



**Home Office**

Sara Payne MBE  
**Victims' Champion**

Rape:  
The Victim Experience Review

November 2009

## Foreword

In the summer of 2009 the Home Secretary invited me to undertake a short piece of work on rape as part of the consultation exercise on Violence Against Women and Girls (VAWG). As the national Victims' Champion I had just finished speaking to hundreds of victims, witnesses, and staff from various criminal justice agencies, and had learnt first hand how victims felt the system treated them, and what they thought should change.

I was asked to make recommendations on how the criminal justice system's response to rape victims could be improved; to undertake a 'Victim Experience Review'. These recommendations would inform the VAWG Strategy. So why was I asked to focus on rape? It is well known that in England and Wales we have low conviction rates for rape, declining reporting rates and that many victims fall out of the criminal justice system between reporting a rape to the police, and the case progressing to court. Over the summer, a number of cases hit the headlines illustrating that on some occasions the issue is not that a victim has been too afraid to contact the police, or that she has decided to move on with her life without the trauma of going through the criminal justice system (which are reasons commonly touted for low reporting, or high withdrawal rates), but that those complaints were not treated seriously by the criminal justice agencies. The Home Secretary wanted to ensure that the VAWG Strategy should start to address some of these issues.

I had met a number of victims of rape and sexual violence in the course of my work as the Victims' Champion. I am well aware of the devastation that such crimes cause - the long lasting effects they can have on both the victims and their families. While the criminal justice route would not be an effective solution for all those victims, and given the nature of the crime, there would always be difficulties in bringing such complaints to court, it was clearly important to ensure that the response of those criminal justice agencies was as effective as possible.

I am delighted that the Stern Review is going to give this subject the more comprehensive treatment it deserves. I have met with Baroness Stern to discuss what was emerging from my work with victims and to highlight those issues that were beyond the scope or timelines of my Review but that would usefully inform and shape her work. I hope that some of the issues I have set out as challenges will be addressed in the recommendations made as a result of her work, or benefit from the additional information that she will uncover. I know that Baroness Stern is as dedicated as I am to using these opportunities to make as big an in-road as possible on the issues still causing such difficulties to the victims of rape. In addition, in the autumn of 2010, Her Majesty's Inspectorate of Constabulary (HMIC) and Her Majesty's Crown Prosecution Service Inspectorate (HMCPIS) will undertake a thematic review of rape in selected police and Crown Prosecution Service (CPS) areas to examine how far policy is translated into practice on the ground. The attention

on this issue, and the commitment to make progress, is unprecedented and I am proud to be part of it.

I would like to thank all of the individuals involved in making this review a reality, including the officials and Ministers at the Home Office who supported me in undertaking this work. I am grateful to the range of stakeholders, both within government and from the academic and voluntary sectors who acted as our expert group, sharing their experiences of working in the field and suggestions of how we could improve the services provided. I would like to thank the frontline police officers for giving up their time to meet and share their knowledge and expertise with me, and their forces for understanding the importance of sending them, and the CPS policy officials who did likewise. I am also hugely grateful to the Women's National Commission (WNC) for arranging and assisting me in the focus groups, and bringing their own considerable expertise to bear, and those organisations that hosted the focus groups and provided support to the women who attended, in addition to the other invaluable services they offer on a daily basis. Most especially, I would like to thank the women who gave up their time to talk to me about their experiences: without them this review would not exist. I hope that I have done them justice in reflecting their views and experiences back to government, and that this report provides a platform from which to increase work to ensure that their experiences are not repeated.

Finally, it is unusual for recommendations to be published alongside a response to those recommendations, but as this work was commissioned to inform the development of the VAWG strategy, I am pleased that my recommendations have led to commitments to tackle these important issues. The focus must remain on these issues if real progress is to be made.

A handwritten signature in blue ink that reads "Sara Payne". The signature is written in a cursive, flowing style.

Sara Payne MBE  
November 2009

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## Introduction

This review was my opportunity to dig into what was really happening in the criminal justice system as it tried to respond to complaints of rape; to understand the impact of that response on the victim; and to make recommendations for improvement. Specifically I was asked to consider:

- What factors influence a rape victim to report to the police and what could be done to improve victims' confidence in reporting;
- What factors influence a rape victim to withdraw from the criminal justice system post report and what could be done to reduce the likelihood of victim withdrawal; and
- What could be done to improve the overall satisfaction of victims with the service they receive from the criminal justice system, whether or not a conviction is achieved.

I was keen to hear from victims themselves about what they wanted to help them move on with their lives; why they reported or why they choose not to report. There seemed to be a number of important questions to ask: Was a conviction important for them? What felt like the right response - what had worked well in their cases? What had made them feel safe and supported? Conversely, what had been said or done or implied that had undermined their confidence in the system, specifically the police and the CPS. Only in understanding their perspective could I begin to consider what an effective response might look like and therefore, what changes might be needed.

As a result, with the short timescales in mind, my team and I decided to focus on the experiences of adult women rape victims. I was conscious throughout the review of the difficulties this necessary decision caused - the danger that the need for the criminal justice system to respond to victims with any particular vulnerabilities was seen as an 'add on'. I was challenged on this point on a number of occasions, and accept that this is a necessary risk in such a short piece of work. However, as I have made clear in my wider Victims' Champion report, it is my strong view that the criminal justice system, and indeed other agencies, should be geared up to provide an individual response to all victims, regardless of crime types or particular circumstances. The needs of victims of rape will not fit in one box. Each victim, whether they are a child, man or woman will be different and agencies must recognise and respond to that. I accept the points that were raised with me throughout the review, and hope it is clear that I believe each victim is an individual.

