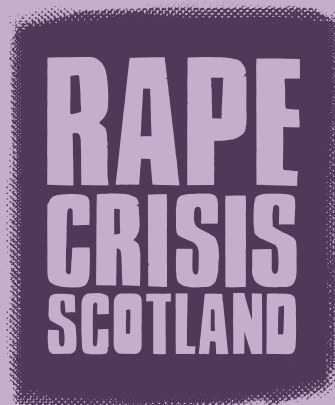




CONSULTATION

'Improving Victims'
Experiences of the
Justice System'
Consultation Response



Response ID ANON-YYN3-2N3D-A

Submitted to Improving victims' experiences of the justice system: consultation
Submitted on 2022-08-02 14:16:38

Chapter One: A Victims' Commissioner for Scotland

1 To what extent do you agree or disagree that the Victims' Commissioner should be independent of the Scottish Government?

Strongly agree

Please give reasons for your answer:

We note that when working with victims of crime, independence is a key component in an organisation's validity. Very often victims are facing difficulties within the existing criminal justice structures, such as the police or the COPFS. Independence would effectively allow the Commissioner to challenge structural barriers to justice.

2 To what extent do you agree or disagree that the Victims' Commissioner should be a statutory role?

Strongly agree

Please give reasons for your answer:

Giving a statutory role would provide a clear framework for the Commissioner to exist and outline the remit and responsibilities.

3 To what extent do you agree or disagree that the Victims' Commissioner should be accountable to the Scottish Parliament?

Strongly agree

Please give reasons for your answer:

The Commissioner should be accountable to the Scottish Parliament.

4 How do you think the Victims' Commissioner should be held accountable? Please select all that apply.

a) annual year report, b) multi-year strategic plan to be published and laid in the Scottish Parliament

Please give reasons for your answer:

We agree that options a and b would be a sensible and measured approach to establishing accountability.

5 In your view, what should the main functions of the Victims' Commissioner be? Please select all that apply.

a) raising awareness/promotion of victims' interests and rights, b) monitoring compliance with the Victims' Code for Scotland, the Standards of Service for Victims and Witnesses and any relevant legislation, c) promoting best practice by the criminal justice agencies and those providing services to victims, including championing a trauma-informed approach, d) undertaking and/or commissioning research, in order to produce reports and make recommendations to the Scottish Government, criminal justice agencies and those providing services to victims

Please give reasons for your answer:

We see that all these functions could benefit the promotion of the rights of survivors of sexual violence and rape.

6 What do you think should be within the remit of a Victims' Commissioner for Scotland? Please select all that apply.

a) the experience of victims in the criminal justice system, b) the experience of victims in the civil justice system, c) the experience of victims in relation to the Children's Hearings system, d) the experience of victims resident in Scotland, but where the crime has taken place outwith Scotland

Please give reasons for your answer:

We see that all these functions could benefit survivors of sexual violence and rape. We note that those who experience such abuse will potentially encounter a range of justice agencies and their experience will not be limited to the remit of the criminal justice system. Survivors we support can often be involved in several of these processes simultaneously and do not view them as separate processes but often part of a bigger picture. The differences in procedure, rules of evidence and the repetition of their evidence to various professionals can heighten distress and risk further re-traumatisation. It is important that any victim's commissioner consider the system as a whole, as it is experienced by survivors.

Notably, we have supported and worked alongside survivors involved in recent civil suits, where civil claims for damages were made against their abuser, after the criminal justice system had failed them. This includes the case brought by activist and survivor Miss M. We have seen an increase in enquiries about civil claims.

Often, sexual abuse and rape will form part of other civil cases, such as divorce and child contact cases. These can be distressing for the survivor, and organisations should have a better understanding of how survivors are treated in these situations.

We also routinely support survivors who are engaging with the Children's Hearing System. This can be either as a child subject to the proceedings of the hearing system or as the victim of abuse by a young person who is the subject of the proceedings. In the latter case, we are aware that there are often

difficulties experienced in obtaining justice within the proceedings and understanding the complexities of that system. We would suggest that the Victims Commissioner for Scotland be able to review processes regarding Police Complaints and Victims Right of Review against decisions made by COPFS.

7 What powers do you think the Victims' Commissioner should have? Please select all that apply.

Please give reasons for your answer:

8 To what extent do you agree or disagree that the Victims' Commissioner should be required to consult with victims on the work to be undertaken by the Commissioner?

Strongly agree

Please give reasons for your answer:

If the Victims Commissioner is to properly represent the needs and voices of survivors of sexual abuse and have legitimacy, then it must listen to the lived experience of those survivors and learn from their experience. It must centre these voices and experiences and be seen to do so. Engagement with survivors should go beyond consultation and empower survivors to direct policy and make decisions.

9 How do you think that engagement with victims should take place? Please select all that apply.

Please give reasons for your answer:

10 Are there any specific groups of victims who you think the Victims' Commissioner should have a specific duty to engage with? If so, who are they and how should that engagement take place?

Not Answered

Please give reasons for your answer:

11 To what extent do you agree or disagree that the Victims' Commissioner should be required to consult with organisations that work with victims, on the work to be undertaken by the Commissioner?

Strongly agree

Please give reasons for your answer:

We would seek to work closely with a Victims' Commissioner to ensure that it complements and amplifies rather than duplicates existing specialist voices.

12 Are there any other relevant bodies or organisations that may have an interest in the work to be undertaken by the Victims' Commissioner?

Please provide details :

13 To what extent do you agree or disagree that the Victims' Commissioner should not have the power to champion or intervene in individual cases?

Not Answered

Please give reasons for your answer:

14 Are there any other matters relating to the proposal to create a Victims' Commissioner for Scotland you would like to offer your views on?

Please provide details:

Chapter Two: Options to underpin trauma-informed practice and person-centred approaches

15 Bearing in mind the general principles which are already set out in the Victims and Witnesses (Scotland) Act 2014, to what extent do you agree or disagree that a specific legislative reference to 'trauma-informed practice' as an additional general principle would be helpful and meaningful?

Strongly agree

Please give reasons for your answer:

A specific legislative reference to 'trauma-informed practice' would show a clear commitment. It would demonstrate to complainers of sexual violence how they will be treated within the criminal justice system. It will also give an unarguable standard that criminal justice agencies must adhere to. This would go one step further than the provisions in the 2014 Act and place a responsibility to adopt such a practice whilst also defining what that entails.

Complainers of serious sexual crime are by their nature amongst the most vulnerable category of witnesses who come before the courts. As stated by Burman and Brooks Hay; 'sexual offences have a profound and distinct impact on those who experience them' they are crimes which 'fundamentally

challenge a victims sense of dignity and autonomy with acts that remove power, control and dignity from them.'

The importance of adopting a trauma-informed practice and embedding this within the workings of every aspect of the justice system cannot be overstated. Survivors have very specific and varying needs. A flexible approach is required as well as an awareness of how trauma can affect survivors differently. It should be embedded into the whole culture, both the physical space and the working of all court participants; this should involve specific and detailed training. The 'Justice Journeys' highlighted many of the details that could make a difference to a complainer's experience.

During our consultation process, a survivor commented that;

'They don't understand trauma, they never asked what I needed'

During the trial she had to view photos of her injuries, she had not been shown them before or even warned that this would happen. This was a retraumatising experience that she felt could have been avoided by someone taking the time to discuss this with her and she knew what to expect. She reflected;

'If you feel safe you can talk about things and give better evidence.'

16 To what extent do you agree or disagree that a specific reference to trauma-informed practice within the current legislative framework for the Standards of Service would be useful and meaningful?

Strongly agree

Please give reasons for your answer:

Again, this not only places a clear obligation on justice agencies, but it will also send a powerful message to survivors.

17 To what extent do you agree or disagree that a legislative basis for the production of guidance on taking a trauma-informed approach would be useful and meaningful?

Strongly agree

Please give reasons for your answer:

There could be scope for ambiguity regarding the standard or meaning of trauma-informed practice and the government should set clear guidelines and standards for professionals to adhere to.

18 To what extent do you agree or disagree that the Court should have a duty to take such measures as it considers appropriate to direct legal professionals to consider a trauma-informed approach in respect of clients and witnesses?

Strongly agree

Please give reasons for your answer:

The court should have a clear duty to protect complainers of sexual violence during their involvement in the court system. To ensure that all parties, including defence counsel, show them respect and ensure that all possible is done to protect them from secondary traumatisation. We agree the court should be required to take appropriate steps to direct legal professionals to adhere to trauma-informed practices.

For survivors, this is important when considering the methods of cross examination often used to discredit and undermine their evidence.

We have seen far too many examples of cruel and distressing cross examination of survivors which have been subject to judicial criticism. For example, in a notable case where a QC, referred to a survivor as a 'wicked, deceitful, malicious, vindictive liar' in his cross examination. The use of this line of questioning was criticised by the Lord President, Lord Carloway.

In the case of *Macdonald v HMA*, it was found that; 'during her cross examination, this complainer was subjected to repetitive and at times irrelevant questioning. She became highly distressed and rightly so. The court did nothing to intervene. Were this to be repeated, the situation in sexual offences trials would be unsustainable.' The court should be under an obligation to prevent this type of conduct and place an onus on the defence to adhere to trauma-informed standards.

Cross examination is a means to test evidence and protect against miscarriages of justice, but this does not need to be at the expense of the fair treatment of the complainer.

19 Should virtual summary trials be a permanent feature of the criminal justice system?

Not Answered

Please give reasons for your answer:

20 If you answered yes to the previous question, in what types of criminal cases do you think virtual summary trials should be used?

