



ACTION PLAN

to implement the recommendations of the HMCPSP/HMIC joint investigation into the investigation and prosecution of cases involving allegations of rape

July 2002

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**Foreword by John Denham (Minister of State at the Home Office),
Harriet Harman, (Solicitor General) and Yvette Cooper (Parliamentary Secretary
for the Lord Chancellor's Department)**

Rape is a serious and abhorrent crime, which deeply affects the lives of its victims. The number of cases of rape reported to the police has risen dramatically in recent years. Part of that rise almost certainly reflects the steps the police have taken to encourage rape victims to come forward, and the legal advances which have killed off notions such as a man's right to rape his wife. But while the rise in the number of rape complaints does not necessarily prove that the situation is worsening, the decline in the rate of convictions has been unequivocal and worrying.

The Government has already taken several important steps in the Youth Justice and Criminal Evidence Act 1999 to ensure that victims of rape can be provided with protection if the case does reach court:

- Section 41 of the Act limits the questions that a rape victim can be asked under cross-examination about their previous sexual history.
- Since September 2000, there has been a ban on defendants without legal representation cross-examining rape victims personally. This has put an end to rape victims being forced to endure the appalling spectacle of the accused reliving the crime in court when he questions the victim.
- The Act also includes special measures for vulnerable or intimidated witnesses to help them give their best evidence in court. These include screens in court between the witness and defendant, and the provision for evidence to be given by live TV links, in private, or by video-recorder.

But there is much more that needs to be done.

The joint report published in April by Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI) into the investigation and prosecution of cases involving allegations of rape raised serious concerns regarding high attrition rates and low conviction rates for rape.

The research review for the HMIC/HMCPSI report identified four key attrition points in cases involving allegations of rape:

- the decision by the victim to make an official report
- initial police response and investigation
- decision-making by prosecutors
- no conviction at trial.

The majority of cases do not progress beyond the earliest stages of the process. The research review found that between 5% and 25% of cases are reported to the police. Of these, only one in five reaches trial. And of those that reach trial, half or less result in a conviction for rape or attempted rape.

The HMIC/HMCPSI report set the agenda to reverse this trend, detailing the issues that need to be addressed at all stages of the criminal justice system, from the thoroughness of police investigations, through the preparation of cases for trial, to the role of the prosecutor and the cross-examination of victims in court. It put forward a wide range of recommendations for improvement, virtually all of which have been accepted.

In collaboration with the police, the CPS and the Court Service, we have produced this action plan, which details important measures for implementing the report's recommendations and making improvements across the whole of the criminal justice system.

This is an impressive programme of action, aimed at:

- 1.** Improving the investigation of rape cases;
- 2.** Enhancing the quality of advice, decision making, case preparation and presentation at court, and;
- 3.** Bettering the treatment of victims and witnesses in cases involving allegations of rape.

Through these improvements, we want to give victims of rape more confidence in the criminal justice system and encourage them to report offences of rape. We also aim to send a strong message to perpetrators that this crime will not be tolerated and the law will be enforced.

Recent research has highlighted a strong link between rape and domestic violence, revealing that 45% of rapes are committed by current partners. Furthermore, offences committed by perpetrators known to the victim are less likely to come to the attention of the police than those committed by strangers. Tackling domestic violence is a priority for this government. That is why, in addition to the comprehensive response to the HMIC/HMCPSI report detailed in this action plan, we will look at the issue of partner rape within the Ministerial Group on Domestic Violence.

We will now ensure that this programme of action is translated into changes which will be of real benefit to the victims of this repulsive crime.

Background to the HMIC/HMCPSP Inspection on rape

Over recent years, conviction rates for rape offences have shown a marked decline. Only one in five of reported cases actually reaches the trial stage, and the rate of conviction after trial has decreased from one in three cases reported in 1977 to one in thirteen in 1999.

The handling of rape cases has rightly come under intense scrutiny, with widely publicised concerns in recent years in the following areas:

- difficulties in obtaining independent evidence to support allegations;
- the thoroughness of investigations;
- variations in the assessment of the weight of factors in cases;
- the perpetuation of myths and preconceptions concerning rape;
- the cross-examination of victims in court, in particular about previous sexual behaviour and medical history;
- increases in “drug-induced” rapes and so-called acquaintance rapes.

