



Suffering for justice

Sexual violence victim-survivors' experiences
of going to court and cross-examination

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Acknowledgements

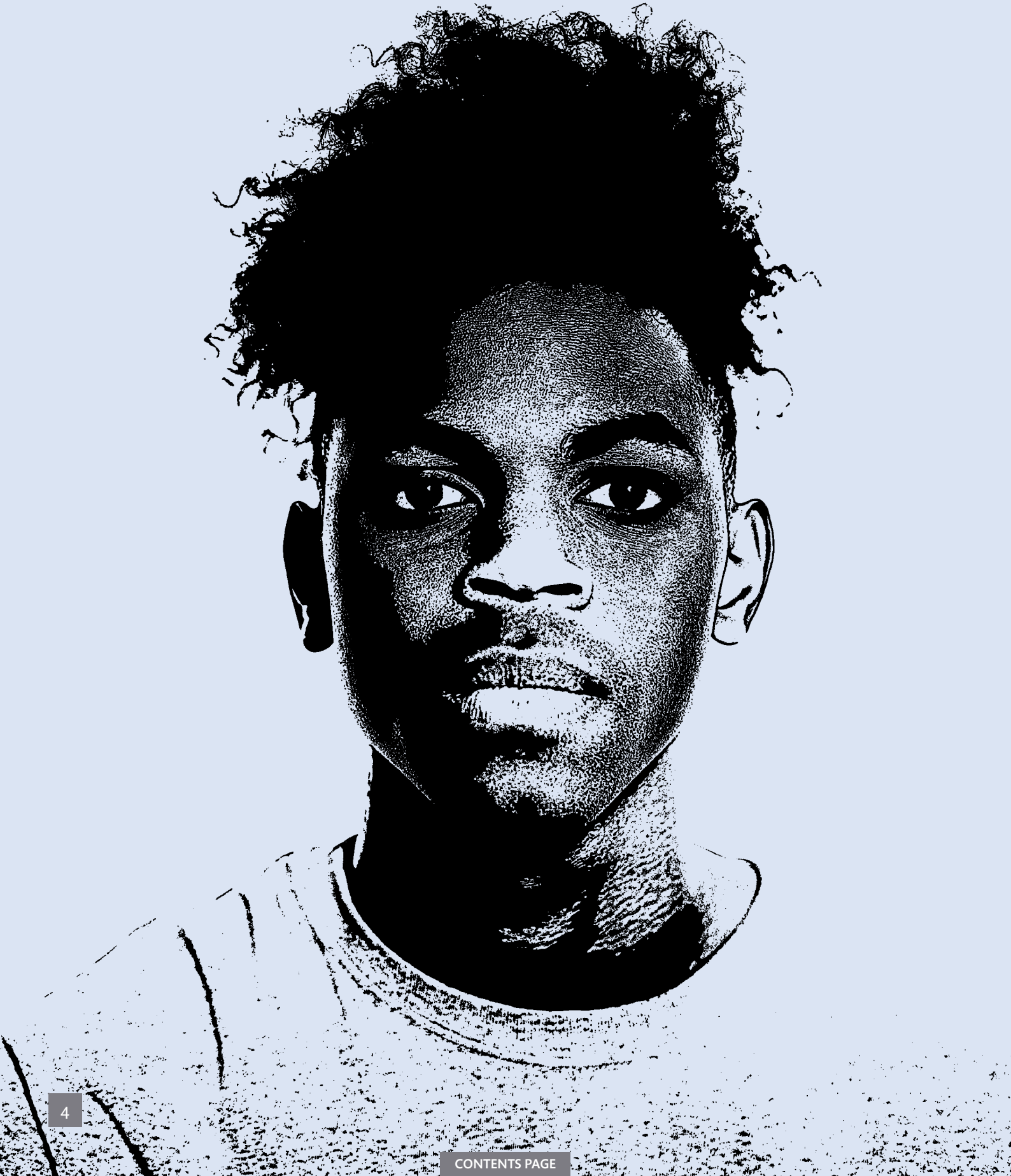
We would like to thank, first and foremost, the sexual violence victim-survivors and young people's parents, who shared their children's experience on their behalf, as well as Victim Support practitioners who participated in the research. We would also like to extend our thanks to colleagues who helped us recruit victim-survivors and helped facilitate the writing of this report. Additionally, we would like to thank Dr Madeleine Storry (Office of the Victims' Commissioner) for reviewing an earlier version of this report.



Contents

Foreword	5
Executive summary	7
Introduction	10
Victim Support and sexual violence.....	14
The research	15
The aim.....	15
Methodology.....	16
Before giving evidence	20
Long waits.....	20
Preparation for the trial.....	25
Giving evidence	33
In court.....	33
Cross-examination.....	36
Cross-examination using Section 28.....	41
After giving evidence	47
Sentencing.....	47
Support after the trial.....	50
Conclusion	52
References	59
Appendix	61







Foreword



We set out to hear the voices of victim-survivors of sexual violence. Our research gave us a clear message: the system that is set up to deliver them justice is fundamentally failing them.

The stories that they shared with us are devastating to hear.

We already know that prosecution rates for sexual violence are shockingly low. Only a tiny minority of victim-survivors see their case go to court and have a chance at achieving a measure of justice.

As a society, we would expect those whose cases do go to trial to be treated with fairness and respect, and receive timely access to justice. Heartbreakingly, the reality is that the court process brings immense difficulties and causes them significant harm.

Our research paints a picture of a broken system. Victim-survivors of sexual violence are stuck waiting years for their case to come to trial, their lives on hold. Every single person who took part in our research felt they lacked information and updates about what was happening in their case. Half of the cases we examined experienced adjournments, some at the very last minute. Many faced problems accessing the special measures that help to alleviate some of the stress and anxiety of going to court.

We found unwanted contact with the defendant taking place in the court building, and when it came to giving evidence, victim-survivors spoke of it as a profoundly terrifying experience. At the end of the process, victim-survivors said they were left with only scant details about what the sentence imposed actually meant.

As a result, they tell us that their faith in the criminal justice system has been shattered. Far too often, their own wellbeing and mental health is left in tatters.

Put simply: the justice system is asking victim-survivors to pay too high a price for justice.

Significant work has taken place to improve access to justice for rape victims within policing and the Crown Prosecution Service over recent years. We cannot let these hard-won gains be lost in court. Nothing short of fundamental, wholesale change will solve the deep-rooted problems with the criminal justice process. To this end, our report points to a range of reforms that would ease some of the distress caused to victim-survivors.

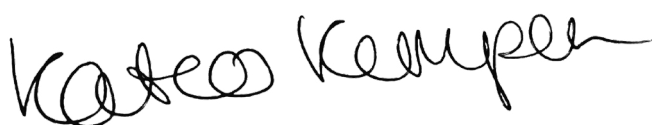
As a starting point, they need their existing rights under the Code of Practice for Victims of Crime (Victims' Code) upheld – they must get the communication they need and be able to access the special measures that make courts bearable. Victim-survivors are entitled to receive regular updates about their case and these need to be clear, sensitive and timely. Meanwhile, special measures must be consistently applied for and victim-led.

Reducing long waits for trial that exacerbate and extend the stress of going to court is an urgent priority, as is putting an end to relentless adjournments. The use of rape myths and gendered stereotypes has no place in the court room – this must stop.

Amid these changes, we must protect and respect the specialist support services that are a lifeline for those who experience sexual violence. These services must always be independent of the criminal justice system.

This report makes for difficult reading, but it is essential that we understand the experiences of victim-survivors, learn the necessary lessons and work tirelessly for change. It is widely acknowledged across government, the criminal justice system and the victim-survivors' sector that we can and must do better for victim-survivors of sexual violence. I am hopeful that this research will instigate further, much-needed change.

The victim-survivors whose stories make up this report have offered us a gift by shining a light on the issues that we need to overcome. I am enormously grateful to every single one of them for taking part in this vital research. It is essential that we listen to their voices and I call on those who work with them to consider our much-needed proposals for reform. There is an urgent and pressing need for change. Victim-survivors deserve nothing less than for us to fix this broken system.



Katie Kempen

Chief Executive Officer, Victim Support



Executive summary

“Looking back now, I wouldn’t have gone to the police, because it is one of the hardest things you can ever do in your whole life. I can’t even sum up in words what it does to you mentally and physically. You can be the world’s strongest person ever in the world, but going to court can break you. It’s awful.”

Victim-survivor

It is estimated that 1 in 4 women and 1 in 18 men have been subjected to some form of sexual violence since the age of 16 and that 1 in 6 children have been sexually abused.¹ The majority of victim-survivors will not report the offence to the police. Of those who do report it, a very low proportion will receive a charge and have their case go to court. The number of victim-survivors of sexual violence who give evidence in trial is not openly available. Nevertheless, the Ministry of Justice (MoJ) data shows that in the year ending June 2023, 11,506 defendants were proceeded against for sexual offences² and, in 2022–23, 3,004 defendants were charged with rape-related offences.³

This report focuses on the experience of sexual violence victim-survivors where the defendant has been charged and their case has gone through the court process. It focuses on the three main stages of this experience – before, during and after giving evidence – and highlights the main challenges victim-survivors face at each stage. This report also makes recommendations for changes in policy and practice to address these challenges.

To meet the aims of the research, a multimethod approach, combining qualitative and quantitative methods, was used. These include: 12 semi-structured interviews with victim-survivors; focus groups and interviews with Victim Support sexual violence practitioners; and Victim Support sexual violence cases analysis.

Summary of key findings and recommendations

Key findings

1

This research found that the overall experience of victim-survivors of sexual violence was negative before, during and after their case went to trial. Long waits for justice to be served, the absence of updates, adjournments and limited explanations about sentencing have an adverse impact on victim-survivors' mental wellbeing, education and work, and on the people around them. The experience left many victim-survivors re-traumatised. Some participants were diagnosed with post-traumatic stress disorder (PTSD), had suicidal thoughts and/or tried to take their own lives. Many of those who took part in this research described that they had to put their lives 'on hold' for the duration of the criminal justice process. Some of the victim-survivors who took part in this research regret that they ever reported the crime to the police and engaged with the criminal justice system. Many victim-survivors told us that they lost faith in the system and feel angry and let down. They feel there is a complete lack of compassion and consideration for them and their wellbeing within the criminal justice system, and the impact of the incident and the process is not acknowledged.

2

This research found many inconsistencies across England and Wales during victim-survivors' journeys through the criminal justice process. Inconsistencies occurred in areas such as which agency is applying for special measures, the availability and ease of booking pre-trial visits, when and how the Achieving Best Evidence (ABE) recording is watched or read in preparation for court, and sexual violence support workers being able to accompany a victim-survivor for their cross-examination. Because of these inconsistencies, many victim-survivors faced a postcode lottery in accessing their rights. As a result, it was difficult for them to prepare for going to court and for cross-examination, resulting in negative impacts such as feeling stressed, anxious and upset.

3

All participants who took part in this research reported a lack of updates and information at each stage of the criminal justice process. We found that victim-survivors are often not given a fully informed explanation about all the special measures available to them and are therefore unable to make meaningful choices. Moreover, many victim-survivors do not receive an explanation about why their trial has been adjourned when adjournments occur, nor an explanation about the verdict and sentence in their case. Participants reported the immense negative impact this had on their mental wellbeing.

4

The support provided by sexual violence support workers through the criminal justice process was highly valued by victim-survivors. The reasons for this included how sexual violence support workers helped victim-survivors cope with the impact of giving evidence, provided support during lengthy and destabilising investigations and court processes, and kept them engaged with the criminal justice system. Victim-survivors who took part in this research told us that their sexual violence support worker was a constant support, sometimes for years, and often filled in the gaps left by criminal justice agencies. They felt that their support worker was the right person to provide them with support during the criminal justice process, including cross-examination, since they are independent from the criminal justice system, have experience and expertise supporting victim-survivors of sexual violence, and are able to build and maintain a trusting relationship with the victim-survivor over the course of the process.



Key recommendations

1

To improve victim-survivors' experience of the criminal justice process, we recommend that criminal justice agencies listen to victim-survivors' individual needs and consistently deliver their existing obligations and guidance. In particular, every single right under the Victims' Code must be monitored by the agency obligated to deliver them, with a clear process in place to drive improvements where rights are not being delivered at a local and national level.

2

Urgent and sustained action is needed to reduce court delays and adjournments. This must include tangible, time-bound commitments to reduce both the number of cases outstanding in the Crown Court and the length of time cases take to reach court once charged.

3

The use of myths and misconceptions about the nature of sexual violence, alongside the use of victim-survivors' sexual history by the defence, must be tackled to improve the treatment of victim-survivors. The Crown Prosecution Service (CPS) should review whether prosecution barristers are delivering pledges within *The Prosecutors' Pledge*ⁱ to prevent victim-survivors from unwarranted or irrelevant attacks on their character and to seek the court's intervention where cross-examination is inappropriate.

4

Changes are needed to improve victim-survivors' ability to keep up to date with the trial and understand the verdict and sentencing. The Government should commit to making provisions for victim-survivors to watch sentence hearings remotely in all courts across England and Wales. In addition, all victim-survivors should be able to access free and timely transcripts of judges' sentencing remarks.⁴

5

It is vital that victim-survivors who have sexual violence cases going through the criminal justice system are able to access the support of a sexual violence support worker. The role of independent sexual violence advisers (ISVAs), independent domestic and sexual violence advisers (IDSVAs) and children's independent sexual violence advisers (CHISVAs) as key professionals should be recognised in guidance and enabled in practice at each stage of the criminal justice process.



ⁱ *The Prosecutors' Pledge* | The Crown Prosecution Service (cps.gov.uk)



Introduction

This report focuses on the experiences of going to court and cross-examination for sexual violence victim-survivors. It explores three main stages of this experience: before; during; and after giving evidence. The main challenges victim-survivors face at each stage are highlighted. This report also makes recommendations for changes in policy and practice to address these challenges.

Sexual violence can be defined as any unwanted sexual act or activity. It can be perpetrated by someone who is known to the victim-survivor or who is a stranger to them. There are many different types of sexual violence that are considered a criminal offence, including non-consensual crimes such as rape or sexual assault, crimes against children (including child sexual abuse or grooming), and crimes that exploit others for a sexual purpose.⁵

Millions of people in England and Wales have been victims of sexual violence: it is estimated that 1 in 4 women and 1 in 18 men have been subjected to some form of sexual violence since the age of 16.⁶ An estimated 3.1 million adults were victims of sexual abuse before the age of 16.⁷ However, reporting rates are low. The Crime Survey for England and Wales suggests that fewer than 1 in 6 victims (16%) of rape or sexual assault reported the crime to the police.⁸ Of the offences reported to the police^{ii,9} a low proportion result in a chargeⁱⁱⁱ and reach trial.¹⁰

ii 193,566 sexual offences were recorded by the police in England and Wales in the year ending March 2022.

iii 3,717 rape cases were charged during 2023.

The number of victim-survivors of sexual violence who give evidence in trial is not openly available. Nevertheless, MoJ data shows that in the year ending June 2023, 11,506 defendants were proceeded against at magistrates' courts for sexual offences.¹¹ In 2022–23, 3,004 defendants were charged by the CPS with rape-flagged offences.¹² In the majority of cases that go to trial, victim-survivors will give evidence at court. In some cases, there may be multiple victim-survivors giving evidence within one trial. However, these numbers give a rough idea of the number of sexual violence victim-survivors who give evidence in court every year.