Please provide details:

21 To what extent do you agree or disagree with the recommendation of the Virtual Trials National Project Board that there should be a presumption in favour of virtual trials for all domestic abuse cases in the Scottish summary courts?

Not Answered

Please give reasons for your answer:

22 While removing vulnerable victims from the physical court setting is beneficial in the vast majority of cases, to what extent do you agree or disagree that virtual trials offer additional benefits to the ability to give evidence by live TV link?

Not Answered

Please give reasons for your answer:

23 To what extent do you agree or disagree that the existing powers in the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019 are sufficient to expand the use the pre-recording of evidence of complainers of serious sexual offences?

Somewhat disagree

Please give reasons for your answer:

Rape complainers regularly tell us that the ordeal of giving evidence in court, and particularly cross examination, can feel as traumatic as being raped. This is not acceptable. Current provisions do not go far enough to give a clear right to rape complainers to record their evidence in advance of trial and we consider that further legislation to enshrine this right into law is required. The legislation establishing a specialist sexual offences court should include provisions which give a right to sexual offence complainers to pre-record their evidence, including the visual recording of their statement to the police and the ability of this to be used as their evidence in chief.

In preparation for the response to this consultation, we undertook to gain advice and expertise from the members of our Survivors Reference Group (SRG). The SRG is a group of survivors of rape and sexual violence from across Scotland who have engaged with the Scottish Justice System to some degree, from initial police reports that went no further, right through to prosecutions.

All the survivors we spoke to were in support of visually recorded evidence being available as standard. Even those who chose to give their evidence in court, with or without the use of special measures, were of the view that it should be available as an option for any survivor.

Some survivors had been through the process and generally said it was helpful, although there were limited examples from the pilot system. Those who had not had the opportunity of having it said they would have liked to.

A benefit was seen to be the ability to use their own words which were recorded and not misinterpreted by a police officer writing them down, giving more control of what was said. It was considered to save time and avoid re-traumatisation by going over an account repeatedly.

One survivor stated it made sense from a trauma point of view as sometimes memory is blocked out, you can remember the basics of the statement but not the detail, meaning that it is hard to imagine going to court to recall everything. She had found it hard to remember the first statement, so that had increased her anxiety.

As expressed by a survivor 'In this day and age I would have expected (video recording statements) to be done for everyone.'

24 To what extent do you agree or disagree that Ground Rules Hearings should be extended to all child and vulnerable witnesses required to give evidence in the High Court, irrespective of the method in which their evidence is to be provided to the court?

Strongly agree

Please give reasons for your answer:

We are strongly in favour of a statutory presumption that survivors will be entitled to give evidence on commission and that they can have their cross examination pre-recorded prior to the trial. This can then remove the need for the survivor to be in court at all, in most cases, and help to reduce delays as the evidence will be captured before the trial meaning the survivor does not have the ongoing anxiety and stress caused by the prospect of having to give evidence in court.

Grounds rules hearings should be extended for use for sexual offences cases with a presumption in favour of evidence on commission being the default approach to the taking of evidence in cross examination. Ground rules hearings ensure that significant attention is placed on the examination of the witness, focusing on the questions asked and the form this will take. It means increased scrutiny over the style of questioning in cross examination.

As stated in the Lady Dorrian review 'experience suggests that well-conducted visually recorded evidence taken by commissioner, can have at least as much impact as evidence given in person at trial.' The review also highlights evidence from procedure in England and their pilot scheme resulted in 'cross examinations to be more witness friendly, focused, relevant and pared down than in conventional trials.'

The introduction of grounds rules hearings as standard practice will ensure that there can be judicial oversight of the nature of cross examination, the lines of questioning, the length of cross, the breaks the survivor might need. This places a greater onus on parties to be mindful of trauma-informed practice and the nature and style of their cross examination which should not be inherently distressing or re-traumatising.

25 To what extent do you agree or disagree that the current legislative basis for court scheduling, as managed through the existing powers of the Lord President, is sufficient to inform trauma-informed practice?

Somewhat disagree

Please give reasons for your answer. If you disagree, please provide details of the legislative provision you think is necessary:

At RCS we see first-hand the effects of how the court delays are affecting survivors. This was a problem prior to the pandemic and has now been significantly compounded. Survivors are often waiting two to three years, and sometimes longer, for their case to be heard in court. This is unacceptable and must be urgently addressed. This prevents them from moving on with their lives, some feeling they must keep the memories fresh so they can give evidence properly and remember details. Others will defer receiving therapy because they are worried that their therapy notes might be used against them.

In contrast to other types of crimes recorded – sexual offences have been steadily rising since the mid 1970s and now make up the vast majority of the

work of the High Court. A clear strategy to tackle the backlog and improve timescales for future cases must be a priority.

The effects of delays have been commented on in research and academic works. The 'Justice Journeys' research highlighted the sense of the loss of control inherent in sexual violence often being replicated in the lengthy judicial process leaving survivors living in limbo and often with no road map of what might happen. This profoundly affects their whole life while often leaving them unable to talk to family and friends or explain to their children. As Burman and Brooks Hay comment, 'a range of adverse consequences will likely be precipitated by inordinate delays, impacting on the personal, domestic and professional lives of victim-survivors.'

A survivor stated that it felt like;

'Building up to something that's always around the corner but never materializes. Our mental and physical state deteriorates over time and this set us up for the rest of our lives.'

The impact of floating trials is very distressing for survivors. They are waiting day by day to find out if their case might call to ultimately be told it will not go ahead, sometimes for months. We have supported survivors who have attended at court only to be told to leave. They have gone through the anguish of working up to doing something extremely difficult and preparing to relive their trauma and go through cross examination. It causes an impact on their jobs, education and childcare. This is not in line with trauma-informed practice, survivors need to know, for emotional and practical reasons, when their case will call.

Despite Lord Bonyon recommending in 2002 in his review of the High Court that rape cases should not be allocated to floating trial diets due to the distress caused to complainers, this happens routinely across Scotland. A completely new approach to court scheduling is required for sexual offences, and this should be developed as part of the new specialist sexual offence court which is being proposed.

As a survivor stated; 'We have seen how fast governments can act when urgency is required - why can't you do the same thing for women?'

26 Are you aware of any specific legislative changes which would assist in addressing the issues discussed around information sharing? If so, please detail these.

Please provide details:

We are supportive of there being clear legislative requirements on the court and the COPFS to provide survivors with information regarding their case in a timely fashion. There is a vast amount of information that a survivor is entitled to receive.

They can often be given information in an inappropriate manner, and frequently not at all. Sometimes survivors are given information second hand as other witnesses have been notified before them. The accounts we hear show that there are vast inconsistencies in the level of service that survivors receive when it comes to information sharing. This restricts the ability of our services to advise survivors what they might expect.

Survivors need to be given detailed and meaningful information regarding their rights, this should include things like their right to read their witness statement before court, to be told of sensitive record or sexual history applications. This should also include information about the criminal proceedings itself, when the case will call, decisions to withdraw and the verdict.

We routinely see that survivors are let down on this front and often when they do receive information the person giving it is unable to tell them what it means or advise what might happen next in the process.

We discussed this topic in our recent SRG panels and found that failures in information sharing were experienced by everyone.

One survivor stated that the 'accused always gets all the information, you are left in the dark. It has to be consistent, and everyone offered the same experience and service.'

Survivors agreed that they often are the ones needing to chase the information and that it would be helpful to receive an update that even just says there is no update. Someone described having to phone six different people just to be told that the case hadn't gone ahead.

The way in which information was received made a big difference. One survivor said;

'I got told through email that the case was dropped. I felt there was no protection from the perpetrator and didn't know why it wasn't going ahead. I had to chase and persevere for answers.'

A recurring theme was that not every survivor wanted the same way of receiving information on their case. Some welcomed an online portal, others preferred calls. Some wanted monthly (at minimum updates) some didn't want to hear unless it was important. Some wanted to hear directly, others through a support worker. The information sharing needs to be tailored to the needs of the survivor to be part of trauma-informed practice.

The way in which information was received is important;

'It would be good to know in advance of calls rather than sporadically calling, it's very triggering when you are trying to go to work or university.'

With regard to the introduction of an online platform, many of the survivors were supportive but there were some concerns expressed;

'They don't get the basics right, the basic infrastructure doesn't work, the online portal is great but then someone has to update it and what will happen then'

One survivor expressed concerns about the security of an online system, the police putting in the wrong information or it being hacked.

Therefore, we are supportive not only of the increase in advocacy services for survivors but for the introduction of independent legal advice to assist survivors throughout a range of processes involved in the criminal justice system, giving legal advice on the complexities of this in a trauma-informed manner which supports them through the legal process.

27 Are there any other matters relating to the options to underpin trauma-informed practice and person-centred approaches in the justice system you would like to offer your views on?

Please provide details:

During the course of giving evidence, complainers are often given the special measure of the use of a supporter however they are not always permitted to have the use of their own advocacy worker in court. They may, instead, be given a supporter from the witness service. While this can be a valuable service for many witnesses, rape complainers consistently speak of the benefits of having a known supporter with them in court. There are numerous difficulties with the trusted person not being with the survivor and it causes distress. Survivors are often not told until the last minute and this fact makes

no sense to them. This was one of the key findings of the 'Justice Journeys' research.

Chapter Three: Special measures in civil cases

28 To what extent do you agree or disagree that the courts should have the power to prohibit personal cross-examination in civil proceedings when the circumstances in a particular case require this measure to be taken?

