

### **Briefing for RASSO teams**

- You will know there has been quite a lot of external attention on rape cases in recent weeks.
- I know how difficult it is when the work you do is subject to such discussion and debate publically, and so want to explain the CPS position on these issues, and also give you an opportunity to ask questions and share your experiences.
- I am very grateful for the work you do every day, and in particular when facing such scrutiny.

### **EVAW letter before action: approach to rape cases**

- You may have seen that we received a letter before action from the End Violence Against Women Coalition (EVAW) which suggests the CPS has changed its approach to rape cases.
- The CPS has now responded to that letter so I will start by updating you on that.

### ***Response to the claim***

- Our position is that the proposed claim for judicial review is entirely without merit.
- The fundamental point is that there has been no change of policy or practice because our decisions on whether or not to prosecute are – and have always been – based on whether the Code test is met.

### ***Merits-based approach***

- The use of the merits-based approach has been raised as part of this claim.
- As you will know more than anyone, sexual offences are some of the most complex cases we deal with. Because of this we have these specialist RASSO units and, as you know, our training covers victim vulnerabilities and the impact of rape, as well as consent, myths and stereotypes.
- You will probably know that we previously developed legal guidance specifically on the 'merits based approach', which stood alongside, but separate to the Code. It was intended to help RASSO teams to apply the correct principles for decision making, and ensure that charging decisions were not influenced by so called "myths and stereotypes". It was not, and was never intended to be, a different test to that of the Code.

- However, an HMCPSI inspection in 2016 recommended that 'all RASSO lawyers undergo refresher training, including the role of the merits based approach in the context of the Code for Crown Prosecutors'. The report also suggested that the merits-based approach was sometimes viewed as separate to the Code, rather than an integral part of it.
- To ensure we were providing the most helpful support for RASSO teams, workshops were held by Gregor McGill and Neil Moore. The separate guidance on the merits-based approach was subsequently withdrawn.
- This was not a change of policy, but making sure that existing policy – to apply the Code test – was clear.

### Fall in cases

- The recent fall we have seen in caseload has been cited as evidence of a change in policy.
- We believe that actually a number of other factors have contributed to a fall in charging rates for rape, including a fall in referrals from the police and an increase in cases where we have given the police early investigative advice and where we have asked for further work to be done.
- We have also seen an increase in the volume of digital data and the analysis of evidence gathered by following reasonable lines of enquiry. It is therefore taking longer for cases to get through the system from report to conclusion.
- We want to understand the reasons behind the numbers in more detail.
- We are a partner in a detailed and wide-ranging cross-Government review of how rape and sexual offences are dealt with in the criminal justice system – looking honestly and openly at how the CPS, police, courts and others can work together to improve the overall handling of these cases. A whole system approach is important to understand what the data is telling us.

### Consent forms

- You may also have seen that the use of consent forms by the police has been criticised. We have also received – jointly with the National Police Chiefs' Council and College of Policing – a letter before action on this issue.
- You may know that police forces have been using forms to request victims' consent to review mobile phones for some time. The national form replaced individual force versions, to help police seek informed consent proportionately and consistently.

- The form makes clear investigators should respect individual rights to privacy and not go beyond reasonable lines of enquiry. They set out what they consider reasonable in the context of the allegation and why. These requests must not be purely speculative.
- We had planned to hold a meeting last week with organisations concerned about the introduction of forms. We were keen to hear views on any improvements that can be made, while recognising the need to balance privacy with thorough investigation.
- Unfortunately, this meeting had to be postponed as we received the letter before action the night before.
- However, we have invited views and feedback on consent forms to be put to us in writing.
- We are also awaiting advice from the Information Commissioner's Office, which is considering the whole issue of access to digital material.
- We will be responding to the letter shortly.
- We will keep you updated on this and the other issues, and continue to explain the vital work we do to the public.