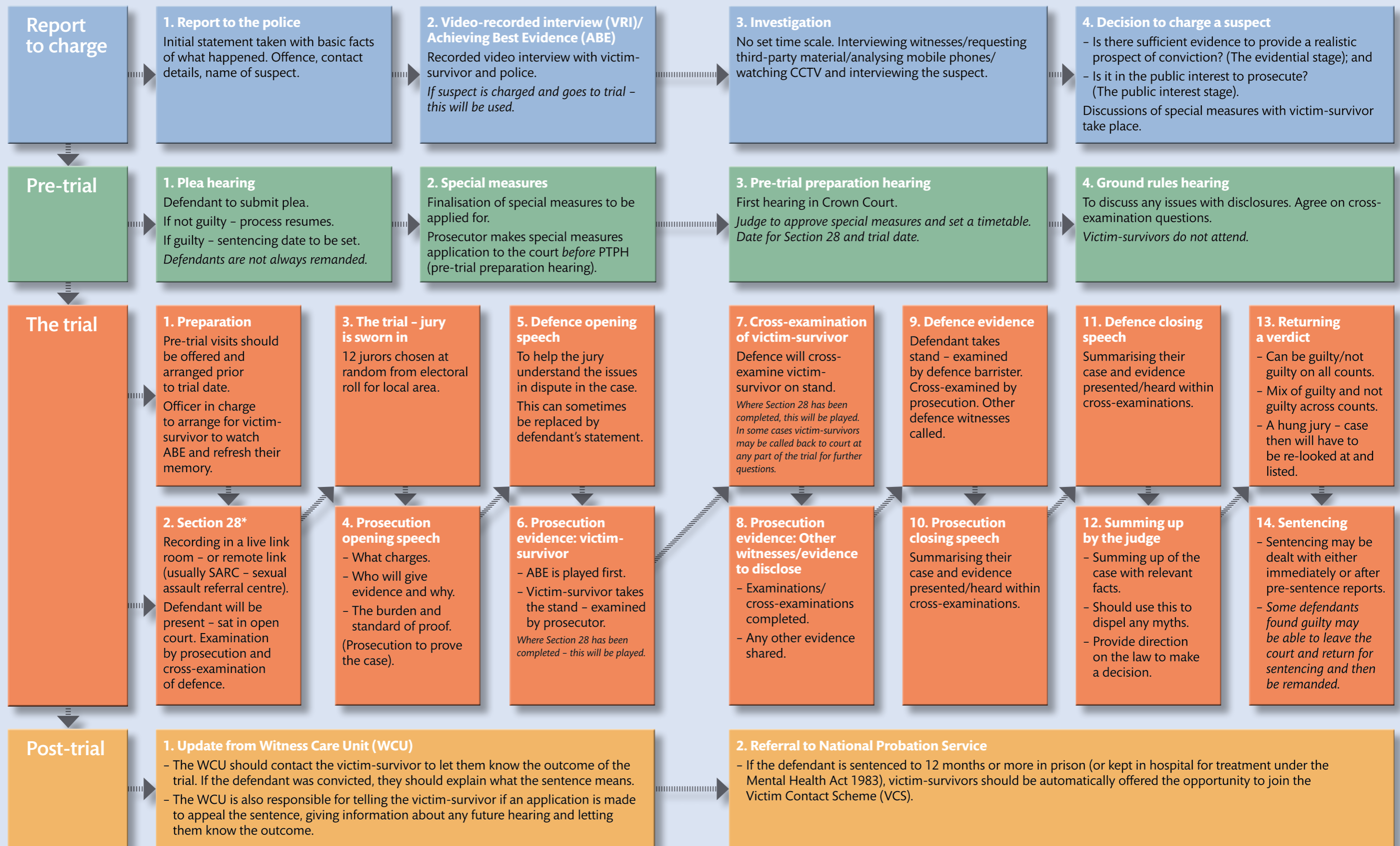
Due to the high backlog of cases in the Crown Court, victim-survivors are subject to long waits for trial. In October to December 2023, there were 12,927 sexual violence cases outstanding in the Crown Court. Once a rape has been reported to the police, it is currently taking an average of over two years for it to reach completion in court.¹³ Child sexual abuse offences wait nearly two years to go to trial.¹⁴

Previous evidence revealed the devastating impact this long wait has on victim-survivors. This includes victim-survivors disengaging with the criminal justice system, not accessing appropriate therapy for an extended period of time, and reducing the likelihood that they will apply for the Criminal Injuries Compensation Scheme.¹⁵

Figure 1 overleaf shows victim-survivors' journeys through the criminal justice process, from reporting an offence to the police to the outcome of the trial.



Figure 1. Journey through the criminal justice process, from reporting to the police to the outcome of the trial



Victim Support and sexual violence

Victim Support is the leading independent charity in England and Wales for people who have been affected by crime and traumatic incidents. We provide a range of specialist services, including for victim-survivors who have been subjected to any form of sexual violence at any point in their lives, regardless of whether the crime has been reported to the police. The support provided includes emotional reassurance and practical support and is tailored to victim-survivors' individual needs. This can include advocating with other services, safety planning without blame, signposting to relevant external services and providing information to help navigate the criminal justice system.¹⁶

Victim Support has three independent sexual violence adviser (ISVA) services and four children's independent sexual violence adviser (CHISVA) services, providing support to victim-survivors aged between 5 and 18 years old at the time of offence. All of our ISVA and CHISVA services are accredited via LimeCulture, with two of these services also being awarded the male-specific accreditation. Some of our ISVAs have particular specialisms, such as health, child sexual exploitation (CSE) and male ISVAs. All of our ISVAs, independent domestic and sexual violence advisers (IDSVAs) and CHISVAs undergo specialist, accredited training to equip them with the knowledge and specialist skills to identify risk and the support needs of victim-survivors throughout the criminal justice process. This also equips them to deliver sensitive support.





The research

The aim

This research aims to provide valuable insights into victim-survivors' experiences of the following areas:

1. Before the trial, including pre-trial support and preparation for court.
2. Cross-examination and special measures.
3. Post-trial support.

It also aims to explore victim-survivors' views and reflections on their journey and on justice.

Based on the learnings across these areas, the research also provides recommendations for best practice for supporting victim-survivors of sexual violence pre- and post-trial as well as on the day of the trial.

Methodology

To meet the aims of the research, a multimethod approach, combining qualitative and quantitative methods, was used. These include:

1. Semi-structured interviews with victim-survivors

Twelve in-depth semi-structured phone interviews were conducted, eight with adults and four with young people. Of the four young people, two shared their account directly. The accounts of the other two young people were provided by their parent, who was interviewed on their behalf. Ten participants were females and two were males. Participants were victim-survivors of rape, sexual assault, non-recent sexual abuse and grooming and sexual activity with a minor. All but two of the victim-survivors went to court in 2023.

2. Focus groups and interviews with Victim Support sexual violence practitioners

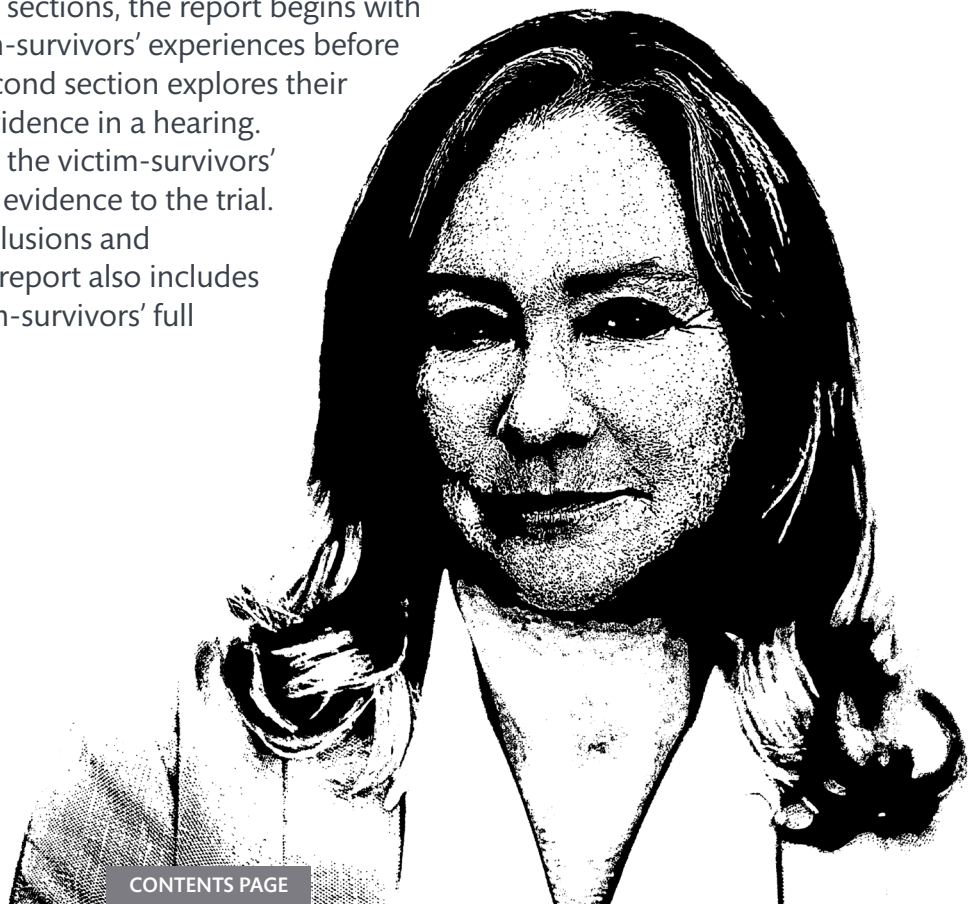
Twenty-five practitioners, including CHISVAs, ISVAs, IDSVAs and service team leaders, took part in a series of online focus groups and one-to-one interviews.

3. Sexual violence case analysis

All Victim Support sexual violence practitioners were asked to provide information on the sexual violence cases of the victim-survivors they had supported during the period of data collection, where either a cross-examination or a Section 28 was completed. The information was provided using a form and included data such as the number of adjournments in the case and the special measures requested and those provided. Information on 38 cases that went to trial between March and October 2023 was provided and analysed.

All quotes presented in this report are from the victim-survivors and practitioners. The quotes are anonymised and any detail that may lead to the identification of the participant or the incident is omitted to maintain the participants' anonymity.

Divided into three main sections, the report begins with an account of the victim-survivors' experiences before giving evidence. The second section explores their experiences of giving evidence in a hearing. The third section covers the victim-survivors' experiences after giving evidence to the trial. This is followed by conclusions and recommendations. The report also includes summaries of two victim-survivors' full journeys through court.



Kate's* journey through the criminal justice system

Kate is a young person and is a victim-survivor of sexual assault. She reported the crime to the police in 2020. She started the process as a young person and, as an adult, is still waiting for the sentencing. At the end of 2023, after three adjournments, the trial began. During this time, *“my Victim Support lady, she was very helpful. She always messaged me about things that were changing or things that I needed to know. I feel like the police officers didn't really do that. We had loads of different officers that changed so many times and I never really knew them and they never really got in contact with me.”* Other than updates from her Victim Support CHISVA, or her parents when she was under 18, Kate was rarely updated by anyone else.

Kate felt very nervous about going to court.

“I did not want to go, and [felt] very much nervous. I was panicking pretty much the entire time up to it and it got delayed by quite a few years, so it's been a couple of years of panicking.”

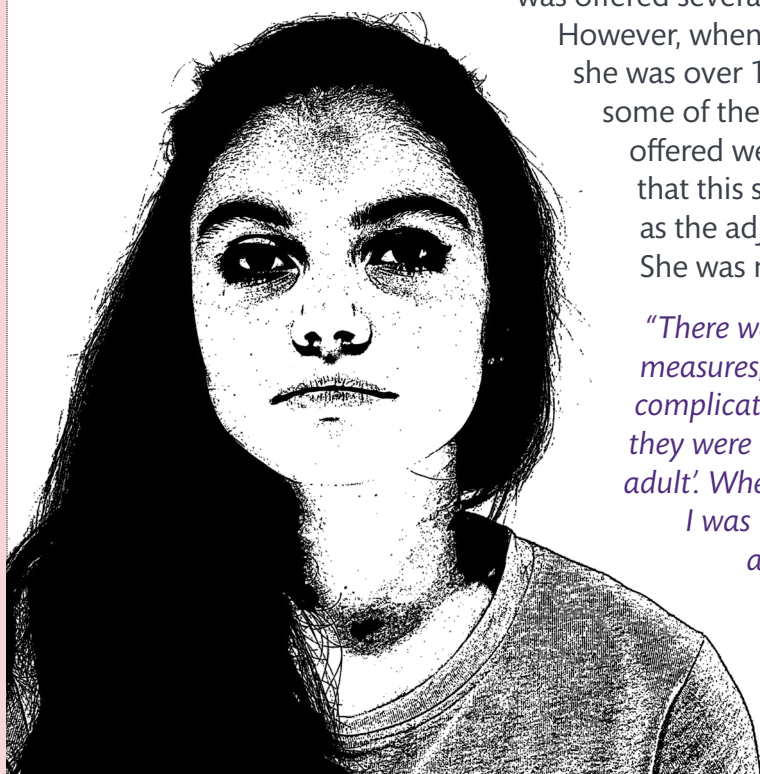
She was offered pre-trial court visits and, as there had been so many adjournments, she was offered another one closer to the trial date. She found it very helpful. However, as the Crown Court was full, a day before going to court the trial was moved to the magistrates' court.

“So I had been on a pre-trial visit to Crown [Court] a couple of times and never been to magistrates' before and I kind of got thrown in at the deep end there. I think it probably threw me off. I messaged [Victim Support CHISVA name] about it and she was actually really quite helpful ... We went early [to court] and she pulled strings and one of the people in court showed us around the rooms that were being used just so I knew my surroundings a little bit.”

As a young person under 18 years of age, Kate was offered several different special measures.

However, when the case finally went to court, she was over 18 and an adult. As a result, some of the special measures previously offered were not given. Kate felt strongly that this should not have been the case as the adjournments were not her fault. She was never offered a Section 28.

“There were loads of different special measures, and then it got a bit complicated when I turned 18 because they were like, ‘Technically, you're an adult’. When we actually went to court I was 18, so I wasn't actually allowed all of them [special measures] that they had offered me.”



A week before the cross-examination, Kate was asked to watch her ABE at the police station in a small room. Kate felt that she should have been offered an option as to when she wanted to watch it. She would have found it more beneficial to watch her ABE a couple of days before the cross-examination.

"I had to watch it in there, which, in a way, was a thing that I hoped could have been different because, as a child, you watch your video evidence the day of court or a couple of days before, whereas mine was literally a whole week before and I struggled to remember some bits of it. I think that almost affected my evidence, in a way, because I just kept saying, 'I don't know', because I couldn't actually remember ... I think watching the video recording was hard."

Reflecting on her experience with the support available before the trial, Kate said that the support from the police wasn't adequate. Because of the lack of updates on the case's progression and pre-trial support from criminal justice agencies, including the police, Kate wanted to disengage with the criminal justice process. However, *"I always had a family member or someone saying, 'Just think of the amount of people that you're helping. If you don't go forward with it, he might not be found guilty and then he can do it to other people! I think that's what kept me wanting to do it because I wouldn't want anyone else to experience it ... [Victim Support CHISVA name] was always on the other side of a phone if I needed. I'm pretty sure the night before court I messaged her with loads of questions and she answered straight away, which was really comforting."*

Kate decided to access pre-trial therapy. Her counsellor was asked to hand over all the notes from the therapy to the court.

On the day of the trial, Kate was there with her sexual violence support worker.

"[Victim Support CHISVA name] was sort of my safe person, and we went in a back entrance. When we got there, the security guy was arguing that we couldn't go in that way, but [Victim Support CHISVA name] rang one of the people from the Witness Service and they came and opened the gate and let us in. So, we went in a little secret entrance into the room so that I wouldn't bump into him [defendant]."

Once in the building, *"we ended up waiting from 10:00 until maybe 1:00 ... It felt like a lot longer, I think, because, obviously, I was sat waiting. I mean, that was the worst part, the waiting to go in ... I feel like I was going around and around in my head on so many different things that could go wrong or what she [defence barrister] was going to ask me or if they were going to tell me that I'm a liar."*

Kate met the prosecution barrister on the day of the trial before being cross-examined, which made her feel much better. Nevertheless, she wished that she could have met the prosecution barrister and the judge before the trial to make the experience less daunting and intimidating.

"... we were sat in a waiting room and my barrister actually came down and introduced himself in the waiting room ... He was really nice and it put my mind at rest, knowing at least a warm face that was going to be in the court room ... It was quite daunting to not know anyone in there and just go straight in."