There are two other important points I want to address. Firstly, there was some concern that by asking victims why they report, or why they sometimes choose to withdraw from the process after reporting, that perhaps this review was trying to lay the blame for low reporting or low conviction rates with the victim. That is not, and never was the case. The aim of my review was to understand from the victim's point of view - that is the person who has experienced a hugely invasive attack and rightly has a number of

expectations of the system - how the system was measuring up, and how it was letting them down. This was an opportunity to understand what could be improved at the point at which all the various agencies interacted with the victim, rather than trying, from an organisational standpoint, to understand what a victim might want and then consider how it could be delivered.

Finally it is important to be clear that all of the information, issues and concerns that were captured in the process of this Review do not stop with this report. On 22 September, the Government announced the Stern Review: a longer and more thorough look at how rape complaints are handled from when a rape is first reported until the court reaches a verdict. This will consider issues wider than victim treatment and expectations, and will look at how public authorities, including the police, local authorities, health providers, social services and the CPS not only respond individually to rape complaints, but how they interact with each other.

## Review process

In undertaking the Review in such a limited timeframe, it was essential that we did not replicate the good work that had already been done in understanding the issues and problems around the investigation and prosecution of rape. I was keen to draw on the existing academic research and build on the responses already received as part of the VAWG consultation that concluded in May of this year. I wanted to ensure that the Review would add value and further explore some less well understood issues rather than repeating what had gone before. I therefore commissioned a literature review to inform the first meeting of the expert group of stakeholders. This meeting would identify key issues to explore with victims in the three focus groups, and the outcomes of these groups would be tested with the police and CPS. I would then meet again with the expert stakeholder group to consider the key findings and possible recommendations before compiling this report for submission to the Home Secretary in time to inform the VAWG Strategy.

### Literature review and expert stakeholder group

The short literature review was undertaken by the Research and Analysis Unit at the Home Office. They conducted a high level review of a limited number of relevant research reports to identify key findings and set out what the existing research tells us about the victim experience of the criminal justice system. A summary of those findings will be published shortly. It covered a range of issues, such as:

- The extent of rape in England and Wales;
- Who is most likely to be a victim;
- Common perpetrators and the low incidence of stranger rapes;
- The role played by alcohol and drugs;
- Key factors influencing decisions to report or not to report;
- The key points at which cases 'fall out' of the system, with 74% of cases being lost between initial report and charging;
- Critical factors for the CPS in taking cases to court and in getting a conviction; and
- Key factors in victim withdrawal.

The expert group, made up of academics, specialist sexual violence and abuse voluntary sector organisations and representatives from across the criminal justice system, used this research as a basis to discuss what more we needed to know about how the system operates in response to rape victims, and what themes and issues I could usefully explore further in my focus groups with rape victims. Following the group, these issues were condensed into several key questions to put to the focus groups. These questions will also be published shortly.

### The victim focus groups

The Review included three focus groups with adult women. These were arranged and facilitated by the WNC who have compiled a report, which will be published shortly. These findings have informed the recommendations and challenges I have made in this report.

The focus groups were held in Coventry, London and Essex in late September and early October. The majority of women who attended had experienced rape or sexual abuse themselves, although some were speaking on behalf of their children. All of the groups were led by the women's discussion, depending on what particular points they wanted to raise, or what aspects of their experience they were comfortable in sharing. All of the groups were different, but it was very clear that the majority of those women had been failed - not only had they endured horrific abuse at the hands of the perpetrator, but they had been let down in some way by the systems designed to protect them and bring their perpetrators to justice. This was not because they had expected a conviction in every case, but because they had been made to feel ashamed and responsible, and were at a loss to understand why they should be treated so differently to other victims of crime.

I will explore the issues that arose from the focus groups further in the following sections, but it is also worth noting that there was great enthusiasm from the women present for the focus groups themselves. They clearly had a lot to say and welcomed the opportunity to tell government about their treatment; each group made it clear that if sharing their experiences could prevent such treatment of others in the future, they were happy to do so.

### The CPS and police groups

I met separately with policy officials from the CPS and frontline police officers from the majority of police force areas in early October. These meetings took place following the victim focus groups. Although I had a number of emerging findings that I wanted to test with both groups, we began each session by inviting participants to identify barriers within their organisations to providing an effective response to rape victims. Again, I will discuss in more depth their responses in the following section, but I was heartened to see that many of the same issues were being highlighted as arose in the victims' groups. For the most part, I was also glad to be involved in open and honest discussions about what was not working well and what could be done better. I was glad that both the police and CPS could see that this Review was a chance to take stock and see what could be improved rather than a blaming exercise. I was impressed by the many people I met, particularly amongst the police officers, who were taking personal responsibility for challenging poor practice and improving the service their area offered.

### The final expert stakeholder group

Following completion of the various focus groups, I brought my key findings back to the same expert stakeholder group, albeit with slightly different

attendees due to difficulties of availability. This was a useful and intensive session in which the group as a whole considered what could be done to address the key findings, with a view to improving the effectiveness of the criminal justice response overall. This discussion directly informed the recommendations and challenges I have set out.

#### The format of this report

In keeping with my broader [Victims' Champion report, \*Redefining Justice\*](#), I have set out my key findings and made a series of recommendations; these are issues that I have identified that require swift action by the Government. I am pleased that these recommendations, and the Government's response, have been set out in the VAWG Strategy. I have also set out a number of challenges; these are issues which arose during my Review but that were either out of the scope of my Review, or where I simply did not have sufficient time to consider the issues in depth. As set out in the introduction, my work on the Victim Experience Review is the first of a number of pieces of work looking at rape, and I hope that these challenges will inform that further work so that the Government will be able to address these issues fully, given more time and informed by the further thinking that is needed before formulating a response.