It was against this background that Her Majesty’s Crown Prosecution Service Inspectorate and Her Majesty’s Inspectorate of Constabulary were asked to hold a joint inspection, the aim of which was to analyse and assess the quality of the investigation and prosecution by the police and the crown prosecution service of allegations of rape, and to attempt to identify the causes of the decreasing conviction rate. Their report was published in April 2002.

The main findings of the Inspectorates’ report

- The training available to the police does not currently conform to a minimum standard and the availability of staff trained to receive rape victims is problematic across the police service.
- The environment into which a victim is taken is not always conducive to securing the confidence of the victim. Training for forensic medical examiners

(FMEs) is not standardised across the service, and particular difficulties are apparent in the recruitment and retention of female FMEs.

- There are inconsistencies in the recording and processing of reported offences. Different standards are currently applied across the police service.
- The investigation of cases by the police is not always as robust as it could be. Variations in the level of forensic knowledge are apparent across the force.
- Rape cases are not always allocated to specialist prosecutors, and prosecutors do not always take advantage of opportunities to learn from unsuccessful cases. Cases are not always analysed effectively, leading to incorrect charges sometimes being laid.
- The efficiency and quality of service to the victim varies considerably between areas where there is high caseworker cover and continuity of prosecutor and those where there is not.
- The way that rape cases are listed at Crown Court does not always take the needs of the victim into account.
- There is inconsistency in the information provided to victims about the progress of the case, and the practice of counsel and caseworkers making personal contact with victims at court was variable.
- The national guidance for prosecutors is in need of updating and expansion.

The government's response to the report

An inter-agency working group was asked by ministers to formulate an action plan in response to the report. The group consists of representatives from the police, Centrex (formerly National Police Training), the Forensic Science Service (FSS), the Crown Prosecution Service, the Court Service and the Home Office.

The group produced this action plan, which identifies the steps that will be taken to implement the recommendations of the report. Good progress has already been made in many areas. The plan aims to reflect this, as well as identifying the further action that is required.

Included within the plan are practical measures to improve:

- The investigation of rape cases by the police;
- Guidance and training for both the police and prosecutors;
- The quality of advice, decision making, case preparation and presentation at court by prosecutors, and;
- The treatment of victims and witnesses in cases involving allegations of rape.

Implementation of the individual action points will be the responsibility of designated working groups, individuals and bodies within the respective agencies most concerned. This will require continuing and co-ordinated effort on their part. The working group will therefore continue to meet at quarterly intervals, to monitor progress against the action plan and to give further impetus to its implementation.

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1. Good Practice

No	Good Practice Point	Agreed Action	Time-frame	Lead Role
VICTIM CARE				
1	The provision of a designated and specialist medical examination facility.	This issue is being addressed as part of the review of victim examination facilities being taken forward under Recommendation 1.	See recommendation 1	ACPO
2	The monitoring of all incidents of rape and development of crime pattern analysis on intelligence referrals by Northumbria Police.	Larger forces already have the capacity to implement this good practice point. Smaller forces will address this via the ACPO Crime Committee.	Continuing	ACPO
3	The practice in the Metropolitan Police of only officers who have completed their probationary period and been trained in cognitive interview techniques undertaking chaperone/sexual offences investigation technique training.	Good Practice points 3 & 4 are accepted by the police service as good practice and will be addressed in the wider context of Recommendations 3 & 4.	January 2003	ACPO, Centrex
4	The introduction by the Northumbria Police of a forum for police chaperones to share their experience and build up good practice.		September 2002	ACPO
INVESTIGATION				
5	The use by the Senior Investigating Officer of a decision log documenting the rationale behind the lines of investigation and other management issues.	This is already common practice in the police service. The ACPO Working Group on rape will take any necessary further steps to promote it.	Continuing	ACPO
6	The practice of equipping first response staff with mouth swab and urine kits, to prevent loss of evidence	FSS - Scenesafe have developed a kit, which is due to be launched nationally to all forces at end July 2002.	End July 2002	FSS, ACPO
7	The practice of operating a central submission policy for all forensic samples.	Some forces already operate a central submissions policy and it is recognised that this good practice should be replicated across the service as a quality assurance process. The ACPO lead on Forensics will take this forward in co-ordination with the ACPO working group on rape.	As soon as possible	ACPO, FSS
8	The provision of the statement of complaint to the Forensic Science Service, to inform the analysis of forensic submissions.		As soon as possible	ACPO, FSS
9	The capture of relevant data and its timely submission to the Serious Crimes Analysis Section (SCAS) by Staffordshire Police.	The ACPO Crime Committee have been asked to consider whether existing guidelines for submission of material to SCAS should be reviewed and what needs to be done to ensure observance across all police forces.	As soon as possible	ACPO
FILE PROCESS				
10	The guidelines on the referral of cases to the CPS for advice, such as those agreed by the police and CPS in North Wales.	This issue is to be taken forward in the context of wider work on Recommendation 7.	See recommendation 7	ACPO, CPS