Strongly agree

Please give reasons for your answer:

The courts should have the power to prohibit personal cross-examination in civil proceedings and this should be utilised to protect survivors of rape and sexual offences from being cross-examined by their abuser. Rape and sexual assault survivors are frequently engaged with the civil courts in circumstances relating to their experiences of those crimes. This is no less traumatising and difficult a process than engaging with the criminal justice system and by comparison we frequently find that survivors are not afforded the same level of protection. One of these areas is the ability of a perpetrator to conduct their own defence and have an ability to cross-examine. The experience and participation of the survivor will be relevant in a range of proceedings and the legal provisions should be made robust enough to offer widespread protection.

In Scotland, we have seen a rise in the number of successful civil actions being brought by survivors against their abusers for rape. This included the cases of Miss M and Miss AB, who were both consulted with for the process of this consultation. In both these examples their rapist had been acquitted during the criminal trial. Our services have had multiple requests and an increase in enquiries regarding survivors who wish to pursue this course of action. Many of them feel that they have been let down by the criminal justice system. We note that in the three civil rape proofs that have taken place in Scotland, to date none of those survivors have received a penny of the compensation awarded to them. They have however, reported an increased sense of empowerment and validation. It has a potentially life changing impact on the life of a survivor to have a declaration in a court of law that the rape took place. This has major social value in holding perpetrators of sexual abuse to account in a country where conviction rates have remained stubbornly low.

The survivors bringing these cases and engaging in the civil justice systems need to be afforded protections to ensure they can effectively participate. This should include ensuring that there are no circumstances where the defender in such an action would be able to cross-examine the survivor, they would not be able to conduct their own defence in this regard and would be required to instruct a solicitor or the court would be required to appoint one for them. Miss M highlighted that at the start of the civil case she was advised that Stephen Coxen (found in those proceedings to have raped her repeatedly) could potentially represent himself, and this was a real concern for some time. She had to factor into her decision to continue with the case, the concept that he might be able to face her in court and question her.

We would go as far to argue that there may be instances where it is wholly inappropriate for the defendant to represent themselves at any point in such proceedings. It may be that they gain contact with the survivor at preliminary stages. Having a solicitor in charge of the preparation of the case also ensures other sensitive processes are given a level of protection for example the defendant wanting to contact witnesses, take precognitions or receive disclosure of a personal nature.

There is also concern for survivors involved in family proceedings where their experiences of sexual violence can be part of evidence. There should be protections in place to ensure that if the initial court documents refer to sexual violence on the part of the other party, and this forms part of the evidence in the case, that person should not be able to cross-examine the survivor or conduct any part of their case which would allow them access to the survivor or have a means to further abuse her. This could be in child contact, divorce or the seeking of protective orders.

As it stands there are no protections in civil cases to prevent these survivors from being cross-examined by their abusers. Survivors could find the experience of being cross-examined by their abuser intimidating and it would place them at a disadvantage. It also gives the abuser the means to further control or commit further abuse. The civil justice processes should not be a facilitator for this and should actively seek to discourage this to stop their processes being used as a means of abuse.

29 To what extent do you agree or disagree that special measures should be available when required for all civil court hearings in Scotland, whether the hearings are evidential or not?

Strongly agree

Please give reasons for your answer:

Survivors engaging in civil justice processes require the use of special measures to ensure their protection and ability to give their best evidence. They should be extended to ensure that survivors of sexual violence are 'deemed vulnerable' by virtue of them being complainants of sexual violence. This should not have to be on the condition that this has been established in the criminal courts.

If the subject matter of the case involves sexual violence, this will be part of the evidence led and the perpetrator is involved in those proceedings then there should be adequate protections available to ensure protection. If a survivor had to attend court for a child contact hearing, even just being in the same court room could be highly distressing and we have supported women who have been targeted in the court room with stalking and other intimidating behaviour.

One survivor who pursued her case in the civil courts had a difficult experience when it came to gaining special measures. She had already been through a criminal court where the perpetrator had been convicted of domestic abuse, she thereafter was told there was not enough evidence for the rape charge and took civil action. She requested the use of evidence to be given via remote video link, but this was refused after her abuser commissioned a psychological report that suggested that, contrary to her own psychiatrist's diagnosis, she did not have PTSD. She was placed in a position of attending court in person to give evidence. This was following on from an experience of the Sheriff Court where she had been intimidated within the court building and followed by him. In the end she did not attend court as she accepted a very reduced settlement, in part, to avoid having to do this.

Miss AB noted that, having received special measures, she believed that 'they should be offered automatically then the survivor could decide.'

Survivors of sexual violence are inherently vulnerable as a result of their experiences; the psychological and emotional impact is immense. Any legal

proceedings which involve the survivor having to face their perpetrator in court deserves the use of special measures. They should be deemed vulnerable and entitled to special measures, these should be in the form that the survivor feels most comfortable with and will assist them to give their best evidence.

30 Are there any other matters relating to special measures in civil cases that you would like to offer your views on?

Please provide details:

There is a serious problem with the availability of civil legal aid for survivors wishing to take cases against their abusers. In every case, there have been difficulties with obtaining legal aid, in one case legal aid was almost withdrawn at the last minute after the defendant informed SLAB he had no assets. There are issues with survivors struggling to get legal aid, in a variety of proceedings, due to the availability of solicitors willing to take on legal aid work. This has been seen as a result of the work not being as well paid as private work and that there is more than enough private work to go around. We are aware that it is not as financially viable as private work and undertaking it relies on some solicitors having a sense of duty to the community and allocating a proportion of their time accordingly. This has led to many women in family cases having to represent themselves against their abuser. This has also been a significant problem when it comes to seeking protective orders.

Chapter Four: Review of defence statements

31 Do you support undertaking a review of the use of defence statements?

Yes

32 If you answered yes to the previous question, how do you think this should be progressed to address the issues identified by Lady Dorrian's Review?

Please provide details:

The defence are required to lodge a defence statement which, in theory, sets out the evidence they might use in a trial. In practice, the defence rarely give any specific details regarding their defence, meaning that the parties do not know what questions can be asked of the complainer in court. We understand that where the defence do indicate a special defence of consent then this can be, and is often, put to the complainer in the precognition. It is an aspect of the trial which is heavily guarded by the defence.

One of the areas of the criminal justice process we understand has the most potential for secondary victimisation is in cross-examination by the defence counsel. We understand that the defence have little expectation to produce any information on their lines of questioning other than outlining a special defence of consent. As far as possible the survivor should be prepared for the questions to be asked of them: cross-examination is a chance for the defence to forward their position and test the evidence, but it does not need to be an ambush of the survivor and allowing, as far as possible, the opportunity to know, in general what questions will be asked allows them to give their best evidence. As stated by Keane and Convery, in their recent paper regarding the introduction of ILR, there is a high risk of re-victimisation during cross examination and that it should not be an opportunity to insult or intimidate the survivor, and should have regard to their dignity and privacy

If the lines of questioning are known at preliminary stages, then these can have a level of scrutiny in line with trauma-informed practice for the judge and the AD to ensure that they are not unnecessarily cruel, demeaning or unfair. If we are to follow the message sent in the case of Dreghorn v HMA then judges should be proactively prepared to intervene with cross-examination and there are obligations of the court to ensure that witnesses are protected.

As stated in the Lady Dorrian review, the introduction of the statutory requirement to lodge a defence statement under s70A of the 1995 act should have assisted the Crown's understanding of the defence 'which in turn should filter through to the complainer' but the result is that defence statements tend to be vague and often lodged late. It shouldn't just be about the crown fulfilling disclosure but also to give some detail of the nature of the defence.

We note that while the survivor should not be coached in her answers, there is clearly nothing wrong with her knowing the general lines of the defence, this is something which is sometimes covered in precognition – the complainer being asked about special defence of consent is common. We are also aware of supporting survivors who have been given more information; in one case they were told just before the trial that the line of questioning would be that it was sexual assault and not rape. This was info given by the AD. The survivor stated that it was useful but too late and would have preferred to know in advance.

There is inconsistency in survivors being told about the nature of the defence. Having this information can help to reduce re-traumatisation and prepare them for court to some degree. It is in line with current practice and the use of defence statements should be strengthened to allow this application across the board.

There should be specific requirements for the defence to lodge some detail of the defence and the line of questioning they intend to take. They should have received disclosure and reviewed this with their client to take a position. This would have to be something more meaningful than a statement that 'the accused challenges the Crown case where it seeks to show he is guilty'. There should be judicial oversight of this process with a clear expectation this will be given and an opportunity to consult with the survivor prior to the trial. A change in the legislation to make it clear that the function of defence statements is not simply about aiding the Crown with disclosure but also for them to provide vital information that can be used to prepare the case in a trauma-informed way.

33 Are there any other matters relating to a review of defence statements that you would like to offer your views on?

Please provide details:

Chapter Five: Anonymity for complainers in sexual offence cases

34 Which one of the following best describes your view on the point in the criminal justice process when any automatic right to anonymity should take effect?

a) when an allegation of a sexual offence is made

Please give reasons for your answer:

We submit that the right to anonymity should take effect from the moment an allegation is made. This should not be reliant on the disclosure being made within the context of the criminal justice system alone. There is suggestion that the right could begin when the survivor reports to a police officer, but we would suggest that we need to recognise that survivors, who choose to disclose, will do this in a number of different ways and for some, the criminal justice system is not the most appropriate forum for this.

While the overall aim of introducing this right is to increase the confidence of survivors to report within the criminal justice system, we must recognise that, at present, this is a reality that is far removed for many. There may be issues of accessibility to reporting for those who are young or old or those with disabilities and care needs. There are some communities who understandably might have mistrust in the police, someone who has come to Scotland as a refugee may worry about their status. A woman living in a coercively controlling relationship could find it impossible to attend the police station. Children may disclose to social workers or teachers, university students to lecturers or supervisors.

