

A joint thematic inspection of the police and Crown Prosecution Service's response to rape

Phase 2: Post-charge

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Foreword

This is the second and final part of HMICFRS and HMCPSP's joint inspection of the investigation and prosecution of rape in England and Wales.

The first part (Phase 1) examined cases from the point when they were reported to the police through to the decision (either by the police or the CPS) to take no further action. This part (Phase 2) examines cases from the point of charge through to their conclusion, and includes those which were decided in court (although we do not make judgements on the decisions of the judges and juries). The combined findings from parts one and two of this inspection provide a comprehensive assessment of the criminal justice system's current approach to rape, and an account of [victims'](#) experiences of the system.

As in our phase 1 report, we pay tribute to the many investigators, prosecutors, support services, and other staff throughout the criminal justice system and wider public sector partnerships who are working to support survivors of rape. Throughout our inspections, we found committed and skilled professionals who were dedicated to supporting rape victims and to pursuing perpetrators.

In Phase 1, we found that national leads and the Government are committed to improving the experiences of rape victims in the criminal justice system, and that they have a good understanding of the problems that need to be urgently resolved.

However, we concluded that efforts to improve the experiences of rape victims at national level hasn't made enough of a difference at a local level, and that the need for sustained improvements in practice remains.

We also found examples of a lack of collaborative working between the police and the CPS. Some divisions were deep, and there was evidence of police and prosecutors criticising each other for the low rape conviction rates.

We saw that in some areas, specialist police units performed better than those with omni-competent teams (these are teams of investigators that deal with many different types of crime). But we also found, in many cases, that demand and a lack of investigators stopped cases from progressing through the criminal justice system.

These findings are also true for Phase 2. Since our Phase 1 report, there has been a sustained national focus on rape. Work over the summer of 2021 included efforts by the police and CPS to implement the recommendations contained in the Government's [End-to-End Rape Review Report](#), and in the [Police-CPS joint national RASSO \(rape and serious sexual offences\) action plan 2021](#).

In particular, we welcome Operation Soteria. This project brings together academics, the police and the CPS, and is designed to improve the investigation of and response to rape and serious sexual assault. It has its provenance in Project Bluestone, which was promoted by the national policing lead for the adult rape and serious sexual offences portfolio. We recognise her work and that of senior leaders across both organisations. We also note the continuing joint commitment of the police and the CPS to work together at national level.

Further detail on Operation Soteria is given in the report. However, it is still too soon for any of these changes to have resulted in consistently better experiences for victims of rape. Instead, we found the service provided to many victims after charge is unacceptably poor.

In Phase 2, looking at cases from charge to conclusion, there are some consistent problems with the police and the CPS's management of cases. These include disclosure errors; failures to consider the use of bad character for evidence against suspects; and failures to apply for all of the protective civil orders available that can help prevent further trauma to the victim, and allow them to give their best evidence. High workloads compound these problems, as do some unacceptably poor communications both between the police and the CPS, and between criminal justice agencies and victims (and those who support them).

The amount of time it takes for many rape cases to come to court significantly exacerbates these problems.

In Phase 1, we reported that it took an average of 218 days of investigation before the police sent a case for a charging decision. In this phase, we found that on average it took more than double that time again before cases then reached court. On average, more than two years (706 days) elapsed from the date of reporting an offence to the police to the start of the trial at court. We saw many such cases, sometimes with multiple last-minute adjournments that caused significant distress to victims. In 32 of the 54 case files we reviewed trial dates had been postponed at least once.

These delays are clearly unacceptable, especially given the relatively small number of rape cases that are awaiting trial.

When we consider the findings from Phases 1 and 2 of this inspection, some common themes emerge. These include:

- frequently poor communication with victims by police and prosecutors, with the information provided to them sometimes repeated, sometimes confusing, and sometimes absent altogether;
- delays at every stage of the process;
- an absence of data on the protected characteristics of victims, which would allow for better tailored support; and
- the strongly held and widespread perception of victims that they are the ones being investigated or standing trial, rather than the focus being on the behaviour of the accused.

These problems are all well-known and often repeated, and police, prosecutors and the Government have tried to put solutions in place. Generally, we found sensible pilots and actions to improve the experience of victims of rape, such as section 28 hearings (see below, '[Use of section 28 special measures](#)'), special measures, provision for victims to give a victim personal statement, and use of protective orders.

However, we frequently found a failure to implement these measures consistently. This failure is sometimes linked to a lack of long-term funding. Police and prosecutor workloads are high and often unmanageable.

Against this backdrop, victim services are vital. However, currently these services are overstretched and are frequently under-resourced. Provision is at breaking point.

Our overall conclusion is that the criminal justice system is failing to provide a satisfactory level of service to victims of rape.

In both our Phase 1 and Phase 2 reports, we make a series of practical recommendations to police and prosecutors that, if implemented, will help to immediately improve the service received by victims.

We believe that consistently good communications with victims, better relationships between prosecutors and the police, and stronger case building could and should all happen now.

But if these dramatic improvements – which are urgently needed – are to be put in place, a widespread system reform is required. This should include wholesale increases in the capability and capacity of practitioners and the mapping and improvement of victim service provision, which are supported by long-term funding. In the short term, and in order to clear the current backlog of cases, we are also recommending that consideration be given to the setting up of specialist rape courts.

We also consider there to be benefits in either the establishment of a commissioner for rape and serious sexual offences (modelled on the Domestic Abuse Commissioner role); or for there to be an explicit focus on these offences within the remit of one of the existing commissioners. This would provide for an independent voice to speak on behalf of victims and survivors and would hold organisations and the Government to account in tackling rape and serious sexual assault.

These are significant recommendations and will come at a cost. But after two years of inspecting the criminal justice system's approach to rape, we conclude that it is unsustainable to continue to repeat the same recommendations that have been made before by several agencies and expect them to result in the change that is needed. Recent reviews of rape investigations and prosecutions in Northern Ireland and Scotland, such as those contained in the Scottish Courts & Tribunal's report [Improving the Management of Sexual Offence Cases](#), have reached similar conclusions.

A radical refocus and shift is therefore required. The new approach should be multifaceted in an effort to:

- prevent rapes from happening in the first place;
- support victims; and
- relentlessly pursue and disrupt offenders with the full force of the law.

The problems in investigating and prosecuting rape are exceptionally well defined and well debated. And there is no doubt that this is resulting in poor experiences for victims.

Change is needed now.

Headline findings

Communication with the victim after charge is often confusing and inconsistent

The quality of communication with victims is a significant concern. We found that updates from police, the CPS and support services on the progress of cases post-charge are frequently disjointed and contradictory, and sometimes don't take place at all. This is exacerbated by a lack of clarity about the role of the CPS in contacting victims post-charge, with some prosecutors openly telling us that they don't think this is part of their role.

We didn't find this problem in the police, who consistently recognised that keeping victims informed was fundamental to their role. However, in many police forces, post-charge cases tend to receive less attention and supervision than live investigations.

Too often, this combination leaves victims without the consistent communication and support they need from the criminal justice system.

It is reasonable to expect that victims are kept updated properly, have clear points of contact, and are communicated with in a way that is straightforward and recognises the trauma they have suffered. These failures in communication must be addressed immediately.

Victim services vary throughout areas and forces

While we saw evidence from our case file review that 75 percent of victims received a referral to victim services, the provision of those services varies widely throughout police forces and CPS Areas.

We found that the process of commissioning support services can be complex and fragmented. It takes up both service and commissioner time and can result in an inconsistent service for victims.

For example, some service contracts are only one year long. This can create uncertainty about sustaining the service, which in turn affects the quality of the service provided. In our interviews and focus groups with support services, they told us that the short duration of contracts also means providers often find it difficult to recruit the right calibre of workers.

Additionally, in many cases, the length of these contracts don't align with the time it takes for a rape case to progress through the criminal justice system. This significantly increases the chance that support for victims will change over the life cycle of a case.

If there are also changes to individual investigators and prosecutors, this means that new relationships between the victim, the CPS and the police may have to be built, leaving the victim as the only constant in the case.

The effect on victims is an increased sense of uncertainty, as their [independent sexual violence advisers](#) (ISVAs) may no longer be available if services are re-contracted or stopped. This lack of continuity in personnel supporting the victim may affect the quality of service a victim receives, and also add to the risk that they don't feel fully supported.

There are gaps in the police data on post-charge cases, and in the monitoring of post-charge cases

We found that after cases are charged, the police information on them, and the supervision of them, was generally much patchier than for live investigations. Often, police officers carry the essentially hidden demand of post-charge cases in addition to their live cases. This can result in less attention being given to these cases. The length of time cases may be held at the post-charge stage exacerbates this risk.

There are some consistent problems in case management and progression post-charge

From our case reviews, focus groups and interviews, we found the following:

- Disclosure continues to be a problem. In particular, we saw evidence of the CPS being given defence statements late, which then led to last-minute work to decide what disclosure is required. We also saw some evidence of poor communication in this respect between the CPS and the police.
- Police and CPS workloads are high. One investigator summed this up by saying: "I've got 60 victims – what am I supposed to do?" One prosecutor said: "I'm constantly up against it; it never gets to a point where I am on top of things; constantly fighting fires." Such high workloads are detrimental to the quality of case progression and the wellbeing of investigators and prosecutors.
- Communication between the police and the CPS is inconsistent. We saw some excellent examples of communication, but also some that reflected poor working relationships.
- The police and the CPS do not always consider using bad character applications for the suspect. This can be a missed opportunity to build the strongest possible case.

There are some missed opportunities to protect the victim

Preventative and protective orders can be applied for at various points of a case's progression. These orders include sexual harm prevention orders (SHPOs), sexual risk orders (SROs), and restraining orders. But we found the use of all these orders is inconsistent, with some investigators and prosecutors missing opportunities to apply for them in all appropriate cases. This means that opportunities to protect victims, and to control or disrupt suspects who potentially pose a risk, are being missed.

Court delays are frequent, and late adjournments cause significant distress

In 32 of the 54 case files we reviewed trial dates had been postponed at least once.

In our victim surveys, half of victims reported that their case was delayed at court. We were told by the police, witness care units (WCUs) and the CPS that cases are listed for trial in the court and then later removed from the lists because of many factors, including the availability of judges and counsel.

In most forces and CPS Areas we inspected, we were told that rape cases are still being listed as 'floaters', or 'backers', meaning that they can be moved or re-listed (re-scheduled) at the last minute, including on the day of trial.

One victim told us her case had been adjourned 21 times, often at 24-hours' notice.

Most reports of rape are closed before charge. Often, victims whose cases go beyond that point have already been in the criminal justice system for a long time (an average of 361 days) and have given accounts of the attack against them multiple times. In our review, victim attrition after charge was very low. We found 2 of the 54 cases where the victim had withdrawn their support. If the threshold for charge has been met, it is critical for the victim, the defendant, and for justice, for the case to proceed and conclude swiftly. This is happening in far too few cases.

Special measures (including section 28) should help – but are a missed opportunity

All victims of rape should be offered special measures. These include a range of adjustments that can be made to the court process to make it less intimidating for rape victims. This is in recognition of the traumatising nature of the offence. For instance, victims may be able to give evidence behind a screen. Section 28 special measures allow victims to give evidence once, and be recorded, as opposed to having to repeat what has happened multiple times.

But we found the use of all special measures is inconsistent. The victim doesn't always have special measures explained to them, meetings to discuss which measures are available don't always happen, and section 28 isn't always considered for vulnerable rape victims. We saw little evidence of how effective special measures are. There is limited national or local data being collected.

This is a considerable missed opportunity.

Operation Soteria has the potential to lead to system improvement

Operation Soteria and Project Bluestone are further examples of the continued work to bring about improvements. Further details are contained in [Annex G](#).

For Operation Soteria to work, the whole criminal justice system needs to work collaboratively, and have long-term funding, as do the services that support victims. The investigation and prosecution of rape is at crisis point, and Operation Soteria is an

opportunity to develop and implement short, medium and long-term changes to bring about improvements.

Victims of rape feel that they do not always have a voice

All victims are represented by the Victims' Commissioner. However, there is no dedicated commissioner for rape and sexual serious offences (as there is for domestic abuse).

Because rape victim experiences of the criminal justice system are, in too many cases, poor, we believe that such a role could bring significant benefits. These include greater independent scrutiny of improvements across the system, and a clearer focus on gathering, reporting and acting on the experiences of victims. We discussed with our external reference group:

- the establishment of a new commissioner for adult rape and serious sexual offences; or
- the expansion of the remit of the Victims' Commissioner or Domestic Abuse Commissioner to include a specific focus on adult rape and serious sexual offences.

While everyone we consulted with agreed that a commissioner focus would bring benefits, no consensus was had on which of these two options would best achieve them. There was concern, for instance, that the establishment of a new commissioner would fragment oversight of the criminal justice system further; or that expanding the role of an existing commissioner wouldn't go far enough.

But there was a firm agreement that, whichever option is adopted, it must be adequately resourced and have sustainable funding in place.

Summary of findings from phases 1 and 2 of the inspection: the criminal justice system is failing victims

There are some consistent findings from both phases of this inspection:

- communication with the victim is unacceptably poor and fragmented;
- relationships between the police and the CPS need to improve to be consistently good;
- there is much focus on improving the criminal justice system's approach to rape – but this improvement isn't always co-ordinated;
- victims can feel as though they are the ones under investigation and then on trial – rather than the suspects;
- there are delays (in investigating, prosecuting, and court progression), high workloads and gaps in the data; and
- victims report very poor experiences.

Our overall conclusion is that the criminal justice system is failing to provide an appropriate level of service to victims of rape. Strategies must translate into tangible changes throughout the process and for victims, and pilots must demonstrate evidence of improvement.

Recommendations

These recommendations should be read in conjunction with the Phase 1 rape recommendations (at [Annex E](#)), and with the recommendations of HMICFRS's September 2021 inspection of the [Police response to violence against women and girls](#). In particular, the September 2021 report recommended closer working across Government and the public sector to help prevent violence against women and girls offences, including through work with education, health and social care services.

Details of specific underpinning actions required to implement some of these recommendations are given in the recommendations section of the main report.

Recommendation 1

Immediately, police and prosecutors should review and significantly improve communications with [victims](#) from the point of charge onwards.

Recommendation 2

Immediately, and no later than September 2022, the CPS should unequivocally define the role of the prosecutor in communicating with victims, and the standards expected in doing so.

Recommendation 3

By December 2022, the Ministry of Justice (MoJ) should complete a full mapping exercise of (1) demand for and (2) provision of specialist sexual violence victim services across England and Wales. They should then use this to make sure there is adequate and effective provision of specialist and bespoke support to all victims of rape, with long-term funding in place.

Recommendation 4

Immediately, and no later than May 2022 to help clear the significant Crown Court backlog for rape cases, the MoJ should group adult rape cases into specialist rape offence courts.

Recommendation 5

Immediately, and no later than May 2022, the Home Office and the Ministerial Lead for Rape and Serious Sexual Offences should consult widely on the benefits of a commissioner with explicit responsibility for and focus on tackling rape and serious sexual offences. This should include working with ministers, established Victims' Commissioners, the Domestic Abuse Commissioner and support services, and considering whether an expansion of the role of either the existing commissioner for domestic abuse or for victims is feasible and workable. Sustainable funding and appropriate staffing support must be in place to support this focus.

Recommendation 6

Immediately, and no later than by September 2022, the MoJ should gather and publish quantitative and qualitative data on use of special measures in rape cases, including section 28.

Recommendation 7

By September 2022, the CPS should make sure regular clinical supervision is available to all prosecutors who deal with rape and serious sexual offence cases.

Recommendation 8

Immediately, the police and the CPS should work collaboratively to ensure that bad character is considered in all rape cases, and progressed wherever it is applicable.

Recommendation 9

Immediately, forces should make sure that victims of rape are given the opportunity to make a victim personal statement (VPS) at the earliest possible time, with the option of updating this statement closer to the court trial date.

About this inspection

Why we inspected

There is a history of intensive and detailed study of the problems surrounding the investigation and prosecution of rape throughout England and Wales.

There have been concerns raised by the public and interested parties. These include a lack of knowledge and understanding about the causes and effect of the reduction in the number of prosecutions for rape.

While the number of rapes being reported to the police has increased, there has been a clear fall in the volume of police referrals to the Crown Prosecution Service (CPS), and a decrease in the number of charges, prosecutions, and convictions.

How we inspected

Our overarching question during both phases of this inspection is: 'What are the barriers to the progression of reports of rape in the criminal justice system?'

In July 2021, we published our [Phase 1 report](#). It focused on the time from a victim reporting an offence of rape to the decision, taken by either the police or the CPS, not to charge a suspect. During Phase 1 we focused on three questions:

1. What are the barriers to rape reports progressing to the decision to charge?
2. Why does the volume of cases referred to the CPS for charging advice vary by police force and CPS Area?
3. How well do the police and the CPS work together to prosecute reports of rape?

For Phase 2 of this report, we asked:

- What are the barriers to rape reports progressing through the criminal justice system from the point of charge on?
- How well do the police and the CPS work together to prosecute reports of rape?
- How well are victims of rape supported by the criminal justice system?

What we inspected

To complement the inspection questions, the inspection assessed:

- how well the police and the CPS understand the effect the criminal justice system process can have on the victim;
- whether there is effective leadership and governance to support the progression of rape cases through the criminal justice system; and
- how effectively police forces and the CPS progress cases following charge.

Methodology

To inform the second phase of our inspection we:

- commissioned a refreshed literature review to identify any gaps in our knowledge;
- continued to work with our established external reference group, which includes members from victims' groups and other interested parties. They advised us on our methodology and framework, and ensured that this inspection reflects the perspective of rape victims; and
- distributed two surveys. In July 2021 we sent one survey to women over the age of 18 in England and Wales, who were raped, had reported the rape to the police, and where the perpetrator was charged. We sent another survey to services that support rape victims/survivors in England and Wales. The responses to these surveys expanded on the research we commissioned from Opinion Research Services to support our work in Phase 1, which evaluated the experiences of adult rape victims. [Annex A](#) sets out more detail on the methodology used for this commissioned research.

Our methodology considered the following areas:

- Victim attrition, and what contributes to it throughout the prosecution process.
- How workloads and current performance indicators affect criminal justice system outcomes.
- How appropriate the criminal justice system's processes, policies and guidance related to rape and serious sexual offences are, and how well they are followed.
- Police forces' and the CPS's awareness of, and attitude towards, rape and serious sexual offence issues at the prosecution and court stages.

We conducted fieldwork in five police forces and the six corresponding CPS Areas.

Our case file assessments examined rape cases defined by the [Sexual Offences Act 2003](#) and recorded by the police where both the victim and suspect were adults at the time of the offence. The cases were finalised between October 2019 and June 2021.

The demographic information from the case files reviewed is shown in [Annex B](#).

Inspectors from HMICFRS and HMCPsI:

- jointly reviewed and assessed 54 police and CPS case files from five police forces and six CPS Areas in which the cases were charged. We included cases resulting in conviction, in jury acquittal, and where no evidence was offered, or the case was withdrawn;
- held 62 interviews and focus groups with strategic and operational staff from five police forces and six CPS Areas;
- held 17 focus groups with [independent sexual violence advisers](#) (ISVAs) and other organisations providing support to victims in six police forces;
- held six interviews with sexual assault referral centre (SARC) managers;
- held 14 interviews with national leads from the police and the CPS, Home Office and Ministry of Justice representatives, the Victims' Commissioner for England and Wales, the College of Policing, and national representatives of victims' groups; and
- visited four Crown Courts, speaking with court staff and members of the judiciary.

About the quotes in this report

The quotes in this report are from people with experience of rape. We asked Opinion Research Services, our commissioned researchers, to record victims' thoughts and comments about their experiences of the criminal justice system.

In Phase 2, we expanded on this research through our surveys with victims and ISVAs.

About the terminology and approach we use in this report

We recognise that there are discussions over the use of 'complainant', 'victim' and 'survivor', and of 'suspect', 'accused' and 'defendant'. Throughout this report, the term 'victim(s)' is used to refer to those affected by rape. It incorporates other terms such as 'complainant(s)', 'client(s)' and 'survivor(s)', as referred to by focus groups and interviewees. We have used the terms 'suspect' (pre-charge) and 'defendant' (post-charge) to refer to a person accused of rape. These incorporate 'offender' and 'perpetrator'. Other terms may be used when referring to published data or in quotes to maintain consistency with the original source.

We have used the term 'SOLO' (sexual offences liaison officer) throughout our report, but this also incorporates 'SOIT' (sexual offences investigation trained officer).

Background information: an overview of rape investigation and prosecution in England and Wales

“The justice system is not fit for purpose and needs urgent review, taking into account how what they do impacts the victim.”

Quote from a victim of rape

The national picture

As was the case when our Phase 1 report was published, there are many plans and continuing activities that are aimed at improving the criminal justice system’s response to rape.

End-to-End Rape Review Report

In June 2021, the Government published its [*End-to-End Rape Review Report on Findings and Actions*](#). The review made a series of pledges to improve the criminal justice system’s response to rape, including:

- creating an action plan to increase the number of rape cases reaching court;
- taking a new approach to investigations, placing greater emphasis on suspect behaviour;
- rating the performance of the entire criminal justice system regularly; and
- ensuring no victim will be left without a phone for more than 24 hours.

An “initial ambition” is to return the number of rape cases being referred by police, charged, and going to court “to 2016 levels by the end of the Parliament”, and to publish “regular scorecards to show how the whole system is performing to provide transparency and accountability for the first time”.

These scorecards bring together data on priority areas to increase public transparency and help identify performance issues in the following three stages:

- crime recorded to police decision;
- police referral to CPS decision to charge; and
- CPS charge to case completion in court.

The first of these scorecards was published on 9 December 2021 and was not in place at the time of our inspection. We cannot therefore assess how these will drive improvements throughout the criminal justice system.

The Government confirmed a lead minister for the implementation of the Rape Review's pledges. There is also a monthly ministerial-led criminal justice system taskforce "to ensure effective collaboration between agencies to implement the review and drive up performance".

Project Bluestone

Project Bluestone, which was initiated by Avon and Somerset Police, brings together academic experts and operational policing to explore ways of improving the police response to rape and sexual assault.

The project identified five pillars for improving justice outcomes for victims in rape offences. These are:

- focusing investigations on the suspect;
- disrupting repeat offenders;
- working with victims during the investigation;
- increasing officer learning and development; and
- using data more effectively in rape and serious sexual offences (RASSO) investigations.

Operation Soteria

Following the Rape Review, the Government announced Operation Soteria. Building on Project Bluestone, five police forces and corresponding CPS Areas will test innovative ways for police and prosecutors to progress rape cases.

Operation Soteria is a joint police-CPS programme designed to drive improvements aiming to reduce the number of cases that end due to victim withdrawal, and develop new tools and techniques to ensure investigations of rape are thorough and effective.

The programme aims to make investigations more focused and efficient, increasing timeliness and the volume of cases progressing through the system. The joint Memorandum of Understanding was signed by all CPS Areas and police forces.

We understand that there are plans to expand this initiative into further forces and CPS Areas.

Refreshed VAWG strategy

The refreshed [*Tackling violence against women and girls*](#) (VAWG) strategy sets out how the Government intends to:

- prevent crimes against women and girls;
- improve the experiences of victims and survivors;
- ensure perpetrators are brought to justice; and
- improve how different organisations work together.

The recently published HMICFRS report, [*Police response to violence against women and girls*](#), examines how effectively the police approach VAWG offences.

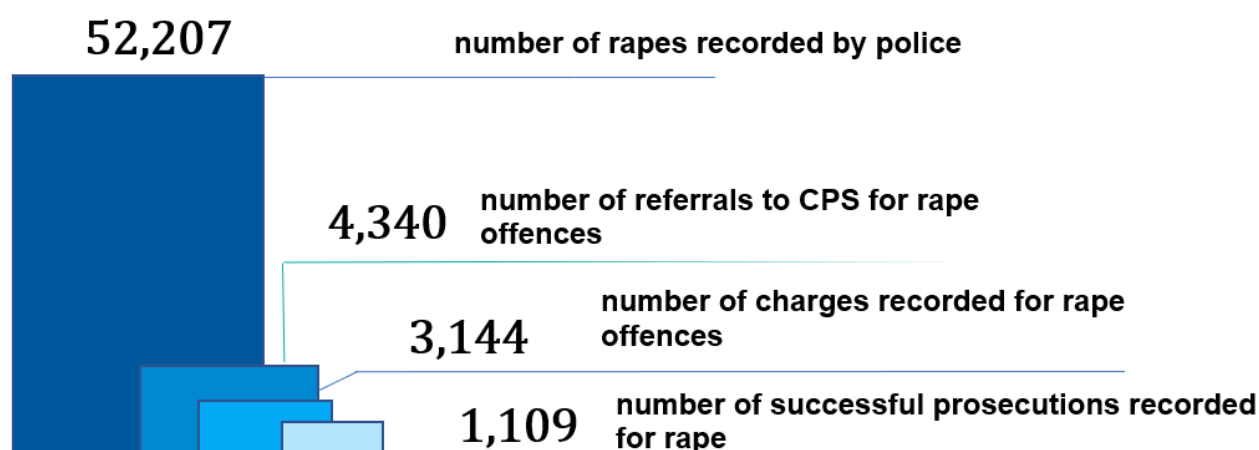
VAWG offences are violent and high-harm crimes that disproportionately affect women and girls, such as domestic abuse, sexual violence, stalking, and female genital mutilation.

The evidence and the recommendations in the police engagement report resonate throughout many areas of both phases of this inspection. In both the police engagement report, and in this report, we found that there was a commitment to making improvements, but more was needed to be done throughout the criminal justice system.

National data

Figure 1 shows an overview of the number of reports recorded by police and progressing to the number of successful prosecutions in the financial year 2020/21. In this section of our report, these numbers are examined in greater detail alongside data from previous years.

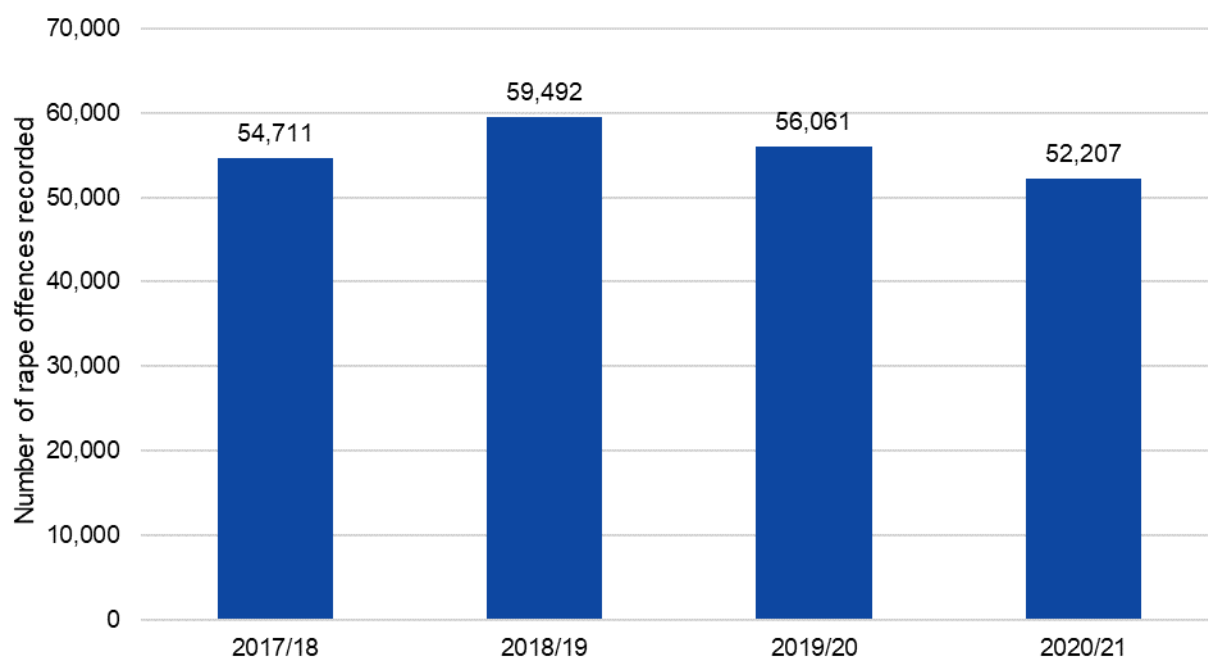
Figure 1: Rape figures for the year ending March 2021



Source: Home Office and CPS data

The number of police-recorded rape offences increased from 54,711 in 2017/18 to 58,492 in 2018/19. The number decreased over the next two financial years, to 52,207 police-recorded rape offences in 2020/21.