No	Good Practice Point	Agreed Action	Time-frame	Lead Role
REVIEW AND DECISION-MAKING				
11	The practice by prosecutors in Greater Manchester and North Wales of exploring the issues behind retractions, and asking the officer in the case to offer the victim further support and advice.	CPS to issue advice centrally to all Chief Crown Prosecutors.	January 2003	CPS
12	The protocol on how to handle cases involving witnesses with learning difficulties agreed between the police, CPS and Social Services Directorate in Merseyside.	CPS to study further the issues raised by the Merseyside protocol, extracting good practice for promulgation nationwide following consultation with national agencies.	January 2003	CPS
PREPARING CASES				
13	The agreement entered into by the police and CPS in London, whereby there is revelation of certain documents to the CPS, and computerised disclosure schedules and a new joint training package have been developed.	Improvements to disclosure are being dealt with by the joint CPS/police disclosure working group. This group will update the CPS rape working group as matters progress.	To be managed by joint disclosure group	CPS, ACPO
14	The protocol on the disclosure of medical counselling notes agreed between the CPS and St Mary's Hospital in Greater Manchester.	Operational difficulties prevented implementation of this protocol. However, CPS will reinforce practice guidance produced as part of the Home Office co-ordinated Action for Justice programme in the document "Provision of Therapy Prior to a Criminal Trial".	September 2002	CPS
15	The practice of providing a full note to the police (with the prosecutor's views on the case, and any further work that needs to be carried out) when preparing a case for committal, and its inclusion in the brief to the counsel.	CPS to issue advice centrally to all Chief Crown Prosecutors on the implementation of this good practice point.	September 2002	CPS

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No	Good Practice Point	Agreed Action	Time-frame	Lead Role
THE TRIAL				
16	The practice in many areas of sending the caseworker in the case to attend court to cover the trial.	It is agreed that this is good practice. CPS will consider to what extent resource implications may impact on wider implementation. CPS guidance will emphasise the importance of the caseworker attending the pre-trial meeting with the victim and wherever possible the same caseworker attending whilst the victim gives evidence at trial.	January 2003	CPS
17	The practice in one London Crown Court of time being set aside for any legal arguments, so that the victim can start giving evidence without any unnecessary delay.	Encourage courts to ensure that victims do not have to wait before giving evidence, following best practice in the Crown Court at Southwark. Concerns regarding particular problems at the Old Bailey due to the larger caseload have been brought to the attention of the Senior Presiding Judge. The wider recommendations relating to listings are being considered by the Thematic Review.	The thematic review is likely to report in the summer of 2003, but this it to be confirmed	LCD
18	The maintenance by the CPS London of a formal list of counsel considered suitable for rape cases.	Formal lists work well in London because of the number of chambers. CPS to consider what practice to recommend to other CPS Areas. CPS feel that for other CPS areas it may be more helpful to provide guidance on the competencies and qualities we would expect counsel to have. This would include, for example, a willingness on the part of counsel to speak sympathetically to victims at court.	January 2003	CPS
VICTIMS				
19	The practice of some counsel of speaking to victims, to explain proposed decisions.	CPS to recommend this as good practice in written guidance to Chief Crown Prosecutors.	September 2002	CPS
20	The practice of one team in CPS Greater Manchester of providing the Witness Service with a copy of the witness list and brief details of the nature of the case at the time the instructions to counsel are prepared.	A number of issues have been identified which need to be addressed at a national level before further promulgation (e.g. sensitivities surrounding Data Protection). CPS is actively considering this issue.	To consider by January 2003	CPS
21	The sending of a letter by the CCP in CPS Northumbria to all counsel's chambers in the area, reminding counsel of the need to introduce themselves to victims in allegations of sexual offences.	CPS to recommend this as good practice in written guidance to Chief Crown Prosecutors.	September 2002	CPS