## Key findings

As I talked to victims, the police and the CPS the same issues arose again and again. These issues are explored in detail below. The majority of the issues that arose are discreet issues, such as the need for more information or the need for more support services. However, two issues arose that are worthy of considerable attention: they are societal and professional attitudes to rape victims - which influences everything from whether a victim reports, to the service they receive, to whether or not they get a conviction; and the inconsistency of treatment of victims - which varies from good to poor, from one area to another.

### Belief

#### Public attitudes

Victims, police and CPS officials felt that the attitudes of agencies reflected the attitudes of the general public to rape victims, with the majority of people thinking that rapists are strangers, who break in to victims' homes or attack them in public places, and who use force. As the literature review showed, most victims are attacked in private, by someone known to them and injuries are not common.

Everyone I spoke to felt strongly that these attitudes need to be challenged as they affect the whole process the victim goes through from whether they report (even whether they can identify what has happened to them as a crime) to whether a jury is prepared to convict a defendant who doesn't fit their idea of a 'real rapist'. In order to challenge these attitudes, many of the women I spoke to felt that a substantial public information campaign was needed that challenges these attitudes, and makes it clear that responsibility lies with the perpetrator. Several people mentioned the publicity campaigns around drink driving in terms of changing public attitudes and felt something similar was needed. A number of people also felt publicity campaigns would be a useful way to ensure women knew what to do if they were raped, and that help was available.

*"Much more education and public awareness is needed. We need to break down the myths and stereotypes about what rape and sexual violence is, and a national advertising campaign; alcohol doesn't rape women, men do." (Focus Group iii)*

*"You often see screaming tabloids about attacks on men, women and children from a stranger but you very rarely see a headline about violence from a family member or someone in the home." (Focus Group i)*

*"The advertising we've had so far puts all the onus on the victim, it's 'don't go out and get drunk, you might get raped'. The onus needs to be on the man, to*

*stop women feeling shameful.” (Focus Group iii)*

Many of those I spoke to felt that this issue should be tackled in schools in order to ensure that young people are aware of how to prevent rape and sexual violence and how to identify behaviour that is wrong. This was particularly important because several people spoke of a growing acceptance in schools of behaviour that might be seen as exploitative.

*“Education, we need to teach girls it’s not ok and boys it’s not acceptable.” (Focus Group iii)*

*“We need to teach children from a very young age that their bodies are their own.” (Focus Group i)*

*“If somebody had come to me then, when I was 9, and said ‘this should not be happening, this isn’t normal’ maybe I would have realised that it wasn’t just happening to me, and told someone.” (Focus Group i)*

Finally, both the police and victims’ groups also discussed the issue of media responsibility. Some of the victims I spoke to mentioned the focus the media place on stranger rapes and felt that this can sometimes mean that victims of historical abuse have less confidence in the criminal justice system because successful prosecutions of historic cases rarely make the headlines. The police also felt that media reporting of low conviction rates, without highlighting the support that is available for victims, or that conviction rates for cases that go to court are at the highest they have been for ten years, dissuade victims from reporting or continuing with a case as it seems from the outset that they are unlikely to get a conviction.

### Being believed

The first issue raised in my focus groups with victims concerned the initial response to a complaint of rape, especially by professionals. I know from my wider work, and the research in this area, that the reaction of the first person to whom a rape is disclosed is critical in terms of giving the victim confidence in how they will be treated, and whether they are believed, or thought to be responsible. It has often been said that a raised eyebrow can be the difference between a rape victim deciding to continue with a case or to withdraw from the process.

It was very clear to me that victims want to be believed when they disclose they have been raped, whether that is to family, friends, the police, their GP or whoever else they decide to confide in. And they want to be reassured that they were not to blame for what happened.

*“Usually it starts with telling someone close to you, and their reaction can determine what happens next, you have to think about can they handle what you have to say, because if not, if they react badly, then you’re unlikely to report it to the agencies” (Focus Group iii)*

These concerns were particularly apparent in respect of disclosing to the police, or other statutory agencies. Fear that they would not be believed, or would be blamed, was one of the reasons that the women I spoke to often felt more comfortable reporting to specialist women's services, such as rape crisis centres.

*"I never reported it [partner rape] because the police just viewed it as a domestic; they said there was nothing they could do, they told me to sort it out yourself... I was told 'no-one would believe you'." (Focus Group ii)*

*"They [police officers] make it obvious they don't believe and the victims can tell...I had one case where the officer pretty much said it was a one night stand the victim regretted." (Focus Group iii)*

*"I didn't report, and I went through in my head all the things that I had done that were 'stupid', all the things I did that could be used against me, or the things I didn't do that I should have. I completely talked myself into the fact that it was my fault. I had put myself in a situation that wasn't socially acceptable. I thought everybody else would have judged me on that." (Focus Group iii)*

Women commonly asked themselves whether they were to blame, whether they would be believed if they reported, and felt that a trial was effectively an assessment by a jury of whether they were lying or not. I have not heard these views expressed about any other offence and certainly cannot imagine similar thoughts or feelings entering the head of a victim of burglary, for example.

The women I spoke to were clear that if they are not treated with dignity when first reporting rape, it is unlikely they would continue to support a prosecution. Women felt that the attitudes and response of police officers need to change and rape needs to be treated more seriously; they wanted a greater investment in ensuring that the police provide a believing, sensitive and consistent response.

*"I want mandatory training for all law enforcement officers. So at least they have an inkling, if there is a rape they have some knowledge of how to go about it. They fuff about, you are already depressed, you are already terrified." (Focus Group ii)*

And it was not just the police who were criticised. The response of other statutory agencies was frequently poor for those I spoke to.

