

Survivor Reference Group

Initial Report





Rape Crisis Scotland is the national office for the Rape Crisis movement in Scotland, working to end sexual violence.

We work to:

- increase public awareness and understanding of sexual violence,
- improve responses for survivors of sexual violence across Scotland,
- support the delivery of high quality specialist services for survivors of sexual violence
- improve justice responses to sexual crime.

If you have been affected by sexual violence
our helpline is open every day from 6pm - midnight
on **08088 01 03 02.**

You are not alone.

INTRODUCTION

The Survivor Reference Group are a group of survivors of rape and sexual violence from across Scotland who have engaged with the Scottish Justice System at any level, from initial police reports that went no further, right through to prosecutions.

Many of these survivors feel let down by the Justice System in Scotland and have come together to advocate for change. There is much that can be learned from their experiences and voices, and we ask that those with power and influence choose to listen.

Thursday 25th of April 2019 saw the first meeting of the newly formed Survivor Reference Group in Glasgow. The following report is a summary of what was discussed – including written contributions – that sheds light on how many survivors of sexual violence experience the justice system in Scotland.

It is worth noting that prior to engaging with the justice system some individuals were aware of the poor conviction rates for sexual violence. Unsurprisingly, this is widely acknowledged as a matter of real concern, and does act as a deterrent to reporting rape and sexual violence. It is important to be clear though: the issue here is not that survivors do not have confidence in the system, rather that the system does not give survivors confidence. Creating a system that survivors can have confidence in is the only way to meaningfully increase participation and faith in justice.



1. COMMUNICATION + DELAYS

Repeatedly raised as a significant issue at every stage of the justice process was poor, unreliable and at times inappropriate communication. This was highlighted as being significantly disruptive to the lives of survivors, and compounded existing feelings of powerlessness and a lack of control.

During Police investigations there was a lack of information given about the process, unreliable and inconsistent updates about the progress of the case, with survivors regularly directly, or through their advocacy worker, having to pursue updates and clarification, causing unnecessary stress and anxiety. One survivor highlighted that the police turned up at her place of work to share an important update, with no apparent consideration of the impact or appropriateness of this.

Unpredictable and significant delays over years in waiting for cases to be brought to trial were also noted as having a negative impact on the mental health of survivors and their ability to 'get on with their lives'. Very often there was no explanation nor justification given for the delays but for some the impact of this was severe, leading to job loss, negative impact on studies, depression and anxiety.

In one case a survivor noted having to ask no less than 5 times for alterations to special measures in advance of the trial, only to find this had not been completed as per her request on the day. In another, after years of waiting, the survivor was notified the day before she was expected in court that the case would not be going to trial after all.

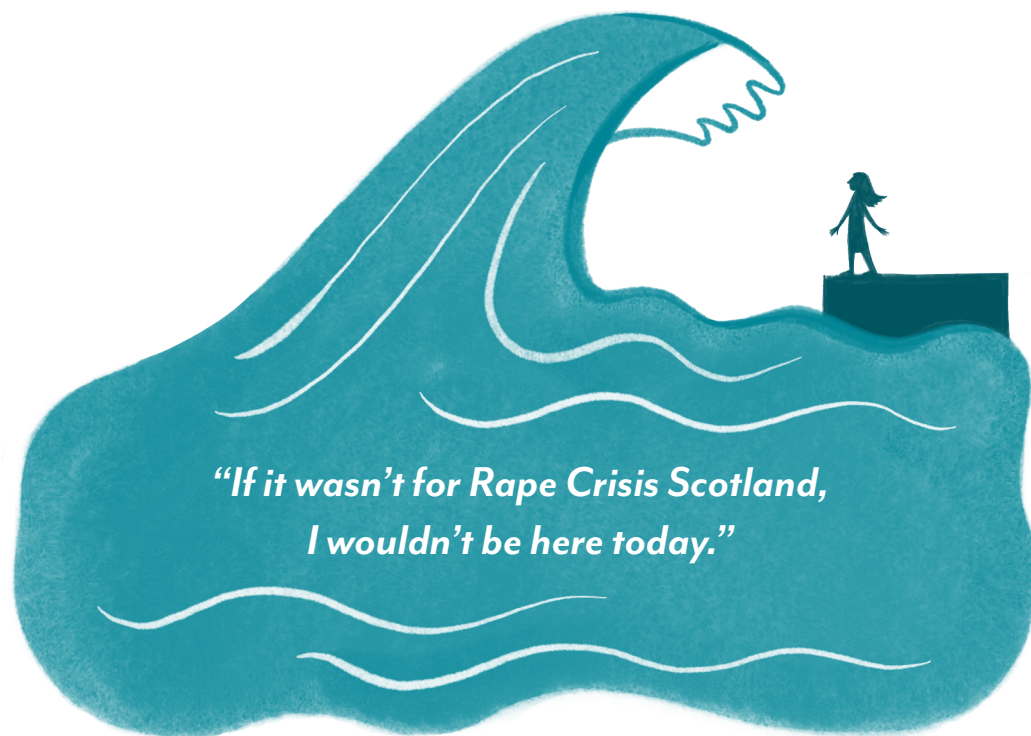
...survivors [report] regularly having to pursue updates and clarification, causing unnecessary stress and anxiety.

