

Joint CPS and Police Action Plan on Rape

June 2014

Rape and sexual abuse against women, men and children is an appalling misuse of power and control which can have a devastating impact on lives. The vast majority of offences are not reported to the police and more than a third of victims tell no one about their experience.

In this context the drop in the number of reported cases that were then referred by police to the CPS in 2012-13 was of particular concern and why the CPS and police have worked together to look into the reasons behind it. This culminated in a National Scrutiny Panel attended by police, prosecutors, academics and victims' groups, on 4 April 2014, and out of which comes a detailed action plan.

The drop in volumes has turned around over the last year, with a rise in police referrals and the number of cases charged. However this needs careful monitoring for months and years to come, as do the number of convictions and conviction rates which have fallen since this work began. Through this action plan we will ensure police and CPS continue this ongoing work.

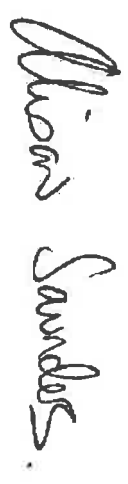
A key finding we identified from our work on the rape scrutiny panel is the need for proper understanding of the legislation on consent. Police and prosecutors must focus their cases on the behaviour of the accused, not the complainant and, significantly, the Panel uncovered some pervasive myths that remain to this day among not only some police and prosecutors but perhaps society as a whole, and which may be a barrier to justice for some vulnerable victims.

Despite efforts to raise awareness, many people still believe a rapist is a man in a balaclava in a dark alley, and a victim is a woman who shows her fear through fight. That is very rarely the case - most rapists know their victim, many victims do not physically fight and the trauma of being raped will effect each victim differently.

There is an urgent need to change the discourse on rape. Our police officers, our prosecutors, our courts and our communities must reject the out of date myths and acknowledge the realities of rape. We also need to debate and understand the fundamental issue of consent.

These are issues that go beyond police and prosecution authorities, but we are determined that the actions set out here are not seen by anyone as a plan to file away, rather the next step in the long term development of justice in this area. We want everyone involved in criminal justice to read this and sign up to a wider ambition of delivering justice to victims of rape as we have.

Finally, we want to express our gratitude to the Panel members particularly to Professor Liz Kelly from London Metropolitan University, Ruth Mason from End Violence Against Women and Girls Coalition, Dianne Whittfield from Coventry Rape and Serious Abuse Centre, Michelle Stoops an Independent Sexual Violence Advisor Manager, and Betsy Stanko from the Mayor's Office for Policing and Crime whose expert advice continue to make a real difference to the policing and prosecutorial approach to rape cases.



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1. Striking the balance: Offender centric investigations while ensuring an effective response to victims

An effective strategy in the investigation and prosecution of many cases requires a focus on the actions of the offender, rather than those of the victim. This is particularly important in rape cases where, all too often, there is a misunderstanding of critical issues around consent and credibility, especially where vulnerable victims are involved. The service provided to victims will remain a central driver in our efforts to improve the response to rape and the ongoing safety of the victim will continue to be a paramount consideration, even where a decision has been taken to stop an investigation. We will:

Action	Lead	Timing
1. Ensure proper understanding and application of legislation on consent from investigation through to presentation at courts. This includes focussing on steps taken by an individual to seek consent before engaging in sexual activity as well as the freedom and capacity of victims to make a choice.	National Policing Lead, CPS, Third Sector Organisations	By December 2014
2. Develop an exit strategy following a police decision to take no further action in order to assess the risk of reoffending by the alleged perpetrator, and to safeguard the victim against future abuse.	National Policing Lead, College of Policing	By December 2014
3. Finalise practical guidance for prosecutors on all violence against women and girls (VAWG) cases including rape where a vulnerable victim is involved; shifting the focus away from the credibility of the victim to the overall allegation. This will also involve consideration of the behaviour of the defendant including around seeking consent.	CPS	By October 2014
4. Conduct research into the reasons behind victim withdrawals following a decision to charge in order to identify steps to encourage victims to engage with the court process, without creating an overreliance on their support.	CPS	By October 2014
5. Review CPS arrangements for instructing advocates in rape trials to ensure legal advocates with the relevant skills, attitudes and training are instructed at the appropriate stage.	CPS	By September 2014

2. Tools for the job: Investigators and prosecutors on handling of rape cases

In order to ensure we strike the right balance in our approach to rape cases, investigators and prosecutors need the right tools for the job. This includes providing guidance and re-establishing an updated protocol to ensure a high-quality and consistent service to victims. We will:

