



CLOSING THE GAP

How the CPS is working to reduce
disparity between reported rapes
and charges

June 2021



Contents

Foreword by Max Hill QC, Director of Public Prosecutions, and Siobhan Blake, CPS lead for Rape and Serious Sexual Offences prosecutions	3
RASSO Improvement Initiatives	4
Improving investigations.....	5
Embedded officers	5
Early Advice.....	6
Unblocking barriers.....	7
Casework quality	7
Action plans.....	8
Complainant interviews	9
Helping victims	9
Independent Sexual Violence Advisors.....	9
Community engagement	10
Enhanced scrutiny.....	10
No Further Action reviews	10
Case debriefs.....	11
Victims' Right to Review	11



Closing the gap: How the CPS is working to reduce disparity between reported rapes and charges

Foreword by Max Hill QC, Director of Public Prosecutions, and Siobhan Blake, CPS lead for Rape and Serious Sexual Offences prosecutions

Rape is among the most appalling acts one human being can inflict on another and can leave survivors dealing with life-changing and devastating trauma.

All of us in the criminal justice system (CJS) recognise the significance that securing a conviction can play in achieving some small level of closure and redress for victims.

The CPS has a very clear purpose – to make sure the right person is prosecuted for the right offence. Our colleagues come to work every day motivated by a desire to see justice done, while acting with fairness and integrity in how we treat the rights of both complainants and suspects.

But too few victims of rape are seeing justice. There has been a stark drop in the number of cases that have gone before a jury in recent years, meaning too few people are getting the opportunity to tell their story in court.

These are not statistics, but survivors who have gone through a devastating and life-changing experience.

This has caused a crisis of confidence in how the CJS responds to violence against women and girls. We want to change that and rebuild trust so that victims feel supported to report crimes and stay on board with the prosecution process. We therefore welcome scrutiny as we go about improving every aspect of how Rape and Serious Sexual Offences (RASSO) are handled.

The cross-government rape review, which the CPS took an active and honest part in contributing towards, has this week found all of us in the CJS need to do better in investigating and prosecuting rape.

The reasons for the decline in charges are complex – including resource pressures, essential work to address past disclosure failings, and the impact of growing volumes of digital evidence.

In addition, the challenges in securing rape convictions have long plagued criminal justice systems around the world. Contrary to the stereotype of strangers in dark alleys, these crimes often take place between people known to each other and most of the time they are the only witnesses.

A further complicating matter is that, in law, we must prove not only that the complainant did not consent but that the defendant could not have held a reasonable belief he or she was consenting.



However, this does not mean we accept the current disparity between reported sexual offences and cases reaching court and this review provides an unprecedented opportunity for all of us to work together to drive up the number of prosecutions.

The CPS has not simply waited for the report's outcome to set this in motion. An extensive programme of work is already taking place across the CPS and policing, with the aim of narrowing the prosecution gap and protecting the public from offenders.

In January, together with the police, we launched a Joint National Action Plan to ensure we are building stronger cases from the outset through better joint working. This is in addition to our own RASSO 2025 programme published last July – the first rape strategy of its kind – which aims to drive up the number of prosecutions.

We have also recently updated our RASSO legal guidance to address harmful myths and stereotypes in an age of changing sexual behaviours and tilt the primary focus of investigations to where it belongs – the actions of the suspect.

The CPS is also increasing resources for our specialist RASSO units so they are equipped to deal with more cases, more quickly, without compromising on standards.

Alongside these national measures are a series of local rape improvement initiatives taking place across England and Wales.

The CPS has been testing different ways of working across the country, including interviewing every RASSO unit head as part of an effort to identify examples of best practice.

Central to every successful scheme is collaborating more closely with police from the outset of a rape investigation so that every provable case is put before a jury.

We are sharing some of our working here as we recognise the importance of transparency around a subject of such deep public concern.

There are some encouraging early signs, with more case referrals, more suspects charged, and decisions made more quickly. In time, this should mean more guilty pleas, more convictions and more victims having their say in court.

We are now working with partners to develop Pathfinder pilots, so we have clear evidence of which approaches have the biggest impact.

While we cannot yet guarantee every measure can be adapted to work on a national scale, we hope these examples can be used to inform understanding about a model to 'level up' the handling of rape and ultimately achieve the ambition we all share – justice for victims.

