



Responding to Disclosures and Supporting Women Through the Criminal Justice System

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VictimFocus
LEARNING ACADEMY

Who Is This Resource For?

- This resource is for professionals working with women/girls in health and social care
- This includes those employed in:
 - Statutory services such as children's social care, the NHS, education settings
 - Third sector services such as housing associations, charities, women's refuges
 - Private services such as therapy, residential care, physiotherapy

The Purpose of This Resource

- To improve responses to women and girls who disclose sexual violence that they have been subjected to
- To increase professional's knowledge of appropriate responses to disclosures
- To increase professional's confidence in receiving and responding to disclosures
- To improve support for women and girls who have reported sexual violence to the police
- To increase professional's confidence in receiving and responding to disclosures
- To improve support for women and girls who have reported sexual violence to the police
- To increase professional's knowledge of the Criminal Justice System procedures after reporting sexual violence to the police
- To increase professional's confidence in supporting women and girls who have reported sexual violence to the police

Due to the nature of the topics in this course there may be content that is distressing. If you need emotional or wellbeing support, please speak to someone you trust and/or a professional.

If you have any general questions about this resource, please contact us:

Email: chloe@victimfocus.org.uk

Web: www.victimfocus.org.uk/contact

Please note we have a free resource for victims titled 'Reporting A Sexual Offence: Your Rights' which contains information further information about:

- Sexual Assault Referral Centre's (SARCs)
- The Victims Code
- Support from CJS Services and Agencies and Giving Evidence
- Giving Evidence
- Compensation, Right to Review, Complaints and Appeals
- Victim Contact Scheme
- Civil Orders

The above resource can be found at: www.victimfocus.org.uk

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GLOSSARY

Acquittal

A judgement that a person is not guilty of an offence for which they've been charged

Approved premises

Accommodation managed by the Probation Service for risk management/monitoring

Bail

The temporary release of someone awaiting trial, awaiting charges or (if already convicted) awaiting sentencing

Breaching

Breaking, or 'breaching', the rules of a probation licence or bail conditions

Complainant

The person who makes the complaint in a legal action or proceeding

Crown Prosecution Service (CPS)

The primary public agency responsible for prosecuting criminal cases

Culpability

The degree of fault by an individual involved in the commission of an offence

Licence

The set of conditions that a person must keep to upon release from prison

Magistrate

An unpaid member of the local community, appointed by the Lord Chief Justice, to hear cases at the Magistrates Court

National Probation Service (NPS)

The agency responsible for monitoring high-risk offenders in the community after their release from prison

Offender Manager

Someone who works for Probation, with responsibility for an offender during their entire sentence whether served in custody, the community or both

Parole

A provisional release from prison before the completion of a maximum sentence, subject to conditions

Parole Board

An independent body that determines whether a prisoner is safe to be released from custody

Probation

The portion of a sentence served outside prison, e.g., a community sentence or person released on parole

Recall

Where a person on parole violates a condition of their licence, they may be 'recalled' back to prison

Recidivism

The occurrence of a person reoffending

Rehabilitation

The process of restoring a person who has offended to a crime-free life

Remand

Being put on remand means a person will be placed in custody pending either a trial or sentencing

ROTL (Release on Temporary Licence)

A prisoner coming to the end of their sentence temporarily leaving prison for a short period of time (normally a day or a weekend) to aid rehabilitation and resettlement

Sentencing Council

The body responsible for promoting consistency in sentencing through sentencing guidelines and monitoring and reviewing sentencing decisions

Victim

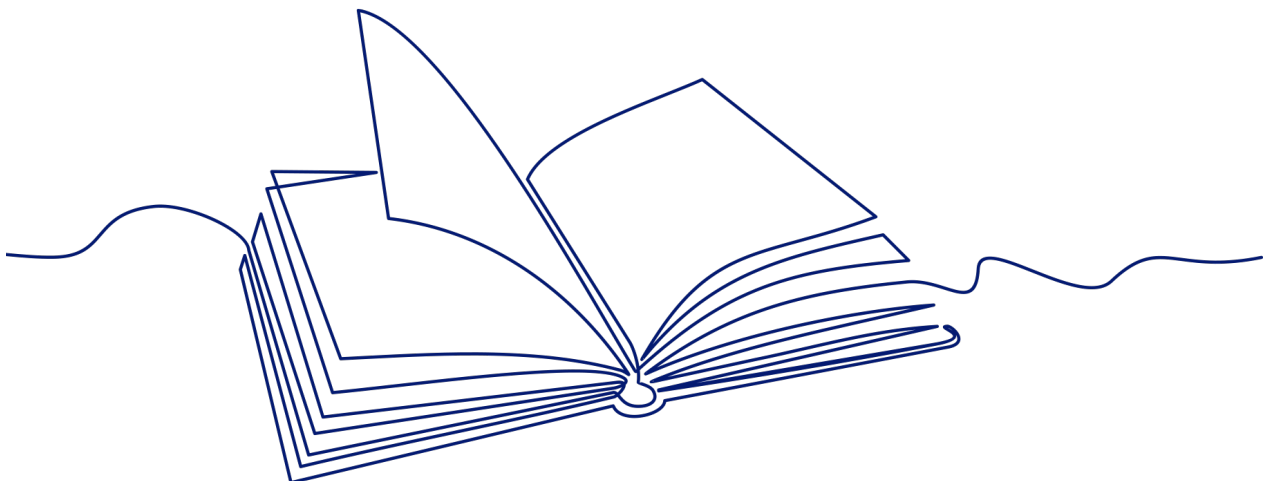
A person harmed, injured, or killed as a result of a crime, accident, or other event or action. Note: for the purpose of this resource, 'victim' is the term used when referring to a woman or girl who has disclosed or reported sexual violence that they have been subjected to.

Youth Justice Board (YJB)

The public body responsible for overseeing the youth justice system in England and Wales

Youth Offender Institution (YOI)

Prisons for young people aged 15-21



Section 1: Disclosure and Reporting

This section focuses on disclosures to professionals about being subjected to sexual violence, how professionals can respond in the most helpful way and how professionals can support women considering reporting to the police.

Despite disclosures most commonly being made to friends, family or partners, many victims do not seek support from interpersonal relationships, this may be due to one or multiple of the below factors:

- They may not have a support network in order to do this (e.g., family live in a different country and isolated with no friends, colleagues etc.)
- They may choose not to disclose to their support network (for any number reasons, for example, their family may still have a relationship with the perpetrator)
- They may have built a rapport with a professional in their lives and feel more comfortable disclosing to them
- They may perceive speaking to a specialist or professional as the best way to get the appropriate support

Victims may disclose to a:

- Counsellor
- Support Worker
- Nurse
- College tutor
- General practitioner (GP)
- Housing officer
- Physio Therapist

As a professional, you will be aware that all services have a legal duty to safeguard when disclosures are made, and services will have various different policies on who they should share information with.

As a result, information is often passed to a safeguarding team or the police. The police are likely to ask for disclosures to be reported as a crime, however, women and girls are under no obligation to do so.

Many victims choose not to disclose to professionals, due to various concerns, such as services' authority, safety being compromised and/or being pressured to report to the police. It is therefore important to always inform women and girls what you are going to do with the information they have disclosed in order to ensure transparency and develop trust.

1.1 Responding to A Disclosure

Research has found that responses which are negative include:

- Victim blaming (e.g., “you should have done this” or “what if you didn’t...”)
- Disbelief (e.g., “are you sure that...?”)
- Angry or aggressive (e.g., “I’m so annoyed that you let him into your house!”)
- Unsupportive (“well at least they didn’t...”)
- Taking control (e.g., interrupting or making assumptions)
- Distracting (e.g., changing topic, pausing conversation take a phone call)

Research has found that negative responses to disclosure is associated with:

- Victims blaming themselves for the sexual violence they were subjected to
- Victims having increased anxiety, lower mood, lower self-esteem, increased post-traumatic stress symptoms (e.g., flashbacks)

On the other hand, when victims disclose, are believed, and supported to talk about the abuse, they will likely feel safer, validated, and supported in their recovery.

Concerns Around Responding

Given the importance of responding providing the necessary support, professionals often have concerns about ‘getting it right’ which may include the following thoughts:

- “I’m worried I won’t say the right thing, I might make her more upset or trigger her.”
- “I’m trying to think of what I need to do... I worry that it might not be the right thing.”
- “I’m anxious that I don’t know how the system works and I don’t want to give bad advice.”
- “What if I don’t ask the right questions? What if I miss something?”
- “I should tell her to report it, but I know the process is hard and conviction rates are so low.”

