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Home Affairs Committee

Investigation and prosecution of rape

Eighth Report of Session 2021–22

Report, together with formal minutes relating to the report

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Home Affairs Committee

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Summary

Public confidence in the ability of the criminal justice system to respond to reports of rape, to support victims and survivors, and, ultimately, to bring perpetrators to justice, is at what could be its lowest point. Police forces in England and Wales recently recorded the highest ever number of rapes within a 12-month period, yet only 1.3% of the recorded rape offences that have been assigned an outcome resulted in a charge or summons. According to Crown Prosecution Service figures, the volume of completed rape prosecutions dropped from 5,190 in 2016/17 to 1,557 in 2020/21.

The impact of rape on victims and survivors is devastating; as part of the Crime Survey for England and Wales (CSEW), 63% of female victims and 47% of male victims said they had suffered 'mental or emotional problems' as a result of the assault. Around one in ten said they had attempted suicide. Strikingly, those victims and survivors who shared their experiences and views with us also emphasised the negative impact of going through the criminal justice system itself. One person told us that they wished they had never reported; another, Susan, that if a friend told her they had been raped, she would not advise them to go to the police because of the stress and upset that can cause. One survivor, Emily, told us that the investigation had, 'completely destroyed my life and changed me forever'. People who had experienced going through the criminal justice system following sexual violence told us they felt like they were being investigated rather than the suspect.

Both complainants and defendants face long delays in the progression of their cases as well, which no doubt account for the fact that some complainants decide to protect themselves from further distress and withdraw from the system entirely. The fact that the majority of cases are closed because the victim themselves does not support further action is a powerful indictment in itself.

Our inquiry looked at why rape prosecutions are falling and the role of the police, the CPS and the courts in the reporting, investigation, and prosecution of rape cases. We are clear that the criminal justice system must do better in protecting and supporting those who are affected by rape, and in trying and convicting those who are responsible.

It is encouraging that the Government and both the police and the CPS have recognised that the current situation is unacceptable and so have taken steps to drive up prosecution volumes and to give those who report their day in court. The Government's End-to-End Rape Review, published in June 2021, is a welcome step, and Operation Soteria, a new operating model for how the police and the CPS handle rape cases—with a greater focus on the alleged perpetrator, as opposed to the person who has reported—has enormous potential if it is rolled out with sufficient support.

However, we echo the conclusion that HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and HM Crown Prosecution Service Inspectorate (HMCPSI) came to following their joint thematic inspection of the police and CPS's response to rape: that a 'radical refocus and shift' is required. It is striking that witnesses' views on the Rape Review's stated ambition to return volumes of rape cases being dealt with to 2016 levels ranged from criticism that it wasn't nearly ambitious enough, to concerns that it wasn't likely to be achieved. The Government and its operational

partners must do more to drive up charging and prosecution volumes to ensure more perpetrators face justice, and to improve the experiences of those who report so that they feel able to continue and pursue their case. We strongly urge the Government to take a number of further steps.

First, the Government must work with policing bodies to ensure specialist police rape teams can be put in place across all police forces. Despite the difference these teams make—including more timely investigations and improved communication both with victims and the CPS—a recent Freedom of Information (FOI) request submitted by *The Guardian* found that at least two-fifths of police forces in England and Wales do not have them set up. Additionally, although it is far from guaranteed that a victim of rape will be supported by a specialist and suitably trained officer, the Government does not collect data on the number of police officers specially trained in investigating rape. Allegations of rape must be responded to and investigated by those who are properly equipped for such a role, if more victims' experiences are to be improved and the evidence needed gathered, leading to more suspects being tried in court and brought to justice if guilty.

Second, the Government must place a higher priority on the question of the provision of independent legal advice to those who report rape. We were told that, specifically, legal advice could help victims and survivors to navigate requests for third-party material and data from their digital devices during the course of the investigation. During the course of our inquiry, a number of organisations highlighted their concerns that the police and the CPS can make what appear to be unnecessary, excessive requests for such data, almost as a matter of course. This can cause delays and the intrusion of privacy even result in complainants dropping their cases.

We welcome the fact that the Government is to consult with victims' groups on enhancing support and legal advice for victims on disclosure decisions. However, we call for swifter and more decisive action on this. The Government must further pilot the Sexual Violence Complainants' Advocate Scheme, first offered in Northumbria. This pilot should be extended to areas with differing demographic and geographic profiles. If engagement with victims' groups demonstrates clear support and need for independent legal advice, we urge the Government to commit to offering it to all victims of rape, subject to the success of the pilot.

Third, and crucially, we need greater accountability and oversight when it comes to reversing the unacceptably low charging and prosecution volumes for rape. We recognise that the Rape Review commits to putting a framework in place to hold each component of the criminal justice system to account in making improvements, and to publishing progress reports and publications of data, which the Government describes as 'performance scorecards' for adult rape offences, in an effort to provide greater transparency. Yet HMICFRS and HMCPSI have pointed out that, despite the multiple —and welcome—action plans and strategies in operation, all aimed at transforming the response to rape, no single individual or organisation co-ordinates all the strands to provide oversight and accountability. The way that the Government will seek to hold operational partners to account if the necessary improvements do not materialise, namely in the form of higher volumes of prosecutions, and convictions of those who are guilty, also remains unclear.

We agree with the Inspectorates that the Government must consider either establishing a dedicated commissioner for rape and serious sexual offences, or expanding the remit of one of our existing commissioners—with adequate resourcing to back this up—to cover sexual violence and abuse. The Victims' Commissioner, who has been particularly active in advocating for rape victims and survivors, must be consulted, as should the Domestic Abuse Commissioner and the wider violence against women and girls (VAWG) sector, especially organisations that specialise in responding to sexual violence. The potential benefits are manifold. The post-holder could help to hold the Government and operational partners to account in responding to rape and serious sexual assault and driving charging and prosecution figures up, as well as oversee the provision of specialist support services.

Which brings us to our fourth point: the long-term provision of specialist support for victims and survivors of sexual violence that meets the extent of need. As of April 2021, there were almost 10,000 people on waiting lists at Rape Crisis Centres across the country. This is deeply worrying considering the impact rape has on the physical and mental health of those affected.

As the Government has itself recognised, it is also important to address if more victims are to continue through the criminal justice process, and so drive up higher volumes of successful prosecutions. The Home Office has stated that access to support from an Independent Sexual Violence Advisor (ISVA) has emerged as an important factor in making sure victims' and survivors' needs are met throughout the criminal justice process.

It is essential that the Government and other commissioning bodies have an understanding of the level of need and the current availability of specialist sexual violence and abuse services, including counselling and therapy, and the support offered by ISVAs. We note that the Domestic Abuse Commissioner is currently undertaking a comprehensive mapping and monitoring exercise, covering the provision of specialist domestic abuse services in England and Wales. Through various mapping projects she hopes to identify gaps in provision and help to address the current 'postcode lottery'. As the Inspectorates have recommended, the Government would benefit from a similar undertaking for specialist sexual violence and abuse services. A dedicated commissioner for rape and serious sexual offences would be well placed to propel this forward.

Much work is being done across Government, the police and the CPS to tackle the current situation and bring more perpetrators of rape to justice. But the fact remains that charging, prosecution and conviction levels remain shamefully low. More must be done. We owe it to victims and survivors, who deserved protection and who should now be supported and enabled to access justice.

As Rachel, a survivor who shared her experiences with us said, '[i]f it worked, if you could get a conviction, if that was likely people would report more. People would feel safer. People would feel like the police believed them. Then these criminals would know that they're less likely to be able to get away with it.'[1]

1 INV0031, Emily, Rachel and Susan (the Committee held a meeting with three women, Emily, Rachel and Susan, who have lived experience of sexual violence in September 2021).

1 Introduction

> 'Those who do find the strength to carry on are rare and have usually not reported, as going through the criminal justice system felt like being raped again, raped of justice, raped of acknowledgement, raped of a day in court to hold them accountable.'
>
> Source: Respondent to the Home Affairs Select Committee's questions for those with lived experience.[2]

1. This inquiry was launched to explore the key question of why rape prosecutions are so low, at a time when the number of police-recorded rapes are at their highest ever level.[3] Home Office-held data for the year to September 2021 show that a mere 1.3% of the recorded rape offences that have been assigned an outcome resulted in a charge or summons.[4] Recent figures from the Crown Prosecution Service (CPS) show 1,557 rape-flagged cases proceeding to the prosecution stage in 2020/21, down from 5,190 in 2016/17.[5] Further, the delays people face from the day they report to the eventual completion of their case can be unbearable.[6] Such delays take a significant toll on both those who report and those who are accused.

2. Public confidence in the criminal justice system's ability to respond to rape is at what could be its lowest point. People with lived experience of trying to secure justice following sexual violence variously told us that they wished they had never reported, and that if they had the opportunity to advise someone else going through a similar ordeal, they would tell them not to go to the police.[7] We know that sexual violence has a significant physical, emotional and psychological impact on victims, and can result in serious trauma.[8] Considering how terrible the crime of rape is, the idea that a person may not feel confident pursuing a criminal justice outcome is unacceptable.

3. The Government, as well as the police and the CPS, recognise this, and we welcome the work that has been set in train to identify the issues and to act upon them, including the Government's End-to-End Rape Review, the Police-CPS Joint National RASSO (Rape and Serious Sexual Offences) Action Plan and Operation Soteria, a new operating model for how the police and the CPS handle rape cases.

4. In setting up our own inquiry to further parliamentary scrutiny of this area, we wanted to examine the potential impact of these strategies, plans and new approaches, and whether more could be done to improve the criminal justice system's response to

2 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience (an online qualitative survey was set up between 21 April and 19 May 2021 to enable people aged 18 and over with lived experience of rape and serious sexual assault to share their views on going through the criminal justice system).

3 Crown Prosecution Service (22 July 2021) CPS data summary Quarter 4 2020–2021; BBC News (27 January 2022) Covid: Rape reports surge after Sarah Everard murder.

4 Home Office (27 January 2022) Crime outcomes in England and Wales, year to September 2021: data tables, Table 2.2.

5 Crown Prosecution Service (22 July 2021) CPS data summary Quarter 4 2020–2021; Crown Prosecution Service, CPS Violence against Women and Girls report 2018–2019 data [last accessed 24 February 2022].

6 UK Parliament written question and answer, Domestic Abuse and Sexual Offences: Criminal Proceedings, question for Ministry of Justice, UIN 107510, tabled on 19 January 2022.

7 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience; INV0031, Emily, Rachel and Susan (the Committee held a meeting with three women, Emily, Rachel and Susan, who have lived experience of sexual violence in September 2021).

8 Home Office (September 2017) The Role of the Independent Sexual Violence Advisor: Essential Elements; NHS England (April 2018) Strategic Direction for Sexual Assault and Abuse Services: Lifelong care for victims and survivors: 2018–2023.

rape. Our inquiry also explored the wider roles of the police, the CPS and the courts in the reporting and prosecution of rape. We looked at what the barriers are to reporting and taking cases forward, as well as whether victims are effectively supported, whilst bearing in mind the importance of ensuring that those who are accused receive a fair trial.

5. We launched our inquiry on 21 April 2021 as part of our continuing work on violence against women and girls. Women are more likely than men to experience rape, and the majority of perpetrators are men.[9] However, it is also important to recognise that men and boys, as well as those who are non-binary, can also be affected by sexual violence.

6. We received over 35 pieces of written evidence, including from victims and survivors, and held six public oral evidence sessions. We also received 34 responses from people with lived experience through our online qualitative survey, and had the opportunity to speak directly to Emily, Rachel and Susan, three women who shared their experiences of navigating the criminal justice system following sexual violence. Frida, Georgina, Jola and Sonia, four deaf survivors of domestic abuse, some of whom had also experienced sexual violence, also kindly met with us and shared their insights. We would like to warmly thank all those who took the time to contribute their views, especially as it must have meant reflecting on very difficult experiences.

7. We would also like to note that our inquiry mainly focused on the offence of rape specifically, but that we considered evidence on wider serious sexual offences where useful and appropriate. Further, our report looks primarily at adult rape offences; where data on the different rape offences are presented together, however, we use that wider data.

Note on terminology

8. Generally, when referring to people who have experienced sexual violence, or who have made a report to the police relating to rape or a serious sexual offence, we use the term 'victim', 'survivor' or 'victim and survivor'. This recognises that people will identify themselves differently depending on how they feel about these two terms. 'Complainant' is also used to describe a person who has reported rape or a serious sexual offence to the police, particularly when discussing the investigative and legal process itself, and so we also use this term in our report. We are aware that it is seen as a more neutral term than 'victim' or 'survivor', and that there are some concerns about the use of the term 'victim' in certain contexts. In referring to evidence, we have sought to use whichever term has been favoured in the original.

9 Office for National Statistics (18 March 2021) Nature of sexual assault by rape or penetration, England and Wales: year ending March 2020.

2 Falling rape charges and prosecutions

> If the shockingly low levels of prosecutions, and indeed cases put forward by [the] CPS [Crown Prosecution Service] to be heard in court, was greatly increased and then publicised (as opposed to the negative message that widely circulated recent figures impart), then more victims may feel confident of coming forward.
>
> Source: Respondent to the Home Affairs Select Committee's questions for those with lived experience.[10]

The current situation

9. The difference between the number of rapes recorded and the number that result in charge, prosecution and conviction is of great concern to the public.[11] This is exacerbated by the sharp drop in the number of rape offences that resulted in a charge or summons from 2015/16.[12] The Victims' Commissioner for England and Wales, Dame Vera Baird QC, along with a number of third sector organisations, including the Centre for Women's Justice, the End Violence Against Women Coalition (EVAW), Imkaan and Rape Crisis England and Wales, have argued that rape has effectively been decriminalised.[13]

Increase in reporting

10. At the same time, police forces in England and Wales recently recorded the highest ever number of rapes and sexual offences within a 12-month period.[14] There were 170,973 sexual offences recorded in the year ending September 2021, up 12% from the same period in 2020.[15] Rape made up 37% of these offences.[16] The year ending September 2021 saw the highest recorded annual number of rape offences to date (63,136, up 13% from the previous period).[17]

Low volumes of rape referrals, charges and prosecutions

11. Yet Home Office-held data on crime outcomes in England and Wales for the year to September 2021 show that 1.3% of the recorded rape offences that have been assigned an outcome resulted in a charge or summons.[18] The table below shows the outcome of rape

10 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience; one respondent gave this answer in response to the question, 'What could be done to encourage more people, and to make it easier, to report experiences of rape and/or serious sexual assault to the police?'
11 BBC News (18 June 2021) Why are rape prosecutions falling?
12 Home Office (21 July 2016) Crime outcomes in England and Wales 2015 to 2016: data tables, Table 2.2; Home Office (22 July 2021) Crime outcomes in England and Wales 2020 to 2021: data tables, Table 2.2.
13 The Guardian (14 July 2020) We are facing the 'decriminalisation of rape', warns victims' commissioner; The Telegraph (13 July 2020) Rape is being decriminalised due to a 'catastrophic' decline in prosecutions, says victims' commissioner; Centre for Women's Justice, End Violence Against Women Coalition (EVAW), Imkaan and Rape Crisis England and Wales (2020) The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change.
14 BBC News (27 January 2022) Covid: Rape reports surge after Sarah Everard murder.
15 Office for National Statistics (27 January 2022) Crime in England and Wales: year ending September 2021.
16 Office for National Statistics (27 January 2022) Crime in England and Wales: year ending September 2021.
17 Office for National Statistics (27 January 2022) Crime in England and Wales: year ending September 2021; BBC News (27 January 2022) Covid: Rape reports surge after Sarah Everard murder.
18 Home Office (27 January 2022) Crime outcomes in England and Wales, year to September 2021: data tables, Table 2.2.

offences recorded each year to March between 2016/17 and 2020/21, demonstrating a fall of 4.3 percentage points between 2017/18 and 2020/21, and 7.4 percentage points between 2016/17 and 2020/21 in the proportion of cases leading to a charge or summons.[19]

Figure 1: Table showing outcomes of rape offences in England and Wales across multiple years.

Outcomes of rape offences
England and Wales, year ending 31 March

	2016/17	2017/18	2018/19	2019/20	2020/21
Charged/Summonsed	3,717	3,191	2,395	1,704	841
Diversionary, educational or intervention activity, resulting from the crime report, has been undertaken and it is not in the public interest to take any further action.	-	1	4	19	38
Evidential difficulties (suspect identified; victim supports action)	13,431	16,406	15,890	12,866	7,868
Evidential difficulties (victim does not support action)	17,610	25,329	28,715	27,944	23,259
Further investigation to support formal action not in the public interest – police decision	165	223	231	193	91
Investigation complete – no suspect identified	3,395	5,329	6,655	5,405	4,322
Not yet assigned an outcome	2,062	2,598	4,298	6,767	18,122
Out-of-court (formal)	32	33	27	14	14
Out-of-court (informal)	2	3	4	4	4
Prosecution prevented or not in the public interest	1,126	1,017	947	696	629
Responsibility for further investigation transferred to another body	458	702	720	647	507
Taken into consideration	2	3	1	0	1
Total all outcomes	**42,000**	**54,835**	**59,887**	**56,259**	**55,696**
Charged/Summonsed as % of all outcomes	8.9%	5.8%	4.0%	3.0%	1.5%
Not yet assigned an outcome as % of all outcomes	4.9%	4.7%	7.2%	12.0%	32.5%

Source: House of Commons Library estimates based on Home Office, Outcomes open data year ending March 2021 (and earlier editions), accessed 12 October 2021.[20]

Caution is advised when interpreting these figures; the table also shows that investigations are still ongoing (not yet assigned an outcome) in 32.5% of cases, and in the year to September 2021, this had gone up to 37.3%.[21] This compares to 12% of cases from 2019/20 and 8.4% from 2018/19. As more investigations are completed it is highly likely that the proportion of cases of rape that lead to a charge or summons will increase. However, this also indicates that both victims and suspects are enduring longer delays. Even taking such caveats into consideration, the figures can only be described as shockingly low. Confidence in the criminal justice system is undermined by such small numbers, and a terrible message is conveyed to victims and survivors of rape. Justice is clearly not being done.

12. Professor Cheryl Thomas QC, Professor of Judicial Studies at University College London, raised the fact that we do not have a single offence of rape in this country, and it

19 Home Office (20 July 2017) Crime outcomes in England and Wales 2016 to 2017 second edition: data tables second edition, Table 2.2; Home Office (19 July 2018) Crime outcomes in England and Wales 2017 to 2018: data tables, Table 2.2; Home Office (22 July 2021) Crime outcomes in England and Wales 2020 to 2021: data tables, Table 2.2.

20 Note: No data available for Greater Manchester Police between July 2019 to March 2020. There were 58,959 cases of rape recorded by the police in 2019/20 (Source: HO, Police recorded crime open data Police Force Area tables from year ending March 2013 onwards, accessed 12 October 2021). Without two quarters of data for Greater Manchester Police we only have outcome data for 56,259 of the cases recorded in 2019/20.

21 Home Office (27 January 2022) Crime outcomes in England and Wales, year to September 2021: data tables, Table 2.2.

is important to note that not all the individual offences of rape in the rape offences group have the same charged/summonsed rate.[22] The table below shows that there is an apparent disparity based on the age (range) of the victim.

Figure 2: Table showing outcomes of rape offences by offence description in England and Wales in the year 2020/21.

Outcomes of rape offences by offence description
England and Wales, 2020/21

	Multiple Undefined Offenders	Aged 16 and over	Child under 16	Child under 13	**All Rape offences**
Charged/Summonsed	7	488	218	128	**841**
Diversionary, educational or intervention activity, resulting from the crime report, has been undertaken and it is not in the public interest to take any further action.	1	22	12	3	**38**
Evidential difficulties (suspect identified; victim supports action)	101	6,041	892	834	**7,868**
Evidential difficulties (victim does not support action)	559	18,170	1,958	2,572	**23,259**
Further investigation to support formal action not in the public interest – police decision	2	27	53	9	**91**
Investigation complete – no suspect identified	293	3,004	499	526	**4,322**
Not yet assigned an outcome	372	11,563	3,005	3,182	**18,122**
Out-of-court (formal)	-	5	8	1	**14**
Out-of-court (informal)	-	-	4	-	**4**
Prosecution prevented or not in the public interest	6	186	351	86	**629**
Responsibility for further investigation transferred to another body	11	165	196	135	**507**
Taken into consideration	-	-	1	-	**1**
Total outcomes	1,352	39,671	7,197	7,476	**55,696**
Charged/Summonsed as % of total outcomes	0.5%	1.2%	3.0%	1.7%	**1.5%**
Not yet assigned an outcome as % of total outcomes	27.5%	29.1%	41.8%	42.6%	**32.5%**

Source: House of Commons Library estimates based on Home Office, Outcomes open data year ending March 2021 (and earlier editions), accessed 12 October 2021.[23]

In 2020/21, the charged/summonsed rate is currently 1.2% for cases where the offence is rape of a male/female aged 16 and over, 3.0% for cases of rape of a male/female child under 16 and 1.7% for cases of rape of a male/female child under the age of 13. This disparity is likely to increase as there are more cases waiting to be assigned an outcome amongst the rape of a male/female child under the age of 16, and under 13 offences. Accordingly, the disparity is more prominent in previous years, which have a smaller proportion of cases still awaiting an outcome. Cases involving children under 16 have consistently had the highest charged/summons rate of the rape offence groups. In 2016/17, 15.5% of cases involving a victim under 16 led to a charge or summons, compared to 6.9% involving a victim aged 16 or over and 10.7% involving a child under 13. As previously stated, this report focuses primarily on the investigation and prosecution of adult rape, as the Government's End-to-End Rape Review does.[24]

13. By way of comparison, the 1.5% charged/summonsed rate for the rape offences group in 2020/21 compares to a rate of 4.7% for the other sexual offences group, 9.8% for the

22 Q50 (the modern law of rape is set out in the Sexual Offences Act 2003, with offences committed before the Act came into force prosecuted under the Sexual Offences Act 1956. Offences defined and flagged by the CPS as rape under the 2003 Act include the rape of a child under 13 and sexual activity with a person with a mental disorder impeding choice. For more information, please see the section on 'Monitoring flags' in the CPS data summary Quarter 2 2021–2022, published 20 January 2022).

23 Note: 'Rape of a Female – Multiple Undefined Offenders' and 'Rape of a Male – Multiple Undefined Offenders' are included in the Home Office Counting Rules For Recorded Crime (Rape), with effect from April 2021. 'Undefined Offender' is only to be used in circumstances where the victim (or person representing the victim) cannot identify individual multiple offenders as being different or distinct. Data for offence description 'multiple undefined offenders' only recorded from 2019/20. 2019/20 data includes March to June 2019 for Greater Manchester Police, but no data was recorded from July 2019 to March 2020.

24 HM Government (June 2021) The end-to-end rape review report on findings and actions.

violence with injury group and 7.1% for all recorded offences.[25] It is also the lowest rate across all offence groups barring offences of theft (theft from a vehicle/person and other theft offences).[26] Rape offences recorded in 2020/21 also have one of the highest proportions of cases not yet assigned an outcome as at 22 July 2021, following homicide (40.5%), death or serious injury—unlawful driving (35.5%) and trafficking of drugs (34.9%).[27]

14. Next, it is important to look at the number of police referrals to the CPS for a charging decision. In 2020/21, some 3,539 suspects were referred to the CPS for a charging decision, in cases which were 'flagged' as involving rape or attempted rape. (It is important to note that this data comes from a separate administrative database to that used by the police for charging, and so it is not possible to join the two up or compare them directly.) The table shows the equivalent figure in each year since 2014/15.

Figure 3: Table showing the total number of suspects referred to the CPS by the police in rape-flagged cases.

Pre-charge receipts: total number of suspects referred by the Police in rape-flagged cases
England and Wales

	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21
Received from the police	4,104	4,385	4,595	4,370	3,375	2,747	3,539

Source: CPS, Violence against Women and Girls report 2018–2019–Statistics; Violence Against Women and Girls Annual Data Tables Year Ending March 2020 and Year Ending March 2021.

15. In the same year, 2020/21, there were 4,352 pre-charge decisions made by the CPS (see Figure 4). Note that the number of decisions is substantially higher than the number of cases referred by the police, in every year (see Figures 3 and 4).[28]

25 House of Commons Library estimates based on Home Office, Outcomes open data year ending March 2021 (and earlier editions) [last accessed 12 October 2021].

26 House of Commons Library estimates based on Home Office, Outcomes open data year ending March 2021 (and earlier editions) [last accessed 12 October 2021].

27 House of Commons Library estimates based on Home Office, Outcomes open data year ending March 2021 (and earlier editions) [last accessed 12 October 2021].

28 The CPS has said there are a few factors that could explain this discrepancy. (1) It could be due to the way monitoring flags are assigned to cases. Rape numbers are measured by the presence of a flag assigned to the case by prosecutors. As cases are finalised, this data will become more reliable as checks are made leading to a difference between the number of cases referred by the police to the CPS and the number of pre-charge decisions. (2) These figures derive from different datasets which can present challenges when reading across. This includes the time lag, as the police may refer a case to the CPS in one financial year, but prosecutors may not have made a charging decision on the case until the following year. CPS data records activity against the financial year in which that particular activity took place.

Figure 4: Table showing the number of completed pre-charge decisions on rape-flagged cases.

Pre-charge decisions completed by the CPS on rape-flagged cases
England and Wales

	2014-15		2015-16		2016-17		2017-18		2018-19		2019-20		2020-21	
	Vol.	%	Vol.	%	Vol.	%	Vol.	%	Vol.	%	Vol.	%	Vol.	%
Charged	3,648	59.2%	3,910	57.0%	3,671	55.5%	2,822	46.9%	1,758	34.4%	1,867	44.6%	1,955	44.9%
No Prosecution	1,997	32.4%	2,271	33.1%	2,145	32.4%	1,851	30.8%	1,876	36.7%	1,294	30.9%	1,127	25.9%
Out of Court Disposal	29	0.5%	24	0.4%	29	0.4%	26	0.4%	15	0.3%	22	0.5%	24	0.6%
Administratively Finalised	484	7.9%	645	9.4%	761	11.5%	1,307	21.7%	1,465	28.6%	996	23.8%	1,244	28.6%
Other	1	0.0%	5	0.1%	5	0.1%	6	0.1%	0	0.0%	5	0.1%	2	0.0%
Total	6,159		6,855		6,611		6,012		5,114		4,184		4,352	

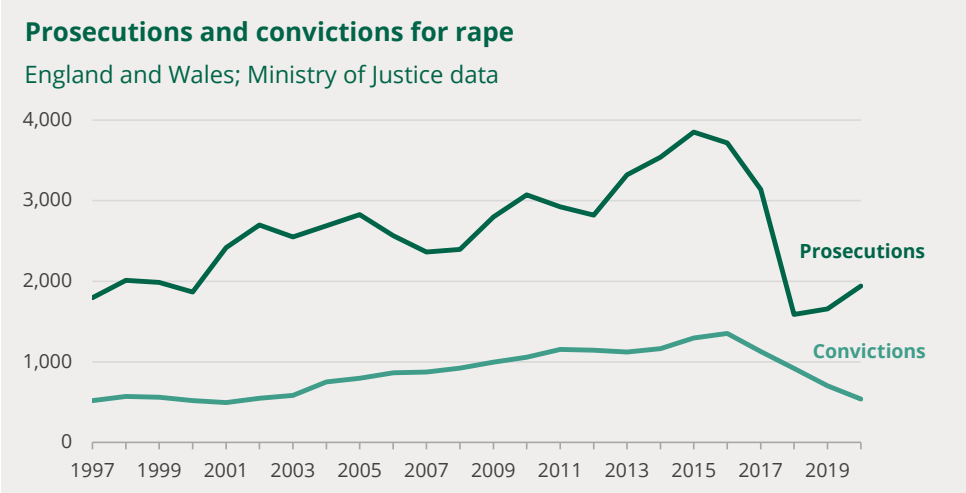
Sources: CPS, Violence against Women and Girls report 2018–2019–Statistics; Violence Against Women and Girls Annual Data Tables Year Ending March 2020 and Year Ending March 2021.