2. THE IMPACT

Survivors repeatedly referenced the impact of the incident(s) and subsequent process on their employment, with work and studies both impacted to the point of delays, long-term sick leave and even being fired because they were not coping. A combination of long delays, insensitive communication, a lack of information resulted in many survivors feeling as though the process held them back from being able to move on with their lives. The control taken from survivors during the assault(s) was compounded by a lack of control in the process of seeking justice.

Many elements of the process were retraumatising for the individual, and some were at pains to stress the impact on family, friends and loved ones supporting them through the process too.

The support of specialist organisations was considered invaluable by some members, with one who remarked: "If it wasn't for Rape Crisis, I wouldn't be here today."



"If it wasn't for Rape Crisis Scotland, I wouldn't be here today."

3. ATTITUDES

Barriers to securing justice were many, and the vast majority of those present did not secure a conviction. The response that survivors received from Police was mixed - in some cases women felt believed and supported, and had a broadly positive experience, with compassionate individuals. However, there were other examples where Police attitudes were concerning, with a lack of empathy with the individual reporting and on one occasion openly assuming the innocence of those accused in front of the survivor, with no thought for how this may impact her.

Despite improvements in police responses, it is clear that in some cases attitudinal issues remain and further training is required.

Harmful attitudes were not restricted to the police and the prevalent stereotypes that exist about who does and does not experience sexual violence and how they might respond was keenly felt and hampered healing. This ranged from survivors being considered too assertive, likeable and extroverted to be a victim, to the invisibility of older survivors and a pressure experienced by one woman who was expected to be able to handle and cope with the trauma in a certain way because of her age.

These attitudes that exist in public and media discourse seep into courtroom attitudes, in some cases being weaponized by the defence who in one case claimed the individual could not have been a victim of rape due to her otherwise successful background. It is of serious concern that the attitudes that exist amongst the public impact on the responses of professionals within the system and jury members, ultimately impacting on whether or more likely not justice is delivered.

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4. OUR RIGHTS

It was highlighted that the rights of victims are rarely communicated and in particular for those without Rape Crisis advocacy, this can make an already perplexing process much more challenging, adding to feelings of powerlessness and decisions being taken without appropriate information and knowledge of rights.



5. EVIDENCE

Securing the evidence for a prosecution in cases of rape and sexual violence is incredibly challenging, especially so in historic cases, in particular because of the legal requirement for corroboration.

Even in prosecutions where there was significant supporting evidence – including an audio recording of the attack taking place – a not proven verdict was delivered. Commenting on this, a local Rape Crisis Centre Manager said: “It is well worth all of us reflecting on what message it sends to survivors thinking about reporting rape – knowing full well that securing sufficient evidence is a challenge – that a literal audio recording did not carry the weight necessary to secure a conviction.”

In seeking to understand why the prosecution had failed, this particular survivor requested the courtroom transcripts and was quoted £1700. Access to this information should not be restricted to those who can afford it.



***...a literal audio recording
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to secure a conviction...***

6. THE COURTROOM

For those who got that far, the courtroom was broadly described as retraumatising.

Some survivors experienced being made out to be a liar, being shamed, facing hostile cross-examination, with the defence reliant on discrediting the character and personality of the complainer whilst amplifying the life and potential of the accused. Though some successfully secured a conviction, many in the room had not seen justice, as not guilty and not proven verdicts had been handed down. Feelings around not proven were mixed, with one survivor who received the verdict noting in a written submission to the Reference Group that it “left more questions than answers”; this is an area that merits further discussion.

Where there was clear agreement it was that to go through such a lengthy, traumatic and painful process and for there to be no justice nor closure has had a considerable impact the lives of those present. Even where there was a conviction, the process was described as having trapped individuals in a painful place for far longer than necessary.

Some present at the first meeting described the process of seeking justice in Scotland as being worse than the assault(s) itself. It could not be clearer that urgent action must be taken to improve processes and build a system capable of delivering justice to survivors of sexual violence.

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CONCLUSION

Those present at the first meeting of the Survivor Reference Group and those who have written in support are passionate about creating the changes necessary to create change, to address issues within the system and to making it better for those to come.

Their recommendations are credible and important. These include:

- Pre-recorded evidence being taken as close to the incident as possible;
- Guaranteed availability of forensics and other time limited necessities;
- Joined up, trauma informed communication providing consistent, reliable and appropriate information. Wherever possible there should be one point of contact and there should be reassurances and clarification as to who knows what in the process, what information is shared, with who, and why;
- An end to unnecessary, administrative, bureaucratic delays that trap survivors in limbo and negatively impact their mental health;
- Corroboration should be reformed;
- Juries could/should be screened in terms of prejudicial attitudes that will impact the case, given the prevalence of stereotypes and myths about sexual violence;
- Courtroom transcripts should be free for relevant parties after sentencing;
- Mandatory training on sexual violence and trauma informed practice for police, COPFS staff, sheriffs and judges;
- Review of consideration of bail conditions/restraining orders to prioritise the individual's safety and perception of their safety;
- A changed approach to cross examination to avoid hostile or insulting questioning;
- Greater awareness of Rape Crisis as life-saving support.

WE KNOW IT WILL
NEVER BE EASY TO SEEK
JUSTICE FOR SEXUAL VIOLENCE.

BUT WE ALSO KNOW IT
DOESN'T HAVE TO BE THIS HARD.





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