



HM Government

# **The end-to-end rape review report on findings and actions**

June 2021

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# **The end-to-end rape review report on findings and actions**

Presented to Parliament  
by the Lord Chancellor and Secretary of State for Justice  
by Command of Her Majesty

June 2021



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# Foreword by ministers

Rape and sexual violence are horrific and devastating crimes that can impact victims for the rest of their lives. When victims take the brave step of reporting the crime, they expose and may relive their deep and personal trauma, in the interests of justice and protecting others. We need to deliver for them and the public: investigating and prosecuting these crimes professionally, diligently and with empathy, ensuring that victims of this awful crime get the support they deserve.

The Rape Review has found that in too many cases this simply does not happen. In the last five years, there has been a significant decline in the number of charges and prosecutions for rape cases and, as a result, fewer convictions. Over the same period, there has been little change in the overall prevalence of rape and sexual violence crimes.<sup>1</sup> The vast majority of victims do not see the crime against them charged and reach a court: one in two victims withdraw from rape investigations.

These are trends of which we are deeply ashamed. Victims of rape are being failed. Thousands of victims have gone without justice. But this isn't just about numbers – every instance involves a real person who has suffered a truly terrible crime.

Our mission, set out in this publication, is to understand why we are letting down rape victims, and to right this wrong. We will continue to build the confidence of victims to come forward and report these horrendous crimes to the police. We have seen significant growth in recording of rape by the police and we must continue to make progress to ensure that victims are dealt with professionally and sensitively, and their perpetrators are investigated and prosecuted, so that those who commit these crimes feel the full force of the law. Victims have told us that we have a long way to go before this is their reality.

Contrary to the way that rape is often depicted in the media, most of these crimes are committed by someone the victim knows. Because of this, investigations are very personal and intrusive for the victim. The trauma of the crime and their subsequent experience leads many victims to disengage from the criminal justice process. Without the victim's engagement, prosecution and conviction is very difficult. But when cases are prosecuted, and victims stay engaged with their case, we see results: in 2019-20, 27%<sup>2</sup> of rape defendants pled guilty, and we had an overall 69% conviction rate.<sup>3</sup>

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<sup>1</sup> Office for National Statistics figures

<sup>2</sup> This is an additional split of existing published data on guilty pleas for sexual offences which is published here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/944741/cc\\_plea\\_tool.xlsx](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/944741/cc_plea_tool.xlsx). It has been produced for use in this report and will be included in subsequent National Statistics releases of the plea tool within the Criminal Court Statistics series of publications.

<sup>3</sup> Crown Prosecution Service, CPS data summary Quarter 4 2019–2020: Violence Against Women and Girls Annual Data Tables Year Ending March 2020. Please note the CPS conviction rate also includes cases initially flagged as a rape, that may result in a lesser change.

We are not prepared to accept that rape is just ‘too difficult’ a crime to prosecute. We can, and must, do better. At the heart of this Review is a system and culture change to ensure that victims feel supported and able to stay engaged with their case. This combined with updated and stronger case preparation methods, as well as increased communication between all those involved in the prosecution, should lead to more cases reaching court and more defendants pleading guilty. This will give victims greater confidence that justice will be served in their individual cases, helping maintain victim engagement, and ensuring more rapists are brought to justice.

This Review commits to a conscious reversal of the trends of the last five years. We expect to see the volume of cases referred by the police to the Crown Prosecution Service, charged and reaching court, return to 2016 levels by the end of this Parliament. In real terms, this means that over a thousand more victims will see their cases proceed.

We know that victims and the organisations that support them have felt badly let down in the past. This is not the first piece of work in this area, and the consistently low number of cases being charged and prosecuted has eroded trust. The Government needs to continue to drive urgency and focus on this agenda, giving victims confidence that the system is open and committed to change and providing ways for the public to hold it accountable for that change.

We owe it to every person whose life has been changed forever by rape to make these changes happen. Now is the time for us to step up, to do better, and to deliver lasting improvements to the way we investigate and prosecute rape so that victims are properly supported and they, and the public, can have confidence that perpetrators of this sickening act will feel the full force of the law.

**The Rt. Hon. Priti Patel MP**

**Home Secretary**

**The Rt. Hon. Robert Buckland QC MP**

**Lord Chancellor and Secretary of State for Justice**

**The Rt. Hon. Michael Ellis QC MP**

**Attorney General**

# Foreword by Emily Hunt, Independent Advisor to the Review

One day in May 2015 I woke up in a hotel bed next to a man I'd never seen before. Where I was, how I got there and what had happened over the preceding five hours were a blank chasm. I believed immediately that I had been drugged and suspected that I had been raped.

The police were called straight away. I had faith in the criminal justice system then, and assumed that the path from reporting the crime to a prosecution in court would be difficult, and probably very upsetting, but more or less straightforward. What I have learned from my own experience and over the years since that night is just how often our criminal justice system fails rape victims.

How often are rape victims failed by the criminal justice system? The answer is deeply upsetting: nearly always.

There are an estimated 128,000 victims of rape a year.<sup>4</sup> Less than 20% of victims of rape report to the police.<sup>5</sup> Even worse, only 1.6% of rapes that are reported result in someone being charged.<sup>6</sup> That means that considerably fewer than one in every 100 rapes actually leads to justice for its victim. That was my experience too. As for most victims, my attacker was not charged. He has never, and likely will never, face a jury to determine whether he is guilty of rape.

The low prosecution rate in these cases is not, as some have claimed, because people are making false allegations of rape.<sup>7</sup> Previous research from the Home Office has shown that up to about 3% of rape allegations could be false.<sup>8</sup> Which means that about 97% of the time, they aren't. The reality is, in almost all cases, if someone says they've been raped, they have not made it up. Which makes the current situation all the more shocking and unacceptable.

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<sup>4</sup> Based on combined data for 2017/18 and 2019/20. ONS, Sexual offences in England and Wales overview: year ending March 2020, March 2021

<sup>5</sup> Office for National Statistics, March 2021, Nature of sexual assault by rape or penetration, England and Wales: year ending March 2020

<sup>6</sup> Home Office, May 2021, Crime Outcomes in England and Wales, year to December 2020. The data presented here relates to outcomes assigned within the same year for all rapes recorded by police in the year to December 2020, including victims aged over and under 16 as well as those cases awaiting an outcome. Figures presented here will differ to those presented elsewhere due to different timescales as well as different reporting criteria.

<sup>7</sup> [https://www.cps.gov.uk/sites/default/files/documents/legal\\_guidance/perverting-course-of-justice-march-2013.pdf](https://www.cps.gov.uk/sites/default/files/documents/legal_guidance/perverting-course-of-justice-march-2013.pdf)

<sup>8</sup> [https://www.researchgate.net/publication/238713283\\_Home\\_Office\\_Research\\_Study\\_293\\_A\\_gap\\_or\\_a\\_chasm\\_Attrition\\_in\\_reported\\_rape\\_cases](https://www.researchgate.net/publication/238713283_Home_Office_Research_Study_293_A_gap_or_a_chasm_Attrition_in_reported_rape_cases)

Tens of thousands of rape victims are being failed every year. But it's bigger than that, because it's not just rape victims being failed. Our entire society is being failed. Our police forces have started to realise – as have many around the world – that rape is, essentially, often a serial crime. Many uncaught rapists go on to do it again and again. We need to essentially see every unprosecuted rape as having a greater than coin toss chance of leading to a future rape.<sup>9</sup> Instead, rape prosecutions have plummeted.

The dramatic decline in rape prosecutions since 2016 has been well-documented. In March 2019 the Government commissioned the End-to-End Rape Review to understand and try to fix what is stopping rape cases getting to court. It has been a privilege to have been invited into the process as an Expert Advisor to the Government and, most importantly, to bring a victim's voice to the heart of the Review.

There is so much to do. This Review provides a beginning and an important statement of ambition. It sets out tools for achieving real transformation across the Criminal Justice System, paving the way for better support for victims, new data-driven methods of investigating rape, cases that are better prepared from the start, more prosecutions of rapes, greater encouragement of early guilty pleas and fair, timely, trials. I very strongly believe in every defendant's right to a fair trial – and none of these transformations would compromise on this in order to deliver justice.

Above all, the Review makes clear that all parts of the system must be accountable to all of us. It also makes clear that if the number of rape cases getting to court does not increase to pre-2016 levels by the end of this parliament then more radical changes to the system will be needed and they will be enacted. We will not accept failure anymore.

When a victim takes the brave step of reporting their rape to the police it is vitally important that they feel supported, believed and that something is being done about it. All too often this doesn't happen. One in two of victims who report their rape to the police drop out of their own cases.

This is not the victim's fault but the system's failure. And it compounds the problem, because if victims feel unable to stay the course we cannot prosecute rapists. So as a society it is our responsibility to make sure all victims receive the emotional, practical, therapeutic, and even legal support they need to carry on and stay engaged with their cases. We must support rape victims, because the reality is, when they come forward they are also taking that brave step on our behalf as well.

No victim asked for this. No victim wanted to feel they had to stand up for themselves or future victims. And like me, no victim wanted to find out that the Criminal Justice System would fail them.

We can do better, and we have to do better. We will do better.

Here is how we start.

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<sup>9</sup> <https://www.documentcloud.org/documents/1699822-2002-lisak-repeatrapeinundetectedrapists.html>



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## 2 The end-to-end rape review report on findings and actions

# Executive summary

1. The Government's End to End Review of the Criminal Justice System Response to Rape ("The Rape Review") commenced in March 2019 and looked at evidence across the system – from reporting to the police to outcomes in court – in order to understand what is happening in cases of adult rape and serious sexual offences being charged, prosecuted and convicted in England and Wales.<sup>10</sup>
2. Alongside this Review, the Government is publishing a Government Social Research report which outlines the underlying primary research in more detail.<sup>11</sup> While the reasons for not enough cases being referred, charged or reaching court are many and varied, the result is not: too many rape victims do not receive the justice they deserve.
3. Prevalence of rape and sexual violence has not materially changed in the last five years. The best estimates from the Crime Survey for England and Wales indicate there were approximately 128,000 victims of rape (including attempts) annually based on those interviewed between 2017/18 and 2019/20.<sup>12,13</sup> While the figures for prosecuting rape cases have always been worryingly low, we have seen a sharp decrease in the number of prosecutions since 2016/17. The criminal justice system has not pursued investigations and prosecutions, which has caused a decline in the number of cases going to court. The numbers make for stark reading. Reporting of rape has increased in recent years from 24,093 adult rapes recorded by the police in 2015/16 to 43,187 in 2019/20.<sup>14</sup> However, only 3% of adult rape offences assigned a police outcome in 2019/20 were given an outcome of charged/summonsed. This is

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<sup>10</sup> Whilst the Review's remit is limited to adult cases, which for the purposes of this review refers to individuals aged 16 and over, many of the findings will be relevant to sexual offence cases more widely.

<sup>11</sup> Ministry of Justice and Home Office, 2021, Review into the Criminal Justice System response to adult rape and serious sexual offences across England and Wales – Research Report

<sup>12</sup> Crime Survey for England and Wales estimated that 0.4% of 16 to 74-year olds in England and Wales had experienced rape or an attempted rape in 2017–18 and 0.5% in 2019–20. Office for National Statistics, 2021, Sexual offences prevalence and trends, England and Wales: year ending March 2020.

<sup>13</sup> Crime Survey for England and Wales estimates based on victimisation experienced in the twelve months prior to completing the survey and is an average from combined data. Office for National Statistics, 2021, Sexual offences prevalence and trends, England and Wales: year ending March 2020.

<sup>14</sup> Office for National Statistics, 2021, Sexual offences prevalence and trends, England and Wales: year ending March 2020.

down from 13% of adult rape offences assigned an outcome in 2015/16.<sup>15</sup><sup>16</sup> Prosecutions and convictions for adult rape have also fallen, by 62% and 47% respectively since 2015/16.<sup>17</sup>

4. These statistics demonstrate that the criminal justice system is failing victims<sup>18</sup> of rape and sexual assault. There are also disparities in victimisation. While the majority of victims of rape are female, this crime can have a devastating impact on male victims too. We are aware that this crime is perpetrated at a higher rate against disabled women and those who are gay, lesbian, bisexual or other.<sup>19</sup> We have published an Equality Statement alongside this Review to demonstrate how we have considered our obligations under the Public Sector Equality Duty. We are working to improve the data we collect about the characteristics of offences, suspects and victims. We must also capture better data on the victims' experience of the criminal justice system at each stage of the process.
5. The current situation is totally unacceptable and the Government is determined to change it: we owe this to every victim and are extremely sorry that the system has reached this point.
6. Rape is undoubtedly a difficult crime to prosecute, often resting on the issue of consent rather than the act itself being disputed. It is also a crime of control as it is the assertion of the demands of one person over the rights of another. It is always deeply traumatic for the victim, who not only feels violated, but can feel a deep sense of shame. It is a distinctive type of crime, requiring a specialised approach.
7. Our research found that the reasons for the decline in cases reaching court are complex and wide-ranging, including an increase in personal digital data being requested, delays in investigative processes, strained relationships between different parts of the criminal justice system, a lack of specialist resources and inconsistent support to victims.