In recent years we have seen a number of successful cases in the civil courts where survivors, such as Miss M, have brought claims against their abusers. If a survivor chooses to use this forum to address the abusive behaviour then protection of her anonymity should be enshrined in law.

It is also important to note, the disclosure of abuse might be made in the course of other civil proceedings such as child contact or divorce.

Considering the recent changes in the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021, can help to demonstrate recent statutory recognition of the difficulties that survivors may have with coming forward to the police to report sexual abuse.

It is important to recognise that entering the criminal justice system is an intrusive and intimidating experience, survivors are concerned about how they might be treated and that they might not be believed. They may have made a conscious choice to disclose the abuse in a different forum. Sexual violence entails a large degree of shame and embarrassment, and the concept of publicity is a major deterrent to reporting. Survivors need to be reassured that their cases will be handled with sensitivity and respect for their privacy.

Survivors should have the security and respect that anonymity provides, no matter how they disclose.

35 Which of the following options describes the offences that you consider any automatic right of anonymity should apply to? Please select all that apply.

a) offences contained at section 288C of the Criminal Procedure (Scotland) Act 1995, b) intimate images offence contained at section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, c) offences contained in the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005, d) other - please provide details in the box below

Please give reasons for your answer:

All of these should apply. The list contained in s288C of the 1995 Act covers a wide range of offences and we agree that, with some additions, this contains most of the offences that should receive anonymity automatically.

The offences contained within section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 and offences contained in the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005 constitute crimes of an equally serious and sexual nature to justify their inclusion.

We would also submit that offences contained in s52 of the Civic Government (Scotland) Act 1982 be included. They are charges that have been used in child sexual abuse cases.

In addition to the above list of offences, we would also submit that there should be a 'catch all' provision. This should include a right to anonymity where the offence has a significant sexual element, even if that offence is not specifically named on the list. For example, an offence under s39 of the Criminal Justice and Licensing (Scotland) Act 2010 (stalking) or s1 of the Domestic Abuse (Scotland) Act 2018 (coercive control) could contain elements of sexual abuse such as threats, or humiliation of a sexual nature.

36 Which one of the following best reflects your view on when any automatic right of complainer anonymity should end?

c) other - please provide details in the box below

Please give reasons for your answer:

The question of when anonymity should end is a difficult decision to address. The effect of sexual abuse and rape on a survivor can be so profound that the traumatic implications can seem to radiate beyond even the finality of death. Survivors will report the concern they have for their family members, children and loved ones and the secondary trauma that they suffer as well. It is easy to see how the idea of anonymity extending beyond death is appealing.

We do however recognise that in legal reality, this may be a difficult to put into practice. We note that Dr Tickell addresses this in their upcoming article entitled 'How Should Complainer Anonymity for Sexual Offences be Introduced in Scotland?' and that there have been attempts to extend the right beyond death in Victoria, Australia. We note the difficulties that families have had, in the horrific situation, where their relative was raped and murdered and the family were unable to discuss the case publicly without paying a lot of money in legal fees to have them set aside by the court.

37 To what extent do you agree or disagree that the complainer should be able to set their anonymity aside?

Strongly agree

Please give reasons for your answer:

We are strongly supportive of complainers of sexual violence having the ability to set aside their anonymity without judicial intervention. These provisions should empower survivors and allow control over who they disclose to and when.

We are aware of attempts in other jurisdictions to impose anonymity requirements that extend to the survivor themselves, for example in Victoria and Tasmania, Australia. The campaign #letherspeak showed that laws which were originally put in place to protect survivors from media exploitation had the effect of 'silencing individual survivors who wish to speak out publicly, thereby increasing their sense of isolation, powerlessness and voicelessness'. We must ensure that this does not happen in Scotland.

38 If complainers are to be given the power to set their anonymity aside, which one of the following best reflects your view on how they should be able to do this?

a) unilaterally by consent of the complainer

Please give reasons for your answer:

The only person who should have the power to set anonymity aside should be the survivor and they should be empowered to make this choice at the time and in the way that they wish. They should not have to apply to the court for this to be the case. It should be their choice. Placing any undue burden on the survivor is unhelpful and would mean there is an administrative and financial burden on a survivor.

Where a survivor wishes to identify themselves through their own social media, they should be free to do this without restriction. Where another individual or media outlet is to publish this information, we are supportive of the need for written consent to be obtained by the publisher. We feel this provides a basis for clarity and right to publication. We note that written consent is used in England, Wales and India. Miss M believed the process of waiving anonymity should be a two-step process where the publisher had to show they had met with the survivor on at least two occasions, demonstrating that the survivor would have had time to consider the decision and not be put on the spot. We acknowledge that the practice in newsprint media is that where one publication runs a story, other publications might pick this up and report on the same information. Social media users may comment or 'retweet' and further share news stories. It seems that it would be impossible to regulate the 'resharing' of information in this way by requiring every publisher to have such written consent but if the original source had this and the information shared by others was the same as that contained in the original publication, this could offer protection. As Dr Tickell points out in his article, if every publication required the consent individually then it might lead to the survivor being inundated with requests for this confirmation which would be inappropriate.

We think that survivors should have some control over the scope of what information regarding their experience is realised. There are jurisdictions which seek to allow survivors to 'tailor' their disclosures to the media. For example, in the Australian system, the survivor can choose which publications can publish the information, whether they use her full name, photo or the particulars of the offence. Survivors should have control over what information is released. If they disclose some but not all details then it is not for media outlets or individuals to look behind those and 'uncover' further details.

39 To what extent do you agree or disagree that children should be able to set any right to anonymity aside?

Strongly agree

Please give reasons for your answer:

In Scotland, 'children' are recognised as being under the age of 18. We, along with other bodies who support under 18s recognise a distinction between children (usually under 12) and young people (around 12-18). We support many young people within our organisation and recognise the agency and maturity many demonstrate and feel that should they wish to discuss their own experiences they should have that freedom and be supported to make those decisions where appropriate.

40 If children are to be given a power to set any right of anonymity aside, to what extent do you agree or disagree that additional protections should be required prior to doing so, for example an application to the court to ensure there is judicial oversight?

Somewhat agree

Please give reasons for your answer:

We need to give consideration to the differences between children and young people because the application of this would be incredibly different if we are discussing the implications for a 10-year-old survivor or a 17-year-old. We also need to consider how readily young people use social media and their attitudes to it. We want young people to be informed and protected but falling to a situation where older children would always require judicial permission could be paternalistic and contradictory. We note the Scottish Government's commitment to the Bairns' Hoose model and the pilot scheme underway. Support could be offered in this context.

41 If children are to be given a power to set any right of anonymity aside, to what extent do you agree or disagree that there should be minimum age below which a child cannot set their anonymity aside?

Somewhat agree

Please give reasons for your answer, including (if you agree) what you think this age should be.:

Consideration of setting a minimum age to protect younger children should be given some further thought and the views sought of those experienced in the field of child development.

42 To what extent do you agree or disagree that the court should have a power to override any right of anonymity in individual cases?

Strongly disagree

Please give reasons for your answer, including (if you agree) your view on the circumstances in which this power should be available:

We disagree that there should be a power of the court to set aside anonymity.

We note that in England, Wales and Northern Ireland the provisions allow a court to set aside the anonymity in particular circumstances for example; to encourage defence witnesses to come forward. We note that the majority of jurisdictions do not have any such provisions and think that this tenet of the law would only serve to undermine its very purpose. The application of these provisions seems to be directed at the ability of the defence to 'dig in' to the survivors past and effectively source out sexual history or other private information to undermine her credibility. If the law on anonymity is to help encourage survivors to trust the criminal justice process and place faith in that system, then it must be robust enough to protect them from this risk. We have concerns about the court having ability to revoke anonymity if a case returns a verdict of 'not guilty' or 'not proven'. This should never happen and would only push survivors further from justice. We note the example given by Dr Tickell from a case in Canada of R v Adams where the trial judge dispensed with the anonymity of the survivor after the trial on the basis he did not find her 'credible' and that the law on anonymity was for 'innocent' victims not 'liars and prostitutes'. This was overturned on appeal but not without the real risk of, if not actual, exposure of the survivor's identity and the possible trauma that entailed.

As Dr Tickell notes 'the notion that the acquittal of an accused person necessarily means a complainant was giving perjured testimony reflects a basic misunderstanding of the criminal justice process, the nature of evidence in most sexual offence prosecutions and the high threshold of proof beyond all reasonable doubt.'

Many survivors do not receive justice within the criminal courts. The fact that a rape trial does not result in a conviction does not mean that the survivor was lying or made a false allegation. Our system should be robust enough to deal with this.

43 To what extent do you agree or disagree that any right of anonymity should expire upon conviction of the complainant for an offence against public justice?

Neutral

Please give reasons for your answer:

We would note that the concept of 'false allegations' in rape cases is exceptionally rare. Research estimates this accounts for less than 3% of reported cases.

We would urge extreme caution about ever revoking anonymity and note that in these limited cases, they often involve very vulnerable individuals.

44 Which one of the following best reflects your view of the level of maximum penalty that should apply to a breach of any right of anonymity?

Not Answered

Please give reasons for your answer:

45 To what extent do you agree or disagree that there should be statutory defence(s) to breaches of anonymity?

Neutral

Please give reasons for your answer:

We are supportive of there being an obligation on a publisher to obtain written consent of a survivor before publishing any material that would identify her.