RASSO Improvement Initiatives

The CPS is split into 14 regional areas, which deal with referrals from multiple police forces operating within the counties they cover.



Each area contains a RASSO unit staffed by specialist prosecutors trained in understanding victim vulnerabilities, the impact of trauma, consent and myths and stereotypes.

These units are headed by a Senior District Crown Prosecutor, each of whom has contributed to an internal CPS exercise to understand and implement best practice across the country.

The CPS is sharing key aspects of this analysis to inform discussions about ways of driving up the number of rape prosecutions and improving the service we provide to victims.

These have been broken down into four thematic areas: improving investigations, casework quality, helping victims and enhanced scrutiny.

Improving investigations

Close co-operation between police and prosecutors from the outset of an investigation is key to the smooth and swift progress of cases through the system. Doing so enables us to advise officers as early as possible on lines of enquiry and actions to strengthen the evidence.

Previous inspection reports and the government rape review found that different parts of the criminal justice system were too often working in silos, resulting in fragmented investigations and delays in reaching decisions.

Over the past year, prosecutors and police have made significant efforts to improve communications and enhance understanding of what each party needs from an investigatory and legal perspective.

Embedded officers

Several police forces have dedicated 'gatekeepers' – usually at Detective Inspector rank – who review rape cases before they are submitted to the CPS.

In some areas, such as Thames and Chiltern and Yorkshire-Humberside, they are embedded within RASSO units as a direct liaison with a designated mailbox for all queries. This role has been expanded to encompass monitoring the progression of cases and ensuring timely compliance with prosecutor requests.

The DI may join local case management panels – where prosecutors meet to discuss complex casework – thereby improving communication on both sides.

In addition to working closely with its dedicated gatekeeper in Northumbria, CPS North East has agreed a single point of contact in its other police forces – Cleveland and Durham – for the requesting of all case material.



Areas with RASSO gatekeepers have seen significant reductions in the number of consultations required before a charging decision is made and perform well in respect of uninterrupted progress of cases.

Peter Burt, Thames and Chiltern RASSO unit head, said: “Having that direct liaison with police means we have a really successful conversion rate from referral to charging decision.”

Early Advice

Early Advice (EA) is where police can consult a prosecutor on investigative strategy from the beginning and talk through the evidence that may be needed to build and strengthen a case.

Discussions may include, for example, whether mobile phone downloads or social services records are required from a complainant and what the parameters should be.

Crucially for victims, not only can these early discussions reduce delay in reaching a charging decision but eliminate requests for personal information that may not be necessary.

Initiatives across the regions to increase the uptake of EA have resulted in large numbers of cases reaching the CPS that would not otherwise have done so.

CPS South East – covering Kent, Surrey and Sussex – requires the three forces to submit all rape cases for EA within six weeks of the complaint being reported.

A joint case strategy is then agreed between the police and prosecutor within 14 days – including setting a date for a file to be submitted for a charging decision – with a strict escalation process for failing to meet this deadline.

Within two months of the scheme beginning in autumn last year, the number of cases referred to the prosecutors for EA almost doubled from 37 to 71. To date, South East prosecutors have provided EA on 243 cases under the scheme that may previously have taken months to reach the CPS.



243

more cases provided with Early Advice from CPS prosecutors

EA referrals	Oct 20	Nov 20	Dec 20	Jan 21	Feb 21
South East	37	57	71	53	58

These efforts to drive up the number of rape charges were this month recognised with an Attorney General’s Prosecution Team of the Year award.

Donna East, South East RASSO Unit Head, said: “These results are very encouraging because the more cases we see, the more we can prosecute and in time these should achieve what we all want – justice for rape victims through increased convictions.”



In February, CPS Wessex formed a Tri-Force RASSO Action Plan with its three police forces – Dorset, Hampshire and Isle of Wight, and Wiltshire. Under this agreement, every rape case is expected to have received EA and must be submitted for a charging decision within three months of an incident being reported.

Early results have been impressive, with a **68 per cent reduction** in the time taken to make a charging decision for some forces and a **145 per cent increase** in referrals.



145%

increase in referrals in Wessex

Unblocking barriers

Many rape referrals end up ‘administratively finalised, which is where a case has been returned to the police for further action and has not been progressed within a three-month period. The case can be restarted if that action is carried out.

Prosecutors and police have been making significant efforts to resolve this problem so that complainants and suspects alike are not left waiting indefinitely for an outcome.

Several areas have implemented tracking systems to monitor cases with issues holding up a charging decision so they can be more swiftly acted upon.

In Thames and Chiltern, any case that has seen 21 days elapse without a decision being made is flagged for progression. It will then be discussed by legal managers and police to speed up decisions or assess whether any further lines of enquiry are possible.

In the South East, as well as a tracking system, ‘progression clinics’ are held on a monthly basis where RASSO lawyers attend forces to discuss how challenging cases can be taken forward and resolved.

In Merseyside and Cheshire, conferences between police and prosecutors are held within two weeks of a case being charged to talk through trial strategy.

Geoffrey Fryar, the RASSO unit head, says: “This is producing results. Police get an early steer on what’s needed and it avoids prosecutors sending them long shopping lists [of evidence] later down the line.

“It also establishes a relationship between the reviewing lawyer and OIC [officer in the case], which can only be beneficial for the progress of the case.”

Casework quality

Due to the complexity of rape cases, with large volumes of digital data often needing to be analysed, it can take longer for charging decisions to be made than for other offence types.



This is appropriate as long as time and resources are used wisely, but we know some complainants find the investigation process to be overly intrusive and disjointed.

While decisions to prosecute are currently made within 28 days in more than half of cases, we accept more needs to be done to improve timeliness.

This is why police and prosecutors have been working to improve file quality so that the right cases proceed quickly on the right evidence, avoiding unnecessary delays and intrusion.

Action plans

When prosecutors review a file from police, they may send it back with an 'action plan' if they think more work needs to be done before a charging decision can be made.

The CPS has committed to improving the effectiveness of action plans and some areas are achieving significant reductions in the number required through robust tracking and supervision of cases.

Before submitting formal requests for more evidence, prosecutors are being encouraged to speak to the OIC first to discuss what may be required to move a case forward.

For some forces in the North East this has helped halve the number of consultations before a charging decision is made and reduced the overall investigation time.

Many areas have introduced reporting systems for action plans, where they are copied to senior prosecutors and detectives for oversight. If more than one or two are generated, depending on the area, it must be signed off by a manager first to ensure it is proportionate and covers only reasonable lines of enquiry.

Peter Burt, Thames and Chiltern RASSO unit head, explains: "My vision is that we will be in a position to make a charging decision after one consultation.

"Rape cases are very high-profile, and some prosecutors can fear making a mistake, which can lead to excessive action plans.

"Our work is about empowering them to feel confident in trusting their own decisions, with the support of senior management.

"As long as decisions comply with the Code for Crown Prosecutors, we have done our job correctly even if there is an acquittal."

North East RASSO head Jim Hope shares this vision and has pledged that if police contacts embedded within his department can provide any missing material within 24 hours, a charging decision will be made and action plans avoided entirely.



50%

reduction in consultations
before charge



The resulting improvement in file quality has been so significant that sometimes even the need for EA can be avoided.

Complainant interviews

Achieving Best Evidence (ABE) interviews are when a complainant gives their account of an alleged crime to the police.

These are especially important in a rape case as they are used as evidence-in-chief in court, meaning the complainant does not need to repeat their traumatic experience for the prosecution.

RASSO prosecutors in some areas have been assisting police on what is required from an ABE so the case is as robust as possible from an early stage – reducing the potential for aggressive cross-examination about perceived inconsistencies in court.

In turn, improved interviews help prosecutors make faster and better charging decisions by providing them with all the information they need from a victim perspective from the outset.

Helping victims

The CPS is committed to improving victims' criminal justice experience, which is important both for their personal wellbeing and confidence in staying on board with a prosecution.

We have been making use of measures enabling complainants to pre-record more of their evidence, including cross-examination, so they are not retraumatised by their court experience.

But we recognise it is not only giving evidence in court that is daunting for victims, which is why we are also working to make sure they are supported from the moment they report an attack.

Independent Sexual Violence Advisors

Areas have been stepping up their engagement with Independent Sexual Violence Advisors (ISVAs), who provide vital specialist support to survivors of rape and sexual assault.