For the cross-examination, as arranged earlier, Kate had special measures including screens placed around the witness box so she could not be seen by the defendant

while giving evidence. She didn't find them helpful as she knew that the defendant was sitting in the room in close proximity to her and it made her panic. That is why she originally wanted a video link, but she was told that there are often technical problems and *"I didn't want to make it more difficult."* Kate felt like *"I didn't have much say over how the court process happened. It did kind of concern me that he could see me."*

The cross-examination was an incredibly difficult experience for Kate. The defence barrister asked her lots of questions that Kate felt were inappropriate and unrelated to the case.

"The defendant's barrister asked questions, and I feel like a lot of her questions were almost to throw me off, which is obviously their job, but I didn't realise how difficult it was going to be ... She [defence barrister] was implying a lot of the time that I had made it up ... and she asked me what I was wearing and that really didn't sit right with me because I don't think it's about that at all. At my interview [with the police], I was asked what I was wearing ... So I feel like, the way that she [defence barrister] made it out like I was doing something to provoke him ... Some of the questions were a bit far. She was almost victim-blaming, in a way, which made me look really angry.

"[Victim Support CHISVA] was sat right next to me and just as the questioning had finished, I started crying. I didn't want to cry in the court room because I didn't want the defendant to hear me crying, so I held it together until he had left the room. [Victim Support CHISVA] came over and I sobbed in her arms, and it was really nice to have her there because I wouldn't have wanted a family member or a friend there because it was a bit too personal.

"I just know that I wouldn't ever do it again without having [Victim Support CHISVA] right there. I couldn't have done it without having her next to me. She was there as well if I needed to take a break or anything ... She said if I just look at her or signal to her, she'll stand up and say, 'Can you give [victim-survivor name] a break?'"

After the cross-examination, Kate felt numb.

"I remember going back to the toilet with [Victim Support CHISVA] and absolutely bawling my eyes out ... The whole way home, I was so tired. Not physically tired; just like I couldn't think, I couldn't feel. I just sort of like shut off."

The defendant was found guilty on all counts. However, Kate is still waiting for the sentencing, which was cancelled, and a new date has not yet been given to her. Despite the guilty verdict, Kate described the lack of closure and justice due to the ongoing wait for the sentencing hearing. She is being supported by her CHISVA during this wait.

"Sentencing was meant to be a couple of weeks ago, so that's now being changed all over again and I feel like it's reliving the whole 'cancelling court' process. As of now, I've not heard anything, [Victim Support CHISVA name] has not heard anything from the police officer either.

"I wouldn't want to do it again ... I don't feel completely like justice has been served."

* Name changed to protect person's identity.



Before giving evidence

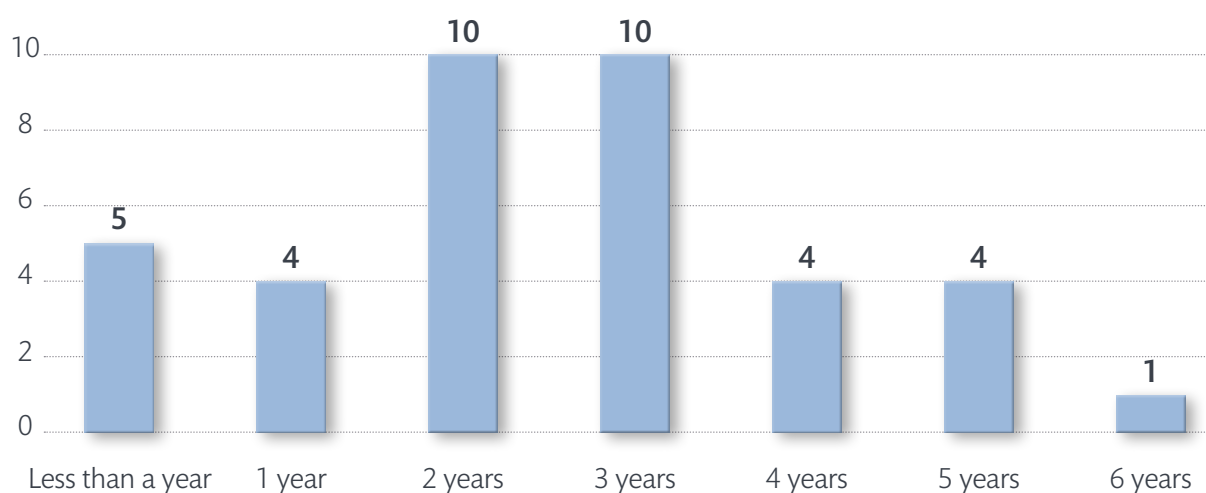
This section discusses victim-survivors' experiences before they give evidence. It focuses on two main topics: long waits and preparations for the trial.

Long waits

Victim-survivors who participated in this research described 'living in limbo' while waiting to give evidence, often with long waits, limited or no updates, and feelings of inadequate preparation for the trial. Options for therapeutic interventions during this time were limited due to long waiting lists and limitations on being able to talk about the incident itself at 'pre-trial' therapy. Due to the impact of waiting, many victim-survivors shared that they had considered withdrawing from the criminal justice process or regretted engaging with the justice system. However, many of them felt they were already too far along in the process to disengage and could be summoned to court if they withdrew. For victim-survivors who retract their allegation following a charge, there is the rare possibility of the CPS pursuing offences such as 'perverting the course of justice' and 'wasting police time'.¹⁷

"The system that's supposedly put in place to protect us is failing us at every opportunity ... I wish I'd never started this process. If I knew then what I know now, I never would have gone through with this and I would not encourage anybody to come forward. That's the annoying thing, is that the Government, people, they keep saying, 'Come forward. Report it to the police. You will be listened to,' and they make all these promises that they can't keep. Nobody wants to be in the situation that I'm in once, let alone three times, and for that reason, I will shout it from the rooftops when this is over, do not put yourself in this situation. It's not worth it."

Victim-survivor

Figure 2. Waiting time from the report to the police to case going to court

As mentioned earlier in the report, criminal justice data indicates that the length of time victim-survivors of sexual violence are waiting for trial is at a record high.¹⁸ Our sexual violence case analysis yields similar findings (Figure 2). The overall average waiting time from the point of reporting the offence to the police to the date the case went to court was 2.6 years, with the average time for adult cases (28 cases) being almost 3 years and children and young people's cases (10 cases) averaging 2.4 years. Nineteen out of 38 victim-survivors waited 3 or more years.

Poor communication

According to the Victims' Code, following a report to the police, victim-survivors have a right to be updated on key decisions in the investigation and to be told by the police about the trial date and location, offence and any bail conditions within one working day of a suspect being charged^{iv}.¹⁹ Nevertheless, many of the victim-survivors told us that throughout the wait for a court hearing, they experienced a lack of updates from the criminal justice agencies. Some shared that they did not hear from anyone from the criminal justice agencies with an update for up to eight months at a time.

Those who were sent written communications said that the information enclosed was often inaccurate and confusing. In some instances, when two people in the household were witnesses in the same trial, they received letters with completely different information regarding the trial's date and location. When victim-survivors asked for clarification, they were still not given correct information. Furthermore, one young victim-survivor, who reached 18 years of age while waiting for the trial, told us that despite becoming an adult, they continued to not be given any updates directly and had to rely on their guardians for updates. Those who were kept updated felt grateful as it made them feel included in the process.

"I didn't really want to hear court updates from my mum, because I feel like it's slightly awkward to tell your own mum that you've been sexually assaulted and have her sit through court, which I didn't really want her to."

Young victim-survivor

"I got my updates from Victim Support [ISVA] not from the police ... They weren't very communicating at all. But [ISVA's name] used to go and ask. And then, I'd get the information."

Victim-survivor

^{iv} Victim-survivors of sexual abuse are eligible for enhanced rights under the Victims' Code (victim-survivors not eligible for enhanced rights have the right to be updated within five working days).

Adjournments

Decisions on how cases are listed for court hearings, known as ‘court listings’, is a judicial responsibility and function, with information about this process provided in the Crown Court Manual^v. Subject to the supervision of the Presiding Judges, the Resident Judge at each Crown Court is responsible for determining the Listing Practice and listing at their Crown Court centre, following guidance or directions issued by the Lord Chief Justice and by the Senior Presiding Judge and Presiding Judges under section IV.33 of the Consolidated Criminal Practice Direction. This involves prioritising the needs of one case against another and deciding upon which date a case is listed and before which judge.

According to the Crown Court Manual, “once a trial date or window is fixed, it should not be vacated or moved without good reason”. However, “Listing Officers may, in circumstances determined by the Resident Judge, agree to the movement of the trial of a case to a date to which the defence and prosecution both consent, provided the timely hearing of the case is not delayed. The prosecution will be expected to have consulted the witnesses before agreeing to any change.” This is referred to as adjourning or vacating a trial date or trial window. There are many reasons for a hearing to be adjourned, including to allow additional information to be prepared. Some hearings are postponed before the appointed time, others on the day of the hearing.

Of the cases included within our sexual violence case analysis, **47% of cases that went to court between March and October 2023 were adjourned**, with some cases being adjourned as many as four times.

Victim-survivors and ISVAs shared that often no reasons were given as to why a case was adjourned, which victim-survivors expressed added to their disappointment at the delay. For the few cases where reasons were provided, the most common reasons included: the defence counsel not being available or withdrawing; a lack of court space; no judge being available; other cases overrunning; the barristers’ strike in 2022; someone taken ill with COVID-19; and not being able to find an interpreter.

“I had a deaf service user recently and her Section 28 was actually cancelled after it was booked in, just because they couldn’t find two British Sign Language interpreters. So, then she has now had to wait a couple of months before they can set the date again, so it just adds on with that anxiety again.”

ISVA

We found that many victim-survivors learn about an adjournment to their hearing as late as when they are on the way to court or are already in the court building ready to give evidence. Those who took part in this research shared the immense impact this has on victim-survivors due to preparations they had made both mentally and practically for going to court. These included: building themselves up emotionally; making tangible preparations (for example, taking a day off work and arranging child care); watching their video-recorded interview (VRI)^{vi}/ABE with the police prior to the day, which is often re-traumatising; and going on a pre-trial visit to the court. The research found that not knowing when and how many times they will be required to make these preparations to then hear at the last minute that there has been an adjournment added to victim-survivors’ negative experiences. For some, because of adjournments, some special measures had to be changed to their least-preferred adjustments, for example, from giving evidence remotely to giving evidence in court, which also negatively impacted their experience.

v Section 14 (judiciary.uk)

vi Also called ABE (Achieving Best Evidence).

“There have been a few times where Section 28s have been rescheduled, and rescheduled, and rescheduled. Then it has got to a point where they’re not able to do a Section 28, because it’s too close to the trial and there wouldn’t be time in the court diary ... So, then they’ve had to give evidence at live trial ... Sometimes they have to watch the VRI ... a couple of days before and then, either on the day of the Section 28 or the day before, it has been cancelled. So, they’re having to watch all of that, thinking they’re going to give evidence and then have it changed.”

ISVA

Victim-survivors told us about the adverse impact that the long wait had on their mental wellbeing. They felt angry at the number of adjournments and lack of updates on the case’s progression. Some people, on learning at court that the trial had been adjourned again, cried and had a panic attack as a consequence. We heard that victim-survivors feel as though no one is taking into consideration how they are feeling and the impact an adjournment and longer wait has on them and their family members. They shared that adjournments caused the development of mental health problems such as anxiety, depression and PTSD. For some, the impact on their mental health was so severe that they had suicidal thoughts. One young person even tried to take their own life.

“I wanted to kill myself, on a number of occasions. I ended up on medication, ended up with a life condition, through the trauma of the process of going to court ... I did, on a number of occasions, want to pull out, because of the trauma and the stress.”

Victim-survivor

This research found that not only victim-survivors but also their family members are significantly impacted by court adjournments. All participants who took part in this research reported a significant effect, with many family members suffering from anxiety and depression and experiencing sleepless nights. Some family members needed to engage with therapy themselves.

Victim-survivors also told us that court adjournments had affected their own and their loved ones’ work and education. Many people had to take time off work, including victim-survivors’ family members to support them at court, only to find out on the day of the trial that the case had been adjourned. Victim-survivors also told us that due to the adverse impact on their wellbeing, some had no choice but to leave their job or postpone their education. This was also experienced by family members.

“[My daughter] started doing the nurse training, and she had to postpone it because she was so frightened of the consequences [of court adjournments] for me, at that time. It [court adjournments] had an effect, the way it was dealt with, in so many ways that is never mentioned. My children worried about my health. I mean, I took an overdose twice ... But it was a cry for help to say, ‘I need support. I need help. I can’t go through this.’”

Victim-survivor

Floating trials

Floating trials are trials that have not been allocated to a specific court or judge and may occur in any court room on a specific day or within a period of time. When a case is listed as a floating trial, it is at a higher risk of being adjourned. Each court's Listing Practice will set out the general policy for giving floating trial dates to cases. According to the Crown Court Manual sections 5.2 and 5.3, Class 2^{vii} cases such as rape and "most other sexual offences" should be given a guaranteed fixture, a starting date that the court will make every effort to fulfil, rather than be allocated floating trial dates.

Recent research by Rape Crisis showed that the volume of sexual violence cases listed as floating trials is at a record high.²⁰ This is not a new issue but was first identified in 2002²¹ and then again 2022.²² Our research yielded similar findings, showing that sexual violence cases are often listed as floating trials.

Sexual violence support workers told us that having sexual violence cases listed as floating trials is proving incredibly difficult for them. The challenges related to being able to help manage victim-survivors' expectations while also needing to rearrange all necessary pre-trial preparations, such as pre-trial court visits at the right time and court.

"We've all experienced a lot of these cases being put as floating trials, which I just don't think is appropriate when it comes to sexual violence ... A case of this level, crimes of this severity, should never be listed as such ... And I would say probably over 70% of the time, they didn't go ahead."

ISVA

We found that victim-survivors and their support workers often find out that a case has been listed as a floating trial when they are waiting to give evidence. Listing the case as a floating trial causes uncertainty as to when the victim-survivor will be called to give evidence, and they can wait for days in anticipation of being called suddenly. Other cases were adjourned at the last minute.

"She [victim-survivor] was only 21 and it was a rape, but hers was held as a floating trial. It was listed for 13 September, and every day she was waiting and waiting and waiting for those phone calls. And she didn't give her evidence until ... 19 [September], so quite some time had lapsed ... And I remember she rang me and she was like, 'We're going to court this afternoon' ... So we all got ready, set off to go to court, and then we got a phone call, about 10 minutes before, 'Actually, you're not going to be needed now until Monday.' Yeah, it's not always the most victim-friendly sort of approach."

ISVA

Participants told us that trials where a Section 28 has been completed are being deprioritised, with a high proportion of these cases being listed as floating trials. As data on this is not easily available, more information is needed to determine how prevalent this is. The sexual violence practitioners and victim-survivors who took part in this research expressed significant concern about the volume of cases, where a Section 28 procedure has been completed, that appear to be allocated as floating trials. They emphasised that

despite the use of Section 28, which allows for the pre-recorded cross-examination of victim-survivors, the victim-survivor may still be summoned to court, and the judicial process remains ongoing. This was reported to hinder their ability to move on with their lives or take steps towards recovery.

“If somebody does a Section 28, they will be the first case that is adjourned. Just because they’ve already got everything, it doesn’t matter if that client drops out, they’ve got all the information they need. And I think that isn’t explained to them [victim-survivors] ... It definitely happens.”

ISVA

Preparation for the trial

The preparation for the trial is an important and a crucial part of going to court. It helps victim-survivors to familiarise themselves with the court layout and use of special measures. Victim-survivors told us how it puts them at ease (as much as possible) and improves their experience of going to court and cross-examination.

Access to pre-trial therapy

Pre-trial therapy refers to therapy and counselling that victim-survivors of sexual violence can access while engaging in criminal justice proceedings. In pre-trial therapy, victim-survivors are unable to talk about the facts directly related to their criminal justice case. Victim-survivors and therapists agree from the start to avoid discussing the facts of a case and what has happened to them, focusing instead on their feelings during therapeutic sessions. Victim-survivors and practitioners who took part in this research emphasised that pre-trial therapy is an important form of counselling available to victim-survivors. The reasons given included helping victim-survivors cope with the impact of giving evidence and providing support during lengthy and destabilising investigation and court processes.