46 If you agree that there should be statutory defence(s) to breaches of anonymity, which of the following best following reflects your view of the defence(s) that should operate? Please select all that apply.

Please give reasons for your answer:

47 Are there any other matters relating to anonymity for complainants in sexual offence cases that you would like to offer your views on?

Please provide details:

The legal provisions surrounding anonymity should also protect survivors from what is known as 'jigsaw' identification, where enough information regarding the survivor is published to put together her identity.

Chapter Six: Introduction of independent legal representation for complainants in sexual offence cases

48 To what extent do you agree or disagree that there should be an automatic right to independent legal representation for complainants when applications under section 275 to lead sexual history or character evidence are made in sexual offence cases?

Strongly agree

Please give reasons for your answer:

At RCS we strongly believe that there should be an automatic right to independent legal representation (ILR) for survivors when applications are made under s275 to lead sexual history or character evidence in sexual offence cases. As stated by Keane and Convery, in many cases the nature of the

questioning proposed in such applications would 'represent a particularly intimate, sensitive and important aspect of a complainer's private life.' The type of evidence they seek to raise speaks to the most private and intimate aspects of a survivor's personal life and the evidence is often used in cross-examination to undermine their credibility by depicting the survivor as not being of 'chaste' character. These are outdated and unhelpful concepts which draw on the potential prejudice of the jury, or 'rape myths' and bear no relevance to what we know about the causes of sexual violence.

Recent crime surveys show that most rape and sexual assault goes unreported – only 23% of this gets reported to the police but sexual cases make up 75% of the High Court business. The Gillen review revealed that many complainers withdraw due to fear of their sexual past being publicly explored. This is an important issue for survivors.

Following on from the case of WF the Advice and Assistance (Proceedings for Recovery of Documents) (Scotland) Regulations 2017 provides for publicly funded ILR and for notification of an application for medical and other sensitive documents. We submit that the right to ILR should also apply to sexual history and character applications. This would go some way to address the 'justice gap' in Scotland, and how effective the rape shield provisions are in practice, as routinely there are issues with their application.

Role of Crown

After the judicial review of RR there is now a clear obligation on the Crown to obtain the views of the complainer and for the court to be provided with them. This does not give the complainer the ability to present their own position on the application after receiving advice, nor does it give any right for the application to be objected to.

What we see from the evidence is that there are occasions where the Crown do not object to these applications where a complainer would wish to. Many survivors wrongly think that their relationship with the Crown is comparable to that between an accused and their solicitor. However, there is no obligation on the Crown to pursue their position and they must weigh up the competing interests of complainer, accused and wider community and cannot pursue a survivor's interest above others. They cannot offer independent legal advice to her or assist her in understanding what the application entails. They cannot offer any degree of confidentiality.

The nature of the relationship and the inappropriateness of the Crown representing the survivors' interests has been highlighted in the writings of Fiona Raitt, Keane and Convery, Sharon Cowen and in the Lady Dorrian Review.

Not only are the Crown not fully able to represent the survivor's position and views, they also have frequently demonstrated that they are incapable of doing so.

The cases of RR, RN, CH, LL and Macdonald are examples of this and show the Crown is at times incorrect in its assessment of whether the application should be opposed.

In the case of Macdonald the appeal judge stated that the Crown not opposing the s275, meant the trial was conducted in a way which 'flew in the face of basic rules of evidence and procedure not only in rape shield provisions but also in the common law' and left the survivor 'extremely distressed'.

As pointed out in the Lady Dorrian review a notable feature of many of these judgements is the lack of crown opposition.

Figures referred to in Cowen's article indicate that prosecutors rarely challenge the applications. In 2016 data from Scotland's Cabinet Secretary for Justice showed that between January to April 2016, 57 applications were made. Of these, 42 were granted in full and 5 in part. 5 were refused and of those the Crown only opposed in 1, demonstrating that even when the evidence sought is inadmissible, the Crown fail to recognise this.

Complexity

What is clear from the complex nature of the legislation and case law surrounding s275 applications, is that the court really need more than just the 'views' of the survivor in order to undertake the delicate task of balancing the rights of all parties. It is also clear that a survivor needs to be given detailed, professional advice regarding the legal issues before they can give informed instructions to the court of their position.

At the outset the test that needs to be applied in a s275 application is a complicated one which needs to consider a number of factors to be satisfied if the application is allowed;

- (a) that the evidence or questioning will relate only to a specific occurrence or occurrences of sexual or other behaviour
- (b) that occurrence or those occurrences of behaviour or facts are relevant to establishing whether the accused is guilty of the offence with which he is charged; and
- (c) the probative value of the evidence sought to be admitted or elicited is significant and is likely to outweigh any risk of prejudice to the proper administration of justice arising from its being admitted or elicited.

This is referred to in the case of DS v HMA as the tests of specificity and relevance followed by a balancing exercise. In addition, the court must also provide adequate protection of a complainer's dignity and privacy.

Not only are the legal tests that operate complex, but they also engage a survivor's rights under article 8 of the ECHR for the 'right to respect for her private and family life, her home and her correspondence.' Any Interference with art 8 rights requires to be the minimum extent necessary to allow the aim.

There are also important questions regarding the function of privacy and GDPR laws and how they will affect the obtaining, use and retention of a survivor's personal information and the limits for which this can be used.

Survivors entering this process need to be guided through this complex legal landscape for their voices to be truly heard and their decisions regarding the applications be informed in the knowledge of their legality and the consequences of them.

Comparison with other Jurisdictions

The provision of ILR available in Scotland currently falls short of what complainers in other countries are entitled to. A notable example of this is the Republic of Ireland where IRL with legal aid is currently available to survivors of rape, and the recommendation is to extend this beyond to all sexual offences. This has led to further reform to the system to accommodate the changes; there was no requirement for preliminary or pretrial hearings, meaning the sexual history applications were argued at the start of the trial. This has led to procedure changing to accommodate the survivors' right to be

represented. Benefits found are that the Crown can focus on the significance of applications only to the prosecution and it ensures that the complainers are satisfied that their views were heard. With advice from a legal representative, not all survivors opposed the applications. It is considered by practitioners, and by Rape Crisis Ireland to have had a positive effect on the experience of complainers in sexual offence trials.

How it should function

The provision of ILR is likely to improve survivor experience of the criminal justice system, increase confidence in its functioning and encourage more survivors to report what has happened to them.

Keane and Convery highlight the important functions that ILR could provide for sexual offence complainers:

- Explain the legal framework within which the admissibility is assessed and appropriate case law
- Explain complex and constantly evolving areas of law which complainers cannot reasonably be expected to have a proper grasp of without ILR
- Informed opinion of likely outcomes
- Take detailed instructions in relation to the evidence that might be particularly offensive to the complainer's dignity and privacy
- Vindicate interests at hearings in a way 'no existing actor in the present process currently does'
- Properly explain the effect of any determination under s275 so that the complainer would be aware of what was to be asked of them and what could not

This is more than having the right to object to the evidence, it is to enable complainers to receive important advice on the process and potential outcomes of a complex legal landscape, working towards reducing re-traumatisation and improving survivor experiences.

It is vitally important to note that rape crisis advocacy workers have an important role to play in supporting complainers throughout proceedings, but they are not fully equipped to advise on law and practice, nor represent complainers' interests in any legal hearings; that is not their purpose.

What is being proposed is not radical reform, it is in keeping with the established provisions regarding sensitive records, it is ensuring that there is compliance with the principles outlined in the legislation including the rights of victims in the 2014 Act. It seeks to ensure that these provisions are realised in practical terms.

We are supportive of legislation that clearly sets out the requirements and establishes these rights. In sensitive record cases, the case of WF established the right, and there have been difficulties in accessing this right. It took several years to establish who has the duty to inform the survivor of the application or her rights, and there is still some inconsistency in how this works in practice. Legislating for ILR for s275 applications gives the opportunity to clearly set out not only the right to ILR but how this right can be meaningfully accessed by complainers.

Legislation should set out the automatic right and the information they are entitled to – which should include a copy of the application and documents referred to within, copy of the charges, complaint/ indictment and a leaflet setting out a complainers' rights and signposting them to support and assistance, similar to the one produced by RCS on sensitive records: <https://www.rapecrisisscotland.org.uk/resources/Access-to-Sensitive-Records-.pdf>

Usually, the person making the application will serve these but, in this case, it is not appropriate for the accused's solicitor to have contact details for the survivor. This means there needs to be clear protocol for how this is done; difficulties in sensitive records cases have frustrated the rights and the ability of complainers to be heard and this cannot happen here. We note that the Inspectorate for Prosecution suggests that the court should have responsibility for intimation in these circumstances.

49 To what extent do you agree or disagree that the complainer should have the right to appeal a decision on a section 275 application?

Strongly agree

Please give reasons for your answer:

We strongly agree that complainers should have the right to appeal a decision on a s275 application, the same right of appeal as the Crown and defence. We have seen that often the court of first instance, deciding on the application initially will get the legal provisions and the tests they include wrong. The case of Macdonald is just one of the most notable cases where the complex tests and case law were applied incorrectly. Were there to be no right to appeal for the survivor/ complainer then they would not have the full protection offered by the legal system that has a system of appeals built into this to ensure fairness.

The complainer's appeal should be heard prior to the giving of evidence and an expedited appeal process should be available for this purpose to prevent delays to the taking of evidence.

They should be able to seek leave to appeal at the hearing and if that is refused then seek this through the appeal court.