It is normal for professionals to feel concerned about getting it right. You may overthink your response, so below is some basics to remember when responding to a disclosure:

- Just listen; in the initial disclosure there is no need to ask lots of details/questions
 - You do not need to make detailed notes or ask more questions than feels right in the situation; this is up to the police to capture
 - If you do make notes, these may be required to be given to police as part of an investigation
- Reassure her that you believe her, and it is not her fault
- Explain confidentiality and safeguarding as soon as feasible for transparency
- Do not assume that they want to report it to the police
 - Provide as much information as possible about the journey through the CJS so they can make an informed decision
 - Remind them they do not have to decide right away, however, you should make them aware that there is a timeframe in which forensic evidence can be collected
- Do not push them to report to the police under any circumstances
- Offer the options of support available, but bear in mind that they might not be able to take this in. Written information is helpful, follow this up again at a later date
- Discuss safety and plan as necessary

Do's, and Don'ts

Despite good intentions, some responses can feed into victim blaming and invalidate victims' experiences and feelings. When we respond to a disclosure we want to avoid:

- Minimisation
- Victim blaming
- Doubting/querying the abuse
- Dismissing the abuse or event
- Adding our personal opinion
- Assuming anything about the abuse, person or what they need
- Put pressure on them to report to police
- Hold them responsible for the actions of the perp (themselves and others)
- Toxic positivity

Below are some of the questions/phrases which we should **avoid**:

- Questions around the woman/girls' actions leading up to the rape/assault
e.g., drinking/drug-taking, where they were, what they were doing/wearing
- "Why didn't you report it to the police?"
- "You need to report this to prevent someone else from being raped/assaulted"
- "Are you sure X happened?"
- "You are lucky to have survived/ it could have been worse"
- "Everything happens for a reason"
- "What doesn't kill you makes you stronger"
- "It must have happened to teach you something"
- "You are a survivor; your story will inspire people"

When we respond to a disclosure **we should**:

- Ask permission to talk or ask questions about trauma or abuse
- Be careful not to assume anything about the abuse, the offenders, or their feelings about any of it
- Take the discussion at their own pace
- Use the correct terminology
- Giving information and evidence about trauma and abuse
- Validate their experience
- Tell them that you believe them
- Signposting to others where we know it is trauma-informed

Below are some of the questions/phrases which could be useful:

- “Is it ok if I ask when this happened?”
- “Is there anything I can do to help?”
- “I believe you”
- “It’s entirely up to you whether you report this or not”
- “I am really sorry you were subjected to that”
- “I know an organisation which may be able to provide you with some support...”
- “What you were subjected to is not your fault”
- “What you’re feeling is completely normal”
- “Would you like to tell me more?”

Note: whilst we want to ensure that we safeguard people effectively, the majority of disclosures of historical abuse or violence will not require a safeguarding response (unless there are current risks of violence/abuse or someone hurting themselves or others).

1.2 Supporting Women Considering Reporting to The Police

Often victims are pressured into reporting the crime by professionals, family and/or friends. Despite many people having good intentions, they often use myths about the criminal justice system in order to convince the victim it is the right thing to do. These myths are presented below with an explanation as to why they should not be said.

“He will be punished”

The offender may not be ‘punished’, conviction rates for rape are very low: The highest ever number of rapes was recorded by police in the year ending December 2021 (67,125) and only 1 in 100 rapes reported to police in 2021 resulted in a charge (Rape Crisis 2021).

“If you don’t report, other women aren’t protected”

Women who are subjected to sexual violence are not responsible for the offender’s actions and reporting is unlikely to stop them from abusing others. There is no ‘right’ thing to do.

“It’ll make you feel better”

It may not make them feel better and the criminal justice process can be very traumatising.

“You can change your mind and withdraw support”

Whilst victims can make a formal statement to withdraw support from the prosecution and all options should be fully explored with their safety being a prime consideration, it can indeed be required by law for a victim to attend court proceedings and give evidence if they have previously provided a statement/ reported. In addition, The Crown Prosecution Service can choose to continue a case without a victim’s participation i.e., court proceedings go ahead but the victim is not required to attend and give evidence.

There are many reasons that victims choose to report sexual violence to the police, and often victims will weigh up the potential pros and cons of reporting in order to decide whether to do so. The below table contains some of the potential pros and cons which may be considered when deciding.

Pros	Cons
<ul style="list-style-type: none"> Feeling of fighting for justice Feeling of doing the right thing Seeing someone receive punishment Feeling of protecting others from being hurt Processing what happened Feeling of being able to move forward Feeling of safety 	<ul style="list-style-type: none"> Retraumatized by CJS Feeling guilty Long delays in CJS Low conviction rates Impact on life and intrusion of investigation Not being able to move on until case is closed Risk escalation

If a woman/girl is going to report to the police, some advice you could provide is:

- Seek support and do not go alone if possible
- Seek advice and support from experienced women's centres/sexual violence services without pressure or bias
- Attend a SARC (see Section 6)
- Do what is best for you, do not think about anyone else, be selfish
- Manage expectations of the process and outcome

There are multiple ways of reporting a sexual offence to the police, it is important that you can provide this information to a victim considering reporting:

- Via phoning the non-emergency police number (101)
- Via phoning 999 if it is an emergency
- Online via local police force's website
- In person at any police station
- Via a Sexual Assault Referral Centre (SARC) – See section 6 for more information
- Via another service, for example, a healthcare or education provider which a woman or girl has disclosed to you. Services can offer support with reporting if this is what she wants (this might mean requesting the police visit the service).

It's important for victims to know that there's no time limit on how long after an offence you can report it to the police. The main difference is that if the offence took place before 1st May 2004, then different legislation is used, and therefore charges may be different. The Sexual Offences Act 1956 is the main piece of legislation covering sexual offences that took place before 1st May 2004 and the Sexual Offences Act 2003 is the main piece of legislation covering sexual offences that took place after 1st May 2004.

Section 2: Police Investigation and Charges

This section focuses on the police process when women report sexual violence they have been subjected to, how charging decisions are made and what the outcomes of charging decisions can be. Having this knowledge means you can be better equipped to support and inform women going through this process.

2.1 The Police Process

When a victim reports a rape or sexual assault to the police there are several steps that should be taken in a typical police process. However, it may not always happen in this way, as some steps that are taken can differ depending on the circumstances of the case. A dedicated officer should update the victim at least every 28 days or sooner as appropriate.

The table below provides an overview of the police process, and a more detailed explanation is provided following the table.

Investigation Stage	Police Actions
Initial Account	Conversation with an SOIT officer to provide initial account: Who did this? What happened? Where did it happen? When did it happen?
Arrest Decision	Suspect identified and located, and arrest decision made based on public interest and victims wishes
Officer Allocation	Officer allocated to the case who will be investigating and be the victims main point of contact
Victim Statement	A detailed account from the victim in the form of a written statement or a video-recorded interview
Gathering Evidence	Witness statements, CCTV, messages, health records, suspect interview etc.
Assessment of Evidence	Referred to the CPS or no further action taken



Initial Account

As soon as possible after the victim has reported a rape or sexual assault to the police, an SOIT (sexual offences investigative techniques) trained officer will be allocated to talk to them. An SOIT trained officer should attempt to contact the victim within 90 minutes of their first contact with police. Depending on the circumstances of their report, this could be in person or remotely. This is irrespective of the amount of time that has elapsed between the incident and their report to police. The SOIT trained officer will initially check their welfare and whether they require medical assistance.

Following any initial checks, and if the victim is comfortable talking about what they have been subjected to, they will be asked:

- 1. Who did this?**
- 2. What happened?**
- 3. Where did it happen?**
- 4. When did it happen?**

Initial questioning should be to obtain a brief account of what has taken place; a more detailed account should not be pursued at this stage but should be left until their formal interview takes place. Some initial questioning may be needed to obtain enough information to formulate a risk assessment, and to take whatever action is necessary to remove or reduce any risks that are identified. The victim may be able to answer some of these questions or they may not be able to answer any of these questions, they are under no obligation to answer these questions. In addition, depending on how recent the offence occurred the officer may ask them to provide a urine sample or a swab, ask for their consent to refer them to a Sexual Assault Referral Centre (SARC) where a specially trained health professional can examine them.

Arrest Decision

If the suspect can be identified and located, then they may be arrested by the police. The decision to arrest the suspect will be based both upon the victim's wishes and whether the police feel that arrest is in the wider public interest. For example, if the police believes that the suspect poses a continued threat, either to the victim or the wider public, they will then arrest the suspect; if a suspect is arrested, they will be interviewed. The outcomes of a police interview prior to referral to the CPS are:

- 1. Released with no further action (case closed)**
- 2. Released pending further investigation**
- 3. Released on pre-charge bail**

The above outcomes are explained in more detail in the subsection 'Gathering Evidence'.

Note: In some circumstances, the police may liaise with the CPS whilst the suspect is under arrest in custody; in order to make a quick decision [within 96 hours]. Thus, a fourth outcome of being charged is possible. However, in the case of sexual offences, it usually takes months for the police refer a case to the CPS for a charging decision. Post-charge outcomes are explained in the following subsection 'Prosecution'.

Where it is decided that the suspect will not be arrested, they will be invited to a voluntary interview as part of the gathering evidence procedure; this is usually after most of the other evidence has been collected (to avoid suspects potentially interfering with evidence). If a suspect refuses to attend a voluntary interview, they would usually be arrested for an interview.

Officer Allocation

The victim should be allocated a dedicated officer/officer in charge (OIC), who will be their single point of contact throughout the investigation; they will act as the link between the victim and the investigation. The dedicated officer should explain to the victim what is happening at each step and answer any questions they have.

The dedicated officer should also:

- Offer to refer the victim to a specialist support service, for example to an Independent Sexual Violence Advisor (ISVA); who can support them throughout the criminal justice process
- Ensure any risk to the victim, the suspect and/or third party is identified, minimised, and documented; this includes friends and relatives of the victim and the suspect
- Where applicable; consider a MARAC referral and/or complete a risk assessment

Victim Statement

The dedicated officer will obtain a detailed account from the victim. This can be in the form of a written statement or a video-recorded interview, also known as an ABE (achieving best evidence) interview. The officer will talk through both options with the victim beforehand and they should be given an opportunity to choose their preferred method of statement/interview.

One of the key aims of video-recording investigative interviews is to reduce the number of times that the victim will need to report their account. In some circumstances, a further interview may be necessary. For example, where significant new information emerges.

If a victim expresses a preference for an interviewer of either gender, a particular sexual orientation or from a particular race, cultural or ethnic background, this should be accommodated as far as is practical in the circumstances.

Gathering Evidence

The officer in charge of the case will gather evidence to support the prosecution, this could be some or all of the following:

- CCTV footage
- Witness statements (from people the victim has disclosed to or anyone who has witnessed an event which supports the claims)
- DNA/forensic evidence
- Virtual evidence e.g., text messages, call logs, photos
- Health records (physical, sexual, and mental health)
- Therapy and counselling records

As explained above, a suspect may or not have been arrested at the start of the investigation. If they were, one of the below outcomes could have already taken place. However, if the suspect attends a voluntary interview (which is often the case with sexual offences), one of the following four outcomes is yet to take place. There are three outcomes where the police have not referred the case to CPS for a decision at the time of the suspect interview:

1. No Further Action (case closed)

A suspect could be released after an interview with “no further action” this means that the police are not taking any further action against the suspect, i.e., they will no longer be investigating the offence reported and they will not be submitting any evidence to the CPS. This means the case is now closed. In this situation, the police would be clear that if further evidence becomes available then the decision could be reconsidered. This can happen where the suspect has provided ‘contradictory evidence’, or the police believe there is no real prospect of prosecution.

2. Released Pending Further Investigation

A suspect could be released under investigation after an interview. This occurs when the suspect is not deemed to be a continued threat in the community and/or the police have not yet referred the case to the CPS for a charging decision.

3. Released on Pre-Charge Bail (with or without conditions)

A suspect could be released on pre-charge bail by the police; this means that they are under a legal obligation to return to the police station on a specified date and time. If they fail to do so, they can be arrested. A suspect may also be granted pre-charge bail if the police have already referred the case to the Crown Prosecution Service (CPS) for a charging decision. Police can (but don’t always) impose conditions on the suspects’ bail (if deemed necessary), for example, a restriction stopping them from contacting the victim. The suspect has the right to apply to the court for an alteration of police-imposed bail conditions. There is also a 28-day limit on pre-charge bail. This means that the police have 28 days to charge a suspect (as advised by CPS) before the police bail ends. In some circumstances, the 28-day period can be extended up to a maximum of 3 months; further extensions need to be authorised by the Magistrates’ Court. However, if the pre-charge bail period ends and the police are still investigating, the suspect will usually be released with pending further investigation.

Note: In the case of each of the above three above outcomes; if the suspect is later charged, they will be informed by the police and summoned to court. Equally, the police will inform the suspect if the case is closed and there is to be no further action against them.

Assessment of Evidence

Once the police have finished gathering evidence, they must assess this and make a decision on whether they will refer it to the CPS for a charging decision. If the police deem a case to have enough evidence to be considered for prosecution, they will refer the case. At any point in the police process the decision may be made that No Further Action (NFA) is to be taken.

The case could be ‘NFA’d’ at any stage, for example the victim’s initial account could receive a response of NFA or it could be a later stage where the police have fully investigated the case, however there is lack of evidence to send the case to the CPS for a charging decision. Thus, the case is ‘NFA’d’.

In addition, the police have the power to deal with the case with an Out of Court Disposal, this is where a caution or fixed penalty is given to the offender. This is unlikely in the case of a sexual offence. However, more information can be found on The Sentencing Council website: <https://www.sentencingcouncil.org.uk/>

The following subsection provides more information about charging and CPS decisions.

2.2 Charging

The police officer who has completed the investigation will compile all the evidence and send this to the Crown Prosecution Service (CPS). The police usually do this after a lengthy investigation (many months), however in some circumstances, the police could have sought advice quickly after the report for the offender to be charged (this may happen in cases where there is a substantial amount of evidence against the suspect, they are already known to the police, or the offence has very recently taken place).

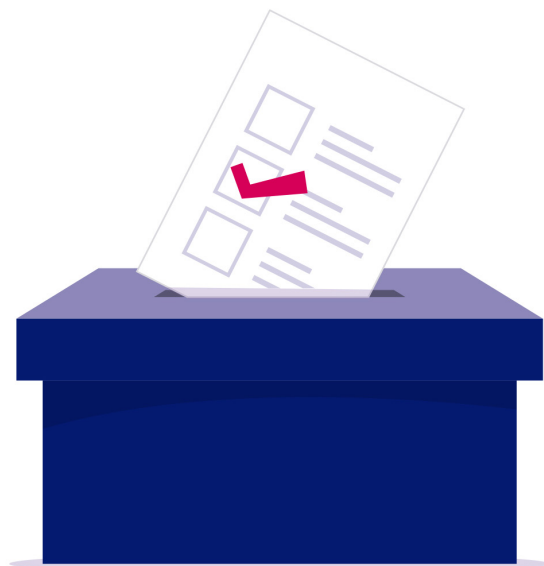
All rape and serious sexual offence cases are reviewed by specialist 'rape and serious sexual offences' (RASSO) prosecutors. The prosecutor will review the evidence and decide whether there is enough evidence to proceed with charges/prosecution, and subsequently to court.

The following table shows the potential outcomes up to this stage of a case:

Case Stage	Potential Outcomes
Police Investigation	<ol style="list-style-type: none">1. No further action2. Case submitted to the Crown Prosecution Service
The Crown Prosecution Service Test	<ol style="list-style-type: none">1. Not proceeding with2. Prosecuting (proceeding with charges)

There is a two-stage test which is set out in the Code for Crown Prosecutors in order to make a charging decision. These stages are:

1. The evidential stage
2. The public interest test



The Evidential Stage

During this stage, the prosecutor reviews all the evidence provided by the police and asks themselves the question 'Is there enough evidence against the suspect to provide a realistic prospect of conviction?' That means, having heard the evidence, is a court more likely than not to find the defendant guilty? During this stage, all evidence is considered, and multiple factors are considered:

- **How reliable is the evidence?**
- **How credible is the evidence?**
- **Is there any material which may undermine the evidence?**

If the evidence does not pass this first stage, the case will not be proceeded with. If the evidence passed the first stage, the prosecutor would proceed to stage two; the public interest test.

The Public Interest Test

During this stage, the prosecutor reviews the evidence provided again and asks themselves the questions 'Is it in the public interest to prosecute?'. During this stage, multiple factors are again considered:

- **The seriousness of the offence**
- **The impact on communities**
- **The harm caused to the victim**

A prosecution will go ahead unless the prosecutor deems public interest factors as outweighing the benefit of prosecution. In cases of rape or serious sexual assault (section 1, 2 and 3 of the SOA2003), the seriousness of the offence means that where there is enough evidence, a prosecution will almost always go ahead. A decision not to prosecute these cases for public interest reasons is rare. There are three potential outcomes of the CPS test:

1. Further Evidence Required

If the prosecutor deems that there is not enough evidence to charge the suspect, they will consider whether there is any more evidence the police could look for to make the case stronger. If the CPS believe that more police investigation could help, they will ask the police to continue their investigation and provide the CPS with any further evidence obtained. The CPS could also ask for specific material which may assist the case e.g., the victim's medical records. If the police can obtain further evidence, the case can then be sent back to the CPS, and they will review it again and make a new decision on whether to prosecute the suspect. The officer in charge of the case should keep the victim up to date with what's happening throughout this process.

2. Not Proceeding With

This is where a decision has been made within the CPS not to take a prosecution forward (no charges). If the prosecutor decides that the case doesn't pass the two-stage test, and there is no further evidence that the police could look for that would change this, they can't charge the suspect. If the CPS decide not to prosecute the case, they will write to the victim and explain the reasons why.

The victim has a right to review the decision not to prosecute. If they request a review, a new prosecutor will review all the evidence and apply the two-stage test again to come to their own decision. This prosecutor may decide that the legal test is met, and the suspect can be charged, or they may agree with the decision that the case should not be proceeded with. Once the review has been completed, the CPS will write to the victim to explain their decision. The CPS will also offer to speak to the victim over the phone or in person to discuss the case; if they think the victim may find it helpful.

3. Proceeding With Charges

If the CPS have decided to take a prosecution forward, the officer in charge of the case will be informed of what they can charge the suspect with. It is at this point that the suspect becomes known as the 'defendant'. The police will take the DNA and fingerprints of the defendant and inform them of what they are being charged with. The officer in charge will also let the victim know that the defendant has been charged, when the first hearing is and what the defendant's post-charge circumstance are (see below). The post-charge outcome is dependent on the circumstances of the case, but there are three potential outcomes for the defendant once they have been charged:

a. Remanded in custody (prison)

Once the defendant has been charged, the court can require the defendant to be remanded in custody instantly. The defendant will be brought to the Magistrates' Court for an appearance on a specified date and time – the police will let the victim know when this hearing is due to take place. After this hearing, the court can require the defendant to remain on remand [in custody] prior to the next hearing.

If the defendant is remanded in custody, they are entitled to request a remand hearing and apply for bail using any argument of fact or law. Where a remand in custody is sought, consideration must be given to whether there is a risk of the defendant trying to intimidate the victim or any witnesses (directly or indirectly) whilst in custody. If there are grounds to believe that this is likely; the victim's and any witnesses full details should be passed to the prison/custodial setting to prevent the defendant attempting or succeeding in making contact.

b. Released on post-charge bail with conditions

If the court considers that defendant poses a risk, but it is not necessary to remand them in custody, they can impose conditions on their bail, for example:

- restrictions stopping them from contacting the victim, their family, any known witnesses etc.
- a requirement to reside at a specified address
- electronic tagging
- surrender of passport

When a defendant is released on bail, they must adhere to the conditions imposed and they will also be required to attend the Magistrates Court for their first appearance on a specified date and time, the police will let the victim know when this hearing is due to take place. After the hearing before the Magistrates Court, the court will decide whether to grant further bail to the defendant or whether they should be remanded in custody prior to the next hearing.

Note: If bail conditions are breached or the defendant does not attend a court hearing, the police can make an arrest. If the court determines that the defendant poses a risk (of absconding, reoffending, or further breaches) the court may remand the defendant in custody or grant further bail subject to different conditions.

c. Charged and released with unconditional bail

If the court considers there to be no risk that the defendant might re-offend, abscond, or contact the victim(s) or witnesses, unconditional bail may be granted. Where a defendant has no conditions on bail, they are just required to attend the Magistrates' Court for their first appearance on a specified date and time, the police will let the victim know when this hearing is due to take place.

Note: If the defendant contacts a witness or victim in the case, they can be reported to the police and bail conditions could be imposed, or they could be remanded in custody.

Section 3: The Court Process

This section focuses on the court process once a perpetrator has been charged. Having this knowledge means you can be better equipped to support and inform women going through this process.

Note: If the victim is not in attendance at the court when a plea is entered, the officer in charge of the case, witness service, or witness care unit should contact them to inform them.

3.1 Offence Types and Plea Outcomes

There are three main types of offence under UK law, as follows:

1. **Indictable Only Offences:** Considered the most serious criminal offences and can only be dealt with in the crown court.
2. **Summary Only Offences:** Considered of lesser seriousness and can only be dealt with in the magistrates' court – There is an exception where a defendant is charged with an additional more serious offence which must be dealt with in the crown court: the summary offence would then be dealt in crown court alongside the other offence(s).
3. **Either Way Offences:** These offences have a wide range in terms of seriousness, where different factors can deem the act more or less serious. Either way cases can be dealt with in either the magistrates' or the crown court.

The First Hearing

All cases have their first hearing in the Magistrates court, and this hearing differs dependent on the offence type:

1. For summary only offences, the first hearing will involve entering a plea. If the defendant pleads guilty, the defendant may be sentenced on the same day, or the case may be adjourned, and a date set to return for sentencing. If the defendant pleads not guilty, the case would usually be adjourned, and a date set to return for a trial.
2. For indictable only offences, the first hearing will be to consider matters of bail. In addition, the court will ask the defendant what they intend to plea. If the defendant states they intend to plead guilty, the next hearing will be scheduled promptly for the Crown Court to take the plea and proceed to sentencing. If the defendant states they intend to plead not guilty, or they do not answer, the next hearing will be for case management in the Crown Court (it will usually be some length of time away).
3. For either-way offences, this hearing is where it is decided whether the case will stay in the Magistrates Court or whether it will be sent to the Crown Court. The majority of cases of sexual violence will be sent to the Crown Court due to their seriousness. At the first hearing, the defendant will be asked if they intend to plead guilty or not guilty; if the defendant states they intend to plead guilty, then the court will decide whether sentencing should take place in the Crown or Magistrates Court. If the defendant states they intend to plead not guilty, then the court will decide whether a trial should take place in the Crown or Magistrates Court.

Note: The defence and/or the prosecution can request for the case to be heard as a summary or indictable offence (respectively). In addition, the defendant is given the choice to proceed the case to the Crown Court where it is deemed acceptable to be dealt with in the Magistrates Court – the defendant cannot however choose to remain in the Magistrates' if it is deemed necessary for the case to proceed to the Crown Court

The following table demonstrates case outcomes after the defendant has entered a plea:

Plea	Outcome
Guilty	Sentencing
Not Guilty	Trial -> Guilty Verdict -> Sentencing or Trial -> Not Guilty Verdict -> Acquitted

Guilty Pleas

If a defendant pleads guilty, the next stage is to proceed to sentencing. Sometimes sentencing can take place on the same day as the plea, however the offence type and the court schedule are dependant factors on whether this happens (i.e., there may not be time to proceed to sentencing on the same day, or it may be necessary to adjourn in order to allow time for sentence guidance/consideration). If sentencing does not take place on the same day, the case is adjourned, and a date is set to return for sentencing.

The process for each offence type is as follows:

1. If a defendant states they intend to plead guilty to an **indictable only** offence (e.g., Section 1 of the SOA2003, the offence of Rape), the case will be sent to the Crown Court promptly, they will have a plea hearing and proceed to sentencing.
2. If a defendant pleads guilty to a **summary only** offence (e.g., Section 51A of the SOA2003, the offence of Soliciting), the case will proceed to sentencing in the Magistrates Court.
3. If a defendant states they intend to plead guilty to an **either-way** offence (e.g., Section 3 of the SOA2003, the offence of Sexual Assault), as per above, the Magistrate/District Judge's will decide where the case should be heard and either of the following will happen:
 - a. The case will proceed to sentencing in the Magistrates Court
 - b. The case will be sent to the Crown Court promptly, they will have a plea hearing and proceed to sentencing

Note: it is unlikely that a sexual offence which is either-way, will remain in the Magistrates.

The below table shows the above information (i.e., the possible outcomes when a defendant pleads guilty):

Summary Only Offence	Either-Way Offence	Indictable Only Offence
Sentenced in the Magistrates Court	Sentenced in either the Magistrates or Crown Court (dependent on where the case is to be heard as decided in the Magistrates Court)	Sentenced in the Crown Court

Not Guilty Pleas

If a defendant pleads not guilty, the next part of the process is the trial. The process for each offence type is as follows:

1. If a defendant states they intend to plead not guilty to an indictable only offence (e.g., Section 1 of the SOA2003, the offence of Rape), the case will be adjourned and sent to the Crown Court, where they will have a plea hearing and proceed to a trial by jury.
2. If a defendant pleads not guilty to a summary only offence (e.g., Section 51A of the SOA2003, the offence of Soliciting) at their plea hearing in the Magistrates' court, the case would be adjourned, and a date will be set to return to the Magistrates Court for a trial.
3. If a defendant states they intend to plead not guilty to an either-way offence (e.g., Section 3 of the SOA2003, the offence of Sexual Assault), as per above, the Magistrate/District Judge's will decide where the case should be heard and either of the following will happen:
 - a. Adjourn the case and set a date to return to the Magistrates Court for a trial
 - b. Adjourn the case and set a date to attend the Crown Court, where they will have a plea hearing and proceed to a trial by jury.

The below table shows the above information (i.e., the possible outcomes when a defendant pleads not guilty):

Summary Only Offence	Either-Way Offence	Indictable Only Offence
Trial in the Magistrates Court	Trial in either the Magistrates or Crown Court (dependent on where the case is to be heard as decided in the Magistrates Court)	Trial by jury in the Crown Court

Note: A defendant can change their plea from not guilty to guilty at any time during the court process and subsequently proceed to sentencing.



3.2 Criminal Trials

Note: If the victim is not in attendance at the court when a verdict is delivered, the officer in charge of the case, witness service, or witness care unit should contact them to inform them.

As stated in the previous section, if a defendant pleads not guilty, a trial must take place to determine whether the defendant is guilty or not. A trial will take place in either the Magistrates or the Crown Court; the trial process differs between the two courts. Below is a table which provides an overview of the process in the Magistrates and the Crown Court:

Magistrates Court		Crown Court	
A trial takes place where the prosecution and the defence make their case (respectively)		A trial takes place where the prosecution and the defence make their case (respectively)	
The evidence is considered by the Magistrates or District Judge		The evidence is considered by the jury	
The defendant is found not guilty and is free to leave	The defendant is found guilty and is sentenced by the Magistrates or District Judge in the Magistrates Court	The defendant is found not guilty and is free to leave	The defendant is found guilty and is sentenced by the Crown Court Judge

Below is more in-depth information on the trial process for each court.

Magistrates Court Process

In the Magistrates' Court, a case is heard, and the verdict is given, by a panel of magistrates (usually two or three) or a district judge. Magistrates are volunteer who have received training for the role, but they are not legal professionals. Magistrates are supported by legal advisors (a trained solicitor or barrister) who will provide legal advice and guidance throughout the case proceedings. District judges are legal professionals who have practiced as a solicitor or barrister prior to becoming a judge.

The prosecution team open the case by setting out the charges and the general facts of the case. The victim is likely to be the main witness and therefore likely to be required to give evidence first. Once the victim has provided their evidence, they will be cross-examined by the defence team. There are multiple ways to give evidence and support for cross-examination.

After the victim has given evidence, other witnesses will be called to testify, these could include:

- Police officers
- Expert witnesses e.g., doctors
- The victim's or the defendant's friends and/or family member

The prosecution team will call their witnesses and ask them relevant questions to support the case. The defence will then have an opportunity to cross-examine the witnesses. Once all the prosecution witnesses have testified, the defence team will then call their witnesses, and equally, the prosecution will have the opportunity to cross-examine these witnesses. The defendant does not have to give evidence in court, and it is common for a defendant to not give evidence. If the defendant chooses not to give evidence, then the prosecution team cannot cross-examine them. However, any interview or statement that the defendant has provided thus far, will usually be read out to the court.

Once all evidence has been heard, the prosecution team, followed by the defence team, will make their closing speeches outlining their case. The Magistrates or the District Judge will then retire to consider a verdict.

Magistrates can take as long as they need to return a verdict, however the verdict is often returned quicker in the Magistrates' Court than the Crown Court. Magistrates are generally obliged to reach a verdict given that there are usually three Magistrates deliberating, and a 2-1 majority verdict is acceptable, thus the failure to agree should not arise.

Crown Court Process

Trials at the Crown Court are heard before a judge and jury. The jury is made up of 12 members of the public who, after hearing the evidence decide whether the defendant is guilty.

Prior to trial commencement, the prosecution team will speak with the victim and answer any questions they have. In addition, they will explain what is going to happen in the court, confirm any special measures, and go over general details of the defence's case.

The prosecution team open the case by setting out the charges and the general facts of the case. As per above, the victim is likely to be the main witness and therefore likely to be required to give their evidence first. Once they have provided their evidence, they will be cross-examined by the defence team and then re-examined by the prosecution if some final questions are required. There are multiple ways to give evidence and support for cross-examination.

After the victim has given their evidence, other witnesses will be called to testify, these could include:

- Police officers
- Expert witnesses e.g., doctors
- The victim's or the defendant's friends and/or family member

The prosecution team will call their witnesses and ask them relevant questions to support the case. The defence will then have an opportunity to cross-examine the witnesses. Once all the prosecution witnesses have testified, the defence team will then call their witnesses, and equally, the prosecution will have the opportunity to cross-examine these witnesses. The defendant does not have to give evidence in court and it is common for a defendant to not give evidence. If the defendant chooses not to give evidence, then the prosecution team cannot cross-examine them. However, any interview or statement that the defendant has provided thus far, will usually be read out to the court for the benefit of the jury.

Once all evidence has been heard, the prosecution team, followed by the defence team, will make their closing speeches to the jury outlining their case, the judge will then sum up the key points of evidence and provide directions to the jury. The direction given to the jury is that they must believe the defendant is guilty beyond reasonable doubt, to return a guilty verdict. Once direction is given to the jury, they will leave the court and enter a private room for deliberations.

Juries can take as long as they need to return a verdict (this can be minutes or multiple days), however if they are struggling to agree unanimously, after a significant period of time (at least 2 hours and 10 minutes by law) then the judge may inform them that they will accept a 'majority verdict'.

Verdicts

The standard of proof in criminal cases, in both the Magistrates and the Crown Court, is that of 'beyond reasonable doubt'. This means that the prosecution must prove their case so that the jury, or the Magistrates/District Judge are sure enough to remove any reasonable doubt in their minds that the defendant is guilty of the crime with which they are charged.

There are two outcomes in which a defendant is acquitted after a trial:

1. The defendant is found not guilty in the Magistrates' Court (decided by the Magistrates or the District Judge)
2. The defendant is found not guilty in the Crown Court (decided by the jury)

Once the Jury or the District Judge/Magistrates have returned a not guilty verdict; the court is informed that the charge(s) against the defendant could not be proven beyond a reasonable doubt, and the defendant is free to leave the court without a conviction.

There are two outcomes in which a defendant is convicted after a trial:

1. The defendant is found guilty in the Magistrates' Court (decided by the Magistrates or the District Judge)
2. The defendant is found guilty in the Crown Court (decided by the jury)

Once the District Judge/Magistrates or the Jury have returned a guilty verdict, they may sentence the defendant on the same day or adjourn the case and set a date to return to the relevant court for sentencing (dependant on court schedule or to allow time for sentence guidance/consideration).

Note: Sentence guidance/consideration is making use of the Sentencing Council's guidelines, in addition to this, Judges/Magistrates may request/review the following to assist sentencing decisions:

- Pre-sentence reports from the probation service
- Victim personal statements

If the defendant has been remanded in custody since charges were made and the case is adjourned to return for sentencing, the defendant will be sent back to prison to await their sentencing hearing. In addition, any time the defendant has spent in prison awaiting the trial, will usually be considered part of their sentence. i.e., if a defendant receives a sentence of 6 months custody and they have been remanded in custody for 4 months, it is likely that they would only have to remain in custody for a maximum of another 2 months. In addition, if the defendant has been on bail since charges were made and the case is adjourned to return for sentencing, the offender may be remanded in custody to await their sentence hearing.



Retrials

If any of the following situations occur in the Crown Court, a verdict cannot be reached, therefore the Judge will discharge the jury and a re-trial will be considered:

- A 12-person jury cannot reach a unanimous (12-0) or majority (11-1 or 10-2) verdict
- An 11-person jury cannot reach a unanimous (11-0) or majority (10-1) verdict
- A 10-person jury cannot reach a unanimous (10-0) or majority (9-1) verdict
- A 9-person jury cannot reach a unanimous (9-0) verdict
- The jury has reduced to less than 9 people (e.g., due to sickness)

In the above circumstances, the CPS would usually make the application for a retrial. Where two juries fail to reach a verdict, the presumption is that the prosecution will not seek a third trial, unless there are exceptional circumstances.

In the case where just 2 Magistrates have heard the case, they must agree on the verdict. If only 2 Magistrates heard the case and cannot agree on a verdict, the court should adjourn the case to be heard again by a new bench of Magistrates or a District Judge.

In addition to the above circumstances, where a verdict cannot be reached, there are other circumstances where the defendant may be re-tried for example:

- Based on tainted acquittal (for example where jurors have been intimidated)
- The defence team may request a retrial in an appeal against a conviction (for example, where new evidence has come to light after the trial)

Requests for a retrial by the defence team are made to the Court of Appeal, if the Court allows an appeal against the conviction, they may order a re-trial.

Requests for a retrial by the prosecution team due to tainted acquittal are made to the High Court; if it is found to be likely that the acquittal resulted from interference with, or intimidation of a juror, the acquitted person can be retried for the original offence(s).

Where a verdict has not been reached, it is in the interests of justice that a decision to seek a re-trial should be taken as soon as possible and the court, defendant and the police should be informed as promptly as possible. The process for a retrial is as follows:

- The question of whether to seek a retrial is referred to the Unit Head (e.g., Crown Court Unit or RASSO Unit Head – often a Deputy Chief Crown Prosecutor)
- If the decision is made by the Unit Head to seek a retrial, it is then referred to be decided by the Chief Crown Prosecutor (Wales, as well as the 13 regions in England, have a Chief Crown Prosecutor who is the head of the CPS in the region).

The two-stage test is again applied:

1. Is there enough evidence to provide a realistic prospect of conviction? I.e., has anything changed during or since the first trial and are the witnesses willing and available to give evidence again?
2. Is the trial still in the public interest? E.g., would a delay until a new trial change anything? If so, is that proportionate with the sentence that the defendant would likely get?

Either of the following outcomes are possible after the above process has been completed:

- The Chief Crown Prosecutor decides not to proceed with a retrial, a formal decision is made to offer no evidence, thus the charges are dropped against the defendant, and they are acquitted, or
- The Chief Crown Prosecutor decides to proceed with a retrial, thus the defendant, the court and the police are informed, and a date is set for the trial to start afresh, hearing all the evidence again, with a new jury

Section 4: Sentencing

This section focuses on the sentencing when a defendant has been convicted. Having this knowledge means you can be better equipped to support and inform women going through this process.

Note: If the victim is not in attendance at the court when a sentence is given, the officer in charge of the case, witness service, or witness care unit should contact them to inform them.

When a guilty verdict has been reached, or a defendant has pleaded guilty, the next stage is to determine an appropriate sentence. In the Crown Court, this is determined by the Judge, and in the Magistrates' Court, this is determined by the Magistrates/District Judge. When determining a sentence, the Judge or Magistrates must consider the five purposes of sentencing (when dealing with most adult offenders), these are:

1. Punishment
2. Crime Reduction
3. Rehabilitation and reform
4. Protection for the public
5. Reparation

In addition to considering the purposes of sentencing, the Judge or Magistrates must refer to the Sentencing Guidelines and impose a sentence which adheres to the law. The Sentencing Guidelines assist Judges and Magistrates to determine the type of sentence, the length of the sentence, the type of requirements imposed, and the number of requirements imposed.

The Sentencing Guidelines include a guide for each offence, which contain:

- The maximum sentence that can be given for an offence
- For some offences, the minimum sentence that can be given
- Factors to consider when deciding on an appropriate sentence for the offence, for example the defendant's plea, the harm caused to the victim and previous criminal record of the defendant (if any)

4.1 Sentence Types

There are four main types of sentence which a Judge/Magistrate can deliver to an adult:

1. Discharges

Absolute Discharge: no further action, the court considers the experience has been enough of a deterrent or the offence was very minor (offender will still receive a criminal record).

Conditional Discharge: no further action unless the offender commits a further offence within a specified time period (no more than three years), the offender is released, and the offence registered on their criminal record.

Fine: The maximum fine allowed in both magistrates' courts and the Crown Court is unlimited (the maximum in magistrates' court for offences committed before 12 March 2015 is £5,000).

2. Community Sentences

A form of punishment combined with activities carried out in the community. For example, unpaid work, alcohol/drug treatment, imposed curfew, exclusion zones, prohibited travel or activities.

3. Custodial Sentences

Suspended Sentences: A custodial sentence of between 14 days and two years (or six months in the Magistrates' Court), may be suspended for up to two years. Meaning the offender does not go to prison immediately but must comply with requirements such as those imposed on a community sentence. If the offender does not comply with the requirements or is convicted of another offence during their suspended sentence, they are likely to serve the original custodial term as well as the sentence they get for the new offence.

Determinate Sentences: A fixed length prison sentence which is the maximum time the offender could spend in custody. Offenders serving sentences between 3 months and 4 years, with certain exceptions, may be eligible for release on home detention curfew (HDC), allowing them to be released up to 135 days before their automatic release date. The offender would be subject to an electronic tag and a curfew. When offenders are released on licence, they are also subject to conditions and supervision by a Probation Officer, this can include (but is not limited to) restriction of contact with a person, disclosure of information, freedom of movement, and/or curfew arrangement. If an offender breaches their conditions in the community, whether on HDC or licence, they are subject to recall to custody and may be further punished for their breach. Offenders are released on licence at the following points:

- For sentences of less than 2 years, at the half way point
- For sentences between 2 and 7 years, usually at the half way point
- For sentences of more than 7 years, at the two-thirds point
- For sentences for terrorism, after more than two-thirds of their sentence in custody

Extended Sentences: A sentence with an extended licence period, where the Judge decides how long the offender should stay in prison (the custodial time) and fixes the extended licence period up to a maximum of 8 years. Two-thirds of the way through the custodial term, the offender can apply for parole (if refused, they can apply again after 2 years). If not released before, the offender will be automatically released at the end of their custodial term. The combined total of the custodial term and extension period cannot be more than the maximum sentence for the offence committed. Extended sentences are imposed when:

- An offender is guilty of an offence listed in Schedule 18 of the Sentencing Code
- The court assesses the offender to be of significant risk to the public
- A life sentence is not available or justified
- The offender has a previous conviction for an offence listed in Schedule 14 of the Sentencing Code, or the current offence justifies an appropriate custodial term of at least 4 years

Life Sentences: An offender is subject to the sentence for the rest of their life. When a Judge passes a life sentence, they will specify the minimum term an offender must spend in prison before eligible to apply for parole. There is one exception where a Judge passes a 'whole life order'; where the offender must spend the rest of their life in prison. Whatever the length of the minimum custodial term; when an offender is released, they will remain on licence, subject to conditions for the rest of their life. If they breach their conditions or are considered to be a risk to the public, they may be recalled to custody. Offenders can be sentenced to life if they have been found guilty of more than one of certain offences and are considered to be a significant risk to the public:

4. Disposals

There is a range of types of sentence the courts can use for adult offenders who have mental disorders, developmental disorders, or neurological impairments. The type of sentence (or disposal) will depend on the facts of the case, the nature of the offence and other factors, including the offender's behaviour when they are unwell. The court will also consider the need to protect the public. Disposals consist of:

Hospital order: The offender is detained in a hospital for treatment

Restriction Order: If making a hospital order, the Crown Court may also make a restriction order if it appears that it is necessary to do so to protect the public from serious harm. A restriction order means that a transfer to another hospital or discharge into the community is subject to the consent of the Secretary of State.

Guardianship Order: The offender is placed under the guardianship of local social services or an approved person.

Imprisonment with Hospital Direction and Limitation Direction: If the crown Court decides the criteria are met for a hospital order (offenders aged 21 or over only) the court must then also consider if it would be more appropriate to pass a sentence of imprisonment with a direction that the offender is detained in hospital (a "hospital direction") rather than in prison. A hospital direction will always be accompanied by a limitation direction, which has the same effect as a restriction order.

Note: if a sentenced prisoner becomes mentally unwell, a prison can ask the Secretary of State to give permission to transfer the prisoner to hospital.

A Judge/Magistrate can deliver the following sentences to a **young person** (aged 10 to 17):

1. Discharges: The same as adult offender sentences
2. Fines: If the child or young person is under 16, the parent or guardian is required to pay their fine, and so their ability to pay is considered when setting the fine
3. Referral Orders: The child or young person must attend a youth offender panel and agree a contract containing commitments (this will last between 3 and 12 months)
4. Youth Rehabilitation Orders: A community sentence which includes requirements, lasting up to 3 years. Requirements can (but are not limited to) a curfew, unpaid work, and electronic monitoring
5. Custodial Sentences: Sentences can be spent in secure children's homes, secure training centres and young offender institutions

See the Youth Justice Board for more information:

<https://www.gov.uk/government/organisations/youth-justice-board-for-england-and-wales>

4.2 Notification Requirements and Orders

Part 2 of the Sexual Offences Act 2003 details the notifications and orders that individuals convicted of sexual offences in the Act must adhere to. Principally, part 2 states that sex offenders must notify certain personal details to the police. This is known as registration and often referred to as 'the sex offenders register':

- The notification requirements are imposed automatically on conviction of offences listed in Schedule 3 of the Sexual Offences Act.
- Persons who must comply with this notification requirement also include those found not guilty by reason of insanity or under a disability (for an offence listed in Schedule 3), and a person who has been cautioned by the police after admitting committing the offence
- The notification period can be indefinite, seven years, five years, or two years (if the defendant is under 18 a determine period is halved).

Sexual Harm Prevention Orders

Part 2 of the Sexual Offences Act 2003 details the Sexual Harm Prevention Order (SHPO) which imposes prohibitions on a relevant offender, it can impose prohibitions (but is not limited to) such as the following:

- Preventing an offender from undertaking certain forms of employment
- Preventing an offender from engaging in particular activities on the internet
- Limiting and managing an offender's use of the internet

A SHPO can be imposed when a defendant is found guilty (or not guilty by reason of insanity or under a disability):

- Of an offence listed in Schedule 3 or Schedule 5 of the Sexual Offences Act 2003
- Regardless of whether the offence is dealt with in the Magistrates or Crown Court

Schedule 5 of the Act lists primarily violent offences but allows for a SHPO to be made where the offence is considered to have been sexually motivated. A SHPO would be made in these circumstances to protect the public from sexual harm.

Sexual Risk Orders

Sexual Risk Orders (SROs) can be sought by the police against an individual who has not been convicted, cautioned etc. of a Schedule 3 or 5 offence, but who is thought to pose a risk of harm. For example, where an individual has engaged in grooming behaviour, but it does not meet the threshold for an offence, an SRO may be used to prevent future offending/behaviour causing harm. A free-standing application can be made to the Magistrates Court by the police for an SRO to be made.

Other Orders

The court is required by law to make some other orders. The most common order is the surcharge (sometimes referred to as the victim surcharge). Courts have no discretion about making these orders; they apply automatically if the conditions set out in law are met. They are separate from any other financial orders that a court may make such as fines, compensation, or prosecution costs.

Previous Orders

Risk of Sexual Harm Orders (RoSHOs) were previously in place in England and Wales, however, were replaced by the introduction of SROs. RoSHOs now only apply to Scotland and Northern Ireland.

Sexual Offences Prevention Orders (SOPOs) and Foreign Travel Orders (FTOs) were previously in place in England and Wales, however, were replaced by the introduction of SHPOs. SOPOs and FTOs now only apply to Scotland and Northern Ireland.

4.3 Example of Sentence Guidelines

Below is the Sentencing Guidelines for Rape (Section 1 of the Sexual Offences Act 2003):

Categories of Harm

The Judge must consider the following in order to categorise the harm caused:

1. Category 1:

The extreme nature of one or more category 2 factors, or the extreme impact caused by a combination of category 2 factors may elevate to category 1

2. Category 2:

- Severe psychological or physical harm
- Pregnancy or STI as a consequence of offence
- Additional degradation/humiliation
- Abduction
- Prolonged detention/sustained incident
- Violence or threats of violence (beyond that which is inherent in the offence)
- Forced/uninvited entry into victim's home
- Victim is particularly vulnerable due to personal circumstances

3. Category 3: Factor(s) in categories 1 and 2 are not present

Culpability Factors

The Judge must consider which of the following culpability factors are present:

A. Culpability A

- Significant degree of planning
- Offender acts together with others to commit the offence
- Use of alcohol/drugs on victim to facilitate the offence
- Abuse of trust
- Previous violence against victim
- Offence committed in course of burglary
- Recording of the offence
- Commercial exploitation and/or motivation
- Offence racially or religiously aggravated
- Offence motivated by, or demonstrating, hostility to the victim based on his or her sexual orientation (or presumed sexual orientation) or transgender identity (or presumed transgender identity)
- Offence motivated by, or demonstrating, hostility to the victim based on his or her disability (or presumed disability)

B. Culpability B: Factor(s) in category A not present

Category Ranges

Once the Judge has determined the category of harm and culpability factors, they should use the table (below) to reach a decision on the appropriate sentence:

	Culpability A	Culpability B
Category 1	Starting point 15 years' custody	Starting point 12 years' custody
	Category range 13-19 years' custody	Category range 10-15 years' custody
Category 2	Starting point 10 years' custody	Starting point 8 years' custody
	Category range 9-13 years' custody	Category range 7-9 years' custody
Category 3	Starting point 7 years' custody	Starting point 5 years' custody
	Category range 6-9 years' custody	Category range 4-7 years' custody

Other Factors

The Judge should then consider the following factors to either increase or reduce the sentence accordingly:

Aggravating Factors (factors which may lead to an increased sentence):

- Previous convictions
- Offence committed whilst on bail
- Specific targeting of a particularly vulnerable victim
- Ejaculation (where not taken into account at step one)
- Blackmail or other threats made (where not taken into account at step one)
- Location of offence
- Timing of offence
- Use of weapon or other item to frighten or injure
- Victim compelled to leave their home (including victims of domestic violence)
- Failure to comply with current court orders
- Offence committed whilst on licence
- Exploiting contact arrangements with a child to commit an offence
- Presence of others, especially children
- Any steps taken to prevent the victim reporting an incident, obtaining assistance and/or from assisting or supporting the prosecution
- Attempts to dispose of or conceal evidence
- Commission of offence whilst under the influence of alcohol or drugs

Mitigating Factors (factors which may lead to a decreased sentence)

- No previous convictions or no relevant/recent convictions
- Remorse
- Previous good character and/or exemplary conduct
- Age and/or lack of maturity
- Mental disorder or learning disability, particularly where linked to the commission of the offence
- Physical disability or serious medical condition requiring urgent, intensive, or long-term treatment

Additional Considerations:

- Whether the custody threshold has been passed
- Whether imprisonment is unavoidable
- What the shortest term is in proportion to the seriousness of the offence
- Whether the sentence can be suspended
- Whether the sentence can be reduced as a result of the offender assisting (or offering assistance) to the prosecution or the investigator
- Whether the sentence can be reduced for a guilty plea
- Whether it would be appropriate to impose a life sentence
- Whether it would be appropriate to impose an extended sentence
- Whether the total sentence is proportionate to the offending behaviour when sentencing an offender for multiple offences
- Whether to make an ancillary order
- Whether to give credit for time spent on bail and/or time remanded in custody

For specific guidelines for each sexual offence, see: <https://www.sentencingcouncil.org.uk/>



Section 5: Offender and Risk Management

This section focuses on means of offender and risk management in the community, including perpetrators who:

- Are subject to community requirements as part of a sentence
- Hasn't been reported to the police, but health services have been made aware of
- Has been acquitted in a criminal court
- Has children with someone who they have subjected to sexual violence

Having this knowledge means you can be better equipped to support and inform women who may be at risk of harm from perpetrator(s) in the community.

5.1 Multi-Agency Approaches

There are two key multi agency approaches explained below which are used for risk management: MAPPA and MARAC. As a professional, you may have heard of or been involved in them. In addition, the police have specialised units which play a key role in the multi-agency approach to managing offender risk in the community.

Multi Agency Risk Assessment Conference (MARAC)

A MARAC is a regular local meeting to discuss high-risk cases of domestic abuse and sexual violence, if the victim is considered to be at high risk of murder or serious harm, the officer in charge of the case may refer the case to MARAC.

The purpose of the meeting is to share information and to safety plan for and safeguard the victim and their family. The MARAC arena should enable a much more informed risk assessment and safeguarding action plan to be put in place. Together, led by the meeting chair, an action plan is written for the case. MARAC meetings work best when everyone involved understands their roles and the right processes to follow.

Various professionals attend MARAC meetings, this can include (but is not limited to) a domestic abuse specialist (IDVA) on the victim's behalf, the police, the Probation Service, children's social services, health services.

The above professionals will talk about the victim, their family, and the perpetrator. The meeting is confidential and specifically addresses the safeguarding needs of the victim but will also take into consideration any of their children or current pregnancy.

Note: the perpetrator does not have to have been reported to the police, charged, or convicted in order to be discussed at a MARC meeting.

Multi Agency Public Protection Arrangements (MAPPA)

MAPPA is the process through which various agencies such as the police, the Prison Service and Probation work together to protect the public by managing the risks posed by violent and sexual offenders living in the community. Various agencies share information about offenders under MAPPA to assess the level of risk they pose to the public.

All offenders are assessed to establish the level of risk of harm they pose to the public. Risk management plans are then worked out for each offender to manage those risks. MAPPA allows agencies to assess and manage offenders on a multi-agency basis by working together, sharing information and meeting as necessary to ensure that effective plans are put in place.

There are three categories for MAPPA registration dependent on the type of offender:

1. Category one: All registered sexual offenders
2. Category two: Violent offenders who have been sentenced to 12 months or more or to detention in hospital and are now living in the community on licence and other sex offenders not subject to notification requirements
3. Category three: Other dangerous offenders who have committed an offence in the past and who are considered to pose a risk of serious harm to the public

There are three levels of management which are based on the level of attention and resources required to put effective plans in place:

1. Level 1: offenders who can be managed by one or two agencies, such as the police and Probation, 95% of offenders are managed at this level
2. Level 2: the ongoing involvement of several agencies is needed to manage the offender. Once at level 2 there will be regular multi-agency public protection (MAPP) meetings about the offender to develop a coordinated plan.
3. Level 3: offenders who are deemed to pose the highest risk of causing serious harm, whose management is particularly problematic, or are likely to have media scrutiny or public interest. The attendance of senior managers is required at regular Multi-Agency Protection Panels to ensure a comprehensive risk management plan is in place and observed.

Specialised Police Units

Police forces often have specialised units and officers to deal with certain offending. For example, many forces have 'Sexual or Violent Offender Managers' who are specially trained in the response to and Management of Sexual or Violent Offenders (MOSOVO). Specialised units within the police are often referred to as SOMUs (Sexual Offender Management Units), however each area is different and will have different units and names for such.

Sexual offenders in the community will usually have an allocated police officer in addition to a Probation Officer. The police officers who specifically deal with the management of sexual offenders may (but are not limited to):

- Look at SHPOs and ensure offenders understand conditions upon their release
- Collect and gather evidence and record and retain material
- Assess individuals' level of risk of harm they pose to others, to enable the development of a risk management plan to manage and mitigate this risk
- Implement and ensure compliance with this plan to manage the offender
- Identify and implement interventions
- Liaise and work with other investigators and managers to share information
- Prepare reports on the outcome of investigations and maintain and record risk management plans on Violent and Sex Offender Register (ViSOR)
- Work in partnerships with agencies, such as the National Probation Service, social workers and health professionals and drive safeguarding of victims
- Contribute to the Multi Agency Public Protection Arrangements (MAPPA) providing updates on offenders

5.2 Community Licence

Management plans are specific to each individual offender and their offending, but all offenders subject to a community licence will have the following standard licence conditions imposed (as per below, the ‘Supervising Officer’ is the Community Offender Manager (COM), more commonly known as a Probation Officer):

- a) Be of good behaviour and not behave in a way which undermines the purpose of the licence period
- b) Not commit any offence
- c) Keep in touch with the supervising officer in accordance with instructions given by the supervising officer
- d) Receive visits from the supervising officer in accordance with instructions given by the supervising officer
- e) Reside permanently at an address approved by the supervising officer and obtain the prior permission of the supervising officer for any stay of one or more nights at a different address
- f) Not undertake work, or a particular type of work, unless it is approved by the supervising officer and notify the supervising officer in advance of any proposal to undertake work or a particular type of work
- g) Not travel outside the United Kingdom, the Channel Islands, or the Isle of Man except with the prior permission of your supervising officer or for the purposes of immigration deportation or removal.

As previously mentioned, licences are specific to individual offenders, and can therefore include additional conditions, for example, exclusion zones or contact restrictions. These additional licence conditions come under the following categories:

- Residence at a specified place (e.g., must reside at an Approved Premises)
- Restriction of residency (e.g., must not reside with children)
- Making or maintaining contact with a person (e.g., must not contact the victim(s))
- Participation in, or co-operation with, a programme/activities (e.g., must attend a drug and/or alcohol rehabilitation service)
- Possession, ownership, control or inspection of specified items or documents (e.g., must only be in possession of one mobile phone)
- Disclosure of information (e.g., must disclose any developing intimate relationships)
- Curfew arrangement (e.g., must be at their residence by 8pm daily)
- Freedom of movement (e.g., must not enter certain town)
- Supervision in the community (e.g., must engage with SOMU officer for supervision)

Exclusion Zones and EMS tagging

Exclusion zones can be imposed in several circumstances when an offender is released in the community, and they can relate to a specific type of place or to a geographical area:

- Restriction entering an area relevant to the management of the offender’s risk, e.g., parks or leisure centres for certain sexual offending
- Restriction entering an area where the offender poses a risk of harm to specific person(s) and to protect that person from harm, an exclusion zone is necessary
- Restriction entering an area where contact with a person engaged in the victim contact scheme is more likely (i.e., they reside or work in said area)
 - There does not need to be a suggestion that the offender would seek to cause harm if contact were to occur, simply that any contact would cause the victim distress

Electronic monitoring (known as ‘tagging’) is used in England and Wales to monitor curfews and conditions of a court or prison order. A tag is usually attached to an offender’s ankle and a monitoring unit is installed in a place stated in the order (usually the offender’s home). If an offender on tag breaches conditions, they could be taken to court and the court can change an offender’s conditions, including sending them back to custody. There are 2 types of electronic tag (decided by the court, prison governor or parole board) and probation or police officers can use information obtained to support an offender or raise any concerns:

- 1. Curfew tags check if the offender is where they’re meant to be during their curfew hours, e.g., their home. It will send an alert to a monitoring centre if they’re not**
- 2. Location tags record data on an offender’s movement. It checks if they are:**
 - Going to any areas they’ve been told not to by the court or prison
 - Going to appointments or other programmes required
 - Adhering to their curfew

Post Sentence Supervision

Those sentenced to less than 2 years and released on licence (as outlined above), are subject to an additional period of supervision (for the purposes of rehabilitation) once their licence period comes to an end. The licence and supervision period will together add up to 12 months. Depending on the length of the prison sentence, the length of the supervision period can vary. Failure to comply with any of the requirements would count as a breach and may result in the offender being brought to court for that breach.

5.3 Civil Alternatives

The criminal standard of proof is that of beyond reasonable doubt:

- The prosecution must prove beyond reasonable doubt that the defendant is guilty
- The prosecution bears the burden of proof
- The defence must prove that there isn’t enough evidence for a guilty verdict (i.e., there is more than reasonable doubt that the defendant is guilty)
- The defence do not have to prove that the defendant is innocent or that the offences did not take place – not guilty does not prove innocence, just that there is not enough evidence to convict the defendant

The civil standard of proof is that of the balance of probabilities:

- The party seeking a civil protection order bears the burden of proof, i.e., the claimant must prove their allegations to the court with “clear and convincing evidence” (prove it is more likely than not that the order is necessary)
- The respondent has the right to challenge a civil protection order, but they must have evidence to disprove your claims or evidence to prove that the order is being made for reasons other than for your protection for example

If the criminal standard of evidence is not met but the victim believes the civil standard could be, the following Civil Protection Orders (CPOs) can provide a form of protection/risk management for them if their case isn’t proceeded with or where the defendant has been acquitted. In addition, due to the length of criminal proceedings and often lack of bail conditions for suspects, victims may opt for a civil protective order for risk management in the interim.

We recognise it is common for people to have children with people they have been subjected to sexual violence by. Therefore, this section also covers the civil orders available regarding children which victims may opt for.

Non-Molestation Orders

A non-molestation order (NMO) can prevent the perpetrator coming within a certain distance of the victim, their home address or even attending their place of work. It could also include their children in certain circumstances. A NMO will also prevent the perpetrator from instructing or encouraging others to do any of these actions.

Domestic Violence Protection Notice/Orders

A DVPN is an emergency non-molestation order and eviction notice which can be issued to the perpetrator by the police, when attending to a domestic abuse incident. Because the DVPN is a police-issued notice, it is effective from the time of issue, thereby giving the victim immediate support required in such a situation.

Within 48 hours of the DVPN being served on the perpetrator, an application from the police to the Magistrates court for a Domestic Violence Protection Order (DVPO) must be heard. A DVPO can prevent the perpetrator from returning to a residence and from having contact with the victim for up to 28 days. This gives them a degree of breathing space to consider their options. Both the DVPN and DVPO contain a condition prohibiting the perpetrator from molesting the victim.

Occupation Orders

Occupation orders deal with occupation of the home in both violent and non-violent relationship breakdown situations. The court must consider the likelihood of 'significant harm' to any of the parties concerned and the 'balance of harm'. While the occupation order is in force, the person given the right to occupy has home rights. The order will say who can/can't live in the property or enter the surrounding area. The court has the power to grant an order where it considers it just and reasonable to do so.

Forced Marriage Protection Orders

A forced Marriage Protection Order (FMPO) is a type of injunction which can forbid a perpetrator from doing certain things such as taking someone out of the country or making marriage arrangements. An FMPO can also require the person named in the order to do certain things, for example, handover passports to the court.

Stalking Protection Orders

A Stalking Protection Order (SPO) is an order made for a fixed period specified or until a further order is made. An SPO can be sought where the respondent has carried out acts associated with stalking, the respondent poses a risk of stalking to the victim or there is reasonable cause to believe that the proposed order is necessary to protect the victim from that risk.

The threshold to commence criminal proceedings for the commission of a stalking offence does not need to be met for an SPO to be made - this allows for early police intervention in stalking cases. An SPO however, is not an alternative to prosecution for stalking offences under the Protection from Harassment Act 1997.

The conditions of an order could include (but are not limited) prohibiting the respondent from entering certain locations, contacting the victim by any means including via third party and referring to the victim on social media either directly or indirectly.

Restraining Orders

Restraining orders are often used in domestic situations and are made to protect a victim. The court can impose a restraining order when it is considered necessary to protect a victim from harassment or conduct that will put them in fear of violence, where there is sufficient evidence. It is still open to the victim to seek a non-molestation order or injunction from a civil court.

A restraining order can be made on conviction and acquittal of a defendant, as they are intended to be preventative and protective, not punitive. This ability for the court to impose restraining orders on acquittal was introduced to deal with cases where there is clear evidence that a victim needs protection, but there is insufficient evidence to convict on criminal charges before the court.

Civil Orders Relating To Children

Prohibited Steps Order

A Prohibited Steps Order (PSO) is an order that stops a parent who has parental responsibility from exercising that parental responsibility in relation to the issue set out in the order. I.e., the order stops a parents from doing something regarding a child as set out without the permission of the court.

Generally, the reasons prohibited steps orders are used are:

- To stop a child having their name changed by a parent
- To stop a child from being removed from a parent's care
- To stop a child from being removed from the jurisdiction
- To stop a child being removed from their school

Often prohibited steps orders are emergency orders and may be made without notice; the respondent is not at that time aware of the application or invited to attend.

Child Arrangement Order

A Child Arrangement Order is most issued to the biological parents of a child when those parents separate or divorce. However, this is not always the case. Anyone who has parental responsibility can apply for a Child Arrangement Order, whether they are a biological parent, a stepparent, a guardian or another relative.

A child arrangement order decides:

- Where a child lives
- When a child spends time with each parent
- When and what other types of contact take place (e.g., phone calls)

It is commonly recommended for parents to attend mediation; during which a qualified mediator will consider whether an agreement on child arrangements might be reached through an alternative dispute resolution process, or whether the case will need to go to the Court. However, this not appropriate or possible in most cases involving domestic abuse and this first step of mediation can be skipped if the mediator considers that the case is not suitable for such.

Specific Issue Orders

A specific issue order is an order granted by the family court often involving a decision being made over children where parents with parental responsibility cannot agree. As well as parents, stepparents with parental responsibility, anyone named on a child arrangement order and guardians can apply for a specific issue order. Anyone else who does not fall within these categories can apply for a specific issue order, however, to do so they will require permission from the court.

The order is used to look at a specific question about a child's upbringing, for example:

- Whether a child should have religious education
- Whether a certain medical treatment should be undertaken
- Whether a child should change their name

Note: For more information on civil protection orders, see: <https://rightsofwomen.org.uk/get-information/violence-against-women-and-international-law/domestic-violence-injunctions/>

Section 6: Support Services and Resources

This section provides information about key support services which you may want to either refer or signpost a woman to. In addition, the weblinks which were used for this resource are listed for reference purposes.

6.1 Support Services for Women

Sexual Assault Referral Centres

SARCs are specialist facilities with specially trained doctors, nurses, and support workers. SARCs offer a range of support including medical, practical, and emotional support. If a victim is considering reporting the offence and wants to have a forensic evidence taken, they should attend a SARC soon as they feel able to after the assault – forensic evidence becomes less reliable over time. Find a SARC here: <https://www.nhs.uk/service-search/other-services/rape-and-sexual-assault-referral-centres/locationsearch/364>

Rape Crisis

Rape Crisis provides counselling, support and therapy, an ISVA/advocacy service, helplines for anonymous information and emotional support.

Web: <https://rapecrisis.org.uk>

Helpline: 0808 802 9999

Women's Aid

Women's Aid provides a live chat, an email service, free resources, a forum, refuges, and local support services.

Web: <https://womensaid.org.uk>

Email: helpline@womensaid.org.uk

Rights of Women

Rights of Women provide free telephone advice lines for women to help with understanding the law and their legal rights.

Family Law Line: 020 7251 6577

Open: Tuesday, Wednesday, and Thursday 7-9pm and Friday 12-2pm

Criminal Law Line: 020 7251 8887

Open: Tuesday 2-4pm and 7-9pm, Thursday 2-4pm and Friday 10am-12pm

Sexual Harassment At Work Line: 020 7490 0152

Open: Monday 3-5pm and Monday, Tuesday and Wednesday 6-8pm

6.2 Web Links

<https://www.cps.gov.uk/legal-guidance/bail>

<https://www.cps.gov.uk/legal-guidance/indictable-only-cases-sending-crown-court>

<https://www.cps.gov.uk/legal-guidance/rape-and-sexual-abuse-chapter-15-sexual-harm-prevention-orders-shpos>

<https://www.cps.gov.uk/legal-guidance/rape-and-sexual-offences-overview-and-index-2021-updated-guidance>

<https://www.cps.gov.uk/legal-guidance/retrials>

<https://www.cps.gov.uk/legal-guidance/sentencing-ancillary-orders>

<https://www.cps.gov.uk/legal-guidance/sentencing-overview>

<https://www.cps.gov.uk/publication/code-crown-prosecutors>

<https://www.gov.uk/government/consultations/police-powers-pre-charge-bail/outcome/police-powers-pre-charge-bail-overview-of-the-evidence-accessible>

<https://www.gov.uk/government/organisations/probation-service>

<https://www.gov.uk/government/organisations/youth-justice-board-for-england-and-wales>

<https://www.gov.uk/government/publications/multi-agency-public-protection-arrangements-mappa-guidance>

<https://www.gov.uk/government/publications/multi-agency-risk-assessment-conference-marac-protection-plans-requests-for-evidence>

<https://www.gov.uk/government/publications/police-powers-and-procedures-in-england-and-wales-201112-user-guide/user-guide-to-police-powers-and-procedures>

<https://www.legislation.gov.uk/ukpga/2020/17/contents>

<https://www.sentencingcouncil.org.uk/crown-court/>

<https://www.sentencingcouncil.org.uk/offences/crown-court/item/rape/>

<https://www.sentencingcouncil.org.uk/the-magistrates-court-sentencing-guidelines/>

REMINDER

We all have different ways of reacting to and coping with trauma in the moment it happens. We also have a different way of responding immediately and in the days, weeks, months, and years afterwards. Sadly, there is a lot of pressure to be a 'model victim' who fights off the perpetrator and runs straight to a police station to report the crime. Most of us will never do this. Most of us who have been subjected to sexual violence do not report it. We will all have different reasons for this, and that's ok.

It is most important to recognise that:

1. Women are entitled to report what they've been subjected to
2. Women are not obligated to report what we've been subjected to