In the press release accompanying the publication of these figures, Max Hill QC, the Director of Public Prosecutions, saw cause for optimism, stating, 'There is still a long way to go but we are beginning to see some progress in the number and proportion of rape cases being charged, which should in time see more rapists held accountable for their devastating actions.'[29]

16. This progress is urgently needed. At the same time, Crown Prosecution Service (CPS) figures indicate that rape prosecutions are at an all-time low.[30] Recent figures show 1,557 rape-flagged cases proceeding to the prosecution stage in 2020/21.[31] This contrasts with 2,102 in 2019/20.[32] The CPS has emphasised the impact of the pandemic, stating that the CPS caseload overall is 50% higher than its pre-pandemic levels at 165,157.[33] For a longer-term look at prosecutions for rape, we rely on the Ministry of Justice's data[34] on prosecutions by principal offence. The Ministry of Justice's figures show the volume of rape prosecutions rising until 2015 before falling substantially between then and 2018 (see Figure 5). There was a slight rise again between 2018 and 2020, while the volume of convictions has been in steady decline since 2016.

29 Crown Prosecution Service (22 July 2021) News: Prosecution statistics published for 2020–21.
30 Rape Crisis England and Wales (22 July 2021) Annual rape prosecutions fall again.
31 Crown Prosecution Service (22 July 2021) CPS data summary Quarter 4 2020–2021.
32 Crown Prosecution Service (22 July 2021) CPS data summary Quarter 4 2020–2021.
33 Crown Prosecution Service (22 July 2021) News: Prosecution statistics published for 2020–21.
34 Both the Crown Prosecution Service (CPS) and the Ministry of Justice collect and publish data on rape prosecutions. Statistics from the CPS show more prosecutions for rape than there are in the official statistics from the Ministry of Justice because while the CPS statistics include all flagged cases, the Ministry of Justice statistics refer to cases by the principal (i.e. most serious) offence with which a defendant is charged.

Figure 5: Graph showing the volume of rape prosecutions and convictions over time, from 1997 to 2020.



Source: Ministry of Justice, Criminal justice statistics quarterly, various years. These relate to defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.

17. On 20 January 2022, the Crown Prosecution Service (CPS) published its Quarter 2 data release, covering 1 July to 30 September 2021.[35] Worryingly, the volume of rape prosecutions has remained static when comparing this quarter to the previous quarter. This follows small quarterly improvements over the last year since Quarter 2 2020/21, when there were 306 completed prosecutions, as recovery from the pandemic continued (see Figure 6).[36] In Quarter 2 2020/21, there were 600 prosecutions. This is still strikingly low.

Figure 6: Table showing the number of completed rape prosecutions across each quarter from 1 April 2020 to 31 July 2020 (Quarter 1 2020/21) to 1 July to 31 September 2021 (Quarter 2 2021/22).

Quarter	Number of completed rape prosecutions[37]
Q1, 2020/21	218
Q2, 2020/21	306
Q3, 2020/21	486
Q4, 2020/21	547
Q1, 2021/22	601
Q2, 2021/22	600

Source: Crown Prosecution Service (22 July 2021) CPS data summary Quarter 4 2020–2021; Crown Prosecution Service (20 January 2022) CPS data summary Quarter 2 2021–2022.

35 Crown Prosecution Service (20 January 2022) CPS data summary Quarter 2 2021–2022.
36 Crown prosecution Service (22 July 2021) CPS data summary Quarter 4 2020–2021.
37 Crown prosecution Service (22 July 2021) CPS data summary Quarter 4 2020–2021; Crown Prosecution Service (20 January 2022) CPS data summary Quarter 2 2021–2022.

Rape convictions

18. Of the 1,557 rape-flagged cases proceeding to the prosecution stage in 2020/21, 1,109 (71.2%) resulted in a conviction (see Figure 7).[38] As a result of the significant decline in the number of charges and prosecutions for rape cases, there have been fewer convictions for rape too. However, while the number of convictions has gone down, the proportion has increased, rising from 56.9% in 2014/15 to 71.2% in 2020/21.

Figure 7: Table showing prosecution outcomes for rape-flagged cases in each year from 2014/15 to 2020/21.

Prosecution outcomes for rape-flagged cases (CPS records)
England and Wales

	2014-15		2015-16		2016-17		2017-18		2018-19		2019-20		2020-21	
	Volume	%	Volume	%	Volume	%	Volume	%	Vol	%	Vol	%	Vol.	%
Convictions	2,581	56.9%	2,689	57.9%	2,991	57.6%	2,635	58.3%	1,925	63.4%	1,439	68.5%	1,109	71.2%
Non-Convictions	1,955	43.1%	1,954	42.1%	2,199	42.4%	1,882	41.7%	1,109	36.6%	663	31.5%	448	28.8%
Total	4,536		4,643		5,190		4,517		3,034		2,102		1,557	

Source: CPS, Violence against Women and Girls report 2018–2019–Statistics; Violence Against Women and Girls Annual Data Tables Year Ending March 2020 and Year Ending March 2021.

Victim attrition

19. The fact that the majority of cases are closed because the victim does not support further action is a striking indictment of the criminal justice system and its response to rape.[39] The Government's Rape Review highlighted the fact that withdrawal predominantly takes place at the pre-charge phase.[40] Home Office-held data on crime outcomes in England and Wales for the year to March 2021 shows that 42% of the recorded rape offences that have been assigned an outcome were closed due to 'Evidential difficulties (victim does not support action)'.[41] The second publication of data, which the Government describes as a 'scorecard' for adult rape offences, details that between July and September 2021, the proportion of investigations closed because the victim does not support further police action was at 63%.[42]

20. People might withdraw for a number of different reasons, including the stress and trauma triggered or worsened by the police investigation itself, as the London Rape Review found, in addition to concerns about potential invasions of privacy, lack of communication and the inconsistency of support available.[43] The College of Policing told us that effectiveness and efficiency of investigations are key to keeping victims engaged and preventing attrition.[44] Delay is a major factor for people when deciding whether to withdraw.[45]

38 Crown Prosecution Service (22 July 2021) CPS data summary Quarter 4 2020–2021.
39 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences.
40 HM Government (June 2021) The end-to-end rape review report on findings and actions.
41 Home Office (22 July 2021) Crime outcomes in England and Wales 2020 to 2021: data tables, Table 2.2.
42 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences.
43 Q139; INV0008, College of Policing; INV0017, Rights of Women; INV0018, End Violence Against Women Coalition; INV0020, HM Government (from the Ministry of Justice, the Home Office and the Attorney General's Office); MOPAC (July 2019) The London Rape Review: A review of cases from 2016.
44 INV0008, College of Policing.
45 Q91; INV0010, Women's Aid Federation of England; INV0028, Criminal Bar Association; INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.

Delays

21. According to the second published scorecard for adult rape offences, between July and September 2021 the median number of days from the recording of an adult rape offence to the charging of an offender was 316 days.[46] This compares to 281 days between January and December 2019 (although there has been a marked improvement of 99 days since the previous quarter, when the median number of days was 415).[47] In their joint thematic inspection of the police and CPS's response to rape, HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and HM Crown Prosecution Service Inspectorate (HMCPSI) found as part of their case file review that the average time from report until a case was closed with 'no further action' was 456 days.[48] The average number of days between reporting a rape and the police referring the case to the CPS is 218 days.[49] Significantly, there was inconsistency across police forces; in the forces inspected, the average time to a police decision to take no further action ranged from 28 days to 114 days.[50] Similar inconsistency could be seen across CPS Areas.[51]

22. Delays persist at subsequent stages as a rape case progresses through the criminal justice system.[52] Between July and September 2022, the mean number of days from charge to a case arriving at the Crown Court was 61 (compared to 53 between January and December 2019).[53] Across the same period, the mean number of days from charge to case completion at the Crown Court was 435 days, compared to 301.[54] The pandemic has exacerbated many existing issues, including delays and the associated court backlog.[55]

23. Data released in response to a recent Parliamentary Question from the Shadow Attorney General Emily Thornberry MP show that, overall, the typical delay between an offence of rape and the completion of the resulting criminal case increased to 1,000 days in 2021 for the first time.[56] The tables below show the volume of rape and sexual assault cases which have been outstanding for a year or more at the Crown Court in each year between 2016 and 2021, as well as the time in days between the offence to completion over the same period.

46 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences.
47 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences.
48 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
49 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
50 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
51 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
52 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences.
53 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences; GOV.UK (March 2022) Criminal Justice Scorecards: Chart Builder: Improving timeliness – Adult rape.
54 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences; GOV.UK (March 2022) Criminal Justice Scorecards: Chart Builder: Improving timeliness – Adult rape.
55 INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.
56 The Guardian (31 January 2022) 1,000 days between rape offence and case completion in UK, data shows.

Figure 8: Table showing the volume of both rape cases and sexual assault cases excluding rape which have been outstanding for a year or more at the Crown Court.

Year	Rape	Sexual assault–excluding rape
2016	287	371
2017	248	295
2018	156	196
2019	84	121
2020	489	775
2021 (to September)	576	947

Source: UK Parliament written question and answer, Domestic Abuse and Sexual Offences: Criminal Proceedings, question for Ministry of Justice, UIN 107510, tabled on 19 January 2022.

Figure 9: Table showing the median and mean time in days between the offence to completion, both for outstanding rape cases over one year old and, separately, sexual assault cases excluding rape, from 2016 to 2021.

Year	Rape		Sexual assault–excluding rape	
	Median	Mean	Median	Mean
2016	676	2,393	547	2,356
2017	670	2,423	510	2,323
2018	727	2,664	488	2,299
2019	808	2,910	491	2,154
2020	796	2,359	546	1,791
2021 (to September)	1,020	2,767	695	2,115

Source: UK Parliament written question and answer, Domestic Abuse and Sexual Offences: Criminal Proceedings, question for Ministry of Justice, UIN 107510, tabled on 19 January 2022.

24. Such delays have a heavy impact on both complainants and suspects or defendants. The Criminal Bar Association (CBA) drew our attention to one case which, if the trial eventually goes ahead as rescheduled, will have taken seven years from the start of the investigation and two years since the defendant's first appearance in court.[57] As a result of the delay, two of the complainants involved in the case have withdrawn their support with their mental health significantly affected, and another is so unwell they may die before the rescheduled trial date.[58] The defendant is also unwell; the CBA state that, '[t]he stress a criminal case places on defendants and their families should not be under-estimated'.[59]

Those who don't come forward

25. Finally, many victims and survivors do not even report to the police what happened. According to the Crime Survey for England and Wales (CSEW) year ending March 2020, an estimated 1.8% of adults aged 16 to 74 years (773,000) experienced sexual assault (including attempts) in the last year.[60] In contrast, for the year ending March 2020, the

57 INV0028, Criminal Bar Association.
58 INV0028, Criminal Bar Association.
59 INV0028, Criminal Bar Association.
60 Office for National Statistics (18 March 2021) Sexual offences prevalence and trends, England and Wales: year ending March 2020.

police recorded 162,936 sexual offences.[61] Latest estimates from the CSEW showed that fewer than one in six (16%) female victims and fewer than one in five (19%) male victims of sexual assault by rape or penetration since the age of 16 reported it to the police.[62] It is estimated that 135,103 people had experienced rape or penetration including attempts in 2019/20; 58,845 cases of rape were reported to the police (43,187 when excluding under 16-year-olds).[63] See Figures 10 and 11 below.

Figure 10: Table showing estimated cases of rape in each year between 2013/14 and 2019/20, based on the Crime Survey of England and Wales (CSEW), as well as police recorded rape cases.

Cases of rape in England and Wales

Police Recorded Crime (PRC) and the Crime Survey of England and Wales

Year	CSEW (estimated)	PRC	PRC (excl. under 16 year olds)
2013/14	89,599	20,751	12,968
2014/15	93,060	29,420	19,364
2015/16	96,461	36,293	24,093
2016/17	114,489	42,026	28,488
2017/18	119,617	54,785	38,206
2018/19	125,852	59,780	42,302
2019/20	135,103	58,845	43,187

Notes:
2019/20 includes some offences against under 16s as offence codes 19J and 19K were introduced from April 2019 to cover rape or attempted rape by multiple undefined offenders. "Undefined Offender" is only to be used in circumstances where the victim (or person representing the victim) cannot identify individual multiple offenders as being different or distinct.

Source: Office for National Statistics (2021) Sexual offences prevalence and victim characteristics, England and Wales: table 4b and 13; Office for National Statistics (2021) Estimates of the population for the UK, England and Wales, Scotland and Northern Ireland: table MYE2.[64]

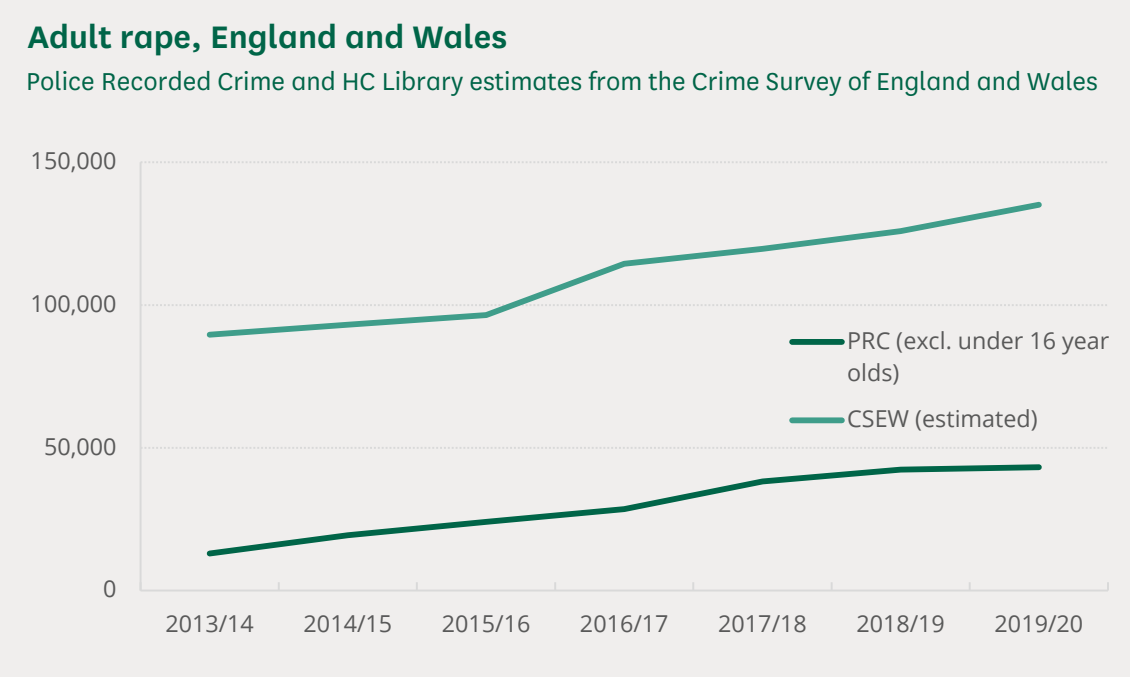
61 Office for National Statistics (18 March 2021) Sexual offences prevalence and trends, England and Wales: year ending March 2020.

62 Office for National Statistics (18 March 2021) Sexual offences in England and Wales overview: year ending March 2020.

63 Office for National Statistics (2021) Sexual offences prevalence and victim characteristics, England and Wales: table 4b and 13; Office for National Statistics (2021) Estimates of the population for the UK, England and Wales, Scotland and Northern Ireland: table MYE2.

64 The Crime Survey for England and Wales (CSEW) provides data on the proportion of respondents aged 16 to 59 who have indicated they have been a victim of 'rape or penetration including attempts' in the last year. The CSEW estimates do not provide the number of victims of rape alone, so the House of Commons Library has taken this proportion and estimated the number of victims based on the population for England and Wales aged 16 to 59.

Figure 11: Graph showing estimated cases of rape in each year between 2013/14 and 2019/20, based on the Crime Survey of England and Wales (CSEW), as well as police recorded rape cases.



Source: Office for National Statistics (2021) Sexual offences prevalence and victim characteristics, England and Wales: table 4b and 13; Office for National Statistics (2021) Estimates of the population for the UK, England and Wales, Scotland and Northern Ireland: table MYE2.

26. Evidence we received detailed the reasons victims may choose not to report, including concerns around how the process might affect their mental health and emotional wellbeing.[65] Women's Aid Federation of England stated, 'Whilst greater analysis is needed of survivor attrition, it is clear that survivors make choices not to report in order to protect themselves from distress'.[66] In the summer of 2020, the Victims' Commissioner undertook a survey of 491 survivors of rape, to understand better their experiences of the criminal justice system.[67] Just 14% believed they would receive justice by reporting the crime to the police.[68] 29% had chosen not to report to the police, with the most important reason being that they didn't think they would be believed.[69] The second most common reason for not reporting was the belief that the case would not be successfully prosecuted 'because of my gender, sexuality or lifestyle'.[70]

The different experiences of different groups of victims and survivors

27. Even fewer victims and survivors from Black and minority ethnic, disabled, and LGBT+ groups will report to the police and are more likely to disengage from the process when they do.[71] EVAW told us, 'Victim/survivors, who are overwhelmingly women and

65 Q5; INV0006, Dr Peter Hills, on behalf of Bournemouth University; INV0010, Women's Aid Federation of England.
66 INV0010, Women's Aid Federation of England.
67 Victims' Commissioner (October 2020) Rape survivors and the criminal justice system.
68 Victims' Commissioner (October 2020) Rape survivors and the criminal justice system.
69 Victims' Commissioner (October 2020) Rape survivors and the criminal justice system.
70 Victims' Commissioner (October 2020) Rape survivors and the criminal justice system.
71 Centre for Women's Justice, End Violence Against Women Coalition (EVAW), Imkaan and Rape Crisis England and Wales (2020) The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change.

girls, will experience the criminal justice system (CJS) in ways that will be shaped by their sex, gender and other intersecting inequalities including race/ethnicity, age, faith, class, migrant status, socio-economic background, and sexuality'.[72]

Victims and survivors from Black and minority ethnic groups

28. Data from the CSEW has shown that those in the Black or Black British and Mixed ethnic groups were significantly more likely than those in the White, Asian or Other ethnic groups to experience sexual assault within the last year.[73] (For rape or sexual assault by penetration, there were no significant differences between ethnic groups.)[74] Yet, for Black and minority ethnic (BME) survivors, the disproportionate policing experienced by their communities can lead to distrust of the police.[75] Rights of Women informed us that many of the women the organisation supports express a fear of the police, for example, as a result of their past interactions or insecure immigration status.[76]

29. Similarly, Rosie Lewis, then Head of Policy at Imkaan, told us:

> We know that black and minoritised women delay reporting sexual violence. We know that multiple barriers might include being migrant women, women without recourse to public funds who face other forms of violence. We know from our research and evidence base that sexual violence, particularly for black and minoritised women, often involves other interlocking forms of violence, which can very much prohibit women from being able to disclose safely, which is why so few black and minoritised women come forward to disclose to the police.[77]

A joint report from Imkaan and the University of Warwick, 'Reclaiming Voice', highlights the wider barriers that exist for BME women in accessing support, including:

- reluctance among BME women to involve agencies within the criminal justice system;
- inadequate responses from providers, marked by unhelpful assumptions about 'culture';
- difficulty of discussing sexual violence in certain cultures; and
- racism.[78]

72 INV0018, End Violence Against Women Coalition.
73 Office for National Statistics (18 March 2021) Sexual offences victim characteristics, England and Wales: year ending March 2020
74 Office for National Statistics (18 March 2021) Sexual offences victim characteristics, England and Wales: year ending March 2020.
75 INV0017, Rights of Women.
76 INV0017, Rights of Women.
77 Q39.
78 Thiara, R. (University of Warwick) and Roy, S. (Imkaan) (2020) Reclaiming Voice: Minoritised Women and Sexual Violence: Key Findings.

Deaf and disabled victims and survivors, and those with additional needs

30. Data from the CSEW also show that women with a disability were more likely to have experienced sexual assault in the last year than women without a disability.[79] Yet, again, the Victims' Commissioner raised concerns around reporting and support for deaf and disabled victims and survivors:

> … those who have any kind of disability, from deafness to any mental instability in their past, are highly unlikely either to report, but if they do, to be supported to bring a complaint right to fruition.[80]

31. Disabled Survivors Unite informed us that disabled people in intimate relationships can struggle to report because their partners are seen in a positive light.[81] Ms Lewis also spoke to us about the issues faced by disabled BME women.[82] If the perpetrator is a carer, 'that means that the women cannot disclose and report because it can come down to a choice for them between safety and survival'.[83]

32. When people who are deaf, disabled or who have additional needs do report, their experience can be very difficult.[84] One person who responded to our qualitative online survey as part of this inquiry felt that the way their case was handled was negatively affected by the fact they are autistic:

> Nothing was made accessible to me, no steps were taken to offer me support, and I would even go so far as to guess that my being autistic is a big reason my case wasn't taken seriously or handled properly despite the strong evidence.[85]

33. Deaf survivors we spoke to said that deaf people are faced with difficulties in their encounters with the police that hearing people are not, further increasing their vulnerability as victims of abuse.[86] Issues with the initial emergency call were raised; it was stressed to us that a hearing person is able to speak more clearly on the phone than a deaf person, and that if a perpetrator of abuse is hearing and present they can manipulate the situation and influence the initial impression the police get of a reported crime.[87] EVAW emphasised that access to interpreting (for example, if a deaf person's first or preferred language is British Sign Language or BSL) and appropriate arrangements for deaf and disabled women cannot be guaranteed.[88] One deaf person with lived experience shared that, as she can partially lipread, the police tried to make her give a statement

79 Office for National Statistics (18 March 2021) Sexual offences victim characteristics, England and Wales: year ending March 2020.
80 Q5.
81 INV0011, Disabled Survivors Unite.
82 Q39.
83 Q39.
84 INV0009, Rape Crisis England and Wales; INV0010, Women's Aid Federation of England; INV0011, Disabled Survivors Unite; INV0018, End Violence Against Women Coalition; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience; VAW0044, Frida, Georgina, Jola, and Sonia (the Committee held a meeting with four deaf women, Frida, Georgina, Jola, and Sonia, who have lived experience of domestic abuse and sexual violence, in November 2021).
85 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
86 VAW0044, Frida, Georgina, Jola, and Sonia.
87 VAW0044, Frida, Georgina, Jola, and Sonia.
88 INV0018, End Violence Against Women Coalition.

without an interpreter present.[89] She felt that the police did not recognise her right to an interpreter, and did not understand that, without one, she might miss information that could be essential to giving her best evidence.[90]

Men and boys

34. It is important to consider the fact that, although women are more likely than men to experience rape, men and boys also experience rape and other forms of sexual violence and need access to justice and support.[91] For the year ending March 2020, the CSEW estimated that 155,000 men aged 16 to 74 experienced sexual assault (including attempts) in the last year.[92] Duncan Craig OBE, CEO of Survivors Manchester, pointed out that rape and serious sexual offences tend to be spoken about under the umbrella of violence against women and girls.[93] That in itself can be a barrier to reporting for men and boys, as they do not recognise themselves or what they have experienced in the way rape is spoken about.[94] Awareness is vital. The 'Coronation Street' storyline where the character of David Platt was raped resulted in a 1,700% increase in calls to the National Male Survivors helpline in 72 hours.[95]

35. Fear of judgment can also be a barrier for men and boys.[96] Mr Craig told us:

> … unless we tackle intrinsic homophobia and misogyny within society, we are never going to tackle the barriers affecting boys and men from stepping forward. Time and time and time again when you ask boys and men what was the reason for silence … it comes up with fear of judgment. When you get underneath that judgment, what that judgment is about, the number one fear of judgment from men is, "I didn't want anyone to think I was gay". If we look at that and say, "Well, if somebody thought you were gay, so what? What is the problem with that?" the fact that people are fearing being labelled as being gay, it somehow says to me that people are thinking that is a bad thing and therefore not stepping forward. We have to tackle that.[97]

LGBT+ victims and survivors

36. LGBT+ people can face the same challenges non-LGBT+ people come up against in trying to tell someone about what has happened.[98] But they also experience specific barriers due to homophobia, biphobia and transphobia.[99] LGBT+ people can worry that

89 VAW0044, Frida, Georgina, Jola, and Sonia.
90 VAW0044, Frida, Georgina, Jola, and Sonia.
91 Office for National Statistics (18 March 2021) Nature of sexual assault by rape or penetration, England and Wales: year ending March 2020.
92 Office for National Statistics (18 March 2021) Sexual offences victim characteristics, England and Wales: year ending March 2020.
93 Q6.
94 Q6.
95 Q6; Home Office (March 2019, updated July 2021) Male victims position paper.
96 Q6.
97 Q6.
98 Galop and London Survivors Gateway (June 2021) LGBT+ people and sexual violence.
99 Galop and London Survivors Gateway (June 2021) LGBT+ people and sexual violence.

if they report to the police or inform another service, the person they disclose to may not understand their lived experience and could ask questions that are intrusive, gratuitous or express judgment.[100]

The low levels of confidence in the criminal justice system

37. We were told, including by victims and survivors themselves, that there is a lack of confidence in the criminal justice system, which the bleak statistics on the investigation and prosecution of rape—as we have just explored in this chapter—have heavily contributed to.[101] Independent Sexual Violence Advisor (ISVA) Manager Ellie Ball told us:

> … a very large percentage of survivors do not seek a criminal justice outcome because they just do not believe they will get one. We have a lot of very educated young women, and men as well, out there who are aware, they can read, they can study, they can look at the statistics around these cases, and they are not going to be fooled into thinking that if they come forward their case will be successfully prosecuted.[102]

Rape Crisis England and Wales warned that it is problematic to even expect victims and survivors to report, when it is so unlikely their case will reach court, never mind end in a conviction.[103]

38. Some victims and survivors who shared their experiences with us and did take the decision to report said they felt failed by the criminal justice system. One person described the system as 'disgusting' and expressed a wish that they had never reported what had happened to them in the first place.[104] Susan, a survivor who told us her story, felt similarly:

> … if a friend of mine came to me and said they've been raped, would I advise them to go to the police? No. Live with it, because I wish I'd have lived with it. I have had to live that twice and I've got no closure. The stress and upset … you have to go through. I'm lucky I'm still sitting here because of what I've been through. So no, unless things change, and things need to drastically change, I wouldn't advise anyone to report rape, and that's sad![105]

39. As the Director of Public Prosecutions Mr Hill acknowledged to us, for many, their experience of the system can add to the already great trauma they have suffered.[106] One person who responded to our qualitative online survey described feeling more traumatised reporting than enduring the abuse.[107] As Susan said, things need to change drastically.[108]

100 Galop and London Survivors Gateway (June 2021) LGBT+ people and sexual violence.
101 Q30; INV0011, Disabled Survivors Unite; INV0015, Solace Women's Aid; INV0018, End Violence Against Women Coalition; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
102 Q30.
103 INV0009, Rape Crisis England and Wales.
104 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
105 INV0031, Emily, Rachel and Susan.
106 INV0036, Max Hill QC, Director of Public Prosecutions, Crown Prosecution Service.
107 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
108 INV0031, Emily, Rachel and Susan.