*"I went to my GP and he wouldn't believe me. He even wrote 'raped' in inverted commas on my doctor's note. What if I needed my medical records in court?" (Focus Group i)*

*"Social services were shit, absolute shit, too. They threatened to take my kids off me, never mind trying to give me any support." (Focus Group ii)*

I discussed these issues with both the police and CPS. Although all the officers I spoke to felt that their force prioritised rape and that their policy was to believe the victim from the outset, some officers mentioned that at times they are aware of officers who can be sceptical of victims for numerous reasons, such as when the victim had been drinking, had made previous allegations, were from a certain area, had an offending history themselves, or simply because they did not behave in the way they would expect a victim to behave (for example, the victim was not obviously distressed). Others felt that seeing cases dropped at later stages of the criminal justice system, or having experienced previous false allegations, can influence individual officers' responses. The CPS acknowledged that some of these issues are also likely to influence lawyers' decisions as to whether to proceed with these cases. This was concerning as the police also talked about how the response of the first officer involved frequently influenced how seriously the case was dealt with from that point on; where an officer was called out and effectively thought 'here we go, not you again', that attitude affected the whole investigation. One example cited was where a control room officer had not passed on information about a reported rape until the following day, contrary to the established procedure. He did so because the victim had a history of reporting rape and he did not therefore take her seriously.

The officers I spoke to all felt able to challenge these attitudes and generally felt that more training on the realities of rape, and how victims respond, would be useful. A current initiative provided by the Home Office Rape Support Programme in which an expert from the voluntary sector trains police officers on rape trauma, myths and stereotypes was highlighted as good practice. Officers and CPS officials also felt that attitudinal change must be led from the top so it is important that Chief Constables and Chief Crown Prosecutors make it very clear that poor attitudes are unacceptable, that the training provided on responding to a victim is adequate and regularly updated, and that the right people are picked for roles such as 'rape champions'.

### Dignified treatment

In addition to being believed, victims also wanted to be treated with dignity and respect. This covered areas such as collection of forensic evidence and ensuring victims are adequately supported when giving evidence in court. However, key to this was the issue of 'real choice'. Victims spoke of feeling as though they had lost control of the case following reporting and that sometimes measures designed to support them, for example, the ability to request a female forensic medical examiner or to give evidence via video link, were undermined by issues of availability. Often women understood that choices can involve trade offs but they felt that they were very rarely given sufficient information to make those choices.

*"It's their pace, not your pace. There is a lack of control. It should be the other way round, you're the victim, it's happened to you, it should be at your pace."*  
(Focus Group iii)

Sexual Assault Referral Centres (SARCs), and in particular the Havens in

London, were mentioned as good practice.

*“The Haven gave my daughter her dignity back. She was so demoralised. We were there from 6 p.m. in the evening to 3.30 a.m. the next morning; by the time we got home I felt she had got a little bit of herself back.” (Focus Group ii)*

However, victims spoke of their frustration in areas where there was no SARC and all groups I spoke to mentioned that the service provided by SARCs can be inconsistent both from area to area, and from the service provided during the day and that provided at night. This was a particular frustration for the police officers I spoke to; where SARCs work well the police told me they really helped an investigation and improved victim care significantly.

### Victims' needs

In *Redefining Justice*, I said that there are needs common to most victims (and witnesses): the need for information about how their case is progressing and about their court case and what would happen to the perpetrator; the need to be, and feel safe; and the need to feel they will not be worse off as a result of reporting.

Unsurprisingly, all of these issues were raised by the women I spoke to in my work on rape. However, to summarise, women essentially wanted the following:

- To be believed
- To be treated with dignity
- To be reassured that it was not their fault
- To feel safe and comforted
- Not to feel like a 'victim'
- Services that support them and their family
- To feel in control
- To be able to make informed choices

I have already considered the issues of belief and reassurance and treating victims with dignity. The other issues raised are considered below.

### Information and complaints

Many women spoke about the lack of information available for rape victims. It was generally felt that the majority of the general public do not properly understand the criminal justice process and have no idea what will happen to them if they report the offence to the police; as such, women are not able to make informed choices about reporting or remaining within the system.

*“There is a lot of fear about making a statement and going to court....more information should be available.” (Focus Group iii)*

*“I felt there were all of these officers telling me what was going to happen,*

*what I should do, there was no option to say stop, can I have a break? I felt I was being swept away; I was going through with it whether I liked it or not.” (Focus Group iii)*

Women wanted to know what the system involved, what their rights were, and importantly, how to complain if they were not being treated as they should be, and to do so without fear that it would jeopardise their case. They also wanted information on the appeals process following prosecution.

*“I had a client who wanted to complain but didn’t want to jeopardise the case, she didn’t want to be seen as a troublemaker.” (Focus Group iii)*

There were several suggestions for addressing these concerns from general publicity campaigns, which I have already mentioned, to providing information at the point of report for both the victim, and their family, and ensuring victims have immediate access to an independent adviser, such as an Independent Sexual Violence Adviser (ISVA).

*“The person who went with my daughter when she reported her rape was made to leave the room. She was left on her own at one of the most vulnerable times in her life. If somebody had been with her, perhaps they wouldn’t have told her that nobody would believe her because she had been drinking, and whether she really wanted to be poked and prodded for hours on end... There has to be some way of making sure the victim knows that what is happening to them is normal or not.” (Focus Group ii)*

The publication [From Report to Court](#), a handbook produced by an organisation called Rights of Women, was singled out for praise.

*“More information should be available ...I think the publication ‘From Report to Court’ should be much more available for women, I know women who have read it not wanting to report, and decided to report afterwards-it’s having the knowledge and knowing about what steps will be taken.” (Focus Group iii)*

Women also wanted to be able to talk to someone independent about what would happen to them, and their rights. Where ISVAs were in place, they were praised by victims, police and the CPS, but again the feeling was that there were too few. The police in particular felt that ISVAs provide a continuous, independent source of information and support for victims, and allowed them to concentrate on the investigation whilst knowing the victim was being taken care of.

#### Regular up-dates by one person

Women wanted to have the same single point of contact throughout the course of their case and wanted to be kept regularly informed of progress.

*“If I had one contact who kept me informed, that would make a difference. The Police officer said he was going to call me at a certain time. He never did. He said he would come round...he never did...it’s just not good enough.” (Focus*

### Group i)

*“My client often had to call in to see how the case was going, she felt misled and misinformed. Even when they arrested him, they didn’t tell her.” (Focus Group iii)*

*“The other negative was that she didn’t have a consistent SOIT officer [a specially trained officer], her officer kept changing, she got a call from the detective who didn’t have very good people skills, and she just wanted her SOIT to call her and for it to be the same one...knowing that there was someone there who was on her side, or representing her.” (Focus Group iii)*

Again, where they were in place, ISVAs were mentioned as an ideal person to perform this role.

### Female staff

Women also felt it would be easier to report rape, or to seek help from health services, if they had the right to be dealt with by female staff.

*“There really should be females all the way through. It’s simple things like, a male liaison officer returned my clothes...there he was, holding up my underwear, ticking it off. It was awful.” (Focus Group ii)*

*“I think it would be easier to report if you knew you would be reporting to a female...you should have that choice.” (Focus Group i)*

Again these issues were not new to me, they reflected very much the types of issues raised in my wider work but I was very struck by the fact that these victims were not asking for anything new. Most of the things that they thought would make a real difference – information and the right to be kept informed about their case – should be being provided already, and indeed are being provided in some areas, highlighting once again a real issue about inconsistency. Victims are not asking for something that is prohibitively expensive, that cannot be done. Some areas are doing it already.

For those women who had reported, there were specific frustrations about certain aspects of the criminal justice system.

### Support in Court

Women wanted to be able to access support in court and felt that this would help them feel supported when giving evidence. Again, ISVAs were seen by all as the ideal person to fulfil this role, but specialist services were also mentioned.

*“SERICC (a specialist support service) actually came to court with me to give me support, it made me feel more confident and helped me feel like I could get through the ordeal. But his barrister kicked up a stink and threw SERICC out.” (Focus Group ii)*

*"I got cross examined, the court room was packed with his supporters. I was giving evidence via video link and I wanted my ISVA to sit next to me so that I had someone I knew. They wouldn't allow it..." (Focus Group i)*

Of course, there will be concerns about the possibility of coaching a witness that will prevent a victim/witness from being accompanied when giving evidence. However I do not understand why a supporter cannot accompany a victim to court. This issue should be considered further.

### Support from specialist services

The issue of support from women's services was frequently raised. This was not specifically within the scope of my work but it was clear that support from women's services help women to have the confidence to report, and to remain within the criminal justice system. The services they provide must be supported; they are crucial in supporting women through the criminal justice system and beyond. Many women made the point that their needs do not stop on completion of the criminal justice process.

One group I spoke to also recommended that women's services should be trained in police interview techniques in order to encourage more women to report.

### **Inconsistent treatment by criminal justice agencies**

This leads me to the second overarching issue, and the overwhelming conclusion of my work in this area: victims of rape are treated inconsistently by the criminal justice system, and in their interaction with other agencies. Taking the criminal justice system alone for now, there are areas of good practice but more needs to be done to ensure all areas are as good as the best. All parties who contributed to this review were in broad agreement that the correct legislation, policies and procedures were in place but were not being fully implemented in all areas. This echoes previous findings such as those from the 2007 Joint Thematic Inspection of police and CPS areas by HMIC and HMCPSP [Without Consent](#). I was disappointed that the victims I spoke to have seen little change since then and that the service provided to one victim will differ enormously from that provided to another victim in a different area.

*"If you could have some confidence that you would get the same treatment wherever you lived, then perhaps more people would come forward..." (Focus Group ii)*

*"Every police force should have the same procedure and have compulsory training, it should be nationalised so that all women know what to expect from the police if they report rape." (Focus Group ii)*

*"I have had two clients who have had completely different experiences with the police. One was remanded immediately, the case went straight to trial;*

*she was treated really well. The other case was historical, and she was treated really badly.” (Focus Group iii)*

It was clear that in some areas, victims received good treatment.

*“I reported in [... one area of London] where my sister lives. Two PCs came out and they thought it was just domestic violence, and I told them what happened and then they called someone else out from [... another area of London] where it happened. Two policemen came out and they stayed with me the whole time. I reported at 7 p.m, and they were supposed to finish their shift at 9 p.m. and they stayed with me until 2 a.m. They drove me to the Sapphire Unit [specialist rape unit in the Metropolitan Police], they made sure I got in, the lady who met me at the unit was brilliant as well, she asked me some questions and then she drove me back to my sister’s at 4 a.m. the next morning.” (Focus Group ii)*

During my discussions with the police, it was easy to see why this could be the case. Despite national guidance on training, all forces appear to implement training differently; some had mentoring schemes for officers new to working on sexual offences, others did not. Many of the frontline officers I spoke to felt that they were inadequately prepared to deal with victims and that, at times, in trying desperately not to do anything wrong, felt it was better not to do anything at all. In some cases, first response officers who did not receive specialist training were waiting with victims for a number of hours yet they were not able to provide the kind of information that victims wanted to know. Few forces provided regularly updated training, with the exception of updating officers on new legislation.