50 To what extent do you agree or disagree that a right to independent legal representation for complainers should apply during any aspect of criminal proceedings in respect of applications under section 275 applications (including where an appeal is made)?

Strongly agree

Please give reasons for your answer:

The complainer should have a right to ILR during any aspect of criminal proceedings in respect of applications under s275 (including where an appeal is made). For their rights to be fully realised, and their views advocated for, they should have meaningful participation whenever such an application is raised.

51 In exceptional cases, section 275B(2) provides that an application may be dealt with after the start of the trial. To what extent do you agree that independent legal representation should apply during this aspect of the proceedings?

Strongly agree

Please give reasons for your answer:

In line with our above answers, we agree that even when an application is made after the start of the trial, the complainer should be able to obtain ILR and have her position advocated for if she wishes. If the application is made late in proceedings it has the potential to be far more distressing for the survivor to deal with if they have already attended court, or even started giving their evidence. This situation would require more oversight and protections from an independent legal representative.

52 To what extent do you agree that independent legal representation for complainers in respect of the applications under section 275 should be funded by legal aid?

Strongly agree

Please give reasons for your answer:

Non-means-tested legal aid should be easily available to all survivors for the provision of ILR in cases where there is a s275 application. The complainer is being brought into these proceedings by the Crown as a witness and is under a public duty to attend court. As such, it would be inappropriate that they be charged in any way for this. Means testing should not occur, nor should there be any contribution to pay. This is in line with the provision available for sensitive records cases.

The current approach with ILR for sensitive records with its need to demonstrate that the individual is unable to represent themselves should not apply here – it is inappropriate and creates an unnecessary barrier to what should be an automatic right.

53 If you agree that independent legal representation for complainers in respect of the applications under section 275 should be funded by legal aid, how should this be provided?

c) other - please provide details in the box below

Please give reasons for your answer:

Whatever avenue is ultimately taken to provide legal aid this should ensure that complainers receive a high level of service to address their needs in a timely and trauma-informed manner. Many are experiencing trauma and distress in the aftermath of their abuse and the ongoing court case. Pressures experienced in the obtaining of legal advice should be negated by ensuring that there are adequately qualified and properly funded solicitors to perform this role.

We are increasingly aware of the pressures seen with the legal aid system. We are seeing a rise in the number of cases where women are struggling to obtain civil legal aid for a variety of reasons. Many civil legal aid providers are no longer providing this assistance as it is not financially viable to do so. In the criminal bar, solicitors across Scotland have taken strike action, including on cases with elements of gender-based violence, as a means to highlight their concerns. We would want these issues to be addressed so that survivors could expect good quality advice and representation to be available. As these applications concern the function of complex criminal law principles, it would make sense for criminally trained solicitors and advocates to be available to provide expertise to survivors.

54 To what extent do you agree or disagree statutory time periods should be adjusted to provide additional time for the complainer to consider the application and effectively implement their right to independent legal representation prior to trial?

Strongly agree

Please give reasons for your answer:

Applications should be made a minimum of 14 clear days for all trials to allow time for a survivor to obtain legal advice.

55 Are there any other matters relating to independent legal representation for complainers in sexual offence cases that you would like to offer your views on?

Please provide details:

We are proposing that survivors of sexual violence are given the right to independent legal advice (ILA) throughout proceedings within the criminal justice system. This proposal is distinct and separate from the proposed rights to ILR in relation to s275. We submit that there is a strong case for widening access to ILA for survivors throughout the entirety of the case, not just limited to representation in sensitive records or sexual history applications.

The criminal justice system is a complex and intimidating environment for a survivor to negotiate. It has a myriad of rules and potential pathways. It is demanding of a complainer's dedicated input and personal information often leading to no return. It is complex territory for lawyers to understand, let alone a survivor.

This would go some way to address the 'justice gap' in Scotland, as despite having a number of rights available, survivors are often not aware of them or able to exercise them.

The complexity of criminal investigations and trials necessitates this approach. Survivors need information about legal rules and processes; they need the nature of evidence and procedure explained to them. The confusion that is caused to survivors contributes to secondary trauma and can mirror the loss of control and agency that they experienced during the rape or sexual abuse.

Lawyers can give impartial advice and they can offer confidentiality. They can explain the effects of different decisions or outcomes and guide through the process. They could inform of procedure, update on the case, process of evidence and general nature of the defence case. This could run through the investigation stages, the trial, outcome and any appeal or parole proceedings.

So much is at stake for the survivor and her wellbeing by engaging in the criminal justice process, she should be empowered to make informed decisions about whether and how to engage with this through investigation, disclosure and trial. The Crown Office is not able to fulfil this role.

Further protection needs to be provided in the recovery of sensitive records. The provisions for ILR, both existing and proposed, only cover applications at preliminary hearings for sensitive records and those under s275. However, often the recovery and use of sensitive records can occur at the earlier stages of investigation, prior to a prosecution commencing. The police or the Crown can ask permission of the survivor to obtain personal records. If they refuse, they have the power to seek a search warrant.

We know of survivors who have been told by police that if they do not give consent then the case will not progress. This is itself a major intrusion into the privacy of a survivor and as it stands, they receive no independent legal guidance on this.

Support for this has been found in the pilot for providing ILR in Northumbria, England, where in addition to ILR they also provided legal advice at other stages in the process and preliminary stages.

They found that even within police and CPS the requests were excessive and rooted in myths about sexual violence – decisions to give up data or have case dropped were unfair, the presence of legal assistance at these stages reduced the intrusion.

We have outlined the difficulties with cross-examination throughout this briefing. Legal advice could be provided to mitigate against the trauma caused by this process. What we propose is very far from being able to 'coach' complainers of sexual violence regarding their answers or to provide the full nature of the defence evidence but to advise them of the general line of defence and the nature of cross examination. Understanding this and having legal advice can lessen the most traumatic part of the process.

ILA could also provide essential improvements in information-sharing with complainers of sexual violence, including information on their rights and on the process of the investigation or trial.

International comparisons provide a great deal of support for further extension of legal support to Survivors. In the article 'Review of Advocacy for Rape Complainants' the provision for legal advice in other countries is outlined.

In Canada, in addition to ILR, they offer 5 hours of state funded legal advice. In India there is provision for state funded legal advice which included advice prior to reporting to the police and to prepare the complainant for cross-examination. In Ireland solicitors for the survivor have been permitted to sit in the trial and monitor the cross-examination, they can indicate to the prosecutor if something is wrong.

Many of the Nordic countries afford far more by way of provision of legal advice and can represent complainers throughout proceedings. Sweden provides legal advice throughout proceedings and about police processes. In Denmark, guidance is given on cross examination.

Research has found that legal advocacy positively impacted complainants wellbeing and caused no negative impacts on the accused right to a fair trial.

We found universal support for ILA from survivors. Miss M stated that having this in her criminal process;

'would have made a huge difference, you spend a lot of time trying to understand legal jargon, I could spend weeks trying to work out what something meant only to work out that I got it wrong. That is traumatic and stressful and takes up your life'

She comments that;

'So many people can't cope with the (criminal) legal system so pull out. ILA could lead to fewer people pulling out.'

Miss AB, who went through a similar legal process also compared the level of support she received her Civil case are favourable to that which she received in the criminal trial.

One survivor in the SRG stated that she had;

'No indication of kind of questioning which felt like a character annihilation. I didn't feel prepared for how vicious it was. The way I was treated, and the lack of knowledge felt left more trauma than the incident itself. Thinks more information would have been a bit more helpful.'

Another stated;

'people think the justice system is supposed to protect victims but it doesn't it protects the accused and the fact we don't have legal representation shows this'

As such, we believe there is a strong case for the extension of legal advice to all survivors of sexual violence during their journey through the criminal justice system. This will help reduce secondary trauma and increase confidence in the system, leading to more survivors reporting. This is not a change to the nature of the adversarial system – this is about understanding processes, reducing re-traumatisation, providing better access to rights which already exist and giving professional advice to the most vulnerable victims of crime.

Chapter Seven: Specialist court for sexual offences

56 To what extent do you agree or disagree that a specialist sexual offences court should be created to deal with serious sexual offences including rape and attempted rape?

Strongly agree

Please give reasons for your answer:

We strongly support the creation of a specialist sexual offences court and believe this could improve the experiences of complainers accessing the justice system in this way.

We support the key elements of the specialist court outlined in the report from Lady Dorrian's Review which incorporate;

1. The pre-recording of the evidence of all complainers
2. increased judicial case management, including ground rules hearings for any evidence to be taken from a complainer, either on commission or in court
3. accredited and specialist trauma-informed training for all personnel, including defence lawyers

We believe that the potential for these features to be maximised they should not be carried out within the existing court structure but should be delivered as part of a new specialist court. The ethos of this system must be trauma-informed and victim-centred in its approach. The best way to achieve this is a completely new endeavour, showing a distinction and evolution from old ways of practice. If we consider the complex interplay of trauma and the multitude of failings within the current system there is a strong argument for specialism in sexual offences; these are offences which require a distinct

and unique response.

We believe that a lot of the topics we have addressed throughout this consultation for example, visually recording evidence and trauma informed practice, would be better delivered within the structure of a specialist court with focus and dedication from staff who have the needs of complainers of sexual violence at the forefront of their minds.

Trauma-informed care does not just mean providing a one-off training course, it is about an ethos which confers principles onto practice. Those of choice, collaboration, trust, empowerment and safety.

Evidence in support of specialist courts can be seen in both Scotland and abroad. We see the success of the domestic abuse courts created in Scotland. These have led to an increase in early guilty pleas and the increase in conviction rates as well as greater victim satisfaction.