Victim-survivors are allowed to access pre-trial therapy²³ in the period before a case is completed. The notes from this therapy can be requested by the investigator and used by the defence or prosecution within court. At the time of this research, CPS guidance (2022)²⁴ advises that therapy notes should be disclosed if it is thought they may be ‘relevant’ to the case. Victim-survivors told us that they are delaying accessing much-needed pre-trial therapy as they fear that the notes will be disclosed for the trial. As victim-survivors are waiting years for a trial, this can also mean an extensive wait to access the therapy they need.

Some victim-survivors told us they were too scared to start therapy even after they gave evidence via Section 28 in case they were recalled to court for further questioning. Victim-survivors and practitioners told us about a lack of clear explanation from the police and other criminal justice practitioners as to which therapy is allowed and when notes can be disclosed. This adds to victim-survivors’ confusion and impacts their decision whether or not to access therapy.

We also found that, for some, pre-trial therapy was never offered or they were not made aware of the possibility of accessing pre-trial therapy, even when they felt it was clear they were in great need of it.

“And then I got told that, if you did do pre-trial therapy, that what you said to your therapist could be fetched up in court. So, like, I’m that person that, although it’s been hard and I’ve suffered, I didn’t want anything to jeopardise the conviction of the person that did the crime against me.”

Victim-survivor

“I originally was told that I wasn’t allowed to [access therapy] until the trial fully ended, so that would be in late November, but after my Section 28 my police officer person said that I could. I was a bit confused ... I’d rather just wait until everything is done and it definitely can’t be used in court.”

Victim-survivor

“He [victim-survivor] tried committing suicide twice ... The choices he’s making in life, and the people he’s hanging about with, not good. And in my opinion, the vast majority of this was down to the fact that we weren’t able to get him the right therapy, at the right time, in his life. And that was down to, again, even with a Section 28 in place, they still said this [cannot access therapy].”

Parent of a young victim-survivor

In May 2024, the Victims and Prisoners Act was passed, which includes a change to the legal threshold for when the police can request counselling records. The Act states:

“A counselling information request may be made only if the authorised person has reason to believe that the information sought is likely to have substantial probative value to a reasonable line of enquiry which is being pursued, or is to be pursued, by the authorised person or another authorised person.”²⁵

This increase in the legal threshold aims to provide victim-survivors with the confidence to access vital support services, such as counselling.

This research found that a further challenge in accessing pre-trial therapy is a shortage of qualified sexual violence therapists in support services and long NHS waiting lists across England and Wales. The wait for pre-trial therapy for victim-survivors can be over 12 months in certain areas. In some cases, the trial started before the victim-survivor was able to access pre-trial therapy. Furthermore, victim-survivors and practitioners told us that, from their experience, some therapists are apprehensive of providing pre-trial therapy as they might be called as a witness in the trial.

Many of the victim-survivors who took part in the research felt the type of support available in pre-trial therapy, which focuses on the impacts of sexual violence, were already addressed by their sexual violence support worker. The majority of victim-survivors expressed a strong preference for being able to access therapeutic support where they were able to talk about the offence itself with a specialist sexual violence counsellor.

“I had pre-trial therapy. I didn’t find it helped very much, to be honest ... I wasn’t allowed to mention anything about the rape, just about my feelings and things like if I’m having anxiety ... It would just be a lot better, in the pre-trial therapy, if I could just talk about what actually happened and not have the worry that the defendant could use it in cross-examination.”

Victim-survivor

Pre-trial visit

According to the Victims' Code, victim-survivors who are witness in a case have a right to a pre-trial court visit.²⁶ Our case analysis found that 86% of victim-survivors wanted this visit.

We found that some victim-survivors prefer to have a pre-trial court visit early in the process so they can familiarise themselves with the layout of the court room and see how special measures work to help them choose the right approach for them. This is especially relevant in cases where police officers are submitting the special measures victim-survivors would like far in advance of the trial. Other victim-survivors prefer to have their pre-trial visit closer to the day of the trial as part of their preparation for the day.

Most of the victim-survivors who participated in a pre-trial visit told us that they found them very helpful. It allowed them to become acquainted with the court space; for many it was the first time they had been to a court. We also found that children and young people were given the opportunity to meet the judge and the barrister.

"[CHISVA's name] organised [for] me to go for a face-to-face visit at the court ... one of the women showed me around and she said that she'd be the one supporting me on the day as well, so I got to meet her that day ... It was completely laid out differently to how I was expecting it to be laid out. And it was good because they explained the screens and where he'd be and where I'd be and how the screens would work and where the judge and things would be."

Young victim-survivor

Although the majority of victim-survivors wanted a pre-trial visit, a few told us that the pre-trial visit was not helpful because it made them feel more anxious. Some decided not to have a pre-trial visit for this reason.

"I think the reality hits you then when you go on your pre-trial visit ... All you think about then after the pre-trial visit, all you see in your head is that court room. That's all I could see ... I overthink everything ... For me, it didn't help me. It made me dread it even more ... I think it tormented me a bit worse doing it."

Victim-survivor

This research found that obstacles are standing between victim-survivors and pre-trial visits. There is inconsistency across England and Wales as to the availability and ease of booking pre-trial visits. Although all victim-survivors should be given the opportunity for a pre-trial visit, it was offered in just 83% of cases within our sexual violence case analysis. Some victim-survivors and practitioners told us that the pre-trial visit was offered in a different court from where the hearing was meant to be or that it was not offered at all. Reasons shared by participants for not being given the opportunity to visit included: a lack of availability of court rooms due to Section 28 sessions now taking place during afternoons and lunchtimes – the times when pre-trial court visits were previously conducted; timetables not returning to pre-COVID-19 schedules; and a shortage of staff to facilitate visits.

“I had a client, she wanted a pre-trial visit ... She was autistic, so she needed everything in her head, she needed to know exactly what was going to happen and she needed to visualise it. But they wouldn't tell her where the court was going to be, where she was giving her evidence from. And she only found out a day before where she'd be going for video link. And then they couldn't provide a pre-trial visit. That really just impacted how she was on the day [of giving evidence] ... She was already stressed and anxious when she got there [court], and it would have been better if she had woken up that morning with a bit more awareness of what was going to happen for her.”

ISVA

Victim-survivors and practitioners told us that due to adjournments and the length of time between a pre-trial visit and the new trial date, many victim-survivors needed to have a second pre-trial visit. This was considered as especially important when the trial was moved to a different court. However, we found that due to court and staff capacity, it was rarely possible to accommodate this request.

Special measures

Special measures are put in place to ease the stress and anxiety that victim-survivors may experience when going to court and giving evidence that may affect the outcome of their case. The Youth Justice and Criminal Evidence Act 1999 (YJCEA)²⁷ introduced a range of special measures that can be used to help vulnerable and intimidated witnesses to achieve best evidence. The Victims' Code²⁸ states that the judge or magistrate will decide whether special measures should be granted following a request from the prosecutor. The Witness Care Unit will then inform a witness as to which special measures were granted. Court staff ensure that all granted special measures are available on the day of the trial. Full explanations of all special measures available to victim-survivors are provided in the CPS guidance on special measures.²⁹

We found that there are inconsistencies around who applies for special measures and when. Some applications are made early on by the police; others are made later by police officers or the Witness Care Unit. Victim Support sexual violence practitioners therefore have to contact the police and Witness Care Unit to make sure an application is submitted.

This research found that victim-survivors are often not being given a full explanation of all the special measures available to them. Victim-survivors reported that they were told what special measures they could have, instead of being given an opportunity to choose for themselves from those measures available, or were only given partial information about the range of special measures and the implications of using them. For example, some victim-survivors told us that it was not explained to them that when giving evidence using a video link, the defendant can see them. This was especially worrying for victim-survivors of non-recent sexual abuse – where the victim-survivor did not want the defendant to see how they looked as adults – and when victim-survivors felt intimidated.

Some participants in the research told us that they felt persuaded to choose specific special measures by criminal justice practitioners. Victim-survivors shared that it had been suggested to them that giving evidence through a Section 28 or video link is less effective compared with giving evidence in person in the court room. While some researchers have noted that evidence given via video link may be challenging due to technical issues,³⁰ the evidence is still sparse, especially on any impact a Section 28 may have on outcomes.

“I wanted to do it through a computer screen so I’d have been in a completely different room. But then she [police officer] rang me and said that the barrister for my side was saying ... that the jury interacts better with people that are in the court and they can see your facial expressions and your reactions to stuff in real time rather than there being a delay. So, at first, I was supposed to do it via a computer through a video link but then the barrister did ask me to change, and I did change it to the screens. I was never offered anything else ... I got told that I was to be in court.”

Victim-survivor

Participants in this research encountered barriers when applying for a Section 28. Victim-survivors reported that they were denied the option of doing a Section 28 due to there not being enough time – despite there being several months until the trial start date – and not being eligible. Sexual violence support workers felt that victim-survivors’ eligibility for Section 28 was too easily dismissed or wrongly justified by the police and Witness Care. Participants also shared that police officers and CPS staff strongly advised against Section 28, discouraged its use, or refused to submit an application, preferring video links instead. Only judges can approve or reject an application.

“It’s as scary as it gets, and I said to the officer that, ‘I want that Section 28’. And he [police officer] said, ‘I can’t arrange that now. And it has to be special circumstances for you to get that’. And I thought, ‘How special does that get?’ ... Reasons were, you’d have to get a letter from the doctor to say you couldn’t physically go, unless it was that situation.”

Victim-survivor

“I’ve had quite a few Section 28s denied in preference of a live link ... If we wanted Section 28 we would have to prove her medical history and go further into that.”

ISVA

“Initially when she [victim-survivor] had made that request [for a Section 28], the officer had put that to the Crown Prosecution Service, but the Crown Prosecution Service had said, ‘No, we’re not going to apply for it because she won’t qualify’. So, I pushed back and said, ‘Well, actually I think you’ll find that she fits the criteria for asking for that special measure and it’s not for you to decide. It is for the court to decide whether they’re going to grant that special measure, so you must put it to the court.’”

CHISVA

The research also found that the court estate created barriers for some special measures. Victim-survivors and sexual violence practitioners reported that applications for Section 25 (clearing a public gallery) were denied or not easily granted in certain courts. Sexual violence practitioners who took part in this research shared that these applications are usually asked for by victim-survivors from minority ethnic communities who fear that they could be easily recognised in their community. Due to the capacity and limited facilities of some court rooms, participants told us how victim-survivors were left to give evidence while seen by the defendant rather than from behind a screen as requested.

“The case that I’ve got going next week, she wanted the public gallery cleared, but that’s not an option that they would offer ... She’s Muslim and the community will be able to identify her. That’s her concern. But they’re not concerned at the courts about protecting her out in the community.”

ISVA

“I asked for the perpetrator not to see [young victim-survivor name] face. And at the time [place] Crown Court couldn’t facilitate that. Because there was only one screen in the court. And I said, ‘Well, surely, he can be screened off in the dock.’ ‘No, we can’t do that’ ... It shouldn’t be a postcode lottery as to the facilities.”

Parent of a young victim-survivor

This research found that due to long waits and court adjournments, many children victim-survivors have become young adults by the time their case comes to trial and, as a result, their eligibility for pre-arranged support and special measures is affected. Victim-survivors told us that special measures that were granted to them as children were then denied at trial, leaving them to either fight for the use of the special measures that were agreed or to use other measures. This caused them an enormous amount of stress on the day they gave evidence.

Recording and watching the Achieving Best Evidence interview

Achieving Best Evidence (ABE) (or video-recorded interview (VRI)) refers to the video-recorded interview undertaken by the police with vulnerable and intimidated victim-survivors to be played as evidence in court. As preparation for the cross-examination, victim-survivors are able to watch their ABE beforehand.

Victim-survivors told us that recording and watching their ABE was an emotional and traumatic experience. The ABE involved them going into the details of what happened and, for some, watching it back triggered their mental health conditions. Victim-survivors told us that, as a result of recording and watching the ABE, they started taking medication.

“The ABE process, that’s what unravelled me if I’m honest. Within my ABE I had to be a lot more descriptive and go into intricate details of things ... After the ABE, my anxiety levels. It triggered PTSD, if I’m honest. The doctor gave me a short course of diazepam to try to level me back down. I felt very exposed. I’d minimised my abuse so much that, after I did the ABE, it felt massive. It hit me like a tonne of bricks.”

Victim-survivor

“Well the ISVA support is immense. I think that’s brilliant ... I do feel that I should’ve been allocated an ISVA and had time to work with that ISVA before my ABE was done because I was on my own in that ABE. When I came out of it, I had to lean on my GP. I lost my head and I needed that support then. I was very angry. I was angry at the system, I felt abandoned. I felt like you took all this vulnerability from me, and I’d exposed myself, and I had nobody to hold me in it.”

Victim-survivor

Victim-survivors emphasised the need to be offered support when recording and watching their ABE. However, we found that this provision was inconsistent across England and Wales. Some victim-survivors told us that their sexual violence support workers were allowed to sit outside the room and provide support when the ABE was finished; others stated that they were told their sexual violence support workers could not be present in the building during the recording of the ABE. This experience was similar for adults as well as children and young people.

Some victim-survivors told us that they were offered a transcript to read instead of watching the ABE when they were struggling to watch it, which they found helpful. Others, even though they were struggling, were not given this choice and had to watch their ABE.

“[Young person’s name] wasn’t allowed somebody with her, for her ABE ... And that was deeply upsetting obviously for you [as a parent], [young person’s name], but also for your [young person’s] social worker. And we know it wasn’t the best interview in terms of gaining evidence because [young person’s name], (a) wasn’t comfortable and (b) hadn’t had time to process.”

Parent of a young person

We found that there was inconsistency as to when victim-survivors were asked to watch their ABE. Some reported that they weren’t given the opportunity to watch it at all. Other victim-survivors told us that they were asked their preference and it was taken into account; however, others shared that it was decided for them or that their preferences were not accommodated.

ISVA support before court

The victim-survivors who took part in this research emphasised the important role their sexual violence support worker had during the period before going to trial. They told us that their support worker was a constant support, sometimes for years, and often filled the gap left by criminal justice agencies. There was a range of support provided by sexual violence support workers that was referenced by victim-survivors as being particularly important in the run up to the trial and to which they attributed credit for keeping them engaged with the criminal justice process. This included practical activities such as chasing for updates on the case and facilitating preparations for going to court (such as checking special measures applications and arrangements for pre-trial visits). The support also included emotional support while victim-survivors gave or recorded ABEs and prepared to give evidence in court.

“My ISVA was absolutely amazing ... This woman has seen me for who I am. So, I felt that connection then. That helped a lot because I felt I wasn’t on my own then with it, she was with me ... she reassured me she’d be there, she’d meet me there. She did, she was there before me. She was just absolutely brilliant.”

Victim-survivor

Recommendations for the period before giving evidence

- Urgent and sustained action is needed to reduce court delays and adjournments. To provide assurance to victim-survivors that waits will reduce, this must include a tangible, time-bound commitment by the Government to reduce both the number of cases outstanding in the Crown Court and the length of time cases take to reach court once charged.
- Further research is needed into the prevalence and rationale for not providing sexual violence cases with priority listing or guaranteed fixtures as set out in the Crown Court Manual^{viii}. Victim Support believes it is wholly unacceptable that sexual offence cases are currently being listed as floating trials. Where there are adjournments, victim-survivors should be informed as soon as the information is available and given full reasons for the adjournment, in writing, by the CPS.
- To improve victim-survivors' experience, we recommend that criminal justice agencies deliver their existing obligations. Victim-survivors should be given timely updates on their case by criminal justice agencies as set out in the Victims' Code.
- Following the passing of the Victims and Prisoners Act 2024, which includes a change to the legal threshold for police requesting counselling records, the Government must ensure this is implemented consistently across England and Wales and that police are trained effectively. It is vital that the changes are monitored according to whether more victim-survivors are able to access timely, trauma-informed and non-judgemental therapeutic interventions alongside pursuing justice.
- It is vital that the police and prosecutors provide victim-survivors with neutral, full explanations of all special measures available, as per the CPS guidance on special measures^{ix}, and that this is done at the earliest possible time. The realities of special measures, including Section 28, must be provided to allow victim-survivors to make an informed choice based on their specific preferences and needs.
- We believe victim-survivors' individual needs must be heard and responded to. All victim-survivors should be given the opportunity to have a pre-trial visit and efforts should be made by the Witness Service to accommodate more than one pre-trial court visit where cases are changed to a different court. The police should ensure that victim-survivors have options regarding the recording and watching of their ABE. This includes reading a transcript rather than watching the recording. ISVAs should be allowed to be present at these events if needed by the victim-survivor, as per the CPS guidance on Rape and Serious Sexual Offences (RASSO) cases^x.

viii Section 14 (judiciary.uk)

ix [Special Measures | The Crown Prosecution Service \(cps.gov.uk\)](http://Special Measures | The Crown Prosecution Service (cps.gov.uk))

x [What you will need to do before the trial - Rape and Serious Sexual Assault | The Crown Prosecution Service \(cps.gov.uk\)](http://What you will need to do before the trial - Rape and Serious Sexual Assault | The Crown Prosecution Service (cps.gov.uk))



Giving evidence

This section explores the experience of victim-survivors in court, during cross-examination, and cross-examination using Section 28.

