

The End-to-End Review of Rape: Equalities Statement May 2021

Introduction

In assessing the impacts of the End-to-End Review of Rape ("The Rape Review"), we have considered whether there are any disproportionate impacts on groups with protected characteristics including age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex or sexual orientation. This equalities statement accompanies the Rape Review Action Report.

The Public Sector Equality Duty is an ongoing duty. Where we do not have data or information about disproportionate impacts on those with protected characteristics, we will be proactive in collecting that data and taking action to deal with any disproportionate impacts we discover as we work to implement the actions in the review.

Summary of the Rape Review

The cross-government Rape Review was commissioned in March 2019 by the National Criminal Justice Board to address the decline in prosecutions for rape, against a backdrop of an increasing number of reported rapes¹.

The initial commission identified themed priority areas² and sets of questions which sought to understand the challenges faced by the system. A number of these questions focused on issues related to protected characteristics, for example, asking why conviction rates differed based on the age of the defendant. The commission also posed questions about a range of equalities issues: for example, asking why a disproportionate number of victims who share certain protected characteristics are withdrawing from the criminal justice process more often than those who do not share that protected characteristic.

Partners across the criminal justice system (CJS), including the Ministry of Justice, Home Office, Attorney General's Office, police, Crown Prosecution Service (CPS), Her Majesty's Courts and Tribunal Service (HMCTS) and judiciary, have developed an action plan in response to the challenges identified by the initial commission, addressing the decline in criminal justice outcomes for rape cases, improving the progression of rape cases through the CJS and ensuring victims feel supported by, and stay engaged with, the criminal justice process.

Evidence and analysis

The Rape Review was informed by a wide range of research and evidence.

MoJ and Home Office analysts undertook quantitative and qualitative research with participants across the CJS; this research informed a Government Social Research report which accompanies the

¹ Reporting of adult rape has increased in recent years: from 24,093 adult rapes recorded by the Police in 2015-16 to 43,187 in 2019-20 (Office for National Statistics, year ending March 2020). In 2019/20 only 2,747 cases were referred by the Police to the CPS, 1,867 charged by the CPS, and only 1,439 cases resulted in conviction (CPS, Violence Against Women and Girls (VAWG) report 2017-18, 2018, Violence Against Women and Girls (VAWG) report 2018-19, 2019 and CPS data summary Quarter 4 2019-2020, 2020).

² The four priority areas were:

- 1) Increase in 'evidential difficulties, suspect identified - victim does not support prosecution';
- 2) Variation in referral to charge (RTC) volumes by police force areas (PFA) and CPS region;
- 3) Changes in CPS charging outcomes, particularly the decline in charge rate, for rape only flagged offences;
- 4) Varying conviction rate depending on the flag and age of the defendant.

Rape Review. The Attorney General also requested that Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) undertake inspection work to examine CPS charging in rape cases specifically to feed into the Rape Review. We also commissioned an academic to undertake a full literature review of research in this area, which included studies that conducted research with victims.

A Stakeholder Reference Group (SRG) was formed to provide insight and expertise from their experience of supporting victims. It was made up of organisations from across the third sector and consideration was given to the membership of the SRG to ensure that the diversity of victims was reflected: membership included organisations that support LGBT, ethnic minority and male victims of rape with the aim to provide insight on the particular barriers faced by these groups.

Further to our internal research, we have drawn on valuable evidence from stakeholders that highlight the experiences of people with protected characteristics, namely:

- *The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change* (End Violence Against Women and Girls Coalition, et al. 2020)³. This report provided analysis and perspectives from a range of women's groups;
- *Reclaiming Voice: Minoritised Women and Sexual Violence Key Findings* (Thiara and Roy, 2020)⁴. This report gave key insights into the experience of ethnic minority women;
- *Rape survivors and the criminal justice system* (The Victims Commissioner, 2020)⁵. This report shared a range of first-person testimony from victims of sexual offences with different protected characteristics which allowed a more granular understanding of challenges faced by these groups.

