight role, including oversight of the administration of funding applications to ensure that these conditions are being applied effectively. The proposed independent body is discussed further below.

### **Closing statutory gaps**

31. It is not clear that existing equality legislation offers necessary protections to freelance workers in the arts sector. Freelance workers do not have the same level of protection as employees and do not necessarily have access to legal recourse, for example through the Workplace Relations Commission. Many musicians interact with venues, festivals and organisations on a contractual basis which is complex.
32. For example, a band may be asked to play at a venue by a promoter. The promoter might be independent of the venue. Technical staff, such as stage managers, sound technicians or lighting operators, might be employed by the venue or contracted on a freelance basis by the venue or the promoter. The band might be paid a fee by the promoter or the venue, or may take a proportion of ticket sales. They might even take all the ticket sale proceeds and pay the venue for room hire and a fee to the promoter. If a member of the band suffers harassment at the venue whether by a member of staff, the promoter, an audience member or another party, it is not clear in that moment who the band member should turn to or who has the power to sanction the perpetrator. It is not always clear that there is any legal basis for a claim, where equivalent harassment would be treated as unlawful in an employment context, and/or who is responsible for protection of the artistes.
33. We ask that some form of review is carried out to establish whether the law does provide adequate protections to workers in the arts and, if not, whether amendments to equality and employment legislation are required to ensure that artistes are not exposed to unfair practices and exploitation.
34. To the extent that there are existing legislative protections in place, we ask that these be the subject of any awareness campaign rolled out by the Department, so that arts workers can easily establish the nature and scope of their rights.



## **A new independent statutory body with investigatory powers**

35. We propose that a statutory independent body be established (or the scope of an existing body be extended) and given the power to investigate claims of discrimination or harassment affecting those working on a freelance or self-employed basis. The scope of claims should include claims and complaints against individuals and organisations, whether or not such individuals or organisations are publicly funded. Effectively, we are asking for the establishment of a 'HR department' for the arts.
36. Where claims concern potential criminal charges, the body should be able to refer matters to An Garda Síochána while being entitled to continue its own investigations. Consideration should be given to delegating prosecution powers to the body in a manner similar to those delegated to the Office of the Director of Corporate Enforcement (<https://www.odce.ie/en-gb/functions/enforcement.aspx>).
37. A whistleblowing mechanism should be established to facilitate the making of protected disclosures about incidents or cases of discrimination or harassment to the independent body. This could be implemented in a similar manner to the mechanisms for protected disclosures made to the Central Bank of Ireland or to the Office of the Director of Corporate Enforcement (<https://www.odce.ie/en-gb/abouttheodce/protecteddisclosures.aspx>, <https://www.centralbank.ie/consumer-hub/explainers/how-can-i-report-wrongdoing-in-a-regulated-financial-services-firm>). This would provide an effective reporting facility as recommended in the ITI Report. The body should be given the power to commence investigations following the receipt of protected disclosures.
38. As we discussed in the introduction to this briefing note, we have been in receipt of disclosures about a range of incidences of harassment through to the most serious sexual assault. The people concerned are often reluctant or scared to report what has happened to them, either within their work environment or, where appropriate, to relevant legal authorities. The issues faced by those reporting sexual or gender-based crimes and the inadequate response of our criminal justice system is beyond the scope of this note. We would echo the observations and recommendations made in the ITI Report (see pages 39, 41 and 44 of the ITI Report).
39. We have sought to direct people towards organisations such as the Dublin Rape Crisis Centre so that they can receive support. We have engaged with An Garda Síochána and the Police Service of Northern Ireland. We have done our best, but we are not qualified in this field and while we can offer support and solidarity, we cannot provide any resolution or justice. Provision of a protected disclosure mechanism is only one step in addressing this issue, but it could prove particularly effective in challenging the power dynamics and other structural and systemic issues which currently discourage people from reporting.
40. Where investigations lead to a determination of a breach of relevant equalities legislation, the independent body should be empowered to impose a range of remedies, including the right to order a party to pay damages and/or compensation to injured parties or a requirement to implement necessary policy and procedures to prevent further incidents. If the independent body is granted criminal jurisdiction, the ability to impose criminal sanctions should follow.
41. Where a complaint or claim is upheld and a determination is made against a party, this should be recorded on a register of determined claims. This register does not need to be publicly available but should be accessible by all public funding bodies so that it can

be searched and cross-checked when determining an applicant's eligibility for arts funding. All applicants for public funding should be required to disclose any ongoing and concluded claims and be provided with the opportunity to set out the steps they have taken to address the issues giving rise to the claim. If an applicant fails to disclose a claim which comes to light on the register search, this should be sufficient grounds for refusing an application for funding.

42. Individuals or organisations should be able to make information requests from the register where they are proposing to enter into contracts or to commence projects with other individuals or organisations. This disclosure request could be administered in a similar manner to Garda vetting or to the Domestic Violence Disclosure Scheme implemented in the UK (<https://www.psnj.police.uk/crime/domestic-abuse/dvads/>, <https://www.gov.uk/government/publications/domestic-abuse-bill-2020-factsheets/domestic-violence-disclosure-scheme-factsheet>).
43. It is proposed that the independent body should also provide and facilitate alternative dispute resolution services, including adjudication, mediation and conciliation. In the case of adjudications, parties should be entitled to seek enforcement of any decisions through the District Court, in a similar manner to the enforcement rights available following Workplace Relations Commission adjudications ([https://www.workplacereleations.ie/en/complaints\\_disputes/enforcement/](https://www.workplacereleations.ie/en/complaints_disputes/enforcement/)). All cases determined by adjudication should be recorded in the register mentioned above.

## CONCLUSION

We welcome this opportunity to share our experience, our expertise, and our hard work to date with the Joint Committee. Our own name means fair discussion and one of our earliest objectives was to initiate a discussion on gender balance and fair practice at work. We are pleased that this House has now engaged with this.

Our opening statement begins with the powerful words as Gaeilge: "a chairde". These words are powerful because they are inclusive and respectful. A safe working environment must be the same. We ask that you support our work and the work of our sister organisations in achieving much needed change in the arts sector. The reform required needs long-term and sustainable action and we are asking for your commitment in the same terms.

The severity and all-pervasiveness of these issues must be properly acknowledged and recognised by stakeholders and leading figures within the Irish traditional and folk music scene, as well as across the arts more broadly. It is saddening and frustrating to realise that many of us have been safest while our country was in lockdown. We do not have time for platitudes. While action is not being taken, more people are being put at risk. We ask that you support our call for acknowledgment and action from our music scene's leaders.

FairPlé urges you all to take seriously the need for a safe and inclusive artistic working environment and to take seriously the testimonies of those in the arts who have suffered bullying, harassment, discrimination and violence. We ask that you hold the Department to account on its pledge to implement the recommendations of the ITI Report. We also ask that you go beyond this and press the Department to be more ambitious in its proposals and actions.

The time for critique has passed and it is time for action. We know it is possible to create a safe, inclusive and respectful working environment. It is time now for our sectoral and political leaders to step up.

Yours sincerely

FairPlé