Action	Lead	Timing
6. Develop Authorised Professional Practice on Rape for consultation and finalisation to support frontline investigators.	College of Policing	Consultation: June 2014 Final Guidance: By December 2014
7. Provide further clarification for police and prosecutors on charging VAWG cases and the criteria and process for obtaining early investigative advice in rape cases, in the Director's Guidance on Charging.	CPS	6th Edition of the Director's Guidance will be published in December 2014. Interim advice to police and prosecutors will be published in August 2014.
8. Update the joint police and CPS National Protocol on the investigation and prosecution of rape cases including providing greater clarity around the process for obtaining early investigative advice and around the nature of the advice provided.	National Policing Lead, CPS	By October 2014
9. Review the approach to Achieving Best Evidence following publication of a joint inspection by the Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS).	National Policing Lead, Police	2014, following publication of review

Guidance and protocols on their own are not enough, however, and training should be provided to ensure that practitioners can respond to the complex set of circumstances they are likely to face in these cases. We will:

Action	Lead	Timing
<p>10. Hold a National Conference on rape with all rape specialist prosecutors, police rape leads and third sector organisations in order to raise awareness about key issues including consent, focussing on the offender, application of the full code test and vulnerable victims.</p>	<p>DPP and National Policing Lead</p>	<p>By December 2014</p>
<p>11. Jointly commission a series of regional workshops with police and CPS rape leads to reinforce the need to embed existing policies and new developments. This includes consideration of early investigative advice, charging and pre-trial witness interviews.</p>	<p>National Policing Lead, CPS</p>	<p>2015 – following national conference</p>

3. Continuous improvement: Oversight and accountability

It is vital that we review the way we work to identify areas for improvement. We will:

Action	Lead	Timing
12. Review the structure and resourcing of CPS Rape and Serious Sexual Offence (RASSO) units including the gatekeeping arrangements and the process for seeking early investigative advice in order to achieve consistency of approach and to spread best practice.	CPS	By October 2014
13. Review our approach to child abuse including child sexual abuse following joint HMIC and HMCPsI inspection into the investigation and inspection of these crimes.	CPS, National Policing Lead for Child Abuse	Inspection commenced January 2014

To achieve continuous improvement in the handling of rape cases, we need to ensure the effective implementation of guidance and protocols through oversight of the key processes. We will:

Action	Lead	Timing
14. Develop a process to provide oversight on police decisions to take no further action in rape cases; reporting bi-annually through the Police Rape Working Group which includes involvement from third sector organisations and the CPS. This will include quality of record keeping and authorisation of decision making.	National Policing Lead	By December 2014
15. Extend the CPS VAWG assurance regime, which reports on VAWG performance to the DPP, to monitor application of arrangements for Early Investigative Advice. To also report to Police Rape Working Group.	CPS	Bi-annually from October 2014
16. Respond to HMIC Crime Recording Review to capture how police forces record rape	National Policing Lead, Police	Inspection to report by April 2015

17. Derive learning from rape cases from the CPS 'Victims' Right to Review' scheme which was introduced to make it easier for victims to seek a review of a CPS decision not to bring charges or to terminate proceedings.	CPS	By December 2014
18. Gather information from local criminal justice agencies and third sector organisations to better understand issues in relation to court listings and timeliness for rape cases. To raise any identified issues with the Senior Presiding Judge and other Government departments.	CPS	By October 2014

In addition, we will continue to publish details of our performance on rape prosecutions so that the public can hold us to account as well as improving individual-level accountability. We will:

Action	Lead	Timing
19. Provide further data in the CPS VAWG Annual Crime Report around the handling of rape cases including publishing information on pre-charge decisions, caseload levels, timeliness of providing charging advice, charging levels and prosecution results including jury acquittals and victim issues.	CPS	By July 2015
20. Ensure individual level accountability of Chief Crown Prosecutors and Unit heads for effective case building, rape conviction rates, volumes and charging.	CPS	Throughout 2014-15
21. Make links with wider Government action on rape including through the following groups in order to coordinate with wider actions such as around the provision of Independent Sexual Violence Advisors and rape victims' experience of the criminal justice system: - VAWG Inter-Ministerial Group (IMG) chaired by the Home Secretary; - National Sexual Violence against Children and Vulnerable People (SVACVP) group; and - the cross-agency HMIC-led Rape Monitoring Group (RMG).	CPS, National Policing Lead	VAWG IMG and RMG meet quarterly SVACVP working group meets fortnightly
22. Provide an update on delivery of all of these actions.	Update from DPP and National Policing Lead.	By April 2015

ISSUES FOR DISCUSSION

Action 1: Ensure proper understanding and application of legislation on consent from investigation through to presentation at courts. This includes focussing on steps taken by an individual to seek consent before engaging in sexual activity as well as the freedom and capacity of victims to make a choice.

1. What is the 'proper understanding of consent'? Explore 'active' consent,
2. Who needs 'proper understanding':
e.g. general public, juries, young people, statutory agencies.
3. Mechanisms to disseminate proper understanding to different groups.
4. Who needs 'proper understanding and application of legislation':
e.g. police, prosecutors, judges.
5. Mechanisms to disseminate 'proper understanding and application of legislation' to:
 - a. Police
 - b. Prosecutors
 - c. Judges
 - d. Juries
6. Action plans August – finalisation December.