In court

Separate entry

According to the Victims' Code,³¹ when victim-survivors arrive at the court, they should be offered separate entry and a private room to wait in so that they do not come into contact with the defendant or their supporters. When the building does not have a separate entrance, where informed, His Majesty's Courts and Tribunals Service (HMCTS) staff should make arrangements to ensure that victim-survivors do not have to see or meet the defendant on arrival.

All the victim-survivors who took part in this research were offered separate entry. However, one of the victim-survivors with disabilities told us that it was impossible to use the separate entrance as it was not step-free. As a result, they needed to use a main entrance and risked coming into contact with defendant(s) and their supporters.

Victim-survivors also told us how they had to undergo unwanted contact with the defendant or the defendant's supporters while in the court building. Some victim-survivors felt that "there was no real instruction of what you do when you get to court" to avoid unwanted contact. Victim-survivors told us that they came into contact with defendants when they had to leave the waiting room to get lunch, were seen by them while waiting in the designated waiting room and, on one occasion, when everyone in the court had to evacuate the building using one main entrance. In other instances, victim-survivors

who came into court without their sexual violence support worker or police officer were directed by court staff to the main waiting hall, where they sat across from the defendant, rather than to the witness service room.

Victim-survivors and sexual violence practitioners emphasised how this unwanted contact, just before giving evidence, caused great distress to the victim-survivors, with some having a panic attack shortly before giving evidence.

“She [victim-survivor] bumped into the perpetrator whilst they were going through security. And it resulted in a massive panic attack for my client, and it took, probably, about an hour-and-a-half to two hours to actually get her to a position where she was calm enough to actually go into the Witness Service suite.”

ISVA

Waiting room

According to the Victims’ Code, victim-survivors who are witnesses have a right to wait in a separate waiting area before and after giving evidence.³² All victim-survivors who took part in this research emphasised that having a quiet, secluded and safe place while waiting was helpful and that the support provided by some Witness Service staff was excellent.

However, victim-survivors also told us that facilities are sometimes lacking. Participants reported that some rooms were cold and uninviting and that they therefore found it difficult to relax and keep calm before the cross-examination. We also heard from parents and practitioners that rooms were not child-friendly, with a lack of resources to keep young victim-survivors occupied during a long wait on the day or over several days. Victim-survivors told us that they needed to wait for hours in this room to give evidence, with no updates and explanation as to why and how much longer they needed to wait. Some waited a whole day before being instructed to come back the next day. They were then apprehensive about coming back to the same uninviting room.

“I was just frozen to the bone ... a cold, bleak, freezing cold, bland room, like a prison cell, is not good. You need something like, for me, something comfortable to sit on, the room made into something that makes you feel calmer.”

Victim-survivor

Meeting barristers and the judge

At the time of the research, victim-survivors who are witnesses do not have the right to meet with the prosecutor before the trial. The previous Government announced that they would include a new provision in a revised Victims’ Code that “will require the Crown Prosecution Service (CPS) to offer to meet with adult victims of rape and other serious sexual offences once it is known that a case is proceeding to trial”.³³ However, this was not implemented before the change in government in July 2024. All participants who took part in this research stated that they believe all victim-survivors should have the opportunity to meet the prosecutor and the judge in their case.

Victim-survivors emphasised how helpful it was when the prosecutor and the judge came and introduced themselves on the day of the trial. They reported that the prosecutor and judge answered any questions they had about the trial and explained what would happen and what to expect. Victim-survivors valued this as it made them feel more at ease and more secure, since they then had familiar faces while giving evidence. This was found to be particularly important for child victim-survivors as they felt it helped build trust.

“Once I spoke to him, although I had a panic attack because it was real what I was doing, I felt secure in him. He had a kind face and I felt like he’d heard me. Had I had that [meeting barrister] earlier I could’ve prepared a little bit better.”

Victim-survivor

However, we found that not all victim-survivors were offered this opportunity. Some told us that they had never met the judge or prosecution barrister or that they met the barrister for just a few minutes before the cross-examination. Some did not get any guidance from their barrister, and other victim-survivors went into the court room to give their evidence without knowing who their barrister was.

Victim-survivors who had met the prosecution barrister before a trial that was subsequently adjourned felt that this introduction was undermined as a different prosecution barrister was involved at the later trial. When a case has been adjourned, victim-survivors stressed that they felt it was even more crucial to meet the new barrister.

“That [not meeting barrister] really did upset me as well, because I didn’t even know who the person was. I mean, it initially started with a female barrister and she had to pull out ... and the barrister had changed to a man. I was told his name, but I didn’t know him ... I knew there were two males doing it, his and mine. I didn’t know which was which ... They need to definitely speak to you, one-to-one.”

Victim-survivor

In some cases, defence barristers came to meet the victim-survivors to introduce themselves. The victim-survivors told us that this had a negative effect on them. They described how it caused them to be caught off guard during the cross-examination – when they had met the defence barrister beforehand they were “very nice”, but during the cross-examination the barrister was challenging and sometimes hostile.

ISVA support in court building

Victim-survivors who took part in this research stressed how vital the support they received from their sexual violence support worker was on the day of the trial. The *National Framework for working with independent sexual violence advisers and support services* (2021)^{xi} outlines minimum standards for police and the CPS on liaising and communicating with ISVAs and local services supporting victims who work within the criminal justice system context. It includes the three standards of ‘multiagency partnership working’, ‘effective processes’ and ‘supporting victims’.

We found inconsistencies in whether ISVAs were enabled by criminal justice agencies to provide effective support in court.

Victim-survivors can be granted permission by the judge to walk through the judges’ chambers with their ISVA to give evidence. Victim-survivors told us that this was very important to them, as walking with someone they knew gave them reassurance. However, some victim-survivors and sexual violence support workers told us that they were not allowed this support. The negative impact it had on victim-survivors included feeling upset, anxious and stressed. Sexual violence support workers emphasised that this lack of consistency makes it difficult to manage victim-survivors’ expectations and preparations for the day at court.

^{xi} *National Framework for working with Independent Sexual Violence Advisers and support services* | The Crown Prosecution Service (cps.gov.uk)

“She [ISVA] wasn’t able to walk up with me through the back passage, that way, to the court. I just had to walk up with a witness support worker from Witness Care in the actual Witness Care bit where you sit waiting to give evidence. Then I got passed over to the usher. My mouth went dry, I felt really panicky. Both these people, I’d never met before in my life. The longest walk of my life, I was with two strangers.”

Victim-survivor

Cross-examination

The purpose of cross-examination is to test the evidence of a witness. This can be done in court on the day of the trial, either in person or using a live video link, or recorded prior to the trial when using Section 28. We cover all the methods below.

Special measures granted

This research found that full information on the special measures was not always given to victim-survivors at the time of application. As a result, victim-survivors told us that they found themselves needing to change special measures on the day of the trial as they were not what they had expected. In particular, concerns were raised by victim-survivors that the defendant could see them via live video link. We were told by those who made a last-minute request to change special measures that this was largely approved by judges and easily accommodated.

However, we found that there were sometimes problems with special measures. Victim-survivors told us that screens did not conceal them properly and some of them could see the defendant and their supporters through it. In other instances, live video links did not work properly, which resulted in additional delays and sometimes adjournments. Victim-survivors also shared that they could not hear what was happening in the court room via the live video link. Similar issues and technical challenges with special measures, such as poor sound and video link picture quality, have been highlighted by the Victims’ Commissioner.³⁴

“To be honest with you, I thought it was a joke [screens]. What I was more concerned about was that at any minute, this screen that they’d put together with clips and gaffer tape and stuff, was going to fall down ... It just felt restrictive, and claustrophobic, and obstructive.”

Victim-survivor

Where victim-survivors used special measures without any problems, they reported that they found them very helpful. They felt protected to some degree and this helped while giving evidence.

“I had a curtain ... so I couldn’t see my perpetrator. You know they’re [perpetrator] there but I felt that did help. The curtain was quite close in on the box so you almost felt a little bit of protection around the back of you, almost like a blanket. I needed that.”

Victim-survivor

Myths, stereotypes and victim-blaming

Previous research has found that rape myths and stereotypes – for example, alcohol intake, clothing that a victim-survivor was wearing and who perpetrates rape and why – continue to play a key role in how victim-survivors are treated by criminal justice agencies. Despite recognition of these issues, myths and stereotypes remain deeply entrenched in the system.³⁵

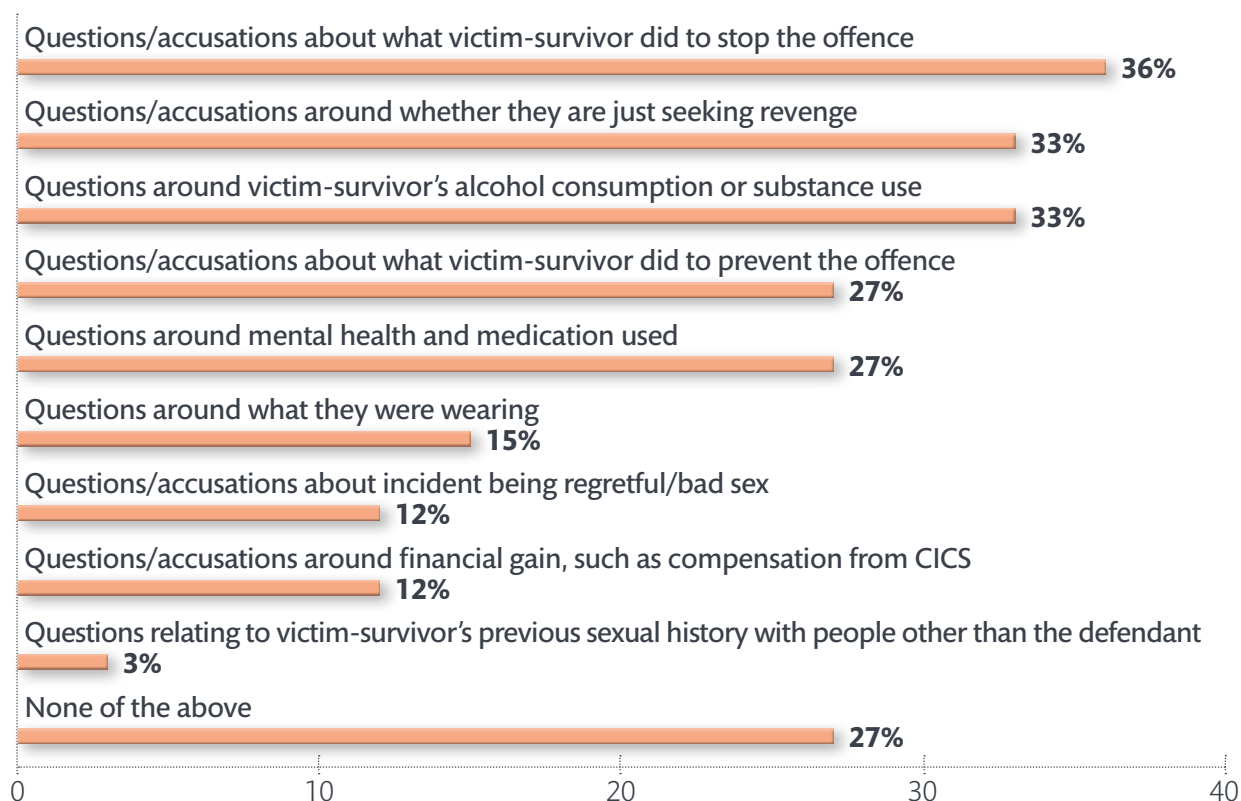
The Law Commission is reviewing the law, guidance and practice relating to the trial process in prosecutions of sexual offences and the need for reform.³⁶ There is existing guidance for prosecutors and judges that could reduce the use of common myths and stereotypes. *The Prosecutors' Pledge*^{xii} includes a pledge to protect victims from unwanted or irrelevant attacks on their character. Prosecution barristers may seek the court's intervention where cross-examination is considered to be inappropriate or oppressive.³⁷ The *Crown Court Compendium* provides guidance to judges on guarding juries against invitations by advocates to make unwarranted assumptions. This includes how to provide suitable direction when a supposed indicator of consent and/or belief in consent around clothing worn, intoxication, previous relationships and lack of physical struggle or signs of injury is raised in court.³⁸

Our sexual violence case analysis shows that questions associated with myths and stereotypes about victims of sexual offences are being asked during both live trials and in Section 28 sessions. At least one question of this nature was asked in 73% of the cases. Of the cases included in the analysis:

- 27% of victim-survivors were asked about what they did to prevent the offence;
- one-third were asked what they did to stop the offence while it was happening;
- one-third were asked if pursuing justice was a way of seeking revenge; and
- one-third were asked if they were under the influence of alcohol or another substance.

Victim-survivors were also asked about their mental health and the medication they use.

Figure 3. Questions asked during cross-examination



xii *The Prosecutors' Pledge* | The Crown Prosecution Service (cps.gov.uk)

Accounts given by victim-survivors reflect these statistics. Many victim-survivors who took part in this research told us they were asked questions they felt were unrelated to the case and that were inappropriate. They shared how they were asked about the clothing they were wearing during the assault or their mental health.

We also found that notes from counselling and content from mobile phones were used during the cross-examination. Victim-survivors' full medical records were also used during cross-examination, which in their opinion was not relevant to the case.

"That's the first thing they [defence] said to me, 'Do you have mental health problems? Do you suffer with your mental health?' ... Then made out I had a drink problem when I don't drink."

Victim-survivor

"I had counselling through my doctors. They did ask for my notes and I let them have them. I was like, 'Have my notes. I have nothing to hide, have them.' I don't think it's fair. I just think they'll grasp and try and use anything against the women that they can. I don't think they should be able to be as invasive. They're private the counselling notes and it's not fair. They had my medical records as well."

Victim-survivor

Victim-survivors also shared that their childhood experiences, family relationships and unrelated previous sexual assaults were raised during cross-examination. For others, the death of a loved one was brought up, along with other traumatic events they had experienced in their lives. A defence barrister also used information from the Victim Personal Statement (where victims explain how the crime affected them and their family) to cross-examine a victim-survivor.

"Within the cross-examination, as well, they brought up my brother's death. They brought up my partner leaving me for another woman. They brought up my other, the stranger rape. All those things were traumas in my life and they all didn't help. They all did the job, that I suppose the defence wanted, to cloud my mind with all sorts of stuff. It was overwhelming."

Victim-survivor

Victim-survivors who took part in this research were also asked if they applied for the Criminal Injury Compensation Scheme (CICS). The scheme is government-funded and designed to financially compensate victims of violent crime in Great Britain. Victims and survivors must apply no later than two years from the date of the crime happening, although an extension can be granted in exceptional circumstances.³⁹ Due to current court backlogs, it often takes longer than two years for a case to go to court. As a consequence, victim-survivors need to apply before their case reaches trial to avoid the risk of being denied access on the basis of time passing. Participants who took part in this research felt that the purpose of bringing up a CICS application during the cross-examination was to give the impression that the victim-survivor was only pursuing the case through the justice system for financial gain.

Many victim-survivors and sexual violence support workers described defence barristers as abrupt and aggressive during the cross-examination. Victim-survivors who took part in this research felt that being asked questions they saw as irrelevant and inappropriate added to

what was already an incredibly difficult experience. They shared how some questions made them feel angry, increased their anxiety and caught them off guard. Victim-survivors told us that they believed the judge should have stopped some of the lines of questioning much earlier to reduce the negative effects.