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<sup>15</sup> Home Office, Police Outcomes Data [open data tables](#) 2015–16 and 2019–20, generated 29/04/2021. The figures are based on adult rape offences charged in the respective years regardless of when the offence was recorded by the police. Please note this figure differs from 1.6% reported in the foreword which is based on outcomes for all rape offences and restricted to cases recorded in the same year as the charging outcome was also recorded.

<sup>16</sup> Home Office, May 2021, Crime Outcomes in England and Wales, year to December 2020. Whilst not comparable, published figures show that 1.4% of all recorded rapes in 2019/20 received an outcome of charge in the same year, down from 7% in 2015/16. More recent data for year to December 2020 shows 1.6% of all recorded rapes had been assigned a police outcome of charged in the same year and may capture Covid-19 related impacts. These figures reflect all rape offences and include cases still awaiting an outcome and the final proportion of cases charged is likely to slightly increase as open investigations are closed.

<sup>17</sup> Ministry of Justice and Home Office, 2021, Review into the Criminal Justice System response to adult rape and serious sexual offences across England and Wales – Research Report

<sup>18</sup> The term 'victim(s)' is used to refer to those affected by rape and/or sexual assault. It encompasses other terms such as 'complainant(s)', 'client(s)' and 'survivor(s)', as referred to by survey, focus group and interview participants. Whilst recognising that females constitute the majority of victims, 'Victim' encompasses both sexes as there are male victims. Likewise, the term 'suspect' is used to refer to a person accused, charged prosecuted and/or convicted of rape or sexual assault. It encompasses 'offender', 'perpetrator' and 'defendant'.

<sup>19</sup> Office for National Statistics, Sexual offences victim characteristics, England and Wales: year ending March 2020, March 2021 <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/sexualoffencesvictimcharacteristicsenglandandwales/march2020>

8. We know from the detailed work carried out by victims' groups that victims have been treated poorly. Victims who have reported their rapes are frequently informed that their case will not be taken any further, often without being given any detail or explanation of the reasons why, and many are left feeling unable to deal with the stress and psychological toll of this. Many victims feel that their recovery is at odds with continuing to pursue their case. It is not acceptable for victims to feel they have to make a choice between getting justice or being able to heal from their experience.<sup>20</sup>
9. Reporting a rape takes a huge amount of bravery, so it is intolerable that the process of seeing a complaint through can be so painful, frustrating, and exhausting. A big part of the problem, according to our research, is that the system is set up in a way that causes a worryingly high level of victims to disengage from the criminal justice process before justice can be done. In fact, in 57% of all adult rape cases the victim feels unable to pursue the case.<sup>21</sup> Some of the key reasons given were feeling disbelieved or judged, the negative impact on their mental health, and a fear of giving evidence in court.<sup>22</sup> These findings reflect what many practitioners told us during this Review: that victims feel unsupported in a system that does not meet their needs. We must make the process easier for victims at every stage.
10. The problems begin with how investigations are conducted and cases are prepared. Our aim must be to improve victims' experience of the criminal justice system, increase the numbers of victims that stay engaged, and build better, stronger cases that will bring perpetrators to justice. This will lead to more cases being charged, more guilty pleas, and more rapists going to prison. In turn, this will increase victims' confidence in the system. We must also maintain our focus on ensuring a fair trial: every suspect and defendant should be treated fairly and continue to have confidence in the justice system. We believe it is possible – and vital – to achieve both.
11. We have already taken steps to ensure that offenders who are convicted of rape spend longer in custody. In April 2020, the Government passed legislation to ensure that serious sexual and violent offenders, including those convicted of rape, are sentenced to a standard determinate sentence (SDS) of more than seven years and serve two thirds of their sentence in custody, extending it from the previous halfway point of the sentence. As the average sentence imposed for rape is just under ten years, these changes now mean that instead of being released after five years in prison, such an offender will have to serve almost seven years – nearly two additional years in custody – as a result.
12. The Police, Crime, Sentencing and Courts Bill will extend this change to a further cohort of offenders who receive an SDS of between four and seven years for certain sexual or violent offences, including rape. These offenders will also serve two thirds of their sentence in custody instead of half. We are making these changes as we know that victims of crime can feel let down by the system when they are told an

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<sup>20</sup> Centre for Women's Justice, End Violence Against Women coalition, Imkaan and Rape Crisis England & Wales, 2020, [The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change](#), Online

<sup>21</sup> Assigned a police outcome in 2019–20, Home Office, 2020, Police recorded crime and outcomes open data tables. Accessed 29.04.2021.

<sup>22</sup> Victims' Commissioner's Office, 2020, Rape survivors and the criminal justice system, London

offender will serve nine years for rape, but is released after half of that. Holding the most serious offenders in custody until the two thirds point will ensure the public are protected and victims feel safe for longer.

13. While this Review focuses on adult victims of rape and sexual violence, it is a horrendous fact that many children and young people will be victims of sexual violence and abuse. We are totally committed to supporting children and young people affected by these abhorrent crimes and recently published the Tackling Child Sexual Abuse Strategy, which sets out the Government's vision for preventing, tackling and responding to all forms of child sexual abuse both in this country and overseas.
14. Prevention and early intervention is crucial to reducing the number of rape and sexual violence offences. While we have introduced a number of preventative measures, including the introduction of the statutory Relationships, Sex and Health Education curriculum which includes a focus on healthy relationships and how to recognise and report abuse, we know more needs to be done.
15. We will also be publishing a new Tackling Violence Against Women and Girls (VAWG) Strategy later this year. It will be informed by the Government's first ever public survey of people's experiences of these despicable crimes, which received a total of 180,000 responses. The VAWG Strategy will be followed by a dedicated and complementary Domestic Abuse Strategy.
16. Over the last two years operational partners have already begun to implement actions to improve the way we deal with these case, including the establishment of a formal joint police-Crown Prosecution Service (CPS) governance structure which is overseeing the roll out of the **joint national action plan (JNAP)** with a Steering Group which includes senior officers and officials from the police and CPS. We have also invested an extra £176m to increase support for rape and domestic abuse victims. However, we are yet to see a significant change in the number of cases being charged. We need to go much further and the actions in this Review represent a step change in our approach and the beginnings of the change we want to see.

### **What Government will do:**

17. We know that victims and the organisations that support them have felt let down in the past: this is not the first piece of work in this area, and the consistently low number of cases being charged and prosecuted has eroded trust. The Government needs to continue to drive urgency and focus on this agenda, giving victims confidence that the system is open and committed to change and providing ways for the public to hold it accountable. The volume of cases being referred by police, charged by the CPS and subsequently going to court has declined significantly since 2016 and we need to reverse this trend. Our initial ambition is to:
  - **return volumes of rape cases being referred by police, charged and going to court back to 2016 levels by the end of the Parliament, and**
  - **publish regular scorecards to show how the whole system is performing to provide transparency and accountability for the first time.**

### What we will do for victims:

18. The Review has heard that victims feel let down at every stage of the criminal justice process, that many do not receive consistent or appropriate support, and that criminal justice agencies fail to provide them with the rights they are entitled to. Each part of the process needs to work to support victims, and the police and CPS are undertaking specific actions to support victims, including making improvements to communication and engagement.
19. Reporting a rape can be a terrifying experience. The system needs to do all it can to limit the trauma as much as possible. It must be empathetic and effective at every stage. We will put victims at the heart of our response, so that we can continue to learn what works best for them and we will use the upcoming Victims' Bill as a vehicle for fundamental change. Our ambitions are to ensure that victims who want to engage in the criminal justice process feel able to do so, to support them at every step, and ensure that they receive the rights to which they are entitled. It means:
  - making sure that victims have **access to quality support, appropriate to their needs**, when they need it;
  - **ensuring access to the right therapeutic and clinical support, and emotional and practical support, such as an Independent Sexual Violence Advisor (ISVA)** where appropriate, with their access not depending on where they are in the country;
  - ensuring that victims can **access support and legal advice to understand and challenge disclosure decisions**; and
  - **holding criminal justice agencies to account** when they fail to provide victims with these rights to which they are entitled.

### What the police will do:

20. The Review has heard that too often rape victims feel that they are the ones being investigated and do not feel believed. We also know that there are patterns of behaviour that are a significant feature of rape and other sexual offending – and that failing to place proper value and emphasis upon understanding a suspect's offending behaviour and history, including previous reports of offences, can result in an undue focus on victim credibility. As we have seen in recent years, basing decisions on a victim's credibility, rather than as part of a well-rounded objective assessment of evidence, undermines the proper administration of justice, to the detriment of all parties. Our ambition is that:
  - **the police will move towards a default investigatory model that recognises the prevalence of serial offending in rape and sexual offences, and ensures that there is an early and robust assessment of suspect behaviour and offending patterns. This will ensure proper value and emphasis is placed upon understanding a suspect's offending behaviour and history from an early stage. It will help ensure decision-making is based on evidence, rather than subjective judgements of victim credibility. This new model will build and evolve as further learning emerges from the pathfinders. For the**



**avoidance of doubt, investigations will continue to be bound to investigate reasonable lines of inquiry and to satisfy their disclosure obligations.**

21. The Review has heard victims' experience of feeling digitally 'strip searched' and many have been left without phones for months, leaving them without vital support at a time of immense trauma. Our ambition is that:

- **no victim will be left without a phone for more than 24 hours, in any circumstances**, and our priority is that victims have their own phones returned within this period, with replacement phones being provided in the minority of cases;
- **any digital material requested from victims is strictly limited to what is necessary and proportionate to allow reasonable lines of inquiry into the alleged offence; and**
- **victims must be communicated with effectively throughout any digital evidence collection process.**

#### **What the CPS will do:**

22. The Review has heard that the decrease in the number of cases being charged has led to many victims feeling a lack of confidence in the CPS. **The CPS' ambition is to:**

- **improve the way rape cases are dealt with, increasing prosecution numbers and restoring victims' confidence through actions, including a better process for early investigatory advice and updating legal guidance on addressing rape myths and stereotypes.**

#### **What the police and CPS will do together:**

23. The Review has heard that victims' sense of vulnerability is compounded by the confusion many victims feel when asked to navigate a complex system not designed around their needs. **The police and CPS's ambition is to:**

- **establish a culture of effective joint working** so that they can better support victims and build better cases. This should drive more early guilty pleas as defendants realise that conviction is likely.

#### **What will happen in the courts:**

24. The Review has heard how incredibly difficult and painful the process of giving evidence in court is for victims, and how fear of that process can prevent them from beginning to process their trauma. Our ambition is that:

- **the experience for victims of going to court is managed with care and consideration, without compromising the principle of a fair trial.** Victims will be able to expect to receive **clear, prompt communication** throughout the process and **that special measures are available which meet their needs.**



- only evidence about the victim that is pertinent to the case should be used at court and **a victim's credibility should not be undermined by pre-conceptions or rape myths.**

## Outcomes for the Rape Review

25. The action plan is designed to achieve the following outcomes:

- *An increased volume* of cases progressing through the system so that more cases get to court, and more convictions are delivered, with an initial ambition of returning to 2016 levels.
- *Victim engagement* increased at every stage of the process.
- *Complex cases are not deprioritised.* We will monitor the system and track the outcome of cases to ensure more difficult or historical cases are not dropped to get more cases through the system.
- *High quality* cases referred by the police to the CPS.
- *Increase public confidence in high quality decisions* made by the CPS based on the evidence and material available and made in good time.
- *Increased number of early guilty pleas.* By improving the quality of the investigations and process overall we expect to see an increase in the number of early guilty pleas, so that victims do not have to wait as long for an outcome in their case and potentially avoid the challenges of going to court. The more early guilty pleas that are entered, the less the trauma for victims in having to give evidence at trial.
- *Improved timeliness* of cases at each stage of the criminal justice process.
- *Limiting requests for information from victims,* whether digital or held by third parties, to what is necessary and proportionate in pursuit of reasonable lines of inquiry and reducing the time victims are without a phone so that they are able to stay connected to their friends, family and support services during an extremely traumatic period in their life.
- *Defendant's right to a fair trial* is maintained through quality case building, and robust and appropriate disclosure.

## Our plan of action

26. Our action plan sets out a robust programme of work to achieve based on the primary research commissioned for the Review and evidence gathered from across the system (including the Victims' Commissioner's survey with victims of rape<sup>23</sup> and relevant responses to the Home Office's recent Violence Against Women and Girls<sup>24</sup> Call for Evidence, The Centre for Women's Justice, End Violence Against Women (EVAW) coalition, Imkaan, and Rape Crisis England & Wales produced report 'Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change' and evidence submitted to the Review by the Stakeholder Reference Group).
27. While action is already taking place, there is significantly more we need to do. We want to see tangible progress in securing improvements across the system, and we are therefore setting clear milestones for what will be delivered in the next six, 12 and 24 months.

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<sup>23</sup> Victims' Commissioner's Office, 2020

<sup>24</sup> 'Violence against women and girls' is an umbrella term which covers crimes which disproportionately affect women and girls (e.g. rape, sexual offences, domestic abuse, and stalking)

**As a Government our ambition is to deliver urgent and sustained change that increases the volume and quality of cases going to court**

	<b>Actions already being delivered</b>	<b>Actions that we'll implement in the first 6 months</b>	<b>Actions that we'll implement in 6–12 months</b>	<b>Actions that we'll implement in 12–24 months</b>
<p><b>We will put in place a framework that holds each part of the system accountable for its part in driving improvements</b></p>	<ul style="list-style-type: none"> <li>• An initial ambition to increase volumes of rape cases being referred by police, charged and going to court back to 2016 levels by the end of the Parliament</li> <li>• Ambition that by the end of the Parliament no victim of rape will be left without a phone for more than 24 hours</li> <li>• Crime and Policing Minister confirmed as lead Minister for implementation of the Rape Review</li> <li>• New monthly Ministerial-led CJS taskforce to ensure effective collaboration between agencies to implement the Review and drive up performance</li> </ul>	<ul style="list-style-type: none"> <li>• Publish first update on progress through a performance scorecard to demonstrate how we are delivering against our ambitions and implementing all actions</li> </ul>	<ul style="list-style-type: none"> <li>• Publish second progress update and determine whether further interventions are needed on the basis of the scorecard to ensure change is delivered</li> </ul>	<ul style="list-style-type: none"> <li>• Publish ongoing progress updates</li> </ul>

**Every victim of rape and sexual assault will have access to quality support, appropriate to their needs, when they need it. This means ensuring that:**

	<p><b>Actions already being delivered</b></p>	<p><b>Actions that we'll implement in the first 6 months</b></p>	<p><b>Actions that we'll implement in 6–12 months</b></p>	<p><b>Actions that we'll implement in 12–24 months</b></p>
<p><b>Every victim has access to the right therapeutic and clinical support, and the right emotional and practical support, such as an ISVA, where appropriate</b></p>	<ul style="list-style-type: none"> <li>Invested an extra £176m to increase support for rape and domestic abuse victims</li> </ul>	<ul style="list-style-type: none"> <li>Consult on the provision of community-based sexual violence support services and the role of the ISVAs, in the Victims' Bill consultation</li> <li>Develop national minimum standards for ISVAs</li> <li>Consult on how to enhance support and access to legal advice for rape victims so they are able to understand and challenge information requests from the police and prosecutors for digital and third party material</li> <li>Publish a Victims' Funding Strategy, setting out commissioning principles and sustainable funding models</li> </ul>	<ul style="list-style-type: none"> <li>Targeted research with rape victims to better understand their experiences and what they want from support services so that future provision meets need</li> </ul>	<ul style="list-style-type: none"> <li>Recommission the National Rape and Sexual Abuse Support Fund</li> </ul>
<p><b>Victims' access to support does not depend on where in the country they are</b></p>	<ul style="list-style-type: none"> <li>Published BAME Commissioning Guidance for minority victims</li> </ul>		<ul style="list-style-type: none"> <li>Provide 24/7 access to support for victims of sexual violence</li> </ul>	

	Actions already being delivered	Actions that we'll implement in the first 6 months	Actions that we'll implement in 6–12 months	Actions that we'll implement in 12–24 months
<p><b>Victims of rape and sexual assault are easily able to understand and access information about their rights. Criminal justice agencies must ensure that victims are provided with these rights and must be held to account when they do not</b></p>	<ul style="list-style-type: none"> <li>Published a revised Victims' Code that sets out 12 key rights</li> <li>Launched the #ItStillMatters campaign to increase public awareness of the types of confidential and independent support available to victims of sexual assault</li> </ul>	<ul style="list-style-type: none"> <li>Consult on how to ensure criminal justice agencies are delivering victims' rights, (including those in the Victims' Code) and the consequences if they do not, in the Victims' Bill consultation</li> <li>Publish a series of user-friendly guides for victims of rape and sexual assault</li> <li>CPS to launch a "digital walkthrough" of the criminal justice system for victims of crime so they know what to expect, with specialist content for rape victims</li> </ul>	<ul style="list-style-type: none"> <li>Test a new entitlement for rape victims to challenge the scope of information requests at the police investigation stage with Thames Valley Police</li> </ul>	

**What the police and CPS will do to transform the way they investigate and prosecute cases**

	Actions already being delivered	Actions that we'll implement in the first 6 months	Actions that we'll implement in 6–12 months	Actions that we'll implement in 12–24 months
<p><b>A default investigatory model that recognises that patterns of behaviour are a significant feature of rape and sexual offences, and ensures that there is an early and robust assessment of suspect behaviour and offending patterns; helping ensure decision-making is based on evidence, rather than subjective judgements of victim credibility</b></p>	<ul style="list-style-type: none"> <li>Police and CPS shared national file standard launched, reducing cases labelled as 'administratively finalised'<sup>25</sup></li> <li>Improve the Early Investigative Advice (EIA) process to help the police and CPS build better cases from the outset</li> </ul>	<ul style="list-style-type: none"> <li>Launch pathfinder projects to test innovative ways for the police and CPS to investigate rape cases (Operation Soteria)</li> </ul>	<ul style="list-style-type: none"> <li>Expand the pathfinder projects (Operation Soteria) to further force areas</li> <li>Enhance and roll out learning and development for police and CPS on evidence gathering and case building with the suspect as the starting point</li> </ul>	<ul style="list-style-type: none"> <li>Utilise the learning from pathfinder projects (Operation Soteria) to develop a new operating model</li> </ul>

<sup>25</sup> Administratively finalised decisions are not legal decisions and may not be the end of the case. CPS may ask the police to provide further information where there is insufficient evidence to make a charging decision, or the police are requesting early investigative advice. If the police do not respond within three months, following reminders, the case is closed. This is known as an 'administrative finalisation'. If the police provide additional evidence, the case is reopened and, if possible, a charging decision is made (CPS, 2019)

	Actions already being delivered	Actions that we'll implement in the first 6 months	Actions that we'll implement in 6–12 months	Actions that we'll implement in 12–24 months
<p><b>A cultural change in the police and CPS that enables as an initial ambition a return in volumes of rape cases being referred by police, charged and going to court back to 2016 levels by the end of the Parliament</b></p>	<ul style="list-style-type: none"> <li>• CPS's legal guidance updated to include more guidance on addressing rape myths and stereotypes</li> <li>• Police and CPS joint national action plan launched</li> </ul>	<ul style="list-style-type: none"> <li>• Deliver learning and development and increase resourcing to improve capability and capacity in rape investigation and prosecution</li> <li>• Increase effective joint (virtual) working by police and CPS on rape cases</li> <li>• Publish updated guidance on how to conduct Achieving Best Evidence interviews</li> <li>• Police and CPS to improve quality of communication with victims through better supporting documents and training around victim contact</li> <li>• Police and CPS to introduce minimum standards on communication and liaison with ISVAs through a National Framework</li> </ul>	<ul style="list-style-type: none"> <li>• Introduce and embed joint decision-making guidance for CPS and police investigators</li> <li>• Build on the shared learning and development to develop a wider cross-system understanding of the effect of trauma on victims</li> </ul>	



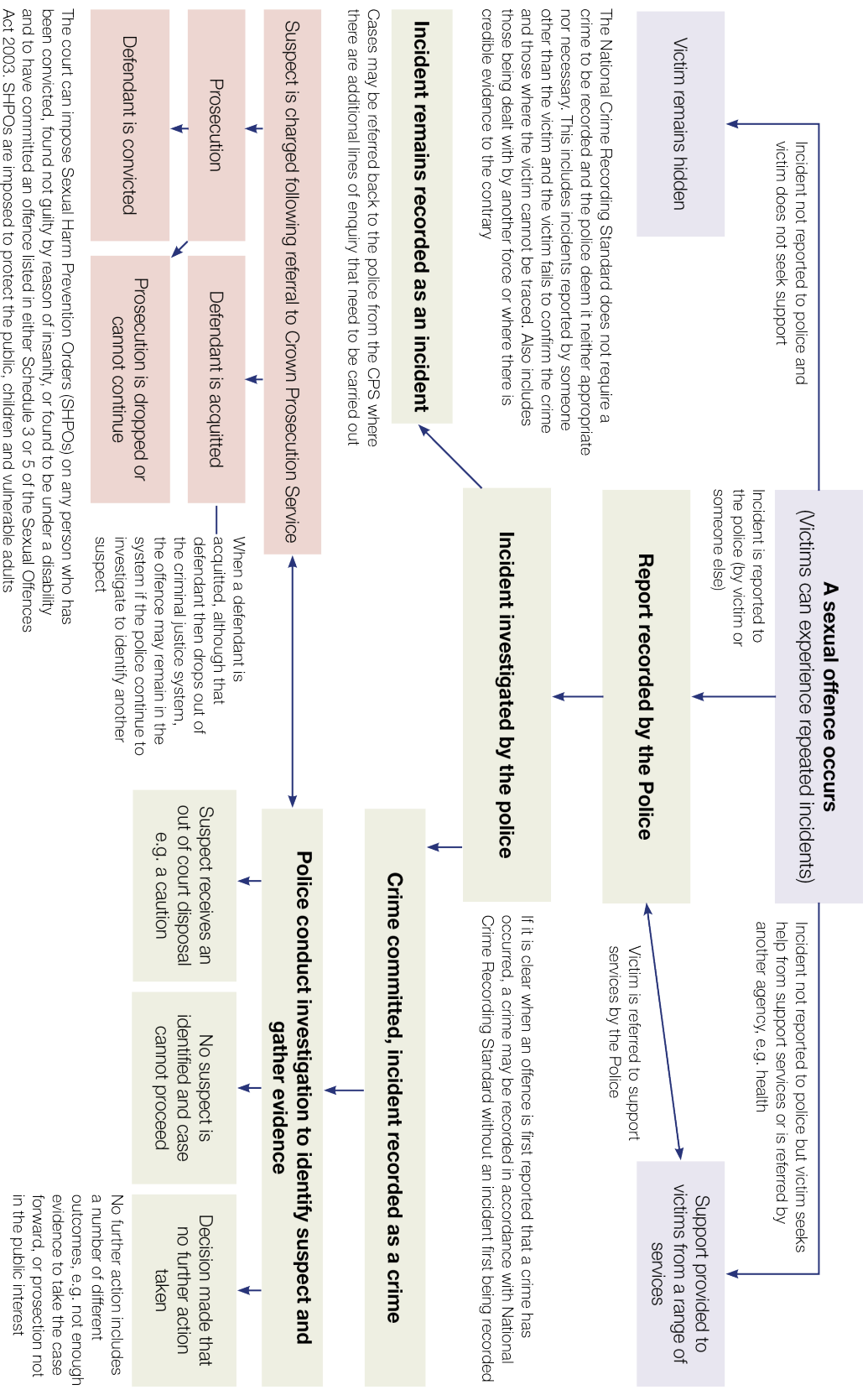
	<p><b>Actions already being delivered</b></p>	<p><b>Actions that we'll implement in the first 6 months</b></p>	<p><b>Actions that we'll implement in 6-12 months</b></p>	<p><b>Actions that we'll implement in 12-24 months</b></p>
<p><b>No victim is left without a phone for more than 24 hours, with an ambition that victims have their own phones returned within this period, with replacement phones being provided in a minority of cases.</b> <b>Victims are not asked for information unless it is necessary and proportionate in pursuit of a reasonable line of inquiry</b></p>	<ul style="list-style-type: none"> <li>• Direct £5m to a national fund to accelerate growth in the capacity of police forces to acquire and manage evidence from digital devices so victims get their phones back quicker</li> <li>• Implemented the revised Attorney General's Disclosure Guidelines and the Criminal Procedure and Investigations Act Code of Practice, including additional guidance on data protection and privacy</li> <li>• Guidelines monitored by the Joint Operational Improvement Board</li> <li>• Introduced a power in the Police, Crime, Sentencing and Courts Bill that provides a legislative basis for extracting information from digital devices with specific privacy safeguards to ensure phones are only requested when necessary and proportionate</li> </ul>	<ul style="list-style-type: none"> <li>• Work with the mobile phone industry to support efforts to provide 'swap out' phones for victims with support from the Home Office</li> <li>• Identify technology gaps and work with industry to develop solutions to speed up and improve investigations whilst reducing unnecessary intrusion</li> <li>• Work with the National Police Chiefs' Council (NPCC) to standardise the questions asked of suspects about disclosure to ensure they are consistent</li> <li>• Host a tech summit to deliver technological improvements in the way rape cases are progressed through utilising expertise from industry</li> <li>• Publish revised College of Policing guidance on the extraction of digital data and making further updates to Digital Processing Notices</li> <li>• Double the number of officers receiving digital capability training from the College of Policing, ensuring that police have the necessary skills, knowledge and confidence to undertake effective and high quality digital investigations</li> </ul>	<ul style="list-style-type: none"> <li>• Develop ways to improve the timely access of third-party material as well as the proportionality of requests</li> <li>• Consistent collection of data on timescales and progression of cases – which will be used to hold each element of the criminal justice process to account</li> <li>• Introduce a statutory code of practice that will give specific guidance to authorised persons when extracting the information of vulnerable victims, including the right of victims to refuse such extractions</li> </ul>	



In the courts our ambition is that the inevitably difficult experience for victims of going to court is managed with care and consideration of their needs, without compromising the principle of a fair trial.

	<p><b>Actions already being delivered</b></p>	<p><b>Actions that we'll implement in the first 6 months</b></p>	<p><b>Actions that we'll implement in 6–12 months</b></p>	<p><b>Actions that we'll implement in 12–24 months</b></p>
<p><b>Victims receive clear, prompt communication and engagement throughout the process and special measures are available that meet their needs</b></p>	<ul style="list-style-type: none"> <li>Section 28 (s.28) of the Youth Justice and Criminal Evidence Act 1999, enabling pre-examination and re-examination has been rolled out to the Crown Courts for vulnerable witnesses and is being piloted further for intimidated victims and witnesses</li> </ul>	<ul style="list-style-type: none"> <li>Extend existing intimidated witnesses pilot of s.28 for intimidated victims and witnesses</li> <li>Test s.28 in the Youth Court</li> <li>Develop a best practice framework for the progression of rape and sexual offences cases at the courts stage, including in relation to special measures</li> <li>Run the Crown Court at its maximum capacity to speed up cases reaching court</li> </ul>	<ul style="list-style-type: none"> <li>Trial best practice framework in three regions</li> </ul>	<ul style="list-style-type: none"> <li>Roll-out best practice framework on larger scale</li> <li>Subject to evaluation, roll out s.28 to all Crown Courts for intimidated victims and witnesses</li> </ul>
<p><b>Only evidence about the victim that is pertinent to the case is deployed at court and a victim's credibility is not undermined by pre-conceptions or rape myths</b></p>	<ul style="list-style-type: none"> <li>Invited the judiciary to consider Review findings when updating the Crown Court Compendium</li> </ul>	<ul style="list-style-type: none"> <li>Law Commission to review the way rape myths are tackled as part of the court process and the way in which evidence about the victim is used</li> </ul>	<ul style="list-style-type: none"> <li>Introduce measures to address societal attitudes and drive long-term behavioural change in respect of violence against women and girls via the Violence against Women and Girl's Strategy</li> </ul>	<ul style="list-style-type: none"> <li>Implement the findings from Law Commission work</li> <li>Review and encourage the use of pre-trial witness interviews, which aid CPS decision-making and deal with inconsistencies earlier on in the process</li> </ul>

## Background and aims of the Review Roles and responsibilities within the criminal justice system in dealing with rape sexual offences cases



**NB: A victim can withdraw from the process at any time, but withdrawal predominately takes place at the pre-charge phase. All partners have a responsibility to the victim throughout this process under the Victims' Code.**

## The role of operational partners in progressing cases through the system

28. The criminal justice system is a collection of independent services, agencies and the judiciary, each of which has different roles and responsibilities, and different leadership structures. The separation of powers between each part in the system is designed to ensure fairness, but we should not underestimate the operational challenges inherent in driving the step change in approach we envisage. It involves asking thousands of individual police officers, prosecutors and court staff to change the way they work with each other, and with victims. Each part of the system has a distinct role to play.

**Police:** It is the primary responsibility of the police to investigate allegations of rape and to provide the required evidence to the CPS who will make decisions whether to charge. The work of the police is overseen by the Home Office, though the police are operationally independent. Chief Constables are accountable for the exercise of police powers, and to Police and Crime Commissioners for the delivery of efficient and effective policing, management of resources and expenditure by the police force.

**Crown Prosecution Service (CPS):** The CPS decides which cases should be prosecuted using the Full Code Test and then charges them. It determines the appropriate charges in more serious or complex cases; advises the police during the early stages of investigations; and prepares cases and instructs counsel to present them at court. The CPS prosecutes criminal cases in England and Wales on behalf of the state against a defendant. The Attorney General oversees the performance of the CPS, but the CPS is operationally independent.

**Her Majesty's Courts and Tribunals Service (HMCTS):** The role of HMCTS is to run an efficient and effective courts and tribunals system, which enables the rule of law to be upheld and provides access to justice for all. They are also responsible for ensuring the provision of the relevant facilities to enable special measures for victims to be given, for example screens so the defendant cannot see the victim.

**The judiciary:** The independent judiciary is responsible for ensuring a fair trial, which includes listing cases (i.e. deciding in what order they should appear at court and the timings of different stages of a court case); the running of a trial (including deciding what evidence is admissible or not) and directing the jury in their decision-making. It is for the jury to decide on the guilt of a defendant. If the jury decides that the defendant is guilty, it is then the task of the judge to pass sentence. In doing so the judge will have to take into account the sentencing guidelines. While the MoJ has no role in overseeing the Judiciary, it is jointly responsible for the HM Courts and Tribunals Service and ensuring the courts operate effectively.

## Approach

29. To understand the causes of the decline in police referrals and cases charged and the high rate of victim attrition, we carried out a suite of qualitative and survey research to explore the experiences and perceptions of the police, CPS, support services, barristers, judges and defence participants. We did this to understand any changes that have occurred in relation to investigating, charging and prosecuting rape and sexual offences cases, examine challenges in investigating these offences and identify areas requiring improvement. The findings of the primary research we have carried out have been assessed alongside the further evidence gathered from agencies across the system.
30. To understand the victim's experience, we have also drawn on several important pieces of victim research to shape the actions within our plan. Under our system of justice, the victim is not a 'party' to the case in the same way as the defendant or the state (as prosecutor). However, they are at the core of the process. It is victims' lives that have been impacted forever by the crime; it is them that the state has a responsibility towards to take the necessary steps to give them justice. Their evidence is crucial to the successful prosecution of a case, and to protecting the public from future offending. It is vital that we understand the impact that the offence, and the criminal justice process, has on the victim and that our action plan is designed around their needs, as well as respecting the ultimate principle of a fair trial.
31. The Victims' Commissioner recently carried out important work with almost 500 rape victims to better understand their experiences of the criminal justice process and identified several areas for improvement.<sup>26</sup> The responses to the recent VAWG Call for Evidence have also begun to provide us with further insights into the experiences of victims of sexual offences, and where issues in the criminal justice process arise. Alongside these, we have looked at the findings in the commissioned literature review of relevant academic research and published research with victims, and the 2019 HM Crown Prosecution Service Inspectorate (HMCPPI) report.<sup>27</sup>
32. In addition to the evidence we have drawn on as part of this Review, we have been engaging with leaders from across the criminal justice system. We set up a Sexual Offences Sub-Group to the Criminal Justice Board to inform this work and seek the views of those invited to participate to feed into the evidence gathering and action development process. A Stakeholder Reference Group was also established with representation from victims' organisations and others from across the sexual violence support sector to advise the Rape Review.
33. The Government has also appointed Emily Hunt as an expert advisor to the Review, Emily has lived experience and has worked tirelessly to ensure that a victim's voice is at the heart of the Government's policy.

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<sup>26</sup> Victims' Commissioner's Office, 2020

<sup>27</sup> HM Crown Prosecution Service Inspectorate (HMCPPI), 2019, Rape Inspection 2019, London

34. We have also been working closely with operational partners who will play a pivotal role in the implementation of our action plan. The action plan builds on the significant work already initiated by operational partners.<sup>28</sup> We are grateful to all those who participated for their valuable contributions and dedication to improving the system's response to rape.

### **The wider context**

35. Over the course of the Rape Review, the impact of the current Covid-19 pandemic has exacerbated some of the existing challenges. Far fewer cases of any kind are reaching court and the public health restrictions introduced to combat the pandemic have intensified the challenges in the criminal justice system's response to rape. There has been a significant increase in the number of cases outstanding in the Crown Court – now at almost 57,000 (49% above the pre-Covid 19 baseline).<sup>29</sup>
36. Although criminal justice agencies and the judiciary are prioritising serious cases, including rape, to provide certainty to victims and defendants, reducing the outstanding caseload will take a number of years. These issues are particularly pertinent in sexual offences cases, which, in part due to their complexity, already take a long time to reach trial. We are working to ensure that these cases will continue to be prioritised by all involved while dealing with the impact of the pandemic.
37. We recognise that significant action is required to address the issues that stand as barriers to justice in these cases. Our ambition is to lead the criminal justice system to make fundamental changes to the way rape cases are dealt with.

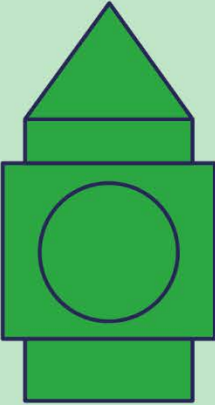
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<sup>28</sup> Including the CPS's RASSO 2025 strategy, the HMICFRS and HMCPSI joint thematic inspection, and the police and CPS joint national action plan.

<sup>29</sup> Ministry of Justice, Criminal Court statistics quarterly, October to December 2020 (tables). Outstanding cases in the Crown Court Q4 2020, compared to a baseline of Q4 2019.



# What Government will do



# The actions we are taking to achieve our outcomes

## I – The Government will deliver urgent and sustained change, and implement a framework that holds each part of the system accountable for its part in driving improvements

38. We recognise that overcoming the challenges in the system requires immediate and ongoing action, and the activity we have set out in this document represents just the beginning of this work. We need to demonstrate non-defensive accountability for the work we are doing, we need to be open with the public about what is working and what isn't, and we need to be clear on the necessary actions to deliver change.

**Our initial ambition is to return volumes of rape cases being referred by police, charged by CPS and going to court back to 2016 levels by the end of this Parliament. We will do this by:**

- **putting in place a framework that holds each part of the system accountable for its part in driving improvements via a Ministerial Taskforce; and**
- **publishing six-monthly progress reports and scorecards to provide transparency and accountability.**

## Findings

39. Our research has shown that many of the problems in the criminal justice system have been compounded by agencies and organisations working in silos and not communicating with one another effectively. We recognise that well-meaning policy alone will not be enough to make the step change we want to see. Strong leadership and accountable organisations, working together, are critical to ensuring that the changes we need are implemented and sustained. We want to learn from the experiences of the past and ensure that this action plan leads to lasting cultural change and sustained improvements across the system.



## Actions

### ***Putting in place a framework that holds each part of the system accountable for its part in driving improvements***

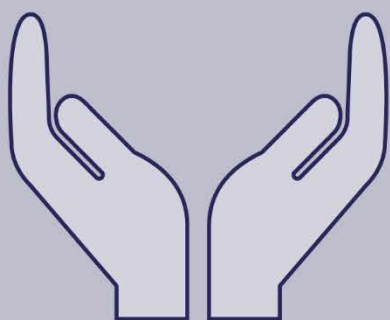
40. **The Government has agreed clear ambitions for rape cases with the police and CPS** which the actions in this plan will help to achieve, and against which it can be held to account:
  - An initial ambition to return volumes of rape cases being referred by police, charged and going to court back to 2016 levels; and
  - by the end of the Parliament to ensure no victim is without a phone for more than 24 hours.
41. To ensure clear accountability, **we will publish updates every six months detailing our progress against our ambitions, with performance scorecards monitoring progress against key metrics including timeliness, quality and victim engagement in each part of the system and implementation of the action plan.** We will engage victims' groups and those that deliver services directly to victims including ISVAs, on what the scorecards should report on, to ensure they enable us to really understand what is happening on the ground and tangible change occurs that is felt by victims. Monitoring performance will also allow us to drill down at a regional and local level to understand where things are working well and where there is room for improvement. While the independence of our operational partners must be maintained, we need to work together in this collective endeavour to deliver real change and we need to look critically at what data and evidence is telling us about the impact of our actions. This action represents a step-change in transparency across the criminal justice system and provides an unprecedented level of granularity in publicly available data regarding rape cases.
42. **Ministerial leadership** at the highest level will be critical to achieving the outcomes we want. The Minister for Crime and Policing has therefore been appointed as lead minister for implementation of the Rape Review. The Lord Chancellor, the Home Secretary, the Attorney General, and the Prime Minister also intend to be closely involved in improving the system.
43. **The Minister for Crime and Policing will drive forward actions through a monthly Criminal Justice Board Taskforce** that will ensure close collaboration between all key leaders from across the criminal justice system. The taskforce will be advised by a Ministerial chaired **expert group** including representatives from the criminal justice system and victims' groups, the Victims Commissioner and Domestic Abuse Commissioner who will be able to provide valued external scrutiny to, and support of, the implementation of our actions. Together, these fora will ensure the tide of change continues to build until we have a justice system that can confidently claim to provide effective support to victims and an investigatory model that effectively looks at the suspect's behaviour and their offending patterns, alongside the right for defendants to a fair trial.
44. Crucially, we will **use the upcoming Victims' Bill consultation** to explore how to ensure criminal justice agencies are delivering victims' rights, including those in the Victims' Code, and the consequences if they do not.

45. Our operational partners are equally committed to making meaningful change and the connection between senior operational leaders and Ministers, will be critical. While respecting the independence of all parts of the system, operational partners will be integral to the taskforce and the implementation of Government ambitions and have developed their own measures to focus on leadership throughout their organisations. This includes a suite of measures within the police and CPS joint national action plan.
46. Some of this work requires long-lasting cultural change, and we do not expect progress to be as rapid in all areas. Regardless, we will maintain our commitment to transparency. Our published progress updates and **scorecards**, showing performance of the system against key metrics, will ensure the public can hold us accountable for progress.
47. Should the actions in this plan, accompanied by stronger accountability, transparency and leadership, not be enough to improve the outcomes outlined in this Review, then further proposals including reform of the way in which the respective independent operational partners are held to account<sup>30</sup> for delivery of operational improvements will be considered.

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<sup>30</sup> Whilst respecting the independence of the decision making of operational partners

# What we will do for victims



## II – Improving support for victims throughout the criminal justice system

48. Without victims willing to come forward to report their rape, engage with, and stay engaged throughout, the process of investigating and prosecuting the crime, we will be unable to meet our goal of increasing rape prosecutions. Victims who report undertake a brave step – and they do so not just to seek justice for themselves, but also to help the rest of society.
49. Victims' needs must be at the heart of rape investigations in order for rapists to be caught, charged and convicted. By providing emotional, practical and even legal support to victims, we aim to underpin our wider transformational changes in the way the criminal justice system deals with rape by ensuring that victims can, and do, stay engaged with their cases.

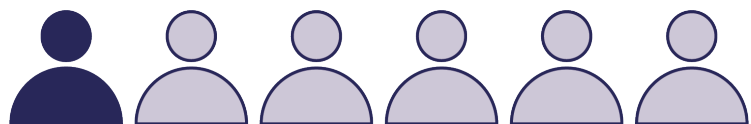
### Our ambition is that:

- **Every victim of rape and sexual assault will have access to quality support, appropriate to their needs, when they need it. This means ensuring that every victim has access to the right therapeutic and clinical support, and the right emotional and practical support, such as an ISVA, where appropriate.**
- **Victims' access to support does not depend on where in the country they are.**
- **Victims of rape and sexual assault should be able to easily understand and access information about their rights. Criminal justice agencies must ensure that victims are provided with these rights and be held to account when they do not.**

50. We have already started work to implement this vision. There are other reforms that we will implement in the coming months. But to truly transform the provision of support and rights for victims, we need to enshrine much of this in law. We will use the upcoming Victims' Bill as a vehicle for fundamental change.

### Findings

51. It is estimated that fewer than one in six of those who are victims of rape and sexual assault will report these crimes to the police.<sup>31</sup> There are many complex reasons for this; confidence that they will be supported, and in the criminal justice system itself, are critical influencing factors. Reporting of rape and sexual assault has risen since 2015, whilst it is estimated that the prevalence of these crimes has remained stable. Record numbers of victims are seeking support from the



<sup>31</sup> ONS, March 2021, Nature of sexual assault by rape or penetration, England and Wales: year ending March 2020. Rape and sexual offences are commonly under reported by victims, with many victims choosing not to disclose the offence to the Crime Survey England and Wales (CSEW), police or other individuals or organisations.

voluntary and charity sector.<sup>32</sup> However, against this backdrop, a much greater proportion of victims who report rape and sexual assault now choose to disengage from the criminal justice process than in 2015, with the most significant proportion doing so before a charging decision is made.<sup>33</sup> This is unacceptable. We must urgently reverse this trend and ensure that those victims who engage in the criminal justice process feel supported to do so.

52. Evidence shows that access to early and continuing support is an essential factor in enabling rape victims to engage, and to remain engaged with, the criminal justice system. Of those respondents that reported to the police, the Victims' Commissioner's Office's survey found that 20% of respondents who received no support withdrew, compared to 9% who received support from an Independent Sexual Violence Advisor (ISVA). Other research has shown that a victim with specialist support like an ISVA is 49% more likely to remain engaged.<sup>34</sup> This aligns with the primary research conducted with support services as part of the Rape Review research report, as well as aims to retain consistency of engagement between the police and the victim.<sup>35</sup>
53. However, we have heard that the provision of support is inconsistent across the country, often isn't tailored to meet a victim's needs, and there isn't enough of it. It is provided by a mix of local and national commissioners, leading to a complex local and regional picture where third sector and NHS services do not always join-up properly. Moreover, rape impacts women from minority backgrounds, those with disabilities and vulnerable people to a greater extent than other groups, and existing support often doesn't take this into account. Victims can be left feeling unsupported and vulnerable.
54. Evidence also shows that the provision of key rights by criminal justice agencies is key to effective engagement. There is a Victims' Code of Practice<sup>36</sup> that sets out the rights of all victims of crime in England and Wales and obligations on criminal justice agencies to provide them. However, its impact is currently limited as most victims do not know about it,<sup>37</sup> and the extent to which criminal justice agencies comply with it is limited.

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<sup>32</sup> Rape Crisis, 2020, [Rape Crisis Statistics](#)

<sup>33</sup> Home Office, 2020, Police recorded crime and outcomes open data tables, Accessed 29.04.21

<sup>34</sup> Lilley Walker, S., Hester, M., McPhee, D. and Patsos, D., 2019, [Rape, inequality and the criminal justice response in England: The importance of age and gender](#). Criminology & Criminal Justice

<sup>35</sup> Ministry of Justice and Home Office, 2021

<sup>36</sup> Ministry of Justice, 2020, The Code of Practice for Victims of Crime in England and Wales (Victims' Code)

<sup>37</sup> For example, the Crime Survey for England and Wales found that 9 out of 10 victims did not recall receiving any information, advice or support following the incident, Victims' Commissioner, 2020, [Victims' Statistics 2020](#)

## Actions

***Ensure victims have access to the right therapeutic and clinical support, and the right emotional and practical support, such as an ISVA, where appropriate.***

55. We have already started to transform the support provided to victims of rape and sexual assault. **We have invested record amounts in support for rape victims over the last 18 months** through increases to our National Rape Support Fund and ringfenced funding to Police and Crime Commissioners, spending over £70 million on rape and domestic abuse services in 2020/21. We have boosted funding for rape and domestic abuse services for 2021/22 by £176 million, which includes the introduction of a new £27 million national fund to expand the recruitment of ISVAs and IDVAs and a new statutory duty on Local Authorities to ensure victims are able to access support in safe accommodation.
56. **We will consult on the provision of community-based support for victims of sexual violence in the forthcoming Victims' Bill consultation** to truly transform the support landscape. Provisions setting out clear accountability for commissioning and the provision of support should improve the quality of and access to support, and result in better outcomes for victims. Many rape and sexual assault victims need clinical treatment in addition to emotional and practical support (several research studies have shown that sexual assault victims are likely to suffer from Post-Traumatic Stress disorder). We will work closely with the Department for Health and Social Care, NHS England and NHS Improvement to ensure that reforms to establish statutory Integrated Care Systems in health and social care in England are aligned with measures in the Victims' Bill consultation to ensure the provision of support services for rape victims is approached in a transformative, holistic way that puts victims' needs first.
57. Our forthcoming **Victims Funding Strategy** will underpin this work, setting out commissioning principles and sustainable funding models.
58. We will also consult on a statutory underpinning for the ISVA role as part of the forthcoming Victims' Bill consultation. This will be accompanied by a **national framework of standards, professionalisation and training**. The important role ISVAs play in the criminal justice process was highlighted by The Stern Review in 2010. The evidence collected by and submitted to the Rape Review has further affirmed the vital role ISVAs play in supporting victims to remain engaged in the criminal justice system. We have heard consistently from ISVAs that their role is not always fully understood by wider services and the courts, and this can compromise the support they are able to offer to victims. Our work will undertake to address this.
59. Many police and support service participants in our research discussed how they believed a key reason that victims withdraw was the increasingly intrusive nature of investigations. We will act quickly to improve support to **ensure victims can better understand and, where necessary, challenge the proportionality of information requests from police and prosecutors. Ahead of the Victims' Bill consultation we will undertake a short consultation on how best to do this.**
60. We intend to remove the limits in current guidance on ISVAs' specific case knowledge to allow ISVAs to better support victims, including at police interviews,

and to assist in reviewing and challenging information requests from police and prosecutors where they feel they are unreasonable or disproportionate.

61. **We will also explore how best to access legal expertise and advice on access to data and third-party material, disclosure and privacy rights.** The Sexual Violence Complainants Advocates Scheme piloted in Northumbria from September 2018 to December 2019 provided free legal advice to victims on requests for personal and/or third-party materials. We want to take key learning from this pilot when designing a model of enhanced support and access to legal advice which may be tested further. In addition, Thames Valley Police will also be testing a new entitlement for rape victims to challenge the scope of information requests at the police investigation stage.
62. These reforms will come together to inform **the re-commissioning of the national Rape Support Fund in 2022**, offering a significant opportunity to redesign how support is delivered and funded to make sure it meets the needs of all victims in the most effective way. We will be undertaking **targeted research with rape victims to better understand their experiences**, what they want from support services and how we can best meet the needs of those disproportionately impacted by rape.

***Victims' access to support does not depend on where in the country they are.***

63. We have **worked with Comic Relief to provide a £2 million fund for 2021/22 for smaller specialist organisations helping ethnic minority, LGBT or disabled victims**, who we know face specific struggles accessing support.
64. But we know more needs to be done to reform the support service landscape, to effectively meet current and rising demand, and to better support victims.
65. Victims of rape and sexual assault should be able to easily access a single source of support, online or over the phone, 24 hours a day, 7 days a week. **We will, in consultation with victims and those that support them, commission a support service that provides rape victims with easy access to immediate support, whenever and wherever they require it.**

***Victims of rape and sexual assault are easily able to understand and access information about their rights. Criminal justice agencies must ensure that victims are provided with these rights and be held to account when they do not***

66. A new **Victims' Code came into force on 1<sup>st</sup> April** and is the culmination of two years of extensive work, including wide stakeholder engagement with victims and victims' groups, to ensure that we have a clear and comprehensive framework for victims' rights. Criminal justice agencies have commenced work to embed the new Code in their training programmes and communications with victims. This framework should help to ensure that victims of rape and sexual assault receive their rights, for example to timely information about their case, and to make a Victim Personal Statement, the delivery of both are important mitigating factors against victims disengaging from the system.
67. We are also **publishing user-friendly guides for victims of rape and sexual assault** to enable victims to better understand what they can expect as their case progresses through the criminal justice system. They will be complemented by a

**“digital walkthrough” of the criminal justice system for victims of crime**, being developed by the CPS, which includes specific information for victims of rape.

68. To transform the way victims’ rights are perceived and delivered, and drive significant culture change, we need to take radical action. **We will use the upcoming Victims’ Bill to guarantee victims’ rights and ensure that victims receive them, and hold agencies to account for delivering them.**



# What the Police and CPS will do



### III – What the police and CPS will do to transform the way they investigate and prosecute cases

#### Our initial ambition is that:

- **A new approach to investigations is rolled out that recognises that patterns of behaviour are a significant feature of rape and sexual offences, and ensures that there is an early and robust assessment of suspect behaviour and offending patterns; helping ensure decision-making is based on evidence, rather than subjective judgements of victim credibility**
- **There is a change of practice and longer-term cultural change in the police and CPS that enables an increase in volumes of rape cases reaching court to return to pre-2016 levels, with a corresponding ambition for police referrals and cases charged by the CPS**
- **No victim is left without a phone for more than 24 hours, with an ambition that victims have their own phones returned within this period, with replacement phones being provided in a minority of cases, and victims are not asked for information unless it is necessary and proportionate in pursuit of a reasonable line of inquiry**

69. The Review has heard that too often victims feel that they are the ones being investigated and have not felt believed. EAW and the Centre for Women's Justice have shared with the Review 20 examples of women who have come to them having reported rape or serious sexual offences and felt deeply let down by criminal justice agencies. This evidence includes the stories of victims who experienced traumatic assaults, some involving violence or imprisonment. In every one of these case studies, the women went to the police seeking justice, but instead many were informed that their case would not be progressed. Often there was no reason initially given.
70. Whilst gathering evidence in cases of rape can often be difficult, these case studies (and the numerous further examples that have been relayed to us) paint a picture of victims being let down by the justice process and left distressed and devastated by the decisions made in their case. While most of the victims were not told their accounts were disbelieved, many were made to feel that their cases were not progressed because their own actions had 'undermined their credibility' (examples given included intoxication, being naked at the time of the incident, not protesting and not leaving the location immediately after the incident), or because of lack of recollection. In some examples, decisions relied heavily on evidence about the victim's mental health or school reports which suggested they had fabricated things in the past. Victims in these cases also felt that their cases were dropped even though evidence strongly supported their account. In some examples, victims were simply left without any justification at all for the outcome of their case. We are grateful to EAW and the Centre for Women's Justice for sharing these case studies with the Review, and particularly pay tribute to the victims who have been willing to share their incredibly difficult experiences with the wider public in order to inform and drive improvements. We recognise how traumatic, invasive, time consuming and terrifying

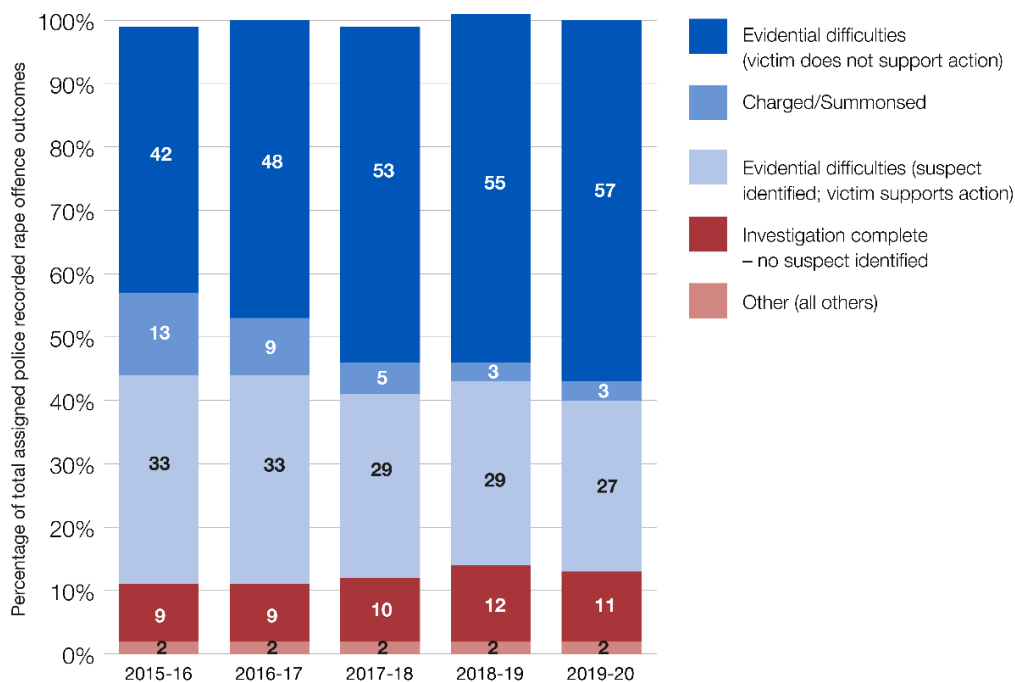
it can be to support a police investigation and potential prosecution, and it is crucial that cases are not dropped due to failures by the police and CPS to properly investigate and build cases.<sup>38</sup>

- 71. In addition, victim’s sense of vulnerability was compounded by the confusion many feel when asked to navigate a complex system not designed around their needs, and when they were asked to give away their phones, a support lifeline. Engendering change in how the police and CPS investigate and prosecute rape is fundamental to the efficient, compassionate and fair progression of rape cases. Performance to date has simply not been good enough and both agencies acknowledge improvements are needed.
- 72. There is already action underway by the police and CPS to improve their performance, including the establishment of a formal joint police-CPS governance structure which is overseeing the roll out of the **joint national action plan (JNAP)** with a Steering Group which includes senior officers and officials from the police and CPS. Work being taken forward includes activity to **improve communication with victims, work with Independent Sexual Violence Advisors (ISVAs) and a group looking at making improved use of special measures**. But we understand that more needs to be done.

## Findings

Since 2015/16 we have seen a sharp decline in the number of cases being charged and an increase in victims withdrawing from the process.

### Police outcomes for adult rape offence for outcomes assigned in 2015–16 to 2019–20



<sup>38</sup> Case studies collected by EVAW as part of their Judicial Review evidence and submitted to the End-to-End Rape Review’s evidence base

Source: Home Office, Police recorded crime and outcomes open data tables, 2020

### ***Why a culture change is needed***

73. A strong relationship between the police and CPS is critical to the efficient and fair progression of rape cases. The growth of digital evidence, reduced resources and an increase in workload have all put pressure on both agencies, creating greater strain in the workforce. Feedback from police and CPS participants in the Government Social Research report highlights increasingly strained relationships and difficulties in **communication** between the two organisations impacting negatively on case progression and final outcomes. We also know that the vast majority of victims disengage from the system at an early stage, long before any consideration of a charge. **The culture and ways of working in both organisations need to change so that victims are willing to stay engaged with the criminal justice system.**
74. As rape prosecutions have plummeted year on year since 2016/17, there has understandably been commentary and speculation in the press and amongst stakeholders about possible causes, and stakeholders have articulated their perception that police and CPS views about juries' beliefs in rape myths and stereotypes are colouring decisions about whether to proceed with cases. There has been a great deal of focus on the role that the CPS's charging policy may have played and whether perceived changes to it contributed to prosecutions for rape collapsing from 2016/17. Concerns were also raised about CPS roadshows for prosecutors and whether some of the nature and content of this training was evidence of change in approach or policy. These concerns led the End Violence Against Women (EVAW) coalition to bring a Judicial Review against the CPS.
75. Stakeholders were concerned that the CPS had unlawfully changed its policy in prosecuting rape. An initial Judicial Review was dismissed but the court agreed to hear the appeal and the crowdfunding of it attracted up to 4,000 individual donations, many of them making clear in the messages of support that they were victims of rape who felt let down by the system, showing the strength of feeling and concern.
76. The court heard evidence that previously there were issues with the quality of cases going to trial, as noted by the Court of Appeal: "In 2016 there was a problem with decision-making in RASSO cases. A significant proportion of cases were being prosecuted that did not satisfy the full Code test."<sup>39</sup> At the heart of the appeal was EVAW's argument that removal of the merits-based guidance was unlawful and caused a drop in prosecution rates.
77. However, the Judicial Review found in favour of the CPS and concluded that the CPS did not adopt guidance which was wrong in law nor was there a change in substance to the previous policy.
78. The judgment noted EVAW's "deep concerns about the low and declining rate of prosecutions for rape and serious sexual offences when compared with the number of alleged offences reported to the police. There is a widespread and legitimate interest in the underlying question which has animated these proceedings, shared

<sup>39</sup> R (on the application of End Violence Against Women Coalition) v. the Director of Public Prosecutions, 2021

by successive Directors of Public Prosecutions, the wider legal community, the judiciary and many more”.<sup>40</sup>

79. Our Review has found no one specific cause for the overall drop in prosecutions. In surveys and focus groups for the Rape Review carried out ahead of the judgment in the Judicial Review, some stakeholders (including representatives from the police and a small number of prosecutors) expressed an opinion that changes to guidance indicated a change in approach and that this may have contributed to a reduction in the volume and proportion of cases charged. It is clear from the Rape Review responses that these perceptions damage confidence in the system, as does the decrease in the number of cases being referred by the police to the CPS.<sup>41</sup>
80. Research participants identified a number of potential drivers of decreased referrals and charges. **Reduced co-location** between police and CPS in recent years has affected relationships between agencies. Other factors were reported such as reduced resources, a **national shortage of detectives**, greater staff turnover, higher workloads as the number of rapes reported to police increased, and increased use of less experienced staff both in the CPS and police. As well as reducing the likelihood of cases progressing, this all has a knock-on effect on victims’ experience of the process and their overall confidence in the system. **The CPS and police recognise the significant work ahead to restore confidence.**

#### ***Problems achieving the best evidence and having the right digital capability***

81. The invasive nature of the process around disclosure has long been raised as an issue by victims; the Information Commissioner’s Office *Report on mobile phone data extraction* in 2020 made several key recommendations for improvements in this area. The report notes that “Whilst accepting that the data processed must be adequate for the identified reasonable lines of inquiry, the Commissioner has significant concerns about the processing of potentially excessive data.”<sup>42</sup> The HMCSI report in 2019 noted that “some prosecutors were still asking for a full download of a complainant’s or suspect’s phone”. It is clear that the police and CPS have not always done enough to ensure proportionality of the data they have taken from both victims and suspects and this needs to change.
82. Our evidence shows that the possibility that they may be required to **hand over personal and sensitive data causes deep concern** for many victims and is one of the principal reasons why they withdraw from the process. In recent years there has been a proliferation in the volume of digital material, which has made the impact on victims even more acute, and the process more challenging for the system. Participants in our research have reported an increase in requests for digital and third-party material, making an already distressing process feel even more **intrusive**. In addition, victims are often without their mobile phones for long periods, so forgoing an important support mechanism at a time of great vulnerability and distress.

<sup>40</sup> R (on the application of End Violence Against Women Coalition) v. the Director of Public Prosecutions, 2021

<sup>41</sup> The last HMCSI report also found that the Code was applied correctly in 98% of the 250 cases it examined, it found that further work was needed to improve the way these cases are dealt with and in particular in relation to joint working with the Police. It recommended a further joint inspection, which is currently underway and that will also look at decision making.

<sup>42</sup> The Information Commissioner’s Office *Report on mobile phone data extraction* in 2020

83. Digital and third-party material may provide vital evidence to support an investigation and prosecution and if it is evidence it will be provided to the defence as part of the disclosure process. However, requests for personal information **must be necessary and proportionate** and made only in accordance with reasonable lines of inquiry in the case. Our research has found there to be notable differences in the police and CPS's understanding of requirements and investigative thresholds that need to be met for this material to be deemed necessary in the context of the case. This has undoubtedly led to victims being asked to share more information than they need to.

## Actions

***A new approach to investigations that recognises that patterns of behaviour are a significant feature of rape and sexual offences, and ensures that there is an early and robust assessment of suspect behaviour and offending patterns; helping ensure decision-making is based on evidence, rather than subjective judgements of victim credibility.***

84. In the next 24 months we will have a framework for a new operating model that can be rolled out nationally for how the police and CPS deal with rape cases. Pathfinder programme 'Operation Soteria' is being launched to drive systematic and sustainable transformation in how the police and CPS handle investigations into rape and sexual offences. This pathfinder work will change the focus to be much more on the active and effective investigation of perpetrators, understanding the patterns in behaviour that lead to repeat offending and disrupting the behaviour of criminals, improving not just each individual case but also potentially reducing the likelihood of reoffending. The emphasis of the investigation will therefore be less on the victim's credibility, providing greater balance to investigations, while at the same time ensuring all reasonable lines of inquiry are explored. The second key aspect will be much greater external scrutiny. Where possible, this will include the facility for external panels to scrutinise decisions to take 'no-further-action' in a case.
85. The projects will be jointly delivered by the CPS and police, informed by academic experts and their objectives are to:
- improve skills and officer confidence in handling these cases in the Police and CPS;
  - drive up the number of early interventions and offenders receiving a sanction;
  - enable greater scrutiny of decision-making;
  - inform standards and a framework to professionalise the role of officers and legal officials dealing with these cases nationally;
  - increase victim confidence in the police and CPS, in particular amongst groups with lower confidence (including ethnic minorities, disabled and LGBT victims); and
  - make best use of data and reflective practice to gain a better understanding of the offences and achieve best outcomes.
86. Over £200,000 has already been awarded to Avon and Somerset Police, who have begun to deliver this work as part of Project Bluestone (see case study). Over the next year, Operation Soteria pathfinder projects will build on the foundations of Bluestone to expand to four other force and CPS areas, with the intention to roll out a radical new operating model based on the pathfinder project learning in the next 24 months.

87. A **shared national file standard** between the police and CPS has already been agreed and implemented through the Directors Guidance 6<sup>th</sup> edition. This aims to improve case file quality, reduce cases labelled as ‘administratively finalised’<sup>43</sup> and **improve the Early Investigative Advice (EIA) process** to help the police and CPS build better cases from the outset. Together with the guidance, the new standard will ensure important forms connected to cases are filled out appropriately and to the highest standard.

***A cultural change in the police and CPS that enables an increase in volumes of rape cases reaching court to pre-2016 levels, with corresponding expectation for police referrals and cases charged.***

88. Capability and capacity in rape investigation and prosecution will be improved through **resourcing and training**. On top of the support that will be provided through the additional 20,000 officers being recruited into policing, the National Police Chiefs’ Council will be working with partners to review and enhance the training package for officers, encourage and monitor its uptake among forces and develop and implement joint training for police and CPS on areas such as decision-making, an approach which focuses first on the suspect, reasonable lines of inquiry and the impact of trauma on victims. The police and CPS will also build on the shared training so that by the end of this year training material and guidance enabling an understanding of the effect of trauma on victims and how this should be reflected in the criminal justice system’s response will be in place. This will build on existing work, including new training for prosecutors, launched by the CPS earlier this year, on the neurological impact of trauma.
89. The CPS, following its public consultation, has updated its **rape legal guidance** to include more content on **rape myths** and stereotypes, and prosecutors are being trained on this updated guidance to ensure they do not adversely affect decision-making. To provide clarity to prosecutors on the application of the Code test, the CPS has incorporated additional content, drawn from previous guidance on the merits-based approach into its recently revised RASSO Legal Guidance. This makes clear, for the avoidance of doubt, that the CPS does not apply a ‘bookmaker’s test’ or allow myths and stereotypes to influence decision-making or evaluation of evidence. In updating the legal guidance, the CPS is promoting consistency in evidence gathering. This will improve understanding of how to approach evidential challenges and ensure police and prosecutors are equipped to make competent and confident decisions which tackle preconceptions, biases and myths about rape. In addition, as part of the joint national action plan, the CPS has already committed to developing training programmes for prosecutors to ensure that while all reasonable lines of inquiry are explored, the suspect – and not the victim or victim’s credibility – is at the heart of any rape case.
90. **Increased effective joint (virtual) working** by police and CPS on rape cases will also take place. This will encourage a model of joint practice encompassing the

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<sup>43</sup> Administratively finalised decisions are not legal decisions and may not be the end of the case. CPS may ask the police to provide further information where there is insufficient evidence to make a charging decision, or the police are requesting early investigative advice. If the police do not respond within three months, following reminders, the case is closed. This is known as an ‘administrative finalisation’. If the police provide additional evidence, the case is reopened and, if possible, a charging decision is made (CPS, 2019)

officer in charge, the senior police decision maker and the CPS prosecutor working as a team in pursuit of a shared goal. Some forces and CPS areas have in place surgeries or clinics for advice and regular interaction, and the police and CPS will build on this by running and evaluating pilots in the South East, North East and London South of this joint practice. The CPS is clear that, where police officers seek early investigative advice, it should be provided by the CPS in a timely and accessible manner. By the end of 2021, their efficacy will be reviewed, and best practice guidance published. The CPS and the police will also work together to improve communication with victims, providing better supporting documents and improving training around victim contact.

91. Data on timescales and progression of cases will be used by the Criminal Justice Board Taskforce, chaired by the Minister for Crime and Policing, to hold each element of the criminal justice process to account. In order to make this as effective as possible, over the next 12 months we will make the **data collected by the police, CPS and courts more consistent** and focused on identifying where the system needs further improvement.
92. **Achieving Best Evidence** interviews are a key part of the investigatory process, this is where the victim or witness is asked to go through their account of the events in detail. These interviews often play a crucial part in the evidence used at trial and as such we will work with partners to publish update guidance to ensure consistency and quality in how these happen.

***No victim is left without a phone for more than 24 hours, with an ambition that victims have their own phones returned within this period, with replacement phones being provided in a minority of cases, and victims are not asked for information unless it is necessary and proportionate in pursuit of a reasonable line of inquiry.***

93. The investigation and prosecution of rape requires thoughtful handling to respect the victim's right to privacy while also ensuring evidence to guarantee a fair trial. The principle of necessary and proportionate processing must be placed at the centre of the investigative process and support given to victims to help them understand how information could be used in investigation and court proceedings. However, it is unacceptable that victims have to give their phone away for weeks, months and, in the most egregious case, years. As part of the consultation about how to enhance access to ISVAs for victims, we will consider their role in supporting victims to understand requests for information and ensure they can effectively challenge requests that are not necessary or proportionate.
94. We will ensure no victim is left without a phone for more than 24 hours. Our ambition is victims have their own phones returned within this period, with a replacement phone being provided in the minority of cases. We will direct **£5m to a national fund to accelerate growth in the capacity of police forces to acquire and manage evidence from digital devices**. We will require forces to match funding they receive with their own investment in digital forensics capability. We will also invest in testing and roll out new technology in the future that will further support the speed of processing as well as selective extraction methods needed to minimise the information taken from victim's phones. This new funding will increase the digital forensics equipment available to forces enabling up to 10,000 additional devices to



be processed at the earliest stages of an investigation and we will work with industry to improve access to replacement phones.

95. Technology on its own is insufficient so we will also work with forces to ensure they have the right skilled staff and processes needed to make the best use of the latest, proven technologies. We are increasing the number of officers receiving digital capability training from the College of Policing, and the Home Office has written to forces to set out clear expectations and will continue to monitor this.
96. However, we want to see a transformation of the way in which investigations are handled end-to-end. So, we will harness existing innovative approaches by forces, such as mobile forensic units, rapidly test new and emerging technologies through pilots this year, and provide the necessary central support so these can be used on a national basis. We will do this by working with partners from industry and across the CJS, including through a ministerial-led tech summit, to future-proof the digital forensics capabilities we are building today so that they better serve the public.
97. These actions will underpin **our commitment to reduce the time a victim is left without a phone to 24 hours by the end of this Parliament.**
98. If it is necessary to take a victim's phone, they should be provided with a replacement so that they are not cut off from their support network, and **the police, with the support of the Home Office, will work with the mobile phone industry to support efforts to 'swap out' phones.** We need to ensure that victims feel supported by the criminal justice system, while retaining the ability of investigators and prosecutors to fulfil their disclosure obligations. This is a delicate balance to achieve, but it is absolutely right that we prioritise it and ensure that rape survivors feel able to come forward.
99. The **revised Attorney General's Guidelines on Disclosure**, which came into effect in December 2020, incorporate the principles of the Information Commissioner's Office (ICO) report and the Court of Appeal's 'Four Principles' for reviewing digital communications set out in *R v Carl Bater James*. These promote focused and proportionate assessments of disclosure throughout the criminal justice process. The Attorney General's Office has committed to undertaking an **annual review of the Guidelines on Disclosure** to ensure that they are having the desired effect and that they remain up-to-date and reflective of the modern age. Of course, it is essential that investigators and prosecutors not only have access to updated Guidelines but also take actions to improve the culture around disclosure.
100. Steps have already been taken to achieve this. For example, from September 2020, the police replaced their digital download consent form for victims and witnesses with a **new Digital Processing Notice** to promote consistency between police forces in how they obtain digital evidence. This is critical to ensuring that cases are treated consistently, no matter where they are being investigated. Digital capability and disclosure is also one of the key themes in the police and CPS joint national action plan for rape, focusing on training to assist investigators and prosecutors balance the needs of an investigation with the right to privacy.
101. A further step is the introduction of a power in the **Police, Crime, Sentencing and Courts Bill** to provide a clear legal basis for the extraction of information from digital

devices. This legislation introduces **privacy safeguards** which make it clear that victims must only be asked to provide their phones when it is necessary and proportionate to the investigation. It will be supported by a statutory Code of Practice giving practical guidance to help police (and others) work with vulnerable victims, such as victims of rape and sexual violence, when extracting information from their digital device. The code will reinforce the need for a Digital Processing Notice to ensure that victims are given information about why their device is needed, including the reasonable line of inquiry and that they understand how their information will be used before they are asked to provide agreement. This will ensure victims are fully informed of their rights, including the right to refuse. We will work with the police to ensure that officers understand and follow the same code of practice to bring much needed clarity and consistency, and ensure that devices are only requested when following a reasonable line of inquiry and not as a matter of course.

### **Case study – innovative investigation techniques and focussed support to the victim is already yielding results**

Pioneering work is being carried out in Avon and Somerset Police, entitled Project Bluestone, to look at how improvements can be made to the investigation of rape and serious sexual offences cases. Police professionals and academics are working together to address falling conviction rates for rape and sexual assaults by testing new approaches to existing practices. Alongside the improved scrutiny and diversity of thinking, this work has a strong focus on the experiences of victims, looking at ways of improving the disclosure process, including through the role of technology.

Avon and Somerset Police Deputy Chief Constable Sarah Crew says: “Previous studies have focused on the need for improvements but have often been transactional solutions which do not address the broader issues we face. The study will allow us to produce some specific, practical and evidence-based tools and processes that can be adopted by any police force and that will have a measurable impact on the way we approach rape investigations. This is an opportunity for us to bring about real and sustainable change, putting the victim experience, and their wellbeing, at the heart of everything we do.”

#### ***Key successes from the project:***

- Creation of an up-to-date problem profile looking at the end to end process. This has helped inform a clear strategy for prevention, investigation and disruption for sexual assault offences.
- Development of tools to aid decision-making points for better investigative strategies.
- Establishment of a lived experience panel including survivors who have proactively engaged with the project, facilitated by an ISVA service to ensure victims’ experience is heard.
- Active engagement with the local ISVA service, with new protocols and ways of working established to support better investigations.
- Live time feedback to operational supervisors, which has started a culture change around the awareness of issues and the changes that are required.
- There is already an increase in the use of Early Advice from the CPS to the police. The last quarter (20/21) has trebled the number of Early Advice requests submitted in the first half of 20/21 year.
- The focus on sexual assault offences has sparked a closer working relationship with the CPS, through joint conferences and reviews of better practice.

### **Delivering a one prosecutorial team approach by earlier, closer working between the CPS and police, ensuring cases are built and progressed more robustly and efficiently**

The use of Early Investigative Advice encourages collaborative relationships between the police and CPS which helps to build stronger cases that can move through the system more efficiently. This should ensure that material – including victims’ personal information – is only sought and obtained where it is necessary, reasonable, and proportionate. These benefits can in turn result in more positive outcomes for victims.

The CPS is undertaking a range of work in various regions to identify and promote best practice in the approach to early investigative advice, as well as at a national level. This includes:

- Development of a Memorandum of Understanding between police and CPS to ensure that there is a consistent and proactive approach to seeking early advice, due to be launched alongside joint training for police and prosecutors on use of early advice.
- A pilot in the South East focused on timeliness of early investigative advice in rape cases, launched in November 2020. This includes a strict 42-day deadline from the date of complaint to provide early advice, as well as monthly pre-charge case progression clinics held with police forces.
- Work in the South West to promote the willingness of the CPS Area to provide early advice, inviting police to seek early investigative advice in all rape and serious sexual offence cases.
- Work in Wessex to emphasise an expectation that early advice will be provided in every rape and serious sexual offences cases, including a ‘Tri-Force Action Plan’ under which police forces have agreed to submit rape cases to the CPS for early advice within three months of the date of complaint.
- Early advice surgeries hosted in police stations in multiple CPS Areas, including London South.

#### ***Key improvements for rape and sexual offences cases***

Evaluation for all of these pieces of work is still underway; however, there have been early signs of success for all of them.

- In the South East, there has been a 47% increase in cases being referred by police
- In the South West, there has been a 211% improvement in early advice being sought
- In Wessex, there has been a 145% increase in cases being referred by police
- In London South, a 94% increase in cases being referred by police

These changes show a notable increase in the volume of cases moving through the system. While not all of them may reach the court stage, early advice makes progression more likely and can assist with the building of stronger cases that may have a higher likelihood of resulting in an early guilty plea. Work to examine best practice in early advice, as well as other areas, will continue following the publication of this report, and will form part of Operation Soteria as one of the key pathfinder projects.



What will happen  
at court



## IV – What will happen at court to ensure the inevitably difficult experience for victims of going to court is managed with care and consideration of their needs, without compromising the principle of a fair trial

102. The court experience can be a particularly distressing part of the process for victims, especially when they are giving evidence and undergoing cross-examination. This can be even more challenging if support is not available in the courtroom.

### **Our ambition is that:**

- **victims receive clear, prompt communication throughout the process and that special measures are available that meet their needs.**
- **only information about the victim that is pertinent to the case is deployed at court and a victim's credibility is not undermined by pre-conceptions or rape myths.**

## Findings

103. Our research and that of the Victims' Commissioner has shown that victims can find courts to be severely retraumatising. This can happen for many reasons: victims feeling bullied by intrusive cross-examination, trials being adjourned several times outside the victim's control, and coming face to face with perpetrators at court. The experience is even more challenging when the right support and facilities are not available in the courtroom.

104. Rape cases are taking longer to reach court, and take longer than other criminal cases: in December 2019, the median time between sending an adult rape case to the Crown Court and the main hearing taking place was 166 days, compared to 42 days for all crimes.<sup>44</sup> This makes the criminal justice process particularly stressful for victims of rape and increases disengagement. The pandemic is having a significant impact on the speed with which cases are heard in court.

105. The police, CPS, Her Majesty's Courts and Tribunals Service (HMCTS) and the judiciary are working hard to ensure cases can be seen in a timely manner and ensure witnesses continue to be supported in the courtroom, despite continued social distancing measures which limit the safe physical capacity available for jury trials. However, it is important that we further improve the support victims receive throughout this part of the process despite these restrictions and challenges.

106. A wide range of provisions and policies already exist to support victims of rape and sexual assault through the court experience. However, our research suggests that many of these policies in place to support victims at court are not being used effectively or consistently. This results in victims feeling traumatised by intrusive questioning and having to face perpetrators in court buildings.

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<sup>44</sup> Ministry of Justice, 2019, Criminal Court Statistics: Offence group timeliness of cases at the criminal courts tool

## Actions

107. As stated earlier in this report, while **we should do all that we can to ensure that early guilty pleas are incentivised** through the quality of the cases we bring, **we should still expect to see significantly more cases reaching court**. When these cases reach court, we need to **ensure that trials are timely**. This does not simply mean that they start on time, but that victims have not had to wait long for them. Defendants should have confidence that their right to a fair trial is upheld and at the same time we should do everything we can to minimise an already distressing experience for victims.
108. The judiciary already prioritises the listing of rape cases. However, there are real concerns at the overall time cases take. As part of the wider work on court recovery and to address this, **we allocated over £250 million to the courts last year** to increase physical and remote capacity so that hearings could continue – opening 60 new Nightingale courtrooms, making over 400 rooms Covid-secure, hiring more staff to support hearings, and enabling remote hearings where possible. We will continue to do everything possible to speed up cases being heard, including sitting at maximum capacity in the Crown Court in 2021–22 meaning that every judge and courtroom that can be used, is used. We are legislating through the Police, Crime, Sentencing and Courts Bill to improve the efficiency of courts, modernise processes and protect Crown Court time.

### ***Victims receive clear, prompt communication throughout the process and that special measures are available that meet their needs***

109. We are working to **develop a rape and sexual offences Best Practice Framework** looking at the support victims receive before their case goes to court and when they are at court. This project will take a multi-agency approach to understanding where best practice is occurring and seek to replicate it nationally. It will look at a range of issues, including:
- pre-court communication and coordination by partnership agencies with victims about applications to the court for special measures (decisions about the use of special measures are made by the judiciary).
  - the provision of facilities to enable the effective support of victims in court, including the availability of special measures as directed by the judge.
  - the use of remote links and the quality and provision of the remote link sites.
  - the communication with victims about the timescales for their case, the dates of hearings, and the expectations of what will happen in the courtroom.
  - the training of police, prosecutors and court staff in dealing with victims of rape.
110. We recognise the importance that **Section 28** of the Youth Justice and Criminal Evidence Act 1999 has for some witnesses and have already rolled this measure out to all Crown Courts to allow vulnerable victims to pre-record their cross-examination and re-examination video evidence which means they do not have to deal with the trauma of giving their evidence at trial. We are currently piloting the use of Section 28 for intimidated witnesses and victims in the Crown Courts in Liverpool, Leeds and Kingston upon Thames. With the agreement of the judiciary, we will expand the pilot for **Section 28** for intimidated witnesses and victims to three further Crown Courts. Subject to an evaluation of this pilot, we aim to commence the full roll-out Section 28 to all Crown Courts for intimidated witnesses and victims, and will also consider

whether any further legislative change is needed to support this roll out. We also plan to test the use of **Section 28** for vulnerable victims and witnesses in the Youth Court to look at how the process might work in a different setting for vulnerable victims and witnesses.

111. We will also be reviewing and encouraging the use of pre-trial witness interviews which aid CPS decision-making and can deal with inconsistencies earlier on in the process, encouraging greater use of this approach will aid more cases getting to court.

***Only evidence about the victim that is pertinent to the case is deployed at court and a victim's credibility is not undermined by pre-conceptions or rape myths.***

112. Part III of this report noted concerns raised about rape myths and the role they play in court. **Rape myths**, preconceptions and bias can occur in the way victims are portrayed in society, for example, people may wrongly believe that if a victim flirted or was drunk they contributed to the rape, or that if the defendant is not gay they could not possibly have raped another man. We are clear it is not acceptable for rape myths to affect decision-making in the criminal justice system. This is currently recognised in the Crown Court Compendium which enables judges to give appropriate directions to juries to counter the risk of stereotypes and assumptions about sexual behaviour. This is also recognised in the updated CPS rape legal guidance.

113. The effect of rape myths on juries is, however, disputed. A significant number of studies have found that juries are affected by rape myths, while a recent study has questioned whether rape myths are as prevalent as others found. We need to ensure that victim credibility is not undermined by misconceptions and rape myths.

114. **We have asked the Law Commission to examine law, guidance and practice relating to the use of evidence in prosecutions of serious sexual offences** and consider the need for reform in order to increase the understanding of consent and sexual harm and improve the treatment of victims, while ensuring that defendants receive a fair trial. The project is likely to consider issues such as the way rape myths are tackled as part of the court process, and the use of evidence such as the victim's sexual history and medical records.

115. **Communications** has a role to play in changing harmful societal attitudes that lead to rape myths and stereotypes. We will work cross-government to develop a campaign and create long-term behaviour change, addressing findings in this Review and the forthcoming Violence Against Women and Girls strategy.



## Next steps and wider work

116. The Government expects that, as a direct result of the steps in this action plan and wider work across the criminal justice system, there will be a return to the 2016 level of cases referred by police, charged and then subsequently reaching court. However, this will not be the end of the process. We want further increases in the number of cases prosecuted as victims increasingly feel confident to report their rapes and stay with the criminal justice process. We will regularly monitor the system's performance against this objective and use six-monthly progress reports and scorecards to communicate progress and pinpoint any areas that need further improvement.
117. If the actions we have proposed do not yield sufficient change in the system in the timescales that we have set out, we are prepared to look further at more fundamental changes to the criminal justice system, this may include looking at additional measures to improve timeliness across the system, and strengthen accountability and governance.
118. This work also needs to be seen in the context of the Government's wider work to tackle violence against women and girls. We will be publishing a new cross-Government Violence Against Women and Girls Strategy this year, which will help transform the response to all forms of violence against women and girls. It will build on existing work we are taking forward, including measures we are introducing through the Police, Crime, Sentencing and Courts Bill to ensure that the most serious sexual offenders spend longer in prison, and further strengthen the management of sex offenders and those who pose a risk, including by improving Sexual Harm Prevention Orders and Sexual Risk Orders to prevent offending. The Strategy will be informed by the responses to a Violence Against Women and Girls Call for Evidence which we ran earlier this year and to which we received over 180,000 responses from the public, violence against women and girls' sector, academics and frontline professionals. While the focus of this report has been on the criminal justice system, the Strategy will look beyond this and include a strong focus on prevention.
119. We have also recently published the Tackling Child Sexual Abuse Strategy, which sets out the Government's vision for preventing, tackling and responding to all forms of child sexual abuse both in this country and overseas. In response to growing concerns about sexual harassment and abuse in schools, the Government has also commissioned Ofsted to conduct a review in this area. Whilst Higher Education is outside the scope of the Ofsted review, we are working closely with the sector and its regulator, the Office for Students, on these issues.

120. In advance of the measures outlined in the Review's action plan, the Home Secretary will write to all Chief Constables emphasising the need to improve performance urgently. The Home Secretary will urge Chief Constables of all police forces to ensure that there is senior and visible leadership within forces to drive improvements in handling RASSO cases; that officers are made aware of best practice when it comes to gathering digital evidence, and that forces create and take opportunities to learn from existing good practice, such as early suspect checks in RASSO investigations.

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## Annex A – Contributors to the review

In addition to the Literature Review commissioned as part of this programme of work, the references consulted as part of the Government Social Research report and the references listed in the bibliography above, the following organisations made additional contributions to the review either through correspondence, meetings or further evidence submitted on behalf of the organisations they represent:

### Members of the Criminal Justice Board Sexual Offences Sub-Group

The Attorney General's Office

The Prime Minister's Implementation Unit

HM Courts and Tribunals Service

National Police Chief's Council

Crown Prosecution Service

College of Policing

Association of Police and Crime Commissioners

The Victims' Commissioner

The Domestic Abuse Commissioner

Judicial Office

The Bar Council

The Law Society

Professor Laura Hoyano (as both a barrister representing the Criminal Bar Association and as a Professor of Law)

HM Inspectorate of Constabulary and Fire & Rescue

HM Crown Prosecution Service Inspectorate

Professor Vanessa Munro

### Members of the Stakeholder Reference Group

Victims' Commissioner

Domestic Abuse Commissioner

London Victims' Commissioner

Refuge

End Violence Against Women Coalition

Rape Crisis England and Wales

The Survivors Trust  
Trust House Reading  
Lime Culture  
South Essex Rape and Incest Crisis Centre  
NIA  
Survivors Manchester  
Women's Aid  
Welsh Women's Aid  
Galop  
Imkaan  
Victim Support  
Amethyst SARC  
SV2  
Citizens Advice Witness Service











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