We have also considered the review of the specialist court pilot scheme in New Zealand with positivity. Features of this include dedicated judges, control of cross-examination and greater use of special measures. It also incorporated features for the comfort and safety of complainers for example, meeting all court parties, being shown round court and separate entrances.

It was considered that the court dealt with delays in an efficient way and improved trial quality with better evidence. The average time to disposal of a case was 134 days. Survivors were better prepared for the trial and the court was more alert to unacceptable questioning which afforded them protection. There were also firm trial dates. Independent victim advocates worked alongside the court.

This led to more pre-trial guilty pleas. There was general reporting that complainers felt reduced re-traumatisation. There has been unanimous support for this to be developed nationally and this is in progress.

An interesting feature we could incorporate was the use of dedicated case managers, who are court staff in charge of contacting witnesses and scheduling. They also make sure to ascertain the individual needs of complainers and other witnesses, taking a proactive rather than a reactive approach. We could also learn from the challenges that were faced by the New Zealand pilot – the sufficiency and reliability of technology and the physical constraints of existing buildings were seen as difficulties. Specialist care should be taken to foresee these difficulties in our own development.

We also see that there have been benefits noted from South African research where specialist courts have been in operation, in particular in the reduction of delay in cases.

Members of our SRG were strongly in support of the creation of a specialist court;

One stated;

‘if you have a specialism that’s a benefit and there’s an ideology of it being compassionate and empathetic. It feels not as clinical or as brutal.’

They also highlighted the importance of having the option to view proceedings and the control and information this gave back to them, but that the facilities to do so were not acceptable. There was strong support for the creation of a private viewing area for survivors to watch proceedings. There is a requirement to understand that although giving evidence on video is desirable this does not mean that they do not want to know what else is said in trial. Survivors are frequently told they should not watch from the public gallery because it looks bad to the jury. One survivor described that in order to watch she had to look over her attacker’s shoulder. All survivors we consulted felt that a private viewing gallery or a live stream would be the best options. Miss M described how this caused her particular distress as she was encouraged to remain in the witness room throughout the criminal trial while a family member watched and tried to report back to her. Many survivors whose cases ended in not proven verdicts described particular distress as not knowing what evidence led to this. In one example the survivor had been given reassurances about the case from the police and the Crown as there was a video recording of her rape. She was advised not to watch the rest of proceedings but was left in shock by the not proven verdict, she has been left unaware of what the accused could have said to convince the jury that the video recording was not sufficient evidence.

Survivors also highlighted the fear of bumping into the accused, or his family, at court. Many described this actually happening and there are far too many accounts of them being approached and intimidated. The importance of separate entrances and waiting areas is key.

Therefore, in addition, we believe that the court should feature: -

- Dedicated advocacy and court support provided by Rape Crisis advocacy workers – our staff are specially trained to deal with the needs of survivors and often have established relationships, this is a well-developed programme which could be further funded to provide the level of care and protection needed for survivors
- A totally new approach to the scheduling of trials which avoids floating trial diets – these are completely inappropriate for sexual offences and must come to an end. As previously indicated, this is an area frequently reported to cause anxiety and distress for survivors.
- Separate entrances and waiting areas for survivor and family
- A protected area where the survivor and her family can watch proceedings

We are supportive of the development of trauma-informed training for all court personnel and note that this needs to be a meaningful level of training and that there should be a standard. Following on from appeal court judgements, we see that there should be some form of ticketing service for Counsel and lawyers participating in the court to deal with situations where an individual demonstrates that they are inappropriate for that role. We also recognise the role of vicarious trauma, and that staff may need support. This could be worked into the model.

57 To what extent do you agree or disagree that, if a new specialist sexual offences court is created, it should be - as recommended by Lady Dorrian’s Review - a new court for Scotland, separate from the High Court or the Sheriff Court?

Strongly agree

Please give reasons for your answer:

We are in favour of the model proposed by Lady Dorrian which proposes a new dedicated specialist court distinct from the High Court and Sheriff Court. However, we are strongly opposed to this court having any reduced sentencing powers as see this creating at the very least the impression of a downgrading of rape and other serious sexual offences.

We believe that the above discussed features can best be delivered in the creation of a unique and distinct system which differentiates itself from the

past structures. This would not only be the best model for delivering the unique package of reforms but would also send a strong message to complainers of sexual violence of the dedication of Scotland to treating them with fairness and tackling sexual violence.

58 If you disagree that the specialist court should be a new separate court for Scotland, where do you consider it should sit?

b) within both the High Court and the Sheriff & Jury Court

Please give reasons for your answer:

We propose that there should be two tiers to the specialist sexual offence court, one for Sheriff and Jury cases and one for High Court cases. This ensures that all complainers entering the courts receive the same level of treatment.

59 To what extent do you agree or disagree that, if a specialist court is to be created, it should have jurisdiction to hear cases involving charges of serious sexual offences including rape as well as non-sexual offences which appear on the same indictment (e.g. assault)?

Strongly agree

Please give reasons for your answer:

We agree that if the specialist court are hearing the charges involving serious sexual offences, including rape, they should also deal with other offences associated with those incidents and involving the complainer. If there were also charges of assault for instance, it would be disadvantageous for the complainer to have to attend in different court systems and repeat evidence, this would increase distress rather than decrease it. It would also impose restrictions on what a complainer could talk about at a particular trial.

The specialist court will be staffed by professionals capable of dealing with all types of offending so should deal with cases together.

60 If a specialist sexual offences court distinct from the High Court or the Sheriff Court were to be created, to what extent do you agree or disagree with Lady Dorrian's Review that it should have a maximum sentencing power of 10 years' imprisonment and the ability to remit cases to the High Court for consideration of sentences longer than 10 years?

Strongly disagree

Please give reasons for your answer:

We consider that the proposed 10 year sentencing limit on cases tried in the specialist court would be seen as downgrading the offence of rape. The specialist court should have unlimited sentencing powers.

If a Sheriff is sitting as a temporary judge in the High Court then they have the same sentencing powers, this is the current practice and as such they should be able to perform this role.

We propose that the specialist sexual offences court should have two tiers to it – one at Sheriff and Jury level and one at High Court level. The Sheriff and Jury level would continue deal with cases marked to be dealt with at that level and be presided over by Sheriffs who would have the same sentencing powers as they currently do in those cases. In the High Court, the most serious cases of Rape and Sexual abuse would continue to be dealt with and there should be no sentencing limit there even when Sheriffs sit in that capacity.

61 If you disagree that a specialist court should have a sentencing limit of 10 years' imprisonment, what do you consider the limit should be?

a) unlimited

Please give reasons for your answer:

For the reasons explained above, cases of serious sexual abuse and rape should continue to be prosecuted at the level of High Court with unlimited sentencing powers. They should not be downgraded.

The specialist court could function in a two-tier system whereby it has capacity in the Sheriff and Jury and High Court sittings with the same sentencing powers.

62 If a specialist sexual offences court distinct from the High Court or the Sheriff Court were to be created, to what extent do you agree or disagree that it should be presided over by sheriffs and High Court judges?

Strongly agree

Please give reasons for your answer:

It is common practice for Sheriffs to sit as temporary judges in the high court and perform that role. We see no reason for this not to continue. It will also increase the pool of judges able to carry out these cases and contribute to reducing delay.

Sheriffs could continue to preside over Sheriff and Jury level cases and, where appropriate, sit in the capacity as High Court judges.

63 If you answered disagree to the previous question, who do you think should preside over the court?

Not Answered

Please give reasons for your answer:

64 If a specialist sexual offences court distinct from the High Court and Sheriff Court were to be created, to what extent do you agree or disagree that the requirements on legal practitioners involved in the specialist court should be match those of the High Court?

Neutral

Please give reasons for your answer:

The rights of audience should continue to match the structure of the existing court system. In Sheriff and Jury level cases solicitors and Procurator Fiscals would have rights of audience but in High Court cases only ADs, Advocates and solicitor advocates could conduct the cases.

65 To what extent do you consider that legislation should require that legal professionals working in a specialist court should be specially trained and trauma informed?

Strongly agree

Please give reasons for your answer, including any specific training requirements that you think should be introduced:

All professionals involved in the conduct of rape and serious sexual offences cases should be required to undergo specialist trauma-informed training. As discussed at various points in the consultation, there have been issues time and time again with the treatment of complainers during cross examination. This needs to become a thing of the past and solicitors and counsel trained further on the treatment of vulnerable witnesses and in particular the effects of sexual violence.

We also support that Crown staff should be trained in this regard. We have heard examples of inconsiderate and distressing treatment from AD's in trials, in the manner and tone they have taken with survivors or feeling dismissed when they try to provide them with information. Some complainers reported feeling patronised or belittled.

We believe that there should be a particular accreditation for legal counsel and solicitors to undertake this specialised work. This must include a framework where accreditation can be withdrawn if information comes to light which demonstrates that an individual is not suitable to undertake this work.

66 Are there any other matters relating to the potential creation of a specialist court for serious sexual offences you would like to offer your views on?

Please provide details:

Many of the survivors we consulted with indicated that they would be prepared to travel further in order to gain the benefit of the specialist court over being able to get to a court closer to where they lived. This was particularly seen as viable if they were given firm court dates.

Chapter Eight: Single judge trials

67 To what extent do you agree or disagree that the existing procedure of trial by jury continues to be suitable for the prosecution of serious sexual offences including rape and attempted rape?

Somewhat disagree

Please give reasons for your answer:

At RCS we are in favour of the creation of a single judge trial pilot being introduced in Scotland.