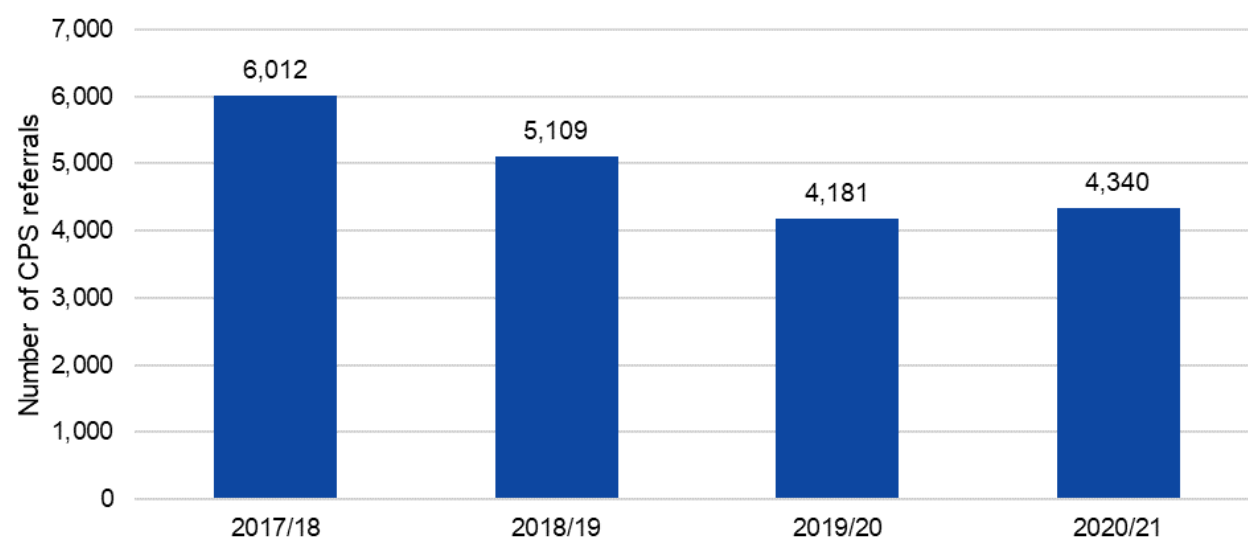
Figure 2: Police-recorded data on the number of rape offences recorded in England and Wales between 2017/18 and 2020/21



Source: Home Office, police-recorded crime Community Safety Partnership open data tables

Of the 52,207 rape offences recorded in the year ending March 2021, the police referred 4,340 to the CPS. The number of referrals has increased compared to the same period last year, when only 4,181 cases were referred to the CPS.

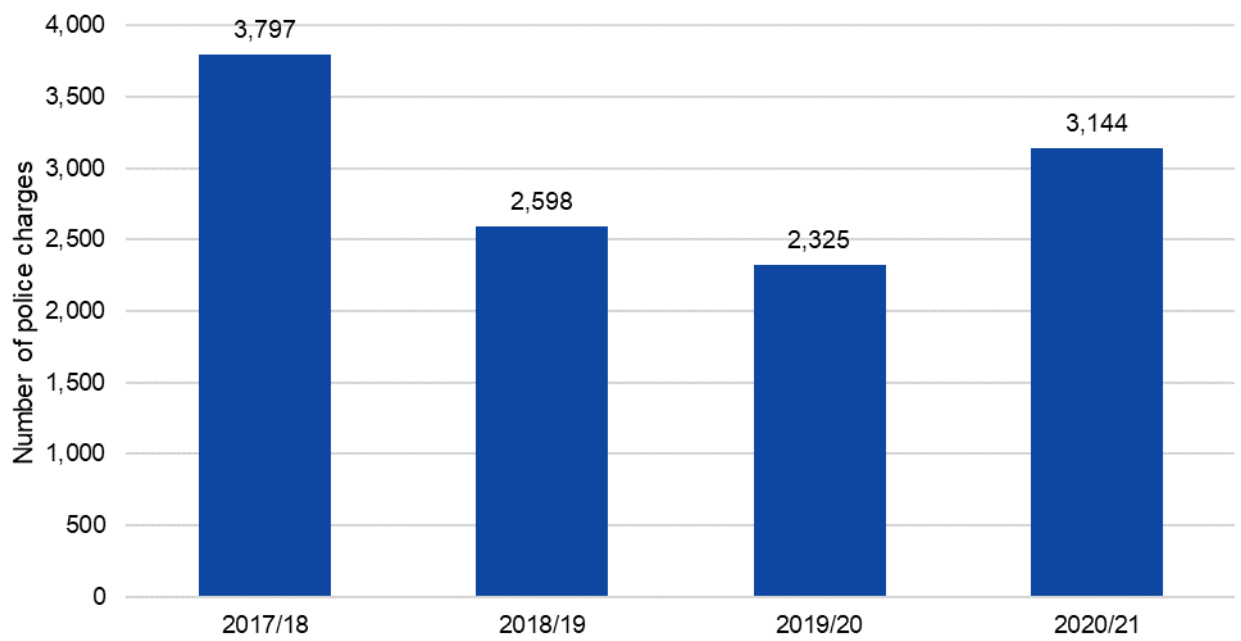
Figure 3: Number of referrals from the police to the CPS for a decision on whether to charge a suspect for rape in England and Wales, 2017–2021



Source: CPS, VAWG annual data tables

There were 3,144 charges for rape offences recorded by police in the year ending March 2021. This is higher than the 2,325 charges recorded in the year ending March 2020. The charge rate has also increased by nearly 2 percentage points, from 4.1 percent to 6.0 percent.

Figure 4: Police-recorded data on the number of rape offences that resulted charges/summons in England and Wales, 2017–2021

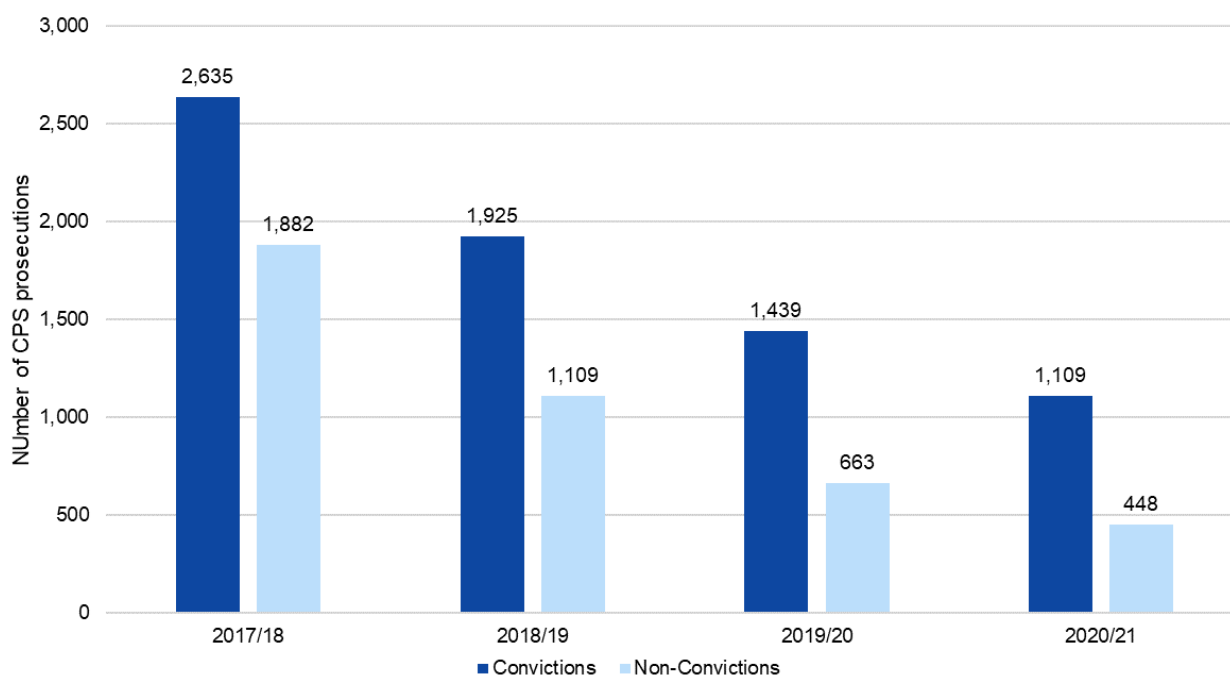


Source: Home Office, crime outcomes in England and Wales

Note: this graph includes all justice outcomes for the financial year, not just outcomes of offences in that financial year

There were 1,109 successful prosecutions recorded in the year ending March 2021 for rape offences. This is 330 fewer than the 1,439 successful prosecutions recorded in the year ending March 2020.

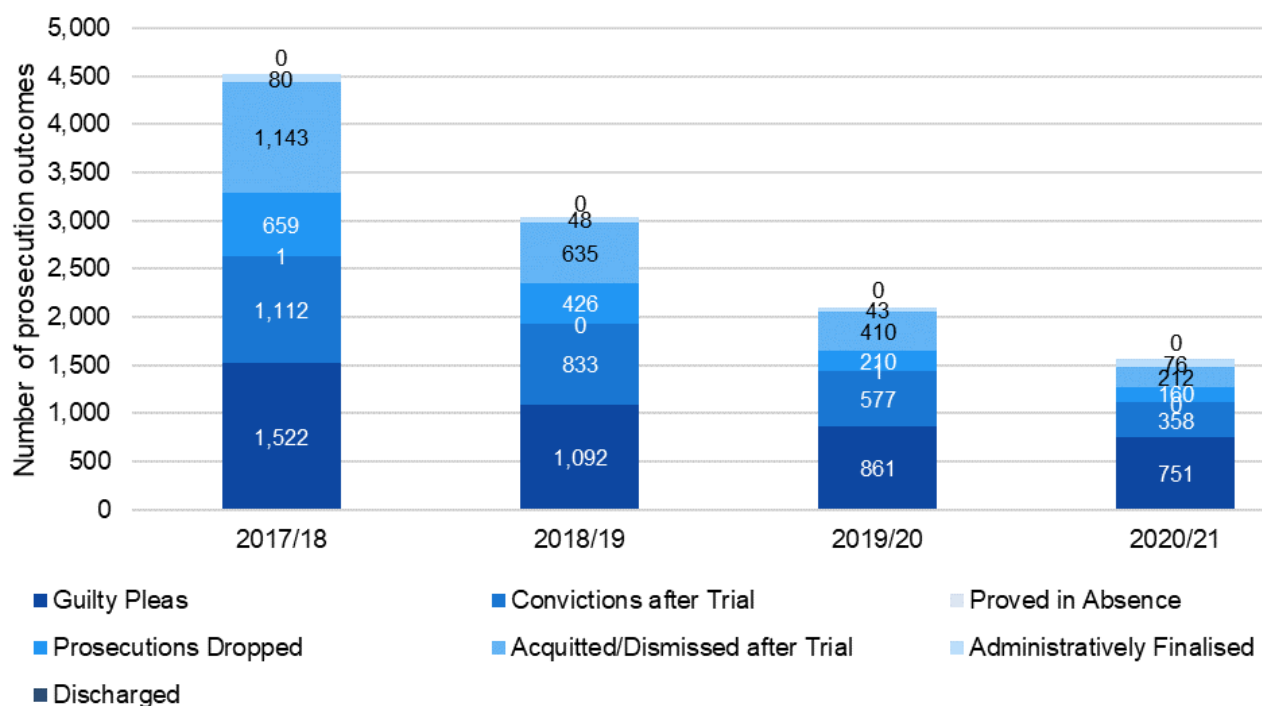
Figure 5: Number of completed prosecutions by the CPS for rape offences in England and Wales, 2017–2021



Source: CPS, Rape Annual Data Tables

The number of completed prosecutions by the CPS for rape offences steadily decreased between 2017 and 2021. There were 2,635 convictions and 1,882 non-convictions in 2017/18 and 1,109 convictions and 448 non-convictions in 2020/21.

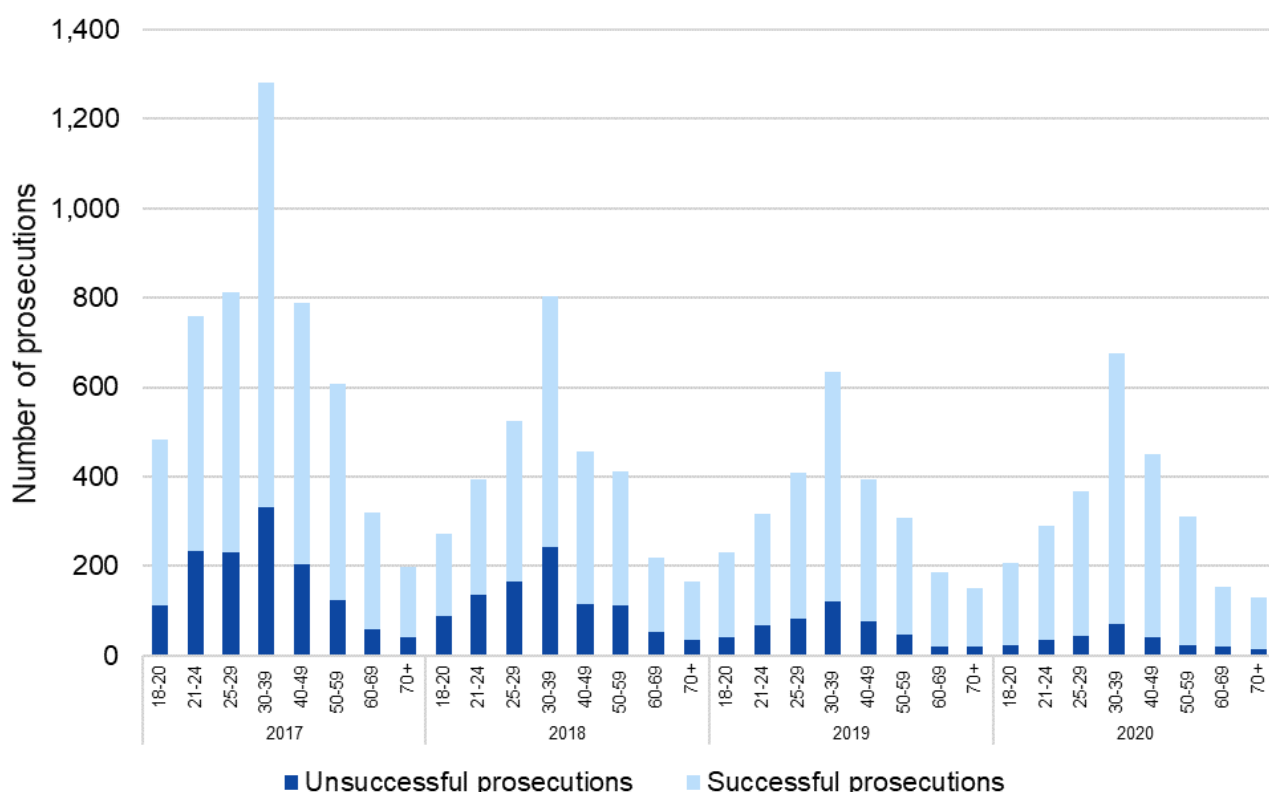
Figure 6: Prosecution outcomes by the CPS England and Wales, 2017–2021



Source: CPS, Rape Prosecution Outcomes

The number of prosecution outcomes for each category has decreased in the years from 2017/18 to 2020/21. Discharged suspects remained at zero over the four financial years. Overall, the total number of outcomes has shown to largely decrease from 4,517 in 2017/18 to 1,557 in 2020/21, despite the number of recorded rape offences remaining high. However, the largest decrease is seen where the suspect was acquitted/dismissed after trial, dropping from 1,143 cases in 2017/18 to 212 in 2020/21 (see [Figure 1](#)).

Figure 7: Number of successful and unsuccessful prosecutions by the CPS by suspect age in England and Wales, 2017–2020



Source: Ministry of Justice, Criminal Justice System Statistics publication

Note: Unsuccessful prosecutions includes the categories ‘discharged’, ‘dismissed’, ‘not tried’ and ‘acquitted’. Successful prosecutions include the categories ‘committed for trial’ and ‘found guilty’.

The total number of prosecutions in all age groups has decreased from 1,336 unsuccessful prosecutions and 3,915 successful prosecutions in 2017 to 271 unsuccessful prosecutions and 2,313 successful prosecutions in 2020. The highest number of unsuccessful and successful prosecutions, with 331 and 950 respectively, was in the suspect age range of 30–39 years old. This age range has consistently had the highest number of prosecutions throughout the four years, but decreased to 71 and 605, respectively, in 2020. This trend of falling numbers is seen in all suspect age groups. The suspect age group of 70+ has remained the smallest throughout all 4 years, with 41 and 157 unsuccessful and successful prosecutions in 2017, and 13 and 116 in 2020.

The post-charge process

(The pre-charge process, including the roles and responsibilities of the police and the CPS, was detailed in Phase 1, and can be found in [Annex C](#).)

The role of the police

After making the decision to charge a suspect, the police have a duty to continue recording, retaining and reviewing material collected during the investigation. Any relevant material which does not form part of the prosecution case is known as unused material and must be recorded on a schedule by the investigator. Any such material that the prosecutor believes undermines the prosecution case or assists the defence must be given to the defence; this is known as disclosure. We examine disclosure later in this report.

The police and the CPS have a responsibility under the [Code of Practice for Victims of Crime](#) (the Victims' Code) to keep victims updated with information about their case until finalisation.

The role of the CPS

The CPS prosecutes cases that have been investigated by the police and other investigative organisations in England and Wales. It makes decisions independently of the police and Government, acting in the public interest (and not just in the interest of any one individual).

The CPS prepares cases and presents them to the courts. It provides information and support to victims and to prosecution witnesses.

The CPS must provide the defence with schedules (documents or lists) of all unused material. It must also provide copies of any documents that may undermine the prosecution or assist the defence.

HM Courts & Tribunals Service (HMCTS)

HM Courts & Tribunals Service (HMCTS) is responsible for the administration of criminal, civil, and family courts and tribunals in England and Wales. It gives victims and witnesses of crime, and suspects accused of crimes, access to justice.

The role of the jury

A jury decides whether the defendant is guilty or not guilty based on the facts presented to them.

A jury may only convict if it is sure that the defendant is guilty.

Witness care units

Witness care units (WCUs) are responsible for providing support and information to victims and witnesses from the point of charge to the completion of a case. They were introduced in 2004, as part of a joint project between the police and the CPS that established the minimum requirements to support witnesses while their cases progress through the criminal justice system. The project led to the creation of 165 WCUs jointly managed and staffed by the police and CPS.

Since 2010, the CPS has steadily withdrawn its staff from WCUs due to austerity measures and subsequent reduced resources, so they are now predominantly police led.

WCUs work to the standards laid out in the Victims' Code. The code sets out the timescales in which victims and witnesses should be updated about the case. Prior to charge, the investigator or SOLO should update victims on the progress of the investigation. Following charge, from the first hearing through to the conclusion of the case, these updates are the responsibility of the WCU.

Most WCUs are a central point of contact for victims and witnesses. They are responsible for providing the CPS and the courts with any relevant information that relates to victims and witnesses. They may also work closely with other services that can support victims, such as ISVAs.

In a WCU, the witness care officer is the central point of contact for a victim or witness from the time an offender is charged to the end of the court case. For victims and witnesses in serious cases such as rape, a specially trained police officer may be assigned as the point of contact and fulfil a similar role to that of a witness care officer ([more information can be found on the College of Policing Authorised Professional Practice website](#)).

Arrangements for managing contact should be clarified and agreed by the witness care officer with the officer in the case (OIC), on a case-by-case basis. The witness care officer may:

- inform victims and witnesses of trial dates;
- monitor dates that victims and witnesses cannot attend court;
- carry out detailed needs assessments to identify the support needed to help witnesses to attend court and to give their [best evidence](#), including managing requirements for special measures for vulnerable and intimidated witnesses;
- update the victim/witness about the outcome of any special measures applications to the court;
- assist the witness with any requirements on the day of trial – for example, if the witness needs transportation to court, the witness care officer will help to arrange it; and
- update victims/witnesses on the trial outcome within the timeframes defined by the Victims' Code.

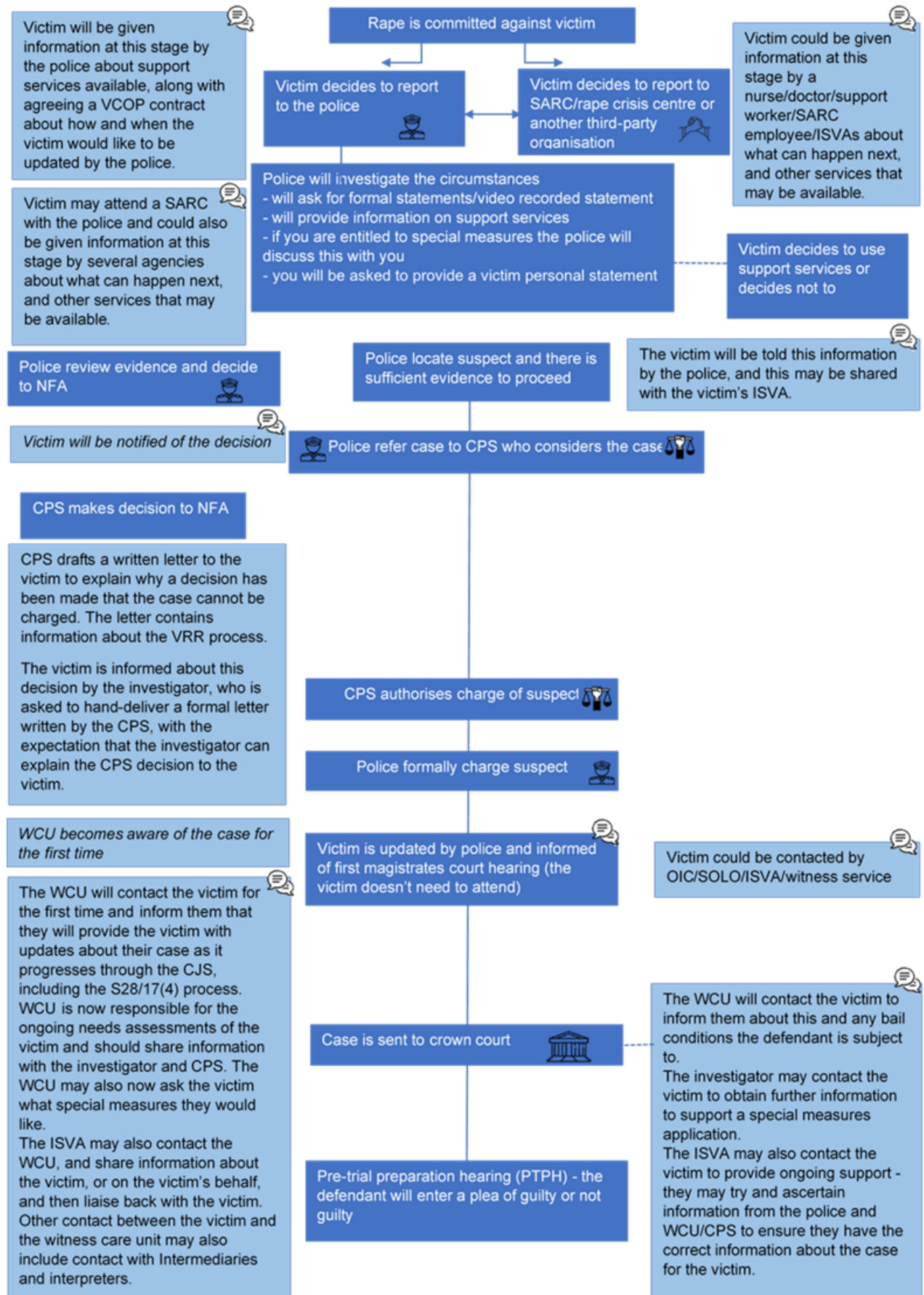
To function effectively, WCUs need to have access to timely information from the police, the CPS and the court. We found that most WCUs have access to the CPS

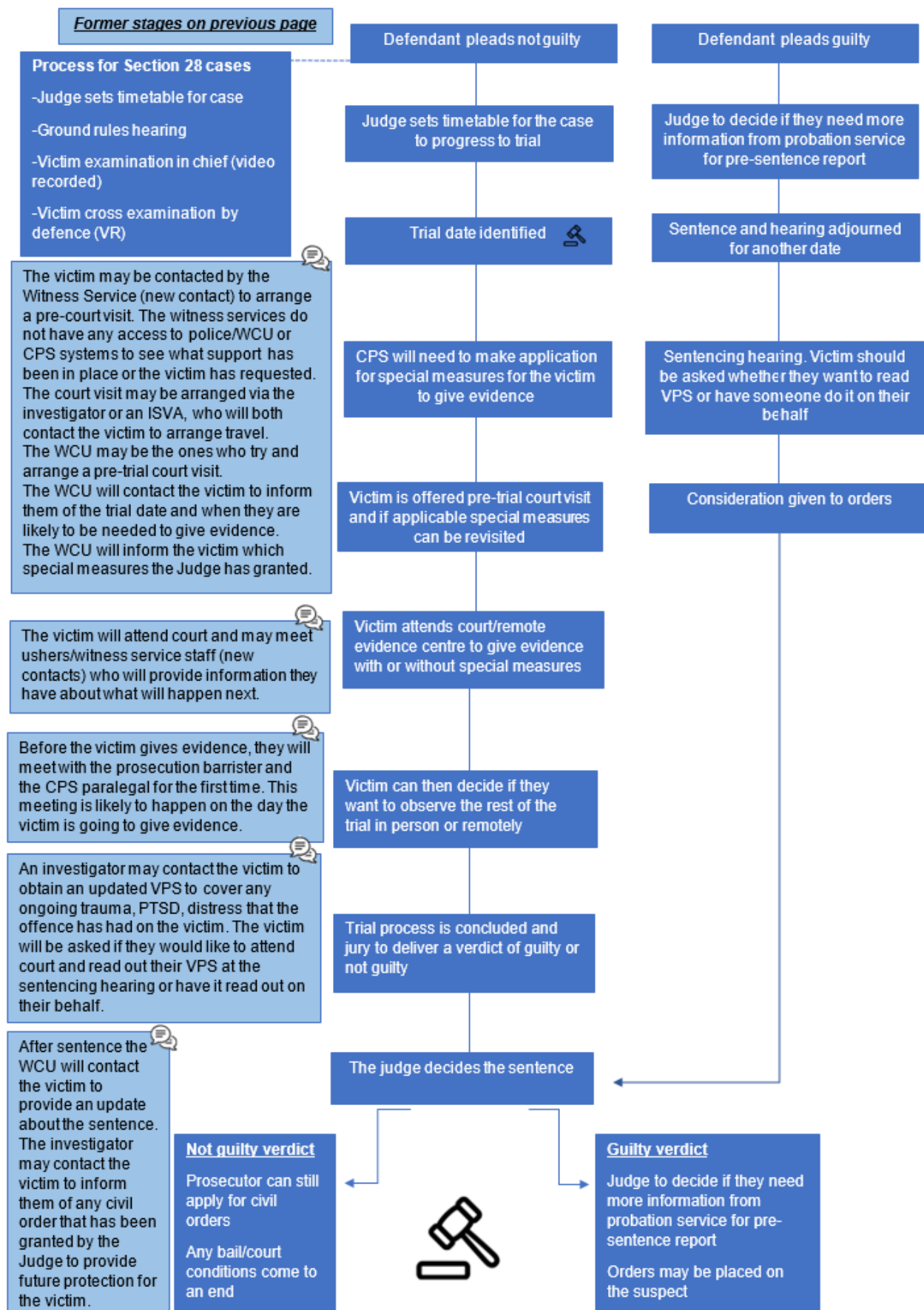
information via the Witness Management System. However, we noted that as this is part of the CPS case management system, due to security, it can't be accessed or seen by investigators or other non-WCU staff who are also working on the case. There are many other examples where information on a case was inaccessible to one or more of the agencies involved in it. There are often valid reasons for why there cannot be open access to other agencies' systems; but this lack of join-up between criminal justice systems is also a significant barrier to seamless and collaborative working across the criminal justice system and effective communication with victims.

As well as good working arrangements with the CPS and Her Majesty's Courts & Tribunal Service (HMCTS), WCUs should also work closely with independent domestic violence advisers and independent sexual violence advisers (ISVAs), as in rape cases the advisers will provide some services to victims instead of the WCUs.

The below infographic (Figure 8) shows the victim's journey through the criminal justice system, from reporting an offence to conclusion.

Figure 8: The victim's journey through the criminal justice system





Management of cases post-charge

Police and CPS resources and workloads

During Phase 1 of our inspection, many police investigators and CPS rape and serious sexual offence (RASSO) prosecutors spoke of high workloads which in turn caused high levels of stress.

It is unsurprising that we heard the same in the second phase of our inspection.

Police resources

During our interviews and focus groups with investigators we were again told that workloads are high and often unmanageable. This means that there is extremely limited capacity to deal with continuing investigations and new cases. Teams often do not have enough resources and need specialist expertise to build investigations. One investigator said that they could not switch off from work, describing their workload as “overwhelming”.

Investigators and SOLOs felt frustrated that they could not always provide the victim with all the information they needed. One told inspectors that: “We are not giving them the service they deserve. You physically cannot do it.” Another investigator said: “I have 65 victims; how can I deal with that?” They often felt that senior management didn’t understand victims’ needs, and that senior managers were preoccupied by the numbers of cases, rather than being aware of how difficult and emotionally challenging the role of the SOLO or investigator can be.

One example we heard was of a victim who sent a suicide threat to her SOLO on the officer’s day off. The officer had to try to arrange appropriate safeguarding immediately. The SOLO felt that the difficulties of supporting victims was not fully appreciated by senior managers.

As highlighted in our Phase 1 report, and in the HMICFRS report on the [Police response to violence against women and girls](#), we again found the support offered by forces to staff was inconsistent in the forces we inspected.

Forces should ensure their officers and staff have wellbeing support. We will monitor the progress of Operation Soteria, building on the findings from Project Bluestone. This includes continuous development and learning about RASSO, with particular attention to wellbeing of police officers and staff. This includes prioritising clinical supervision and the addition of extra mental health days, recognition of the role with continuous professional development, and learning and using reflective practice to inform and build confidence for investigators. This needs to be a priority.

CPS resources

The National Resourcing Model (NRM) and the Resource and Efficiency Measures are a standardised way of measuring the resources needed to carry out work throughout the CPS. By monitoring how long tasks take and how many are processed, a CPS Area can get an overview of the resources needed for important functions.

The Government spending review has increased funding for the CPS for the next three years and is investing in improvements to the way RASSO cases are dealt with. This includes increasing the number of RASSO specialists in the CPS and supporting them to better understand and meet victims' needs.

The funding will also support Operation Soteria (see [Annex G: What is Operation Soteria?](#)).

In some CPS Areas, we heard that resources are below the levels suggested by the NRM for prosecutors and paralegals. Even for those areas where workloads appeared to be within the NRM levels, there were some factors that weren't always taken into account. In our focus groups and interviews with CPS managers and prosecutors, we heard that delayed trials and the difficulties of rearranging court dates and the availability of counsel has had a negative effect on RASSO workloads (see [section on court delays](#), below).