Victims

We know⁶ that victims of rape or assault by penetration (including attempts) aged 16 to 74 were more likely to:

- be a woman (in the year to March 2020, 0.8% of women reported being a victim or rape or assault by penetration, compared with 0.1% of men);
- if they were a woman, to have a disability (1.9 % of women with a disability reported being a victim, compared to 0.6% of women without based on combined data from the year ending March 2018 and March 2020 [there is no notable difference for male victims]);

³ <https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/C-Decriminalisation-of-Rape-Report-CWJ-EVAW-IMKAAN-RCEW-NOV-2020.pdf>

⁴ https://829ef90d-0745-49b2-b404-cbea85f15fda.filesusr.com/ugd/f98049_a0f11db6395a48fbac0e40da899dcb8.pdf

⁵ <https://victimscommissioner.org.uk/published-reviews/rape-survivors-and-the-criminal-justice-system/>

⁶ The Crime Survey for England and Wales (CSEW) is published by the Office for National Statistics (ONS) reports on the characteristics of victims of sexual offences, it also reports on some of the reported characteristics (age and sex) of perpetrators. The CSEW measures crimes by surveying the public on their experiences of crime – including those not reported to the police.

Characteristics of victims:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesvictimcharacteristicsenglandandwales/march2020>

Characteristics of perpetrators:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/natureofsexualassaultbyraporpenetrationenglandandwales/yearendingmarch2020#perpetrator-characteristics>

- identify their sexual orientation as gay or lesbian (1.2%), other (2.5%) or bisexual (3%), compared to 0.4% of those who identified as heterosexual or straight reported being a victim (based on combined figures from the year ending March 2018 to March 2020);

Trends in age showed that within twelve months prior to completing the CSEW, based on combined data from the year ending March 2018 and March 2020, both men and women aged 16 to 19 years (0.3% and 2.7% respectively) and 20 to 24 years (0.2% and 2.4% respectively) were more likely to be victims of rape or assault by penetration (including attempts) in the last year than any other age group between ages 16 and 74.

In the year prior to March 2018 and March 2020, adults aged 16 to 74 years who identified as having no religion (0.6%) or Muslim (0.5%) were more likely to have experienced rape or assault by penetration (including attempts) than those who identified as Christian (0.3%) or Hindu (0.2%). However, the small number of individuals identifying as belonging to some religions make it difficult to draw conclusions from these data.

In the same report, for rape or sexual assault by penetration, there were no significant differences between ethnic groups, or across ethnicity for men and women.

We know that a substantial number of victims of rape do not go on to report the crime to the police. Although there has been an increase in the number of rapes reported in recent years, the ONS estimates that only 19.1% of men and 15.8% of women aged 16 to 59 years who have been victims of rape or assault by penetration (including attempts) report the crime to the police⁷. While our action plan aims to support all of those who do come forward, we are deeply concerned that so many still do not.

Suspects/Defendants

The Rape Review also looks at how the CJS deals with those suspected of rape. In the action plan, we have set out an ambition that the police move towards a default investigatory model that shifts the focus away from victim credibility towards offending patterns in the suspect. The CSEW reports that in the years ending March 2017 and March 2020 combined, the majority of victims (98%) who had experienced rape or assault by penetration (including attempts) since they were 16 years old reported that the perpetrator(s) were male and almost two thirds (65%) reported that the perpetrator was a male aged between 20 and 39 years⁸.

The Action Plan

The Rape Review Action Plan is focused around four strands:

I. Improving support for victims throughout the criminal justice system;

These measures aim to ensure victims have access to quality support, appropriate to their needs, when they need it, including access to the right therapeutic, evidence-based and practical support and an Independent Sexual Violence Adviser (ISVA) where appropriate. It is our ambition that this support will be available across the country, and that victims are provided by criminal justice

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/natureofsexualassaultbyrapeorpenetrationenglandandwales> (Table 17)

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/natureofsexualassaultbyrapeorpenetrationenglandandwales/yearendingmarch2020#perpetrator-characteristics>

agencies with easily understandable and accessible information about their rights. These changes will represent a positive change for those victims who use the CJS.

However, we know this will not be enough on its own, and we are also taking active steps to ensure ethnic minority, LGBT and disabled victims are supported by working with Comic Relief to provide a £2 million fund for 2021/22 for smaller specialist organisations who support groups with these protected characteristics.

II. What the Police and CPS will do;

The Rape Review aims to improve outcomes for victims by deepening collaboration between the police and the CPS. This collaboration aims to increase volumes of trials for rape to pre-2016 levels, provide additional support around disclosure and evidence gathering to victims and move the focus of investigations away from victim credibility towards offending patterns in the suspect. The positive impact of these changes will be felt by those with protected characteristics who enter the justice system.

We are also taking targeted action in this area to invest in new projects which focus on increasing victim confidence in the police, in particular among groups with lower confidence (including ethnic minority, disabled and LGBT victims). Pathfinder projects – “Operation Soteria” – are being launched to establish what works to drive systematic and sustainable transformation on how the police handle investigations into rape and sexual offences. Over £200,000 has already been awarded to Avon and Somerset Police, who have begun to deliver this work as part of “Project Bluestone”.

III. What will happen at court;

Going to court is a difficult experience for victims and the action plan is focused on providing clear communication to victims and making sure that only pertinent evidence about the victim is deployed at court.

Further to work that supports all victims, we are also providing targeted support to those with protected characteristics: we have already rolled out section 28 to allow vulnerable victims (who are under 18 or have learning disabilities) to pre-record their evidence and avoid some of the trauma of going to court. We are trialling further extension of section 28 to intimidated victims, which we will evaluate in due course, and will seek to collect data on protected characteristics. We will develop a best practice framework that will take a multi-agency approach to understanding where best practice is occurring and seek to replicate it across the country – ensuring access to special measures like section 28.

I. What Government will do.

The government will drive change in this area across the CJS. The Minister for Crime and Policing will take overall responsibility for the delivery of the Rape Review Action Plan and will drive forward actions through a monthly taskforce. An external expert group comprising a range of organisations across the CJS will provide external scrutiny of implementation. The government will report publicly on progress every six months, ensuring accountability on its actions from parliament, stakeholders and the wider public.

We will continue to monitor equalities impacts through robust implementation and governance structures, through the use of data, input from stakeholders and operational expertise. We are committed to improving the quality of data we collect around the protected characteristics of rape victims and keep under review. In recognition of the particular challenges faced by some in accessing the criminal justice system, we will be undertaking targeted research with rape victims to better understand their experiences, what they want from support services and how those services can best meet the needs of those disproportionately impacted by rape.

The government will maintain this Equalities Statement as a live document which we will continue to consider and update through the implementation of the Rape Review Action Plan.

Public Sector Equality Duty

We have considered the three limbs of the PSED set out in section 149 of the Equality Act 2010 as part of our work on the Rape Review. These considerations are detailed below:

1) Pay due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010

A. Direct discrimination

We do not believe there is a risk of direct discrimination as a result of the actions in the Rape Review as it will not treat anyone differently because of a protected characteristic.

B. Indirect discrimination

We do not believe the actions of the review will result in indirect discrimination within the meaning of the 2010 Act, since it will be applied in the same way to everyone and will not result in any particular disadvantage for anyone with a protected characteristic.

As we have detailed above, victims of sexual offences are more likely to share certain protected characteristics and we therefore anticipate positive outcomes for those groups with certain protected characteristics, especially sex, age and race.

C. Discrimination arising from disability and duty to make reasonable adjustments

We do not consider that the actions from the review will have a negative impact on those with a disability, nor require reasonable adjustments, and we anticipate some positive impacts for people with disabilities. We are increasing support for victims in navigating the process through increased funding for sexual violence support services, and providing targeted support through groups who work with people with disabilities.

D. Harassment and victimisation

We do not consider there to be a risk of harassment or victimisation as a result of the actions in the Rape Review.

2) Pay due regard to the need to advance equality of opportunity between people who share a relevant protected characteristic and those who do not

The Rape Review Action Plan focuses on improving equal opportunities for all those accessing justice. Because groups with certain protected characteristics, especially age, sex, disability and sexual orientation are more likely to be victims of rape, we anticipate this will advance equality of

opportunity for people with these protected characteristics when compared with those who do not because the actions set out in the review will directly benefit them.

3) Pay due regard to the need to foster good relations between people who share a relevant protected characteristic and those who do not

We have considered the impact of the actions of the rape review on fostering good relations between people with protected characteristics. We do not consider there to be a risk to good relations as a result of the review.