The complexity of rape cases

40. Before looking at how things could change, as Susan urges—as well as the various possible and interrelated causes behind the low charging and prosecution volumes—we believe it is important first to consider one issue raised in written evidence, namely, the complex nature of rape offences.[109] The CPS told us that, 'RASSO [rape and serious sexual offence] cases are some of the most complex and sensitive cases that we prosecute'.[110]

41. The modern law of rape is set out in the Sexual Offences Act 2003.[111] (Offences committed before the Act came into force are prosecuted under the Sexual Offences Act 1956).[112] The 2003 Act defines 'consent' and 'sexual' and sets out evidential and conclusive presumptions about consent.[113] A person consents if they agree by choice, and if they have the freedom and capacity to make that choice.[114] The CPS has stated that proving the absence of consent is usually the most difficult part of a rape prosecution, and it is the most common reason for a rape case to fail.[115] It can be complicated by the fact that victims are most likely to experience sexual assault by rape or penetration by a partner or ex-partner.[116] In the absence of evidence to help prove the victim did not consent, the CPS has said there is the possibility that some cases may fail to meet the evidential stage of the Code for Crown Prosecutors.[117]

42. The College of Policing made similar points.[118] The issue of consent may be contested when there is no other supporting evidence, and, in comparison with other offences, defendants are generally more likely to plead not guilty.[119] Less corroborating evidence can make it harder to rebut the defendant's account (although as the Centre for Women's Justice makes clear, a criminal prosecution can and should be based on a credible account from a complainant).[120] Rape Crisis England and Wales described how the nature of rape itself makes it difficult to prosecute in our adversarial legal system, which the organisation argued can incentivise defence advocates to seek to undermine a complainant's credibility.[121]

43. **Exceptionally low volumes of rape charges and prosecutions are unacceptable. Adult victims and survivors of rape are being failed by our criminal justice system. Rape is undoubtedly a complex, difficult and traumatic crime to investigate and prosecute successfully. However, that complexity does not fully explain the unacceptably low volumes of charging and prosecution, or the long delays faced by victims and survivors and by suspects and defendants. Any action to address those situations must not undermine the accused's right to a fair trial.**

109 INV0006, Dr Peter Hills, on behalf of Bournemouth University; INV0008, College of Policing; INV0014, Crown Prosecution Service.
110 INV0014, Crown Prosecution Service.
111 Sexual Offences Act 2003.
112 Crown Prosecution Service (Updated September 2012) CPS Policy for Prosecuting Cases of Rape.
113 Sexual Offences Act 2003: Explanatory Notes (Summary).
114 Sexual Offences Act 2003.
115 Crown Prosecution Service (Updated September 2012) CPS Policy for Prosecuting Cases of Rape.
116 Office for National Statistics (18 March 2021) Nature of sexual assault by rape or penetration, England and Wales: year ending March 2020.
117 Crown Prosecution Service (Updated September 2012) CPS Policy for Prosecuting Cases of Rape.
118 INV0008, College of Policing.
119 INV0008, College of Policing.
120 INV0008, College of Policing; INV0013, Centre for Women's Justice.
121 INV0009, Rape Crisis England and Wales.

3 The End-to-End Rape Review

> It is really clear from the end-to-end rape review and the recent progress report that rape prosecutions are nowhere near where they should be and that the system is failing victims.
>
> Source: Rachel Maclean MP, the Minister for Safeguarding, in oral evidence to the Home Affairs Select Committee on 15 December 2021.[122]

44. It is extremely welcome that the Government has acknowledged and apologised for the present situation and is taking action through the End-to-End Rape Review.[123] In the Rape Review report's Executive Summary, the Government states, '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.'[124] Speaking to the BBC in June, the then Secretary of State for Justice and Lord Chancellor Rt Hon Sir Robert Buckland QC MP said, 'The first thing I think I need to say is, sorry—it's not good enough.'[125]

45. **It is right that the Government is focusing on reversing the falling volumes of prosecutions and restoring people's confidence in reporting, and we welcome the priority that has been placed on this pressing undertaking through the End-to-End Rape Review.**

Background and overview

46. The Government published its End-to-End Rape Review report in June 2021.[126] The Government had committed to this review of the criminal justice response to rape and serious sexual offence cases in March 2019, as part of the Home Office's Ending violence against women and girls (VAWG) strategy refresh.[127] Work on this was initiated as a result of the decreasing volumes of police referrals, charges, prosecutions and convictions for VAWG offences, particularly for rape and serious sexual offences, since 2016/17, as we have already explored.[128] This is despite the fact that the Ending VAWG strategy 2016–2020 had been clear about the outcomes the Government wanted to achieve by 2020, namely a reduction in the prevalence of all forms of VAWG, matched by increases in reporting, police referrals, prosecutions and convictions.[129] The Review was expected to report by spring 2020 but was delayed; the Minister for Crime and Policing, Rt Hon Kit Malthouse MP, in response to an Urgent Question on the subject, said that a decision had been made to delay publication to take account of the then pending judicial review judgment in relation to the Crown Prosecution Service's (CPS) approach to the prosecution of rape.[130] (The Court of Appeal was to dismiss the application for judicial review in a judgment handed down on 15 March 2021.)[131]

122 Q226.
123 Q226; HM Government (June 2021) The end-to-end rape review report on findings and actions; BBC News (18 June 2021) Priti Patel and Robert Buckland 'deeply ashamed' of rape conviction rates.
124 HM Government (June 2021) The end-to-end rape review report on findings and actions.
125 BBC News (18 June 2021) Priti Patel and Robert Buckland 'deeply ashamed' of rape conviction rates.
126 HM Government (June 2021) The end-to-end rape review report on findings and actions.
127 Home Office (2019) Ending violence against women and girls strategy refresh: 2016 to 2020.
128 Home Office (2019) Ending violence against women and girls strategy refresh: 2016 to 2020.
129 HM Government (2016) Ending Violence against Women and Girls: Strategy 2016–2020.
130 HC Deb, 25 May 2021, col 262 [Commons Chamber]
131 EVAWC -v- DPP judgment [Paragraph 92] [last accessed 4 March 2022].

47. The Review sought to look at evidence across the system—from reporting to the police to court outcomes—to understand better what is happening in cases of adult rape and serious sexual offences being charged, prosecuted and convicted, with findings resulting in an Action Plan.[132] The Government told us that its Action Plan will 'bring about systemic change, improving the support victims receive and the quality and timeliness of cases progressing through the system.'[133] The Review's key stated ambition is to return volumes of rape cases being referred by the police, charged by the CPS and going to court to 2016 levels by the end of this Parliament (no later than December 2024).[134] The Government also sets out further aims that the Action Plan is designed to work towards, along with milestones covering the next six, 12 and 24 months, grouped under broad headings:

- implementing a framework to hold each part of the system accountable;
- improving support for victims;
- what the police and the CPS will do to transform the way cases are investigated and prosecuted; and
- what will happen at court to ensure victims' experiences are managed sensitively, without compromising defendants' right to a fair trial.[135]

Wider reactions to the Review

48. Those who gave evidence to us largely welcomed the Review, and particularly the apology from Ministers.[136] However, there was also disappointment.[137] Witnesses' views on the ambition to return volumes of rape cases being dealt with to 2016 levels varied from criticism that it wasn't nearly ambitious enough, to concern that it wasn't likely to be achieved.[138] The End Violence Against Women Coalition (EVAW) commented that it will take 29 years to return to 2016 charging levels.[139] The organisation also pointed out that, despite what it sees as the low likelihood of this target being reached, it is in itself a low bar: even in 2016, campaigners sought to address poor criminal justice outcomes for rape and sexual offences.[140] More widely, HMICFRS and HMCPSI, following their joint thematic inspection of the police and CPS's response to rape, came to the conclusion that a 'radical refocus and shift is required'.[141]

49. **Whilst returning the volume of rape cases being dealt with to 2016 levels, as the Rape Review aims for, would be a step in the right direction, it should not be considered a success in and of itself, given that even in 2016, criminal justice outcomes for rape were viewed as poor. It is concerning that confidence in the system's ability to even**

132 HM Government (June 2021) The end-to-end rape review report on findings and actions.
133 INV0020, HM Government (from the Ministry of Justice, the Home Office and the Attorney General's Office).
134 HM Government (June 2021) The end-to-end rape review report on findings and actions.
135 HM Government (June 2021) The end-to-end rape review report on findings and actions.
136 Qq1, 3, 4 and 28.
137 Qq1, 3, 29 and 50.
138 Qq29 and 174.
139 INV0033, End Violence Against Women Coalition, supplementary evidence.
140 INV0033, End Violence Against Women Coalition, supplementary evidence.
141 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.

reach 2016 levels by the end of 2024 at the latest is low. Greater progress must be made at speed to ensure that more cases are successfully prosecuted and so more perpetrators brought to justice.

50. Academic Dr Olivia Smith made the following observation:

> I think there are some very good words and it is good recognition of the problem, but very little translates that into action and meaningful change. That is something that we have had as a problem in this area, where there can be a lot of very good policy and good promises on paper, but it is turning that into real practice that is the problem.[142]

Part of that comes down to resourcing. Rape Crisis England and Wales Policy Lead Amelia Handy told us that the ambitions of the review are not adequately accompanied by a financial commitment.[143] Kirsty Brimelow QC, Vice-Chair of the Criminal Bar Association, said:

> I do feel we have a lot of reviews. In some ways, the landscape of trials and prosecutions with sexual offences cannot keep up with all the reviews, the policies that we have and the proposals. What is lacking each time is the money for the practitioners who are being asked to do this work. Without that money, any rape review is worth, frankly, the paper that it is written on.[144]

Ellie Cumbo, Head of Public Law at the Law Society, agreed, saying:

> A great many of the very positive recommendations from the rape review are procedural and cultural. They cannot take effect in an infrastructure that is lacking.[145]

Then Chair of the Bar Council Derek Sweeting QC echoed this, stating that without sufficient resourcing, it won't be possible to 'make good all those deficits'.[146] He pointed to resources as a key reason behind the low prosecution rates.[147] However, both Mr Sweeting and others said that there were a number of factors at play, and that resourcing was not the only cause.[148]

51. The Minister for Safeguarding Rachel Maclean MP acknowledged the strain on the legal service, and resources generally in the system.[149] However, she also said:

> In terms of resourcing, it is not helpful to go back to where we were in 2010 and rerun those debates about why the Government at the time had to do that. However, we are now in a much better position, where there is a recognition that resources are going into the system.[150]

142 Q44.
143 Q43.
144 Q175.
145 Q175.
146 Q175.
147 Q139.
148 Qq58 and 143; INV0017, Rights of Women.
149 Q230.
150 Q230.

The Minister specifically alluded to greater funding for support services, for the police and for addressing the court backlog.[151]

52. However, Professor Betsy Stanko OBE, Project Bluestone academic lead, expressed her concern to us that there was no recognition within the Rape Review of the impact of austerity on the justice system, particularly in terms of specialist police rape teams, saying that 'we are in many ways having to start over again'.[152] Baroness Stern, who undertook the 2009–2010 independent review into how rape complaints are handled by public authorities in England and Wales, made a similar point when reflecting on the long-term impact of her own recommendations. She said the Government had accepted the majority of her recommendations, and positive changes had been made:

> Certainly, there was still a long way to go, much more needed to be done, but a structure was being built that was very promising … a lot of that work is now struggling. Cuts because of austerity have reduced the capacity to do much of this work; specialist police have seemingly gone back to general duties, the numbers convicted in court are very low … and of course the pandemic has made all of this more difficult.[153]

Scorecards, progress updates and accountability

53. In terms of overseeing progress, the Rape Review commits to putting a framework in place to hold each component of the criminal justice system to account in the areas where it is responsible for making improvement, by way of a monthly Ministerial-led Criminal Justice Board Taskforce.[154] The Government committed to publishing six-monthly progress reports and 'performance scorecards' in an effort to offer transparency (these performance scorecards are now to be published quarterly).[155] If progress is not being made, the Government state that 'further proposals … will be considered'.[156]

54. The first Rape Review Progress Update and the first national performance scorecard were published in December 2021, as promised.[157] The first local criminal justice scorecards were published in March 2022.[158] In the Progress Update, the Government sets out seven key levers, including Operation Soteria and scorecards and accountability.[159] Under each lever, the Update outlines the status of actions due to be delivered by December (with the majority 'Completed' or 'On track'), and key actions for the coming six months, generally including the expected month for delivery.[160] The Review does not include further targets, such as the referral, charging and prosecution volumes to aim for. The Minister for Safeguarding said, referring to the ambitions of the review:

151 Q230.
152 Q47 (Professor Betsy Stanko was Project Bluestone lead when she gave evidence to the Committee in July 2021. She is now also Strategic and Academic Advisor to Operation Soteria).
153 Q81.
154 HM Government (June 2021) The end-to-end rape review report on findings and actions.
155 HM Government (June 2021) The end-to-end rape review report on findings and actions; HM Government (December 2021) Rape Review Progress Update.
156 HM Government (June 2021) The end-to-end rape review report on findings and actions.
157 Ministry of Justice (9 December 2021) Press release: Landmark reforms for victims.
158 Ministry of Justice (25 March 2022) Press release: Major funding boost for victim services as local criminal justice scorecards published.
159 HM Government (December 2021) Rape Review Progress Update.
160 HM Government (December 2021) Rape Review Progress Update.

> I hesitate to use the word "targets", because I know that there is a problem with that, but we have set ourselves measurable goals, if I can put it like that, across the whole system to bring transparency for the first time.[161]

Director of Public Prosecutions Max Hill QC told the Committee on 13 December 2021:

> I do find it difficult, though, and I suspect that anyone, being honest, would find it difficult, to predict exactly what number of cases will be reached and by what chronological date. For our people, who work all their days on these cases, all they would say is: "I'm not trying to make a charging decision on a certain number of cases this week; I'm trying to make a charging decision whenever and wherever I find sufficient evidence to satisfy the code test." That is their aspiration. That is what they are dedicated to.[162]

55. The national and local scorecards include information on timeliness, quality and victim engagement at different points in the criminal justice journey.[163] It is possible to break down the data included in the local scorecards by police force, CPS area and Local Criminal Justice Board.[164] Unfortunately, the two national scorecards published so far do not show substantial improvement against the metrics used, although the latest does demonstrate some positive movement in relation to timeliness.[165] In relation to the first published national scorecard, the Minister for Safeguarding told us that the scorecards do not currently paint a 'rosy picture' because the Government and its operational partners are only just starting to put in train the measures included in the Rape Review.[166] She said that, if changes do not materialise, the Government will change its approach or hold operational partners to account so they change theirs.[167] No detail has been provided on what that change of approach might look like. We agree with the recommendation of HMICFRS and HMCPSI that the National Criminal Justice Board should review the existing statutory governance arrangements for rape and instigate swift reform.[168]

56. As part of their joint inspection of the police and CPS response to rape, the Inspectorates pointed out that although multiple action plans and strategies aim to improve the response to rape, no single individual or organisation co-ordinates all the strands to provide oversight and accountability.[169] They highlighted the appointment of a lead Minister for the Rape Review as a positive, but we were concerned to receive

161 Q226.
162 Q186.
163 GOV.UK (March 2022) Criminal Justice System Scorecard (March 2022): For all crime and recorded adult rape offences.
164 Ministry of Justice (25 March 2022) Press release: Major funding boost for victim services as local criminal justice scorecards published.
165 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences.
166 Q228.
167 Q239.
168 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
169 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.

different answers from the Home Secretary, Rt Hon Priti Patel MP, and the Minister for Safeguarding as to who was ultimately responsible for its implementation.[170] On 15 December 2021, the Minister for Safeguarding told us:

> The rape review itself sits under the Deputy Prime Minister as the Justice Secretary, but there are then a number of actions that will fall under various Ministers' portfolios … The structures that we have are the rape review taskforce, which is chaired by Minister [Victoria] Atkins. She chairs that on behalf of the Justice Secretary.[171]

On 2 February 2022, the Home Secretary told us:

> The Safeguarding Minister and Kit Malthouse, our policing Minister, work together on the rape review and delivery of the metrics. We do not look at the rape review from just a Home Office perspective. It cuts across the Attorney General's Office and the MoJ [Ministry of Justice] … It sits with Kit, because he cuts across both departments.[172]

The Home Secretary later clarified her response on this, and stated that the Minister of State at the Ministry of Justice, Victoria Atkins MP, is the lead minister for implementation of the Rape Review, chairing the monthly Rape Review Task Force, with the Minister for Safeguarding holding responsibility for Home Office owned actions within the Rape Review.[173] The Deputy Prime Minister and Lord Chancellor Rt Hon Dominic Raab MP chairs the bi-monthly Rape Review Steering Committee.[174] We welcome this clarification, as confusion on this calls into question the Government's ability to deliver on its statement in the recent Progress Update, that, 'Clear leadership of this work and accountability to the highest levels of government will improve cooperation across government and agencies to deliver on the agreed ambitions'.[175]

57. **We are encouraged by the commitment to measuring progress through the performance scorecards and progress updates. However, it is unclear how the Government will hold operationally independent partners to account for their role in increasing the volume of rape prosecutions, even though the Government has said that, if outcomes don't improve, it may look at reform of the way independent operational partners are held to account for delivery of operational improvements.**

58. ***We recommend that if the progress updates demonstrate that the review is not having its intended impact, the Government react quickly and effectively, putting in place alternative actions. In its next progress update, the Government must set out exactly how operational partners will be held to account if there continues to be no significant rise in rape prosecution volumes. We agree with HMICFRS and HMCPSI that the National Criminal Justice Board should review the existing statutory governance***

170 Qq265 and 267; Home Affairs Committee (2 February 2022) Oral evidence: The work of the Home Secretary, HC 192, Qq295–296; Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.

171 Qq265 and 267.

172 Home Affairs Committee (2 February 2022) Oral evidence: The work of the Home Secretary, HC 192, Qq295–296.

173 Letter from Home Secretary Rt Hon Priti Patel MP to Chair of the Home Affairs Committee Rt Hon Dame Diana Johnson MP, following her appearance before the Committee on 2 February 2022 (10 March 2022).

174 Letter from Home Secretary Rt Hon Priti Patel MP to Chair of the Home Affairs Committee Rt Hon Dame Diana Johnson MP, following her appearance before the Committee on 2 February 2022 (10 March 2022).

175 HM Government (December 2021) Rape Review Progress Update.

arrangements for rape and instigate swift reform. We also recommend that the lead Minister for the Rape Review write to the Committee every six months, so that progress updates can be adequately interrogated.

59. We welcome the Government's attempt to be more transparent with its data, and the commitment to quarterly publication of the scorecards. However, although a data note is published alongside the scorecard, the scorecard itself does not always make clear the source of its underlying data, potentially causing confusion, rather than the intended clarity.[176]

60. It is also important to note that we heard that data collection within the criminal justice system generally is 'far from satisfactory'.[177] Both Professor Cheryl Thomas QC and Professor Betsy Stanko, Project Bluestone academic lead, told us that the different data sets on rape offences cannot be married up.[178] For example, police data cannot be linked with CPS data, and neither can be linked with court data.[179] As Professor Thomas cautioned, 'The use of misleading statistics on this issue does not help anyone in the criminal justice system'.[180]

61. The Government's data note, published alongside the scorecards, also states that individual offences or defendants cannot be tracked across the criminal justice system in aid of statistical reporting.[181] We welcome the work that is currently ongoing to link this data better, and the fact that it is a 'high priority'.[182] We recognise that this project is still in its early stages, but once timeframes for completion are clearer the Government must provide further detail.[183]

62. There are limitations in ethnicity data collected by criminal justice agencies.[184] Professor Stanko told us that the data are incomplete and do not provide necessary insight into whether, for example, Black and minority ethnic (BME) people get a different service.[185] HMICFRS and HMCPSI, as part of their joint inspection of the police and CPS response to rape, also found a lack of data on the protected characteristics of victims, which could affect the provision of appropriate support.[186] In written evidence, Women's Aid Federation of England recommended that all discontinued cases be reviewed by gender, race, disability and class, with the results analysed and reviewed annually.[187] It is important that the Government and its partners collect and publish data on ethnicity, and protected characteristics more widely.

176 HM Government (March 2022) Criminal Justice System All-Crime and Recorded Adult Rape Offences Local Scorecard: Data Quality Note.
177 Q145.
178 Qq72 and 74.
179 Q72.
180 Q74.
181 HM Government (March 2022) Criminal Justice System All-Crime and Recorded Adult Rape Offences Local Scorecard: Data Quality Note.
182 HM Government (March 2022) Criminal Justice System All-Crime and Recorded Adult Rape Offences Local Scorecard: Data Quality Note.
183 Letter from Minister for Safeguarding Rachel Maclean MP to Chair of the Home Affairs Committee Rt Hon Dame Diana Johnson MP, following her appearance before the Committee on 15 December 2021 (1 February 2022).
184 Qq72–73.
185 Q72.
186 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
187 INV0010, Women's Aid Federation of England.

63. ***As the Government's data note on the performance scorecards makes clear, it is not possible to accurately track individual offences or defendants across the criminal justice system for the purposes of statistical reporting. We welcome the fact that work to link this data better is ongoing and a 'high priority'. However, we believe transparency is critical to this and we recommend that, once the scoping stages are completed, the Home Secretary and Justice Secretary write to us with further detail on this piece of work, including aims, methodology and timescales.***

64. ***It is important that the justice system captures data about victims that can give insight into whether their protected characteristics might affect their criminal justice journeys. We recommend that the Home Office and the Ministry of Justice work with the police and the Crown Prosecution Service to ensure as an initial priority that the ethnicity data of rape victims and survivors is collected and published transparently, for example, through the performance scorecards.***

Improving specialist support for victims and survivors

65. One of the key aims within the Rape Review is 'Improving support for victims throughout the criminal justice system'. People who have experienced sexual violence must be able to receive the support they need, given the impact of that violence and the stress that can be caused by reporting and the subsequent investigation. The Home Office has stated that access to support from an Independent Sexual Violence Advisor has emerged as an important factor in making sure victims' and survivors' needs are met throughout the criminal justice process.[188]

66. Yet victims and survivors can struggle to access specialist support.[189] As of April 2021, there were almost 10,000 people on waiting lists at Rape Crisis Centres across the country.[190] Women in some areas are placed on waiting lists for counselling specifically for up to a year.[191] Respondents to our qualitative online survey described long waiting times, ISVAs' 'overwhelming' caseloads, and a lack of funding.[192] One person told us:

> A good ISVA makes a massive difference. I wasn't informed or told about ISVAs and so didn't have access to one until a year after my assault. It meant the world having someone help me navigate what happened and how the system failed me. However, a couple of months into me getting one, funding was cut, and I was no longer able to access the support and so wasn't able to challenge or complain about the mishandling of my case. These are crucial roles and they must be funded as such if you want to change things.[193]

Rosie Lewis, then Head of Policy at Imkaan, also drew our attention to the fact that we do not have a good geographical spread of specialist organisations for Black and minority ethnic (BME) victims and survivors.[194]

188 Home Office (2017) The Role of the Independent Sexual Violence Adviser: Essential Elements.
189 Q33; Q38; Q42; INV0015, Solace Women's Aid; INV0031, Emily, Rachel and Susan; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
190 Rape Crisis England and Wales (2021) Holding it together: The Courage, resilience, and innovation of Rape Crisis Centres during the Covid-19 pandemic.
191 INV0009, Rape Crisis England and Wales; INV0015, Solace Women's Aid.
192 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
193 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
194 Q42.

67. The Rape Review acknowledges that provision of support is inconsistent across the country.[195] Through it, the Government sets out an aim to ensure that every victim of rape and sexual assault will have access to quality support that meets their needs whenever they need it. We are encouraged that the Government will undertake research with rape victims to understand better what they need from support services.[196] We also welcome the recent consultation on the Victims' Bill, which includes consideration of the commissioning of community-based support for victims of sexual violence, as well as the Victims Funding Strategy which will underpin this work, 'setting out commissioning principles and sustainable funding models'.[197] We urge the Government to ensure these models are truly long-term and sustainable. The Ministry of Justice's announcement that victim support services will receive at least £147 million a year to 2025 is a positive step in this direction.[198] This multi-year funding will apply to the Rape and Sexual Abuse Support Fund.[199]

68. The importance of sustainable, long-term funding was emphasised in submissions from specialist organisations.[200] Rape Crisis England and Wales said that specialist Sexual Violence and Abuse (SVA) services face a funding crisis and are 'perennially at risk within the funding landscape'.[201] They have to confront issues including short-term funding models, competitive tendering, pressures to merge with larger, non-specialist providers, and specific gaps in funding for specialist provision for BME women and girls, as well as those with complex and additional needs.[202] In 2018, the All-Party Parliamentary Group (APPG) on Sexual Violence recommended that Government departments, Police and Crime Commissioners and the health sector responsible for funding and commissioning specialist SVA services adhere to minimum contract terms of three years, ideally five.[203]

69. **The provision of specialist support to victims and survivors of rape is vital, given the devastating impact of sexual violence and the difficulties complainants face during the investigation and prosecution process. The Government's research into what rape victims need from support services is to be welcomed. This should take into account the different needs of different victims and survivors, for example, those who are deaf and disabled, and Black and minority ethnic victims and survivors, who can be supported more effectively by dedicated by and for services. We look forward to the outcome of the Victims' Bill consultation and introduction of the legislation in the next parliamentary Session. We urge the Government to ensure that the commissioning principles and funding models set out are truly long-term and sustainable.**

195 HM Government (June 2021) The end-to-end rape review report on findings and actions.
196 HM Government (June 2021) The end-to-end rape review report on findings and actions.
197 Ministry of Justice (December 2021) Delivering justice for victims: A consultation on improving victims' experiences of the criminal justice system; HM Government (June 2021) The end-to-end rape review report on findings and actions.
198 Ministry of Justice (25 March 2022) Press release: Major funding boost for victim services as local criminal justice scorecards published.
199 Letter from Minister of State for Justice Victoria Atkins MP and Minister of State for Crime and Policing Rt Hon Kit Malthouse MP to Chair of the Home Affairs Committee Rt Hon Dame Diana Johnson MP, on support for victims of crime (23 March 2022).
200 Q38; INV0009, Rape Crisis England and Wales; INV0015, Solace Women's Aid; INV0016, Victims' Commissioner for England and Wales, Dame Vera Baird QC; INV0018, End Violence Against Women Coalition.
201 INV0009, Rape Crisis England and Wales.
202 INV0009, Rape Crisis England and Wales.
203 APPG on Sexual Violence (2018) All-Party Parliamentary Group on Sexual Violence report into the Funding and Commissioning of Sexual Violence and Abuse Services 2018.