We were told that [Charging \(The Director's Guidance\) – Sixth Edition](#) (published December 2020) has also added to workloads. The guidance was updated to reflect legal changes brought about by amendments to the CPIA Code of practice and the Attorney General's guidance on disclosure. This has increased the workload for police in that it requires investigators to give unused material and schedules to the CPS before a charging decision is made. Previously this would have been done after a decision to charge.

We heard that not all police investigators fully understand what unused material is, meaning that prosecutors have to spend more time working on unused material schedules. The joint police and CPS commitment to increasing the use of early advice (a recommendation from our Phase 1 report, where the police receive guidance and advice from a CPS lawyer early on in serious, sensitive or complex cases) has also affected workloads.

Some area teams are carrying vacancies and have a regular turnover of staff. We found prosecutors had often been directly recruited into RASSO teams and had no experience in this area of work. This was compounded by the COVID-19 pandemic and the lack of face-to-face mentoring and guidance. New prosecutors need time to familiarise themselves with RASSO cases, often meaning that experienced prosecutors have to manage the more complex cases.

In one area, we were told that they should have 20 prosecutors, but they had 4 vacancies, meaning workloads needed to be redistributed throughout the team. CPS managers told inspectors that they were always 'fighting' to get more resources and that they had to spread experience across teams. They had even delayed promotions in order to retain staff and experience. One prosecutor said: "I'm constantly up against it; it never gets to a point where I am on top of things; constantly fighting fires." This means that, in most areas, the volume of work combined with a

shortage of prosecutors is limiting the CPS's performance, the effective management of cases, and the quality of the service provided to victims.

We also heard that in some areas we visited, CPS legal managers were giving pre-charge advice to the police, as they didn't feel their prosecutors could cope with the extra demand.

Paralegal officers and assistants are an important part of the prosecution team. Their responsibilities include reviewing evidence, serving papers on the defence and court, and providing administrative support. This includes preparing for and attending court to undertake administrative tasks, advocate support and represent the CPS, as well as offering support to victims and witnesses.

In our interviews and focus groups, paralegal officers and assistants also told inspectors that they had far too many cases to be able to deal with them effectively. One paralegal told inspectors that their workload had tripled overnight when a colleague went on maternity leave and no alternative cover had been arranged. Paralegals reported that the workload is often unmanageable and the pressure to get things right is high, often with very tight deadlines. This was exacerbated by the backlog of cases at court and number of Custody Time Limit cases that also need to be managed.

We heard that prosecutors and paralegals often feel like they can't take any time off, as this means the workload increases again – so they manage cases during their evenings and weekends, and when on annual leave. This affects their family time, and their mental health and wellbeing. We heard that in some RASSO teams, staff had left due to the overwhelming pressure on their mental health.

This, in turn, affects the quality of what they are doing and the service the victim receives.

The CPS does not automatically have access to clinical supervision. We understand that counselling support for prosecutors was available, however no prosecutors or managers that we spoke to were aware of this. Although it does not always remove the workload or stress, clinical supervision helps staff explore their personal and emotional reactions to their work and provides a safe and confidential environment to reflect on and challenge their practice.

So we are pleased to see that the CPS are piloting a new programme for RASSO managers and staff who may need additional workplace support to manage work-related trauma and stress.

This programme includes wellbeing workshops and modules building on support mechanisms that should already be in place, such as point-of-need care, wellbeing training, line manager wellbeing check-ins, and mental health awareness. And other optional areas of support including counselling, peer support and Schwartz rounds (which are a space where staff can listen to stories from colleagues and share experiences, talking openly and honestly about the impact of their work).

The aim is to:

- minimise the risk of RASSO employees developing ill health as a result of work-related trauma and stress;
- raise employees' awareness of the potential effects of work-related trauma and stress on their mental wellbeing;
- support employees in identifying, understanding and preventing common mental health difficulties from work-related trauma;
- give employees practical coping skills to maintain good mental wellbeing; and
- equip managers with the knowledge and practical techniques needed to support their team members' mental health.

This pilot was not in place during our fieldwork, so we were unable to assess its effectiveness.

Recommendation 7

By September 2022, the CPS should make sure regular clinical supervision is available to all prosecutors who deal with rape cases.

This will help to increase their resilience, wellbeing and effectiveness.

Postal requisitions

In our Phase 1 report, we noted that pre-charge bail conditions (such as the condition that the suspect must not contact the victim) were often used well to protect and reassure victims in the first instance, but that they often reverted to the suspect being released under investigation (RUI) after 28 days, meaning that pre-charge bail conditions are no longer in place and the suspect does not have to return to the police station.

This means that the suspect is usually told about the decision to charge through a postal requisition. A postal requisition is a magistrates' court summons, telling the suspect when to attend court, and what offence(s) they are being charged with. The requisition can be delivered by the police directly to the suspect or posted to the last known address.

In 2020 our joint thematic report, [*Pre-charge bail and released under investigation: striking a balance*](#), found that the police often give RUI cases less priority than bail cases, meaning investigations take much longer than they should.

Troublingly we found that, in some cases, the use of postal requisition also caused significant delays in the criminal justice process. We found that after the CPS advises the police of the charge, there can be delays in the police sending or delivering the letter to the suspect, which means long intervals between the charge being agreed and the defendant being charged.

In some forces, this is due to backlogs in the postal requisitioning process. In one case, the CPS gave the authority to charge in October 2019, but the postal requisition wasn't hand delivered to the suspect until January 2020.

In our case file assessments, we found that from the reporting of a rape to the police, it takes an average of 340 days for the investigation to be conducted and a charging decision to be made. We saw some cases where developments in forensic techniques meant that suspects were identified many years after the report had been made. Then, from the CPS authorising a charge of rape, it takes an average of 21 days for the police to formally charge the suspect, ranging from the same day to 154 days.

Postal requisitions can be yet another delay in the process for victims, and a further cause of distress (see [section on court delays](#), below).

Case study

A female victim attended a house party with her son and boyfriend. She fell asleep and awoke to find a male in her bed. He held her down and raped her. Her son heard her scream and disturbed the suspect. The victim supported the case and a medical examination took place. The suspect was arrested two days after the offence and denied any involvement when interviewed by the police. A sergeant reviewed the case and decided that the suspect should be released under investigation, as pre-charge bail would put undue pressure on the police and the CPS. The file could then be built more slowly. There was no recorded assessment of the risk to the victim recorded. The suspect moved to a new house and couldn't be traced when the decision to charge was made. This resulted in a delay of 35 days between the decision to charge and the suspect being charged by postal requisition.

Supervision of cases post-charge

In Phase 1 of our inspection, we found there was a lack of consistent and effective supervision of investigation plans by the police. In this second phase, we found that the supervision and management of cases post-charge was poor in a quarter of the cases we reviewed.

When a decision to charge a case has been made by the CPS prosecutor, the police must make sure that all material is sent to the CPS as soon as it is available. When a case has been charged under the Threshold Test, (explained in [Annex D](#)) there is often a significant amount of material still required, and there is more work for the investigator to do within tight timescales set by the court.

Our case file reviews showed that in most cases (51 out of 54) the police response to requests from the CPS was timely.

Disclosure and defence statements

“Disclosure is a vital part of every investigation and the preparation of every case for prosecution and trial. Public confidence in the system of disclosure needs to be rebuilt and this continues to be a priority for all three of our organisations, both individually and working together.”

Max Hill, CPS; Mike Cunningham, College of Policing; and Nick Ephgrave, National Police Chiefs' Council

Disclosure responsibilities start at the beginning of an investigation. The police have a duty to record, retain and review material collected. Material that is relevant to the investigation but does not form part of the prosecution case is called 'unused material'.

Unused material is reviewed by the disclosure officer, who is responsible for assessing, summarising and scheduling all material gathered on the case, or the officer in case (OIC). If any of it might undermine the prosecution case or support the defence, it should be given to the prosecutor. The prosecutor should review the unused material and, if they agree, share it with the defence. Both the prosecutor and the investigator have a duty to keep disclosure under review for the duration of the case.

Investigators, prosecutors, defence teams and the courts all have important roles to play in making sure the disclosure process is done properly and promptly. We address the effect of disclosure on cases and the victim's journey later in this report.

All the cases we looked at were dealt with by the Crown Court. When the prosecutor has given the initial disclosure to the defence, the defendant or his representative must provide the prosecutor and the court with a defence statement.

In the defence statement, the defendant should clearly set out the facts of their defence. They should indicate which parts of the prosecution case they take issue with and explain why. They should also highlight any point of law that they may rely upon.

Once the prosecutor has received the defence statement, they must review the document and assess if it is adequate. The prosecutor should then send the defence statement to the disclosure officer or OIC. They should clearly set out the main issues raised, and what action needs to be taken by the police. The disclosure officer or investigator should promptly look again at the retained material and tell the prosecutor about any relevant material that now needs to be disclosed.

In our case file reviews, we found that in most cases the police responded to the defence statement in a timely way, and that the quality of the response was usually good.

However, we heard from investigators that CPS prosecutors will often forward the defence statement to police in its original form, with no guidance to investigators. This means the investigators have to identify and filter what should be actioned. They felt that the CPS prosecutor should read the defence statement and identify principal issues and what was needed to be actioned by the investigators, as stated in the CPS Disclosure guidance. In our case file reviews, we also saw some examples where the defence statement had been forwarded to the police with an unedited pro forma letter, and with no explanation or guidance as to what was needed. Better collaboration between the prosecutor and the investigator regarding ongoing disclosure would improve decision-making and understanding across both the police and the CPS.

In our police focus groups, investigators told us that, where there are good relationships and communication between the police and prosecutors, the management of the defence statement is better, although there is usually a flurry of late activity to meet the trial deadlines.

We heard that it isn't unusual for the police and the CPS to receive a defence statement just before trial. This puts investigators and prosecutors, who are already managing high workloads, under significant pressure. One investigator described the late receipt of defence statements as "panic stations". We also heard that one investigator worked an extended shift, until 2am, having to respond to a late defence statement.

In our focus groups with Crown advocates, we heard that they felt there is a lack of accountability or pressure from the courts for the defence to provide the CPS with the defence statement in good time: "We are then, at the eleventh hour, running around trying to fix things, answer it, provide disclosure, etc. when there is no pressure on the defence at all. This causes an incredible amount of work for the police and the CPS."

This isn't an inspection on disclosure; there have been several inspection reports, and significant work was recently undertaken jointly by the police and the CPS to try and make improvements in this area. The [Police-CPS joint national RASSO action plan 2021](#) includes activity to provide additional RASSO-specific learning and development to help investigators and prosecutors balance the needs of an investigation with the right to privacy.

In Phase 1 we welcomed the focus in this area, and we saw the introduction of the [Attorney General's Guidelines on Disclosure](#) and the revised [Director's Guidance on Charging](#) as positive developments.

Police and CPS data

When a charging decision is made, the police record the case as a sanctioned detection (Home Office outcome code 1), meaning the suspect has been charged or summoned to court for the crime. We found that some police forces then close the case on the police systems.

However, these cases haven't concluded: they are still going through the court system. There may still be a significant amount of work needed by the investigator – including further enquiries and investigation, continuous disclosure, responses to defence statements, attending conference meetings with counsel, and maintaining contact with the victim – but closing the case on the police system means these demands on investigators' time are not recorded. It also often means that cases are not always supervised after charge.

We also found a lack of police performance data following charge. Cases are finalised as sanctioned detections, but data isn't collected to record the conclusion – namely whether cases are successful, unsuccessful, or withdrawn before trial. This is a missed opportunity for the police to identify problems and good ways of working, and to learn and make improvements.

The CPS record a case as finalised when the criminal justice process is complete:

- convictions include where the defendant had pleaded guilty, is convicted after a trial or where the defendant has been found guilty in their absence; while
- unsuccessful cases are all outcomes other than a conviction, including where cases are discontinued, withdrawn, dismissed or acquitted (found not guilty).

Cases can also be recorded as 'administrative finalised'. This is where a case cannot proceed because the defendant either cannot be traced by the police and appear before the court, or has died, or has been found unfit to plead.

Although both the police and the CPS collect some data as to the length of time it takes for cases conclude, there is no established data set that includes the police, the CPS and HMCTS nationally or locally, and it is unclear what data is actually being collected from the different systems. The consistent tracking of cases throughout the criminal justice system, from report to finalisation, would provide a wider view of where delays are happening and give the opportunity to focus bespoke victim care, as well as identify where system improvements are needed.

We are pleased to see that Project Bluestone recognises that poor data quality is undermining knowledge about RASSO cases, and that data collection needs rapid improvement.

We note, too, that the project team in Avon and Somerset have produced a data improvement plan, which uses CPS and police data to better monitor case progression and outcomes. This plan will be further enhanced with the inclusion of HMCTS data in the future.

Building strong cases: communication between the police and CPS

As we found in Phase 1 of our inspection, the overall communication between the police and the CPS requires improvement. Communication at a strategic level was usually good, and we saw some examples of forces and CPS Areas collaborating well to scrutinise cases post-charge and identify good ways of working. But this wasn't always the case.

In one CPS Area, we heard from both the CPS and police leads that the RASSO Prosecution Team Performance Management Meeting was felt to be extremely useful and demonstrated that the police and the CPS have a very good working relationship. Both described these meetings as being honest and open, with a real willingness from participants to be challenged and address errors, to help make improvements. This level of trust between the police and the CPS is dependent on individuals, and a willingness on their part to listen and change.

Rape scrutiny panels

Scrutiny panels can consist of representatives from the police, the CPS and other agencies, for example, victim support services. The aim of a scrutiny panel is to critically examine cases and ensure that lessons are learned, leading to positive change when conducting future investigations.

Although we found that some CPS Areas had scrutiny panels looking at rape outcomes (with police among the attendees), some had no panels specific to rape.

In most forces and CPS Areas, we found that it was unclear how findings and learning from scrutiny panels are disseminated.

In one CPS Area we were told by Crown advocates that the CPS do not use rape scrutiny panels to give their highly experienced rape specialist advocates any feedback or learning.

Investigators are not involved in scrutiny panels and told us that they didn't understand the panels' purpose. While investigator and Crown advocate attendance is not mandatory, we think their involvement would be beneficial, providing them with a better understanding of the prosecution process, building relationships, and giving opportunities for wider organisational learning. We were told that unsuccessful cases are often communicated to investigators by email, and any learning is rarely formally discussed with the CPS. This is a missed opportunity for learning and may mean that poor approaches to work are simply repeated.

In one area, we heard that the CPS holds Case Management Panels specific to RASSO cases. The police are not invited to discuss live cases but have been invited to the meetings that discuss finalised cases. We heard that the panels give feedback to the police, although we were not provided with any examples of where this had prompted change or improvement.

In September 2021 the CPS introduced its [Inclusion and Community Engagement Strategy 2025](#), which builds on previous community engagement initiatives.

This aims to improve casework quality by developing a new assurance framework. This framework includes scrutiny panels with the local community to examine CPS decisions and local outcomes. This would provide better tracking and oversight at a local and national level, bringing focus to where changes needed to be made.

These new-look panels weren't in place at the time of our fieldwork, and so we are unable to assess the effectiveness of them. We were advised that the new strategy is flexible, allowing each CPS Area to understand and prioritise their own community engagements. Although there is no expectation centrally for each area to have an adult rape scrutiny panel, this is an opportunity for the CPS to have important conversations with their communities about rape, rape victims, trauma and consent, and to increase awareness of the role of the CPS and the wider criminal justice system.

In addition, we understand that the CPS and police have recently introduced scrutiny panels where the decision was made to take no further action, as part of Operation Soteria.

Frontline communication

As we noted above, we found the communication between the CPS and the police at a strategic level was good, however this isn't always the case between frontline prosecutors and investigators.

In our focus groups with investigators, we heard that there is no meaningful communication between investigators and the CPS. The quality of communication was described as "atrocious". Investigators told us they are frustrated by what they see as a lack of assistance from the CPS. Investigators told inspectors that the CPS is often faceless, and the quality of the help and guidance is very variable: "It all depends on what lawyer you get and if they are approachable."

Similarly, we heard from the CPS that communication from the police was inconsistent. We heard in our interviews that "some investigators were good; others were not."

In some areas, we heard that this problem is compounded by the different systems used by both organisations. This includes a two-way interface between systems, which is used to digitally pass information and evidential material between the police and the CPS. It is supposed to help manage the file-building process. However, the police and the CPS can only see their own systems, meaning that investigators have no idea if their communications have been received or read by the CPS.

Unsurprisingly, we also found that problems affecting communication between the CPS and the police post-charge are very similar to those identified pre-charge.

This included that no direct phone numbers are provided to staff, and the belief that this causes avoidable delays.

Police use of intelligence and suspect research to build strong cases

The research undertaken to support Project Bluestone included reviewing RASSO data from Avon and Somerset Police over a three-year period (2018–2020). This data showed that:

- almost a quarter (23.3 percent) of identified RASSO suspects are linked to more than one sex crime (ranges from 2 to 19 crimes);
- this figure rises to 60.5 percent of all crime types included (ranges from 2 to 200 crimes); which means
- only 39.5 percent of RASSO suspects have never come to police attention before.

We found that the police are not always researching similar cases, or intelligence involving the suspect. This research is vital to the use of bad character applications (referred to in the next section), as the CPS rely on the police providing this information to support the application.

Case study

The suspect and victim were in a relationship. After a night out drinking, they returned to his house. They went to his bedroom and had consensual vaginal sex. The suspect wanted to record their sexual activity, but the victim refused permission. She was then forcibly pinned down and raped. The suspect also tried to strangle the victim. The suspect was released on police bail, and the OIC completed a bail extension application for the magistrates' court. However, the suspect was already under investigation for a similar offence in an adjoining police area, and had been charged and remanded to prison. The OIC was unaware of this. Access to this information at an early stage would have helped the OIC present a full picture of the suspect's alleged offending.

We agree with the recommendation in HMICFRS's [*Police response to violence against women and girls*](#) report that the relentless pursuit and disruption of adult perpetrators should be a national priority for the police, and that they should have sufficient resources to do this.

We are pleased to see that Operation Soteria will include suspect-focused investigations and disrupting repeat offenders in the drive to improve RASSO outcomes.

Inclusion of a suspect's bad character

Rape allegations can often rely heavily on the word of the victim, so effective use of bad character evidence to show similar conduct on the part of the defendant – which need not be limited to sexual behaviour but could also include violence – is particularly important.

Bad character is defined under sections 98 and 112 of the [Criminal Justice Act 2003](#), and can include previous convictions for offences similar to those a defendant is being tried for, or 'misconduct', which includes offences that didn't result in a conviction. It can also include other 'reprehensible behaviour', even where that behaviour does not constitute a criminal offence. The prosecutor must make an application to the court before submitting bad character evidence in trial. The court can allow or refuse the application but must give reasons why in either case.

Where the defendant has bad character, the prosecutor should consider using this as evidence to support the prosecution case and focus on the behaviour of the defendant.

The defence may also rely on similar evidence against a victim.

"I think it's important that when the police are responding to incidents like this, they take into consideration the perpetrator's history and look at the bigger picture, as there had been calls made to the police regarding DA [domestic abuse] incidents."

Quote from a victim of rape

Case study

The victim in this case was vulnerable and reported a rape by a man she didn't know. Police obtained evidence that the suspect had a previous rape allegation made against him and had been charged with the offence, but the victim had then withdrawn support and the case was discontinued.

The police sent this information, including the transcripts of the previous victim's interview and the police summary to the CPS.

No application to use this as bad character was ever made, and no rationale recorded as to why not.

The defendant was acquitted.

Case study

The victim and defendant were work colleagues and friends. On a work night out, the defendant entered the victim's hotel room and raped her.

The police contacted two victims who had previously reported being raped by the defendant, but who didn't want to make formal complaints. The police recorded video evidence from both victims detailing what had happened to them, and both were prepared to attend court. There was an initial indication from the CPS that this evidence could feature in a bad character application, but it was never revisited.

There was no rationale recorded as to why bad character wasn't used, despite the fact that the victims had already agreed to give evidence and given their accounts. There was no evidence that the additional video evidence was viewed by the prosecutor or provided to prosecution counsel.

The defendant was acquitted.

Our Phase 1 inspection report noted that prosecutors were not always structured in their approaches to reviewing rape cases. This is something that remains unchanged in Phase 2.

Although the bad character evidence cannot be used to bolster a weak prosecution case, our case file reviews showed that prosecutors and investigators were often missing opportunities to consider bad character applications. Although we cannot say that the inclusion of bad character would have resulted in different outcomes, this is another example of failure to build strong cases. This inconsistent approach by the police and prosecutors concerning bad character of the defendant has to change.

Recommendation 8

Immediately, the police and the CPS should work collaboratively to ensure that bad character is considered in all rape cases, and progressed wherever it is applicable.

This will help to build strong cases which focus on the behaviours of the defendant.

Work to progress this recommendation should include:

- all forces assuring themselves that officers involved in rape cases are aware of their responsibilities to research all available intelligence and information systems for information on suspects, and are doing so;
- all prosecutors assuring themselves that bad character has been either provided or requested from the police in all rape cases; and
- forces and prosecutors working together to assure themselves that opportunities for use of bad character have been properly exploited in every case, with recorded rationales for decisions in place.

Section 41: consideration of victims' previous sexual history

"I know that they are probably going to find things about me, my character, my history, that they will bring up. I'm scared about it, but I think they will probably try to paint me as a person who you can't believe and therefore all my subjective reporting was not to be believed. But I have no idea about what they are going to pick on or how they are going to deal with that."

Quote from a victim of rape

The defence can ask the court for permission to question the victim about their previous sexual history, where it is relevant to particular issues in the case. This request for permission is called a section 41 application. It protects victims by limiting any evidence or questions from the defence in relation to their sexual history.

The defence must make a formal written application to the judge. They must also provide details to the prosecutor, who can challenge the application. The judge decides whether the questions can be asked.

Prosecutors are instructed to tell the victim about the section 41 application only if it has been successful. Then the victim must be informed and allowed time to consider what this means. The prosecutor must discuss the special measures in place with the victim (see [section on special measures](#), below), and ask if they are still enough. If they need to be changed, an application can be made.

Ideally, section 41 matters should be addressed fully at the plea and trial preparation hearing, well in advance of the trial. In cases where the prosecution fails to deal with disclosure in a timely way, or where further enquiries later reveal matters that then prompt a section 41 application, the experience for the victim should not be made worse, or rushed.

In our case file reviews we found some late section 41 applications had been made by the defence.

We found that 8 of the 54 files reviewed involved a section 41 application.

In two of these cases there was a negative effect on the victim's experience: both featured late disclosure by the police and the prosecution, meaning that the victim was only told of the decision to allow their sexual history to be included in cross-examination immediately before giving their evidence. Although the nature of a section 41 application is in itself distressing to victims, a late and unexpected application is incredibly stressful.

Case study

The defendant was charged with raping a work colleague. Close to the trial date, the police provided the CPS with unused material about the victim's sexual preferences. This caused the defence to make a very late section 41 application and resulted in an already distressed victim being told, when she attended court to give evidence, that she would be subject to cross-examination in relation to messages she had sent on a dating site. In these messages she had expressed particular sexual preferences. This was embarrassing and distressing for her.

Case study

The victim was raped by a stranger. She was vulnerable and needed to be supported by an intermediary to give evidence at the trial using a remote link. Due to late disclosure by the police and the CPS, the defence made an application for her to be cross-examined about her sexual history. The victim was told of this application over the video link, while she was waiting to give her evidence. This situation could have been avoided, if the prosecutor and the investigator had dealt with disclosure fully and in a timely way.

In assessing the effect on the victim, consideration must be given to providing enough time for support and the reassessment of special measures, to make sure that the victim is still able to give their best evidence.

Support for the victim following charge

This section examines the support offered to victims following charge. Most organisations will offer support to a victim from the point when an offence is reported, whether to the police or directly to the organisation.

Support for victims can be given by different organisations. These can include:

- rape crisis centres;
- sexual assault referral centres (SARCs);
- commissioned services (a support or service that has been funded through public funds); and
- a non-commissioned service (funded in other ways).

In our research, we asked victims what support they most needed from the criminal justice system, after the suspect was charged. Our respondents said that it was most important for them to be kept informed, and to feel believed and supported through the whole criminal justice process.

Victim needs assessments

In our Phase 1 report, we found that the police don't always get the first response to the victim right, and victims don't always get the support they need.

We highlighted the importance of the first contact between the victim and the police to build trust and effectively build the case. If this is not correctly handled, opportunities to support and safeguard the victim may be lost.

The initial needs assessment

The initial needs assessment is usually completed by the police when the rape is first reported. The aim is to identify any victim needs as soon as possible, including whether the victim may be vulnerable or intimidated, and where support may be needed. The police should also refer the victim to support services when appropriate.

In Phase 1, we found inconsistent levels of referrals to support services at the point when the rape was first reported.

Continuous needs assessments

The police are responsible for keeping the needs assessment under review, based on their contact with the victim and the independent sexual violence adviser (ISVA). In our Phase 1 report, we made a recommendation that police forces and support services should work together to better understand each other's roles. The dynamic between the ISVA and the investigator is essential to jointly identifying what support is needed by the victim. They should offer appropriate alternative support on the basis of that changing need.

In Phase 2 of our inspection, although we were pleased to see from our case file reviews that in nearly three quarters of cases the victim was referred to victim services, we were unable to find any records of discussions with victims as to their individual needs. There were also often no details of the support services to which victims had been referred.

This lack of recording means that we cannot be sure that the victim is getting the right level of 'wrap-around' support they may need.

As highlighted earlier in the report, the witness care unit (WCU) is usually the central point of contact with the victim, but in rape cases this may be the investigator or the SOLO. The WCU or the OIC should complete a detailed needs assessment to establish the support needed to help victims to attend court and to give their [best evidence](#). They should also work closely with services that can [support victims](#).

However, in our victim research, less than half of the respondents reported that they had been referred to appropriate support services post-charge, to support them through the criminal justice system, specifically prior to trial. This support would include things such as pre-trial court visits.

In our focus groups with investigators, we heard that although they were aware of their responsibilities under the Victims' Code, they were not always able to fulfil these duties due to excessive workloads. We will examine the disjointed approach in communicating with the victim later in this report.

Our research with ISVAs also showed that, in many cases, the police didn't understand victims' needs at the post-charge stage. ISVAs stated that the police didn't always ask the victim what they needed, and there was little communication between the police and the victim after charge. They also felt that the police didn't understand how trauma affects victims at different stages of the process and that victims' needs may change.

Our victim research found that approximately half of victims said support post-charge is neither easy to access, nor timely. Victims also felt it wasn't tailored to their individual needs.

We found ISVAs and victims also reported inconsistent support and contact with the police WCU and the CPS in relation to their case. We examine this later in this report (see below, '[Communication with the victim following the decision to charge](#)').

As we found in the first phase of this inspection, there is a continuing concern about the communication between the ISVAs and the police in some forces.

Not all investigators recognise the role of support organisations, and specifically the importance of ISVAs, in terms of updating and safeguarding the victim. The OIC can sometimes feel that it is their sole responsibility to provide the necessary support to victims post-charge. This was clearly demonstrated in one force, where officers said that they only communicate with ISVAs if the risk to the victim is increased.

In our victim research, more than a quarter of victims reported that they had to seek support themselves as no one told them about the support that was available after charge. We also found that nearly a third of victims didn't use any of the support they were offered after charge, with some citing that it was too difficult to access and that they were afraid it could be used against them. This misunderstanding suggests a lack of effective communication with victims.

From our ISVA survey, two thirds of ISVAs who responded said that the police didn't effectively pass on information about the needs of victims they had referred, or provide updates if the needs of the victim changed.

The disjointed communication between the police and CPS, victims and the police, and the police and ISVAs, was a recurrent theme in our inspection. The police and CPS recognise the problem, and have developed a national joint framework for working with ISVAs and support services, outlining minimum standards on liaising and communicating with ISVAs and local services supporting victims in the criminal justice system. This was not yet implemented at the time of our inspection, so we could not assess its effect.

We return to these aspects later in the [section on communication with the victim following the decision to charge](#).

We examine where special measures may be needed to help the victim give their best evidence in the [section on special measures](#).

Commissioned and non-commissioned services providing support to victims

In our first phase report, we wrote about the need for bespoke, 'wrap-around' support, tailored to the needs of the victim. The police service has an obligation to refer victims to appropriate support services, such as ISVAs, under the [Code of Practice for Victims of Crime](#). Failure to refer victims to support services is a breach of the Victims' Code.

In this second phase inspection, we further examined the provision of services and some of the problems faced by the organisations supporting the victims.

The role of the sexual assault referral centre (SARC)

Victim contact with support services can last from pre-report through to post-charge. While we didn't inspect the effectiveness of sexual assault referral centres (SARCs), we recognise that, for some victims, they may be their first introduction to the criminal justice system.

We believe they provide a good example of the range of models and practice throughout England and Wales.

Most SARCs offer medical, practical and emotional support, and have specially trained doctors, nurses and support workers. Most, but not all, also have ISVAs available to help victims get access to the other support services they may need, whether or not the victim has decided to make a report of rape to the police.

We spoke to SARC managers and support services in all the areas inspected. We found variations in the services SARCs provided to victims. These range from a purely medical forensic capability, to providing a full holistic service and proactively offering support to a wide range of victims, for example, male rape victims who are in prison.

We assessed the relationships between the SARC, the police and the CPS and found that how they engaged with each other was inconsistent. In some areas, the communication was good, with the SARC manager, ISVAs, police and the CPS meeting to discuss problems and to highlight good working practice.