However, it was also clear to me that, at times, some of the areas on which the police were receiving criticism were areas in which they were trying to take on tasks that did not fall to them. I have discussed this further where I talk about multi-agency working but it is worth mentioning here that police officers told me it was not uncommon for them to find themselves making endless telephone calls to try and find a doctor willing to travel to examine a victim, or to try to find some form of counselling or support for the victim. One officer described spending one night searching all major hospitals in his area in search of a paediatrician, with the victim in the back of his patrol car. Quite simply some of the functions the police told me they perform do not sit with the police, but officers clearly felt that they ought to provide some form of service in the absence of any other agency to provide those services. Where ISVAs were in place, some of these functions fell to them; ISVAs were the subject of praise throughout the review but the overwhelming feeling was that there are far too few.

Health services appeared to be particularly hard to engage which is staggering bearing in mind that most of these ‘victims’, are also likely to be ‘patients’ and will require medical help. This was clearly illustrated by the fact that some police officers told me that their local SARC had no health involvement at all. Clearly, that is not in the best interests of the victim.

Specific criticisms of the criminal justice system focused on the following:

#### Inconsistent investigations and evidence collection

I was extremely concerned that several of the women I spoke to felt that their cases had not been properly investigated by the police.

*“My Sapphire liaison officer, when she came to the hospital she was finishing shifts...the detective asked her to drive me around the area to see if I recognised anything. She drove me around a bit and then said ‘it doesn’t look like we’ll find anything in the dark, we’ll come back in daylight.’ They never ever tuned up and took me back.” (Focus Group ii)*

*“The police did a cursory drive around, they knocked on two doors, and then said they were never going to find them. Their attitude is it’s a university town, if we worked on all on these things we would never stop working on suspected rape cases.” (Focus Group ii)*

One woman expressed her anger that evidence had been seized as part of the investigation and was not returned for several months. In this case her car had been seized and she was not told when she might expect it back. In the meantime she felt vulnerable as she had to walk alone in the area in which she had been attacked. She felt that the police did not appreciate the impact this had on her. The issue of her safety, or whether she felt safe, did not seem to have been considered, or that the impact of such a seizure might be significant. Although, of course, evidential needs must be balanced, as I said at the outset, a victim should never feel worse off for trying to obtain justice.

#### Discontinuing a case

When I started this work, I was told by the expert group that not every victim wants a conviction; that some victims would never report to the criminal justice system. That was certainly true but what became equally clear is that where a victim has reported, a conviction matters. This is partly due to the issue I mentioned earlier whereby the trial is considered an assessment of whether the victim is a liar or not. Of course, no system can deliver a conviction in every case and sadly, in some cases, there is simply not the evidence needed to provide a realistic prospect of conviction. However victims were highly critical of the way in which decisions not to proceed with a case, which are taken by the CPS, and are notified to the victim by way of a letter, are communicated.

*“Mine didn’t get to court; my emotions are all over the place...the police were crap. They sent me a letter to tell me that the case was not going to court. Two police officers came, and read me the letter...The only person the CPS bother to talk to is the guy that did this to me. They got his side of the story; it was a biased letter. It was a stupid crap letter...if somebody had talked to me and explained to me why this wasn’t going to court, someone who was actually working on the case, it would have been so much better...that letter made me feel so small and demeaned, like I was a waste of time, I got*

*nothing from it. There was no point in me going to the police, he got away with it.” (Focus Group ii)*

Again, this issue was raised in my wider work and previous reports have also raised this issue. I spoke to the CPS about this who acknowledged these concerns and assured me work was underway to address them. Out of all the issues raised with me during this review, I believe that this is one of the easiest issues to resolve but had such a huge impact on victims in terms of whether they felt that justice had been done.

The CPS also made the point that at times, both victims and the police can assume that any case which is discontinued is viewed as a false allegation. They felt that more could be done to ensure that these letters make it clear that there are some cases in which there simply is not sufficient evidence to provide a realistic prospect of conviction but that does not mean that the agencies have concluded the victim is lying.

CPS decision making itself was raised by victims and their advocates. One ISVA told me:

*“I have seen such awful decision making. The police are saying it is a strong case with a credible witness, and a CPS lawyer, who had never met the victim, turns around and says no, the evidence isn’t good enough.” (Focus Group i)*

*“The standard the CPS make their decisions on is questionable and should be reviewed. So many rapes are not in a public place, they happen in secret. The CPS look at a case, and say the case isn’t strong enough...but this kind of attack is personal, so it shouldn’t be thrown out on the basis that it took place between two people in private.” (Focus Group i)*

The CPS acknowledged that rape cases frequently pose difficulties. Prosecutors have to consider whether there is sufficient evidence to provide a realistic prospect of conviction. However the CPS acknowledged that, at times, prosecutors probably base their decisions on the higher standard of proof required by a court for a conviction: that there is enough evidence to suggest that the defendant is guilty, beyond reasonable doubt.

### Compensation and counselling

The issues of counselling and compensation were raised in my focus groups with victims. Victims spoke of being advised by the police not to have counselling before a trial in case it jeopardised their case. Sadly, some women felt that this put them in a position of having to choose between pursuing a case through the courts, or trying to recover.

*“My friend was told that if she took her daughters to counselling after they’d been raped then she should forget going to court. She was told it would contaminate the evidence. She has this huge dilemma between getting the help her daughters needed and letting him get away with it...” (Focus Group ii)*

This issue had arisen in my wider work so I was aware that there is a common misconception among criminal justice agencies that victims cannot receive any counselling while criminal proceedings are on-going. As I said in my previous report, although there can be difficulties around victims who are called as witnesses receiving therapy/counselling, these difficulties can be managed and the situation these women were placed in is totally unacceptable. So why is it happening?

I spoke to the police about the issue of counselling and it was clear that there were different views as to what could be permitted before a trial and what impact it may have on the outcome of a trial. Again, I came to the conclusion that in the absence of a clear understanding of what was permitted, some officers were trying to do their best for the victims they had contact with by providing what they thought was the right information.

Women also spoke of their frustrations around the criminal injuries compensation scheme. They wanted the process to be made simpler and more transparent. Again, this was raised with me in my wider work, although that was not formally part of my study. As the Criminal Injuries Compensation Authority is currently being reviewed, I have decided to wait for this process rather than making any recommendations either here, or in my wider work, although I have already stated that I believe the soon to be appointed Victims' Commissioner should consider this issue, and I will be interested to see if it is raised in the Stern Review.

### Special measures and sexual histories

In my wider work, the issue of special measures was raised frequently. I recommended in that report that further research was needed on how the use of special measures influence juries and the judiciary, in order to ensure they are used more effectively, and that the procedures governing the use of special measures in court are tightened.

Similar issues were raised in this piece of work. Late applications, examples of victims being told they would be able to use special measures when on the day, the victim was not, and a feeling that perhaps using special measures can count against a victim by weakening the impact of their testimony.

*"They [the police] asked my sister not to have screens round on the day we went to court. She is quite fiery; they said it would look better if she didn't have screens up. I said it's not a circus." (Focus Group ii)*

I discussed this issue with both the police and CPS. I have enormous sympathy with the officers who told me that frequently a victim will report a rape and immediately say she cannot face her perpetrator in court. Some officers told me that they want to be able to reassure victims that they will be able to use special measures in order to give evidence, but due to inconsistencies in how they are granted, are unable to do so. Others do so when they know they cannot guarantee the victim will be granted special

measures. As I said in my wider report, although understandable, raising expectations is not in anyone's best interests.

Similar issues arose in terms of assuring victims that their previous sexual history would not be discussed in court. Provisions in the Youth Justice and Criminal Evidence Act 1999 limits the ability for the defence to question a victim/witness on this basis. However, this was clearly something that victims considered when deciding whether to report to the police and I was saddened that in 2009 women still worry that it is their behaviour that is on trial in a rape case.

### Representation at court

Victims frequently expressed anger that their place in the criminal justice system is effectively as a witness in their own case. Many were disappointed that the prosecution represents the Crown, rather than the victim, in contrast to the defendant who has his own legal representation.

Some of these concerns were centred on how the prosecutor interacted with victims.

*"You have five minutes before you go into court to get to know that person who is supposed to represent you. They know nothing about you..." (Focus Group i)*

*"The perpetrator often gets treated better than the victim. He could see his solicitor anytime, whereas I couldn't. I wanted to be familiar with the barrister representing me, whereas he was dictating to his barrister what to say. I had a two minute meeting with my barrister on the day of the trial...You feel they won't care which way it goes, they are just doing their job...It's not fair." (Focus Group i)*

But there was also support for victims to have their own legal representation.

*"In Ireland you are appointed a legal representative, so you can check whether things are being done properly..." (Focus Group ii)*

*"We need expert witnesses and victims should have their own lawyer, a system like they have in the States. It's been shown in America that a woman having their own lawyer helps in sending rapists down." (Focus Group iii)*

### Judges

Once again, although not in the scope of my review, and therefore something on which I cannot make recommendations, a number of victims, police and CPS officials spoke about the need to fully engage the judiciary in further reforms for victims of rape as they are the arbiter of justice for this most vulnerable category of victims.

### Bail and sentencing

Women frequently mentioned that they were reluctant to report a rape because they did not feel confident that the system could keep them safe. This was mainly due to fears that the perpetrator would be bailed, or concerns that the perpetrator would not be convicted, or would be released following a very short sentence.

*"[My daughter] was raped by my ex partner 2 weeks before her 9<sup>th</sup> birthday. The minute she told me he was out, I was told he had been put on bail...I phoned the police and told them he was breaching his bail conditions, nothing was done. Then I found out he was parked down the road from my house. I rang them again and asked why they hadn't picked him up...they said they are doing their best." (Focus Group i)*

*"I came home from school and the police were there with my social worker and she said, 'I'm really sorry but he has been let out'...it rips you apart, you think after all that, and he's still out there..." (Focus Group i)*

*"He didn't get parole because he was showing no remorse. He has threatened to kill us all when he comes out. The probation officer got him rearrested. When he's released, I've still got to watch my back." (Focus Group ii)*

*"My uncle abused me...I didn't tell anyone until I was older. He used to threaten me. Finally, he went to court for abusing his girlfriend's children, and strangers on the street...he got 7 years but he was out after 2.5 years. He won't change, he will do it all again." (Focus Group ii)*

Sentencing was not in the scope of my review. However, I could not adequately reflect my discussions with victims unless I said something about it. Many of the victims I spoke to felt that sentences for rape and other sexual violence were too low. Combined with the (perceived) low prospect of conviction, and the generally poor treatment these victims reported receiving, it was not surprising some women either felt there was no point in reporting, or regretted having done so.

*"I pray to god it doesn't, but if it happened to me again, I would never, ever report...I have suffered more as a result of reporting." (Focus Group ii)*

It is clear that in this case at least, the criminal justice system has failed. Whilst no one can guarantee a conviction, it is simply unacceptable that this woman was left feeling worse off because she tried to bring her perpetrator to justice.

#### Lack of a multi-agency response

It is clear that the police were heavily criticised in the discussions I had with victims and the police need to respond to these criticisms. However, as I have already made clear, I believe this is due, at times, to the fact that the police

are going outside their normal duties to try to provide a service to victims. I also got the impression that sometimes, the police bear the brunt of general criticism of the criminal justice process as they are generally the link between the victim and the system. Victims were also heavily critical of other agencies such as social services, housing authorities and health services.