70. The Government has invested an extra £176 million for rape and domestic abuse victims for 2021/22, including a new £27 million national fund to expand recruitment of ISVAs and Independent Domestic Violence Advisors (IDVAs).[204] (The Rape Review Progress Update states that £185 million for victim support services by 2024/25 has now been secured.)[205] This is welcome, but much of that £176 million went towards providing accommodation-based services for victims and survivors of domestic abuse.[206] Such support is vital, and, as victims and survivors of domestic abuse may experience sexual violence, some rape and sexual assault survivors can still benefit from the new duty on local authorities to deliver safe accommodation. However, in 2018, the APPG on Sexual Violence raised concerns about the specialist needs of survivors of rape and sexual violence not being met, quoting one Rape Crisis Centre Manager who said, 'The "integration" of domestic abuse funding with sexual violence funding has led to a marginalisation of sexual violence support.'[207] This concern needs to be borne in mind.

71. We also note the £27 million national fund to expand recruitment of ISVAs and IDVAs, and the fact that the number of ISVAs whose roles are directly funded by central Government will rise from 700 to 1,000 by the end of 2024/2025.[208] This will no doubt make a difference to the lives of rape victims and survivors, but we were concerned that the Minister for Safeguarding and the Ministry of Justice Director-General Jerome Glass were unable to say how many more ISVAs might have their roles funded in alternative ways, such as through Police and Crime Commissioners.[209] It suggested that the extra 300, though welcome, was a number not arrived at in full knowledge of the resource and support currently available to victims and survivors, and how many ISVAs are needed to meet all victims and survivors' needs.

72. We are mindful that the Domestic Abuse Commissioner is currently undertaking a comprehensive mapping and monitoring exercise, covering the provision of specialist domestic abuse services in England and Wales.[210] Through various mapping projects she hopes to identify gaps in provision and help to address the current 'postcode lottery'.[211] Section 20 of the Domestic Abuse Act 2021 requires the Commissioner to prepare and publish a report on the need for certain domestic abuse services in England, and the provision of such services, within a year of section 20 coming into force.[212] The Government would benefit from a similar undertaking for specialist sexual violence and abuse services. This would need to be truly cross-governmental, and take account of integrated care systems, PCCs and other sources of funding for these specialist and much needed services. In the second phase of their joint inspection of the police and CPS response to rape, HMICFRS and HMCPSI also recognised the need for this, recommending that

204 HM Government (June 2021) The end-to-end rape review report on findings and actions.
205 HM Government (December 2021) Rape Review Progress Update.
206 HM Government (June 2021) The end-to-end rape review report on findings and actions; Ministry of Housing, Communities and Local Government (12 February 2021) Press release: £125 million allocated to councils to support domestic abuse victims and their children.
207 APPG on Sexual Violence (2018) All-Party Parliamentary Group on Sexual Violence report into the Funding and Commissioning of Sexual Violence and Abuse Services 2018.
208 Q232 (a press release from the Ministry of Justice, published in March 2022, makes clear that the number of both ISVAs and IDVAs will be increased from 700 to 1,000 by 2024/25); HM Government (June 2021) The end-to-end rape review report on findings and actions.
209 Qq232–239.
210 Domestic Abuse Commissioner, Research [last accessed 16 February 2022].
211 Domestic Abuse Commissioner, Research [last accessed 16 February 2022].
212 Explanatory Notes: Domestic Abuse Act 2021 [last accessed 21 February 2022].

the Ministry of Justice complete a comprehensive mapping exercise of (1) demand for and (2) provision of specialist sexual violence victim services across England and Wales, supported by sustainable funding.[213]

73. ***It is essential that the Government and other commissioning bodies have an understanding of the level of need and the current availability of specialist sexual violence and abuse services, including counselling and therapy and the support offered by Independent Sexual Violence Advisors (ISVAs). As HMICFRS and HMCPSI have done, we recommend that the Government undertake a comprehensive mapping and monitoring exercise, covering the provision of specialist sexual violence and abuse services in England and Wales, similar to that which the Domestic Abuse Commissioner is focusing on for specialist domestic abuse services. This would need to be truly cross-Government, including the Department for Health and Social Care, and take account of integrated care systems, Police and Crime Commissioners and other sources of funding for these vital support services.***

74. HMICFRS and HMCPSI also explored the possibility of setting up a commissioner for rape and serious sexual offences specifically, or, alternatively, for the remit of an existing commissioner—for example either the Victims' Commissioner for England and Wales or the Domestic Abuse Commissioner—to be expanded to explicitly take account of these offences.[214] The inspectorates recommend that, by May 2022, the Home Office should consult widely on the benefits of establishing a dedicated commissioner.[215] The Victims' Commissioner, who has been particularly active in advocating for rape victims and survivors, must be consulted, as should the Domestic Abuse Commissioner and wider violence against women and girls (VAWG) sector, especially organisations that specialise in responding to sexual violence.

75. We note that when the then Government first proposed the role of the Domestic Abuse Commissioner, organisations such as the End Violence Against Women coalition (EVAW) urged that the role have a wider focus than domestic abuse alone, and that a Violence Against Women and Girls Commissioner should have powers to map service provision across all forms of VAWG.[216] Given the sector's views, as part of its 2018 inquiry into domestic abuse our predecessor Committee recommended that the new post be established as a Violence Against Women and Girls and Domestic Abuse Commissioner.[217] In its 2019 response to the consultation on transforming the response to domestic abuse, the Government stated that the Commissioner would be focused on domestic abuse, '[g]iven the challenges of improving the statutory agencies' responses to domestic abuse, and the huge scale of the problem'.[218] We would argue that the same could now be said

213 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
214 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
215 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
216 End Violence Against Women coalition (30 May 2018) Submission to Government Consultation on the proposed Domestic Violence and Abuse Bill.
217 Home Affairs Committee (17 October 2018) Domestic Abuse.
218 HM Government (January 2019) Transforming the Response to Domestic Abuse: Consultation Response and Draft Bill.

in favour of an independent Sexual Violence and Abuse Commissioner, as Rape Crisis England and Wales recommended in its response to the Government's consultation on violence against women and girls.[219]

76. In our view, the establishment of a dedicated commissioner for sexual violence and abuse, or the expansion of the existing responsibilities and powers of one of our existing commissioners, is very much worth considering; the post-holder could oversee the provision of specialist support services and any mapping exercise, as well as act to hold the Government and operational partners to account in responding to rape and serious sexual assault. With the Government's work on the upcoming Victims' Bill, and the associated consultation touching on the role of the Victims' Commissioner and community-based support services, including those for victims and survivors of sexual violence, the timing for this could not be better.[220] Accountability and leadership will be crucial when it comes to reversing the unacceptably low charging and prosecution volumes for rape.

77. ***We agree with HMICFRS and HMCPSI that the Government should consider the merits of either establishing a dedicated commissioner for sexual violence and abuse or expanding the existing responsibilities and powers of one of our existing commissioners. The relevant commissioner could then oversee the provision of specialist support services for victims and survivors of sexual violence and abuse, as well as any mapping exercise. Importantly, they could also act to hold the Government and its operational partners to account in improving the response to rape and serious sexual assault. Any change must be backed by adequate resourcing and any future commissioner must have appropriate powers as well. The Domestic Abuse Commissioner's powers, as laid out in the Domestic Abuse Act 2021, could be a good model, with the Act requiring public sector authorities to cooperate with her and to respond to relevant recommendations she puts forward.***

219 INV0009, Rape Crisis England and Wales.

220 Ministry of Justice (December 2021) Delivering justice for victims: A consultation on improving victims' experiences of the criminal justice system.

4 The police response to rape

> It was an investigation that … completely destroyed my life and changed me forever.
>
> Source: Emily, in evidence to the Home Affairs Select Committee, 15 September 2021.[221]

Issues with the police response

78. Project Bluestone lead Professor Betsy Stanko OBE told us:

> 86% of the outcome of rape allegations are determined by police and police decision making. That is a huge, huge influence on what gets transferred to the CPS [Crown Prosecution Service] for decision. That is the first step: do the police transfer a case and actually ask for charges? If it is 86% of the cases, and we know that from the evidence, that means that the police largely determine which cases go forward and which do not.[222]

The Director for Public Prosecutions, Max Hill QC, similarly told us:

> In the context of rape, we know—it is a fact—that approximately 10% of the volume of rapes that are reported to the police reach the CPS, so from my perspective, our prosecutors are seeing that nine out of 10 rape complaints do not ever come to them.[223]

The Government's End-to-End Rape Review further highlighted that victim withdrawal primarily takes place at the pre-charge phase, when they would mainly be engaging with the police.[224] As we have seen, the Government's scorecard for recorded adult rape offences shows that between July and September 2021, 63% of investigations were closed because the victim did not support further police action.[225]

79. The way the police respond to reports of rape is clearly of extreme importance when it comes to increasing the volumes of rape charges and prosecutions. The evidence we received highlighted various factors in police practice that can affect whether or not a victim or survivor might continue their journey through the criminal justice system,[226] including:

221 INV0031, Emily, Rachel and Susan.

222 Q55; MOPAC (July 2019) The London Rape Review: A review of cases from 2016 (501 allegations of rape in April 2016 were examined as part of the London Rape Review. The majority of classified cases – 86% – were not submitted to the CPS. Victim/survivor withdrawal was the most common form of attrition in the sample at 58%, followed by no further action by the police at 29%).

223 Q183 (the most recent scorecard for adult rape offences, published in March 2022, shows that in the year between October 2020 and September 2021 there were 41,754 reports of rape to the police. In the same time period, 2,513 were referred by the police to the CPS for a charging decision (or early investigative advice). It is worth noting that the CPS has also advised caution in calculating the number of defendants submitted to the CPS out of recorded crime. (1) There can be a time lag between the point at which the police record a case and when it is referred to the CPS. If each happen in different financial years, the figure will be distorted. (2) The police and the CPS count cases differently. The police count recorded crime at a defendant/victim level, so if there is one defendant and two victims this will count as two. By contrast, the CPS counts referrals by the number of suspects, so in the previous example this would count as one. This again can lead to distortion).

224 HM Government (June 2021) The end-to-end rape review report on findings and actions.

225 GOV.UK (March 2022) Criminal Justice System Scorecards: Overview – Adult Rape Offences.

226 INV0006, Dr Peter Hills, on behalf of Bournemouth University.

- a victim's first contact with the police being with a uniformed response officer, as opposed to a specially trained officer[227] (the initial point of reporting a crime is crucial);[228]
- what the Information Commissioner's Office found to be excessive requests for material held on digital devices and by third parties;[229]
- poor quality and level of communication, with a lack of updates on how a victim's case may be progressing;[230]
- police attitudes;[231] and
- delays.[232]

80. Some of those who told us what happened when they dealt with the police were positive, but that was not the general experience.[233] Strikingly, people felt that they, rather than the suspect, were the focus of the investigation, as opposed to the suspect.[234] The Centre for Women's Justice stated, 'Nowhere else within policing is a victim required to expose every aspect of their life'.[235] One person with lived experience said:

> … in my case, the police didn't follow up on things like recordings of first disclosure, rapist bragging about it on Facebook, etc, but I was told that everything about me would be scrutinized and gone through. I had just been raped yet I was made to feel like I was a perpetrator, a criminal.[236]

Susan told us that the fact her perpetrator was disabled influenced how the police, prosecutors and the courts treated both of them when her case was being investigated and brought to court.[237]

> And it was the way they handled him as well. They treated him like he was the victim and I was the perpetrator. It was a horrible experience … They felt sorry for him because he was disabled, he was in a wheelchair. He's still done these crimes. He wasn't there prosecuted because he had stolen a bottle of milk. He was there for six rape charges and rape charges against a child.[238]

81. People stressed the importance of being listened to and treated with respect.[239] Rights of Women highlighted some ways in which victims and survivors can be blocked from accessing justice, including feeling as if their report to the police has not been taken

227 INV0006, Dr Peter Hills, on behalf of Bournemouth University.
228 INV0005, Dr Heather Flowe; INV0015, Solace Women's Aid.
229 INV0024, Information Commissioner.
230 INV0031, Emily, Rachel and Susan; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
231 INV0017, Rights of Women.
232 Q30.
233 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
234 INV0031, Emily, Rachel and Susan; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
235 INV0013, Centre for Women's Justice.
236 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
237 INV0031, Emily, Rachel and Susan.
238 INV0031, Emily, Rachel and Susan.
239 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.

seriously.[240] Rachel, who shared her experiences with us, described the attitude shown by the police as 'disgusting'.[241] When she reported what had happened to her, the person at the police station reception desk asked her personal questions in front of everyone in the waiting room, causing Rachel to feel incredibly uncomfortable. She was then asked when the sexual violence had occurred:

> I said, 'This all ended about six months ago'. As soon as I said that I saw her face just completely switch off and she went, 'Oh OK. It's an old case.' And then the attitude I got from her immediately, as soon as I reported the case—and I got from everybody else who was a part of the case, from every officer who was a part of it and from [the] CPS—was the attitude that this wasn't given any priority and that they weren't going to take this seriously. That they knew right from the start then nothing was going to happen and that it was just going to be a dreadful experience. Yeah, so that was reporting and that was horrible.[242]

82. We also heard concerns that rape myths and stereotypes may shape responses to cases, within the police and the Crown Prosecution Service (CPS).[243] Recently updated CPS legal guidance incorporates a section on addressing harmful stereotypes, with a table outlining certain myths and how they may be addressed, including:[244]

- **'Rape most commonly occurs between strangers in dark alleys'**. This assumes that rape cannot happen between two people who know each other, when in fact most rapes are committed by a person the victim knows.
- **'The victim provoked rape and implied consent simply by their dress / flirtatious behaviour'.** Such an assumption is victim-blaming. Women can be raped regardless of what they are wearing. The CPS states that this is just an excuse, and that it would not be reasonable to assume consent based on a person's dress.
- **'If you drink alcohol or use drugs then you have made yourself vulnerable to being raped and you bear the responsibility'.** The CPS makes clear that victims of rape are never responsible for their rape or sexual assault. Such an assumption disregards the law on consent, including capacity to consent.
- **'You can tell if someone has 'really' been raped by how they act afterwards.'** This assumes that all victims of rape behave in a certain way, when reactions to rape are highly individual.

83. Victims and survivors who shared their experiences with us emphasised the confusion they felt going through the criminal justice system, and that communication was poor.[245] One person, who wished to be referred to as Survivor A, said that the police did not keep

240 INV0017, Rights of Women.
241 INV0031, Emily, Rachel and Susan.
242 INV0031, Emily, Rachel and Susan.
243 INV0006, Dr Peter Hills, on behalf of Bournemouth University; INV0010, Women's Aid Federation of England; INV0017, Rights of Women; INV0018, End Violence Against Women Coalition.
244 Crown Prosecution Service (29 November 2020) CPS says: How we're working to overcome harmful rape myths and stereotypes; Crown Prosecution Service (21 May 2021) Rape and Sexual Offences – Annex A: Tackling rape myths and stereotypes.
245 INV0031, Emily, Rachel and Susan; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.

her updated on her case, and, when they did call, they used withheld numbers, which was frightening; Survivor A was afraid that it could have been a perpetrator trying to contact her.[246] Susan told us:

> It started off very well. My officer told me they'd never had so much evidence in such a historic case. He would keep in touch with me fortnightly. This never happened at all. There was one time I've actually went six months with hearing nothing at all. I didn't even know if he was still on the case.[247]

Another person shared their experience:

> I personally don't feel enough evidence was gathered … Even when I provided evidence, sometimes it either wasn't acknowledged or explained what was done with said evidence, if anything. And if not, why nothing was done with the evidence.[248]

84. Respondents to our qualitative online survey also felt strongly that the police—and the CPS—could explain more effectively (and more compassionately) the reasoning behind decisions not to take cases to court.[249]

> This [the way decisions are communicated to victims] is extremely weak and has significant impacts on a victims psychological and mental health. Police are not providing any updates to victims … It certainly needs to be handled better because for a victim to relive trauma and then be left uninformed of outcome, if any, has serious consequences for the opportunity to begin healing and recovery from the assault.[250]

The End Violence Against Women coalition (EVAW) and Rights of Women emphasised that a lack of communication, as well as transparency in decision-making and appeals processes, can further disempower victims and survivors.[251]

85. Four deaf survivors of domestic abuse, some of whom had also experienced sexual violence, shared their experiences of engaging with the police with us.[252] They told us of instances where the police had failed to provide British Sign Language or BSL interpreters, and described the challenges deaf victims of crime face in accessing immediate police assistance during an emergency. It was clear that their communication needs had not been met at a time when they were particularly vulnerable, affecting their ability to provide evidence. This is unacceptable. It was suggested to us that the police should offer mandatory deaf awareness training, as well as specific training around addressing domestic abuse within the deaf community, and that remote Video Relay Services (VRS) would be helpful.[253] The police should also have regard to the particular requirements of those who do not have English or BSL as their first language, but who may use other spoken or signed languages. It is important that police forces across England and Wales

246 INV0039, Survivor A.
247 INV0031, Emily, Rachel and Susan.
248 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
249 INV0031, Emily, Rachel and Susan; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
250 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
251 INV0017, Rights of Women; INV0018, End Violence Against Women Coalition.
252 VAW0044, Frida, Georgina, Jola, and Sonia.
253 VAW0044, Frida, Georgina, Jola, and Sonia.

are equipped to support deaf victims of crime as effectively as possible, for example, in the operation of emergency and non-emergency SMS text or VRS and through Police Link Officers for Deaf people. Deaf victims of crimes including rape and serious sexual offences must have the support they need to report and pursue their cases, and, ultimately, to secure justice. We note the Government's support for the British Sign Language Bill, which is very welcome; legally recognising British Sign Language as a language of England, Wales and Scotland is an important step to be taken.[254]

Operation Soteria

86. Sarah Crew, Chief Constable of Avon and Somerset Police and the National Police Chiefs' Council (NPCC) lead for Rape and Adult Sexual Offences, said that there was 'huge support from policing to do things differently'.[255] The Police-CPS Joint National RASSO Action Plan was launched in January 2021, and the College of Policing's and the NPCC's Policing violence against women and girls, National framework for delivery: Year 1 was published in December 2021.[256]

87. The Government's End-to-End Rape Review sets out an ambition to roll out a new approach to police investigations.[257] The aim is to ensure early and thorough assessment of the behaviour and offending patterns of each suspect, switching the focus to the alleged perpetrator, rather than the victim's credibility.[258] This is vital, considering what we heard from victims and survivors about how they felt like they were the ones under investigation, rather than the suspect.[259] It is hoped this will result in stronger cases and so higher volumes of charges and prosecutions, with more perpetrators brought to justice if guilty. This work is being undertaken through the pathfinder programme named Operation Soteria.[260] The intention is to drive through a 'radical new operating model' based on the pathfinder project learning in the next two years.[261]

88. Avon and Somerset Police, led by Chief Constable Crew, have begun to deliver this work as part of Project Bluestone, with £200,000 awarded to the force through the Home Office's Police Science, Tech, and Research Board (STAR) in January 2021.[262] The project sees Avon and Somerset work with academics to address the falling numbers of suspects being charged and prosecuted for rape and sexual assault by testing new approaches to existing practices.[263] Bluestone has focused on five key areas:

254 House of Commons Library (1 April 2022) British Sign Language Bill.
255 Q114 (Chief Constable Sarah Crew was Temporary Chief Constable of Avon and Somerset Police when she gave evidence to the Committee in October 2021. She was officially confirmed in the role of Chief Constable in November 2021.)
256 National Police Chiefs' Council and the Crown Prosecution Service (January 2021) Police-CPS Joint National RASSO (Rape and Serious Sexual Offences) Action Plan 2021; College of Policing and National Police Chiefs' Council (December 2021) Policing violence against women and girls: National framework for delivery: Year 1.
257 HM Government (June 2021) The end-to-end rape review report on findings and actions.
258 HM Government (June 2021) The end-to-end rape review report on findings and actions.
259 INV0031, Emily, Rachel and Susan; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
260 HM Government (June 2021) The end-to-end rape review report on findings and actions.
261 HM Government (June 2021) The end-to-end rape review report on findings and actions.
262 HM Government (June 2021) The end-to-end rape review report on findings and actions; Avon and Somerset Police (31 March 2021) Avon and Somerset Police announce research collaboration to transform policing response to rape; INV0002, Professor Betsy Stanko OBE on behalf of the team of researchers involved in Project Bluestone.
263 HM Government (June 2021) The end-to-end rape review report on findings and actions; INV0002, Professor Betsy Stanko OBE on behalf of the team of researchers involved in Project Bluestone.

- suspect-focused investigations;
- challenging and disrupting repeat offenders;
- victim engagement;
- learning, development and wellbeing; and
- data and performance.[264]

From January to April 2021, the project was in the data and research gathering phase, before moving to the implementation phase that same April.[265] The team identified a number of obstacles to effective investigations, including suspicion of victims and a lack of focus on suspects; large delays, for example, in speaking to suspects; little use of intelligence to establish whether suspects had been named in previous offences; and poor coordination with the CPS that resulted in more delays.[266] It is hoped that Bluestone will result in better outcomes for victims through the implementation of a suspect-focused investigation, supported by a 'gold standard investigation map'; disrupting repeat offenders; improving victim engagement with a victim communication plan; and better police monitoring.[267]

89. The Rape Review stated that, over the next year, Operation Soteria pathfinder projects would build on the foundations of Bluestone to expand to four other force and CPS areas (the Metropolitan Police/CPS London South, Durham/CPS North East, the West Midlands and South Wales/CPS Cymru).[268] The Government's Rape Review Progress Update, published in December 2021, sets out the key actions and expected timeframe for the programme of expansion, stating when the academic-led research exercise phase will begin in each of the four new forces and when implementation of recommendations will begin over the next six months.[269] The update also stated that Operation Soteria will now be taken to a further 14 police force areas and their corresponding CPS areas.[270]

90. Witnesses, including the Victims' Commissioner Dame Vera Baird QC and the Policy Lead for Rape Crisis England and Wales Amelia Handy, emphasised Operation Soteria's potential.[271] However, they also raised concerns about resourcing. Referring to the four initial forces Operation Soteria is being rolled out to, the Victims' Commissioner told us:

> There is only about £3.5 million allocated to roll it out to those other forces for one year, which is just hopelessly insufficient and one year will not make the difference.[272]

No further funding has been announced for the expansion to the further 14 police force areas. The Minister for Safeguarding Rachel Maclean MP told us that, 'funding will be made available to enable Operation Soteria to be rolled out', but also said that the

264 INV0002, Professor Betsy Stanko OBE on behalf of the team of researchers involved in Project Bluestone.
265 INV0002, Professor Betsy Stanko OBE on behalf of the team of researchers involved in Project Bluestone.; Avon and Somerset Police (31 March 2021) Avon and Somerset Police announce research collaboration to transform policing response to rape.
266 INV0002, Professor Betsy Stanko OBE on behalf of the team of researchers involved in Project Bluestone.
267 INV0002, Professor Betsy Stanko OBE on behalf of the team of researchers involved in Project Bluestone.
268 HM Government (June 2021) The end-to-end rape review report on findings and actions; HM Government (December 2021) Rape Review Progress Update.
269 HM Government (December 2021) Rape Review Progress Update.
270 HM Government (December 2021) Rape Review Progress Update.
271 Qq2 and 43.
272 Q2.

dissemination of learning to other forces is happening without an official roll-out and would not necessarily take specific resource.[273] Chief Constable Crew also emphasised the importance of knowledge sharing in the implementation of Operation Soteria:

> The aim with Operation Soteria is to treat the five forces [Avon and Somerset Police, Durham Constabulary, the Metropolitan Police, South Wales Police and West Midlands Police] as pathfinders but to share learning as we go … The first national learning event for all police forces is on 17 November [2021]. By the time Operation Soteria comes to its conclusion in 24 months my ambition is that the whole of policing in England and Wales is upskilled in the best way of doing things, not just informed by what policing thinks is the right thing to do but by the wisdom of the academics who have delved deeply into this.[274]

91. We agree that the timely dissemination of learning from Operation Soteria to wider police forces is of great importance. However, the Government's use of the term 'roll-out' is not entirely clear. It appears that some police forces will be supported financially to roll out this new approach, with academics working directly with them to identify force-specific issues in the approach to rape investigations. Others will be invited to learning events and receive information about what has been found to work in other police force areas. Undoubtedly, this will still be valuable, but those forces will not benefit from Operation Soteria in the same way, and may struggle to implement the new approach as a result. Findings will not be specific to their own force area, and they will not have the support of the academic team and government resourcing in the way others will.

92. **It is clear that the way the police respond to reports of rape is vital when it comes to increasing the volumes of rape charges and prosecutions. We welcome the focus on improving these volumes, for example through the Police-CPS Joint National RASSO (Rape and Serious Sexual Offences) Action Plan and Operation Soteria. We agree that the project has enormous potential. However, the Government cannot expect some police force areas to participate in Operation Soteria and to implement learning with dedicated funding, and others to roll out the approach without any extra funding or input from academics into their own force-specific challenges in investigating rape.**

93. ***In the next Rape Review Progress Update, the Government must provide an update on Operation Soteria, outlining the 14 police forces and corresponding CPS areas that will be taking part next, as well as the funding available for that expansion, and why that is sufficient. The Government must also provide assurances that subsequent stages of the roll-out will receive dedicated funding.***

94. ***In light of the challenges deaf survivors of domestic abuse and sexual violence told us they had experienced when engaging with the police, we would also urge the Home Office to undertake work with police forces across England and Wales to understand what provisions are currently in place to enable police officers to support deaf victims of crime as effectively as possible, and to ensure adequate provisions are made available where they are not yet on offer. It is important that forces operate emergency and non-emergency SMS text or Video Relay Services (VRS), so deaf people can communicate with the police when needed, especially in emergencies, and that the police always engage***

273 Q251.
274 Q115.

British Sign Language or BSL interpreters when BSL is the first or preferred language of a deaf person being supported by the police, or Lipspeakers for those who lipread as their primary means of communication. The police should also have regard to the particular requirements of those who do not have English or BSL as their first language, but who may use other spoken or signed languages. The Home Office must update us on this piece of work within the next 12 months.

Specialist police rape teams

95. HMICFRS and HMCPSI published the first phase of their joint thematic inspection of the police and CPS's response to rape in July 2021.[275] They found that police forces that have specialist police rape teams tend to perform better in certain aspects of investigation.[276] Specialist teams can lead to:

- better decision-making;
- fewer delays (the average time taken to reach a police No Further Action or NFA decision by a specialist team was 49 days, compared to 108 days); and
- improved communication with victims and the CPS (the examples of good communication between the police and ISVAs that the Inspectorates found were mainly in forces that had specialist teams in place).

They concluded: 'The universal message was that specialist police rape teams are best equipped for this role and can provide the best service to victims'.[277] As long ago as 2012, the then Association of Chief Police Officers (ACPO) came to a similar conclusion in its report into the use of dedicated rape teams: that the use of such teams can improve the service offered to victims, as well as delivering consistency to the management of investigations.[278] Considering the fact that the majority of victims withdraw at the pre-charge phase, improving the service offered to victims by the police is vital in the efforts to increase the number of successful prosecutions.[279]

96. Despite the benefits that specialist police rape teams bring, particularly in terms of victims' experiences of the police, not all police forces have them in place. In fact, a recent Freedom of Information (FOI) request submitted by *The Guardian* found that at least two-fifths of police forces in England and Wales do not have specialist rape and serious sexual offences (RASSO) units.[280] 17 of the 43 territorial police forces did not have these units set up, and five did not respond.[281] This means that even more forces could be without them. Four had closed units in the past decade, including Greater Manchester Police.[282]

275 HMICFRS and HMCPSI (16 July 2021) Press release: Fundamental culture shift required for police and prosecutors to work together for victims of rape.
276 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
277 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
278 Criminal Justice Joint Inspection (February 2012) Forging the links: Rape investigation and prosecution: A joint review by HMIC and HMCPSI.
279 HM Government (June 2021) The end-to-end rape review report on findings and actions.
280 The Guardian (10 October 2021) Two-fifths of police forces in England and Wales lack rape units.
281 The Guardian (10 October 2021) Two-fifths of police forces in England and Wales lack rape units.
282 The Guardian (10 October 2021) Two-fifths of police forces in England and Wales lack rape units.

97. The approach taken to the investigation of rape and other serious sexual offences is clearly inconsistent across police forces. All eight forces inspected by HMICFRS and HMCPSI worked differently.[283] Chief Constable Sarah Crew told us:

> Each police force will have different conditions, different problem profiles and they will have different set ups into how they resource.[284]

Of course, each force is operationally independent and will have the best understanding of its communities, crime type prevalence and the resources available. However, decisions taken around specialist police rape teams may have been driven more by resourcing concerns than any evidence that non-specialist teams can be as effective as their specialist counterparts. As part of their joint thematic inspection, HMICFRS and HMCPSI noted that austerity had forced the police and the CPS to make difficult decisions about where to prioritise resources.[285] This had led to some police forces reducing or completely dismantling their specialist RASSO teams.[286] Dame Vera Baird QC called it 'a symptom of the cuts that have occurred'.[287] Professor Stanko told us:

> What has happened in the last 10 years with the austerity for policing is they have actually lost many of their specialist services. We don't have rape units much anymore and we used to have them.[288]

98. Ellie Ball, an ISVA Manager based in Cambridgeshire, told us how teams have changed over the last five years. A number of sexual offences are now investigated by generic Criminal Investigation Department [CID] officers, rather than a specialist team, and these officers do not tend to have undergone appropriate training.[289] She emphasised the difference in effectiveness between specialist police rape teams and 'omnicompetent' police set-ups:

> Our ISVAs can see a big disparity between liaising with specialised officers and liaising with officers who do not even know what an ISVA is first of all, so to get even a response to an e-mail is quite a challenge. We have to start right from the beginning, explaining that we are supposed to work together, that we are supposed to work in a multi-agency way. It is very unhelpful.[290]

Duncan Craig OBE, the Chief Executive of Survivors Manchester, made a similar point:

> We used to have very good specialist units and now we have generic units … the data and figures have got worse and the practices have got worse. A case we were dealing with was where a male victim was asked to undertake an AVA, a video interview, on a Saturday evening at 9.00 pm, knowing that it was not going to really start until about 9.30 pm, knowing how long an AVA will take, which will roughly mean that the victim will be leaving

283 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
284 Q111.
285 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
286 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
287 Q23.
288 Q58.
289 Q42.
290 Q42.

> the police station at probably about 1.30 or 2 o'clock in the morning. My question was: would we have treated a female victim like this? Nobody has been able to answer … That would not have happened under a specialist policing team.[291]

99. It is clear that there is widespread support for the establishment of specialist police rape teams. It is worth noting that Professor Stanko and her team of academics recommend such specialisms to be reintroduced.[292] As a result of Project Bluestone's findings, they are now working with Chief Constable Crew and Avon and Somerset Police to restructure rape and sexual offence teams to have two investigation officers working side-by-side, one focussing on gathering evidence and working with the CPS to build a case, and the other focused on liaising with ISVAs and victims.[293] Chief Constable Crew herself told us:

> Speaking to the chief constables, they absolutely want to rebuild that specialism. It is not a deliberate choice not to have it. It is, "We want to rebuild it. How do we rebuild it? Can you share your information and learning with us so we can rebuild that specialism?" That is the level of desire to do this properly that is being felt in policing.[294]

100. We welcome the fact that the Home Office is, via Operation Soteria, police guidance, and Ministerial-level conversations with the NPCC, strongly encouraging police forces to train their officers and to have specialist teams, as Jaee Samant, Public Safety Group Director-General at the Home Office, told us in December.[295] The Government's recent announcement that the policing of violence against women and girls will be added to the Strategic Policing Requirement, as HMICFRS recommended, is also positive, and should send a clear message to forces as to the level of priority they should be attaching to violence against women and girls.[296] However, more needs to be done urgently if those reporting rape and other serious sexual offences are to receive the level of service they have a right to expect from the police.

101. **We are disappointed that, despite the difference that specialist police rape teams make, the Government has not done more to ensure such teams are in place.**

102. ***The Government must strongly encourage police forces without specialist police rape teams to put such teams in place. Since the policing of violence against women and girls is to be added to the Strategic Policing Requirement, putting specialist police rape teams in place would be a powerful way to demonstrate the priority that should be given to tackling violence against women and girls. The Government should, for example, make clear in the next Rape Review Progress Update that it is the Government's view that forces should have specialist rape teams set up where possible. The Government should work with the College of Policing and National Police Chiefs' Council (NPCC) to understand better the obstacles forces face in putting these teams in place and to provide support to forces committed to forming specialist teams.***

291 Qq22–23.
292 Q78.
293 HM Government (December 2021) Rape Review Progress Update.
294 Q114.
295 Q240.
296 HMICFRS (September 2021) Police response to violence against women and girls: Final inspection report; HC Deb, 1 March 2022, col 906 [Commons Chamber]

103. Irrespective of the operating model used by forces, the Inspectorates are clear that the complexity of these cases requires them to be led by a suitably trained officer, even if that officer is not necessarily embedded in a specialist police rape team.[297] Similarly, Dame Elish Angiolini, now chairing the inquiry into the issues raised by Wayne Couzens' conviction for the rape and murder of Sarah Everard, recommended that specialist police officers should deal with rape cases in her 2015 review into the investigation and prosecution of rape in London.[298] The College of Policing told us that investigators should have the correct core investigative skills, knowledge and experience through access to specialist learning, including the Serious Sexual Assault Investigation Development Programme (SSAIDP).[299] Completing this programme provides accreditation and entry onto a national register held by the College.[300] Additionally, they should have specialist interview skills for interviewing vulnerable adults, and a full understanding of special measures.[301] The College also emphasised the introduction of the role of a liaison officer to be the link between the investigating officer and the victim, recognising that victims are more likely to remain engaged where they feel supported.[302]

104. However, the evidence that we have received indicates it is far from guaranteed that a victim of rape will be supported by a specialist and suitably trained officer. Amelia Handy, Policy Lead for Rape Crisis England and Wales, told us:

> There is wide discrepancy across the geography. In some areas where you can report, you might get a SOIT [Sexual Offences Investigation Trained], a specialist police officer. In some areas, you will get no such thing. In other areas, you will have a specially trained police officer and you might also be able to choose the gender of your police officer. In yet other areas, you might get a uniformed male officer. It is so varied. It is a postcode lottery.[303]

Emily, a survivor who shared her experiences with us, was not assigned a Sexual Offences Investigation Trained (SOIT) officer, and this had a significant impact on her:

> They decided that I didn't need one of those because I had had two separate domestic violence cases, the assault case and the rape case. They were like, 'Oh, you don't need one for the rape case because you had one for the domestic violence case', which is not true, that's ridiculous. He didn't know what an ISVA was and when we finally explained to him what an ISVA was he was refusing to follow the guidelines—he wouldn't talk to her. He said that it was a breach of confidentiality and so that was really distressing for me. Because I was struggling to deal with everything going on, I didn't want to talk to the police anymore and I wanted my ISVA to do it.[304]

297 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
298 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action; Rt Hon Dame Elish Angiolini DBE QC (30 April 2015) Report of the Independent Review into The Investigation and Prosecution of Rape in London.
299 INV0008, College of Policing.
300 INV0008, College of Policing.
301 INV0008, College of Policing.
302 INV0008, College of Policing.
303 Q42.
304 INV0031, Emily, Rachel and Susan.

The College of Policing also highlighted the fact that investigating officers do not always receive appropriate training within their force, despite its availability.[305] HMICFRS and HMCPSI similarly pointed out a variance in the uptake of the SSAIDP.[306] They were told that many investigators—including those on specialist teams—had not completed the programme, and some did not even know about it.[307] The challenge of balancing resources against demand can sometimes lead to less experienced officers being allocated more challenging investigations as well.[308] It is important to note that the demand for a police response to rape and sexual assault has risen significantly at the same time that policing was undergoing a period of cost savings, resulting in the loss of staff and officer experience.[309] The College referred to the falling number of detectives, which has, in some instances, led to first responders, mainly trained in investigating less complex crime, being required to investigate complex rape cases.[310] Positively, the College and the NPCC's joint National framework for policing violence against women and girls commits to conducting an urgent skills gap analysis, including of the number of specialist Sexual Offences Liaison Officers (SOLOs) and those on the SSAIDP.[311]

105. In its Rape Review Progress Update, the Government points to the police officer uplift programme, stating that 'We've recruited more than 11,000 new officers and are on track to recruit 20,000 by the end of this Parliament, so that there is more investigative resource to pursue criminals generally, and rape complaints in particular'.[312] However, when we asked the Minister for Safeguarding how many of the 20,000 new officers were going to be assigned to be specialists in rape investigations, she and her officials were unable to answer.[313] Ms Samant told us:

> We do not have a number for how many police officers are already RASSO-trained, and nor do we have a number for how many of the new police officers who have been recruited will be RASSO-trained, primarily because, as you will know too well, the operational deployment of police officers is a matter for chief constables.[314]

106. Chief Constable Crew also told us that there are issues in recruiting officers who want to specialise in the investigation of rape and serious sexual offences:

> In police forces—and this is a national problem—we are finding it very difficult to attract people who want to be investigators. There is growth going into policing and we are very grateful for that, but to rebuild specialism and to attract people into this work is very challenging … We are under a real time urgency to attract people into this area, to develop their specialism, to look after them and keep them there as well.[315]

305 INV0008, College of Policing.
306 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
307 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
308 INV0008, College of Policing.
309 INV0002, Professor Betsy Stanko OBE on behalf of the team of researchers involved in Project Bluestone.
310 INV0008, College of Policing.
311 College of Policing and National Police Chiefs' Council (December 2021) Policing violence against women and girls: National framework for delivery: Year 1.
312 HM Government (December 2021) Rape Review Progress Update.
313 Qs230 and 240.
314 Q240.
315 Q113.

EVAW called for rape investigation to be a named specialism in all police forces, with a rewarded career route.[316] The organisation also recommended each investigation be overseen by a senior rape and sexual abuse specialist lead, and that investigators be able to access clinical supervision so they have protection against burnout and vicarious trauma.[317]

107. **It is very concerning that the Home Office does not have the numbers of police officers who are RASSO-trained. The emphasis on the uplift programme in the Rape Review Progress Update is also potentially misleading, when the Government does not know how many of those officers will actually receive the necessary training in order to work on such complex cases competently.**

108. ***The Government must start collecting and publishing data on the number of police forces with specialist police rape teams in place, and the number of police officers with specialist rape and serious sexual offences (RASSO) training in each force (for example, the number trained on the Rape and Specialist Sexual Assault Investigation Development Programme (SSAIDP) and the number of Sexual Offences Liaison Officers (SOLOs)). This should be published in the next Progress Update, and in each subsequent update. Further, the police officer uplift programme should not be referred to in Rape Review Progress Updates unless the Government has data on the number of recruited police officers who will be or are developing a RASSO specialism. We would strongly encourage the Home Office to collect that data, working closely with the College of Policing and the NPCC, currently conducting a skills gap analysis of the number of specialist trained staff, relative to current demand, covering the number of SOLOs and those on the SSAIDP.***

Disclosure and requests for digital and third-party data

109. No discussion of the response to rape and other serious sexual offences would be complete without a consideration of the approach to disclosure and the exponential increase in recent years of the volumes of digital data that the police are now able to access.

110. As the Attorney General's Guidelines on Disclosure make clear, the disclosure process protects a defendant's right to a fair trial and so acts as a crucial safeguard within the criminal justice system.[318] The police have a duty to follow all reasonable lines of enquiry, irrespective of whether they point away from or towards the suspect.[319] Equally, prosecutors must share with the defence any material that undermines the case for the prosecution or supports the case for the accused.[320] The statutory framework for disclosure is enshrined in the Criminal Procedure and Investigations Act 1996.[321] Yet the

316 INV0018, End Violence Against Women Coalition.
317 INV0018, End Violence Against Women Coalition.
318 Attorney General's Office (December 2020) Attorney General's Guidelines on Disclosure: For investigators, prosecutors and defence practitioners; National Police Chiefs' Council, College of Policing and Crown Prosecution Service (2018) National Disclosure Improvement Plan.
319 National Police Chiefs' Council, College of Policing and Crown Prosecution Service (2018) National Disclosure Improvement Plan.
320 National Police Chiefs' Council, College of Policing and Crown Prosecution Service (2018) National Disclosure Improvement Plan.
321 Criminal Procedure and Investigations Act 1996.

criminal justice system has struggled to get it right. This has serious consequences—for both defendants and complainants.[322] It can result in emotional distress and, ultimately, the failure to effectively disclose relevant material can lead to miscarriages of justice.[323]

111. In terms of the impact of failures around disclosure on rape cases specifically, it is important to note the widely publicised collapse of a 2017 rape trial involving then 22-year-old university student, Liam Allan.[324] Mr Allan had been charged with 12 counts of rape and sexual assault, but his trial collapsed after detectives failed to disclose vital evidence to the defence.[325] The BBC reported that it was understood the police had failed to disclose to the prosecution and defence teams phone messages between the complainant and her friends which cast doubt on the allegations made against Mr Allan.[326] Isaac Itiary, charged with raping a child in 2017, was also cleared around the same time (December 2017), as police disclosed 'relevant material' in response to his defence case statement just as his trial was about to start.[327] In 2018, the CPS announced that all current rape and serious sexual assault cases in England and Wales were to be reviewed to ensure evidence had been properly disclosed.[328] At the time, NPCC Lead for Criminal Justice and then Chief Constable Nick Ephgrave QPM (now Assistant Commissioner for the Metropolitan Police Service), said that problems had been, 'exacerbated by the rapid expansion of digital material involved in almost every case'.[329] More than 3,600 cases were examined, with the outcome of the review published in June 2018.[330] 47 prosecutions for rape or serious sexual offences stopped during the review period were found to have issues with the disclosure of unused material.[331]

112. The police and the CPS took further steps to address the issues with disclosure. The College of Policing, the CPS and the NPCC published a joint National Disclosure Improvement Plan (NDIP) in January 2018, with Phase Two launched in November that same year. Phase Three was embarked upon in 2021.[332] Actions included identifying the areas where technology could assist in the disclosure process; reviewing and delivering training for officers and prosecutors; appointing disclosure champions; and developing localised joint disclosure plans.[333] Max Hill QC, the Director of Public Prosecutions (DPP), described the transition of the National Disclosure Improvement Board (initially set up as part of the NDIP) to the Joint Operational Improvement Board.[334] This Board,

322 INV0014, Crown Prosecution Service.
323 HMICFRS (18 July 2017) Press release: Inspectors find widespread concerns with disclosure practices across the Criminal Justice System.
324 Centre for Women's Justice, End Violence Against Women Coalition (EVAW), Imkaan and Rape Crisis England and Wales (2020) The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change.
325 BBC (15 December 2017) Student Liam Allan 'betrayed' after rape trial collapse.
326 BBC (15 December 2017) Student Liam Allan 'betrayed' after rape trial collapse.
327 BBC (20 December 2017) Collapse of rape trials appalling, says attorney general.
328 BBC (27 January 2018) All current rape cases to be 'urgently' reviewed over disclosure fears.
329 BBC (27 January 2018) All current rape cases to be 'urgently' reviewed over disclosure fears.
330 Crown Prosecution Service (5 June 2018) CPS publishes outcome of sexual offences review.
331 Crown Prosecution Service (June 2018) Rape and serious sexual offence prosecutions: Assessment of disclosure of unused material ahead of trial.
332 Justice Committee (15 June 2021) Oral evidence: The work of the Director of Public Prosecutions, HC 334, Q28.
333 National Police Chiefs' Council, College of Policing and Crown Prosecution Service (2018) National Disclosure Improvement Plan.
334 Q225.

chaired by the DPP and Assistant Commissioner Ephgrave, continues to focus on disclosure, alongside case progression and rape and serious sexual offences (RASSO) cases specifically.[335]

113. However, in October 2021, *The Guardian* reported that a rising number of cases were collapsing due to police and prosecution failures to disclose key evidence.[336] In the year to 30 June 2021, some 1,648 cases collapsed over disclosure failures, more than double the number in 2015/16.[337] Further, EVAW and the Centre for Women's Justice expressed concern that, following the collapse of Liam Allan's trial, 'the pendulum has swung so far' in the opposite direction that disclosure requests in rape cases have now gone beyond what is understood to be proportionate and lawful, so far as to 'trample on the Article 8 rights of victims'.[338] When we asked Chief Constable Crew for her views on this, she acknowledged that:

> Both by the police and the Crown Prosecution Service I think the intent was, "We do not want to lose any other cases". In a risk-averse way, we gathered far too much material, not just from phones and digital but from third-party material as well, medical records and so on … the pendulum has needed to swing back to only when necessary, only when following a reasonable line of enquiry and in a proportionate and least intrusive way.[339]

114. We recognise that this is a difficult area and that competing rights can be in play, namely the balance between the right to a fair trial (Article 6 of the European Convention on Human Rights or the EHRC) and the right to private and family life (Article 8). The Attorney General's Guidelines on Disclosure state that, 'Where there is a conflict between both of these rights, investigators and prosecutors should bear in mind that the right to a fair trial is an absolute right'.[340]

115. However, a number of organisations pointed to concerns that the police and the CPS can make unnecessary, excessive requests for both digital and third-party material relating to complainants, almost as a matter of course.[341] (The Attorney General's Guidelines make clear that the collection and processing of such data can only be done when in accordance with the law, strictly necessary and proportionate.)[342] It was highlighted to us that such intrusive requests can cause delays—already a huge challenge in the prosecution of rape—and even result in complainants dropping their cases, another significant issue that needs to be addressed if the drop in rape prosecutions is to be reversed.[343] Emily told us that when the police submitted her case to the CPS, the CPS responded with a request for more data:

335 Q225.
336 The Guardian (31 October 2021) Courts 'are close to collapse over police disclosure failures'.
337 The Guardian (31 October 2021) Courts 'are close to collapse over police disclosure failures'.
338 INV0013, Centre for Women's Justice; INV0018, End Violence Against Women Coalition; Article 8 of the European Convention on Human Rights protects a person's right to respect for their private and family life.
339 Qq121–122.
340 Attorney General's Office (December 2020) Attorney General's Guidelines on Disclosure: For investigators, prosecutors and defence practitioners.
341 INV0010, Women's Aid Federation of England; INV0015, Solace Women's Aid; INV0032, Victims' Commissioner for England and Wales, Dame Vera Baird QC (supplementary evidence).
342 Attorney General's Office (December 2020) Attorney General's Guidelines on Disclosure: For investigators, prosecutors and defence practitioners.
343 INV0013, Centre for Women's Justice; INV0024, Information Commissioner; INV0032, Victims' Commissioner for England and Wales, Dame Vera Baird QC (supplementary evidence).

> I was asked to supply my full medical records from childbirth. I even had a phone call from my GP, like very randomly. My GP has never called me before—I normally have to book in at 8am!—and he was very concerned about the level of data that the police were requesting and he was having to double-check with me that this was something that I had actually willingly consented to. He said he had never been asked to do that before. I think that kind of spoke volumes.[344]

116. Victims and survivors also shared their experiences of having their phones taken away by the police for the purposes of digital data extraction.[345] Rachel described how the police had her phone for over a year and when it was eventually posted back to her, it was broken.[346] She said she was lucky in that it was an old phone and she had another one, but pointed out that other survivors wouldn't be in the same position.[347] The End-to-End Rape Review highlights this as an issue, and commits to an ambition to ensure by the end of this Parliament (no later than December 2024) that no victim of rape will be without a mobile phone for more than 24 hours.[348] The Rape Review also commits £5m to increase the capacity of police forces to acquire and manage evidence from digital devices effectively, with 24 police forces benefiting from this funding.[349] However, it is unclear as to when all police forces might expect to have the technology they need to do this, and whether other forces will also benefit from funding to increase their capacity in this area.

117. ***We welcome the Government's ambition to ensure no victim of rape will be without a mobile phone for more than 24 hours by 2024, and the extra funding to support certain police forces to analyse digital evidence effectively. However, this commitment should be comprehensively backed by a costed plan to ensure that all police forces have the necessary equipment and skills to implement the policy by 2024.***

118. It is true that, following the Court of Appeal judgment R v Bater-James and the adoption by the police of new guidance and consent forms, there has been what the Centre for Women's Justice termed a 'positive shift' in the collection of data from digital devices.[350] However, concerns remain; the Centre for Women's Justice brought to our attention the fact that this guidance is not always followed.[351] The former Information Commissioner, who recently undertook an investigation into the extraction of data from mobile phones by police forces, also found that, as well as the police obtaining more data than they can effectively review or manage, the concept of consent was being incorrectly applied.[352] Consent has to be specific, informed and freely given; there must also be the opportunity to withdraw consent at any time.[353]

119. Chapter 3, Part 2 of the Police, Crime, Sentencing and Courts Bill is to introduce a specific legal basis for the extraction of information from digital devices, based on the agreement of the routine user of that device.[354] However, the Information Commissioner's

344 INV0031, Emily, Rachel and Susan.
345 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
346 INV0031, Emily, Rachel and Susan.
347 INV0031, Emily, Rachel and Susan.
348 HM Government (June 2021) The end-to-end rape review report on findings and actions.
349 HM Government (June 2021) The end-to-end rape review report on findings and actions.
350 INV0013, Centre for Women's Justice.
351 INV0013, Centre for Women's Justice.
352 INV0024, Information Commissioner.
353 INV0024, Information Commissioner.
354 Police, Crime, Sentencing and Courts Bill: Explanatory Notes (March 2021).

Office stated that, as the Bill was then drafted, the powers set out in Chapter 3 of Part 2 of the Bill were unlikely to comply with Article 8 of the ECHR.[355] This was due to the fact no reference was made to reasonable lines of enquiry, and the extent of extraction was not limited to that which is strictly necessary.[356] This was concerning, given the fact that evidence we received indicated that survivors are asked to consent to requests for data beyond that known to contain evidence that directly relates to the incident in question.[357] Rights of Women also point out that survivors report feeling pressured to hand over sensitive information so that their account will be taken seriously, which undermines the 'freely given' aspect of true consent.[358] CPS requests for further data, via the police, can also be disproportionate.[359] Encouragingly, amendments were passed during the Bill's passage that are to provide that:[360]

- where a person is exercising the power to extract information, they must reasonably believe that the device contains information relevant to a reasonable line of inquiry;
- in order for a person to be considered to have given their device voluntarily and agreed to data extraction, certain requirements must be met, including not placing them under pressure and giving notice in writing of the information sought, why, and what will be done with it; and
- the Secretary of State consult with the Victims' Commissioner, the Domestic Abuse Commissioner and the Commissioner for Victims and Survivors in Northern Ireland in preparing a code of practice on the extraction of information.

Legal advice for victims and survivors

120. We have heard that the provision of independent legal advice could improve rape victims and survivors' experiences of the criminal justice system.[361] Victims and survivors would then be less likely to withdraw from the system and so prosecution volumes could be increased. Specifically, legal advice could help victims and survivors to navigate requests for third-party material and data from their digital devices (it is important to note that some requests will be vital to the case). The Right Honourable Sir John Gillen, who led the 2018 Review into the law and procedures in serious sexual offences in Northern Ireland, described the positive impact the introduction of such legal advisors in that nation had had:

> … we have sex offence legal advisers now, so as soon as you go into the police station to make your complaint, you are advised that you will have the right to a lawyer. We have already appointed some lawyers who do that. They will advise you on your rights about disclosure. No longer will there

355 PCS0344, Information Commissioner (written evidence that the Information Commissioner submitted to the Joint Committee on Human Rights as part of their legislative scrutiny of the Police, Crime, Sentencing and Courts Bill).
356 PCS0344, Information Commissioner (written evidence that the Information Commissioner submitted to the Joint Committee on Human Rights as part of their legislative scrutiny of the Police, Crime, Sentencing and Courts Bill).
357 INV0010, Women's Aid Federation of England; INV0015, Solace Women's Aid.
358 INV0017, Rights of Women.
359 INV0032, Victims' Commissioner for England and Wales, Dame Vera Baird QC (supplementary evidence).
360 House of Commons Library (24 February 2022) Police, Crime, Sentencing and Courts Bill: Progress of the Bill.
361 Qq10–12, Qq66–68, Qq88, 92, 93, and 99.