2. Recommendations

No	Recommendation	Agreed Action	Time-frame	Lead Role
VICTIM CARE				
1	All forces carry out an immediate review of existing facilities for victim examination so that both victim care and the integrity of evidence are maximised.	ACPO has requested all forces to undertake a review of their existing facilities against requirements and the availability of funding. The status across all forces will be reviewed in September 2002 through the ACPO working group on rape.	September 2002	ACPO
2	ACPO reviews the role of the FME. Such a review should incorporate: <ul style="list-style-type: none"> • Performance management issues; • Training; • Achieving value for money; and • Recruitment and retention levels of female FMES. 	ACPO Crime Business Area have set up a Working Group to take these issues forward as part of the Forensic Sciences Portfolio. The Association of Police Surgeons (APS) are fully on board in supporting this work.	As soon as possible	ACPO, FSS
3	ACPO and National Police Training (NPT) review the training of officers who deal with rape victims, so that the appropriate skills and competencies are enhanced in officers at an appropriate level and are made available to victims across the service.	The National Crime and Operations Faculty (NCOF) will undertake this work in partnership with ACPO and the Police Skills and Standards Organisation (PSSO). A report with recommendations will be published by January 2003, subject to the development of a project plan and the availability of the necessary resources.	January 2003	NCOF with ACPO, PSSO, Centrex
4	The role of rape victim chaperone should be risk assessed to ensure the welfare of the officers and to ensure a quality service to victims.	This will be addressed by the ACPO working group on rape. A letter of guidance will be issued to all forces by September 2002.	September 2002	ACPO
RECORDING PROCEDURES				
5	The Home Office, together with ACPO, revisits the criteria for the classification of 'detected' and 'undetected' offences, specifically in those cases where an alleged offender is named but there is insufficient evidence to support the victim's testimony.	Statisticians from the police and Home Office are considering the issue and will meet in August to take it forward.	August 2002	Home Office, ACPO
FILE PROCESSES				
6	ACPO introduce realistic time scales for the submission of advice files for all offences.	The ACPO portfolio holder for pre-trial issues within the Criminal Justice Business Area is considering the recommendation and will assess its likely impact and make appropriate recommendations to the Chief Constables' Council by the end of October 2002.	End October 2002	ACPO
7	ACPO and Chief Crown Prosecutors should agree protocols in relation to the submission of advice files in rape cases.	CPS to propose protocol for submission of rape advice files for agreement by ACPO.	January 2003	CPS, ACPO

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No	Recommendation	Agreed Action	Time-frame	Lead Role
REVIEW AND DECISION-MAKING				
8	Police officers seek, and prosecutors give advice in rape cases only if they are in possession of a full file containing sufficient evidence upon which a decision can be made (save in exceptional circumstances).	This recommendation will be considered in conjunction with recommendation 6. CPS to provide guidance to Chief Crown Prosecutors in the interim, to cover some aspects.	September 2002	CPS, ACPO
9	Prosecutors make full records on files of review decisions in cases involving allegations of rape.	CPS to issue written guidance to remind CCPs of the importance of this recommendation.	September 2002	CPS
10	<ul style="list-style-type: none"> All rape cases be allocated to specialist lawyers, who should be responsible for the case from advice stage to conclusion of any proceedings; and All decisions to drop or substantially reduce the prosecution case, or to advise the police to take no further action, be discussed with a second specialist lawyer before a final decision is taken. 	CPS agrees with this recommendation and is currently examining ways to implement it. This includes an examination of the need for additional training. Chief Crown Prosecutors will be asked to identify those prosecutors with the appropriate experience and commitment to such cases. The Solicitor General has made clear to Parliament her commitment to this recommendation.	Medium/long term	CPS
11	<ul style="list-style-type: none"> Prosecutors insert a standard paragraph in instructions to counsel, requesting a written report in any case involving an allegation of rape which results in an acquittal; Any written report is used to complete an adverse case report, setting out the factual and legal reasons for the acquittal; The adverse case report is used to discuss with the police any lessons to be learned. 	CPS will draft a paragraph for instructions to counsel to reinforce the need for sufficient written information from counsel to inform the preparation of the adverse case report in such cases.	January 2003	CPS
PREPARING CASES				
12	ACPO revisit the provision of disclosure training, in conjunction with the CPS so that a more standardised and professional approach by police officers can be achieved.	This recommendation is to be taken forward by the training sub-group of the joint Police/CPS disclosure working group. An awareness-raising event will be held in the summer 2002 and formal training will be rolled out from April 2003 onwards.	April 2003	ACPO, CPS
13	When relevant, the issue of third party material should be specifically drawn to the attention of counsel, with instructions that any disclosure of such material should be made only in accordance with the statutory tests.	The standard of instructions to counsel on disclosure issues is being addressed by the joint CPS/police disclosure group culminating in revised instructions to counsel. (The handling of third party material will be addressed in the new Joint Operational Police Instructions due to be published in November 2002).	November 2002	ACPO, CPS
14	A conference with trial counsel should take place in every case involving an allegation of rape, and that it should be arranged as soon as practicable.	CPS accepts that this is good practice and will provide guidance to Chief Crown Prosecutors. This recommendation links with non-legislative measures designed to support provisions in the Youth Justice and Criminal Evidence Act 1999 (early Special Measures meetings between the police and CPS and meetings between the CPS and vulnerable or intimidated witnesses).	January 2003	CPS

No	Recommendation	Agreed Action	Time-frame	Lead Role
THE TRIAL				
15	Clear instructions are given to prosecuting advocates that offensive and seemingly irrelevant questioning should be challenged, and inappropriate cross-examination about previous sexual offences should be tackled.	CPS will insert paragraph in instructions to counsel covering these issues.	September 2002	CPS
16	CCPs introduce structured monitoring of Crown Court advocates who prosecute cases involving allegations of rape.	CPS will discuss with the Bar Council and recommend procedures.	Discussions to be held by November 2002	CPS
GUIDANCE AND TRAINING FOR PROSECUTORS				
17	The CPS updates, revises and widens its guidance to prosecutors on the review and handling of cases involving allegations of rape.	Revised guidance on rape has been completed and was made available to prosecutors on the CPS intranet from May 2002. Draft guidance will be prepared to cover areas not previously covered and will be the subject of internal and external consultation.	January 2003	CPS
18	Legal training on sexual offences be updated in the near future. It should be re-launched and undertaken by all appropriate lawyers and caseworkers.	A revised training package for sexual offences will be commissioned from the CPS training department.	January 2003	CPS

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3. Suggestions

No	Suggestion	Agreed Action	Time-frame	Lead Role
PREPARING CASES				
1	The lawyer in the case (if an higher court advocate) or prosecution counsel instructed to appear at trial should be required to attend the plea and directions hearing in all cases involving allegations of rape.	A CPS Working Group will consider in what terms this can best be reflected in standard instructions to advocates. In particular, CPS to look at the extent to which progress with special measures could assist with this. CPS guidance will emphasise in particular that it will be important that where the advocate attends a pre-trial meeting with the victim, that same advocate should conduct the plea and directions hearing.	September 2002	CPS
VICTIMS				
2	ACPO revisit the area of contact with victims during the life of a case, with a view to introducing protocols/guidance.	A Home Office circular will be issued by November 2002, in liaison with ACPO.	November 2002	Home Office, ACPO
3	ACPO and CCPs introduce monitoring of performance in relation to the introduction of special measures to give evidence.	A Home Office Circular will be issued to police forces recommending a system of monitoring. (The Home Office is already working with ACPO to devise a system for monitoring the use of the special measures, as part of the implementation of the special measures for vulnerable or intimidated witnesses.)	August/ September 2002	Home Office, ACPO

4. Commended Practice

No	Commended Practice Point	Agreed Action	Time-frame	Lead Role
REVIEW AND DECISION-MAKING				
1	The practice whereby prosecutors maintain detailed and thorough review endorsements.	To be taken forward in the context of the wider work on Recommendation 9.	September 2002	CPS
PREPARING CASES				
2	The joint agency protocol developed by CPS Northumbria which governs the way social services records are handled.	The development of a third party protocol is being taken forward by the joint CPS/police disclosure working group in liaison with agencies at a national level.	To be managed by joint CPS/police working group	CPS
VICTIMS				
3	The practice whereby the Police and CPS assist in the training of volunteers both for the Witness Service and Victim Support.	<p>CPS to encourage such practice to be taken up locally wherever possible.</p> <p>The Home Office will make every effort to encourage mutual training initiatives, which will benefit victims of rape (and other offences). Many parts of the country already adopt a joint approach to training of the type described in the report.</p>	September 2002	ACPO, CPS, Home Office