*“There is nobody out there who wants to help, when the bailiffs are knocking on the door, because you’ve been raped and you can’t work anymore...” (Focus Group i)*

*“There’s no support out there for you. They gave me a bloke counsellor after everything that happened...” (Focus Group i)*

Services provided to victims tend to be done so in isolation, and again vary from area to area. The needs of a victim are not confined to support offered by criminal justice agencies. Health, education, housing and social services were frequently involved in these cases but there was a complete lack of co-ordination of these services. As with so many of issues that were raised during the focus groups, this was an issue I have challenged the government to address in my earlier report.

Again, I raised this issue with the police and CPS. The CPS in particular, felt that there should be far greater co-ordination of services and that the issues of safety, support and satisfaction of victims should be the overriding consideration of any agency involved. They spoke of good practice in relation to domestic violence, where a co-ordinated community response has been developed; where all agencies are aware of their own, and others’ responsibilities, and where services are co-ordinated by a central point, often an Independent Domestic Violence Adviser.

It also became clear that key agencies are measuring their performance differently, and often this means that they are trying to achieve different things. At times, these measurements count against what might be in the best interests of the victim. An example of this is that the CPS measure themselves on successful prosecutions and in this way, do not encourage prosecutors to take chances on riskier cases, as a failed case will count against them.

The expert stakeholder group recommended that I consider ways of encouraging joint working and joint ownership of rape cases.

### Civil justice

The lack of a joined up response by the criminal and civil justice systems was also mentioned by victims:

*“How can a known abuser still have access to their kids?” (Focus Group i)*

*“My ex-partner gets access to my daughter, not his child, even though he has abused me and he has been accused of abusing her, he still gets*

*unsupervised access to see her.” (Focus Group i)*

This issue needs careful consideration. Great efforts continue to be made to ensure that children are safe and well protected and do not suffer at the hands of adults, whether familial relations or not. We must ensure that those efforts do not fall down due to a lack of co-ordination. I will be interested to see whether this issue also arises in Baroness Stern’s Review but strongly recommend that further consideration is given to this issue.

My responses to these issues are contained within the following sections.

## Recommendations for immediate action

- Public attitudes to rape and other forms of sexual violence should be challenged through an awareness campaign
- Sexual violence should be included in education in schools as part of healthy relationships and respect themes
- The number and quality of ISVAs needs to be improved, with sustainable funding provided through all partners
- The quality of SARCs need to be improved to ensure consistent high quality provision across the country, with sustainable funding provided through all partners
- Training for police and CPS should be implemented consistently across the country and be regularly updated, with specialist third sector organisations and victims involved wherever possible
- Items seized by police as evidence, such as mobile phones, should be returned to victims as quickly as possible with clear communication with the victim about evidential needs
- Agencies, particularly the police and CPS, should work to the same targets to ensure a coherent, multi-agency response to rape complaints
- The CPS should improve the way in which they inform victims that their case will not proceed to trial
- An independent expert should be appointed to maintain the focus on driving through improvements in responding to rape complaints

## Wider challenges

### The criminal justice system's treatment of men and vulnerable people (including young people, older people, people with disabilities and sex workers)

My review concentrated on the experiences of adult women. Further work should be done to consider the needs of men and vulnerable people who are less likely to report, less likely to receive appropriate support and less likely to obtain a conviction. Particular focus should be given to young people, particularly the issue of sexual exploitation in schools and the use of rape by gangs.

### Special measures

There is a clear need for the issue of special measures, and how they impact on rape cases, to be considered further. Several respondents from the police and CPS recommended that the legislation relating to special measures should be reviewed.

### Previous sexual history

Victims worry that their previous sexual history will be raised in court. Despite legislation, agencies do not feel able to reassure victims that this will not happen. Further consideration should be given to whether the legislation is working as it should, taking into account recent research on this issue.

### Judges

Given the extreme vulnerability of this category of victims, engagement of the judiciary in further reforms is critical to the improvement of victims' experience of the Criminal Justice System.

### Gender matters

Women want support from women-only services and would like 'real choice' throughout the criminal justice system from reporting a case, forensic examinations and police photographers. The needs of victims, and how those needs are being met by the agencies they are in contact with, should be considered further.

### Juries' attitudes – the need for expert evidence or independent legal advocates

Juries are likely to hold the same misconceptions about rape as the general public. As well as information campaigns, consideration should be given to how these misconceptions should be addressed. Experience from other countries or the previous consideration of the need for expert evidence should

be used to inform these decisions.

### Perceptions of sentencing and treatment of perpetrators

Victims feel that sentences are too low; do not reflect the impact the crime has on them and impact on their ability to feel safe. Victims feel that perpetrators are treated too leniently in prison. This issue needs to be borne in mind when Government considers ways to increase reporting; they must also consider the issue of victim safety which I believe can only be addressed by improving joined up working from all relevant agencies.

### Media responsibility

The media has a significant role to play in educating the public and accurately reporting the realities of rape, the conviction rates once cases reach court, and help available.

### Support in Court

Further consideration should be given to the rules around what support is available in court in terms of allowing a person to accompany a victim/witness.

### Support services

The important role of the specialist women's voluntary sector should be recognised and central and local government should work with the sector to improve their capacity and sustainability. There should be more, and better quality, SARCs and ISVAs which should be recognised by local areas as essential ways of responding to sexual violence and rape.

### Evidence

Further information should be sought on the issues raised with me regarding transcribing video evidence and limiting the length of video evidence to ensure that measures to ensure victim/witnesses give their best evidence are not being undermined.

### Perpetrator access to children

Further evidence is needed as to whether there are sufficient protections in place for women and their children where a perpetrator has been convicted of rape or abuse.