> be digital strip-searching, your phone taken away without good reason, your medical reports looked at without good reason. Delay will be dealt with by this legal adviser. If you are concerned about being questioned about previous sexual experience, that lawyer will advise you about it … No longer will complainants feel alone, there will now be an equality of arms, and they feel that the state is hearing them.[362]

The Criminal Bar Association (CBA) told us that complainants—and the investigation process itself—would benefit from their accessing publicly funded independent legal advice at two pre-trial stages: (1) the disclosure phase, and (2) in defence applications to ask the complainant questions regarding previous sexual behaviour.[363] Similarly, Lord Justice Clerk Lady Dorrian, who chaired the 2021 review into improving the management of sexual offence cases in Scotland, stated that their view was that there were two particularly critical points at which independent legal advice might be necessary:

> One was where there was an attempt to recover the medical records of a complainer, and that is already the subject of independent legal representation in Scotland. The other was when there was an application being made to ask questions about their sexual history or similar kind of intimate matters. We have recommended that there should be independent legal representation at that stage so that the position of the complainers can be made clear, they can fully understand what the questions that the defence, or indeed the Crown, are seeking to be able to ask and to argue whether they should be allowed or not.[364]

121. The Office for the Police and Crime Commissioner (PCC) for Northumbria (initially under the leadership of Dame Vera Baird QC and continued by current PCC Kim McGuinness) developed a pilot scheme offering free and independent legal advice to complainants if they were aged 18 or over at the time of the alleged offence through what they termed Sexual Violence Complainants' Advocates (SVCAs).[365] This work was funded by the Home Office's Violence Against Women and Girls Service Transformation Fund.[366] The provision aimed to protect victims' privacy rights under Article 8 of the ECHR, primarily due to concerns that the recovery of third-party material and mobile phone data was impacting negatively on victims' engagement with the criminal justice system.[367] The scheme engaged local solicitors in Northumbria and took 83 referrals between September 2018 and December 2019, with support continuing up until March 2020.[368] The evaluation highlighted interview data that showed overwhelming consensus that the SVCA project changed organisational cultures, significantly reducing police and CPS requests for indiscriminate evidence gathering.[369] All participants also agreed that there was no impact on the defendant's right to a fair trial, which is clearly a critical

362 Q88.
363 INV0028, Criminal Bar Association.
364 Q98.
365 Smith, O. and Daly, E. (2020) Final Report: Evaluation of the Sexual Violence Complainants' Advocate Scheme.
366 Smith, O. and Daly, E. (2020) Final Report: Evaluation of the Sexual Violence Complainants' Advocate Scheme.
367 Smith, O. and Daly, E. (2020) Final Report: Evaluation of the Sexual Violence Complainants' Advocate Scheme.
368 Smith, O. and Daly, E. (2020) Final Report: Evaluation of the Sexual Violence Complainants' Advocate Scheme.
369 Smith, O. and Daly, E. (2020) Final Report: Evaluation of the Sexual Violence Complainants' Advocate Scheme.

consideration.[370] The researchers strongly recommended that the SVCA scheme be rolled out nationally, with the estimated staffing costs for a national scheme coming to around £4 million.[371]

122. The End-to-End Rape Review commits to exploring, 'how best to access legal expertise and advice on access to data and third-party material, disclosure and privacy rights'.[372] A brief reference is made to the SVCA scheme, with the Government stating that it wants to take key learnings from this pilot when designing a model of enhanced support and access to legal advice which may be tested further. The possibility of a national roll-out—or even expanding the pilot to other areas—is not discussed. The Victims' Commissioner picked up on this in the evidence she gave us, saying she was 'deeply disappointed' that the Rape Review had not promoted its roll-out:

> I thought it probably should be repiloted in a number of other areas … it could have been done in a rural police force, a big city police force, maybe six or eight at a time, given that it is very cheap and everybody was in favour of it. It seems to me shocking that it is not going forward… You wonder what the quality of the commitment really is and that is how that oversight made me feel.[373]

123. When we asked the Minister for Safeguarding and her officials about the possibility of offering independent legal advice to rape complainants, Jerome Glass, Ministry of Justice Director-General, Policy and Strategy Group, told us that the Government would consult on that in February 2022.[374] It is unclear as to whether this consultation has taken place yet. As part of the Rape Review Progress Update, the Government stated it would launch a consultation with victims' groups on enhancing support and legal advice for victims on disclosure decisions.[375] The Minister also said that the SVCA pilot, though useful, had been small scale.[376] We view the consultation as promising, but we note that Mr Glass also said that, in the longer term, one would hope that, once there is 'sufficient confidence in the criminal justice system', people would not feel the need for legal advice.[377] He also suggested that Independent Sexual Violence Advisors (ISVAs) could provide the necessary support and guidance to victims.[378] This concerned us, as it suggested that the Government does not view the provision of legal advice to victims as a priority. We believe it is unlikely that 'sufficient confidence' in the criminal justice system will be achieved, without the implementation of such interventions as the provision of legal advice. Furthermore, we are mindful of ISVA Manager Ellie Ball's concern that too much is being asked of ISVAs.[379] Dr Olivia Smith, the academic who led the evaluation of the SVCA scheme also emphasised to us that ISVAs would not be best placed to provide legal advice to complainants:

> They [complainants] felt that there was somebody on their side and it was important that it was a legally qualified person. ISVAs … are absolutely

370 Q67.
371 Q67; INV0026, Dr Olivia Smith Loughborough University.
372 HM Government (June 2021) The end-to-end rape review report on findings and actions.
373 Q12.
374 Q244.
375 HM Government (December 2021) Rape Review Progress Update.
376 Q245.
377 Q244.
378 Q244.
379 Q38.

> essential but they are not legally qualified and covered by legal privilege. They are not the right people to be providing legal support and advice; they should be doing their own important, separate, job.[380]

124. **Although we support the Government's upcoming consultation with victims' groups on enhancing support and legal advice for victims on disclosure decisions, we have concerns that the Government is not placing a high priority on the question of legal advice for victims, despite what appear to be clear benefits.**

125. ***The Government should further pilot the Sexual Violence Complainants' Advocate Scheme, first offered in Northumbria. This pilot should be extended to areas with differing demographic and geographic profiles. This would empower and support complainants to understand better and deal with requests to access third-party material or data from digital devices. We agree with the Criminal Bar Association that the role of any legal advisor would need to be defined in detail in a Code of Practice.***

126. ***The Government should also consider widening any such pilot so that people would also be able to benefit from legal advice on sexual history applications.***

127. ***If engagement with victims' groups as promised by the Rape Review Progress Update demonstrate support and the need for independent legal advice, the Government must commit to offering legal advice to all victims of rape, subject to the success of the pilot.***

380 Q67.

5 The CPS response to rape

> So I had a lot of problems with [the] CPS. The biggest problem I have with [the] CPS was when I applied for my first Victims' Right to Review … One of the CPS lawyers responded to it with a letter to me. It highlighted exactly how little care they took over it, because of some of the really sloppy mistakes that she made in the response that she gave me … She didn't even know [the name of a person the police had interviewed]. She referred to him with the wrong name.
>
> Source: Rachel, in evidence to the Home Affairs Select Committee, 15 September 2021.[381]

Views on the CPS response

128. As we explored in the last chapter, the majority of rape reports are closed by the police without referral to the Crown Prosecution Service (CPS) for a charging decision.[382] However, the evidence we received suggested that there could be a negative 'feedback loop', in that prior decisions taken by the CPS in relation to such cases can influence police officers' subsequent decisions on similar cases.[383] It is important to note that the Director of Public Prosecutions (DPP) Max Hill QC has been clear that any decision against charging which is taken by the police is a matter for the police.[384] He told the Justice Select Committee in June 2021 that, 'save for the 2,700-odd cases that are referred to us, we are actually not in a position to know what has happened to the 47,000 other cases that, by definition, we have not seen'.[385]

129. The Victims' Commissioner, along with third sector organisations the Centre for Women's Justice, the End Violence Against Women coalition (EVAW), Imkaan and Rape Crisis England and Wales, has stated that the drop in rape prosecutions from 2016/17 can be traced back to a change in the approach taken by the CPS.[386] EVAW brought a judicial review claim against the Director of Public Prosecutions in 2019, focusing on whether there had been a change of approach, and, if so, whether that change had been lawful.[387] The CPS case was that there had been no change in how it prosecutes rape.[388] The Court of Appeal dismissed the application for judicial review in a judgment handed down on 15 March 2021.[389] The debate around this has been well covered elsewhere and so we will not explore it in depth here.

130. It is clear that concerns about the CPS's role in the low number of rape prosecutions remain. The Government's Independent Advisor to the Review, Emily Hunt, told us,

381 INV0031, Emily, Rachel and Susan.
382 Qq55 and 183.
383 Qq19, 41, and 55; INV0013, Centre for Women's Justice.
384 Justice Committee (15 June 2021) Oral evidence: The work of the Director of Public Prosecutions, HC 334, Qq14–15.
385 Justice Committee (15 June 2021) Oral evidence: The work of the Director of Public Prosecutions, HC 334, Q22.
386 INV0016, Victims' Commissioner for England and Wales, Dame Vera Baird QC; Centre for Women's Justice, End Violence Against Women Coalition (EVAW), Imkaan and Rape Crisis England and Wales (2020) The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change.
387 Centre for Women's Justice, End Violence Against Women Coalition (EVAW), Imkaan and Rape Crisis England and Wales (2020) The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change.
388 Crown Prosecution Service (15 March 2021) Press statement: CPS statement on the judgment in the judicial review of the prosecution of rape and serious sexual offences.
389 EVAWC -v- DPP judgment [Paragraph 92] [last accessed 4 March 2022].

'Fundamentally, this is a problem of the CPS deciding not to prosecute cases and I have some concerns about them not recognising that.'[390] The CPS urgently need to build public confidence back up. As the body with responsibility for public prosecutions, the actions they take—or don't take—will significantly influence whether or not the Government achieves its aim of returning the volume of rape prosecutions to 2016 levels by the end of this Parliament (no later than December 2024), and, as a consequence—and, most crucially—whether more people who experience the trauma of sexual violence can secure justice.

Communication

131. As with the police, we heard from people who had had negative experiences of the way the CPS dealt with their cases. Feedback on the actions of the CPS overlapped with and reflected people's experiences of the police response, showing just how important joint working between the two is, both nationally and at a local level.

132. Greater sensitivity in communications from the CPS would be welcome.[391] The Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team told us that participants in their study had found receiving letters about the decisions made in regard to their cases difficult.[392] A 2020 report by HMCPSI found that the CPS is still sending poor quality letters to victims of crime, two years on from an initial inspection; only 19% of the letters to victims in cases involving rape and serious sexual offences that were inspected were of satisfactory quality.[393]

133. The CPS has recognised that their communication with victims is simply not good enough. The organisation has now developed new letter templates that the CPS has stated are 'trauma-informed and more empathetic'; these are to be piloted in various CPS areas.[394] The JiCSAV research project team said that letters as a form of communication can, 'lead to misinterpretation, leave complainants with unanswered questions and may engender a sense of depersonalisation'.[395] They suggested that offering complainants the opportunity to speak to a CPS lawyer via video link would give them the opportunity to ask questions, and the CPS representative the chance to explain any decision made more effectively.[396] Obviously, this would need to be properly planned, with safety and accessibility considered, as well as training for CPS lawyers on managing difficult conversations online.[397] We note that HMICFRS and HMCPSI, when looking at communication post-charge as part of their joint inspection, highlighted that although some prosecutors would be grateful for

390 Q20.
391 INV0031, Emily, Rachel and Susan; INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
392 INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.
393 HMCPSI (October 2020) Victim Communication and Liaison Scheme: letters to victims. A follow-up inspection.
394 INV0036, Max Hill QC, Director of Public Prosecutions, Crown Prosecution Service; Crown Prosecution Service (22 February 2022) Rape Strategy update.
395 INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.
396 INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.
397 INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.

the opportunity to meet with victims at an early stage, others expressed concern about the impact this could have on the perception of their independence.[398] They also questioned how realistic such an aim might be, given current high workloads.[399]

134. It is promising that the CPS has said it will be looking to ensure its engagement is tailored appropriately.[400] The CPS has also commissioned research to understand what victims want and need from the CPS; this should support the design of a new approach to victim engagement which the CPS state will be more two-way.[401] The JiCSAV research project team's suggestion around the utilisation of video links for better communication should be considered as part of this, with any concerns prosecutors might have taken into account, as well as resource implications. HMICFRS and HMCPSI have recommended that the CPS should define the role of prosecutors in communicating with victims, and develop standards for doing so, and we would support this.[402]

135. We were also told that there can be a lack of transparency and accountability in both police and CPS decision-making and appeals processes, which can leave victims and survivors feeling disempowered.[403] Emily shared her impression of the CPS with us:

> [T]he police process is difficult enough, but the CPS almost feels like a completely disembodied thing that sits above that. It's even harder to get in touch with or even more lacking in empathy. And I do understand that they have to remain neutral and that they have a very difficult job to do, but it does kind of feel a bit like your case just gets sent off to this big formidable body of people that you have no idea what they look like, who they are, what their job is. And it's never actually even really explained to you what the CPS are meant to do, and how they make the decisions that they make.[404]

When we put Emily's reflections to the DPP, he said that if she had been present at the evidence session he would have wanted to apologise to her.[405] He maintained that RASSO prosecutors and their support staff want to do everything they can to help victims, but accepted that there was room for improvement, saying that the measures the CPS had put in place to improve its response to rape should make both Emily's experience and that of other survivors less likely in future.[406]

136. **The role of the CPS is instrumental when it comes to increasing the volume of rape prosecutions and bringing more perpetrators to justice if guilty, as well as improving victims' experiences of the criminal justice system.**

137. ***We have heard from victims and survivors that the CPS's level and quality of communication could be more effective and sensitive. We welcome the fact that the CPS has designed new letters to engage better with victims at key moments. However, as part***

398 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
399 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
400 Crown Prosecution Service (22 February 2022) Rape Strategy update.
401 Crown Prosecution Service (22 February 2022) Rape Strategy update.
402 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
403 INV0018, End Violence Against Women Coalition.
404 INV0031, Emily, Rachel and Susan.
405 Q206.
406 Q207.

of the CPS's work designing a new approach to victim engagement that should be more two-way, we would also recommend that the CPS consider speaking with complainants via a video link as more general practice, to give people the opportunity to ask questions about their individual case. This would be less impersonal. Any concerns prosecutors might have should be taken into account.

Victims' Right to Review Scheme

138. The Victims' Right to Review (VRR) Scheme should make it easier for victims to secure a review of a decision not to charge a suspect or to discontinue proceedings.[407] The scheme applies to CPS decisions made on or after 5 June 2013, and to police decisions made on or after 1 April 2015.[408] When the person who reported the assault is told of the decision not to prosecute or to discontinue proceedings, they should also be informed of their right to request a review of that decision and how to exercise that right.[409] People can request a review within three months of that decision being made.[410]

139. Yet Rights of Women expressed concern that where a decision to take no further action is taken, survivors typically report being unable to secure accountability through the VRR Scheme.[411] This can be the case when challenging police and CPS decisions. Twenty of the 34 people with lived experience who shared their views with us through our qualitative online survey were unaware of the VRR Scheme, and a further two found out about it only when it was too late.[412] Those respondents who were aware of the scheme were largely unhappy with it.[413]

> I did get a decision letter following both instances of the CPS not taking my cases to court, and submitted 2 Right to Review appeals resulting in similar letters. Both were full of excuses and rubbish reasons. I just wanted my case(s) heard in a courtroom to be judged there and not in someone's office!!!!!!!!!!!! HOW IS THAT A "JUSTICE SYSTEM"???[414]

Rachel, one of the people we had the opportunity to speak to directly, told us she'd also experienced problems with the VRR Scheme.[415] The letter from the CPS lawyer who responded to her request for the decision on her case to be reviewed contained mistakes which made Rachel feel like they hadn't taken any care over it.[416] For example, the lawyer referred to one person who was interviewed in relation to the case by the wrong name.[417]

140. Rape Crisis England and Wales recommended to us that the CPS and police be required to publish data detailing how many cases are submitted for review, how many are accepted and rejected, and the reasons for these decisions. This data should be disaggregated by

407 Rights of Women (2018) From Report to Court: A handbook for adult survivors of sexual violence (sixth edition).
408 Rights of Women (2018) From Report to Court: A handbook for adult survivors of sexual violence (sixth edition).
409 Rights of Women (2018) From Report to Court: A handbook for adult survivors of sexual violence (sixth edition).
410 Rights of Women (2018) From Report to Court: A handbook for adult survivors of sexual violence (sixth edition).
411 INV0017, Rights of Women.
412 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
413 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
414 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
415 INV0031, Emily, Rachel and Susan.
416 INV0031, Emily, Rachel and Susan.
417 INV0031, Emily, Rachel and Susan.

gender, case type, ethnicity and other variables, allowing for greater transparency of the system and enabling more in-depth analysis. Such a step would strongly align with and fit into the Government's work on the upcoming Victims' Bill.

141. ***Given some victims and survivors' negative experiences of the Victims' Right to Review Scheme, we agree with Rape Crisis England and Wales that the Government require the police and the CPS to publish data covering how many cases are submitted for review, how many decisions are upheld and how many reconsidered, and the reasons for these review decisions. This data should be analysed by gender, case type, ethnicity and other factors, enabling the system to become more open. The Government should take this step as part of its work on the upcoming Victims' Bill.***

Concerns around the disclosure of counselling and therapy notes

142. Despite the devastating impact of rape on a person's mental health and emotional wellbeing, victims and survivors do not always feel they can access counselling or therapy. This is due to fears that they may be asked to agree to allow the police to obtain any counselling or therapy notes, the contents of which might then be disclosed to the defence.[418] Such fears can either prevent a person from coming forward at all or result in the deferral of counselling or therapy until after criminal proceedings have concluded. Respondents to our qualitative online survey called for the following:

> Allow victims to access counselling that is exempt from court—you have to choose between delaying counselling for 12–24 months until court is over, or not reporting, because it can be used against you.[419]

> Therapy for victims [should be offered] as soon as possible as often they are left without support especially when going through court proceedings. It should be a must if going through court proceedings to give them support to cope.[420]

143. Women's Aid Federation of England also highlighted anecdotal evidence suggesting survivors have been advised, for example by the police or staff at Sexual Assault Referral Centres (SARCs), that they may wish to avoid counselling until the investigation or trial has come to a close.[421]

144. This is deeply worrying. Sexual assault or abuse can result in serious trauma, with victims and survivors describing feelings of terror and anxiety.[422] They absolutely should not feel they must put off accessing potentially life-saving mental health support in order to have the best chance of securing justice. As part of the Crime Survey for England and Wales (CSEW), victims of sexual assault by rape or penetration were asked questions on physical injury and the other, non-physical effects they may have experienced:

- nearly two-fifths of victims (36%) reported that they suffered some sort of physical injury;

418 INV0010, Women's Aid Federation of England; INV0013, Centre for Women's Justice; INV0015, Solace Women's Aid; INV0016, Victims' Commissioner for England and Wales, Dame Vera Baird QC.
419 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
420 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
421 INV0010, Women's Aid Federation of England.
422 NHS England (2018) Strategic Direction for Sexual Assault and Abuse Services: Lifelong care for victims and survivors: 2018–2023.

- 63% of female victims and 47% of male victims said they had suffered 'mental or emotional problems' as a result of the assault; and
- around one in ten victims (12% of men and 10% of women) said they had attempted suicide as a result.[423]

The Victims' Commissioner pointed out that the courts backlog has further lengthened the period of time a person may defer counselling or therapy for, 'potentially deepening their trauma'.[424]

145. It is possible for victims and survivors to access limited forms of therapy (which can be referred to as 'pre-trial therapy' or 'pre-trial counselling').[425] This provides support to victims and survivors without addressing the incident of rape directly in case notes are requested and inadvertently undermine their credibility.[426] Yet this form of therapy may not be what an individual needs for their mental health. As the Criminal Bar Association (CBA) stated, 'They may prefer to receive psychotherapy in a more targeted form than that permitted under current CPS "Guidelines on the Use of Therapy", which has to protect the integrity of their evidence.'[427]

146. In 2020, the CPS consulted on new draft guidance on pre-trial therapy.[428] This new draft guidance combines and replaces earlier guidance published in 2002.[429] This version explicitly recognises that anxiety around causing a criminal prosecution to fail has resulted in access to therapeutic support being delayed until after the trial.[430] It attempts to make it clear that therapy should not be delayed for any reason connected with a criminal investigation or prosecution, and emphasises that access to therapy could enhance a person's ability to give their best evidence.[431] The DPP told us:

> Let me be absolutely clear: I disagree with advice that people should not seek therapy pre trial. I say the opposite is necessary, drawing on expert advice that we have been using to train our prosecutors for a year or more now on the neurological impact of trauma … The emotional trauma makes it difficult for them to remember what has happened and order the events in their mind … We know that pre-trial therapy can actually put someone in the best position to give evidence in court, to tell their truth in court. It is not in any sense counter-productive to their case.[432]

The fundamental principles of the draft guidance include:

- the well-being of the victim should determine decision making with regard to pre-trial therapy;

423 Office for National Statistics (18 March 2021) Nature of sexual assault by rape or penetration, England and Wales: year ending March 2020.
424 INV0032, Dame Vera Baird QC, Victims' Commissioner for England and Wales (supplementary evidence).
425 INV0015, Solace Women's Aid; INV0018, End Violence Against Women Coalition.
426 INV0015, Solace Women's Aid; INV0018, End Violence Against Women Coalition.
427 INV0028, Criminal Bar Association.
428 Crown Prosecution Service (30 July 2020) Press release: Crown Prosecution Service invites the public to comment on revised pre-trial therapy guidance.
429 Crown Prosecution Service (2020) Public consultation – Guidance on pre-trial therapy; the guidance in question is the 'Provision of Therapy for Child Witnesses Prior to a Criminal Trial' and the 'Provision of Therapy for Vulnerable or Intimidated Adult Witnesses prior to a Criminal Trial'.
430 Crown Prosecution Service (2020) Draft guidance on pre-trial therapy.
431 Crown Prosecution Service (2020) Draft guidance on pre-trial therapy.
432 Qq207–208.

- the police must not make any recommendations about whether therapy should be undergone;
- the law governing disclosure imposes an obligation on the police to pursue all reasonable lines of enquiry. It is not appropriate for the police to make speculative enquiries and access to therapy notes should not be sought simply because a victim has received therapy. However, therapists should explain that, depending on individual circumstances, it is possible that material produced as a result of therapy may represent a reasonable line of enquiry. The victim's consent must be obtained before the police can view any notes; and
- material generated as a result of therapy will only be disclosed by the prosecutor to the defence in criminal proceedings if it might reasonably be considered capable of undermining the prosecution case or assisting the case for the accused.[433]

The guidance does not recommend what type of therapy is appropriate but does provide principles of good practice.[434] This said, it is noted that '[c]ertain types of therapy … have potential implications for the investigation and prosecution process' meaning there is a 'need for caution'.[435] Without greater assurances victims and survivors could still feel they need to make a choice between accessing mental health support and pursuing justice. Further, the final version of this guidance is not published yet, even though the consultation was closed in October 2020.[436] The DPP told us that the delay is due to the Attorney General's annual review of disclosure which is currently being undertaken.[437] The Minister for Safeguarding Rachel Maclean MP has told us that as part of this review, the Attorney General is looking at guidance on access to third-party material, which includes therapy and counselling notes.[438] Given the urgency of this issue, it is essential that the Attorney General's Office liaise with the CPS to ensure clearer guidance becomes available as a matter of priority. The CPS state it intends for the guidance to be published by the Spring.[439] It cannot be delayed for any longer than that.

147. In recognition of this delay, the CPS has published Pre-Trial Therapy—Fundamental Principles, which will be reflected in the eventual guidance once published.[440] This document again emphasises that the health and wellbeing of the victim should trump all other considerations in the seeking of pre-trial therapy, and that criminal justice practitioners should play no part in the decisions that are made around accessing therapy.[441] Further, the document makes clear that the police should not make 'unfocused requests to browse victims' files', and that, in terms of disclosing material to the defence, this will only be done where the material might reasonably be considered capable of undermining the prosecution case or assisting the case for the accused.[442] However, although we recognise

433 Crown Prosecution Service (2020) Draft guidance on pre-trial therapy.
434 Crown Prosecution Service (2020) Draft guidance on pre-trial therapy.
435 Crown Prosecution Service (2020) Draft guidance on pre-trial therapy.
436 Crown Prosecution Service (2020) Public consultation - Guidance on pre-trial therapy.
437 INV0036, Max Hill QC, Director of Public Prosecutions, Crown Prosecution Service.
438 Letter from Minister for Safeguarding Rachel Maclean MP to Chair of the Home Affairs Committee Rt Hon Dame Diana Johnson MP, following her appearance before the Committee on 15 December 2021 (1 February 2022).
439 Crown Prosecution Service (22 February 2022) Pre-Trial Therapy - Fundamental Principles.
440 Crown Prosecution Service (22 February 2022) Pre-Trial Therapy - Fundamental Principles.
441 Crown Prosecution Service (22 February 2022) Pre-Trial Therapy - Fundamental Principles.
442 Crown Prosecution Service (22 February 2022) Pre-Trial Therapy - Fundamental Principles.

the CPS's efforts to reassure victims, in the continued absence of the guidance itself, we judge it to be unlikely that this will be enough to ease victims' fears around accessing counselling or therapy.

148. The organisations the Centre for Women's Justice, the End Violence Against Women Coalition (EVAW), Imkaan and Rape Crisis England and Wales have recommended that therapy and counselling notes be made non-disclosable.[443] They argue that 'therapy and counselling deal with feeling and not facts' and that doing so could address the fact that currently victims and survivors are dissuaded from accessing the support they need. This recommendation is being looked at as part of the Attorney General's review of the disclosure guidelines.[444] Kirsty Brimelow QC, Vice-Chair of the CBA, and Ellie Cumbo of the Law Society opposed the suggestion. Ms Cumbo said that blanket bans around evidence are 'unwise' and likely to lead to greater injustice.[445] Ms Brimelow told us:

> You cannot have a one-size-fits-all and ban disclosure of all therapy notes. The law works perfectly well in that area. There needs to be better communication with complainants: "If you consent to providing your therapy notes, please be reassured that they are not going to be handed to the defence. There are very competent lawyers working on it plus a judge".[446]

Positively, the Law Commission, as part of its work examining the law, guidance and practice relating to the use of evidence in prosecutions of serious sexual offences, as outlined in the End-to-End Rape Review, is specifically looking at medical and counselling records.[447] Professor Penney Lewis, Criminal Law Commissioner at the Law Commission, told us some common law jurisdictions use a privilege in relation to these notes:

> That would effectively provide a presumption of non-disclosure. It would not be a ban, but it would be a presumption of non-disclosure. That is an approach that is in use in some Australian states. The Canadian approach is also interesting. There, again, there is a coverage of all records in which the complainant has a reasonable expectation of privacy, and then there is a list of reasons why the defence might want to admit the records, none of which will be valid in and of themselves as a justification for admission. In other words, one has to have something more than just one of these basic reasons—it is relevant to an issue at trial—and there is a whole list of about eight of them. That is a different approach to dealing with these issues.[448]

However, the Law Commission is not due to report until June 2023, which means yet more delays for victims and survivors of rape.[449]

149. Furthermore, the availability of counselling and therapy for victims and survivors of rape is in question. Rape Crisis England and Wales drew our attention to the fact that

443 Centre for Women's Justice, End Violence Against Women Coalition, Imkaan and Rape Crisis England and Wales (November 2020) The Decriminalisation of Rape: Why the justice system is failing survivors and what needs to change.
444 Letter from Minister for Safeguarding Rachel Maclean MP to Chair of the Home Affairs Committee Rt Hon Dame Diana Johnson MP, following her appearance before the Committee on 15 December 2021 (1 February 2022).
445 Q147.
446 Q146.
447 Q146.
448 Q146.
449 Q177.

women in some areas are being placed on waiting lists for counselling for up to a year, 'making the new CPS guidance on Pre-Trial Therapy moot'.[450] Solace Women's Aid, who run North London Rape Crisis (NLCR) and offer survivors six weeks of one-to-one counselling (with the possibility of extension), highlighted similar issues.[451] They also told us that women can be waiting for up to a year.[452] Despite increasing the waiting list to 18 months during the pandemic, they were forced to close it between March 2020 and September 2020, and have switched between having it open and having it closed ever since, simply in order to manage demand.[453]

150. **We were particularly concerned to hear that victims and survivors of rape may feel they need to—or are advised to—put off accessing mental health support as they fear that their counselling or therapy notes and records could be disclosed to the defence or undermine their case in some way. This is unacceptable given the traumatic impact of rape.**

151. ***We recommend that the Government work with the Crown Prosecution Service so that it is possible for the organisation to publish its guidance on pre-trial therapy as soon as possible. We understand the Crown Prosecution Service has been waiting on the Attorney General's annual review of disclosure, but it has now been more than 18 months since the consultation on the guidance was launched and it is an urgent issue.***

152. ***We welcome the fact that the Law Commission's project will be covering access to counselling and therapy notes and records. However, we are concerned that, as the Law Commission will not be reporting until summer 2023, victims and survivors could be left without the mental health support they need for longer than is acceptable. We recommend that the Government ask the Law Commission to publish separate recommendations on pre-trial therapy and the disclosure of counselling and therapy notes at an earlier stage in their project, preferably by the end of this year.***

153. ***The pilot of the provision of legal advice to complainants—which we recommended at paragraph 125 above—should take account of support in relation to applications for counselling or therapy records.***

154. ***The Government must ensure that counselling and therapy, including pre-trial therapy, can be accessed by all victims and survivors who need it. We welcome the Government's funding for Independent Sexual Violence Advisors (ISVAs) but are mindful of Rape Crisis England and Wales' warning that the demand is for long-term counselling and therapies, which is not receiving as much attention. The Government's next Rape Review Progress Update must take account of the demand for counselling and therapy, including pre-trial therapy.***

155. ***Any comprehensive mapping and monitoring exercise, covering the provision of specialist sexual violence and abuse services in England and Wales, that the Government undertakes (as we recommend) must take account of the need for and availability of counselling and therapy for victims and survivors of sexual violence.***

450 INV0009, Rape Crisis England and Wales.
451 INV0015, Solace Women's Aid.
452 INV0015, Solace Women's Aid.
453 INV0015, Solace Women's Aid.

Actions the CPS is taking

156. The Director of Public Prosecutions Max Hill QC has emphasised his 'determination to drive an increase in the number of rape cases going to court. We know that too few victims are seeing justice and we are working hard to charge that. This is an absolute priority for me personally, and for the CPS'.[454]

157. The CPS outlined its 'significant programme of work' to make improvements, including its strategy on rape and serious sexual offences (RASSO 2025), and the Police-CPS Joint National RASSO Action Plan.[455] 'Public confidence' is one of the key themes of RASSO 2025, with the CPS committing to publishing guidance explaining the disparity between volumes of reported incidents and criminal justice outcomes; 'Closing the gap' was published a year after the strategy, in June 2021.[456] The CPS has recently updated its legal guidance on rape and sexual offences as well, which includes sections on tackling rape myths and stereotypes and the impact of trauma, and, together with the National Police Chiefs' Council (NPCC), developed a national framework for working with Independent Sexual Violence Advisors (ISVAs) and support services.[457] In recent months, the organisation was also consulting on various documents to improve the information it provides both to victims and the wider public, including a commitment to rape victims and a policy statement on how rape cases are charged and prosecuted.[458] It is worth noting that, unlike the 43 police forces across England and Wales, each of the 14 CPS Areas has a dedicated RASSO unit, all staffed by specially trained prosecutors.[459] The CPS aims to appoint 70 experienced staff members into RASSO posts in the five Operation Soteria pathfinder areas by March 2022, which it states will increase their pool of over 350 specialists by approximately 20%.[460]

158. Such actions are positive and encouraging. However, the Committee heard that there can be a gap between policy and practice, and that organisational strategies don't automatically translate into culture change.[461] Rights of Women welcomed the CPS's emphasis on the impact of trauma and tackling rape myths and stereotypes but also pointed out that although similar approaches were already in place the experience of survivors suggested they had not translated into practice on the ground.[462] HMICFRS and HMCPSI have also stated that the efforts made to improve the response to rape at a national level haven't had a significant impact at a local level.[463] There are further concerns that the high number of different strategies and pieces of work across different agencies and organisations, including the Rape Review itself, are not sufficiently joined up.[464]

454 INV0036, Max Hill QC, Director of Public Prosecutions, Crown Prosecution Service.
455 INV0016, Crown Prosecution Service.
456 Crown Prosecution Service (July 2020) Rape and Serious Sexual Offences (RASSO) 2025; Crown Prosecution Service (June 2020) Closing the gap: How the CPS is working to reduce disparity between reported rapes and chargers.
457 INV0016, Crown Prosecution Service; Crown Prosecution Service and the National Police Chiefs' Council (2021) National framework for working with Independent Sexual Violence Advisors and support services.
458 Crown Prosecution Service (2021) Help us improve how we explain our work on rape and serious sexual assault.
459 INV0016, Crown Prosecution Service.
460 Crown Prosecution Service (22 February 2022) Rape Strategy update.
461 INV0010, Women's Aid Federation of England; INV0017, Rights of Women; INV0018, End Violence Against Women Coalition.
462 INV0017, Rights of Women.
463 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
464 INV0018, End Violence Against Women Coalition.

159. Implementation of these pieces of work is therefore key. The publication of the CPS's Rape Strategy update in February 2022 is positive, setting out as it does what the CPS has done so far and what will come next, as well as reporting against certain success measures.[465] It is important that the CPS undertake analysis to understand, and to demonstrate to the public—and, most importantly, victims—the impact of the actions it is taking, and if they are having the intended effect, on a regular basis. Increasing the volume of rape prosecutions, bringing more perpetrators to justice and demonstrating how the actions that have been taken have contributed to such outcomes will be integral to improving public confidence. Such publications as the Rape Strategy update should help with this, although only the aimed for result—namely, higher volumes of charges and prosecutions—will really boost confidence in the system.

160. It is worth nothing that, in the Police-CPS Joint National RASSO Action Plan (JNAP), a commitment was made to publish progress against delivery on an annual basis on both the CPS and NPCC websites; no such progress update has appeared, though it is now more than a year since the JNAP was first made public.[466] The NPCC and the CPS also committed to reviewing and updating the JNAP as necessary to reflect findings from the Government's End-to-End Rape Review and the joint HMICFRS and HMCPSI thematic inspection, as well as to respond to any new challenges that emerge.[467] Despite the publication of both the Rape Review and the inspection outcomes, no review or update of the JNAP has been forthcoming so far, although it is welcome that a refresh has recently been promised for Summer 2022.[468] The importance of effective joint working between the police and the CPS is clear, and so the JNAP assumes particular significance. Professor Stanko, academic lead for Project Bluestone, stated that a key part of the explanation for the current situation is the way the interface between the police and the CPS works—or doesn't work.[469] Chief Constable Sarah Crew also said that delays and inconsistencies can be a function of the relationship between the CPS and the police.[470]

161. The provision of early advice by the CPS to the police in relation to cases was highlighted as particularly beneficial. The JNAP specifically outlines an aim to identify best practice models that promote closer joint working during an investigation, and to evaluate ongoing early advice pilots in the South East and London.[471] The CPS is also providing more early advice in the five pilot police force areas taking part in Operation Soteria, as well as working with the police to review the effectiveness of No Further Action (NFA) scrutiny panels, with the aim of ensuring that cases which should go forward for a charging decision do.[472] The former Information Commissioner stated that early advice can go some way toward ensuring that reasonable lines of enquiry are identified as soon as possible, which will help reduce the risk of excessive amounts of victims' data entering the criminal justice system.[473] However, it was suggested to the Committee that the process

465 Crown Prosecution Service (22 February 2022) Rape Strategy update.
466 National Police Chiefs' Council and the Crown Prosecution Service (January 2021) Police-CPS Joint National RASSO (Rape and Serious Sexual Offences) Action Plan 2021.
467 National Police Chiefs' Council and the Crown Prosecution Service (January 2021) Police-CPS Joint National RASSO (Rape and Serious Sexual Offences) Action Plan 2021.
468 Crown Prosecution Service (22 February 2022) Rape Strategy update.
469 Q55.
470 Q112.
471 National Police Chiefs' Council and the Crown Prosecution Service (January 2021) Police-CPS Joint National RASSO (Rape and Serious Sexual Offences) Action Plan 2021.
472 HM Government (December 2021) Rape Review Progress Update; INV0036, Max Hill QC, Director of Public Prosecutions, Crown Prosecution Service.
473 INV0024, Information Commissioner.

of seeking early advice should be formalised.[474] EVAW pointed out that there is a lack of transparency around the process, and that there is no available data around the timeframe within which early advice can be sought, leading to inconsistencies.[475] HMICFRS and HMCPSI further highlighted the fact that early advice is underused, and that when it is made use of, it tends to be asked for too late and then the CPS takes too long to respond, which undermines its purpose.[476] The Inspectorates welcomed the publication of both the JNAP and the Director's Guidance on Charging (6th edition) or DG6, which seeks to make the process of securing early advice clearer, and stated that the impact of this guidance will need to be assessed in due course.[477]

162. ***The actions the CPS is taking to drive up the number of rape prosecutions are positive and to be welcomed. However, given the continued low volume of rape prosecutions, and the concerns we heard around the gap between policy and practice, we would suggest that the CPS publish the outcomes of its assessment of the organisation's progress against the success measures set out in RASSO 2025 on a regular basis. The recent publication of the Rape Strategy update is a welcome step toward this end. We would further suggest that the CPS and the police publish progress against delivery of the Police-CPS Joint National RASSO Action Plan (JNAP) on an annual basis on both the CPS and NPCC websites as initially promised. We would also like to see a reviewed and updated version of the JNAP as soon as possible, following the publication of the End-to-End Rape Review and the findings of Phases One and Two of the joint thematic inspection of the police and the CPS's response to rape. This should not be published any later than the Summer of 2022 as has now been promised. We believe acting on these suggestions will be important in building public confidence, if it can be demonstrated that actions taken have positively affected the volumes of rape prosecutions.***

474 INV0010, Women's Aid Federation of England; INV0018, End Violence Against Women Coalition.
475 INV0033, End Violence Against Women Coalition.
476 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.
477 Criminal Justice Joint Inspection (July 2021) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase one: From report to police or CPS decision to take no further action.

6 Rape offences and the courts

> I did feel that there should be more support around cross examination. It was worse than the rape itself.
>
> Source: Respondent to the Home Affairs Select Committee's questions for those with lived experience.[478]

People's lived experience of the courts

163. As we have explored, the vast majority of victims and survivors of rape never get to see their case go to trial. Susan, a survivor who bravely shared her story with us, described how difficult that had been for her:

> Like I said, at the end, when the prosecution barrister gave me a private call and said how she would have torn him apart. They had the evidence to definitely get guilty. You've had five years to do it. Why didn't I get my day in court then? Now I've got no closure because it's too late, he's gone, he died.[479]

Many who shared their lived experience with us were not able to answer our question on the support available at court as their cases had simply not gotten that far.[480] When people's cases do reach court, the experience can be extremely difficult. Women's Aid Federation of England said that poor information and communication during the court process can be a barrier to victims proceeding with their cases.[481] A respondent who experienced the criminal justice system in Scotland emphasised the importance of victims and survivors being equipped with an understanding of what the trial would involve:

> Witnesses should be informed about court procedure in more detail. I was not made aware of the fact that just because I had made a statement, doesn't mean that all of the statement will be presented in court. I was not prepared for the prosecutor to present just part of my statement … A court setting is not the time for a judge to explain pre-trial processes or technical terms to a witness, because anxiety affects information processing.[482]

Rights of Women highlighted that victims report being fearful of court processes and how the court building itself can make people feel intimidated.[483] Another respondent who did see their case go to court highlighted cross-examination as a particularly harrowing part of what they had experienced, saying that 'the victim is on trial':

> I did feel that there should be more support around cross examination. It was worse than the rape itself. I was humiliated, my naked photos were shown, I was repeatedly asked very very personal questions, they repeatedly asked 'how far in did it go in your anus' and I felt so sick and degraded. With a public gallery. Then when it was over I just went home, extremely distressed.[484]

478 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
479 INV0031, Emily, Rachel and Susan.
480 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
481 INV0010, Women's Aid Federation of England.
482 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
483 INV0017, Rights of Women.
484 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.

We welcome the fact that the Law Commission is looking at whether there might be a need for reform of the rules and procedures governing the admissibility of character evidence.[485] As Professor Penney Lewis, Criminal Law Commissioner at the Commission told us, this could positively affect decisions made about individual cases upstream, for example, when Crown Prosecution Service lawyers are making decisions based on evidence that is likely to be admissible at trial.[486] We look forward to seeing the outcomes of this project in the summer of 2023.[487]

164. It is essential that victims and survivors are supported in court. Two people we heard from said that their ex-partners had been able to continue harassing them in the court building, and so they did not feel well supported or protected.[488] The Government has said that special measures should be made available to meet victims' needs.[489] Such measures include the ability for complainants to give evidence behind a screen.[490] The Government has also been piloting an expansion of section 28 of the Youth Justice and Criminal Evidence Act 1999, which enables the recording of evidence and cross-examination prior to trial, subject to judicial discretion, to intimidated witnesses (victims of adult sexual offences and modern slavery).[491] It was announced on 9 December 2021 that provision of section 28 pre-recorded cross-examination for victims of sexual violence and modern slavery will be rolled out to all Crown Courts nationwide.[492] We welcome this news; a number of those who contributed to our inquiry emphasised the difference the expansion of section 28 could make to victims and survivors of rape.[493]

165. However, we were also told that there could be challenges with the roll-out.[494] The Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team questioned the practical ability of the system to cope.[495] When he appeared before the Justice Committee in November, the Lord Chief Justice Lord Burnett also expressed some concern that if section 28 is expanded too quickly it could, 'result in the outstanding case load being kept artificially high because a lot of time and energy will be devoted to dealing with section 28 cross-examinations.'[496] HMICFRS and HMCPSI have pointed out that it is good practice for the same trial judge to conduct all three hearings: the ground rules hearing, section 28 cross-examination and the trial.[497] The hearings may also require

485 Qq145 and 176.
486 Q145.
487 Q177.
488 INV0037, Respondents to the Home Affairs Committee's questions for those with lived experience.
489 INV0020, HM Government (from the Ministry of Justice, the Home Office and the Attorney General's Office).
490 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
491 HM Courts and Tribunals Service (27 October 2020) Section 28 for vulnerable victims and witnesses in Crown Courts; HM Government (June 2021) The end-to-end rape review report on findings and actions.
492 Ministry of Justice (9 December 2021) Press release: Landmark reforms for victims.
493 Qq2, 86, 90; INV0021, Dame Vera Baird QC, Victims' Commissioner for England and Wales (supplementary evidence); INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.
494 Q148; INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.
495 INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.
496 Justice Committee (16 November 2021) Oral evidence: The work of the Lord Chief Justice, HC 868, Q17.
497 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.

courts to release advocates from their current trials in order to attend them.[498] All of this can cause delays and disruption to wider trials.[499] Kirsty Brimelow QC, Vice-Chair of the Criminal Bar Association (CBA) told us:

> What is happening in the courts currently is that barristers are refusing to do a case, prosecuting or defending, that has a section 28 pre-recording as part of it. I had an example only yesterday in the West Midlands where I was told from a reliable source—a practitioner QC—that there had been six RASSO cases where no prosecution counsel could be found to do them … Although there is a protocol to deal with section 28, it is not actively managed by the judges, according to CBA members. Therefore, barristers are finding themselves unable to even eke a living by leaving themselves completely free to do these section 28 hearings, and so they are not doing them. If you do not have practitioners doing them, they are not workable. That is the bottom line, whatever the policy is.[500]

The Government, working together with the judiciary, as well as the Bar Council and CBA, must consider the obstacles to a successful roll-out—for example, the availability of counsel and the concerns criminal barristers might have in regard to section 28—and the means of overcoming those obstacles. The ways barristers are remunerated, and whether this could be an inadvertent barrier to practically rolling out section 28, must also be taken in account. This is essential if the expansion of section 28 is to have the positive impact intended.

166. ***It is evident that even when people's cases do make it to court, their experience of the trial can be very difficult. We welcome the national roll-out of section 28 of the Youth Justice and Criminal Evidence Act 1999 to intimidated witnesses (victims of adult sexual offences and modern slavery). This will make a significant difference to complainants' experiences of the criminal justice system. However, we would urge the Government to consider the obstacles to a successful roll-out—for example, the availability of counsel—in consultation with the legal sector, including the judiciary, the Bar Council and the Criminal Bar Association, and the means of overcoming these obstacles. The outcome of this piece of work should be published with the next Rape Review Progress Update.***

167. Sir John Gillen, who led the Independent Review into the Law and Procedures in Serious Sexual Offences in Northern Ireland, also pointed out that England and Wales will be the only jurisdiction within the United Kingdom and Republic of Ireland where the public are not excluded from rape hearings, at least when the complainant is giving evidence.[501] (Sir John emphasised however that the press must be there at all times.)[502] Victims of sexual offences are eligible for special measures under the Youth Justice and Criminal Evidence Act 1999, including evidence given in private as a special measure (section 25).[503] This involves the exclusion from court of members of the public and the

498 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
499 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
500 Q148.
501 Q90.
502 Q90.
503 Crown Prosecution Service (2021) Special measures.

press, except for one named person to represent the press.[504] However, being eligible for special measures does not mean that the court will automatically grant them.[505] Crown Prosecution Service (CPS) legal guidance on special measures specifies that public galleries can be cleared 'if there are highly sensitive issues and in very exceptional cases'.[506] HMICFRS and HMCPSI recently found that clearing the court, among other special measures, is underused.[507] Given the impact of such trials on complainants, this appears to be another important area for the Government to look into, whilst bearing in mind the essential principle of open justice.[508]

168. ***We recommend that the Government consult with the judiciary and wider legal sector on evidence given in private as a special measure. Any such consultation should examine its use, given HMICFRS and HMCPSI have found that it can be underused, and explore whether its use could be further widened, with a focus on the experience of rape complainants. The approach in Scotland and Northern Ireland—as well as the Republic of Ireland—should be considered as part of this work.***

169. We received some evidence on juries and the possible influence of rape myths and stereotypes on juror decision-making.[509] There are different views on this but as our inquiry focuses on the investigation and prosecution of rape, and the role of juries relates more to conviction and acquittal, we will not be exploring these views here.

Challenges facing the courts

Backlog and listing issues

170. The wider context within which courts operate must also be considered. We heard particular concerns about the impact of the court backlog on the prosecution of rape and serious sexual offence cases.[510] The most recent criminal court statistics from the Ministry of Justice show that at the end of Quarter 3 2021 (July to September) there was a backlog of 59,928 Crown Court cases in England and Wales, representing an increase of 17% on the same quarter in the previous year.[511] The CBA stated that the volume of cases having to be processed is 'overwhelming'.[512] There was a record backlog even before the onset of the pandemic, and it has risen still further since.[513] The Bar Council stated, in evidence to the Public Accounts Committee's inquiry into reducing the backlog in criminal courts, that defendants accused of rape or serious sexual offences are generally more likely to plead not guilty than those accused of other offences.[514] In 2020, 72% of pleas in rape cases

504 Crown Prosecution Service (2021) Special measures.
505 Crown Prosecution Service (2021) Special measures.
506 Crown Prosecution Service (2021) Special measures.
507 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.
508 Crown Prosecution Service (2021) Special measures. (The principle of open justice is established by Article 6(1) of the ECHR, which guarantees the general right to a public hearing.)
509 INV0006, Dr Peter Hills, on behalf of Bournemouth University; INV0009, Rape Crisis England and Wales; INV0018, End Violence Against Women Coalition; INV0035, Dr Rebecca K Helm, University of Exeter.
510 Qq163, 164, 178, 182; INV0015, Solace Women's Aid; INV0018, End Violence Against Women Coalition; INV0028, Criminal Bar Association.
511 Ministry of Justice (20 January 2022) Criminal court statistics quarterly, England and Wales, July to September 2021.
512 INV0028, Criminal Bar Association.
513 INV0028, Criminal Bar Association.
514 RBC0007, The Bar Council (written evidence that the Bar Council submitted to the Public Accounts Committee's inquiry into reducing the courts backlog).

(where known) were not guilty.[515] This compares to 39% of pleas in sexual offence cases (down from 52% in 2019), and 25% of violence against the person cases.[516] Cases with not guilty pleas tend to take much longer to complete than those with guilty pleas.[517] (The End-to-End Rape Review emphasises the importance of driving up the number of early guilty pleas.)[518] The National Audit Office has stated that between 31 March 2020 and 30 June 2021, the number of sexual offence cases stuck in the Crown Court for over a year leapt by 435%, rising from 246 to 1,316.[519] As we have seen, such delays have a considerable impact on both complainants and defendants.

171. The recent Spending Review provides over £1 billion over the next three years to 'increase capacity and efficiency across the court estate and recover from the impacts of Covid-19'.[520] This includes £477 million to fund the criminal justice system's recovery from Covid-19.[521] The Government state that it will help improve waiting times for victims of crime and start to reduce Crown Court backlogs caused by the pandemic 'from 60,000 today down to 53,000'.[522] However, then Chair of the Bar Council Derek Sweeting QC questioned the ambition of the Treasury.[523] He pointed out that the backlog was already at 37,000 before the onset of the pandemic, and '[t]hat was already far too high'.[524] The Lord Chancellor and Secretary of State for Justice, Rt Hon Dominic Raab MP, has admitted it could be up to a year before the backlog starts to reduce.[525]

172. **We welcome the £1 billion in the recent Spending Review to increase capacity across the court estate and support recovery from the impact of the pandemic. However, we remain concerned by the size of the backlog, particularly as rape and serious sexual offences are disproportionately affected.**

173. Issues with listing were also raised with us. The Government's End-to-End Rape Review states that the judiciary prioritises the listing of rape cases.[526] However, the JiCSAV research project team stated in their written evidence that, despite prioritising RASSO cases, and those involving vulnerable complainants, several courts are currently listing RASSO cases through to 2023.[527] Mr Sweeting also said that issues with listing persist.

> [W]e now have a competition within listing about what we prioritise. These cases ought to be prioritised. They were prioritised. At the moment, custody time limit cases are being prioritised, because of the size of the backlogs.

515 Ministry of Justice, Criminal justice statistics quarterly December 2019, Prosecutions and convictions data tool. (These statistics relate to defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe.)
516 Ministry of Justice, Criminal justice statistics quarterly December 2019, Prosecutions and convictions data tool.
517 RBC0007, The Bar Council (written evidence that the Bar Council submitted to the Public Accounts Committee's inquiry into reducing the courts backlog).
518 HM Government (June 2021) The end-to-end rape review report on findings and actions.
519 National Audit Office (22 October 2021) Reducing the backlog in criminal courts.
520 HM Treasury (October 2021) Autumn Budget and Spending Review 2021.
521 HM Treasury (October 2021) Autumn Budget and Spending Review 2021.
522 HM Treasury (October 2021) Autumn Budget and Spending Review 2021.
523 Q178.
524 Q178.
525 Sky News (9 November 2021) Justice Secretary Dominic Raab doesn't know how long it will take to reduce COVID court case backlog.
526 HM Government (June 2021) The end-to-end rape review report on findings and actions.
527 INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.

> Rape is an indictable-only offence, but most people accused of it are on bail and you are competing for a slot with a case where someone is on remand and, therefore, needs to be dealt with within the time limit.[528]

Further, according to data shared by the Minister for Safeguarding, approximately 6% of offences allegedly committed by those who had been released under investigation (RUI) were sexual offences, including rape cases, in the year ending March 2021.[529]

174. HMICFRS and HMCPSI, as part of the second phase of their joint inspection of the police and CPS response to rape, reported that rape cases are being listed as 'floaters' or 'backers', where they do not have an allocated court and will only be heard if another case collapses.[530] The consequence of this is that cases can be moved or re-listed with very little warning, including on the day of the trial itself.[531] CBA Vice-Chair Kirsty Brimelow QC emphasised the stress witnesses experience when cases are listed and then, at the last minute, taken off the list of cases to be heard on a particular day.[532] The CBA was clear that the 'current turbulence in listing must be eliminated' and suggested that the only solution is guaranteed fixtures for all RASSO trials.[533] It is worth noting that the inspectorates recommended that the Ministry of Justice group adult rape cases into specialist rape offence courts in order to tackle the overwhelming backlog.[534]

175. ***We urge the Government to work with the judiciary to explore what more could be done to ensure fixtures for all rape and serious sexual offence trials are guaranteed. This would help address the severe delays many complainants and defendants are affected by.***

Resourcing and the lack of criminal law practitioners

176. The Centre for Women's Justice, the End Violence Against Women coalition (EVAW), Imkaan and Rape Crisis England and Wales have noted that the police, the CPS and the courts have had to manage caseloads with increasingly limited resources, following falls in public sector funding.[535] This poses additional challenges in the investigation and prosecution of rape. In a press statement the Bar Council published in response to the Rape Review, Mr Sweeting, though welcoming the Government's commitment to turn

528 Q164.

529 Letter from Minister for Safeguarding Rachel Maclean MP to Chair of the Home Affairs Committee Rt Hon Dame Diana Johnson MP, following her appearance before the Committee on 15 December 2021 (1 February 2022). (The Home Office recently published statistics on individuals released under investigation or RUI for the first time. The Government has data for 23 police forces; in the year ending March 2021, 147,334 individuals were RUI, with 68% RUI for three months or more. These are experimental statistics and so should be treated with caution.)

530 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge; HC Deb, 2 March 2022, col 1068 [Commons Chamber]

531 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.

532 Q139.

533 INV0028, Criminal Bar Association.

534 Criminal Justice Joint Inspection (February 2022) A joint thematic inspection of the police and Crown Prosecution Service's response to rape: Phase 2: Post-charge.

535 Centre for Women's Justice, End Violence Against Women Coalition (EVAW), Imkaan and Rape Crisis England and Wales (2020) The Decriminalisation of Rape: Why the justice system is failing rape survivors and what needs to change.

things around as a positive step, stated, 'But without better funding for every part of the criminal justice system which deals with these cases, the Government's ambitious action plan will fail.'[536]

177. A particular concern raised with us by legal sector representatives was the issue of people resources.[537] Ms Brimelow told us that we have lost a quarter of junior barristers practising crime over the last five years, and 46% of QCs.[538] The consequences will be that cases will not be prosecuted or defended by those with sufficient expertise. The JiCSAV research project team also highlighted the fact that the Criminal Bar had lost people resources during the pandemic, with the result that the CPS was unable to find counsel to prosecute RASSO cases in some instances.[539] The number of criminal lawyers has also decreased in recent years.[540] Ellie Cumbo, Head of Public Law at the Law Society, told us that Law Society research indicates there are 800 fewer criminal firms as of this year than there were in 2010.[541] This has implications for the Government's aspirations around increasing the number of early guilty pleas, as it would be criminal solicitors advising such a course of action at that early stage.[542]

178. Issues around legal aid are at the heart of this. In its 2021 report on the future of legal aid, the Justice Committee highlighted concerns that, without significant reform, there may be a shortage of qualified criminal legal aid lawyers to defend suspects and defendants, '[compromising] the fairness of the criminal justice system'.[543] In relation to barristers, the Committee also stated that the gap between private and public rates had widened over the last decade, and that experienced advocates at the criminal bar need to be able to do publicly funded legal aid work.[544] In October 2021 *The Times* reported that fees below the minimum wage in the past five years have led to hundreds leaving the criminal bar.[545] In terms of RASSO cases, the Criminal Bar Association emphasise the fact that the preparation and presentation of such cases at court is a highly skilled and sensitive task.[546] Yet when the rates of funding are low, and when cases often take years to reach trial (and so can take that long to receive payment for work), fewer advocates are prepared to take them on.[547] A fully prepared case might fall out of the list at short notice, and could then be relisted for a time when the prosecuting or defence advocate is not available; this means there is no payment for any of the pre-trial work which would have been undertaken.[548] Further, the complainant and defendant may then have the disruption of having to be introduced to a new barrister. All this would also affect the roll-out of section 28.

179. The Government launched the Independent Review of Criminal Aid in 2018.[549] Sir Christopher Bellamy QC, who chaired the Review, published his recommendations in November 2021.[550] They include a general uplift of the remuneration of criminal

536 The Bar Council (17 June 2021) Bar Council responds to the Government's Rape Review.
537 Qq158 and 164.
538 Q158.
539 INV0034, Justice in Covid-19 for Sexual Abuse and Violence (JiCSAV) research project team.
540 Q164.
541 Q164.
542 Q164; HM Government (June 2021) The end-to-end rape review report on findings and actions.
543 Justice Committee (21 July 2021) The Future of Legal Aid.
544 Justice Committee (21 July 2021) The Future of Legal Aid.
545 The Times (28 October 2021) Jo Sidhu QC: Underfunded justice system is unconscionable in a civilised society.
546 INV0028, Criminal Bar Association.
547 INV0028, Criminal Bar Association.
548 INV0028, Criminal Bar Association.
549 Sir Christopher Bellamy QC (29 November 2021) Independent Review of Criminal Legal Aid.
550 Sir Christopher Bellamy QC (29 November 2021) Independent Review of Criminal Legal Aid.

legal aid firms, and that pre- and post-charge engagement should be remunerated.[551] Sir Christopher also recommended that there should be a general uplift in fees for advocates and a restructuring of the Advocates' Graduated Fee Scheme (AGFS).[552] The CBA emphasised that, 'If these cases are to be given the service they require, then fees must be significantly increased and pre-trial preparation remunerated to attract and retain specialist advocates'.[553] If we are to succeed in driving rape prosecutions up, it is essential that experienced counsel are available and prepared to take on these extra cases. Addressing the issues with legal aid is a key part of that. The Government published its response to the Independent Review on 15 March, accepting the key findings, and has launched a consultation on its proposals to reform criminal legal aid.[554] These include proposals to implement a 15% increase to fees under the existing Litigators' Graduated Fee Scheme (LGFS) and the AGFS, before implementing further 'cost neutral' reforms.[555]

551 Sir Christopher Bellamy QC (29 November 2021) Independent Review of Criminal Legal Aid.
552 Sir Christopher Bellamy QC (29 November 2021) Independent Review of Criminal Legal Aid.
553 INV0028, Criminal Bar Association.
554 Ministry of Justice (15 March 2022) Open consultation: Response to Independent Review of Criminal Legal Aid.
555 Ministry of Justice (15 March 2022) Open consultation: Response to Independent Review of Criminal Legal Aid.

Conclusions and recommendations

Falling rape charges and prosecutions

1. Exceptionally low volumes of rape charges and prosecutions are unacceptable. Adult victims and survivors of rape are being failed by our criminal justice system. Rape is undoubtedly a complex, difficult and traumatic crime to investigate and prosecute successfully. However, that complexity does not fully explain the unacceptably low volumes of charging and prosecution, or the long delays faced by victims and survivors and by suspects and defendants. Any action to address those situations must not undermine the accused's right to a fair trial. (Paragraph 43)

The End-to-End Rape Review

2. It is right that the Government is focusing on reversing the falling volumes of prosecutions and restoring people's confidence in reporting, and we welcome the priority that has been placed on this pressing undertaking through the End-to-End Rape Review. (Paragraph 45)

3. Whilst returning the volume of rape cases being dealt with to 2016 levels, as the Rape Review aims for, would be a step in the right direction, it should not be considered a success in and of itself, given that even in 2016, criminal justice outcomes for rape were viewed as poor. It is concerning that confidence in the system's ability to even reach 2016 levels by the end of 2024 at the latest is low. Greater progress must be made at speed to ensure that more cases are successfully prosecuted and so more perpetrators brought to justice. (Paragraph 49)

4. We are encouraged by the commitment to measuring progress through the performance scorecards and progress updates. However, it is unclear how the Government will hold operationally independent partners to account for their role in increasing the volume of rape prosecutions, even though the Government has said that, if outcomes don't improve, it may look at reform of the way independent operational partners are held to account for delivery of operational improvements. (Paragraph 57)

5. *We recommend that if the progress updates demonstrate that the review is not having its intended impact, the Government react quickly and effectively, putting in place alternative actions. In its next progress update, the Government must set out exactly how operational partners will be held to account if there continues to be no significant rise in rape prosecution volumes. We agree with HMICFRS and HMCPSI that the National Criminal Justice Board should review the existing statutory governance arrangements for rape and instigate swift reform. We also recommend that the lead Minister for the Rape Review write to the Committee every six months, so that progress updates can be adequately interrogated.* (Paragraph 58)

6. *As the Government's data note on the performance scorecards makes clear, it is not possible to accurately track individual offences or defendants across the criminal justice system for the purposes of statistical reporting. We welcome the fact that work to link this data better is ongoing and a 'high priority'. However, we believe transparency is*

critical to this and we recommend that, once the scoping stages are completed, the Home Secretary and Justice Secretary write to us with further detail on this piece of work, including aims, methodology and timescales. (Paragraph 63)

7. *It is important that the justice system captures data about victims that can give insight into whether their protected characteristics might affect their criminal justice journeys. We recommend that the Home Office and the Ministry of Justice work with the police and the Crown Prosecution Service to ensure as an initial priority that the ethnicity data of rape victims and survivors is collected and published transparently, for example, through the performance scorecards.* (Paragraph 64)

8. The provision of specialist support to victims and survivors of rape is vital, given the devastating impact of sexual violence and the difficulties complainants face during the investigation and prosecution process. The Government's research into what rape victims need from support services is to be welcomed. This should take into account the different needs of different victims and survivors, for example, those who are deaf and disabled, and Black and minority ethnic victims and survivors, who can be supported more effectively by dedicated by and for services. We look forward to the outcome of the Victims' Bill consultation and introduction of the legislation in the next parliamentary Session. We urge the Government to ensure that the commissioning principles and funding models set out are truly long-term and sustainable. (Paragraph 69)

9. *It is essential that the Government and other commissioning bodies have an understanding of the level of need and the current availability of specialist sexual violence and abuse services, including counselling and therapy and the support offered by Independent Sexual Violence Advisors (ISVAs). As HMICFRS and HMCPSI have done, we recommend that the Government undertake a comprehensive mapping and monitoring exercise, covering the provision of specialist sexual violence and abuse services in England and Wales, similar to that which the Domestic Abuse Commissioner is focusing on for specialist domestic abuse services. This would need to be truly cross-Government, including the Department for Health and Social Care, and take account of integrated care systems, Police and Crime Commissioners and other sources of funding for these vital support services.* (Paragraph 73)

10. *We agree with HMICFRS and HMCPSI that the Government should consider the merits of either establishing a dedicated commissioner for sexual violence and abuse or expanding the existing responsibilities and powers of one of our existing commissioners. The relevant commissioner could then oversee the provision of specialist support services for victims and survivors of sexual violence and abuse, as well as any mapping exercise. Importantly, they could also act to hold the Government and its operational partners to account in improving the response to rape and serious sexual assault. Any change must be backed by adequate resourcing and any future commissioner must have appropriate powers as well. The Domestic Abuse Commissioner's powers, as laid out in the Domestic Abuse Act 2021, could be a good model, with the Act requiring public sector authorities to cooperate with her and to respond to relevant recommendations she puts forward.* (Paragraph 77)

The police response to rape

11. It is clear that the way the police respond to reports of rape is vital when it comes to increasing the volumes of rape charges and prosecutions. We welcome the focus on improving these volumes, for example through the Police-CPS Joint National RASSO (Rape and Serious Sexual Offences) Action Plan and Operation Soteria. We agree that the project has enormous potential. However, the Government cannot expect some police force areas to participate in Operation Soteria and to implement learning with dedicated funding, and others to roll out the approach without any extra funding or input from academics into their own force-specific challenges in investigating rape. (Paragraph 92)

12. *In the next Rape Review Progress Update, the Government must provide an update on Operation Soteria, outlining the 14 police forces and corresponding CPS areas that will be taking part next, as well as the funding available for that expansion, and why that is sufficient. The Government must also provide assurances that subsequent stages of the roll-out will receive dedicated funding.* (Paragraph 93)

13. *In light of the challenges deaf survivors of domestic abuse and sexual violence told us they had experienced when engaging with the police, we would also urge the Home Office to undertake work with police forces across England and Wales to understand what provisions are currently in place to enable police officers to support deaf victims of crime as effectively as possible, and to ensure adequate provisions are made available where they are not yet on offer. It is important that forces operate emergency and non-emergency SMS text or Video Relay Services (VRS), so deaf people can communicate with the police when needed, especially in emergencies, and that the police always engage British Sign Language or BSL interpreters when BSL is the first or preferred language of a deaf person being supported by the police, or Lipspeakers for those who lipread as their primary means of communication. The police should also have regard to the particular requirements of those who do not have English or BSL as their first language, but who may use other spoken or signed languages. The Home Office must update us on this piece of work within the next 12 months.* (Paragraph 94)

14. We are disappointed that, despite the difference that specialist police rape teams make, the Government has not done more to ensure such teams are in place. (Paragraph 101)

15. *The Government must strongly encourage police forces without specialist police rape teams to put such teams in place. Since the policing of violence against women and girls is to be added to the Strategic Policing Requirement, putting specialist police rape teams in place would be a powerful way to demonstrate the priority that should be given to tackling violence against women and girls. The Government should, for example, make clear in the next Rape Review Progress Update that it is the Government's view that forces should have specialist rape teams set up where possible. The Government should work with the College of Policing and National Police Chiefs' Council (NPCC) to understand better the obstacles forces face in putting these teams in place and to provide support to forces committed to forming specialist teams.* (Paragraph 102)

16. It is very concerning that the Home Office does not have the numbers of police officers who are RASSO-trained. The emphasis on the uplift programme in the Rape

Review Progress Update is also potentially misleading, when the Government does not know how many of those officers will actually receive the necessary training in order to work on such complex cases competently. (Paragraph 107)

17. *The Government must start collecting and publishing data on the number of police forces with specialist police rape teams in place, and the number of police officers with specialist rape and serious sexual offences (RASSO) training in each force (for example, the number trained on the Rape and Specialist Sexual Assault Investigation Development Programme (SSAIDP) and the number of Sexual Offences Liaison Officers (SOLOs)). This should be published in the next Progress Update, and in each subsequent update. Further, the police officer uplift programme should not be referred to in Rape Review Progress Updates unless the Government has data on the number of recruited police officers who will be or are developing a RASSO specialism. We would strongly encourage the Home Office to collect that data, working closely with the College of Policing and the NPCC, currently conducting a skills gap analysis of the number of specialist trained staff, relative to current demand, covering the number of SOLOs and those on the SSAIDP.* (Paragraph 108)

18. *We welcome the Government's ambition to ensure no victim of rape will be without a mobile phone for more than 24 hours by 2024, and the extra funding to support certain police forces to analyse digital evidence effectively. However, this commitment should be comprehensively backed by a costed plan to ensure that all police forces have the necessary equipment and skills to implement the policy by 2024.* (Paragraph 117)

19. Although we support the Government's upcoming consultation with victims' groups on enhancing support and legal advice for victims on disclosure decisions, we have concerns that the Government is not placing a high priority on the question of legal advice for victims, despite what appear to be clear benefits. (Paragraph 124)

20. *The Government should further pilot the Sexual Violence Complainants' Advocate Scheme, first offered in Northumbria. This pilot should be extended to areas with differing demographic and geographic profiles. This would empower and support complainants to understand better and deal with requests to access third-party material or data from digital devices. We agree with the Criminal Bar Association that the role of any legal advisor would need to be defined in detail in a Code of Practice.* (Paragraph 125)

21. *The Government should also consider widening any such pilot so that people would also be able to benefit from legal advice on sexual history applications.* (Paragraph 126)

22. *If engagement with victims' groups as promised by the Rape Review Progress Update demonstrate support and the need for independent legal advice, the Government must commit to offering legal advice to all victims of rape, subject to the success of the pilot.* (Paragraph 127)

The CPS response to rape

23. The role of the CPS is instrumental when it comes to increasing the volume of rape prosecutions and bringing more perpetrators to justice if guilty, as well as improving victims' experiences of the criminal justice system. (Paragraph 136)

24. *We have heard from victims and survivors that the CPS's level and quality of communication could be more effective and sensitive. We welcome the fact that the CPS has designed new letters to engage better with victims at key moments. However, as part of the CPS's work designing a new approach to victim engagement that should be more two-way, we would also recommend that the CPS consider speaking with complainants via a video link as more general practice, to give people the opportunity to ask questions about their individual case. This would be less impersonal. Any concerns prosecutors might have should be taken into account.* (Paragraph 137)

25. *Given some victims and survivors' negative experiences of the Victims' Right to Review Scheme, we agree with Rape Crisis England and Wales that the Government require the police and the CPS to publish data covering how many cases are submitted for review, how many decisions are upheld and how many reconsidered, and the reasons for these review decisions. This data should be analysed by gender, case type, ethnicity and other factors, enabling the system to become more open. The Government should take this step as part of its work on the upcoming Victims' Bill.* (Paragraph 141)

26. We were particularly concerned to hear that victims and survivors of rape may feel they need to—or are advised to—put off accessing mental health support as they fear that their counselling or therapy notes and records could be disclosed to the defence or undermine their case in some way. This is unacceptable given the traumatic impact of rape. (Paragraph 150)

27. *We recommend that the Government work with the Crown Prosecution Service so that it is possible for the organisation to publish its guidance on pre-trial therapy as soon as possible. We understand the Crown Prosecution Service has been waiting on the Attorney General's annual review of disclosure, but it has now been more than 18 months since the consultation on the guidance was launched and it is an urgent issue.* (Paragraph 151)

28. *We welcome the fact that the Law Commission's project will be covering access to counselling and therapy notes and records. However, we are concerned that, as the Law Commission will not be reporting until summer 2023, victims and survivors could be left without the mental health support they need for longer than is acceptable. We recommend that the Government ask the Law Commission to publish separate recommendations on pre-trial therapy and the disclosure of counselling and therapy notes at an earlier stage in their project, preferably by the end of this year.* (Paragraph 152)

29. *The pilot of the provision of legal advice to complainants—which we recommended at paragraph 125 above—should take account of support in relation to applications for counselling or therapy records.* (Paragraph 153)

30. *The Government must ensure that counselling and therapy, including pre-trial therapy, can be accessed by all victims and survivors who need it. We welcome the Government's funding for Independent Sexual Violence Advisors (ISVAs) but are mindful of Rape Crisis England and Wales' warning that the demand is for long-term counselling and therapies, which is not receiving as much attention. The Government's next Rape Review Progress Update must take account of the demand for counselling and therapy, including pre-trial therapy.* (Paragraph 154)

31. *Any comprehensive mapping and monitoring exercise, covering the provision of specialist sexual violence and abuse services in England and Wales, that the Government undertakes (as we recommend) must take account of the need for and availability of counselling and therapy for victims and survivors of sexual violence.* (Paragraph 155)

32. *The actions the CPS is taking to drive up the number of rape prosecutions are positive and to be welcomed. However, given the continued low volume of rape prosecutions, and the concerns we heard around the gap between policy and practice, we would suggest that the CPS publish the outcomes of its assessment of the organisation's progress against the success measures set out in RASSO 2025 on a regular basis. The recent publication of the Rape Strategy update is a welcome step toward this end. We would further suggest that the CPS and the police publish progress against delivery of the Police-CPS Joint National RASSO Action Plan (JNAP) on an annual basis on both the CPS and NPCC websites as initially promised. We would also like to see a reviewed and updated version of the JNAP as soon as possible, following the publication of the End-to-End Rape Review and the findings of Phases One and Two of the joint thematic inspection of the police and the CPS's response to rape. This should not be published any later than the Summer of 2022 as has now been promised. We believe acting on these suggestions will be important in building public confidence, if it can be demonstrated that actions taken have positively affected the volumes of rape prosecutions.* (Paragraph 162)

Rape offences and the courts

33. *It is evident that even when people's cases do make it to court, their experience of the trial can be very difficult. We welcome the national roll-out of section 28 of the Youth Justice and Criminal Evidence Act 1999 to intimidated witnesses (victims of adult sexual offences and modern slavery). This will make a significant difference to complainants' experiences of the criminal justice system. However, we would urge the Government to consider the obstacles to a successful roll-out—for example, the availability of counsel—in consultation with the legal sector, including the judiciary, the Bar Council and the Criminal Bar Association, and the means of overcoming these obstacles. The outcome of this piece of work should be published with the next Rape Review Progress Update.* (Paragraph 166)

34. *We recommend that the Government consult with the judiciary and wider legal sector on evidence given in private as a special measure. Any such consultation should examine its use, given HMICFRS and HMCPSI have found that it can be underused, and explore whether its use could be further widened, with a focus on the experience of rape complainants. The approach in Scotland and Northern Ireland—as well as the Republic of Ireland—should be considered as part of this work.* (Paragraph 168)

35. We welcome the £1 billion in the recent Spending Review to increase capacity across the court estate and support recovery from the impact of the pandemic. However, we remain concerned by the size of the backlog, particularly as rape and serious sexual offences are disproportionately affected. (Paragraph 172)

36. *We urge the Government to work with the judiciary to explore what more could be done to ensure fixtures for all rape and serious sexual offence trials are guaranteed. This would help address the severe delays many complainants and defendants are affected by.* (Paragraph 175)

Formal minutes

Tuesday 29 March 2022

Members present:

Rt Hon Dame Diana Johnson (Chair)

Rt Hon Diane Abbott

Paula Barker

Simon Fell

Carolyn Harris

Tim Loughton

Investigation and prosecution of rape

Draft Report, (*Investigation and prosecution of rape*)

Question put, That the Chair's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 179 read and agreed to.

Resolved, That the Report be the Eighth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Adjournment

Adjourned till Wednesday 20 April 2022.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Wednesday 23 June 2021

Dame Vera Baird QC, Victims' Commissioner for England and Wales; **Duncan Craig OBE**, Chief Executive Officer, Survivors Manchester; **Emily Hunt**, campaigner and independent Expert Advisor to the Ministry of Justice — Q1–27

Ellie Ball, ISVA Manager, Independent Sexual Violence Advocacy Service, Cambridge Rape Crisis Centre; **Amelia Handy**, Policy Lead, Rape Crisis England and Wales; **Rosie Lewis**, Head of Policy, Imkaan — Q28–43

Wednesday 7 July 2021

Dr Olivia Smith, Senior Lecturer in Criminology and Social Policy, Loughborough University; **Professor Betsy Stanko OBE**, Academic lead, Project Bluestone; **Professor Cheryl Thomas QC**, Professor of Judicial Studies, Faculty of Laws, UCL — Q44–80

Wednesday 20 October 2021

Rt Hon Lady Dorrian, Lord Justice Clerk, Leader, Review into Improving the Management of Sexual Offence Cases (2020–21); **Rt Hon Sir John Gillen**, Leader, Independent Review into the Law and Procedures in Serious Sexual Offences in Northern Ireland (2018–19); **Baroness Stern CBE**, Chair, Independent Review into How Rape Complaints are Handled by Public Authorities in England and Wales (2010) — Q81–100

Sarah Crew, Temporary Chief Constable for Avon and Somerset Police, Lead for Rape and Adult Sexual Offences at National Police Chiefs' Council; **Donna Jones**, Police and Crime Commissioner for Hampshire and Isle of Wight, Joint Lead for Supporting Victims, Association of Police and Crime Commissioners; **David Tucker**, Faculty Lead on Crime and Criminal Justice, College of Policing — Q101–138

Wednesday 1 December 2021

Kirsty Brimelow QC, Vice-Chair, The Criminal Bar Association; **Ellie Cumbo**, Head of Public Law, The Law Society; **Professor Penney Lewis**, Criminal Law Commissioner, The Law Commission; **Derek Sweeting QC**, Chair, The Bar Council — Q139–179

Monday 13 December 2021

Max Hill QC, Director of Public Prosecutions, Crown Prosecution Service — Q180–225

Wednesday 15 December 2021

Rachel Maclean MP, Minister for Safeguarding, Home Office; **Jaee Samant**, Director General, Public Safety Group, Home Office; **Jerome Glass**, Director General, Policy and Strategy Group, Ministry of Justice — Q226–277

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

INV numbers are generated by the evidence processing system and so may not be complete.

1 Anonymous, (INV0012)

2 Ball, Ellie (ISVA Manager, Independent Sexual Violence Advocacy Service, Cambridge Rape Crisis Centre) (INV0023)

3 Bournemouth University (INV0006)

4 Centre for Women's Justice (INV0013)

5 College of Policing (INV0008)

6 Criminal Bar Association (INV0028)

7 Crown Prosecution Service (INV0014)

8 Disabled Survivors Unite (INV0011)

9 Emily; Rachel; and Susan (INV0031)

10 End Violence Against Women Coalition (INV0033)

11 End Violence Against Women Coalition (INV0018)

12 Flowe, Dr Heather (University of Birmingham) (INV0005)

13 Helm, Dr Rebecca K (Director, University of Exeter Evidence-Based Justice Lab) (INV0035)

14 Hill QC, Max (Director of Public Prosecutions, Crown Prosecution Service) (INV0036)

15 HM Government (from the Ministry of Justice, the Home Office and the Attorney General's Office) (INV0020)

16 Information Commissioner (INV0024)

17 Justice in Covid-19 for Sexual Abuse and Violence Research Project Team (INV0034)

18 Kennedy, Mr Jon (INV0038)

19 Rape Crisis England and Wales (INV0009)

20 Respondents to the Home Affairs Committee's questions for those with lived experience (INV0037)

21 Rights of Women (INV0017)

22 Smith, Dr Olivia (Loughborough University) (INV0026)

23 Solace Women's Aid (INV0015)

24 Stanko OBE, Professor Betsy (UCL, City University London, Sheffield Hallam University and Royal Holloway), Dr Kari Davies, (University of Birmingham), Dr Miranda Horvath, (Middlesex University), Dr Katrin Hohl, (City University London), Joanna Lovett, (London Metropolitan University), Dr Emma Williams, (Open University) (INV0002)

25 Survivor A (INV0039)

26 Victims' Commissioner for England and Wales (INV0016)

27 Victims' Commissioner for England and Wales (INV0021)

28 Victims' Commissioner for England and Wales (INV0032)

29 Women's Aid Federation of England (INV0010)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2021–22

Number	Title	Reference
1st	Violence and abuse towards retail workers	HC 141
2nd	The UK's offer of visa and settlement routes for residents of Hong Kong	HC 191
3rd	The Macpherson Report: Twenty-two years on	HC 139
4th	Appointment of the Chair of the Gangmasters and Labour Abuse Authority	HC 814
5th	The Windrush Compensation Scheme	HC 204
6th	Police Conduct and Complaints	HC 140
7th	Appointment of Her Majesty's Chief Inspector of Constabulary and Her Majesty's Chief Inspector of Fire & Rescue Authorities in England	HC 1071
1st Special Report	Violence and abuse towards retail workers: Government Response to the Committee's First Report	HC 669
2nd Special Report	The UK's offer of visa and settlement routes for residents of Hong Kong: Government Response to the Committee's Second Report	HC 682
3rd Special Report	The Windrush Compensation Scheme: Government Response to the Committee's Fifth Report	HC 1098

Session 2019–21

Number	Title	Reference
1st	Home Office preparedness for Covid-19 (Coronavirus): Policing	HC 232
2nd	Home Office preparedness for Covid-19 (Coronavirus): domestic abuse and risks of harm within the home	HC 321
3rd	Home Office preparedness for Covid-19 (coronavirus): immigration and visas	HC 362
4th	Home Office preparedness for COVID-19 (Coronavirus): institutional accommodation	HC 562
5th	Home Office preparedness for COVID-19 (coronavirus): management of the borders	HC 563
6th	Appointment of the Independent Chief Inspector of Borders and Immigration	HC 1024

Number	Title	Reference
1st Special Report	Serious Youth Violence: Government Response to the Committee's Sixteenth Report of Session 2017–2019	HC 57
2nd Special Report	Home Office preparedness for Covid-19 (coronavirus): domestic abuse and risks of harm: Government Response to the Committee's Second Report	HC 661
3rd Special Report	Home Office preparedness for Covid-19: coronavirus: policing: Government Response to the Committee's First Report	HC 660
4th Special Report	Home Office preparedness for COVID-19 (coronavirus): immigration and visas: Government Response to the Committee's Third Report	HC 909
5th Special Report	Home Office preparedness for COVID-19 (coronavirus): institutional accommodation: Government Response to the Committee's Fourth Report	HC 973
6th Special Report	Home Office preparedness for COVID-19 (coronavirus): management of the borders: Government Response to the Committee's Fifth Report	HC 974