All the victim-survivors who took part in this research told us that giving evidence was an awful, terrifying and traumatic experience with a profound impact. Many of them said that their mental health deteriorated after the cross-examination to the point that they needed medication. It also affected their physical health negatively. They felt relieved when it was over.

“She [defence barrister] was aggressive to a degree ... I didn’t know what to expect, it was just really traumatic. It’s scary. Absolutely terrified, like a rabbit in the headlights. It’s awful. It’s an awful situation. Nobody should ever have to do that.”

Victim-survivor

“A lot of relief. Because I needed to switch off. Because at that point, I was getting to the point where I was thinking, ‘I’m going to end up in a mental home’. Because I couldn’t sleep, I couldn’t keep calm, I couldn’t keep focused. I ended up with diazepam, mirtazapine, sleeping tablets. I’m still having the sleeping tablets to this day, occasional diazepam. But it’s a relief, but the damage is done.”

Victim-survivor

The length of the cross-examination was raised by multiple participants in this research. Victim-survivors, including the younger ones, were cross-examined for as long as five hours and for some it was spread over two days. Victim-survivors told us that the length of time they were on the stand – and the stopping and starting of the cross-examination the following day – made the whole experience even more difficult and added to the negative impact it had on them.

“I was sat in the Section 28 room and, pretty much, for about two hours just the prosecutor I think, the defendant’s one, just said, ‘This is what happened, you’re lying aren’t you?’ Everything that he said was about how I lied about it ... It was just really, really, hard to hear someone say all that when it’s not true. It kind of felt like I was the one on trial, to be honest.”

Young victim-survivor

“Stopping and starting is really quite traumatic ... When you’re in there and you’re focused and you’re trying to answer these questions, the last thing you want to do is stop. You know, especially stop, go home, try and sleep and then when you’re going back in there for day two, only halfway through, when you’ve had no sleep the night before, you’re not functioning at your best.”

Victim-survivor

All the victim-survivors who took part in this research described a negative experience. However, some of the victim-survivors told us that, despite the difficulties, they also considered it to be an empowering experience once it was over. They felt they had their day in court and were able to stand up and tell the story of what had happened to them.

Victim-survivors who took part in this research stressed that what made a positive difference was when the barrister and the judge took time to speak to them after the cross-examination. Some barristers and judges thanked them for coming and acknowledged the difficulties they experienced. Victim-survivors told us this made them feel like they have been seen and heard as a person rather than being a “number and another statistic”.

ISVA support during cross-examination

One of the central elements of the sexual violence support worker role is to support victim-survivors progressing through the criminal justice process during the criminal justice proceedings, including during cross-examination.⁴⁰ We found that there is no consistency as to whether ISVAs, IDSVAs and CHISVAs can be present while victim-survivors give evidence. The sexual violence support workers who took part in this research told us that they cannot be certain until the last minute whether they will be able to support the victim-survivor while they give evidence. They described many instances where even when the victim-survivor explicitly wished for them to be present and several requests had been made in advance, they were not allowed into the court room at all. Sometimes support workers were allowed to sit in the public gallery (next to the defendant’s supporters), but in other instances, they were allowed to sit beside the victim-survivor.

The decision on whether (and where) a sexual violence support worker is present is at the discretion of the judge. However, in practice, the sexual violence support workers and victim-survivors who took part in this research revealed that barristers and ushers are dictating whether the request is taken to the judge. This also varies significantly between regions and courts. Many sexual violence support workers who took part in this research told us that they carry a printed version of the CPS guidelines⁴¹ and all relevant paperwork with them to show barristers and ushers that their presence during cross-examination was approved by the judge, in case their entry to the court room is denied. They told us that there is a lot of uncertainty and they can only find out if they will be able to sit next to the victim-survivor on the day of giving evidence. Some victim-survivors were only granted the option of their sexual violence support worker sitting close to them when they were visibly upset. The support workers told us that this uncertainty and lack of consistency make it hard for victim-survivors and practitioners to manage expectations and prepare to give evidence. This makes the situation even more stressful.

“Every witness gets a completely different experience ... And I think it doesn’t really matter what you put in writing ... I’ve had it where the prosecution have said, ‘Yes, that’s absolutely fine, you can sit behind them’. The usher has come up and then it’s, ‘No, you can’t – you’ll have to go in the public gallery.’”

ISVA

“When I went in [to give evidence] because I was really upset, we had the head judge at [Place] Crown Court and he said, ‘Do you want your IDSVAs sat with you? Are you alright?’ I was like, ‘Please can I have her’. The judge actually let her come and sit with me and then she sat and held my hand the whole way through ... I think it should be compulsory they’re sat with you.”

Victim-survivor

“They were allowed to be in the public gallery ... I found it helpful, I knew she was there. But I do feel like if she sat more near you, even sat behind you or next to you. You know, not say anything but just their presence there, knowing that you’re not on your own in it, I think would’ve been more helpful.”

Victim-survivor

Sexual violence support worker research participants shared that they have encountered prosecution barristers who prefer them not to be present in the court room during victim-survivors’ cross-examinations, implying to the victim-survivors that the presence of an ISVA can sway the jury or that the lack of support will result in the victim-survivor being more visibly upset. Sexual violence support workers also experienced prosecution barristers being dismissive of their roles or not knowing what an ISVA is.

“What I’ve had officers tell my clients, is that we can provide some emotional reassurance by being in that room with them, which then can diminish that emotive response which they’d like to show the jury. Ideally, they want clients to be really upset, and visibly tearful and stressed when they are giving this evidence, because they think it appeals to a jury more. However, it isn’t best for our clients.”

ISVA

“The barristers will say, ‘We don’t feel it looks good to the jury if you’ve got an ISVA in there with you.’”

ISVA

We found that similar issues with the access of sexual violence support workers are present when the cross-examination is conducted via video link. Some victim-survivors who gave evidence via a video link told us that they were not given the opportunity to choose who they preferred to be in the room with them. It was taken for granted that a volunteer from the Witness Service would be present, often someone they had just met for the first time, when the victim-survivor wanted their sexual violence support worker to be present.

The victim-survivors who took part in this research felt that their sexual violence support worker was the right person to be with them during the cross-examination. This was because the support worker was independent from the criminal justice system, has experience and expertise supporting victim-survivors of sexual violence, and the victim-survivors had built and maintained a trusting relationship with them over the course of the process. Some victim-survivors stressed that they did not want their family and friends in the court room to listen to what they had gone through and therefore felt it even more crucial that a sexual violence support worker was present to support them. When support was provided according to victim-survivors’ preferences, it had a positive effect on their experience.

Cross-examination using Section 28

Section 28 is a special measure that allows vulnerable victims and witnesses to have their cross-examination video-recorded before the full trial. This evidence is then played during the live trial, which, in most cases, means the vulnerable person does not need to attend in person. For the Section 28, both the defence and prosecution lawyers are present in court during the pre-recording, as well as the judge and the defendant. The introduction of the use of Section 28 pre-recorded cross-examinations has occurred over an eight-year period and its roll out was completed in 2022.⁴²

Some victim-survivors who took part in this research reported that they did not receive clear and consistent information about the Section 28 process from the police. Many victim-survivors told us that it was their sexual violence support worker who provided them with full and accurate information.

Victim-survivors told us that they were particularly surprised to realise that they can still be called to give evidence in court, even after completing the Section 28, if further questioning is required. Many of them were not informed that the defendant would be present during the Section 28. It was suggested by a participant that the police officers on the case were also not aware of this. The victim-survivors felt that both of these pieces of information were crucial for them to make an informed decision about whether to do a Section 28. Discovering at the last minute that the defendant would be present left them feeling distressed. Some of them said they might have made a different choice if all the information had been given to them.

While the intentions of the provision of Section 28 include reducing the distress of witnesses,⁴³ this was not a benefit realised by some participants. These victim-survivors explained that they were not able to fully move on with their lives after the Section 28 as the trial was not finished and they could still be recalled to court. They were also worried about engaging with counselling. In addition, it was suggested in the interviews and sexual violence case analysis that cases for which a Section 28 was completed may be more likely to be adjourned. As a result, victim-survivors wait for an even longer period of time for the trial to end.

“A Section 28 should mean from a child’s perspective, or anybody’s perspective, that is it. It is finished with. Because then you’re on tenterhooks now for the – well, as it turned out to be, knocking on a year, which put more anguish, and more pressure onto him [victim-survivor]. And that’s when the suicide attempts came.”

Parent of a young victim-survivor

Despite not being provided with full or accurate information, victim-survivors told us that they were mostly content with their decision to use Section 28. While they acknowledged that they could not fully move on with their lives until an outcome was reached, doing a Section 28 did enable them to then focus on other aspects of their life, like their jobs and education. Some victim-survivors who were not offered a Section 28 felt that an opportunity for best evidence was missed. They believe that giving this option to more victim-survivors could increase people’s engagement with the criminal justice system.

“The court process was a lot worse than I actually thought it would be but I am glad that I did the Section 28 when I did, rather than having to do it this month [at the trial] ... I just thought it would be a lot better if my part was over before I started college so that I could just focus on that and not be worried about it so much.”

Victim-survivor

Recommendations for when victim-survivors are giving evidence

- HMCTS must ensure that all court buildings across England and Wales are suitable for victim-survivors to attend safely with no unwanted interactions between the victim-survivor, the defendant and the defendant's supporters. This includes ensuring separate entrances are accessible and that waiting facilities are trauma-informed and suitable for children. Where the court building does not offer the option of a separate entrance, HMCTS should work with the Witness Service to ensure that alternative methods are used, such as ensuring different arrival times for the victim-survivor and the defendant.
- The police and the CPS should also ensure that the three standards of 'multiagency partnership working', 'effective processes' and 'supporting victims' within the *National Framework for working with independent sexual violence advisers and support services*^{xiii} are implemented and embedded across England and Wales.
- The use of myths and misconceptions about the nature of sexual violence, alongside the use of victim-survivors' sexual history, must be tackled to improve treatment of victim-survivors. The CPS should review whether prosecution barristers are delivering both pledges within *The Prosecutors' Pledge*^{xiv} to prevent victim-survivors from unwarranted or irrelevant attacks on their character and to seek the court's intervention where cross-examination is inappropriate. We also suggest that the Judicial College considers amending the *Crown Court Compendium*^{xv} with the most up-to-date research into understanding sexual violence.
- It is vital that the Law Commission issues a response outlining recommendations to their consultation on evidence in sexual offence prosecutions^{xvi} as soon as possible. The Government must work with services providing support to victim-survivors to ensure any developments within this space lead to improved experiences.
- Across all courts there needs to be a greater recognition and understanding of the importance of the roles of ISVAs, IDSVAs and CHISVAs as key professionals providing support to victim-survivors. All victim-survivors should have the opportunity to have their sexual violence support worker walk with them to the court room and sit close by them when they are giving evidence. This should be consistent at a local and national level and recognised in guidance provided for the CPS^{xvii}, Witness Service and HMCTS.
- HMCTS must improve the quality of technology for cross-examination to ensure agreed special measures are provided in practice and are fit for purpose. All courts should exercise flexibility with regard to last-minute special measure requests to allow victim-survivors to provide their best evidence.

xiii [National Framework for working with Independent Sexual Violence Advisers and support services](#) | The Crown Prosecution Service ([cps.gov.uk](https://www.cps.gov.uk))

xiv [The Prosecutors' Pledge](#) | The Crown Prosecution Service ([cps.gov.uk](https://www.cps.gov.uk))

xv [Crown Court Compendium – Courts and Tribunals Judiciary](#)

xvi [Evidence in Sexual Offence Prosecutions – Law Commission](#)

xvii [National-ISVA-Framework-2021.pdf](#) ([cps.gov.uk](https://www.cps.gov.uk))

Caroline's* journey through the criminal justice system

Caroline was sexually assaulted in her adolescence and reported it to the police in her adulthood. Between reporting the crime to the police and the CPS decision to charge, Caroline wanted to drop all charges due to it being *“really drawn out, and a long process.”*

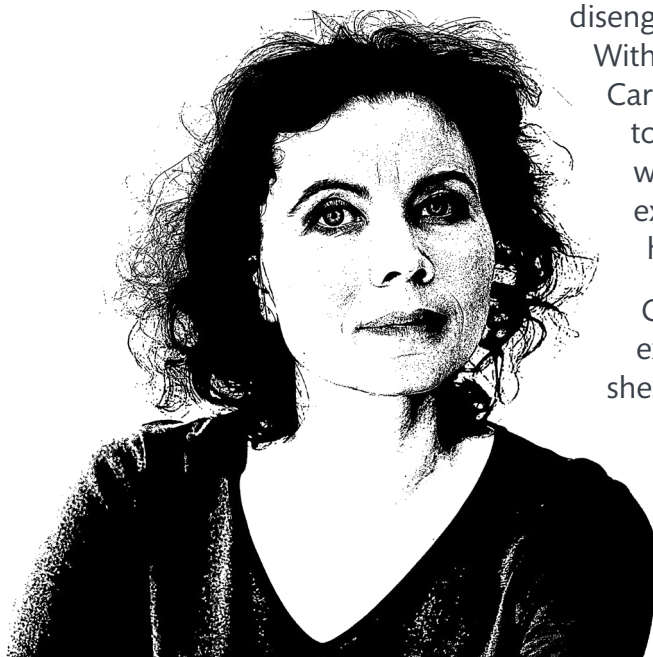
She felt anxious and apprehensive about going to court. The stress of the unknown took its toll on her.

“If you want justice, you have to go to court. I wanted to kill myself, on a number of occasions. I ended up on medication, ended up with a life condition, through the trauma of the process of going to court.”

Caroline was so anxious about going to court that she decided not to have a pre-trial court visit. But with help from her ISVA, she felt prepared and knew what to expect when going to court.

“Oh, my Victim Support worker has been amazing. She'd get pictures up on the laptop, and show me what the court room would look like, because I didn't want to go for a court visit. She explained what would happen when I got there. But she didn't just explain it one time, she constantly went over, and over, and over, so I knew what to expect when I got there.”

Due to the immense impact of the crime and the anxiety related to the criminal justice process, Caroline started looking at therapy, but discovered it was not easily accessible. She was told by some organisations that she was not allowed therapy as her case was going to court; on another occasion, she was told by a different organisation that she could not have therapy because of the offence and the nature of why she needed therapy. Finally, she was added to the waiting list for pre-trial therapy, but in the end she could not access it as the waiting list was too long. She was also told that her notes from pre-trial therapy could be accessed and used in the cross-examination: *“I didn't want anything to jeopardise the conviction of the person that did the crime against me.”*



During this time, Caroline yet again wanted to disengage with the criminal justice process. With a lack of access to pre-trial therapy, Caroline wouldn't have had anyone there to support her in the pre-trial process, which was one of the most traumatic experiences in her life, if it wasn't for her ISVA.

Caroline decided to do her cross-examination via a Section 28. However, she feels that she was not given full information about it. It was not explained to her that she may be recalled for further questioning even after doing the Section 28, and she found out about this from her ISVA.

On the day of the cross-examination, *“when I got there [court], I was greeted by the usher and the barrister. We were called into a room with the barrister, and he had a chat with us, me, and the VS [Victim Support] worker, and the officer in charge, but [offender name]’s old girlfriend came into the room, and I felt she shouldn’t have been allowed in that room, because the case was about me, not her. So, she was giving a statement, but then the barrister was discussing my case with me, while she was stood there. Like, that isn’t professional.*

“When we actually got to court, the barrister wouldn’t allow the Victim Support [ISVA] into the room, because he said it didn’t look good if I had a Victim Support worker in the room, and if I looked at her. So, he said it was going to be too much effort to get the Victim Support worker in the room because the judge has to allow the VS [Victim Support] worker to come into the room with us. I feel like she should be allowed in there, no questions asked ... I really mentally struggled because no one was there to support me. I was literally on my own. Because he [barrister] was quite firm and abrupt, you listen to him, don’t you? So I feel like I was pressurised in not allowing the VS [Victim Support] worker in the room with me.”

Caroline did not have a good experience during cross-examination. She felt that some of the questions were inappropriate and that there was a lack of support.

“On one occasion, the [defence] barrister got me upset, so they paused the video link and you can go away to sort yourself out ... The judge, at one point, was a bit rude, because she said, ‘The longer it takes to do this interview, the harder it’ll be.’”

Caroline was also not told that she would have to watch the ABE video before cross-examination. As she did not want to watch it, she asked for the transcripts to be provided instead.

“That’s [watching ABE] triggering that traumatic event you’ve worked so hard to get past. How do you sit and watch something that you’ve tried to forget about? So, he said they had to ask the CPS if it was allowed for me to have a transcript, on the day of the trial, to obviously read through.”

After giving evidence, Caroline was left in the room by herself. She didn’t feel safe to leave the room as she was afraid that she would see the defendant. She also did not meet her barrister and was left with many unanswered questions.

“That’s why I really struggled. Because the barrister never came, for me to be able to ask questions to him. So, I had all these questions that I couldn’t get answers for, because no one could give me them, or really had time ... So I couldn’t process it properly. Which led me to self-harm, because how do I get rid of those emotions and questions? ... I wanted to kill myself ... Because, like, you have all these overwhelming emotions, and you can’t deal with them, because you don’t know how to deal with them. You’re trying to process them, but you shouldn’t be processing them, because it should’ve never happened to you, to start with.

“Looking back now, I wouldn’t have gone to the police, because it is one of the hardest things you can ever do in your whole life. I can’t even sum up in words what it does to you mentally and physically. You can be the world’s strongest person ever in the world, but going to court can break you. It’s awful.”

For Caroline, the wait for the verdict and sentencing felt like an eternity. She wanted to be present in court to hear the verdict and felt that she needed to hear it in order to help process what had happened. Waiting for the verdict, Caroline was given a side room to sit in, which she found helpful, and she was able to read her Victim Personal Statement.

“Some police officers tell you you’re not allowed to go to court, and some people listen to that. But somewhere victims need to be told that you can go and watch a verdict, and you can read your impact statement.”

“We were sat in the public gallery. But again, when it’s the verdict, I feel like victims should get a separate room, because I panicked like hell that he was going to be able to walk past me. So, if you are wanting to watch the verdict, I think they need to look into having it done via a video link, so you’re not actually in the room with that person ... One of his friends was there, so it was really hard. He was sat at the back. So, we were sat on the second row, and he was sat on the back row, and yeah, you knew he was looking at you. So, you know how you feel like someone’s eyes are on you? It was like that. And his ex-girlfriend was also there ... It was hard, it was really, really hard, because I felt like I was living someone else’s life. But it was really helpful that she [ISVA] was there. Because when he [offender] was sentenced to what he was sentenced, I left the court room and I had a panic attack in the waiting room, and she [ISVA] was the one who fetched me back round, and supported me.”

Although the defendant was given a prison sentence, Caroline was given incorrect information about how many years he would be in prison. This had a negative effect on her mental wellbeing.

“So I was always told that he would do two-thirds of the sentence. Now, it actually turned out, when the probation got in contact with me, he would only, in fact, do half. So, the barrister needs to look upon the rules. And again, that really mentally messed me up, because I’d been told one date, but then someone told me a different one. So, they shouldn’t feed you incorrect information.”

The impact of going through the criminal justice process took an immense toll on Caroline. However, Caroline feels she has benefited from going to court as she was given an opportunity for her voice to be heard and potentially stop the offender from committing a crime against someone else.

“So he’s gone to prison for nine years, but in my opinion that’s never going to be good enough, because I’m the one with a life sentence ... I also had a miscarriage, so I lost a child through the stress of it, as well.”

“But, on the other hand, I’ve taken a paedophile off the streets. So, to know that I’ve potentially stopped him doing that to someone else, it outweighs it all.”

She has an ongoing wait to access therapy in order to move on with her life. In the meantime, she is still suffering.

“Honestly, it’s harder after the trial than it is before the trial. I just feel therapy should be available straight away, and not eight months after a trial ... So, in total, you’re waiting nearly a year and a half for therapy.”

* Name changed to protect person’s identity.



After giving evidence

This section discusses victim-survivors' experience after they give evidence and focuses on two main topics: sentencing and support after the trial.

Sentencing

Long waits for sentencing

The cross-examination and trial are not the end of the process for victim-survivors. We found that the delays experienced by victim-survivors before giving evidence continue with the sentencing hearing. A sentencing hearing is when the judge or magistrates decide what punishment an offender will receive if a defendant pleads guilty or is found guilty by a court. Victim-survivors told us that they waited for weeks for sentencing, with some waiting for many months. For some, the hearing was adjourned, with participants sharing that they were not given a new date or timely updates. During this time, many of the offenders, despite a guilty verdict, were not remanded in custody and were living in the community as a free person, in some instances in close proximity to the victim-survivor. As a result, victim-survivors told us that their lives were on hold; they felt afraid to leave their homes and were avoiding places in fear of meeting the offender.

"I don't feel safe leaving the house, I don't feel safe going to college. It's very hard."

Young victim-survivor

“He [offender] pled guilty. I think it was maybe October or November of last year [2022], and he was only sentenced last month. So, you’re talking 11 months, nearly a year. And he was just out and about, living his life.”

ISVA

Sitting in the waiting area and public gallery

As with waiting for cross-examination, victim-survivors and sexual violence support workers described instances where victim-survivors, including those who are young, had to wait outside the court room for sentencing, often in close proximity to the offender and their supporters. The reason for this was that there was not enough Witness Service room capacity.

“We literally had to sit outside of court, on one bench, whilst their perpetrator was sat literally two benches away, just constantly looking at them [the victim-survivor], and, like, mimicking them.”

CHISVA

All victim-survivors who took part in this research and were present in the verdict and sentencing hearing had to sit in the public gallery during those hearings. For all of them, this was in close proximity to the offender, who was sitting in the dock, and the offender’s supporters, who were also in the public gallery. Victim-survivors described how this left them and their family members feeling intimidated. They felt that their own and their family members’ needs were not taken into consideration. Victim-survivors stressed that special measures for not being seen by the offender and for being separated from the offender’s supporters, such as a separate room for waiting and watching, should continue until the end of the trial.

“The public gallery was full of perpetrator family, and friends, supporting this monster. I’m intimidated, at that point ... This lot are all sat there, staring at us, like we’re on stage. It’s appalling.”

Parent of young victim-survivor

“His [perpetrator’s] mum sat there huffing and puffing and trying to intimidate me, it’s not fair.”

Victim-survivor

Lack of explanation of sentence

The Victims’ Code⁴⁴ grants victim-survivors the right to be told the outcome of the case. If the defendant is convicted, it also gives victim-survivors the right to an explanation of the sentence, as some of the sentences are complex and use legal terms. However, this was not the experience shared by the victim-survivors who took part in this research. Many of them told us that they did not understand the sentence, it was never explained to them and they were not met by the prosecution barrister afterwards. In many cases, no one was present to answer their questions or to provide clarification about the sentencing. All victim-survivors who took part in this research believe that meeting and speaking with the barrister after the sentence is delivered is important and that victim-survivors should have the opportunity to be given a detailed explanation of the meaning of the sentence in accessible language.

“I would have liked to have had like a debrief of it all. I would have liked somebody to explain to me the sentencing properly. I didn’t understand what on earth they were talking about when they did. There’s all this legal stuff beforehand, how they explain it, how they come to that conclusion, and this, that, and the other. I didn’t know.”

Victim-survivor

Victim-survivors who decided not to return to court for the verdict and sentencing hearing told us that it was difficult for them to get any update and information about the sentence. Even with the help of their sexual violence support worker, participants said that accessing the information was a challenging task.

Victim-survivors who were eligible for referral to the National Probation Service Victim Contact Scheme^{xviii} and received a call from the Victim Liaison Officer, told us that the explanation of the sentence they were given was useful and detailed. For the victim-survivors who had not seen the prosecution barrister after the sentencing, this was incredibly welcome. However, in some instances where the victim-survivor had received an explanation from the barrister, they said that the Victim Liaison Officer confused them as they provided different information.

This research found that receiving an explanation of the verdict is also particularly important in not guilty verdicts. Victim-survivors told us that when they didn’t receive an explanation of the reasons for the verdict, it left them with unanswered questions. As one victim-survivor described, *“It’s all unanswered, it’s all just left there for me to just hold and carry. Nobody has taken it off me.”*

“As soon as they said not guilty I just broke into bits and I just ran out of the court room. I didn’t stay for the end. It was horrendous ... my head can’t get round that verdict. I don’t understand.”

Victim-survivor

We found that victim-survivors who received detailed explanations about the sentence from the prosecution barrister were able to address any questions they had. They reported that they felt much more reassured and more content with the outcome as a result of this. On some occasions, the judge also explained the sentence and reasoning behind it in more detail, which victim-survivors found particularly valuable.

“I don’t think any of them [victim-survivors] feel that justice was served because I don’t think any of them feel that a sentence is sufficient. But they come to terms with it. They come to understand it. Especially around sentencing, I’m finding more and more the judges taking time to explain what’s been shared to help them make that sense of the sentence. I think that’s where clients are feeling a lot more secure that it’s not just a sentence. It’s been a thought-out sentence.”

ISVA

xviii The Victims’ Code states that: *“If you are the victim and the offender was convicted of a specified violent or sexual offence, and sentenced to 12 months or more in prison you have the Right to be automatically referred to the National Probation Service Victim Contact Scheme and be assigned a Victim Liaison Officer. Victim Liaison Officer will contact you within 20 working days of the referral.”*

Support after the trial

Victim-survivors who took part in this research reported a wide range of support needs after the trial. This included information and explanation about what to expect next from the criminal justice process and advice on how to stay safe, especially if the verdict was returned as not guilty. They also needed assistance with developing coping strategies for dealing with the effects of going to court and cross-examination, techniques that will allow them to move on and prompt access to much-needed therapy.

Despite their many needs, the victim-survivors who took part in this research highlighted a lack of support available to them once the trial had finished. They described feeling abandoned and forgotten as contact with all the agencies involved, apart from the sexual violence support worker, ended abruptly. Many of them said that this was the point when the support was still very much needed. Some victim-survivors described how they kept strong for many years during the criminal justice process and that this was the first point when they allowed themselves to re-live it all. Others reported that they were left dealing not only with the impact of the crime, but also their experience of the criminal justice system.

The need for post-trial support was particularly important for victim-survivors who were told that an offender had appealed their sentence, where they'd had unwanted contact from the offender or for those whose case had a not guilty verdict.

"I just got left. I haven't received a call off Witness Care [Unit], I haven't received anything from them, no letter to say he's even been found not guilty."

Victim-survivor

"Not good enough. And the level of counselling and care that you receive is zero, as far as I'm concerned. We were left. It was like, 'Right, the case is over. See you. Bye.' That was it, virtually at court."

Parent of young victim-survivor

"Everything is finished, we have this really vulnerable person, who hasn't been able to process trauma for God knows how many years, who has now, all of a sudden, got nobody around them, in terms of professional support, other than the ISVA/CHISVA, and they're trying to process things. Usually that happens in unhealthy ways."

CHISVA

Sexual violence support workers in this research were still in contact with and offering post-trial support to victim-survivors. Victim-survivors welcomed this support and felt most of their needs were met by the support workers. Participants valued being able to talk about the trial and cross-examination as well as get clarity on the process.

Some victim-survivors reported that they did not want any support from sexual violence support workers after the criminal justice process was over as they felt it was a reminder of what they went through. These participants did, however, appreciate having the option to access support in the future should they need it.

All participants emphasised the importance of accessing therapy following the trial. Victim-survivors expressed concern about the long waiting lists to access therapy and the impact of not receiving this form of support sooner.

Recommendations for the period after giving evidence

- After a guilty plea is entered or a guilty verdict is delivered, the CPS and HM Prison and Probation Service (HMPPS) must employ greater consideration for the safety of the victim-survivor, their family and the wider public when making remand conditions. Criminal justice agencies must work together more closely to ensure sentencing hearings are not adjourned, particularly in cases where perpetrators have not been remanded.
- Changes are needed to improve victim-survivors' ability to keep up with the rest of the trial once they have given evidence. Commitments made within the Rape Review that all adult rape victims are given the option of remote observation of sentencing within Specialist Sexual Violence Support (SSVS) courts must be delivered. This commitment must go further with the support of HMCTS to provide the option of remote observations for all victim-survivors of sexual offences in all courts across England and Wales. In addition, all victims should be able to access free and timely transcripts of judges' sentencing remarks.⁴⁵
- There needs to be clearer communication across agencies to update victim-survivors on the outcomes of the trial, the verdict and sentencing. The Witness Care Unit should ensure there is prompt contact with victim-survivors regardless of the outcome of the trial, including informing them within one working day about next steps and the support options available, as set out in the Victims' Code.
- The MoJ should publish specific data for sexual offence cases to facilitate transparency and decision-making. This must include information around backlogs, adjournments and outcomes, including where a Section 28 has been used.





Conclusion

Millions of people in England and Wales have experienced sexual violence and thousands of victim-survivors give evidence in court every year. This research explored the effect of each stage of the criminal justice process on these victim-survivors and considered their support needs.

Evidence captured in this research portrays a long and arduous journey. Many of those who took part in this research described how they had to put their lives 'on hold' for the duration of the criminal justice process, which often lasted for years. Some said the effect was life changing and long lasting.

"I was getting to the point where it's still so damaging in my head, all the things I've gone through with it, and the process, and the length of time, and all that, that the damage is done."

Victim-survivor

This research found that, due to long waits and a lack of updates and support, some of the victim-survivors regretted that they had reported the crime to the police and engaged with the criminal justice system. Others said that they had completely lost faith in the system. Many victim-survivors told us that they felt angry and let down. They felt there was a complete lack of compassion and consideration for them and their wellbeing in the criminal justice system and that the impact of the incident and the process was not acknowledged.

“You’re a piece of meat that’s being pushed through the court system. And you’re there to provide a service for the court.”

Victim-survivor

“I think the experience of the stop-start, stop-start, change venue, lack of communication, having to complain to the CPS, the dispassionate distance, non-empathetic approach that the system takes, the lack of support, lack of interaction from a barrister, no discussion about the case, no sense that you were part of a team of people who were determined to get a guilty verdict, you were just a witness. You’re a witness. And the CPS kept on saying, ‘It is the CPS’s case, not your case’. And you’re going, ‘But it is my case because I’m the person.’”

Victim-survivor

“The whole system needs a complete overhaul, and for me, the justice system, it just hangs in favour of defendants. It doesn’t help the victims ... We’ve never been considered during this process. All about him, but that’s got to change ... The way that you’re treated is just appalling. Absolutely appalling. It’s shocking, it’s disgraceful.”

Victim-survivor

In this context, many victim-survivors who took part in this research described feeling that justice had not been served and they will never get closure. This was particularly prominent for participants where the verdict and/or sentence was not what they had expected or hoped for. Nevertheless, some victim-survivors who took part welcomed the relief of the trial finishing and having a verdict.

We found that while there are some instances of good practice, these are few and far between. We found existing guidance and obligations for criminal justice agencies were not being delivered in many instances.

“I won’t ever have any faith in the system and I’d never encourage anybody to report any sexual crimes, especially not historical ones, because the law is not in place to support you.”

Victim-survivor

Overall, the experience of victim-survivors of sexual violence before, during and after the trial is profoundly negative. From the start to the end of the criminal justice system, our research identified many issues that are leaving some victim-survivors re-traumatised and lacking faith in the process. These findings make clear that fundamental root and branch changes are needed to fix a system that is broken in the eyes of many victim-survivors.

The new Government has committed to changing the way rape cases are handled by ‘fast-tracking’ cases with specialist courts at every Crown Court location. Our evidence-based recommendations call for systemic reforms and set out clearly how the Government can change for the better the way victim-survivors are treated.