In one force area, we heard that support services and the SARC manager give a quarterly update to the police and court listing, in which they provide details of upcoming cases that are at risk of the victim withdrawing. This is to make sure that the victim is provided with the support they need to stay engaged in the criminal justice process. However, although we see this as a good way of working, it is unclear how this reduces court delays and listing practices.

Notable practice

In one force, we heard senior police managers had recognised a gap in assessing and monitoring performance in relation to sexual violence at a strategic level. As a result, the force established a group with the SARC, health services, the Office of Police and Crime Commissioners, the CPS and the courts to assess what support services were in place both inside and outside the criminal justice system. This has led to the SARC doing a full assessment of the services available, to identify any gaps. At the time of inspection, this work hadn't been completed, and so we were unable to assess its effectiveness and how this translated into improvements for victims.

We view this as a positive development, as it demonstrates understanding of the importance of cross-system working and consultation, and of the importance of keeping victims at the heart of the criminal justice system.

However, we were also told that in another force the SARC isn't as integrated in the investigative process as other areas, because the police see themselves as the central contact and support point for victims rather than the SARC. The SARC wasn't integrated in any way into the journey of the victim, but rather seen as a necessary standalone function.

The force lead recognised that this is out of step with other parts of the country, where the SARC is very much at the centre of providing support and signposting victims to other services.

This means the link with the ISVAs is also sub-optimal, as the police can refer a victim to an ISVA without the SARC's involvement.

This disconnect means there is little or no continued interaction between the SARC and the ISVA service. A lack of any strategic governance involving the police, CPS or other interested parties means that there is little focus on how the SARC fits into the investigation process.

The police force recognised this gap and intended for the SARC to be included in the strategic partnership board, a sub-group of the Local Criminal Justice Board (LCJB). The strategic partnership board consists of strategic and operational agency leads, including the CPS, police and the Office of Police and Crime Commissioners. However, at the time of this inspection it was yet to have its first meeting.

Not all SARCs have access to police systems. In one force the SARC manager told inspectors that access to systems was vital, as they were able to proactively interrogate systems to identify reported rapes and make contact with every victim, even if the victim does not support an investigation or isn't engaged. This contact offers support and is usually made via a phone call or letter. The SARC manager told us: "We capture every single rape victim within this service. I leave a footprint on Niche [a police computer system] to show this, so it is clear to anyone looking at the OEL [occurrence enquiry log]."

We also found that some SARCs were involving the wider community in order to pass on knowledge and understanding.

Notable practice

In one force area (Leicestershire) the SARC manager linked with three local universities regularly to assess security and welfare. This included the discussion of cases, to examine how they were handled and identify any lessons learned.

This is notable practice. The dissemination of information on repeat offenders or locations can help to focus prevention and to protect victims, including those that may not have made a report. This included information about a suspect and their behaviour, in this case, targeting vulnerable females. This meant the security staff at the university were aware of the suspect and potentially disrupt offending and improve victim safeguarding.

We were also told that feedback was collated from victims. One SARC asked the following questions to all of the victims who had chosen not to report to the police or who had disengaged:

- If you didn't feel you could report this to the police, why was that?
- What would help you to report?
- If you disengaged, why?

This information was given to the police. However, it was unclear how it was used by them to identify gaps or drive improvements for victims.

Some SARCs also engage with outreach services, including [National Ugly Mugs](#) (NUM), a UK-wide charity working with sex workers to ensure support is given and opportunities to raise awareness of perpetrators is maximised. However, worryingly, we found inconsistencies in how the SARC gives information to the police in cases where the victim does not want to report.

In some force areas, we heard that SARC managers gather and pass on anonymised information, to help identify repeat offenders or risky locations. This includes third-party reports, for example from GPs. However, this wasn't the case in all the forces we inspected. In some forces, there is no passing on of intelligence from self-reported cases examined in the SARC. This means intelligence on potential serial perpetrators is missed and therefore the risk from the suspect is unknown and isn't used to build the profile of rape, understand the bigger picture, or focus on prevention and safeguarding. We do not make a recommendation on this, as we appreciate that victims may not want any details, even completely anonymised, to be shared with the police, and further work is required to ascertain the right way forward. We have written to the NPCC lead to alert her to our findings.

The recently published HMICFRS report [Police response to violence against women and girls](#) recommended that the relentless pursuit and disruption of adult perpetrators be a national priority for the police, and their capability and capacity to do this should be enhanced. It is crucial that the police understand the profile of rape in their areas by working jointly with agencies like SARCs to more effectively focus resources.

Most SARCs are clearly working well with agencies beyond the police and the CPS, leading to proactive activity and increased awareness. However, we found a lack of consistency regarding the role and remit of SARCs. More work is needed to optimise their contributions and expertise to learn lessons and improve practice.

Commissioning of support services for victims of rape

The Ministry of Justice (MoJ) delegated responsibility for the commissioning of most local services for victims of crime to police and crime commissioners (PCCs) in 2014. It gives an amount of money based on the resident population to each PCC annually. From this, PCCs fund services for victims of crime, including specialist areas such as domestic and sexual abuse.

While most funding for victim support services is provided through the MoJ, additional one-off funding may be available, which the PCC bids for. Funding can also be provided from the overall PCC budget.

The funding of services should consider the needs of the community. It follows that both the police and the PCC need to have a full assessment and understanding of the extent of the crime profile to meet the needs of victims.

In the second phase of this inspection, we found that the commissioning of support services is complex and fragmented. It was often described as 'chaotic' by service providers.

In our interviews with support services, we heard that the process of applying for a commissioning contract is difficult. It is time-consuming and resource intensive.

One provider told inspectors that they employ two full-time staff with the sole responsibility of preparing for the commissioning process.

We note that the [All-Party Parliamentary Group on Sexual Violence report into the Funding and Commissioning of Sexual Violence and Abuse Services 2018](#) refers to the pressures caused by competitive tendering. The increased competition for funding may prevent some smaller voluntary organisations from competing at all or may result in them losing out to larger, generic providers.

All funding is subject to conditions and reporting requirements. This includes the period of time that services are commissioned for. Contracts can be awarded for a period of three years, with the option to extend annually for a further two years. This means an organisation or service can be in place for up to five years.

But we also heard that contracts can be awarded on an annual basis. This can create practical difficulties due to uncertainty around sustaining the service, which affects the quality of the service provided. In our interviews and focus groups with support services, we were told that the short duration of contracts means providers often find it difficult to recruit the right calibre of workers. This is because a short-term, 12-month contract requires exit planning to begin shortly after undertaking the work.

Additionally, the length of these contracts does not align with the time it takes for a rape case to progress through the criminal justice system (see [Figure 8](#) and [Figure 14](#)). This significantly increases the chance that victim support will change over the life cycle of the case. Coupled with any changes in individual investigators and prosecutors, this means that new relationships with the victim, the CPS and the police may be needed, leaving the victim as the only constant in the case.

The effect on victims is an increased sense of uncertainty, as their ISVA may no longer be available if services are re-contracted or stopped. This lack of consistency in personnel supporting the victim may affect the quality of service a victim receives and adds to the risk of them not feeling fully supported.

Additional funding from the MoJ may become available, but the turnaround period for bidding is often within tight timescales. This makes it difficult for services to recruit into what might only be a six-month role. We also heard that providers often receive the money from the MoJ late in the funding year. This leaves them little time to spend it on services before it may have to be returned or have to be underwritten out of the PCC budget.

Without sustained funding, longer-term planning and provision of services can be poorly affected. The organisations providing support services may change. Staff working to provide support to victims of rape are also affected, as they have little reassurance that their role will continue, should the funding arrangements change.

The pandemic has meant that many support services have been relying entirely on central funding as they haven't been able to carry out fundraising activity in the normal manner. Although the MoJ has committed to additional funding for support services, we heard from almost all agencies involved that this isn't enough.

There is an urgent need to review the provision of support for victims of rape. It should not be a postcode lottery. and needs a long-term funding model for the future. In 2019

the first designate Domestic Abuse Commissioner for England and Wales was established in law as a statutory office holder. This means specified public bodies and government ministers have a duty to co-operate with and respond to the commissioner's recommendations.

The role of the commissioner includes:

- the mapping and monitoring of provision of services;
- make recommendations to public bodies about their response;
- carrying out research;
- working jointly with public authorities and voluntary organisations; and
- raising public awareness of domestic abuse.

The commissioner receives a budget of £1m per annum. This can be spent on staff costs, as well as on a programme budget to support other events or projects.

We considered the establishment of a commissioner to explicitly focus on adult rape and serious sexual offences. The commissioner would act as an independent voice to speak on behalf of victims and survivors, and hold organisations and the Government to account in tackling rape and serious sexual assault.

We considered:

- establishing a new commissioner for adult rape and serious sexual offences; or
- expanding the remit of the Victims' Commissioner/DA Commissioner to include a specific focus on adult rape and serious sexual offences.

This was met with different views across our external reference group, as these options may further fragment the oversight across violence against women and girls. We recognise that there needs to be greater scrutiny and accountability and a clearer focus on the needs of victims.

We make a recommendation that the minister for rape should consult widely, working with established Victims' Commissioners, including the Domestic Abuse and Children's Commissioners, and support services to explore the benefits of this role and who has overall responsibility.

The equivalent role of a designated lead commissioner for adult rape and serious sexual offences could improve the services available to victims. This would also create an opportunity to encourage close working with Operation Soteria, and the wider prevention work focused on disruption of offenders.

This would give greater oversight and hold to account public bodies and Government to drive change and improve the victim's experience through the criminal justice system.

A priority of this role must be overseeing the mapping of the demands on services throughout the victim's journey. Although our inspection relates to cases reported to the police, there must also be a recognition of services provided for those victims who do not make a police report.

Mapping would provide a fuller picture of how services are provided. It must consider what infrastructure is needed, and not just be based on the number of ISVAs. The 'back office' requirement to support service providers must also be included in future funding. This includes administrative support, human resource management, IT and data support.

The mapping should lead to consultations with Clinical Commissioning Groups, NHS leads and Integrated Care Systems. These should work together to provide specialist sexual violence and bespoke wrap-around services.

We concur with the recommendations in the recently published Rape Crisis England & Wales report, [*Holding it together: the courage, resilience, and innovation of Rape Crisis Centres during the COVID-19 pandemic 2020–21*](#). Longer-term funding agreements would help services to plan better for the future and focus on providing services, rather than constantly respond to destabilising cycles of redundancies and recruitment.

The 2021 Welsh Woman's Aid report, [*A strategy for sustainable support – State of the Sector 2021*](#), lists a series of actions for delivering long-term funding for victims of violence against women, domestic abuse and sexual violence (VAWDASV). This would include collaborative work with communities to tackle the root, systemic causes of VAWDASV and provide effective policy and practice in preventing it from happening in the first place.

Recommendation 3

By December 2022, the Ministry of Justice (MoJ) should complete a full mapping exercise of (1) demand for and (2) provision of specialist sexual violence victim services across England and Wales. They should then use this to make sure there is adequate and effective provision of specialist and bespoke support to all victims of rape, with long-term funding in place.

Recommendation 5

Immediately, and no later than May 2022, the Home Office and the Ministerial Lead for Rape and Serious Sexual Offences should consult widely on the benefits of a commissioner with explicit responsibility for and focus on tackling rape and serious sexual offences. This should include working with ministers, established Victims' Commissioners, the Domestic Abuse Commissioner and support services, and considering whether an expansion of the role of either the existing commissioner for domestic abuse or for victims is feasible and workable. Sustainable funding and appropriate staffing support must be in place to support this focus.

Workloads and demand for support services

The way funding is allocated affects the services that victims receive. Many ISVA services are struggling to meet the demand for support. Most services have waiting lists, and one service periodically has to close its waiting list.

[Rape Crisis England & Wales's report](#) states that in 2020–21 rape crisis centres provided almost 1.1m sessions of specialist support, including advocacy, emotional support and counselling – an increase of 41 percent from 2019–20. It also states that 10,000 victims and survivors are currently sitting on their waiting lists.

The length of time that a victim will need support places a strain on ISVA services and their resources. ISVAs usually provide support for an extremely lengthy period. In one example, support was still being provided to a rape survivor over five years after the initial offence occurred.

Although the pandemic has had some effect on delays, they aren't a new problem. Nearly all the ISVAs we spoke to told us that their workloads are unmanageable, and they described themselves as constantly 'firefighting cases'. This was also echoed by over half of the ISVAs that responded to our survey. One ISVA told us about the process they use when assessing urgent cases as: "You are not in crisis today so I can park you."

Inevitably, this means that the standard of service offered to victims is dependent on the demand on the ISVA service, and the lack of capacity to match the demand for support services means that many victims do not receive any support at all.

Although phone contact with victims was difficult during the pandemic, there were concerns that an increase in face-to-face contact would add more pressure to workloads.

One SARC manager we spoke to told us that resources came from many different funds. In some areas, ISVAs are funded through the NHS, making their positions more secure, whereas in others, the joint commissioning with the PCC and the NHS was clearer. But this fragmented system needs to be better co-ordinated. Rape can have a significant effect on physical and mental health. It can also have an economic and social effect. The Home Office research report [The economic and social costs of crime](#) estimated that in 2015/2016 the cost of rape was £4.8 billion.

Joint commissioning frameworks would provide more effective oversight of spending and service provision. They would encourage services to link up with providers, to create an integrated, seamless service.

A sustainable service for victims would translate into lower rates of attrition and better outcomes. But the support given to victims must be stable and long-term if this aim is to be achieved.

Communication with the victim following the decision to charge

Under the Victims' Code it is the responsibility of the police to provide the victim with information about their case when important decisions are made in the investigation pre-charge. This includes the arrest of a suspect, release without charge, and any bail conditions. The victim will be asked how often they want to be updated and what their preferred method of communication is, for example, phone, email or in person.

Following charge, victims must be told by the police, within one working day, what the suspect has been charged with, the first hearing details, and any bail conditions that are in place.

Victims also have the right to be told by the WCU what the outcome of the court hearing was. If the defendant pleads not guilty and the victim will need to give evidence, victims are entitled to be told within one working day of the WCU receiving this information from the CPS.

In rape cases, the OIC or SOLO may also update the victim directly.

Communication with the victim by the police

"Support was great up until I gave my statements and evidence, but then after he was charged, I was left."

Quote from a victim of rape

In both phases of this inspection, our research showed that many victims were dissatisfied with the amount, type, and timeliness of communication from the police. The frequency and quality of contact tended to get worse as the investigation progressed. Some victims felt they had to "do all the chasing" to get updates. We also heard this in our ISVA focus groups.

Our victim research also highlighted that, post-charge, victims wanted to be kept informed, to feel believed and to be supported through the whole criminal justice system process. However, a third of the victims whose cases made it to court were not satisfied with the communication they received at this stage. They felt unsupported, and this increased their anxiety and uncertainty.

“In the run up to going to court there was key information I wanted to know ... I had lots of questions, but my SOIT wasn’t answering my calls or texts. I ended up calling the 101 number to get the email address of the detective ... There was also a change in detective constables after the charge. I was informed about this but wasn’t given any contact details. They did arrange a meeting, but it was cancelled two hours before it was due to take place.”

Quote from a victim of rape

In our case file reviews, we found some examples of good communication between the police and the victim, however, this wasn’t always the case. There were also examples where contact with the victim by the police was often not recorded. Where victim contact was recorded, it was often inconsistent.

This inconsistent recording of contact is further complicated by the different systems being used: there is no full picture of who has spoken to the victim, when, and what was said. For example, the WCUs work on the Witness Management System, which is part of the case management system used by the CPS. However, this system is usually not accessible to the OIC or the SOLO. Therefore, the OIC or SOLO rely on the WCU informing them directly, usually by email. We found very limited evidence of the WCU staff informing any other interested parties of contact with victims, and a lack of contact details on the police system.

One manager from a WCU told us: “There is no join-up of the service supporting the victim both pre and post-charge. Most are interacting with the victim separately, which causes duplication of effort.”

In our case file reviews, we found that in most of the cases (49 out of 54) there was no record of whether the police had shared information with the WCU throughout the case.

“More communication between agencies would have meant that I wouldn’t have to keep repeating myself to different people.”

Quote from a victim of rape

Communication with the victim by different organisations

Following a suspect being charged with rape, there are often multiple people from different teams and organisations that may contact the victim.

In our focus groups with investigators, WCUs and ISVAs, we heard that victim contact was often unco-ordinated, meaning the victim would be contacted on numerous different occasions by different people. We heard that in some areas, a victim of rape can be contacted by the investigating officer, the SOLO, the WCU, the ISVA, and Citizens Advice or other witness service teams. This can be very confusing for the victim.

“Agencies do not communicate with each other; some professionals lack the knowledge and training. Clients I have worked with have been misinformed and professionals have caused stress and anxiety as opposed to reducing it and preparing clients. ISVAs are kept in the dark about cases and updates and this confuses clients.”

Quote from an ISVA survey response

Although we found some forces and support services have made steps to make victim contact more efficient, we heard that where the contact was primarily the SOLO, this tended to work better when the OIC and SOLO are based in the same specialist rape teams. In areas where they work in different locations, there are often problems with the SOLO getting up-to-date information from the OIC to give to the victim.

“It was appropriate. It was professional but also personal, too. I never felt uncomfortable. I never felt that they weren’t professional; it never felt like we were mates or anything. It felt like a doctor–patient relationship or a line manager–employee kind of relationship. It was a respectful, professional one, but it was also informal and friendly when it needed to be.”

Quote from a victim of rape

In many cases, police communication with a victim of rape starts with a single person as the victim’s primary point of contact. We found that in two thirds of the 54 case files reviewed, an initial Victims’ Code contract was recorded and agreed with the victim and adhered to in the early stages. However, as the investigation continued the number of people contacting the victim inevitably increased as more teams, organisations and individuals became involved. We found that in some force areas there is no specific guidance to limit contact. This means that communication is often disjointed, with no one person in the force or support services having a sense of responsibility for victim contact.

The quality and frequency of contact is often diminished due to the police forces’ high and sometimes unmanageable workloads. Most forces have shortages of either SOLO or specialist officers, and struggle to manage demand. In one case, we were told that the OIC had changed 11 times.

In our focus group with SOLOs, we were told: “We will sometimes be unavailable to take ‘live’ jobs coming in because of commitments to other ongoing investigations. This will mean that a SOLO officer will have to be sourced from elsewhere, or a non-SOLO trained officer will have to take on the initial investigation and support of the victim.”

As we highlighted in our Phase 1 report, the fact that some officers are dealing with victims without any specialist training may also have an effect on the nature and quality of communication.

“They may understand the needs of victims post-charge, or post decision, but it appears there is a lack of enthusiasm and lack of resources and time for officers to support victims or ensure they are signposted to the right support.”

Quote from an ISVA survey response

In one force area we were told that communication between the WCU and victim was agreed in advance with the OIC, to help minimise points of communication. However, that agreement was, to some extent, ad-hoc and not always recorded, making it difficult to assess in our case file reviews.

In our focus groups with investigators, we heard that communication between the police, the CPS, ISVAs and the WCU is dependent on individuals and their willingness to make this work for the victim. It is a cause of concern that some investigators didn't understand the role of the WCU, had no direct communication with them, and felt that the only role of the WCU was to deal with witnesses while the investigators managed the victims.

"Clients often feel left in the dark or abandoned. They seek reassurance and sometimes just a simple update from an officer, even just to say there are no changes or developments, shows the client that they have not been forgotten about."

Quote from an ISVA survey response

"The police often do not understand how triggering the criminal justice process can be for victims. Often updates are not provided for long periods of time and detectives are reluctant to engage with ISVAs."

Quote from an ISVA survey response

This unco-ordinated approach not only directly affects victim updates, it also affects the communication between the police and the support services – who often have the most contact with the victim.

This means that, post-charge, any developments in the progress of the case are not always being communicated to those involved. This leaves some organisations feeling frustrated, and the victims without the information they need to prepare for any proceedings.

Recommendation 1

Immediately, police and prosecutors should review and significantly improve communications with [victims](#) from the point of charge onwards.

This should include:

- reviewing current processes, in consultation with commissioned and non-commissioned services and advocates, WCU, HMCTS and victims; and
- implementing changes so that communication is clear and co-ordinated, with the victim's wishes for how they are communicated with, recorded and followed wherever possible.

This should build on work to progress the parallel recommendation from the first phase of this inspection, which proposed improvements to communications with rape victims when a decision to take no further action had been made.

Communication between the CPS and victims

When the CPS decides a case will not proceed, or there are substantial changes to the charge, they write to the victim to inform them of the decision.

However, following a decision to charge, there is limited guidance available for CPS prosecutors when it comes to what their role in communicating with victims is.

During our inspection, we heard that the CPS accepts it needs to be more visible to victims. In our interviews with CPS managers, they told us they are committed to improving communication with victims from the point of charge. Although some improvements had been made, there is still more to be done.

We will explore the different stages when the CPS should speak directly to a victim in greater detail later in this report, including special measures meetings, pre-trial witness interviews, and speaking to witnesses at court.

One CPS Area was working with the police on a more structured approach to communicating with victims, including a bespoke victim needs assessment, to help provide a clear understanding of what a victim needs as the prosecution progresses. However, this wasn't yet in place.

We heard that some CPS Areas have introduced point of charge letters. These letters follow a template, and paragraphs are inserted by the prosecutor that detail the prosecutor's involvement and the criminal justice process. However, the use of these letters is inconsistent due to changes in personnel, and new staff not always completing them. There was also a lack of detail as to how these letters are monitored or how victim feedback is recorded. ISVAs also expressed some concerns that there was no consideration given to victims who were unable to read, or those who do not speak English as their first language.

Although the commitment to improve communication with victims is clear at a local CPS management level, when we spoke to prosecutors, we found they had different views. Some prosecutors told inspectors that they would welcome the opportunity to speak directly to victims at an early stage to establish trust, build a rapport and explain the criminal justice process. One prosecutor described a meeting with a victim, which had really helped to reassure the victim and reduce their fears.

However, some prosecutors felt this level of communication could not be achieved, given their current high workloads.

Others told us they didn't see the value in meeting with victims, and were concerned that doing so would call their independence into question. One prosecutor said: "It's a management idea. They don't do casework. Great in theory; rubbish in practice. I won't be doing it."

Some prosecutors said they do not want to talk to victims because they do not have the skills to do so; are worried about saying something that may cause difficulties in any future trial; or just feel it is inappropriate. We also heard directly from some prosecutors who didn't want to write to victims at the point of charge or at important stages of the case. One told us: "I think us writing to complainants is awful. It should

be a police job. We are public prosecutors, not their personal lawyers. We must be independent.”

Some prosecutors told us they see the investigating officer or SOLO as the link between the victim and the CPS, because they have greater awareness of the victim’s needs. However, it is of concern that some SOLOs said they had been told that they are not senior enough to deal with the CPS.

In our interviews and focus groups with ISVAs and other support services, we heard that communication by the CPS depends on the individual prosecutor. They told us that, too often, the victim has no face-to-face contact with the prosecution until the day of trial: “It’s hard for victims meeting the prosecutor five minutes before giving evidence.” The CPS was frequently described as being over-reliant on victim care by others, missing the personal touch, lacking accountability and transparency, and remaining a ‘faceless organisation’ to most victims of rape.

We note that Action 3 from the [*Police-CPS joint national RASSO action plan 2021*](#) states that the CPS intends to “Improve the quality of our communication with victims to ensure they are timely and sensitive to victims’ needs at every stage of the criminal justice process.”

The CPS’s approach to communicating with victims is confusing and often unclear. It needs to be clarified, with the guidance available to prosecutors up to date. This will help to define clear responsibilities and consistent standards, improving communication with victims throughout the life of the case.

The CPS already offers an enhanced service to bereaved families that includes the opportunity for families to meet with the prosecutor at the main stages of the criminal justice system process. This usually starts with an explanation of the charging decision through to support for the families where cases progress through the courts, including the Court of Appeal.

This service has a structure and framework in place to support prosecutors in meeting with the bereaved families, stating that wherever possible the same prosecutor (ideally the reviewing prosecutor) should be allocated throughout the life of the case. The guidance also states that “it should be made clear to the family in advance of the meeting (in correspondence) that the purpose of the meeting isn’t to discuss the detail of the evidence.”

This enhanced service may provide a framework that could be adapted for victims of rape. It manages expectations and sets boundaries, and clear and comprehensive guidance for prosecutors would provide an understanding of the expectations of the role. It would also give prosecutors increased confidence in how they communicate with victims of rape. The role of the Family Liaison Officer may be transferred to that of the agreed primary point of contact for the victim, to co-ordinate meetings.

While some prosecutors accept the enhanced service isn’t a perfect model, we were told that one CPS Area has already identified it as a useful template to build on, to support their team to engage with victims, but it wasn’t yet in place.

Although the success of this, or any similar scheme, is dependent on resources, it would be an opportunity for the victim to meet with the prosecutor and understand the

CPS's role, and go some way to reversing the 'faceless' image that many victims perceive. It would also provide an opportunity for the CPS to obtain direct feedback and improve the service they can provide to victims.

Victim Communication and Liaison scheme

The way the CPS communicates its decisions to victims has been the subject of previous reports.

Victim Communication and Liaison (VCL) scheme letters are how the CPS communicates with victims when the decision has been made to end proceedings, substantially alter a charge, or not to prosecute. VCLs also inform the victim of their statutory rights under the [Victims' Right to Review](#) scheme. Our findings from both phases of this inspection and findings in the 2020 HMCPSI report [Victim Communication and Liaison scheme: letters to victims](#), all highlight that the CPS must improve the quality of its communication with victims.

Our case file reviews in Phase 2 show that in most of cases the prosecutor sent a letter to the victim, and this was usually timely. We saw some VCLs that were of good quality, with clear explanations of why the case had to be stopped. They showed empathy and care.

Case study

The victim reported to the police that three years previously she had been raped by her ex-partner in their relationship. The suspect was arrested and denied the offence, telling the police that all contact was consensual. The case was charged by the CPS and listed for a trial. Due to disclosure issues the CPS took the decision to end the prosecution, and wrote to the victim to explain their reasons.

The letter was empathetic and clear about why the case had to end. It started: "I would like to apologise in advance if you find reading this letter distressing, but I believe that you are entitled to have as full an explanation as possible", and went on to explain the evidential reasons why the case could not proceed.

The prosecutor was clear that this didn't mean that the victim wasn't believed by the police or the CPS: "There are a number of issues, that are so damaging to the prosecution case that it cannot proceed. It does not mean that either the police or the CPS do not believe your account, or that we think these allegations didn't happen. It just means that the evidence isn't strong enough for there to be a realistic prospect of conviction, which is the test that the CPS applies in all cases, and the two are altogether different."

We also saw an example of where the prosecutor had consulted with prosecution counsel, the OIC and the RASSO Unit Head. All recognised how devastating this news would be, and a plan had been put in place to ensure bespoke support could be available to the victim.

Case study

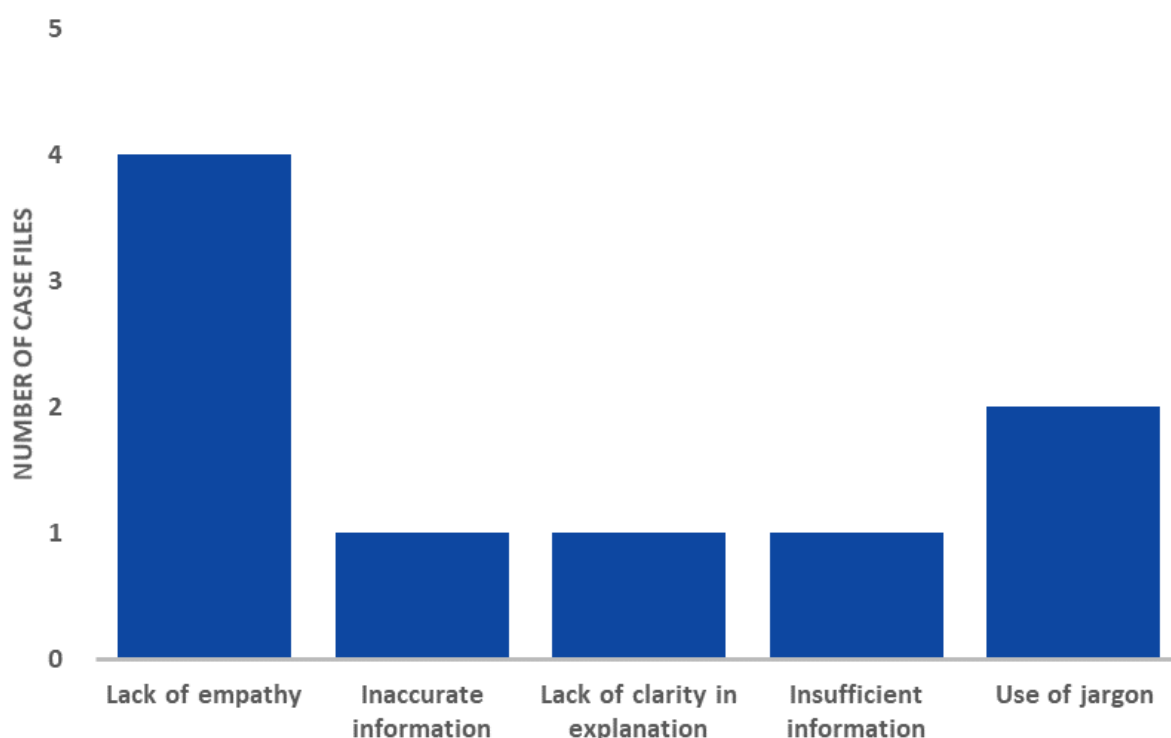
The prosecutor wrote a VCL to explain the decision not to proceed with a case. The victim was offered a meeting with the prosecutor and their ISVA.

The letter very clearly explained the reasons why the case could not continue, and the prosecutor wrote: “I wish to emphasise that this decision does not mean that I do not believe your account as to what happened [...] I recognise that the decision to stop the case now will be devastating for you.”

At the end of the letter the prosecutor again repeated the offer to meet in person to discuss the reasons the case could not proceed.

However, these examples are not always representative of what we found. Over half of the letters we examined were not of good quality. We found that they lacked empathy, used jargon, contained inaccurate information, lacked clarity in the explanation provided, or contained insufficient information.

Figure 9: VCLs (from case file reviews) that were not of a good quality



Source: Case file review data (in 17 cases there was a VCL and 9 were not of a good quality for the reasons above)

Examples include prosecutors writing only that there was “insufficient evidence for a realistic prospect of conviction”, without further explanation for the victim, so that they might understand the reasons behind the decision.

Pre-trial witness interview

The CPS Rape Protocol requires prosecutors to consider conducting a pre-trial witness interview (PTWI) with the victim in all cases prior to charge.

The aim of a PTWI is to help the prosecutor to:

- assess the reliability of the evidence; or
- have a better understanding of complex evidence; or
- explain the criminal process to the victim.

PTWIs are used as a case-building tool. These are recorded interviews which also need to be considered for disclosure purposes.

We heard from some legal managers who felt that the PTWI was a useful tool for prosecutors. However, in our case file review, we didn't see any consideration of prosecutors using PTWIs.

The current CPS PTWI guidance for prosecutors clearly states that the interview must be conducted by a prosecutor who has undergone the CPS training course on interviewing. In our focus groups and interviews, one Crown advocate told us: "Training was provided to conduct PTWI probably 10 years ago. I have never used it; I have never had the opportunity to use it. PTWIs are not used, not thought about, not seen as a tool available to strengthen cases."

We heard from some more experienced CPS managers and advocates that they were aware of the guidance but, in reality, PTWIs aren't generally considered by prosecutors.

We note that the [*Police-CPS joint national RASSO action plan 2021*](#) does involve revisiting this area of work, with an action to: "Evaluate the use of pre-trial witness interviews with the aim of improving prosecutorial decision-making, promoting effective prosecutions and helping witnesses to give their best evidence at court".

As part of Operation Soteria, the CPS are looking at a different approach to achieving best evidence in the early stages of investigation, which may negate the need for PTWI. We welcome this idea and will continue to monitor developments.

Speaking to witnesses at court (STWAC)

There is internal CPS guidance on speaking to witnesses at court (STWAC), which is dated 16 March 2021. The guidance makes clear that it is aimed at prosecutors, including counsel, and says that the role of the prosecutor is to ensure that witnesses (victims) are able to give their best evidence at court. The guidance expressly states that: "This is a core part of the prosecutor's job and will, if done properly, impact positively on both the quality of the witness's evidence in court and the perception of the service they receive from the CPS." There is similar guidance available on the external CPS website, dated March 2018, which is accessible to the public.

In our case file reviews, there was recorded evidence that the CPS had met with the victim in less than half of all the cases.

We heard from prosecutors, paralegal officers, and paralegal assistants that the reality for nearly all rape victims is that they meet with the instructed prosecution barrister on the morning of the trial, and not in advance. This is often due to the difficulty in counsel's availability. The negative effect of this on the victim is considerable and can significantly undermine the case. Victims must be given the opportunity to arrive at court informed and prepared for the process, to have the chance to provide their best evidence.

Victims and representatives from support services compared the experiences of victims who were unfamiliar with the court process or their advocate's face, with that of defendants, who have access to legal services and are supported throughout the process. In many cases, the defendant will have had the opportunity to speak with their defence team on several occasions before the trial, including when they were initially arrested and interviewed at the police station, at their first appearance at the magistrates' court, at the plea and trial preparation hearing (PTPH), and at the trial.

The defendant usually attends court knowing what the evidence is against them and what to expect at trial whereas, by contrast, the victim will have had very limited, if any, contact with the prosecution. We were told that in some cases victims meet the prosecution advocate as little as five minutes before the trial begins, outside the door of the court, and just before they are expected to provide a detailed account about a traumatic and potentially life-changing event.

"I do feel throughout it's more levied towards him, towards the perpetrator. He was given all the information; he was given all my statements. They're given everything, and I do think that it is completely out of balance. If I had known what it would be like, I probably wouldn't have done it."

Quote from a victim of rape

"You are not allowed to know anything that is going on. You don't meet the prosecution lawyer until a couple of minutes before you go in. You [the prosecutor] are supposed to be fighting for justice for me and the protection of other people like me, and you literally spent two minutes with me."

Quote from a victim of rape

We were told by paralegal officers that most of the responsibility of speaking to, and meeting with, victims falls to them, not the prosecutors. While we recognise the high workloads that both prosecutors and paralegal officers are carrying, and the pressure they are under, there is a risk that if victims are not supported or fully informed, they may not present the best possible evidence.

In our interviews with paralegals, we heard of an approach, in a very small number of cases, that was out of date and failed to understand the court experience of victims of rape. It included a lack of empathy towards victims attending court to give evidence. We were also told in these interviews that most victims appear to be unprepared when they arrive at court, and had a very limited understanding of special measures or the trial process.

We saw evidence of good ways of working in a few cases where the paralegal assistant ensured the prosecution counsel was accompanied at the meeting with the

victim and noted a complete record of the conversation. We also heard that paralegal officers and assistants are highly likely to be the first person from the CPS that the victim meets, and that that meeting usually takes place on the morning of the trial.

The victim's experience would be much improved if the first meeting between the victim and the prosecutor took place earlier in the criminal justice process. Ideally, this meeting should occur well in advance of the trial, and be attended by prosecution counsel. A third of victims who took part in our survey for this inspection highlighted communication with the CPS before going to court as an area of concern for them.

"Often victims do not meet or speak to a member of the CPS until the day of the trial. The CPS needs to communicate with the victim pre-court."

Quote from a victim of rape

When we asked victims what would help improve communication from the CPS, we were told:

"Actual contact with a barrister before the first day of court."

Quote from a victim of rape

The internal CPS guidance on STWAC does cover meetings with victims that take place 'in advance' of court attendance. More must be done to ensure these meetings take place.

Recommendation 2

Immediately, and no later than September 2022, the CPS should unequivocally define the role of the prosecutor in communicating with victims, and the standards expected in doing so.

They should then make sure the role is clearly understood by prosecutors, others involved in RASSO cases, and victims themselves; and that prosecutors are meeting the required standards.

Communication between the CPS and support services

A strong working relationship and with good communication between the CPS and the ISVAs and other support services can help all parties and organisations understand each other's roles. It can also be an effective way of providing feedback, allowing the victim's voice to be heard.

As we found in Phase 1 of this inspection, the quality of relationships and communication varied throughout the CPS Areas we inspected.

In some areas, we heard of close working between the CPS and support services. This has helped to demystify each parties' roles and improved communication between them. Some areas have started regular meetings, including an ISVA working group, rape reference groups, and joint CPS/ISVA forums.

This bringing together of organisations and agencies is viewed positively by everyone involved and has resulted in agreed minimum standards being set in relation to regular meetings. These are generally attended by the police, RASSO and ISVAs, and include information sharing agreements that are designed to encourage improvements.

We also heard that one police force has recently introduced a rape reference group. This involves third-sector groups who discuss practices and provide feedback to the police and the CPS. However, it wasn't clear how this group operated and whether it had resulted in any improvements.

Emerging practice

We were pleased to hear that CPS London hosted a joint CPS and ISVA event day in December 2020. This provided the CPS and ISVAs with a good understanding of each other's issues and how best to communicate with one another, and it increased awareness of what support the victim needs at court, etc.

This was a starting point for learning throughout the CPS and support services, and has resulted in an ISVA/CPS forum. This is chaired by the CPS and attended by ISVAs from various support services in London boroughs.

In another CPS Area, post-charge ISVA and victim meetings had just been arranged at the time of our inspection. These meetings are arranged by the ISVA. They are designed to help the CPS understand any problems that may arise, and to help the victim to understand the court process. They are also an opportunity for the victim to meet the prosecutor. However, at the time of the inspection no meetings had yet taken place.

Emerging practice

Although some ISVAs had been told not to contact prosecutors directly, one CPS Area (North East) set up a dedicated email inbox from which ISVAs can email the CPS with questions or queries related to individual cases. This is a new scheme which was only recently put in place, and is seen as a positive step by the local ISVAs.

Although these examples are helping to encourage communication, the effect on resources and workloads is often seen as challenging. Improvements can only be driven when organisations are sufficiently resourced and funded.

Special measures

Adult rape victims can access a range of special measures in court. Special measures are used to support and assist the giving of evidence in court from victims and witnesses. They are put in place to help victims give their best evidence at court by removing or reducing some of the stress and upset. Special measures were introduced by the [Youth Justice and Criminal Evidence Act 1999](#).

A victim is eligible for special measures if they are categorised as vulnerable (section 16 of the Act) or intimidated (section 17 of the Act). Being eligible for special measures does not mean that the court will automatically grant them. Before granting an application, the court must be satisfied that the use of special measures is likely to prevent the quality of the victim's evidence from being diminished.

Types of special measure

There are several special measures that can be applied for, singularly or in combination. These include:

- screens (used to shield the victim from the defendant, so that while the victim gives their evidence the defendant cannot see them);
- live links (the victim gives live evidence to the court from another room, either inside the court building or at a remote location, which is relayed to the courtroom via a TV monitor);
- evidence in private (the public gallery is cleared of people);
- removal of wigs and gowns (barristers and judges remove their wigs and gowns);
- visually recorded interviews (VRIs) (a recording of a verbal account given by the victim about what has happened to them. The recording is admitted in the trial proceedings as their evidence in chief);
- section 28 (this relates to the pre-recorded cross-examination of the victim, which takes place on a date before the trial. The recording is played to the jury. We cover section 28 in greater detail later in this section);
- use of an intermediary (an intermediary may be appointed to help the victim to give evidence. They can assist with communication and understanding of the questions); and
- communication aids (support the victim to give their best evidence, through any other medium, such as a British Sign Language interpreter).

Special measures process: police understanding and use of special measures

Special measures can be discussed with victims early on in the investigation, following the report of rape to the police. It is important that victims are told about the existence of special measures as early in the process as possible. Rape victims are entitled to provide their first evidential statement in the form of a VRI. This can later be edited and played in court as their evidence in chief.

The police should discuss special measures with the victim and detail the victim's choices on an MG2 form. This is a standardised form that is used to inform the CPS that the victim may need special measures when giving their evidence. The MG2 form is then submitted to the CPS with the case file.

The CPS may meet with the victim to discuss the special measures requirements. We will examine this later in the report.

The CPS must apply for special measures to be used, and the judge will decide whether or not to grant the application.

Most investigators and SOLOs we spoke to said they had a good understanding of special measures, and what was available.

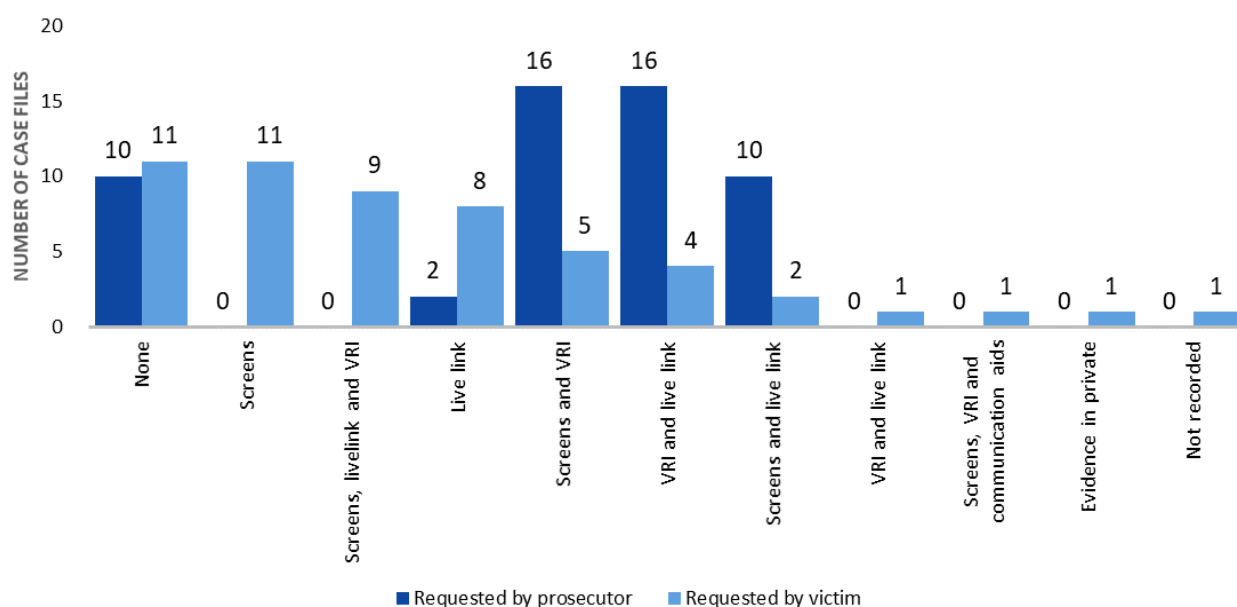
In our case file reviews, we found that in nearly all cases the police had made the victim aware of special measures, and this was usually done in a timely way. However, the quality and thoroughness with which special measures are offered and explained to victims is not recorded.

In our focus groups and interviews with prosecutors and witness support teams we heard that the police often make assumptions about what special measures a victim will want, without discussing with the victim what they might need. Additionally, we were told special measures are not always fully explained to victims in the early stages of the investigation, and our interviewees felt that the police often influence the victim's choices of what will help them give their best evidence. We also heard that the police 'over-promise' what the victim can have.

We heard from police leads that less experienced officers don't always have sufficient knowledge of the broader range of special measures that are available. Not all investigators have experience of court or know and understand what special measures are available locally.

Detailed below are the most commonly requested special measures in our case file review:

Figure 10: Special measures requested in the case files reviewed



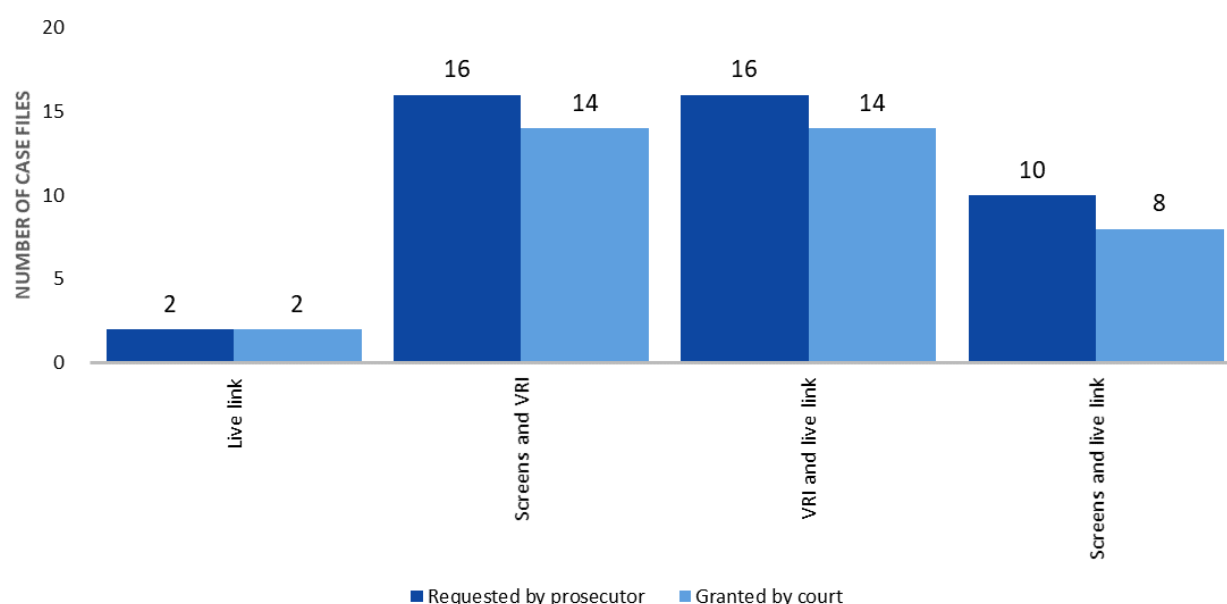
Source: Case file review data (54 cases)

This shows that the most frequently requested combination of special measures by the police in all forces was screening from the defendant, a live link, and the giving of evidence in chief by playing the video-recorded interview. This narrow use of special measures indicates that little consideration was given to wider, bespoke applications tailored to the needs of the victim. There are some special measures, such as clearing the court, which are underused. This is a missed opportunity to make victims feel safer when giving their evidence.

When the police have determined what special measures the victim may require, the information should be passed to the prosecutor. Once the prosecutor is aware of what special measures the victims would like, an application is made to the court, which then decides if these are granted. The application must be able to satisfy the court that the special measures are needed, setting out clearly why and how they will help the best evidence to be achieved, and any views expressed by the victim.

Although we found that the police had provided the CPS with an MG2 form in half of the cases we reviewed, the quality of information provided on the forms was inconsistent. Some forms lacked details about why the measures were needed and what the victim's view was. This can prompt some prosecutors to apply for additional or different special measures which may not consider the victim's needs or wishes.

Figure 11: Special measures requested by prosecutors and granted by court



Source: Case file review data (54 case files reviewed)

Please note: in ten cases special measures were not requested. These cases are not included in Figure 11

WCUs are expected to inform the victim what special measures have been granted by the court. The victim must be informed of the court's decision as soon as possible. The WCUs depend on the CPS updating the case management system with the details of the court's decision so that they can give accurate information to the victim.

We were told that communication between the WCU and CPS could be improved. In some forces, the WCUs often have to repeatedly chase the CPS to verify whether special measures have been approved. In our interviews with WCU staff, we were told that in some instances they have to ask the victim for an update on their special measures approval. This is a cause of concern.

Special measures meetings

Providing information before and at court is especially important where victims are vulnerable and/or intimidated. Although the police will have submitted a MG2 form detailing what special measures are requested, the CPS can hold a pre-trial special measures meeting with the victim. This gives the prosecutor an opportunity to introduce themselves, and to help the victim to make a properly informed decision about which special measures might help them to give their best evidence in advance of the trial.

Special measures meetings can involve the victim, prosecutor, OIC, counsel and the ISVA. These meetings are to build trust and confidence, and to reassure the victim that their needs will be considered throughout. Wherever possible, the CPS prosecutor should ensure that counsel who will be conducting the trial attends the meeting.

We found an inconsistent approach to the use of special measures meetings during this inspection. Some prosecutors saw them as positive opportunities to inform and also reassure victims, but made it clear that their current workloads could not sustain the inclusion of special measures meetings. This was in direct contrast to other areas where prosecutors didn't see the value in meeting with victims. They suggested the meeting could be undertaken by other CPS employees, or perhaps the ISVAs.

We were told by prosecutors that there are currently very few special measures meetings taking place. We heard that the meetings stopped prior to 2020 due to reduced resources and charging backlogs. The CPS recognises that improvements are needed, and some areas presented a 'roadshow' to counsel in November 2020 and January 2021 to encourage the use of special measures meetings.

However, in our interviews and focus groups with prosecutors, we found an inconsistent commitment to increasing the use of these meetings.

In areas that were conducting special measures meetings, we were told that recently, during the COVID-19 pandemic, they have been taking place via Zoom and appear to have a positive effect. The meetings are seen as invaluable and embraced by prosecutors as an opportunity for the CPS to accurately explain special measures to victims, or why their case has perhaps been delayed, and help to keep victims engaged in the criminal justice process.

As previously highlighted, some prosecutors didn't feel they had the skills or time to directly engage with victims. Some prosecutors were very apprehensive about holding special measures meetings, with many saying they didn't feel confident. Others expressed concern that they might be accused of coaching or influencing the victim. Some prosecutors claimed that it wasn't their role to speak directly with victims, but rather that of the police or ISVAs. Many claimed that, due to their already high workloads, they could not meet this extra demand on their time.

Our inspection team found this reticence in many of the areas, and there is clearly a resource and wellbeing issue that the CPS must address to make sure RASSO prosecutors are able to confidently deal with this work. We will further explore resources and welfare later in this report.

As stated in the section on communication with the victim, we heard from several commissioned and non-commissioned services that the CPS is a "faceless organisation" to victims of rape, with support services and victims having very little or no interaction or communication with them. One ISVA stated: "Not one of my clients has ever had any communication from the CPS."

We note the action in [Police-CPS joint national RASSO action plan 2021](#) to: "Review and improve special measures meetings in RASSO cases to ensure that victims, and their support, are able to meet key members of the prosecution team at an early stage of the prosecution process. That will enable victims to obtain the information they need to help give their best evidence at court".

This refreshed guidance was due to be provided in September 2021. We have reviewed the internal guidance currently available to prosecutors about special measures meetings. We note that at the time of writing this report, it states "this

section is currently under review”. There is no interim guidance available for use, nor is there a date when the guidance will be available.

Use of section 28 special measures

Section 28 of the Youth Justice and Criminal Evidence Act 1999 is a special measure that applies to vulnerable victims and witnesses, regardless of the offence, and includes all child witnesses and any witness whose quality of evidence is likely to be diminished because they:

- are suffering from a mental disorder;
- have a significant impairment of intelligence and social functioning; and/or
- have a physical disability or are suffering from a physical disorder.

Section 28 means the victim's examination in chief and cross-examination by the defence are completed and recorded well before the trial date. The defence and prosecution lawyers are present in court during the recording, as well as the judge and the defendant.

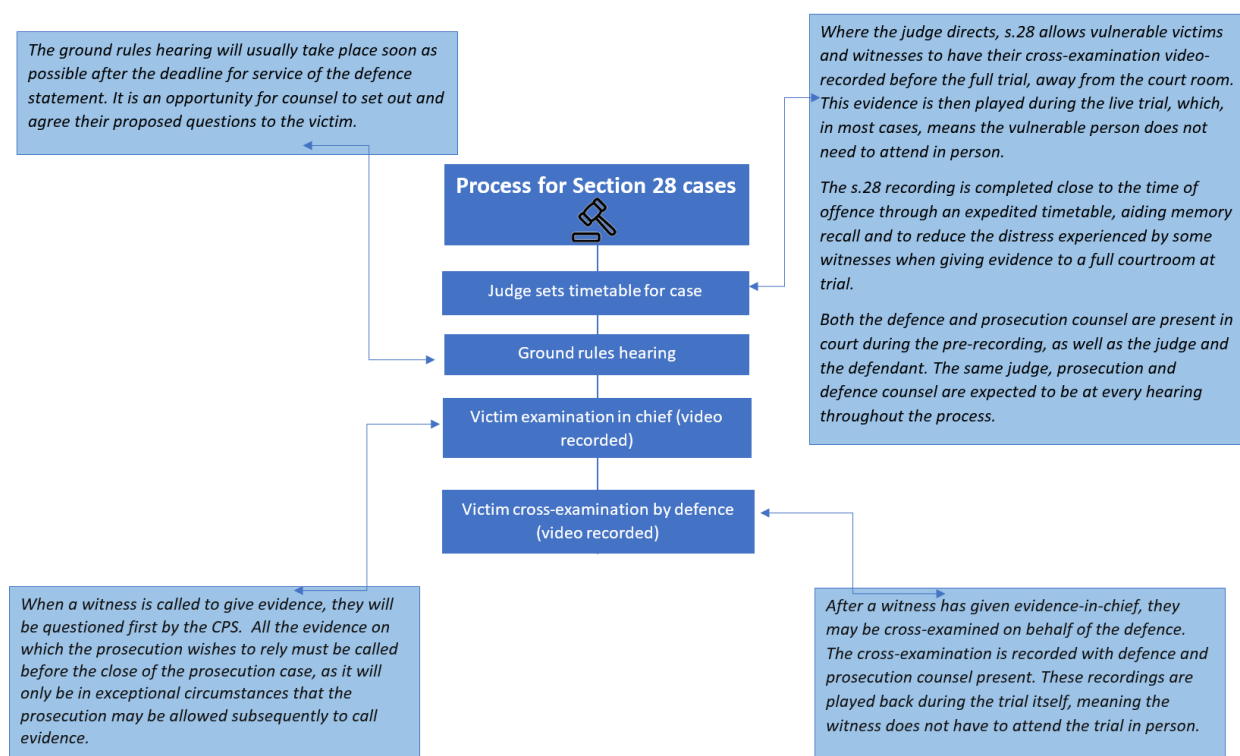
The evidence is then shown during the live trial which, in most cases, means the victim does not need to attend the trial in person.

Following a successful pilot in Kingston-upon-Thames, Leeds, and Liverpool Crown Courts, and subsequent roll-out to additional sites, section 28 has been available for vulnerable adult witnesses in at least one court in every region since November 2020. This measure is now in place in all Crown Court locations throughout England and Wales.

A further pilot to allow section 28 for intimidated adult victims (victims of adult sexual offences and modern-day slavery) was rolled out to the three pilot courts in Kingston-upon-Thames, Liverpool and Leeds. This pilot began on 3 June 2019. The pilot was extended in September 2021 to include four more courts. We were told that this will be rolled out nationally to all the Crown Courts in England and Wales in 2022.

Figure 12 (below) outlines the process of section 28.

Figure 12: Process for section 28 cases



In this phase of the inspection, we found that section 28 isn't being used or considered consistently by the police or the CPS for vulnerable adults, or for intimidated adult victims in the pilot areas. We found a general lack of awareness and understanding throughout the police and the CPS of when to use section 28 for vulnerable adult victims.

Very few investigators had used section 28 for adult victims. Most specialist RASSO investigators told us that they were aware of section 28, but didn't fully know how and when it should be considered.

Although the College of Policing has provided training packages to police forces in relation to special measures, and section 28 specifically, the responsibility for how these are provided to officers and staff lies with the respective chief constables of the forces, and their training departments. Some investigators told us that they had received this training. But because the packages are delivered differently throughout forces, it means the training isn't always as broad or complete as it should be.

Worryingly, some officers said they had never had any training on special measures or section 28, including some who are in specialist roles responsible for the investigation of rape.

In our focus groups and interviews with both the police and the CPS, many participants felt that the victim being physically in court to give their evidence had a greater effect on the jury. This viewpoint may go some way towards explaining the under-use of section 28 in adult cases. Many prosecutors and investigators believed this was really a measure to be used for child victims.

Victim understanding of section 28

We heard not all victims want to use section 28. Some victims wanted to face the defendant in court. Others simply didn't want their account to be recorded and held somewhere out of their control.

Victims need to make an informed decision about the use of section 28 in their case. This cannot happen if investigators and prosecutors do not have the correct training, experience and understanding to ensure they can have clear and informative discussions with victims.

Perception of section 28 in court

We heard from prosecution advocates that section 28 was a really useful tool for the prosecution. Having a recorded account from the victim early on in the trial process meant that their opening speeches could be focused and presented with absolute certainty.

We were also told that use of section 28 does not give any advantage to the defendant, as the suspect is interviewed early on, before charge, and under caution. Should the suspect choose to change or give a different account to the jury, then it is for them to explain the reasons to the court.

However, we also heard from the judiciary that, while section 28 can be a "great advantage" for young and vulnerable victims, they questioned overuse of this special measure and felt that it should only be used where strictly necessary, particularly for adults.

Some judges believe that the quality of the evidence given and the effect of the evidence on the jury may be lessened; the evidence can be much more powerful when given in person. One of the judges we spoke with felt that when the victims are in court, the jurors tend to feel the evidence is stronger and more "real".

The judge also felt that they could interpret victims' needs better in person, such as when the victim needed a break, or they were getting upset, to ensure the appropriate care was given and also to steer counsel appropriately.

Quality of evidence and available facilities

There was also some concern about the quality of the recordings used, as in some cases it is so poor that it greatly reduces the overall effect of the evidence. We heard that the quality of the video-recorded interview conducted by the police with the victim is an issue nationally. Because the video-recorded interview is a prerequisite to applying for section 28, the quality needs to be consistently good if section 28 is to be successful.

We found that the facilities required to provide section 28 are variable and often unsuitable. For example, we were told there is only one remote evidence site in London, meaning victims often giving their evidence from a room in the court building. Victims may become more anxious at the thought of going to a court building, meaning this may not be an appropriate venue.

In addition, some court remote evidence rooms are small and were designed to accommodate a child giving their evidence, rather than an adult. We saw some rooms that only had space for the victim or witness and one member of court staff. This may cause difficulties when the application allowing an ISVA to be present in court has been granted. We understand that, in some courts, equipment has been moved into larger rooms to accommodate social distancing.

Similarly, if a remote link exists in a SARC, it may be the same location where the victim went through a forensic medical examination. This may put the individual through the trauma of re-living the experience. Therefore, the views of the victim need to influence decisions about how and where they will give their evidence.

The problems with section 28 are indicative of the problems we found with special measures in general. Although generally viewed as positive tools, the infrastructure to actually make it work – including training, data and awareness – isn't fully in place. For section 28 to be effective, the basics need to be in place, supported by long-term commitment and assessment, and sustained funding.

Timeliness and resources

We heard that the length of time taken to conclude a section 28 case through to trial is still unacceptably long, and that there is a tendency for courts to adjourn section 28 trials before other trials with live evidence because the victim's account is already secured.

Section 28 cases are often difficult to list for dedicated court time. The trial judge will deal with the ground rules hearing, section 28 cross-examination and the trial. It is good practice for the same judge to conduct all three hearings when possible, which can create delays due to continuity, leave and other commitments.

It is also of note that the advocates, defendants, witnesses and support services are required for all of these hearings. Together with court space and video link availability, this puts significant demand on the court and all those involved. It may also require courts to release advocates from their current trials to attend, which can lead to disruption of these proceedings. We heard concerns that this demand would increase should there be an extension to or increased use of section 28.

In our interviews with commissioned and non-commissioned services, we heard that some victims cannot move on or achieve closure until the outcome of the trial is known. Giving their evidence early on may provide a degree of relief, but the trauma and distress remains until the case has concluded.

Available data

The general perception of section 28 by the judiciary, support services, the CPS and the police is positive, but it should be seen as one of many possible measures and approaches to getting the best evidence from victims.

There is limited local and national data available to assess the effect of section 28.

The police and CPS do not have a consistent way to collate and share data on section 28 with HMCTS. Prosecutors told us they find it difficult to locate section 28 cases on

their task lists. Some told us that all the cases are flagged, and others said there was no flag for section 28 cases. We were told by CPS managers that flagging of cases could be done at a local level, but there was no national flagging requirement.

The small case numbers and lack of any evaluation means we cannot say what effect, positive or negative, section 28 has had on the victims' experience.

Anecdotally, we heard that section 28 may have resulted in more early guilty pleas, but we cannot see that from any data available, or from our own case file reviews.

Pre-trial court visits

Going to court is a stressful and strange experience for most victims. However, pre-trial court visits can be arranged, so that they can familiarise themselves with the court and how it works.

In our focus groups and interviews, we were told that these visits can be arranged by the WCU, witness services, the police or sometimes by the ISVA.

If special measures have been granted, victims can see how these will work in practice and be given the opportunity to change their mind. For example, victims who had asked for live links who realised, on visiting the court, that the defendant would see the television monitor, might opt for screens to be used in the court.

Pre-trial court visits are viewed positively by almost everyone we spoke to. In our victim research all the victims who had been to court prior to the trial found this useful. However only half the victims who responded to our survey said they had been offered a visit. We also heard that victims may be taken to a different court than the one where their trial would be held.

"I was going to go into court completely blind ... I wasn't told about what to expect. I was just told I'd meet all the personnel on the morning of the trial."

Quote from a victim of rape

Special measures at court

As stated earlier in this report, the police should discuss special measures with the victim at an early stage in the investigation, and consideration should be given to a special measures meeting.

This section examines how effectively special measures are used in court.

We heard from court staff, prosecutors and support services that the layout and infrastructure of courts meant that the range of special measures that could be offered to victims were often limited.

We heard repeatedly that courts cannot always offer the full range of special measures applied for and granted. This includes, for example, the inability to shield the live link television monitor from the defendant, due to the size of the monitor and its fixed position in the courtroom. Often, we heard this issue wasn't explained to the victim unless they had a pre-trial visit.

“[The screen] didn’t work because you have to walk in at a certain angle where you have to pass the perpetrator. You are facing the jury, you have the judge to your right, barristers to your left – just lots of faces, court reporters. You feel like there might as well be a camera on you.”

Quote from a victim of rape

ISVAs told us of occasions where the victim needed their supporter while giving evidence in the court room, but these applications were not always considered. In our case file reviews we saw little or no evidence of any such information being present on the MG2 forms or special measures applications. During our court visits we heard that there are often practical difficulties when a supporter is to be present at the trial, for example a lack of space in live link rooms, or near the witness box when screens are used. The presence of an ISVA may reduce the level of distress to the victim and help them give their best evidence.

The effectiveness of special measures

There is no national evaluation of special measures to understand what works well.

No data is collated or reviewed about the use of special measures at court, so we cannot draw on any information to say which measures are widely used, and which are not. There is no evaluation or feedback sought from the courts about the victim’s experience or, importantly, what improvements need to be made to ensure the best evidence can be given by victims in court.

We share the concerns raised in the Victims’ Commissioner’s report, [*Next steps for special measures: A review of the provision of special measures to vulnerable and intimidated witnesses*](#), published in May 2021, which states that a lack of data is preventing a full assessment of Victims’ Code compliance, and makes it impossible to say how often special measures are actually used, and to understand the supply of and demand for them.

The participants in our victim research who had used special measures said that the main benefits were:

- not having to see the defendant;
- the removal of some of the stress and trauma; and
- that they made the court process easier.

Some also said that it helped them give their best evidence during the trial, increased their feelings of safety, and helped them to communicate during the court process.

We concur with the recommendations in the May 2021 Victims’ Commissioner’s report in relation to special measures and data collection:

- “Recommendation 19: The Ministry of Justice and Home Office should develop a national protocol for data collection on special measures, in conjunction with the Association of Police and Crime Commissioners, National Police Chiefs’ Council, CPS, HMCTS, and other agencies. This protocol should include the recording of data on victim vulnerability and intimidation, witness choice over special measures, applications for and granting of specific measures, and protected characteristics.”

- “Recommendation 20: The Ministry of Justice and the Home Office should jointly lead on producing an annual statistical bulletin on special measures provision to include police, CPS and courts data.”
- “Recommendation 21: The National Criminal Justice Board should co-ordinate a data collection and monitoring improvement programme with Local Criminal Justice Boards. This should focus on monitoring victims’ experience through special measures provision using management information and victim feedback; disseminating good practice; and learning from monitoring special measures provision.”

Recommendation 6

Immediately, and no later than by September 2022, the MoJ should gather and publish quantitative and qualitative data on use of special measures in rape cases, including section 28.

This should:

- provide assurance on how far and in what ways is improving the experience of rape victims;
- enable monitoring of the effectiveness of section 28; and
- form part of the national metrics (including the Rape Scorecard) used by Government and interested parties to assess the experiences of rape victims in the criminal justice system, and make improvements.

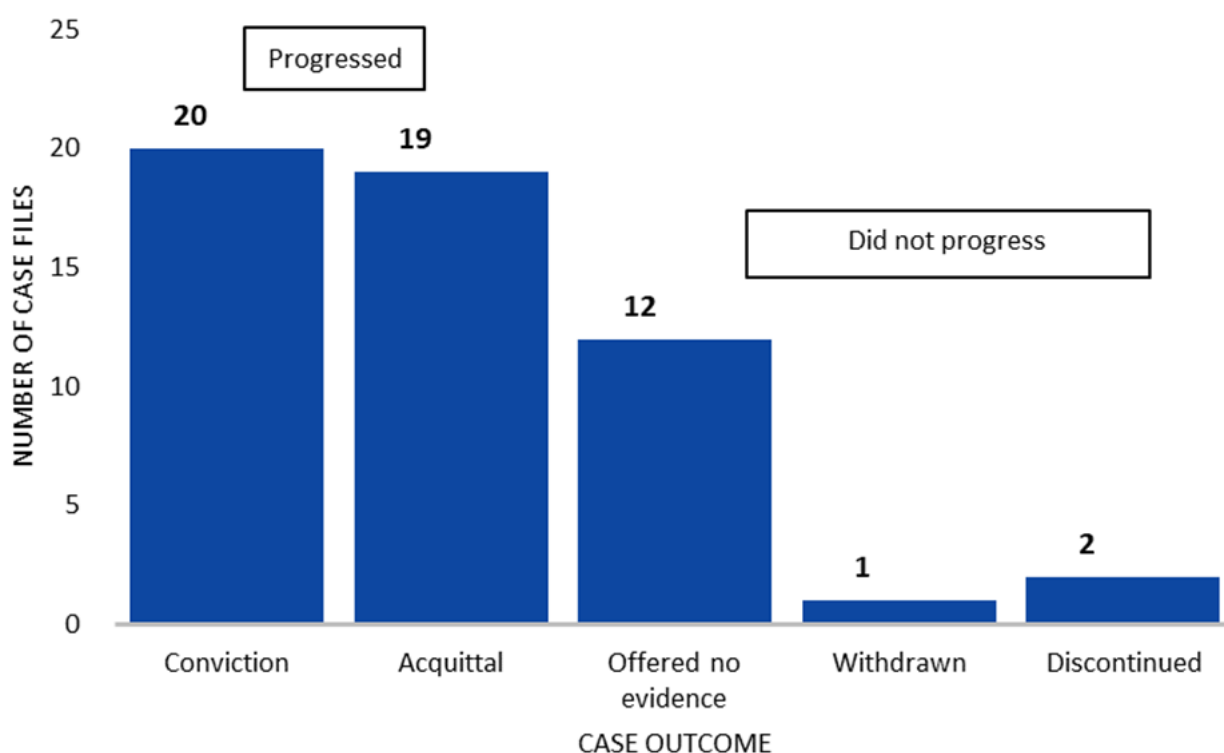
At a local level, through Local Criminal Justice Boards, the CPS, the police, victim support services and the courts should regularly review this data and the cases where they have been used to identify good ways of working, resolve problems, and increase practitioner knowledge. Victims should be invited to give information on their experiences of using special measures as part of this local review.

Cases that did not proceed post-charge

Following the decision to charge, cases may proceed to trial; the suspect may plead guilty; or the case may be withdrawn, discontinued or no evidence offered if the prosecutor is satisfied that there is no realistic prospect of conviction. When a case does not proceed, the defendant is no longer under any court bail conditions. The police and the victim should be made aware of the case not proceeding, and the reasons behind the decision.

In the case files that we reviewed for this inspection, we looked at cases that did and didn't progress to trial.

Figure 13: Case outcomes from the case files reviewed



Source: Case file review data (54 case files)

The CPS could not progress 15 of the 54 cases we examined.

Two cases were discontinued because the victims withdrew their support. Both concerned honour-based abuse. When we reviewed each of these cases, we saw that the safeguarding and support for both victims was good, with involvement from specialist support providers.

In the first of these two cases the victim withdrew her support after the defendant was granted bail. We saw evidence of a proactive SOLO who contacted the victim before the bail hearing to hear her views. The CPS and the police had a good relationship, and as soon as the victim had made a withdrawal statement there was an early conference between police, CPS and counsel to review the case and the options available.

In the second case, again the relationship between the police and the CPS appeared to be good. The victim provided a withdrawal statement which stated that the injuries sustained were caused by another person and not the defendant.

Of the 13 remaining cases:

Four were charged under the Threshold Test (see [Annex D](#)). However as new material and evidence was gathered and given to the CPS, the charge was reviewed, and the Full Code Test applied (see [Annex D](#)). In these cases, the decision to discontinue was correct.

In another case the defendant tragically died by suicide before the first hearing.

In six cases, disclosure issues and unused material caused the case to be stopped.

In the first of these six cases, there was communication material that undermined the prosecution case. The police should have given this to the prosecutor before a charging decision was made, and the prosecutor should have asked for it. Had this material been available at the pre-charge stage the case wouldn't have been charged.

In the second case, the police failed to provide the prosecutor with material relating to previous allegations made by the victim, which was available pre-charge. Once the prosecutor had reviewed this material, the decision was made to stop the case. Again, this decision could have been made at an earlier stage if there had been a better working relationship and collaboration between the prosecutor and investigator. This has been assessed by inspectors as a wholly unreasonable decision to charge and the CPS informed.

In the third case, there were reasonable lines of inquiry that became apparent after the defendant was interviewed. This included relevant social services material and material relating to other proceedings. There were delays in gathering this material, but once it was obtained and reviewed, the case was ended promptly and correctly.

In the fourth case, the CPS decided not to proceed after an initial trial where the jury had failed to reach a verdict. The decision not to have a re-trial was correct, prompt, and based on disclosure material that emerged during the initial trial. We did note that disclosure was not handled as well as it could have been, and in this instance it damaged the prosecution case.

The fifth case was charged by the CPS area. Again, disclosure issues undermined the case, as several disclosable items were not provided to the defence.

The sixth case was stopped on the day of trial. Although the decision was correct, this could have been made much earlier had the police and the CPS collaboratively addressed reasonable lines of inquiry.

Our methodology for this inspection determined that Phase 2 wouldn't assess the quality of the charging decision made by the prosecutor. However, we note that often where there was a clear charging decision in these cases, the investigation was focused and effective, with clear communication between the police and the CPS.

We were concerned that charging decisions in two of the cases were made hastily, and errors made concerning evidence and disclosure.

The first case was charged by CPS Direct (see [Annex C](#)) and stopped by the CPS area promptly, due to a lack of evidence. This case was rightly stopped and dealt with swiftly by the CPS.

In the second case, the CPS had set out an extensive action plan, but the police failed to complete the actions. The CPS correctly decided to discontinue the case and allow a further investigation and re-submission.

CPS decision-making

Not proceeding with cases after a charge, or failing to properly progress actions that will build strong cases, has a profound effect on victims. When they are expecting their case to be pursued through the court and this does not happen, they experience distress, anxiety and disappointment.

Although we found the decision not to proceed was correct in nearly all of the 15 cases, there are some underlying factors that might have resulted in a different outcome.

The main errors were in relation to disclosure. This isn't a new concern, and although there has already been significant work by police and the CPS towards resolving it, problems with understanding and applying the disclosure rules and responsibilities still exist for both of them. The dates of the case files we reviewed straddle the publication of DG6 and the Attorney General's guidance, so some of our cases pre-date this work.

Court facilities

We visited four Crown Court buildings in different geographical areas as part of this inspection. We viewed their facilities and spoke with the court staff and judiciary.

In reviewing what a victim may experience when attending court, we noted that all court buildings had separate entrances for all victims to use, away from where the defendant and members of the public enter the buildings. All staff at the courts were aware of this.

We were told that an usher or a member of the witness service would meet the victim at the separate entrance. We were not clear how the victim would know this, and if they would have had an opportunity to meet the usher or witness service volunteer beforehand.

At one court the victim/witness area was on a higher floor, and the lift was broken, meaning that if a victim had any mobility issues they would have to use the public entrance and public lifts. In our victim research, we found that less than a quarter of victims reported that their accessibility needs were catered for during the court case.

We asked who would usually be with the victim when they arrive at court. The answer to this varied widely. We heard that victims usually attend in the company of a police officer, ISVA or support service worker, and are met by witness service volunteers. Sometimes victims are told to call the witness service when they are near the court, prior to their arrival. We were told there have been occasions when police officers have come in on their days off work to accompany victims.

The courts have secure areas where victims have access to toilet facilities. These can't be accessed by members of the public. Some, but not all, courts are also able to provide limited drink refreshments. However, none are able to offer any food or cafeteria options that are secure or away from public areas, and we noted that this issue is included on the court website. Victims should be informed about the need to bring their own food and, again, it is unclear who would relay this information, and when.

"In the court they had a separate witness area, so when you go in through there, you know you're not going to bump into any of them. You can see them outside, you might bump into them outside, but once you're in court, it's OK. So that made a big difference."

Quote from a victim of rape

Information about the court is available from the relevant website, however, in one court we visited the witness service had leaflets to hand out at court that detailed information about parking and facilities for victims, but they were out of date and no

longer accurate. Additionally, victims need to have this information well in advance of coming to court.

These issues affect all victims and witnesses and are not specific to rape.

In the courts we visited, the live link room was contained within the secure victim/witness area. When we asked about live link facilities away from the court, we heard that such facilities are inadequate. The only option in some areas is for the victim to sit in a police station or SARC.

We asked what facilities were available for the victim to watch the rest of the trial after they have given evidence using a live link. We were told that there is no such facility. Additionally, we asked what measures were in place for a victim to watch the trial after they had given evidence using other in-court special measures.

Overall, there was an assumption that the victim wouldn't want to watch the trial. We also heard that it might not reflect well in front of the jury if a victim who had requested special measures was seen in the public gallery (see also the section below, '[Victims' experience of giving evidence at court](#)'). This highlights a gap in victim service awareness and understanding, where, again, assumptions are being made about the victims' needs without asking them.

For those victims that wish to give evidence in the court, we inspected how the victim could enter the court room. We were told that often screens are used to shield the victim from the defendant as they walk into the room. In one area, the courtroom is cleared so the victim can enter and be seated.

We asked about pre-trial court visits and heard that these do take place, either before or after court business hours, or at lunchtime. The visits are led either by the usher or the witness service volunteers.

Courts were not always able to offer this service due to the effect COVID-19 has had on witness service volunteers. This problem was somewhat overcome by using an outreach service, through which visits could be carried out remotely. However, this meant showing victims around a different court building, not the one they would be giving their evidence in. We have referred to pre-trial court visits earlier in this report.

We were told by the witness service that court visits by victims are "worth their weight in gold" as they can highlight factors which would be otherwise unknown, for example, that the victim is pregnant, or struggles to read and was too embarrassed to say so before.

In 2020, the office of the Domestic Abuse Commissioner commissioned [SafeLives](#), a UK charity dedicated to ending domestic abuse, to help understand the provision of court-related domestic abuse and sexual violence support/advocacy throughout England and Wales by mapping what was available. The 2021 report [Understanding Court Support for Victims of Domestic Abuse: Mapping the provision of court-related domestic abuse support and advocacy across England and Wales on behalf of the Domestic Abuse Commissioner](#) recommended:

- better strategic support, co-ordination and understanding of sexual violence;
- urgent action on court backlogs, and increased long-term investment;

- recognition of the role of IDVAs as an integral part of court systems; and
- realising ‘trauma-informed’ courts and driving cultural change.

We have already referred to the need to map support services for those victims who do not report to the police and for those in the criminal justice system. The mapping of services and facilities for rape victims at court is another important element of this and should be included to provide a complete picture of what victims need at this important stage of their case.

The 2021 report [*Improving the Management of Sexual Offence Cases*](#), led by Lady Dorrian (Lord Justice Clerk) involved a judicial review group analysing how sexual offences cases are conducted by the Scottish Court system and what improvements could be made.

The recommendations from the review included:

- the creation of a national, specialist sexual offences court, which includes relevant trauma training for all staff and all evidence to be filmed and presented that way as a default; and
- the development of a time-limited pilot of single-judge rape trials to test their effectiveness and how they are perceived by victims, the accused and lawyers, and to assess issues in a practical rather than a theoretical way.

In our interviews with the CPS, the police and ISVAs, we discussed and examined the benefits of specialist sexual offences courts. We found that there was support for consideration of a specialist sexual offences court. The overwhelming view was that victims would only benefit from having trained and informed court staff, and judicial oversight to guide the trial appropriately.

Recommendation 4

Immediately, and no later than May 2022, to help clear the significant Crown Court backlog for rape cases, the MoJ should group adult rape cases into specialist rape offence courts.

This should include:

- rapidly putting in place the infrastructure needed to support a specialist court;
- making sure that all staff have relevant trauma training; and
- concurrently evaluating the advantages and disadvantages of this approach. This evidence base, which should be published, should inform a decision on whether this measure should be temporary or permanent.

Court delays

“I’d managed to move on a little bit, and it got to the point where I was like, ‘It’s just been too long now and it’s just going to make me really ill’. I just needed an end. I couldn’t face it anymore. The calls and the constant updates, every time they phoned me, I was just like, ‘I can’t deal with this anymore’ ... I felt angry – really angry at the whole system.”

Quote from a victim of rape

In the HMICFRS 2020 [State of Policing: The Annual Assessment of Policing in England and Wales](#) report, it was recognised that the criminal justice system is “still dysfunctional and defective”:

“The perilous state of the criminal justice system has been widely criticised for many years, and the court backlog is a significant problem. In recent years, there has been a vast reduction in the number of cases brought to justice. In fact, the actual number of cases going into the criminal justice system is at the lowest level it has been for decades. Yet, for some reason, court backlogs and waiting times have become inexcusably long.”

“The already chronic backlog in court cases increased as a result of the pandemic. Between February 2020 and December 2020, there was an increase of 57 percent in the backlog of magistrates’ court trials, and an increase of 65 percent in the number of cases waiting to be heard at Crown Court. While the courts did find ways to make better use of technology and operate safely, it wasn’t enough for them to operate at their usual (still inadequate) capacity, and justice sharply deteriorated.”

Data from 2020 shows that cases involving sexual offences take longer to progress through the Crown Court than all other types of offences.

Rape cases are so serious that they can only be heard by a Crown Court, but all adult cases, including rapes, start in the magistrates’ court, where they have a first hearing. There are occasions when the defendant is held in custody until the matter reaches trial. If this happens, the remand is subject to custody time limits (CTLs). These limits exist to ensure un-convicted defendants are not held in pre-trial custody for an excessive period of time.

The Prosecution of Offences Act 1985 and Prosecution of Offences (CTL) Regulations 1987 that govern CTL require the prosecution [“to progress cases to trial diligently and expeditiously”](#). Legislation states that ordinarily the maximum length of time it can take from the point of remand to the trial is 182 days. The CPS must apply to the judge to

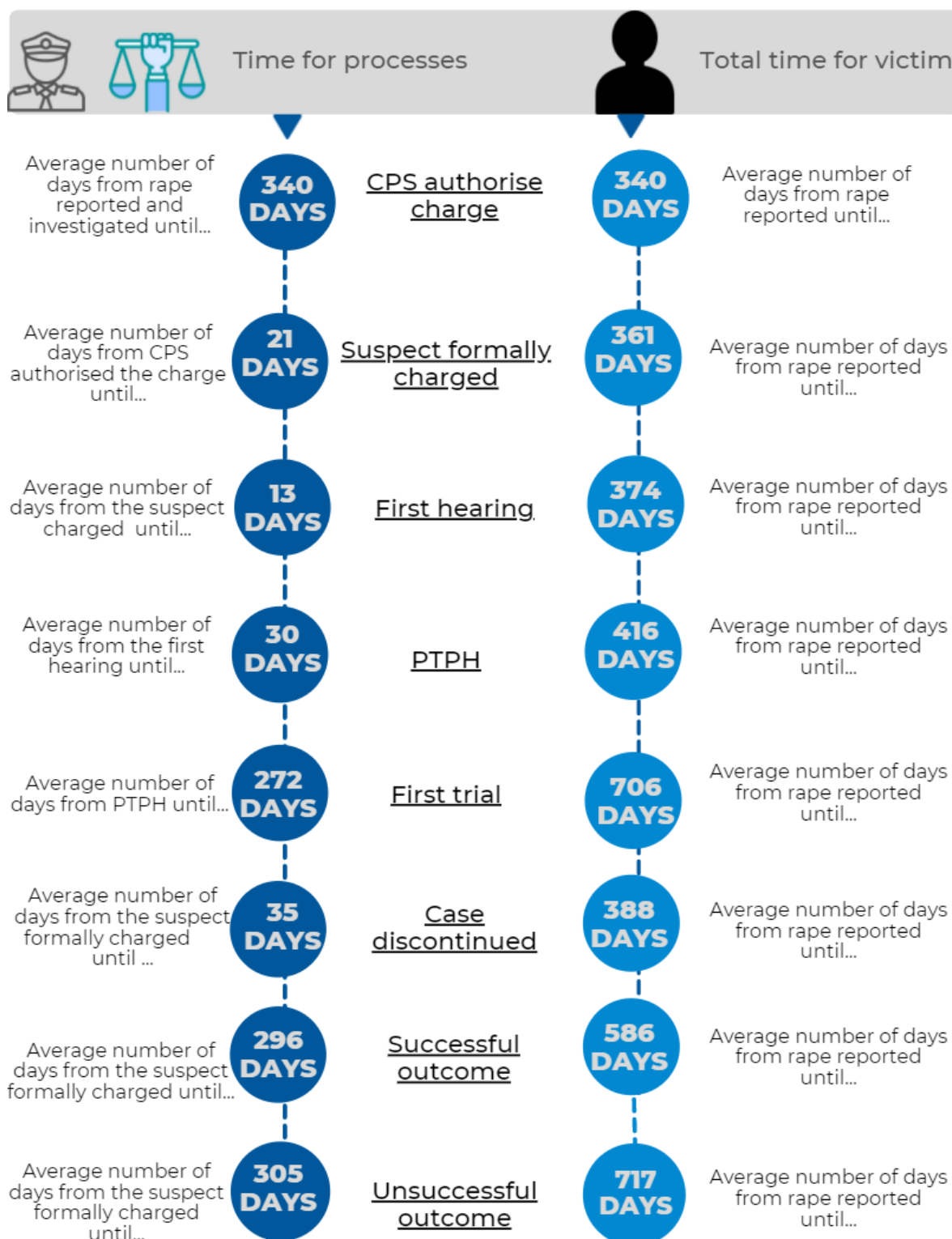
extend the CTL beyond this point. The CTL restrictions cease if the defendant pleads guilty or once the trial has begun.

If the defendant is in custody for rape, they are subject to this legal requirement, and a trial should take place within the CTL.

There are many cases of rape where the defendant will be bailed until the trial. This will usually be with strict bail conditions.

In Phase 1 of our inspection, we highlighted the length of time investigations can take to the point of charging, and the delays in that process. In Phase 2, we reviewed 54 charged cases of rape to examine the length of time they took from initial report through to conclusion of the case. This included cases that were withdrawn, where no evidence was offered, that were discontinued prior to trial, and sentenced on conviction or acquittal.

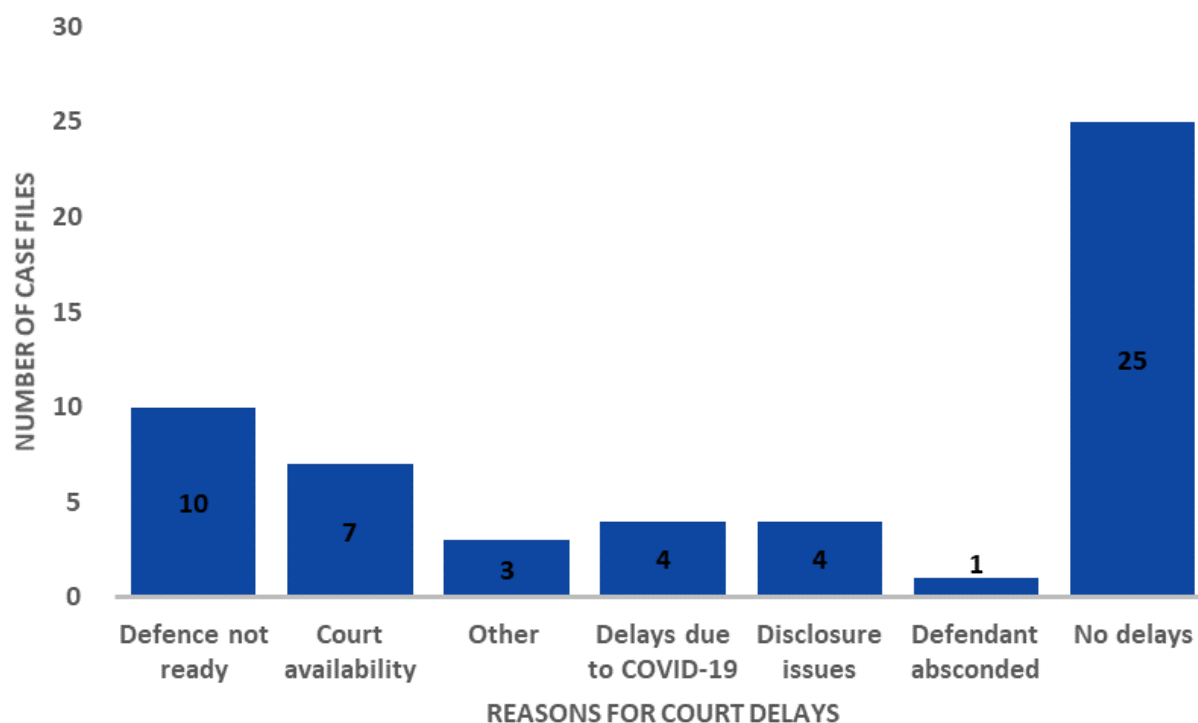
Figure 14: Average length of time for different processes post-charge in rape investigation process



In our victim surveys, half of victims reported their case was delayed at court. We were told by the police, WCUs and the CPS that cases were being listed for trial in the court and then later removed from the lists because of many factors, including the availability of judges and counsel.

In most forces and CPS Areas we inspected, we were told that rape cases were still being listed as ‘floaters’, or ‘backers’, meaning that they could be moved or re-listed (re-scheduled) at the last minute, including on the day of trial.

Figure 15: Recorded reasons for court hearings being adjourned or delayed



Source: Case file review data (54 case files)

One CPS advocate said:

“The listings at court are where the real problems occur. The courts are listing the trial as a ‘fixed floater’ which shouldn’t happen, but these are happening more and more often, and then the cases don’t get on and they are going off for months to the next year. The victim and witnesses can be at the court, and they have got themselves ready to relive the most traumatic incident in their lives, and you tell them that it is going off until next year. It has a huge impact on them.”

Case study

The victim was vulnerable and reported rape by an acquaintance. The suspect was charged and entered a not guilty plea. At PTPH the case was identified as a ‘priority floater’, with no trial date fixed. Four months later, a further case management hearing took place, where a future court hearing was listed as a ‘mention to fix’ – meaning that five months after the not guilty plea the case still didn’t have a trial date.

In our interviews with court representatives we heard that, where possible, efforts are made to avoid re-listings and delays. This includes trying to avoid over-running by

taking into consideration the length of time trials may need, and attempts to prioritise rape cases. But the practice of listing rape cases as ‘floaters’ is still happening.

In the below quote, the victim had been to court for a pre-trial visit a week before the trial was due to start, and then was told that the case had been adjourned.

“The day it got adjourned the first time, everyone found out before me. I had only just got back from court ... I had the [healthcare professional] ringing me, really upset down the phone, and I had no idea what was going on ... Everyone else had been told first ... I felt upset anyway, but everyone else found out before me.”

Quote from a victim of rape

The negative effect of this on victims can be profound.

“I had 21 court delays, most at 24-hours’ notice. A trial that I was told would take four days took ten months. It was almost unendurable.”

Quote from a victim of rape

Anecdotally we were told that delays in general lead to victim attrition, but in our case file reviews we found that in the two cases where the victims had withdrawn support after charge, the withdrawals were not due to any type of delay (see [section on cases that did not proceed post-charge](#)).

However, we heard from a CPS advocate that, only the week before we spoke to them, a trial had not gone ahead and that there had been a clear breakdown in communication with the victim. The victim had withdrawn their support for the case saying: “I’m done, I’m moving on with my life and not coming to court.”

We asked CPS advocates how victims respond when a rape trial does not go ahead on the scheduled date. They told us: “When a rape case does not proceed, it causes victims utter despair. They think no one cares, and they ask, ‘Don’t I matter?’ How long do I have to wait?”

One participant in our victim research withdrew her support for her case due to it being adjourned four times over a period of four years. Following the first two adjournments, she wrote to the judge to complain, but this didn’t prevent the case from being adjourned twice more. She felt that she didn’t have the mental strength to carry on.

“I think the first time was such a kick, to find out literally on the day I had been to the court. His defence barrister must have been there at the same time, applying for the adjournment, and then to be told – when I felt so ready for it [the trial]. At that point I felt a bit stronger and then I think within a couple of months, he’d applied for various bail, and then they had moved him somewhere, and then he’d gone on holiday, and it was just like ... well, I felt he was able to just live his life, whereas I was still hiding at home. Then over the years, I’m just like, ‘What was the point?’. I regret all of it. I regret ever going to the police.”

Quote from a victim of rape

Any delay in rape cases being heard in court not only affects victims, but also puts additional stress on the vital services needed to support them through the process.

Delay means that victims require support for longer, putting even more pressure on already stretched services. Delays also mean that the OIC and the CPS prosecutor have to manage the case for longer, on top of their already high workloads.

We also found delays in sentencing following a guilty plea.

Case study

The victim was 65 years old and lived alone. She woke in the very early hours and went downstairs to get herself a drink. When she returned upstairs, she found an unknown male, who had gained entry through her bedroom window. He then raped her. The victim immediately contacted the police and the suspect was arrested nearby. The suspect pleaded guilty at PTPH six weeks later. The case was delayed several times for pre-sentencing reports and court availability. He was eventually sentenced three months after his guilty plea. The continual delay in sentencing meant the victim couldn't start to move on and heal.

In March 2021, the House of Lords Select Committee on the Constitution published the report [COVID-19 and the Courts](#). This report says that before COVID-19, the backlog of Crown Court cases was 39,000 and the average waiting time for a jury trial was over 32 weeks. The pandemic added another 17,000 cases to the backlog and delayed justice still further.

In the case files we reviewed we assessed whether the COVID-19 pandemic has affected the progression of the cases. We found that COVID-19 had only affected case progression in 1.9 percent of cases. We were also told by commission and non-commissioned services that they are "sick of COVID-19 being blamed for everything. It was bad before COVID."

Victims' experience of giving evidence at court

"It was horrendous. The judge kept telling the defence to stop and move on. Even the defence barrister himself, when the jury was out, tried to comfort me and tell me it was nearly over. I only met the prosecution barrister minutes before I gave evidence. They refused to close the public gallery: his [the defendant's] whole family came to court, they all went outside the court room after I gave evidence, so I had to (completely in floods of tears and traumatised) – held up by my liaison officer and the usher – walk through the crowd of his family, some of who laughed at me. Why was that allowed?"

Quote from a victim of rape

Although inspectors didn't attend any live court trials, our victim research found that the most important needs for victims during court cases were:

- emotional support;
- for the perpetrator to be prosecuted; and
- to feel like a victim, not a perpetrator.

We heard from one victim who participated in our research that they felt reassured and supported by the judiciary when giving their evidence.

"The judge was really reassuring, said that if I needed a break, I could take one, or if I needed water or anything ... said that if I didn't understand anything that I could ask him ... That made a big difference."

Quote from a victim of rape

However, this was rare, with most victims describing a harrowing experience:

"Victims often finish the court process and are absolutely aghast at how they were treated in court by defence, i.e. cross-examination. I have seen victims ask their officer on their case whether they will get 'ripped apart' in court, and often they're told that the judge will not allow that to happen, when in practice of course we all witness that this frequently IS allowed to happen."

Quote from an ISVA survey response

Our research highlighted that victims found cross-examination traumatic and disrespectful. They felt the constant interruptions of their evidence meant their full voice wasn't heard.

"I expected something better from the CPS, and I didn't expect what I had in court. I expected to be questioned ... I expected to be interrogated, but not the type of questioning that I had. I felt belittled, and I felt like my experience was minimised. It's hard to put into words ... I wasn't falling apart on the witness stand, but I felt like misogyny was rife, to be honest, and it was the male perpetrator, the male judge, the male prosecutor, the male defence, and a predominately male jury, and I can't say anything apart from that it was utterly, utterly traumatising and the worst experience of my life."

Quote from a victim of rape

When asked what the police, the CPS and/or the court could do to improve the process, participants in our victim survey said there should be less aggression towards the victim, and they should be treated with respect.

"I don't know if this is standard procedure, but the defence team were awful. They made up a whole new person and tried to bully me and make me a liar. If this is normal, then it really shouldn't be allowed ... I accept that – if the rapists were responsible for the imaginary assailant angle – then their lawyers would have to go with that, but they shouldn't be allowed to be so aggressive and forceful in their treatment of a victim. I know they have a job to do, but it shouldn't be at the cost of their humanity and my trauma."

Quote from a victim of rape

"It was hugely traumatic and that is ongoing to date. I was not expecting it to be easy, but it felt as though the victim and perpetrator roles were reversed, such was the ferocity of the questioning – most of which was trivial in the scale of the offences being prosecuted. It was the most horrendous experience that I would never wish upon anyone, and it haunts me still. It has added a further layer of trauma upon that which I had already suffered. It was wrong and it was unjustifiable."

Quote from a victim of rape

"The cross-examination was horrendous; I was not given the opportunity to complete some of my responses and kept being interrupted. My life was picked apart and things that were not even relevant to the assault were mentioned. The whole experience was highly traumatic."

Quote from a victim of rape

After the victim has given their evidence

Following the victim giving their evidence, we heard that the CPS and counsel sometimes discourage victims from watching the remainder of the trial, due to how this might affect the jury's perception of the victim. We have referred to this earlier in the report. One paralegal officer told inspectors that when special measures had been used the OIC should update the victim, rather than the victim watching the trial, saying: "They [the victim] can't have it both ways."

“He pleaded guilty at the last moment and there were enough witness statements, so I was not required to testify. I was, however, singled out in front of the court because I chose to face him in court by going to see him sentenced. The judge asked for me to be taken outside and asked about my reasons for being there.”

Quote from a victim of rape

“I was told it was not viewed very favourably if you give your evidence from behind a screen and then return to the courtroom. That’s something I do feel very strongly about now, because I did struggle ... I’ve got no idea what happened after I gave my evidence.”

Quote from a victim of rape

“After giving evidence, and following the verdict, I would have liked to have been kept informed of what was happening in court and what went so badly wrong. In normal circumstances the court would have been open to the public and had I not accessed special measures, I could have been present throughout, but because of this I was advised not to attend again after giving evidence. Neither the police nor the CPS would do me the courtesy of speaking with me, and I learned that the verdict was unanimous from the perpetrator.”

Quote from a victim of rape

These are all examples of the process being imposed on the victim, with little consideration given to their individual needs or appreciation that they may want to be physically present throughout the court process. The decision should be made by the victim from an informed position.

There was also widespread dissatisfaction among victims about the way they were informed about their case outcomes. They felt it was impersonal and unsupportive. According to our research, victims were often told the verdict through a phone call or email, leaving them further distressed. One victim was informed of the outcome by a four-minute phone call. The participants in our victim research told us they would prefer a two-way conversation over the phone or face-to-face with time to have the outcome explained to them and the opportunity to ask questions.

“I wasn’t present at the trial apart from giving my own evidence because I was advised not to be, so I had no idea about what had happened, and of course the outcome was that he was acquitted on all charges, and I couldn’t believe or understand – and no one would speak to me. The officer wouldn’t give me any information, even though she was present throughout virtually, and the CPS wouldn’t give me any information either, so I had to approach both of them and that’s when I did the right of access, and I got some information back on that basis.”

Quote from a victim of rape

“I think they should have done better than leave a message on my answering machine on a Friday evening, so there was no one I could phone over the weekend.”

Quote from a victim of rape

Only one of our victim research participants said they were told of the outcome of the case sympathetically and sensitively:

“Then my liaison officer called me ... to say he was really sorry about the outcome ... He said: ‘I just want you to remember that I believed you, that the detective sergeant believed you, the CPS believed you. I am pretty sure that the jury believed you too. We are the people who look at the evidence.’ It was nice of him to say.”

Quote from a victim of rape

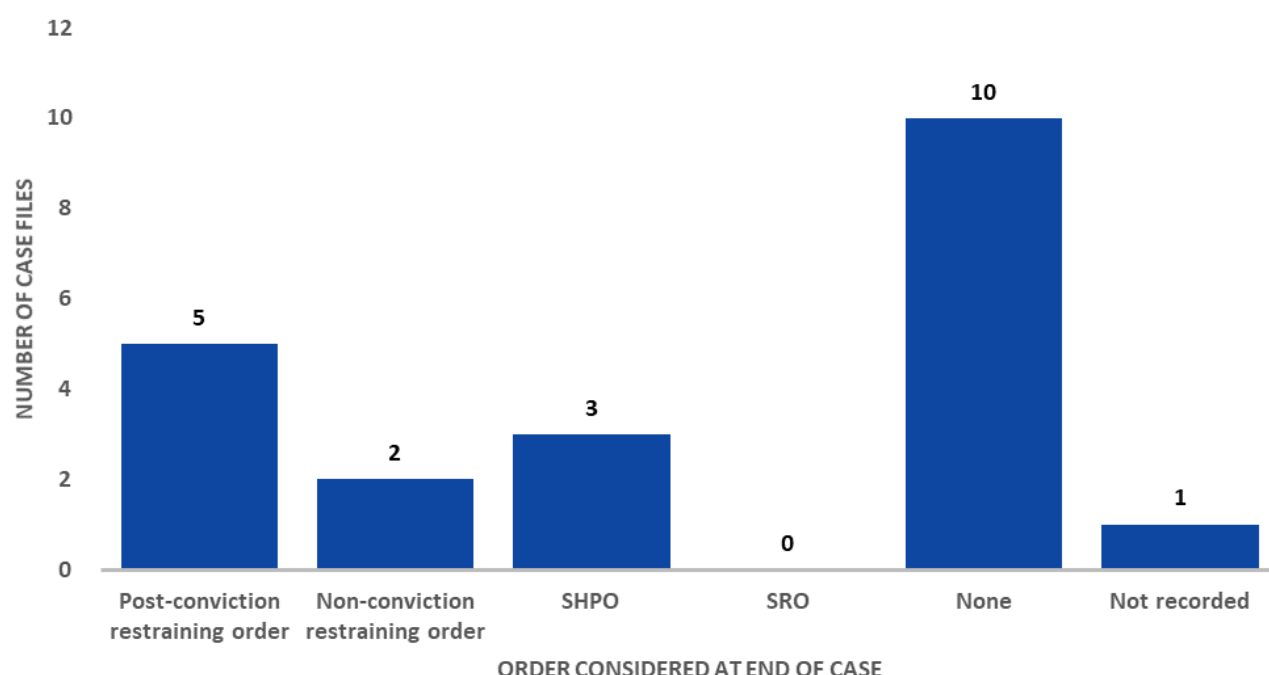
The use of civil orders

A range of orders are available to provide protection and safety to individuals, including victims and witnesses.

Civil orders following criminal proceedings can be applied for by the prosecution following acquittal or conviction, or, in certain cases, by the police at any stage of the investigation. These can help the victim to feel safer and prevent certain actions by the defendant. Civil orders that may be appropriate to cases of rape include restraining orders, sexual harm prevention orders (SHPOs) and sexual risk orders (SROs) (see [Annex E](#) for more details). This isn't an exhaustive list, and other orders may be relevant.

In our case file reviews, we found inconsistencies in how civil orders were used. We looked at what consideration the prosecutor had given to applying for orders to protect the victim, including the information supplied by the police.

Figure 16: Orders considered at the end of the case



Source: Case file review data (54 cases. However, in 33 cases orders were not applicable, and these are not included in the chart)

In one CPS Area, we were told that civil orders are always sought post-conviction or acquittal, although they were often not requested by the OIC. In other areas, we were told that orders are not routinely applied for on conviction or acquittal in adult rape cases.

Case study

The victim was married to the defendant. He raped her several times during the marriage. After several years the victim felt able to report this to the police. The defendant was charged. The trial went ahead, and the jury returned a not guilty verdict. The prosecutor applied for a restraining order to protect the victim from the defendant, and this was approved by the judge, who made the order to prevent the defendant from contacting the victim directly or indirectly, for as long as the victim wants.

SHPO or SRO applications were often made in cases involving child victims, or where the defendant was a teacher or in a position of responsibility. However, there is no standard approach to civil orders for adult rape victims.

The use of SHPO, SRO or other restraining tools is inconsistent. This means that opportunities to protect victims, and to control or disrupt suspects who potentially pose a risk, are being missed. Orders on conviction and acquittal are not always dealt with effectively.

In our interviews with some force leads, we were told that the police force recognised that civil orders might not be used as much as they could, and that there is a gap in monitoring the details of some orders. They also accepted that the consideration of orders before conviction needed to improve.

The recent super-complaint investigation report, published by HMICFRS, [*A duty to protect: Police use of protective measures in cases involving violence against women and girls*](#), which was undertaken with the College of Policing and the Independent Office for Police Conduct, highlighted that police forces and the CPS need to collaborate more closely to ensure restraining orders are applied for in all suitable cases where the victim consents, and that the appropriate conditions are identified. The report made a recommendation to this effect. We agree with this recommendation.

Victim personal statements

Victim personal statements (VPSs) are an opportunity for victims to describe how the crime committed has affected them. Victims should be offered the opportunity to make a VPS at the same time as giving a witness statement or interview to the police. The VPSs can include:

- any physical, financial, emotional or psychological injury they have suffered and/or any treatment they have received as a result of the crime;
- if they feel vulnerable or intimidated;
- if they no longer feel safe;
- the effect on their family;
- how the quality of their life has changed on a day-to-day basis;
- if they need additional support, for example, if they are likely to appear as a witness at the trial; and
- the continued effect of the crime on their lives.

This initial and any further VPS may be taken later, during the court process, but it must be made before the defendant is sentenced.

Victims should be made aware that if they choose not to make a VPS when it is initially offered, some cases (for example, early guilty plea cases) may be dealt with very quickly by the courts, and the opportunity to have their say may be lost.

Once a VPS is made, it becomes part of the court papers, meaning it can't be altered or withdrawn. The police should always explain that the VPS will be shared with the CPS, and also the defence, if the case goes to court.

The VPS can be read at the sentencing hearing, following a guilty plea or on conviction. It can be read out at court by either the victim or someone else on their behalf, or they may choose not to have it read out at all.

Case study

The victim was raped by a family member resulting in pregnancy. Sixteen years later the victim felt able to inform the police of what had happened. On the day of trial, the defendant changed his plea to guilty, and the case was adjourned for sentence.

The judge requested that an up-to-date VPS be obtained from the victim. The VPS was very detailed, powerful and complex, with the victim explaining how the rape and termination of the pregnancy affected not just her, but the whole family. The victim was also clear that she would like the VPS to be read out to the court on her behalf.

The defendant received a 12-year, 4-month custodial sentence, and a lifelong restraining order to protect the victim.

Case study

One victim of rape had made an initial VPS, and a further VPS was taken closer to the trial date, some two years later. The police also took a VPS from the victim's adult daughter, who had been present as a child in the house at the time. This gave a real insight into the effect that the rape had on both mother and daughter.

The VPS should help criminal justice agencies understand the effect of the crime on the victim and may allow the offender to hear the implications of what they did. However, this isn't always the case.

In our case file reviews, we found that victims had made a VPS in only half the cases. One victim had declined. Worryingly, in some cases, we could find no recorded reason why a VPS hadn't been taken.

We also found an inconsistency in the quality of the VPSs, with a third of them being poor quality and lacking detail on the effect that the rape had on the victim and their families.

This is a missed opportunity to hear the victim's voice.

Recommendation 9

Immediately, forces should make sure that victims of rape are given the opportunity to make a victim personal statement (VPS) at the earliest possible time, with the option of updating this statement closer to the court trial date.

This should include recording any reason why the victim declines to make a VPS. This will help make sure that victims are offered appropriate and bespoke support; and will build criminal justice system understanding of why victims decline to provide a VPS, to consider if improvements to the system would encourage more victims to do so.

Conclusion, and an overview of findings from across Phases 1 and 2

Phase 2 conclusion

Most reports of rape are closed before a suspect is charged. Victims whose cases go beyond that point have frequently already been in the criminal justice system for some time (an average of 361 days), and have often given accounts of the attack against them multiple times.

In our review, victim attrition after charge was very low. If the threshold for charge has been met, it is critical for the victim, the defendant, and for the interests of justice for the case to proceed and conclude swiftly and smoothly. Regrettably, this is happening in far too few cases.

We have made a series of practical recommendations to the police and prosecutors that are designed to improve the service provided to victims now. Improved communications with victims, better relationships between prosecutors and the police, and stronger case building can and should all happen immediately.

But, in parallel to these recommendations, we are advocating widespread system reform. This should include wholesale increases in capability and capacity, and the mapping of, and improvements to, victim service provision, with long-term funding. To clear the current backlog, we are also recommending the consideration of specialist rape courts (as was recommended for Scotland in the Dorrian report). It is unacceptable that victims are waiting for years post-charge for a court date, especially given the relatively small number of cases that are going through the system.

Looking across Phases 1 and 2

Publication of this report makes the completion of our major, multi-year joint inspection of the investigation and prosecution of rape. Our findings are unequivocal.

The problems in investigating and prosecuting rape are well-known and often repeated. Many actions have been taken in response, and many victims have received an exemplary service from individual investigators and prosecutors.

But far too few victims receive a consistently good system response. The cumulative effect of the well-known problems at multiple points of the system – such as the lack of specialist rape investigation capability in the police, the lack of clarity about how prosecutors should communicate with victims, and court delays – are only felt fully by one person in a rape case: the victim.

It has been our privilege in this inspection to be able to speak to victims about this, and to trace through case files the experiences of many more. But it has also been deeply disturbing – and profoundly upsetting – to see, even at several paces removed, how unfair, incomprehensible and disjointed the criminal justice system can seem to a victim who takes the brave step of reporting a rape. And of course, these victims are also dealing with significant trauma.

The Government and the criminal justice system must do much more to improve this situation. The appointment of a minister with oversight for rape (a recommendation contained in our Phase 1 report) is welcomed. We are now also recommending consultation to how and where the role of a commissioner for rape and serious sexual assault will drive improvements. This person could help co-ordinate improvements to the system; champion the needs of victims of rape; and encourage better understanding and partnership working between all the agencies and organisations that need to work collaboratively if victims are to receive a better experience of reporting rape.

Too often, we found evidence that these agencies and organisations don't agree on the causes of the problems in the system, or on how to make things better.

Victims of rape have gone through a devastating ordeal. It is the joint responsibility of the Government, the police, the CPS and the courts to do everything possible to develop a renewed criminal justice system and improve the experiences of victims.

Recommendations

Recommendation 1

Immediately, police and prosecutors should review and significantly improve communications with [victims](#) from the point of charge onwards.

Recommendation 2

Immediately, and no later than September 2022, the CPS should unequivocally define the role of the prosecutor in communicating with victims, and the standards expected in doing so.

Recommendation 3

By December 2022, the Ministry of Justice (MoJ) should complete a full mapping exercise of (1) demand for and (2) provision of specialist sexual violence victim services across England and Wales. They should then use this to make sure there is adequate and effective provision of specialist and bespoke support to all victims of rape, with long-term funding in place.

Recommendation 4

Immediately, and no later than May 2022 to help clear the significant Crown Court backlog for rape cases, the MoJ should group adult rape cases into specialist rape offence courts.

Recommendation 5

Immediately, and no later than May 2022, the Home Office and the Ministerial Lead for Rape and Serious Sexual Offences should consult widely on the benefits of a commissioner with explicit responsibility for and focus on tackling rape and serious sexual offences. This should include working with ministers, established Victims' Commissioners, the Domestic Abuse Commissioner and support services, and considering whether an expansion of the role of either the existing commissioner for domestic abuse or for victims is feasible and workable. Sustainable funding and appropriate staffing support must be in place to support this focus.

Recommendation 6

Immediately, and no later than by September 2022, the MoJ should gather and publish quantitative and qualitative data on use of special measures in rape cases, including section 28.

Recommendation 7

By September 2022, the CPS should make sure regular clinical supervision is available to all prosecutors who deal with rape and serious sexual offence cases.

Recommendation 8

Immediately, the police and the CPS should work collaboratively to ensure that bad character is considered in all rape cases, and progressed wherever it is applicable.

Recommendation 9

Immediately, forces should make sure that victims of rape are given the opportunity to make a victim personal statement (VPS) at the earliest possible time, with the option of updating this statement closer to the court trial date.

Definitions and interpretations

Term	Definition
adjourn/adjournment	postponement of a court case to a future date
bad character	evidence of misconduct, and/or evidence of a disposition towards misconduct, and/or evidence of a reputation for misconduct on the part of a defendant, which the prosecutor can apply to include this in trial; can include previous convictions for offences similar to those a defendant is being tried for, or 'misconduct', which includes offences that didn't result in a conviction, or other 'reprehensible behaviour', even where that behaviour does not constitute a criminal offence; defined under Sections 98 and 112 of the Criminal Justice Act 2003
disclosure	provision to the defence of any material that could undermine the prosecution or help the defendant's case; requirement of prosecutors and investigators, to help guarantee the defendant's right to an open and honest prosecution and a fair trial
early advice	guidance and advice provided to the police by a CPS lawyer in serious, sensitive or complex cases, or any case where a police supervisor considers it would be of assistance; meant to be given at a very early stage of a case, to help decide what evidence will be required to support a prosecution, or to decide if a case can proceed to court
evidence in chief	initial evidence given in court by a victim, defendant or witness
first hearing	at the beginning of a case, the first hearing at a magistrates' court

Term	Definition
independent sexual violence adviser (ISVA)	trained specialist who gives a service to victims who have experienced rape and/or sexual assault, irrespective of whether they have reported it to the police; the nature of the support provided varies depending on the needs of the individual and their particular circumstances; provides impartial information to victims about all of their options, such as reporting to the police, and accessing specialist support such as pre-trial therapy and sexual violence counselling; also provides information on other services that victims may require, for example, in relation to health and social care, housing or benefits
intimidated victim	victim suffering from fear or distress in relation to testifying in a case; defined by Section 17 of the Youth Justice and Criminal Evidence Act 1999; victims in sexual offence cases are defined by Section 17(4) as automatically falling into this category unless they inform the court that they do wish to opt out
National Police Chiefs' Council (NPCC)	organisation which brings together 43 operationally independent and locally accountable chief constables and their chief officer teams to co-ordinate national operational policing; works closely with the College of Policing, which is responsible for developing professional standards, to develop national approaches on matters such as finance, technology and human resources; replaced the Association of Chief Police Officers on 1 April 2015
officer in the case (OIC)	police officer who is in charge of the case against a person
Operation Soteria	series of pilot projects aiming to establish systematic improvements in investigations of rape and sexual offences; builds on findings from Project Bluestone
Project Bluestone	research programme aiming to improve the police response to rape and sexual assault; academic experts work with operational policing to explore new ways of working; initiated by Avon and Somerset Police
restraining order	civil order made by a court that considers it is necessary to protect the persons named in it from harassment or conduct that will put them in fear of violence; can be made on conviction or acquittal

Term	Definition
Section 28	section of the Youth Justice and Criminal Evidence Act 1999 allowing vulnerable and intimidated witnesses to take the special measure of video recording their cross-examination before the trial
Section 41	section of the Youth Justice and Criminal Evidence Act 1999 setting out the rule that no evidence is to be included or question asked in cross-examination by or on behalf of the accused about any sexual behaviour of the victim in sexual cases without the leave of the court
sexual assault referral centre (SARC)	centre providing services to victims of rape or sexual assault regardless of whether the victim reports the offence to the police; centres are designed to be comfortable and multi-functional, providing private space for interviews and examinations; some may also offer counselling services
sexual harm prevention order (SHPO)	order made under the Sexual Offences Act 2003 by a court on an individual who it is considered to pose a risk of sexual harm to either the general public or a certain group of people or individuals; it may impose any restriction the court deems necessary for the purpose of protecting the public from sexual harm
sexual offences liaison officer (SOLO)	police officer responsible for acting as a first responder to allegations of a sexual offence, to gather evidence and information from the victim in a manner that contributes to the investigation, preserves its integrity, and secures their confidence and trust; also provides support and information to victims of sexual crime, ensuring they are given timely information about other police departments and support agencies, where available; replaces the previous role of sexual offences investigation trained officer (SOIT)
sexual risk order (SRO)	order made under the Sexual Offences Act 2003 by a court on an individual who has done an act of a sexual nature and who, as a result, poses a risk of harm to the public in the UK or children or vulnerable adults abroad; the individual does not need to have committed a relevant (or any) offence; may impose any restriction the court deems necessary for the purposes of protecting the public from harm; available on application to a magistrates' court by the police or National Crime Agency

Term	Definition
special measures	methods to enable vulnerable or intimidated witnesses in a criminal trial to give their best evidence; can include screening in court or giving evidence via video link; established under the Youth Justice and Criminal Evidence Act 1999
unused material	material that is relevant to the case, but not used as evidence
victim	in relation to an alleged or suspected criminal offence, the person who (a) says they are the person against whom that offence was or may be committed; or (b) is said or considered by another person to be the person against whom that offence was or may be committed
victim personal statement	statement written on behalf of the victim of crime; gives victims an opportunity to describe the wider effects of the crime on them, express their concerns and say whether they need support; provisions relating to its preparation for, and use in, criminal proceedings are included in the Code of Practice for Victims of Crime (Victims' Code)
vulnerable witness	witness defined by Section 16 of the Youth Justice and Criminal Evidence Act 1999 as either one suffering with a mental disorder as defined under the Mental Health Act 1983, or otherwise having a significant impairment of intelligence and social functioning; or as one with a physical disability or a physical disorder

Annex A: About the data

Data in the report

The data in this report has been compiled from a number of sources. These include:

- the Home Office;
- the Ministry of Justice (MoJ);
- the Crime Prosecution Service (CPS), and
- our inspection fieldwork.

The British Transport Police (BTP) was outside the scope of this inspection. Any combined totals for England and Wales exclude BTP data, so will differ from those the Home Office publishes.

Case file analysis

In the 5 forces and 6 corresponding CPS Areas we inspected, we reviewed a sample of 54 case files.

These case files from five police forces and six CPS Areas in which cases were charged were jointly reviewed and assessed by our inspectors. We included cases resulting in conviction, in jury acquittal, and where no evidence was offered or the case was withdrawn.

Surveys and commissioned research methodology

We carried out two bespoke surveys: one of rape victims/survivors; and a second of support services who support rape victims/survivors. The surveys were voluntary and therefore most likely to be responded to by motivated, interested people who may not have been representative of the general population.

Both surveys covered a wide range of areas, including:

- opinions on the effectiveness of the police/CPS response to rape;
- opinions on how rape victims/survivors were supported by the criminal justice system from report until case finalisation;
- opinions on what rape/victims need from the criminal justice system when they report to the police;
- opinions on partnership working between the different criminal justice agencies; and
- opinions on how the whole system could be improved.

The first survey invited participation from women over 18, who identified as a victim/survivor of rape and who had reported this to the police. We employed the help of our external reference group to distribute the survey and included a link to the survey in another HMICFRS survey that was open at the same time. We received 65 responses in the 3 weeks this survey was open.

The second survey was sent to support services who support victims/survivors of rape. Again, we used our external reference group to gain respondents for this survey. We received 70 responses in the 3 weeks it was open.

The victim/survivor survey included a question that allowed respondents to opt-in for further research with [Opinion Research Services](#) (ORS).

The commissioned research methodology comprised 11 in-depth interviews (undertaken between August and September 2021) with adult rape survivors who self-identified as being a survivor of rape.

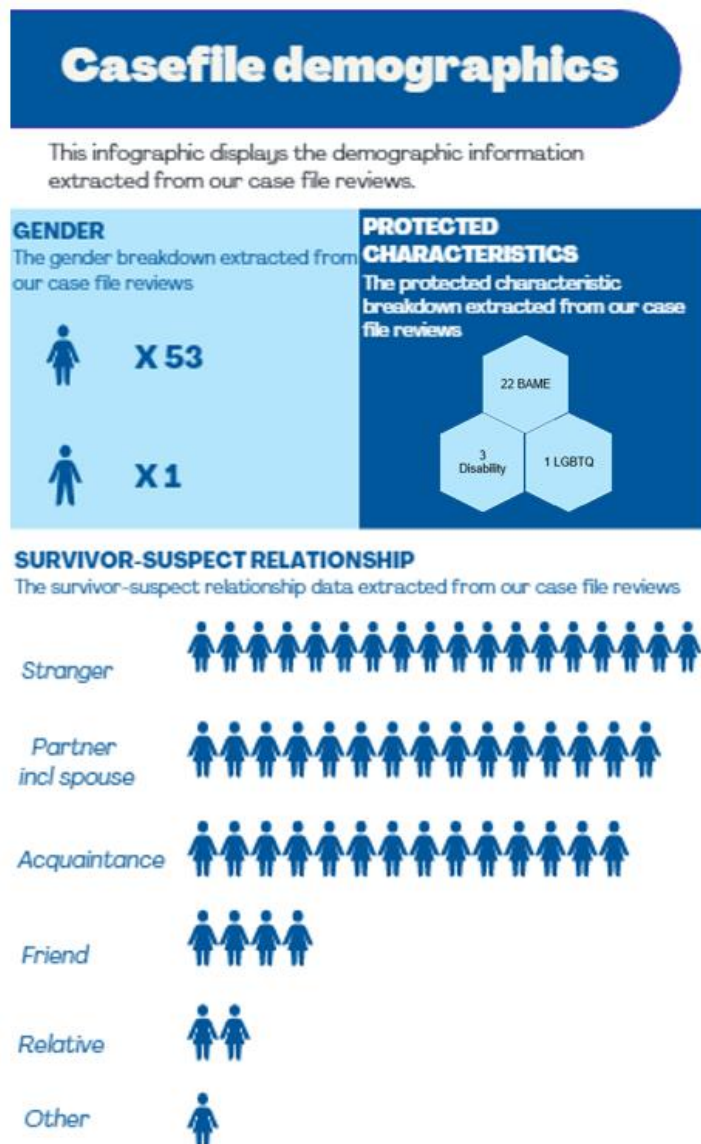
All participants had initially completed a survey hosted by HMICFRS and had provisionally agreed to take part in an interview with ORS to explore their experiences in more depth. ORS then recruited participants with some experience of the court process, providing them with an information sheet and permission form before the interviews, which they were asked to read, complete, and return to ORS in advance. All participants were offered a £30 e-voucher to acknowledge their time and effort.

Interviews lasted between 45 minutes and an hour and a half and were undertaken by ORS experienced qualitative researchers. Participants were reassured that they would not be identified in any way in the ensuing report.

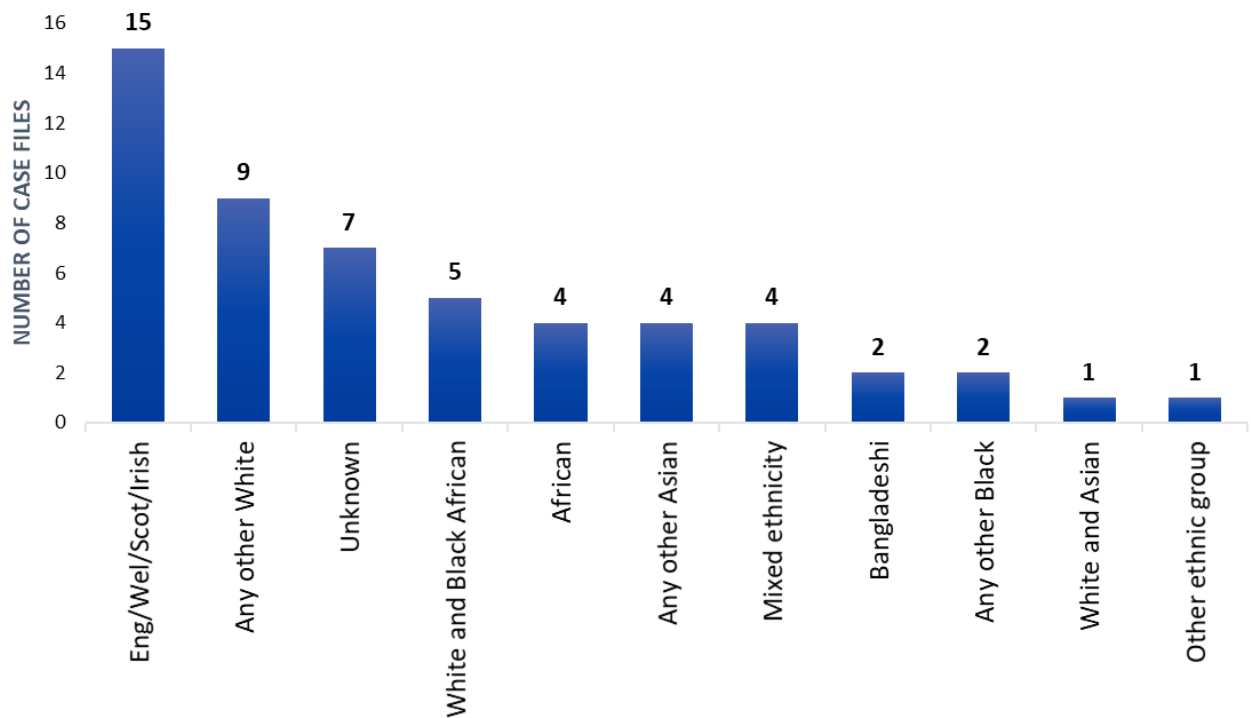
Annex B: Case file demographic information

The majority of cases that we reviewed had female victims (53), with 1 case having a male victim. Several victims had protected characteristics: 22 were black, Asian or minority ethnic, 3 had a disability and one was LGBTQ.

The majority of cases were either stranger rapes (18), partner rapes (17) or acquaintance rapes (16). A small number were rapes involving friends (4), 2 were rapes involving relatives and one was other rapes.



In most cases reviewed, the victim was English/Welsh/Scottish/Northern Irish/Irish White (15). The victims in the remaining cases were other White (9), White and Black African (5), African (4), other Asian (4), Mixed Ethnicity (4), Bangladeshi (2), other Black (2), White and Other (1). Seven of the cases had an unknown ethnicity.



Annex C: Roles and responsibilities pre-charge

The role of the police

The police must gather all relevant evidence during the investigation stage. They must follow all reasonable lines of inquiry and must assess whether the evidential test is met. If it is, they should refer the case to the CPS for a charging decision.

The role of the CPS

The CPS decides which cases should be prosecuted and determines what charges are appropriate in more serious and complex cases and provide advice to the police. This includes CPS Direct which operates 24 hours a day and provides charging decisions in emergency cases. This would include where a charging decision is needed immediately out of business hours. These cases will then be allocated to a CPS Area.

The [Code for Crown Prosecutors](#) (the Code) sets out the principles to be followed for a charging decision to be made.

Annex D: The Full Code and Threshold Tests

The Full Code Test

Prosecutors should apply the Full Code Test when all reasonable lines of inquiry have been pursued, or prior to the investigation being completed. If the CPS prosecutor is satisfied that any further evidence or material is unlikely to affect the application of the Full Code Test, whether in favour of or against a prosecution, then a charging decision can be made.

There are two stages to making the decision: the evidential stage and the public interest stage.

First the CPS prosecutor will assess the evidence and must be satisfied that there is a realistic prospect of conviction. This means that an objective, impartial and reasonable jury, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge alleged.

When assessing the evidential stage, prosecutors should consider:

- if the evidence can be used in court;
- the reliability of the evidence, including its accuracy or integrity; and
- the credibility of the evidence.

In every case where the evidential test is met, prosecutors must then consider whether a prosecution is in the public interest. This consideration takes into account the seriousness of the offence (the more serious the offence, the more likely it is that a prosecution is required) and the level of culpability of the suspect (the greater the suspect's level of culpability, the more likely it is that a prosecution is required).

Culpability may include:

- the suspect's level of involvement;
- the extent to which the offending was premeditated and/or planned;
- whether the suspect has previous criminal convictions and/or out-of-court disposals;
- any offending while on bail or while subject to a court order;
- whether the offending was or is likely to be continued, repeated or escalated; and
- the suspect's age and maturity.

Public interest consideration also assesses:

- the circumstances of the harm caused to the victim (the more vulnerable the victim's situation, or the greater the perceived vulnerability of the victim, the more likely it is that a prosecution is required);
- if a prosecution is likely to have an adverse effect on the victim's physical or mental health, considering the seriousness of the offence, the availability of special measures and the possibility of a prosecution without the participation of the victim;
- the victim's view on how the offence has affected them; and
- the effect on the community. This applies not just to locations. It may also relate to a group of people who share certain characteristics, experiences or backgrounds, including an occupational group.

The Threshold Test

In limited circumstances, where the Full Code Test isn't met, the Threshold Test may be applied to charge a suspect. The seriousness or circumstances of the case must justify the making of an immediate charging decision, and there must be substantial grounds to object to bail.

The Threshold Test has five conditions that must all be met before the test can be applied. This is to make sure that it is only applied when necessary and that cases are not charged too early. The conditions are:

1. There are reasonable grounds to suspect that the person to be charged has committed the offence. The assessment must consider the effect of any defence or information that the suspect has put forward or on which they might rely, and be sure that the evidence relied on at this stage can be put into an admissible format for presentation in court, and is reliable and credible.
2. Further identifiable evidence can be obtained within a reasonable period of time, so that when all the evidence is considered together – including material which may point away from, as well as towards, a particular suspect – it provides a realistic prospect of conviction in accordance with the Full Code Test. The prosecutor must consider:
 - the nature, extent and admissibility of any likely further evidence and the effect it will have on the case;
 - the charges that all the evidence will support;
 - the reasons why the evidence isn't already available;
 - the time required to obtain the further evidence, including whether it could be obtained within any available detention period; and
 - whether the delay in applying the Full Code Test is reasonable in all the circumstances.
3. The seriousness or the circumstances of the case justifies making an immediate charging decision and has been linked to the level of risk created, should bail be granted.

4. There are continuing substantial grounds to object to bail in accordance with the Bail Act 1976 and in all the circumstances of the case it is proper to do so. This must be based on a proper risk assessment, which shows that the suspect isn't suitable to be bailed, even with substantial conditions. For example, a dangerous suspect poses a serious risk of harm to a particular person or the public, or a suspect poses a serious risk of absconding or interfering with witnesses. Prosecutors should not accept, without careful enquiry, any unjustified or unsupported assertions about risk if release on bail were to take place.
5. It is in the public interest to charge the suspect (as in the Full Code Test, see above).

A decision to charge under the Threshold Test must be kept under review. The prosecutor should be proactive in securing the identified outstanding evidence or other material from the police, in accordance with an agreed timetable. The evidence must be regularly assessed to ensure that the charge is still appropriate and that continued objection to bail is justified. The Full Code Test must be applied as soon as further evidence or material is received and, in any event, in Crown Court cases, usually before the formal service of the prosecution case.

Annex E: Civil orders used to protect victims

Restraining orders

Civil orders available include restraining orders (Section 12 of the Domestic Violence, Crime and Victims Act 2004). These orders may be made on conviction or acquittal for any criminal offence, including rape.

Restraining orders are likely to be appropriate in cases where the suspect and the victim are known to each other and where there is a continuing risk to the victim of harassment or violence. The restrictions of an order can include the suspect not getting in direct or indirect contact with the victim, keeping away from a property or premises or staying a certain distance away from someone.

If the suspect breaches an order without reasonable excuse, they will be guilty of a criminal offence.

Sexual harm prevention orders

From 8 March 2015, sexual offences prevention orders (SOPOs) were replaced by [sexual harm prevention orders \(SHPOs\)](#). Section 103 of the Sexual Offences Act (SOA) 2003 deals with SHPOs.

An SHPO is an order made against any person who is found to have committed an offence under Schedule 3, or 5 of the Sexual Offences Act 2003, and is imposed by a magistrate or a judge at the Crown Court if the person is considered a risk to the general public, or to another specific person. Schedule 3 includes the offence of rape.

There are two ways a court can order an SHPO:

1. The court can make an SHPO when a suspect has been convicted of an offence in Schedule 3 or 5 of the SOA 2003.
2. The court can also make an SHPO where a Chief Officer of Police or the Director General of the National Crime Agency applies to a magistrates' court. This means that the police can apply for an SHPO at any point of the investigation, and not just on conviction. The police have to show 'on the balance of probabilities' that the order is necessary to protect the public from sexual harm, and the restrictions would minimise that risk.

Sexual risk orders

On 8 March 2015, risk of sexual harm orders were replaced by sexual risk orders (SROs).

Like SHPOs, sexual risk orders can be applied for by a Chief Officer of Police or the Director General of the National Crime Agency through the magistrates' court. These orders are generally made against an individual who has not been convicted or cautioned for the offence but who nevertheless is thought to pose a risk of harm to the public in the UK and or children or vulnerable adults abroad. The suspect must have done an act of a sexual nature as a result of which there is reasonable cause to believe that it is necessary for a sexual risk order to be made. Breach of a sexual risk order is a criminal offence.

Both SHPOs and SROs can place a range of restrictions on individuals depending on the nature of the case, such as limiting their internet use or preventing travel abroad.

Annex F: Headline findings and recommendations from our Phase 1 report

We found evidence throughout our inspection of many dedicated people who were unwavering in their efforts to do the right thing for victims of rape, often in very difficult circumstances. This commitment and resolve to make improvements are to be commended and are worthy of note. Overall, however, the approach to the investigation and prosecution of rape has to change.

The police don't always get the first response to the victim right, and victims don't always get the support they need

The first contact between the victim and the police is critical as a means of building trust and building the case. If not correctly handled, opportunities to support and safeguard the victim may be lost. It can also affect the securing of evidence at this crucial stage. Although initial risk assessments were completed, referrals to support services were not always made. This could result in missed opportunities to share information that may give victims better support. Victims aren't always given the reassurance and protection that pre-charge [bail](#) with conditions may afford.

Independent sexual violence advisers (ISVAs) play an important role in providing specialist tailored support to victims, but the ISVA service is not always fully understood by the police. Victims of rape are more likely to support an investigation when an ISVA is involved, but not all victims are referred to this, or other, commissioned services.

Governance and leadership across the criminal justice system at a national level are complex and fragmented

The concerning attrition levels in rape cases have led to a significant number of interventions, and more scrutiny and national oversight, as parties seek to understand the reasons behind the worsening performance over recent years. Examples include the National Criminal Justice Board and the Joint Operational Improvement Board. Such is the level of commitment that each of these groups is chaired at a very senior level, including by ministers.

However, the net effect is that the work of these groups is not co-ordinated, and no single person has overall responsibility for holding the organisations to account for improvements. A more co-ordinated governance structure, with clear levels of accountability, and a single, identified, senior individual with the overarching responsibility and authority to hold all others to account, is required.

We are pleased to see that, following the Government's [End-to-End Rape Review Report](#) (published June 2021), the Minister for Crime and Policing has been appointed as lead for implementation of the Rape Review. This is an opportunity to encourage close collaboration between all leaders from throughout the criminal justice system.

The relationship between the CPS and police service needs fundamental improvement

The relationship between the police and CPS was described as collaborative at senior levels, with the work done by both organisations to develop the Joint National Action Plan cited as an example. However, despite all the work done by both organisations to improve, we found that each organisation still has an inward focus.

We also saw evidence of some difficult relationships between the police and CPS, with both organisations on occasion arguing that the other was 'to blame' for the low conviction rates. The development of the 2021 joint plan provides a foundation on which to build stronger relationships at all levels. In particular, at an operational level, a closer and more personal working relationship is required between the prosecutor and investigator to promote a joint approach to building strong cases, and better outcomes as a result. This would also help to build greater trust between both organisations.

Police and CPS resources cannot meet the demand, and investigators do not always have the right training or experience

Workloads are often high and unmanageable. The lack of detectives and trained investigators results in many rape cases being dealt with by those without the right skills and experience. The training offered to investigators needs to be refreshed and reviewed. Prosecutors have large caseloads, which hampers progress, and many CPS Areas are carrying significant vacancies.

There is very limited joint training for the police and the CPS, which would provide another opportunity to build relationships between prosecutors and investigators.

Forces that have specialist teams tend to perform better in certain aspects of the investigation of rape

Specialist teams can lead to better decision-making, fewer delays and improved communication with victims and the CPS. Non-specialists may deal with too few cases to build their experience and expertise, and we found that cases dealt with by non-specialist teams incurred longer delays. The critical factor is to have enough trained specialist capability, with the support and capacity to do their work.

The absence of a victim-centred approach, founded on targeted specialist support for victims, is hampering the progress of cases. This can lead to victims being inadequately supported and either withholding or withdrawing support for cases

In our review of police case files, one third of cases involved victims who didn't support a prosecution. The police decision to take no further action because of this is called an Outcome 16. Without the support of the victim, it is very difficult to meet the evidential threshold needed to proceed with a case.

We saw cases where it was clear the victim didn't want to be involved in a prosecution right from the start. In some cases, for instance, they hadn't reported the offence themselves, but it had been referred to the police through a third party.

But in other cases we reviewed, victims wanted to proceed with a prosecution when they first reported the offence, but they later withdrew this support. The rationale for this was not always recorded. When reasons were given, they varied widely, from concerns about the time the process would take, to complicated relationships with the suspect, to wanting to focus on recovering from the incident rather than achieving a criminal justice outcome.

It takes immense bravery and resolve for victims to report rape offences. From our inspection, which also included interviews with interested parties and commissioned research with rape victims, we conclude that some of those who changed their minds about supporting a prosecution would probably have been able to continue with the case if they had been provided with better support. This may also have been possible in some of the cases where the victim indicated at the outset that they didn't wish to go ahead with a complaint.

Worryingly, we found some cases that were closed quickly by the police when the victim had complex needs, such as mental ill health, and were unsure if they wanted to support the investigation. The wrap-around and bespoke support we are recommending for all victims should help better meet these victims' needs and may therefore lead to more prosecutions.

In addition, the system of recording cases where the police have made the decision to take no further action fails to identify at what point the victim withdraws support. This is a missed opportunity to gather and use data in a focused way and provide tailored support to victims.

Police and prosecutors can be overly cautious in their approach to investigating and prosecuting rape cases. A shift to a more positive culture and mindset is required in an effort to build stronger cases and improve confidence in the system

Many investigators and prosecutors told us that rape cases are “difficult to prosecute” and were very aware of the criticism of low charge and conviction rates, and of high-profile cases that have failed. As a result, the approach adopted sometimes appeared to be more focused on thoroughly exploring the weaknesses in a case, as opposed to focusing on the strengths of the case, building a positive case, and exploring the possibility of managing any problems.

Unacceptable delays are occurring in cases, which indicate that better quality decision-making is required. The absence of a rigorous CPS case strategy in each case, underpinned by a clear, targeted and regularly reviewed action plan, results in significant delays and victims withdrawing support

Action plans (which the CPS send to the police and include details of the extra evidence they want collected to help make a decision) are sometimes too broad – and on a few occasions in our review, they asked for unnecessary information. This led to many victims feeling when interviewed that they were the person under investigation, which affected their confidence in the system.

We saw many examples of investigations being delayed at every stage of evidence-gathering. Likewise, CPS decisions to take no further action aren’t always made quickly. Even when action plans are appropriate, the police are often slow to respond, which results in delays.

While communication and relationships between the police and the CPS at a senior level are good, we have concerns that this is not always the case between investigators and prosecutors. This affects how cases are dealt with and can lead to delays.

The suggestion that reviewing digital devices was a major cause of delays was not verified by our case file review.

Early investigative advice is not always understood by the police and is not used sufficiently

Not making best use of early investigative advice is a missed opportunity for early engagement that could help the police understand what is needed to build a strong case.

The quality of police files provided to the CPS continues to be a problem

There is clearly more work to do to bring the quality of many police files up to an acceptable standard.

Better and more consistent decision-making by investigators and prosecutors is required

Investigators and prosecutors need to demonstrate that they are addressing myths and stereotypes and applying the guidance consistently.

There is some misunderstanding about the ‘admin finalised’ process, which the CPS uses when there is no response to action plans from the police

The ‘admin finalised’ process does nothing to improve confidence in the way that the police and the CPS work together to progress cases.

A better shared understanding of data and performance information is required

We found no single reason to explain either the decline in conviction rates, or geographical variation in referrals by forces to the CPS. Partly, this is because of a lack of consistent and robust performance data.

Police and prosecutors need to understand why, and at what stage, cases fall out of the system. This includes ensuring that officers and prosecutors understand the different outcome codes and are better at explaining the reasons why a case has failed. Without that clarity, the organisations will be unable to learn lessons for the future. Both organisations should also be better at identifying the context for their performance. For example, an increased conviction rate may not necessarily indicate improved performance if fewer cases are pursued. If no open and transparent qualitative and quantitative set of data is available, which has been jointly agreed on, the organisations will be unable to gain a better shared understanding of what works and how best to build strong cases.

The quality of communication between the police and the victim, and between the CPS and the victim, needs to be improved. Too often, the decision to take no further action is not communicated well to the victim

The police do not always tell victims that they have the right to review the no further action decision. It is vital that these decisions are explained sensitively to help the victim understand and come to terms with what has happened. Our commissioned research told us that most victims were negative about how well they had been kept informed by the police. For those victims who were more positive, they valued having a single point of contact, and clear explanations of the process when they needed it.

In most CPS cases, a letter was sent to the victim informing them of the decision to take no further action, but these were not always prompt and often lacked empathy or clarity.

Many of the victims' groups we spoke with told us that they would welcome the CPS being more visible at a local level, which would promote better communication with victims, and also help build confidence.

Recommendations

There are many ways the criminal justice system can be more effective in investigating and prosecuting rape. These specific recommendations draw on how the investigation and prosecution of rape is currently handled and on our findings from this phase of the inspection, which focuses on those cases where either the police or the CPS made the decision to take no further action.

Recommendation 1

Immediately, police forces should ensure information on the [protected characteristics](#) of rape [victims](#) is accurately and consistently recorded.

Recommendation 2

Police forces and support services should work together at a local level to better understand each other's roles. A co-ordinated approach will help make sure that all available and bespoke wrap-around support is offered to the victim throughout every stage of the case. The input of victims and their experiences should play a central role in shaping the support offered.

Recommendation 3

Police forces should collect data to record the different stages when, and reasons why, a victim may withdraw support for a case. The Home Office should review the available outcome codes so that the data gathered can help target necessary remedial action and improve victim care.

Recommendation 4

Immediately, police forces and CPS Areas should work together at a local level to prioritise action to improve the effectiveness of case strategies and action plans, with rigorous target and review dates and a clear escalation and performance management process. The NPCC lead for adult sexual offences and the CPS lead should provide a national framework to help embed this activity.

Recommendation 5

Police forces and the CPS should work together at a local level to introduce appropriate ways to build a cohesive and seamless approach. This should improve relationships, communication and understanding of the roles of each organisation.

As a minimum, the following should be included:

- considering [early investigative advice](#) in every case and recording reasons for not seeking it;
- the investigator and the reviewing prosecutor including their direct telephone and email contact details in all written communication;
- in cases referred to the CPS, a face-to-face meeting (virtual or in person) between the investigator and prosecutor before deciding to take no further action; and
- a clear escalation pathway available to both the police and the CPS in cases where the parties don't agree with decisions, subject to regular reviews to check effectiveness, and local results.

Recommendation 6

The police and the CPS, in consultation with commissioned and non-commissioned services and advocates, and victims, should review the current process for communicating to victims the fact that a decision to take no further action has been made. They should implement any changes needed so that these difficult messages are conveyed in a timely way that best suits the victims' needs.

Recommendation 7

Police forces should ensure investigators understand that victims are entitled to have police decisions not to charge reviewed under the [Victims' Right to Review scheme](#) and should periodically review levels of take-up.

Recommendation 8

The National Criminal Justice Board should review the existing statutory governance arrangements for rape and instigate swift reform, taking into account the findings from this report and from the Government Rape Review. The recent appointment of the Minister for Crime and Policing to lead the implementation of the Rape Review should make sure that there is sustained oversight and accountability throughout the whole criminal justice system, sufficient resourcing for the capacity and capability required, and improved outcomes for victims. To support this, a clear oversight framework, escalation processes and scrutiny need to be in place immediately.

Recommendation 9

Immediately, the CPS should review and update the information on the policy for prosecuting cases of rape that is available to the public. The information provided about how the CPS deals with cases of rape must be accurate. Victims and those who support them must be able to rely on the information provided to inform their decisions.

Recommendation 10

Immediately, the [College of Policing](#) and the NPCC lead for adult sexual offences should review the 2010 ACPO guidance on the investigation of rape in consultation with the CPS. The information contained in available guidance must be current to inform effective investigations of rape and provide the best service to victims.

Recommendation 11

The Home Office should undertake an urgent review of the role of the detective constable. This should establish appropriate incentives, career progression and support for police officer and [police staff](#) investigators to encourage this career path. It should include specific recommendations to ensure there is adequate capacity and capability in every force to investigate rape cases thoroughly and effectively.

Recommendation 12

The College of Policing and NPCC lead for adult sexual offences should work together to review the current training on rape, including the Specialist Sexual Assault Investigators Development Programme (SSAIDP), to make sure that there is appropriate training available to build capability and expertise. This should promote continuous professional development and provide investigators with the right skills and knowledge to deal with reports of rape. Forces should then publish annual SSAIDP attendance figures, and information on their numbers of current qualified RASSO investigators.

Recommendation 13

The College of Policing, NPCC lead for adult sexual offences and the CPS should prioritise action to provide joint training for the police and the CPS on the impact of trauma on victims, to promote improved decision-making and victim care.

Annex G: What is Operation Soteria?

Operation Soteria was launched as a response to the Government *End-to-End Rape Review*, and the Home Office pledge to increase the number of rape cases making it to court. Soteria builds upon Project Bluestone, and aims to transform the police response to rape. It includes an ambitious programme to develop a new national operating model for policing rape and serious sexual offences.

The Home Office set out the Operation Soteria programme objectives as being:

- Test a series of tools (such as improved approaches for digital capture) and techniques (such as those associated with offender management) to engender justice outcomes. As well as potentially increasing charge rates, the tools and techniques will enable the proactive making of applications for civil orders, such as sexual risk orders.
- Develop a national operating model (created through an evidence-based collaborative project) for better and faster rape investigations that can be taken up by forces and CPS Areas from 2023.
- The overarching Operation Soteria approach – in respect of the initial stages of the criminal justice process – will use a national scorecard to measure progress in the timeliness, quality and victim engagement underpinning improvement, meant to drive up the volume of rape cases progressing through the criminal justice system to pre-2016 levels.

Design and implementation of Operation Soteria Bluestone Discovery research process

Operation Soteria Bluestone is made up of three programmes, one of which is Operation Soteria Bluestone, which focuses on the policing response to rape. Within this programme there are four 'deep dive' discovery processes to be delivered in the Metropolitan Police Service and Durham, West Midlands and South Wales police forces from September 2021 (in addition to the pilot completed in Avon and Somerset Police from January to March 2021). A central aspect to this approach is that deep dives are led by academic teams, informed by wide-reaching academic research about sexual offending behaviour, the impact of rape and sexual assault on victim-survivors, suspects, police officers, the independent sexual violence adviser (ISVA) service and the wider community. The insight from all five force discoveries will provide academic evidence to inform the national operating model for the investigation of rape and serious sexual assault.

Recently, CPS Areas are assisting and informing the academics, with attendance at workshops and scrutiny panels in CPS North East.

The academics working with CPS are also helping to advise on success measures which build upon Project Bluestone and provide a CPS-focused input. The CPS is a national organisation with one operating model, and there is work being undertaken with academics to produce one piece of work to inform the CPS working alongside the police. The timing of this work is aimed to dovetail with the end of the deep-dive work.

At its heart, each research-based discovery process includes:

- an understanding of the lived experience of victim-survivors' experiences of rape and sexual assault (the extensive research team are academic experts in studies of violence against women and third sector and police responses to these; a survivors' panel is part of the method of challenging approaches and products);
- a conceptual foundation that aligns actions and activity with 'procedural justice theory' – and this benefits victims, offenders and staff (through organisationally just behaviour concerned about the wellbeing of staff who work in this area);
- continuous collaboration with the lived experiences of police force staff to offer direction of travel, sustainable and novel solutions on the sustainable pillars for improvement in situ to uplift investigative strategies and supported by force data improvement in analytics.

Operation Soteria was in its infancy when we visited some of the forces and CPS Areas who are involved in this new approach, so we were unable to test or comment on any success or challenges faced at the time of our fieldwork.

More recently, we are pleased to hear of improvements in the pilot areas where the police and CPS teams are working collaboratively. We are advised that the CPS and the police are striving to improve joint working by enhancing the provision of early advice to build stronger cases, testing different methods of doing that to increase the number of cases, timeliness and quality of police referrals. It is hoped this will progress more rape cases towards charge, improve timeliness of investigation and deliver justice to more victims. There are early positive signs, for example across the South West CPS Area there has been a 120 percent increase in early advice between the year Q3 20/21–Q2 21/22, compared with the previous 4 quarters (Q3 19/20 / Q2 20/21).

We are advised that to improve public confidence in decision-making, no further action (NFA) scrutiny panels have been expanded under Soteria to test a variety of approaches. These panels scrutinise decisions taken not to progress rape cases and are attended by police, the CPS and local stakeholder participants in order to increase understanding of why NFA decisions were taken. We are informed that in some cases this has led to further investigation work and case building. In CPS North East, we are advised that prosecutors and police hold clinics to consider cases in which police colleagues have proposed no further action. These are cases that would not normally be seen by the CPS, but are being shared monthly with the CPS, creating a further opportunity to ensure the right decision is being taken. Analysis of reasons identified for cases not reaching the Full Code Test provides valuable understanding and learning for both police and CPS, resulting in better collaboration, communication and more effective decision-making by both agencies.

Operation Soteria is also piloting ways to improve communication and engagement with victims and independent sexual violence advisers (ISVAs), in order to improve

victim and public confidence, reduce victim attrition and increase understanding in the criminal justice system and the value of each role. We are advised that CPS pathfinder Areas have all increased their interactions with ISVAs, with single points of contact being established within units, and regular monthly and quarterly engagement meetings taking place. All pathfinder Areas have held CPS/ ISVA conferences to develop this further, increasing mutual understanding of each other's roles and exploring what constitutes good communication with victims of sexual offences. CPS Wales is developing a new letter to be sent to all victims in cases which have been charged providing information about the charges being laid. This area is already communicating with victims at the point of charge to offer special measures meetings with a prosecutor, which provides an early opportunity to discuss the options available to them. Both these initiatives are designed to provide victims with reassurance, and help minimise trauma caused by the criminal justice process.

Recently the 'deep dive' process undertaken in the Metropolitan Police Service has included: Analysis of 95,450 rape and other sexual offence crime and incident cases (37,015 crime reference numbers) 2018–2021, file reviews of 300 cases with outcomes 14, 15 and 16, and 33 interviews and 15 focus groups with officers of all ranks and roles, ISVAs, MOPAC, victim-survivors. This is not an exhaustive list.

Cumulative findings are being shared with a newly created National Learning Network, which regularly attracts over 900 attendees, predominately from policing and the CPS.

Each of these initiatives is already delivering improved relationships and better understanding, and as the pathfinders develop further alongside the activity from the Project Bluestone work, embedding improved communication and understanding is expected to continue to deliver better outcomes for all those impacted by this devastating crime.

We welcome this collaborative work and the commitment to moving forward together to increase public confidence and secure better outcomes for victims of rape.

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