



CONSULTATION

Equally Safe – Forensics (2019)



Rape Crisis Scotland welcome this consultation and the commitment to improving responses to survivors of sexual violence. For some time we have had concerns about the response to the immediate needs of people who experience rape and sexual violence. It is unacceptable that the most basic of needs including the choice of being seen by a female doctor, in a suitable environment with appropriate follow up in terms of health and support are not currently met with any degree of consistency across Scotland. This is unsustainable, and at odds with a country that strives to uphold the rights of its citizens.

Should a specific statutory duty be conferred on Health Boards to provide forensic medical services to victims of rape and sexual assault, for people who have reported to the police as well as for those who have not?

Yes – we agree that there is a need for clear responsibility to be allocated to health for the consistent delivery of these services. This must include self-referral in addition to police referral given that rape is underreported, and some survivors may wish to record forensics to keep open the option of reporting at a later date.

Do you have any views on how a legislative framework for the taking and retention of samples, personal data and other evidence in the case of police referral should operate?

Do you have any views on how a legislative framework for the taking and retention of samples, personal data and other evidence in the case of self-referral should operate?

More generally, do you have any views on potential impacts of the proposals in the Chapters of this paper on data protection and privacy (the handling of personal data including “special category” data about health)?

With respect to questions 2, 3 and 4 key to any ethical approach to this must be informed consent. Immediately following a rape or sexual assault, someone is likely to be in shock and unable to take in or process a lot of information. Clear and accessible written information should be provided setting out the position with samples, retention times, what to do and who to contact should they wish to report to the police. In cases where an individual has self-referred, a check in should be built into the clinical pathway to ensure the individual understands what is happening with their samples, how long they will be kept for and to see how they feel now about the prospect of reporting. It is crucial that this is approached in a way that does not put pressure on someone to report, and that this entire process is underpinned by informed consent.

How might legislation help safeguard victims’ rights to respect for their dignity?

More generally, do you have any views on potential impacts of the proposals in the Chapters of this paper on human rights (including economic, social and cultural rights such as the right to the highest attainable standard of physical and mental health)?

At Rape Crisis Scotland we welcome a human rights approach. The single biggest issue raised with us with respect to forensic medical provision is having to undergo examination with a male doctor. In order to safeguard the dignity of an individual and avoid compounding the loss of control and trauma experienced through rape and sexual violence, the option of examination by a female doctor must be available.

Should special provisions be included in legislation to reflect the distinct position and needs of children and young people? Do you have any views on how such special provisions should operate?

It is vitally important that the specific needs of children and young people are recognised and that approaches to responding to these needs are tailored. There too must be services that respond compassionately and effectively to the needs of teenagers, who risk falling between the gap of children and adult services.

With respect to services in Scotland, we are supportive of the development of these based on the Barnahus approach.

Do you have any views on potential impacts of the proposals in this paper on equalities (the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation)?

Specifically relevant to the question of equalities is ensuring the availability of female doctors for forensic examination. We cannot overstate the importance of this.

Do you have any views on potential impacts of the proposals in this paper on socio-economic equality (the Fairer Scotland Duty)?

No

Do you have any views on potential impacts of the proposals in this paper on people in rural or island communities?

It is intolerable where survivors from some island communities currently have to travel to the mainland for forensic examination. Ensuring the local availability of forensic examinations and related services across the geography of Scotland is vital to a survivor centred approach. It is deeply unfair that the current approach resembles more of a post-code lottery than an evidence based, survivor-centred approach that values the geographic diversity and remote communities of Scotland.

Do you have any views on the financial implications of the proposals in this consultation paper for NHS Scotland and other bodies?

Ambition requires money, to meet the objectives of this paper there must be significant additional resource allocated.

Finally, do you have any other comments that have not been captured in the responses to the other questions you have provided?

Legislation is essential and welcome but if survivors are to receive the response that they deserve then this can only be the start. Continued leadership across health and justice is necessary if we are to ensure genuinely meaningful improvement in survivors' experiences across Scotland.