A summary of the key findings of this research:

- In line with official statistics, we found victim-survivors are waiting a number of years for the trial to start after reporting a crime. A notable proportion of these cases are being adjourned. Of the 38 cases analysed, 47% were adjourned, with some cases being adjourned as many as four times. Sexual violence cases are being listed as floating trials, which can increase the risk of an adjournment. Each adjournment added around a year to the wait for the trial.
- Explanations for adjournments were given to a limited number of the victim-survivors interviewed. Many victim-survivors found out about the adjournment on the way to court or when they were already at court ready to give evidence.
- The research found that long waits, lack of updates and adjournments collectively had an adverse impact on victim-survivors' mental wellbeing, education, work and those around them. Some participants were diagnosed with PTSD and/or tried to take their own lives.
- Many victim-survivors told us that they are waiting years to access the therapy they feel they need. A number of reasons were identified, including unclear explanations by the police and other criminal justice practitioners about whether pre-trial therapy is allowed, the potential that notes from therapy will be disclosed in court and the length of waiting lists to access this form of therapy.
- The majority of victim-survivors who participated in this research (86%) wanted a pre-trial court visit. Those who did not want a visit were concerned it would increase their anxiety. Seventeen per cent of participants were not offered a pre-trial visit, with the reasons for this relating to a lack of availability of court rooms and staff to facilitate a visit. For participants whose court changed, some were not able to visit the new court location. Most of the victim-survivors who participated in a pre-trial visit told us that they found them very helpful.
- We found that victim-survivors are often not being given a full explanation about all the special measures available to them or are only given partial information.
- This research identifies additional barriers in accessing certain special measures. Some victim-survivors are being advised against, discouraged from or refused by police officers and CPS practitioners the option to apply for a Section 28. Issues with the court estate prevent some special measures, such as a Section 25, where the public gallery is emptied, being offered in all courts. Due to the length of time waiting for trial, special measures that were granted to young victim-survivors are being denied on the day if they had since turned 18 years old.
- Victim-survivors told us that recording and watching their ABE was an emotional and traumatic experience and that there is inconsistency regarding the support available and the timing of watching their ABE.
- The support provided by sexual violence support workers was highly valued by victim-survivors, particularly while waiting for the trial, when updates are not provided, when there are adjournments and at the recording and watching of ABE interviews.
- We found challenges with victim-survivors' ability to avoid encounters with the defendant and their supporters in the court building. Separate entrances are sometimes available but are not always accessible to those with reduced mobility. Victim-survivors told us they had unwanted contact with the defendant or the defendant's supporters while in the court building shortly before giving evidence, which affected their mindset.

- Victim-survivors shared that some of the waiting rooms, where they had to wait for hours, were uninviting and not accommodating to children and young people's needs. For some, this was a disincentive to come back the following day when required.
- Not all victim-survivors were offered the opportunity to meet the judge or prosecutor before they gave evidence or were cross-examined. Those who did found it extremely useful.
- We found inconsistency in whether sexual violence support workers are enabled to accompany the victim-survivor. As best practice, being accompanied by their sexual violence support worker when walking through the judges' chambers to give evidence was experienced by victim-survivors as vital; however, this option was not offered or granted to all. There was disparity in whether the sexual violence support worker could be present while victim-survivors gave evidence and were cross-examined, often with uncertainty until the last minute, which reduced the victim-survivors' ability to know what to expect. This occurred when victim-survivors gave evidence in the court room, via video link or did a Section 28.
- Victim-survivors who took part in this research told us that giving evidence was an awful, terrifying and traumatic experience that had a profound negative impact. Lines of questioning relating to myths or stereotypes about victim-survivors and victim-blaming is prevalent in both live trials and during a Section 28. In 73% of the cases in our analysis, at least one question of this nature was presented to the victim-survivor during cross-examination. We also found that traumatic events victim-survivors had experienced, such as the death of a loved one, notes from counselling and content from mobile phones were used during cross-examination.
- We found particular issues relating to Section 28 cases. Victim-survivors who participated were not given full information about the Section 28 process. This included that: the defendant can be present; they can still be called to give evidence; and that trials with a Section 28 might be more likely to be adjourned. Discovering this information at the last minute left victim-survivors feeling upset. Some of them might have made a different choice if all the information had been given to them.
- Victim-survivors can wait for weeks and months for sentencing hearings and are not given a new date when there is an adjournment. Despite a guilty verdict, many offenders were not remanded in custody and were living in the community, some of them in close proximity to the victim-survivor. As a result, victim-survivors' lives were on hold, they felt afraid to leave their homes and were avoiding places in fear of meeting the offender.
- Victim-survivors were subject to unwanted contact in the court building with the offender(s) and the offender's supporters while waiting for and during sentencing hearings, leaving them and their family members feeling intimidated.
- Many victim-survivors were not given explanations of the verdict and sentence. Not all victim-survivors were offered the opportunity to meet the prosecution barrister. Those who did not attend the sentencing hearing found it challenging to get information and explanations about the verdict and sentence. Furthermore, in cases where the defendant was found not guilty, no explanations were provided.

Victim-survivors have a wide range of support needs after the trial. Post-trial support for victim-survivors, in particular from sexual violence support workers, was found to be essential in helping them deal with the impact of the crime and challenges of the criminal

justice process. Contact by criminal justice agencies was seen to end abruptly. Victim-survivors also faced challenges in accessing timely therapeutic support, due to waiting lists.

Learning from victim-survivors' experiences of preparing for court, going to court and cross-examination, and following the trial, we have made a number of recommendations to improve their experience. These are provided below.

- Urgent and sustained action is needed to reduce court delays and adjournments. This must include a tangible, time-bound commitment by the Government to reduce both the number of cases outstanding in the Crown Court and the length of time cases take to reach court once charged to provide assurance to victim-survivors that waits will reduce.
- Further research is needed into the prevalence and rationale for not providing sexual violence cases with priority listing or guaranteed fixtures as set out in the Listing Crown Court Manual^{xix}. Victim Support believes it is wholly unacceptable that sexual offence cases are currently being listed as floating trials. Where there are adjournments, victim-survivors should be informed as soon as the information is available and given full reasons for the adjournment, in writing, by the CPS.
- To improve victim-survivors' experiences, we recommend that criminal justice agencies deliver their existing obligations. This includes giving victim-survivors timely updates on their case as set out in the Victims' Code. It is vital that compliance with the Victims' Code by criminal justice agencies improves in practice. Every single right under the Victims' Code must be monitored by the agency obligated to deliver them, with a clear process in place to drive improvements where rights are not being delivered at a local and national level.
- Following the passing of the Victims and Prisoners Act 2024, which includes a change to the legal threshold for police requesting counselling records, the Government must ensure this is implemented consistently across England and Wales and police are trained effectively. It is vital that the changes are monitored according to whether more victim-survivors are able to access timely, trauma-informed and non-judgemental therapeutic interventions alongside pursuing justice.
- It is vital that the police and prosecutors provide victim-survivors with neutral, full explanations of all special measures available, as per the CPS guidance on special measures^{xx}, and that this is done at the earliest possible time. The realities of special measures, including Section 28, must be provided to allow victim-survivors to make an informed choice based on their specific preferences and needs.
- We believe victim-survivors' individual needs must be heard and responded to. All victim-survivors should be given the opportunity to have a pre-trial visit and an effort should be made by the Witness Service to accommodate more than one pre-trial court visit where cases are moved to a different court. The police should ensure that victim-survivors have options regarding the recording and watching of their ABE. This includes reading a transcript. ISVAs should be allowed to be present at these events if needed by the victim-survivor, as per the CPS guidance on RASSO cases^{xxi}.

xix [Section 14 \(judiciary.uk\)](#)

xx [Special Measures | The Crown Prosecution Service \(cps.gov.uk\)](#)

xxi [What you will need to do before the trial – Rape and Serious Sexual Assault | The Crown Prosecution Service \(cps.gov.uk\)](#)

- HMCTS must ensure that all court buildings across England and Wales are suitable for victim-survivors to attend safely with no unwanted interactions between the victim-survivor, the defendant and the defendant's supporters. This includes ensuring separate entrances are accessible and that waiting facilities are trauma-informed and suitable for children. Where the court building does not offer the option of a separate entrance, HMCTS should work with the Witness Service to ensure that alternative methods are used, such as ensuring different arrival times for the victim-survivor and the defendant.
- The police and the CPS should also ensure that the three standards of 'multiagency partnership working', 'effective processes' and 'supporting victims' within the *National Framework for working with independent sexual violence advisers and support services*^{xxii} are implemented and embedded across England and Wales.
- The use of myths and misconceptions about the nature of sexual violence and the use of a victim-survivor's sexual history must be tackled to improve the treatment of victim-survivors. The CPS should review whether prosecution barristers are delivering the following two pledges from *The Prosecutors' Pledge*^{xxiii}: to prevent victim-survivors from unwarranted or irrelevant attacks on their character and to seek the court's intervention where the cross-examination is inappropriate. We also suggest that the Judicial College considers amending the *Crown Court Compendium*^{xxiv} with the most up-to-date research into understanding sexual violence.
- It is vital that the Law Commission issues a response outlining recommendations to their consultation on evidence in sexual offence prosecutions as soon as possible^{xxv}. The Government must work with services providing support to victim-survivors to ensure any developments within this space lead to improved experiences.
- Across all courts, there needs to be a greater recognition and understanding of the importance of the roles of ISVAs, IDSVAs and CHISVAs as key professionals providing support to victim-survivors. All victim-survivors should have the opportunity to have their sexual violence support worker walk with them to the court room and sit close by them when they are giving evidence. This should be consistent at a local and national level and be recognised in guidance provided for the CPS^{xxvi}, Witness Service and HMCTS.
- HMCTS must improve the quality of technology for cross-examination to ensure agreed special measures are provided in practice. All courts should exercise flexibility with regard to last-minute special measure requests, to allow victim-survivors to provide their best evidence.
- After a guilty plea is entered or a guilty verdict is delivered, the CPS and HMPPS must employ greater consideration for the safety of the victim-survivor, their family and the wider public when making remand conditions. Criminal justice agencies must work together more closely to ensure sentencing hearings are not adjourned, particularly in cases where perpetrators have not been remanded.

xxii [National framework for working with independent sexual violence advisers and support services](#)

xxiii [The Prosecutors' Pledge](#)

xxiv [Crown Court Compendium](#)

xxv [Evidence in Sexual Offence Prosecutions – Law Commission](#)

xxvi [National-ISVA-Framework-2021.pdf \(cps.gov.uk\)](#)

- Changes are needed to improve victim-survivors' ability to keep up with the trial in their case and understand the verdict and sentencing. The previous Government's Rape Review includes commitments around enabling remote observations of sentencing hearings within Specialist Sexual Violence Support (SSVS) courts. The current Government should go further and commit to making provisions for victim-survivors to watch sentencing hearings remotely across all courts in England and Wales. In addition, all victim-survivors should be able to access free and timely transcripts of judges' sentencing remarks.⁴⁶
- There needs to be clearer communication across agencies to update victim-survivors on the outcomes of the trial, the verdict and sentencing. The Witness Care Unit should ensure there is prompt contact with victim-survivors regardless of the outcome of the trial, including informing them within one working day about next steps and the support options available, as set out in the Victims' Code.
- The MoJ should publish specific data for sexual offence cases to facilitate transparency and decision-making. This must include information around backlogs, adjournments and outcomes, including where a Section 28 has been used.



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Appendix

Glossary^{xxvii}

Achieving Best Evidence (ABE)/video-recorded interview (VRI): Video-recorded interviews with vulnerable and intimidated witnesses. These are undertaken by the police. The recording is intended to be played as evidence-in-chief in court if the suspect is charged and the case proceeds to trial.

Adjournment: When a court hearing is postponed until a later date.

Court backlog: This is the term used to describe all cases awaiting trial, being tried and awaiting sentencing in the courts and tribunals system.

Court listings: Hearing lists set out the cases being heard in courts and tribunals across the country. Listing cases for court is a judicial responsibility and function. Judges are responsible for deciding on the assignment of cases to particular courts and the listing of those cases before particular judges, working with HMCS.

Criminal justice system: The collection of agencies including, but not limited to, the police, the courts, the Ministry of Justice and the Home Office, which are involved in: the detection and prevention of crime; the prosecution of people accused of committing crimes; the conviction and sentencing of those found guilty; and the imprisonment and rehabilitation of ex-offenders.

Cross-examination: The questioning of a witness by a party other than the party who called the witness in a criminal justice trial.

Crown Prosecution Service (CPS): The agency that prosecutes criminal cases that have been investigated by the police and other investigative organisations in England and Wales. The CPS:

- decides which cases should be prosecuted
- determines the appropriate charges in more serious or complex cases, and advises the police during the early stages of investigations
- prepares cases and presents them at court.

Defendant: If a suspect has been charged with a crime and told to go to court, they will be called a defendant.

Evidence-in-chief: Evidence given by a witness for the party who called them.

Floating trials: These are trials that have not been allocated to a specific court or judge and may occur in any court in the same court centre on a specific day or within a period of time.

ISVA/IDSV/CHISVA or sexual violence support worker: An ISVA is an independent sexual violence adviser; an IDSV is an independent domestic and sexual violence adviser; and a CHISVA is a children's independent sexual violence adviser, who supports victim-survivors who were under 18 years old at the time of the offence. Other terms, such as adviser and advocate, are sometimes used. They provide emotional and practical support and information to victims and survivors of sexual violence and abuse. The ISVAs, IDSVAs and CHISVAs we talk about in this report are independent of criminal justice agencies and work at Victim Support. ISVAs, IDSVAs and CHISVAs are collectively referred to in this report as sexual violence support workers.

Jury: The jury is made up of 12 members of the public. They listen to the evidence presented to them during trials in the Crown Court. They then decide if the defendant is guilty or not guilty of the offence.

Offender: If a defendant pleads guilty or is found guilty by a court, they are then referred to as an offender.

Pre-trial therapy: Pre-trial therapy refers to the therapy and counselling that victim-survivors of sexual violence can access while engaging in criminal justice proceedings. Pre-trial therapy is a limited style of counselling, which means that victim-survivors are emotionally supported but not encouraged to speak about the incident as it is considered that this could potentially influence how they will give evidence in court.

Section 28: Allows vulnerable victims and witnesses to have their cross-examination video recorded before the full trial. This evidence is then played to the court during the live trial. It is a special measure.

Special measures: The Youth Justice and Criminal Evidence Act 1999 introduced a range of special measures that can be used to facilitate the gathering and giving of evidence by vulnerable and intimidated witnesses. The special measures that are available to vulnerable and intimidated witnesses with the agreement of the court are:

- screening the witness from the accused so that the witness does not have to see them (Section 23);
- giving evidence by way of live video link (Section 24);
- giving evidence in private (Section 25) (limited to sexual offences, offences contrary to Sections 1 and 2 of the Modern Slavery Act 2015 and offences involving intimidation. Victims of offences involving domestic abuse will also be eligible when Section 62 of the Domestic Abuse Act 2021 comes into force);
- the removal of wigs and gowns (Section 26);
- the use of video-recorded interviews as evidence-in-chief (Section 27);
- pre-recorded cross-examination via video (Section 28);
- communication through intermediaries (Section 29); and
- the use of special communication aids (Section 30).

Suspect: A person who is suspected of committing a crime but who has not yet been charged.

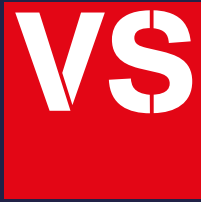
Trial window: Fixed period of time specified by the court when the trial will be listed.

Victim-survivors: 'Victims' and 'survivors' are the two main words often used for people who have been affected by sexual violence and abuse. Each reflects a different, yet important, view: while the word 'victim' acknowledges the fact that a victim of sexual violence is a victim of crime, the term 'survivor' places emphasis on the strength and resilience of the person rather than the crime committed against them. Throughout this report, we use the word 'victim-survivor' to reflect both aspects.

Witness Care Unit: Witness Care Units have the role of managing the care of victims and witnesses who are due to attend court. Those working in Witness Care Units are people from the police and the CPS. Their role is to guide people through the criminal justice process. They have a responsibility to keep victims and witnesses up to date on their cases.

Witness Service: A service that can help victims and other witnesses understand the court process and feel more confident when giving evidence.





VICTIM SUPPORT

We are an **independent** charity offering **free, confidential** support to people affected by crime and traumatic incidents.

For information and support, contact us by:

- calling: Supportline **08 08 16 89 111**
- using our 24/7 live chat service:
victimsupport.org.uk/live-chat
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