We have long seen that there are serious concerns about the ability of a jury to properly determine a trial involving rape or sexual violence.

There is sound research that juries are overly affected by the concept of rape myths. Fiona Leverick's research demonstrates overwhelming evidence that rape myths impact jury decision making. These myths related to the effect of alcohol, length of time in reporting and assumptions about how 'real' rape victims should present, despite evidence to the contrary. Research also alluded to the fact that there is a real perception of jury members that 'false allegations are routine' (reported in more than half of the cases) and that delay in reporting is indicative of a false allegation. Meaningful and in-depth research has concluded that the instance of genuine 'false' allegations sits somewhere around 3% of all cases reported and is therefore considerably rare and comparable to false allegations of other crimes.

There have been proposals that juries be required to watch an educational video before a rape case regarding rape myths, but we must appreciate that these are often firmly established, systemic and life long held views regarding sexual behaviour and misogynist themes – not something that can be dispelled in a 10-minute video.

There is also evidence that juries do not understand the complicated legal rules that exist. This was demonstrated in the mock jury research conducted in Scotland and published in 2019 – this found inconsistent and incorrect views on the meaning of 'not proven' and there were issues around understanding of concepts like the 'burden of proof' or special defences. There is particular concern regarding a jury's ability to understand the 'Moorov' doctrine which is incredibly complex and also a concept which is often subject to appeal cases demonstrating that lawyers, advocates and judges do not always consistently apply these principles.

Survivors we consulted were, in the most part, favourable to the concept of judge led trials. Concerns were raised about the demographic of the majority of judges, but compared to the effects of a jury it was considered a better option and worthy of the pilot scheme. We think that issues regarding the diversity of judges could be addressed by extra training and recruiting.

There were reports of feeling 'watched' by the jury and that everything had to be a performance for them. Survivors were frequently warned about how things might look to the jury and what they might think of them. This heightened anxiety immensely. Miss M described this as a 'dramatic play where my

actions could affect the jury.'

This is a point touched upon in Lady Dorrian's review, the presence of a jury often gives the perception of matters being treated by counsel as a theatre production rather than a trial. Styles of advocacy are utilised for effect and irrelevant and damaging evidence brought up and hinted on to purposefully engage the prejudices of the jury. It is a performance and not a genuine presentation of the evidence.

Some survivors felt that if a judge was to preside alone then they would at least have some explanation as to the outcome. A judge would be required to give them reasons for a decision. Some survivors describe the lack of any explanation for a jury's decision as distressing because it means they are never able to understand what happened.

Complainers such as Miss M, and Miss AB, who have been through the civil processes, describe the judgement they received in those cases to be meaningful and have affected them positively. Miss M in particular stated 'I would rather have a judge deliberating about my future.'

There is a feeling that judges are legally trained but also accountable in a way that juries are not. They are trained to evaluate evidence and are less likely to be distracted by irrelevant issues.

There is significant support for the possibility that the introduction of judge led trials could lead to reduction in delays. Timesaving benefits include not having to cite and empanel jury members, having to remove the jury for legal debate. There is also the potential to massively reduce the cost of these trials.

There is evidence, obtained in the Lady Dorrian Review, that suggested that many judges reported cases where the evidence led justified conviction of rape and where they could not understand why the jury acquitted. This was seen to have been a difficulty when there was a single complainer even where there was ample good quality evidence. One Judge said;

'The cases in which it appears to me that, regardless of the quality and quantity of evidence juries do not convict with appropriate regularity, are cases where there is one complainer and a single charge of rape. In cases where there is evidence of a quality and quantity which for any other kind of crime would lead to a conviction, I see a number of acquittals each year in rape cases which, to my mind, are not explicable by rational application of the law to the evidence. Not all judges will agree with my views on this, but I have reason to believe that they are shared by at least a number of senior and experienced judges.....Every year I preside over several rape trials of this kind in which I would have no difficulty on the evidence in being satisfied beyond reasonable doubt of the guilt of the accused only to see the jury return a verdict of acquittal, usually not proven'

The pilot could ascertain the effectiveness of them, the perception by complainers, lawyers and judges. We also think that there should be more in-depth and comparative analysis with other jurisdictions who use this model.

68 If you have answered 'neutral' to the previous question, what further evidence, research or information would assist you?

Please provide details:

69 To what extent do you agree or disagree that trial before a single judge, without a jury, would be suitable for the prosecution of serious sexual offences including rape and attempted rape?

Somewhat agree

Please give reasons for your answer:

As stated above we feel there is a strong case for a pilot of single Judge trials in Scotland.

70 If you have answered 'neutral' to the previous question, what further evidence, research or information would assist you?

Please provide details:

71 What do you consider to be the key potential benefits of single judge trials for serious sexual offences? Please select all that apply.

a) removal of potential bias of the jury, b) removal of concerns around rape myths, c) greater efficiency of court process including reduced trial length, d) improved court experience of the complainer, e) greater public confidence in the decision making, including the application of legal principles

Please provide reasons for your answer:

We believe that all of these could be potential benefits of a trial presided over by a single Judge.

72 What do you consider to be the key concerns and challenges of single judge trials for serious sexual offences? Please select all that apply.

b) lack of diversity reflected in the pool of decision makers

Please give reasons for your answer:

We are concerned that there is currently a lack of diversity in the makeup of the Judiciary in Scotland however, in respect of the introduction of a pilot scheme we feel that these concerns are significantly outweighed by the concerns regarding the continued use of juries in the current system. We also feel that there could be steps taken to address this lack of diversity.

73 If you highlighted concerns and challenges in the previous question, which of the following safeguards do you think could be put in place to mitigate these. Please select all that apply.

b) specific training for judges, c) other – please provide details in the box below

Please give reasons for your answer:

We believe that any Judge sitting alone in a case of rape or sexual violence should be required to undergo specific training. This could be in line with the training suggested for the functioning of a specialist court.

74 What additional evidence and information do you think would be useful to assess the question of the role of juries in the prosecution of serious sexual offence cases?

Please provide details:

The pilot scheme could provide a wealth of information and experience. Detailed comparative study of other jurisdictions.

75 Lady Dorrian's Review recommended consideration of a time limited pilot of single judge trials for offences of rape, do you have any views on how such a pilot could operate?

Please provide details:

Please see above responses.

76 Are there any other matters relating to single judge trials that you would like to offer your views on?

Please provide details:

Chapter Nine: Impact Assessments

77 Do you have any views on potential impacts of the proposals in the chapters of this consultation on human rights?

Yes

If you have selected yes, please provide details. Please make reference to the specific proposal or proposals to which your comments relate.:

As stated throughout our consultation we are concerned with the interference of current practices with the human rights of survivors of sexual crime. With regard to their privacy rights under Article 8 of the ECHR we are strongly in support of the introduction of ILR. Regarding the risk of interference with their Article 3 rights we call for tighter control over the ability of the defence to subject survivors to cruel methods of cross-examination.

78 Do you have any views on potential impacts of the proposals in the chapters of this consultation on equalities and the protected characteristics set out above?

Yes

Please provide details, making reference to the specific proposal or proposals to which your comments relate. :

Various barriers to justice exist for survivors within our justice systems, these barriers are compounded when intersectional inequalities coexist. We frequently see that survivors of colour, disabled survivors and LGBTQI+ survivors face exacerbated barriers which keep them further away from obtaining justice. Specific care and focus on the needs and inclusion of these communities is required. This applies throughout the scope of this consultation.

79 Do you have any views on potential impacts of the proposals in the chapters of this consultation on children and young people as set out in the UN Convention on the Rights of the Child (UNCRC)?

Yes

Please provide details, making reference to the specific proposal or proposals to which your comments relate. :

80 Do you have any views on potential impacts of the proposals in the chapters of this consultation on socio-economic equality?

Yes

Please provide details, making reference to the specific proposal or proposals to which your comments relate. :

Survivors of sexual violence often face financial hardship as a direct result of their experiences and failure to provide adequate protection will only increase this.

81 Do you have any views on potential impacts of the proposals in the chapters of this consultation on communities on the Scottish islands?

Yes

Please provide details, making reference to the specific proposal or proposals to which your comments relate. :

Survivors living in more remote communities, such as the Scottish islands, can face particular challenges with regard to accessing justice. They may be far away from services and struggle to engage for this reason. There must be particular analysis of how the benefits of any changes proposed in this consultation could be delivered to those in Island communities.

82 Do you have any views on potential impacts of the proposals in the chapters of this consultation on privacy and data protection?

Yes

Please provide details, making reference to the specific proposal or proposals to which your comments relate. :

There are concerns regarding the wide gathering, use and retention of private information regarding rape complainers' personal records and sexual history. Including medical, school, social work and phone records as well as access to their counselling notes. This can engage not only their Article 8 rights but also the provisions of the Data Protection Act. This is why we are supportive of extended ILR for survivors in criminal trials.

83 Do you have any views on potential impacts of the proposals in the chapters of this consultation on businesses and the third sector?

No

Please provide details, making reference to the specific proposal or proposals to which your comments relate. :

84 Do you have any views on potential impacts of the proposals in the chapters of this consultation on the environment?

No

Please provide details, making reference to the specific proposal or proposals to which your comments relate. :

About you

What is your name?

Name:

Kate Thompson

What is your email address?

Email:

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Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

Rape Crisis Scotland

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

Publish response only (without name)

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

I confirm that I have read the privacy policy and consent to the data I provide being used as set out in the policy.

I consent

Evaluation

Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)

Matrix 1 - How satisfied were you with this consultation?:

Slightly satisfied

Please enter comments here.:

Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:

Slightly satisfied

Please enter comments here.: