

HEALTH AND SPORT COMMITTEE

THE FORENSIC MEDICAL SERVICES (VICTIMS OF SEXUAL OFFENCES) (SCOTLAND) BILL

SUBMISSION FROM Rape Crisis Scotland

29th January 2020

Rape Crisis Scotland welcomes the opportunity to provide evidence on the Forensic Medical Services (Victims of Sexual Offences) (Scotland) bill.

Policy intention of the bill

1. Rape Crisis Scotland supports the provisions in the bill which aim to improve health and forensic responses to someone who has been raped or sexually assaulted. Feedback from survivors, and two critical reports by Her Majesty's Inspectorate of Constabulary in Scotland¹, point to unacceptable standards of provision across many areas of Scotland. Issues include: lack of access to female examiners; examinations taking place in unsuitable premises; significant delays in forensic examinations being provided; lack of trauma informed staff to deliver these services and a failure to proactively meet survivors' physical, sexual and emotional health needs following a sexual crime. Services across Scotland are improving under the leadership of the Chief Medical Officer's Taskforce for the Improvement of Services for Adults and Children who Have Experienced Rape and Sexual Assault, with new standards for healthcare and forensic medical services following rape and sexual assault introduced at the end of 2017 by Health Improvement Scotland². It is clear, however, that there is a need for continued leadership and significant, ongoing investment if we are to bring services in Scotland up to the standard which survivors need and deserve.

2. Rape Crisis Scotland coordinates a Survivor Reference Group, comprised of survivors of sexual crime who have had some engagement with the criminal justice system, and who wish to use their experience to try to improve responses. We surveyed members of this group on their experience of accessing a forensic examination. The quotes throughout this evidence are taken directly from members of this group.

The need for self-referral access to forensic examinations

3. Rape continues to be a particularly under reported crime. Following a rape, someone is likely to be in a significant degree of shock. This can be a difficult time to decide whether to report what has happened to the police, but if someone doesn't report, in most areas of Scotland this means that they can't access a forensic examination, resulting in forensic evidence being lost. This can have very negative consequences for the prospect of any criminal prosecution should someone later feel able to report what has happened to them to the police. For this reason, we

¹<https://www.hmics.scot/sites/default/files/publications/HMICS%20Strategic%20Overview%20of%20Provision%20of%20Forensic%20Medical%20Services%20to%20Victims%20of%20Sexual%20Crime.pdf>

²<file:///C:/Users/Sandy/Downloads/Healthcare-and-Forensic-Medical-Services-stanf-Dec17.pdf>

welcome the provisions in the bill which put a duty on the NHS to provide access to forensic examinations on a self-referral basis. Even if someone does not wish a forensic examination, they should be able to access joined up and trauma informed healthcare to meet their needs following a rape or sexual assault.

Sex of examiner

4. The single most common complaint we hear from survivors of sexual crime about their experience of the forensic examination is lack of access to female doctors. Despite overwhelming evidence of a strong preference for female doctors to carry out intimate examinations following rape, in many areas of Scotland survivors continue to be examined by male doctors. There continues to be a lack of meaningful choice, with some survivors being told that if they wish a female doctor they will need to wait for a number of hours, meaning that they are faced with a 'choice' of an examination within a reasonable timescale with a male doctor, or waiting for hours without washing post rape in order to have a female doctor. This is in our view inhumane.

5. The Scottish Government legislated in 2014 to introduce a right to choose the gender of the examiner, but the relevant provision has never been implemented, due to lack of availability of female doctors. There has been a failure to prioritise the needs of survivors in this regard.

6. We asked survivors from our reference group if they were given a choice about having a female doctor and whether this was important to them. While one survivor felt that the approach of the doctor was the most important thing, saying "the manner of the doctor was more important than gender", the vast majority of survivors expressed a strong preference for female doctors:

"I hated every minute of it. I deserved to have a choice, it would have given me some feeling of control and being touched by a man was the last thing that I wanted at that moment."

"I could not have went through that experience with a man only hours after what happened"

"I wouldn't let a man do that after what happened"

7. In this context, we are pleased that the Scottish Government intends through the implementation of this bill to implement the provision from the Victim & Witnesses (Scotland) Act 2014 relating to choice of gender of examiner. We note, however, that the notion of choice may not be the most helpful in this regard. The evidence is overwhelming that the vast majority of women who have been raped have a strong preference for a female doctor to carry out the forensic examination. There is no equivalent evidence that male survivors prefer a male doctor; on the contrary there is some evidence that some male survivors would also prefer a female doctor. For any legislation to be meaningful, the right to have a choice of gender of examiner would require at a minimum a male and female doctor to be available and on call at any one time. It is difficult to see the justification for this or how this could be resourced in areas where there is normally only one doctor on call. It would seem simpler, and more likely to meet survivors' needs, to require health boards to always have a female examiner available, as this what survivors of rape say they want and need.

Responsibility of health services to meet survivors' needs

8. It is crucial that the bill places a direct responsibility onto health to identify and address the healthcare needs of survivors of sexual crime. Many survivors tell us that currently they do not feel that the response that they receive meets their needs. We have outlined below the key issues which survivors raise with us, and which we consider require to be addressed:

9. **Delays:** Many rape survivors experience significant delays in their forensic examination being organised. These delays can have a profound impact:

"I had to wait until the next morning which meant that I spent the entire night with my rapist's ejaculate on my face."

"It was about 8-9 hours of waiting for the appointment. It was hell. I didn't sleep, I just sat in the dark and stressed about the upcoming exam."

10. **Provision of appropriate physical environments:** The physical environment that forensic examinations take place in is important. Survivors tell us of undergoing examinations in environments which are cold (literally and figuratively) and which offer no sense of comfort at a very traumatic time. Many say they weren't offered tea or hot drinks or food, despite being in the premises for many hours. As well as having a physical impact, the failure to offer food or drink communicated to them a lack of care for their wellbeing.

Survivors told us:

"It was really cold and harsh. I was offered tea but at no point did I feel like the environment was kind. I felt like the entire thing was a punishment to me."

"The lights were horribly bright and there was nowhere comfortable to sit. Wasn't offered food."

"Nobody offered me food all day... 9am-7pm when I got home. I think the centre was warm enough but a lot of waiting around."

"It was very cold and clinical and disturbing."

11. **Need for joined up, trauma informed approach:** There is a lack of joined up, proactive care to meet the varied physical, sexual and emotional health needs someone may have immediately following a rape or sexual assault:

"No information. It would have been great being told how to get STD tested. I had to do that alone."

"The info I was given was just to wait it out and things will happen, whatever that meant. I was offered Plan B and was asked if I would be able to find therapy on my own. I really didn't feel cared for."

Survivors report a lack of trauma informed care, raising questions about the level of training of staff conducting forensic examinations:

"My experience was that it took too long to happen, was cold, punitive, and that the examiner didn't have up to date sexual assault exam training/how to talk to a victim

"Felt like people were just poking at me and touching me"

"Doctor OK but didn't explain much. Manner a bit brusque.

"I don't think he explained the best that he could have. I think he could have used more training to tell me exactly what he was doing every step of the exam."

Summary

12. It is clear that legislation alone, while important, is not enough to bring Scotland's response to rape survivors up to an acceptable standard. In addition to the very welcome provisions in this bill, there needs to be ongoing accountability mechanisms to ensure that current efforts to improve responses across Scotland continue and that recent HIS standards are and continue to be implemented. Crucially, services must be adequately resourced. This needs to be considered not only in relation to the additional cases which it is estimated are likely when the self-referral provision in this bill is implemented, but also in relation to how the NHS can be equipped as a whole to provide joined up and trauma informed services of the standard that survivors in Scotland deserve.