In the West Midlands, a senior prosecutor acts as a single point of contact for ISVAs in the region to improve relationships and understanding of each other's roles.

In December, CPS London held an ISVA Day bringing together professionals from across the field to share expertise and discuss ways to improve outcomes for survivors.

In the East Midlands, specialist lawyers, ISVAs and child sexual violence advocates (CHISVA) have formed a working group that is acclaimed in the region for helping young and vulnerable victims of abuse navigate the criminal justice system.



This can be of immense benefit in victim communication, with ISVAs better able to explain sensitive investigatory processes to them such as reasonable lines of enquiry and requests for personal data so they do not feel singled out or disbelieved.

Gemma Malfesi, ISVA lead for Nottingham, said: “I am not exaggerating when I say the partnership work between the ISVA service and CPS East Midlands has made the difference between a survivor feeling so misunderstood and frightened that they couldn’t see a way forward, to a survivor feeling heard, understood and empowered. It has saved lives.”

Community engagement

The CPS has been working to overcome cultural barriers that may prevent some communities from reporting sexual violence.

We have sought expert views on the reasons behind lower reporting rates among ethnic minority groups, such as rape victims being told by abusive spouses that their children will be taken away if they speak to the police.

To address the problem, our staff have joined forces with charities and community groups across the country to increase victim confidence in the CJS.

CPS Wessex has set up a working group with ethnic minority representatives to build trust, while East of England holds regular sessions with a survivor-led organisation for black women to raise awareness of the impact of sexual crimes.

Siobhan Blake, CPS lead for RASSO prosecutions, said: “It’s vital we identify where the issues are for people from different cultural backgrounds and do everything in our power to increase confidence, so people come forward and seek justice when they’ve experienced these traumatic offences.”

Enhanced scrutiny

Increased scrutiny of our decision-making in rape cases is essential to achieving consistency across the country and driving up standards.

As well as the additional supervision and tracking of pre-charge rape referrals, CPS areas have also been closely scrutinising cases where no further action (NFA) was taken and trials that ended in an acquittal or other non-conviction outcomes such as a judge putting a stop to the prosecution.

While this will not directly increase referrals, it is an important exercise in learning lessons for future cases and improving outcomes for both suspects and complainants.

No Further Action reviews

Eight areas have been conducting reviews of cases where the police have taken no further action (NFA) without CPS involvement.



In the South East, NFA reviews attended by a senior prosecutor, the OIC and supervisors are held on twice a month. Any cases identified as having been inappropriately stopped are discussed, with focus turned to how a viable prosecution can be built.

In the South West, prosecutors' NFA decisions are also reviewed alongside the police.

These reviews have been particularly useful in reminding police of when it would be beneficial to seek Early Advice.

Case debriefs

Post-case debriefs – attended by prosecutors, police and sometimes counsel – are being held in some areas to identify lessons where there has been an adverse outcome.

Wessex holds regular debriefs for its most challenging rape cases, while the North East holds a monthly meeting with each of its three forces where unsuccessful outcomes are discussed.

Along with local case management panels, such meetings provide an invaluable opportunity to discuss what does and does not work in a way that would not be possible in writing, with clear actions identified to improve future prosecutions.

Areas that hold these sessions also tend to enjoy much better relationships with their police forces, demonstrating the immeasurable benefit of closer working in understanding and overcoming the challenges of RASSO casework.

Victims' Right to Review

The Victims' Right to Review (VRR) scheme, launched in 2013, enables victims to seek a review of certain CPS decisions not to start a prosecution or to stop a prosecution.

This independent process is conducted by an experienced prosecutor in our Appeals and Review Unit (ARU) who will have had no prior involvement in the case – demonstrating our commitment to making sure the right person is prosecuted for the right offence.

It also provides an essential safeguard for victims of crime and decisions not to prosecute are regularly overturned upon completion of a VRR. In 2019-20, 16 per cent of RASSO reviews led to charges being brought following an initial decision not to prosecute.

The ARU also provides feedback and training to area prosecutors around the challenges raised by these cases.

Sarah Boland, Appeals and Review Unit head, said: "The CPS set up the VRR scheme because we recognise we will not always get our decisions right the first time around. I encourage anyone who feels the wrong decision has been made in their case to make use of the scheme with confidence it will be looked at again by my team with genuine independence."

2025

