

Information and help after rape and sexual assault

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Introduction

If you have been raped or sexually assaulted:

- You do not have to cope on your own
- There are many **support** services which can help you. They know how difficult it is for people to come forward
- They will respect you and believe you
- You are not to blame. The person who raped or assaulted you is to blame

If you need to speak to someone now phone the Rape Crisis Scotland National Helpline on 08088 01 03 02 (daily 6pm-12 midnight).

See also section 4 which gives details of other organisations which can help.



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Notes

About this information pack

This information pack is for women and men (over 16) who have been raped or sexually assaulted.

If you are under 16 or the parent/carer of a young person under 16, section 4 gives a list of agencies you can contact for information and support.

It has been put together using the questions which people who have been raped and sexually assaulted often ask. It gives information about:

- How rape or sexual assault might affect you
- How to look after your health if you are sexually assaulted
- How the legal process works if you report the assault
- Where to get support or more information

Rape and sexual assault affect everyone differently. How you react and what you decide to do next depend on what happened, the type of person you are, whether you have the support of family or friends, and the other circumstances of your life.

Whether the assault happened recently or a long time ago, whether you have been assaulted once or often, whether you know the person who assaulted you or not, and how safe you feel are just some of the factors which might also affect your response.

It usually helps if you have some idea of what to expect and how to get support if you want this. That is what this pack aims to give you.



The pack is mainly about recent sexual assault. But many people have experienced sexual abuse or sexual assault when they were children. If you are sexually assaulted as an adult, this can re-awaken strong feelings and reactions about what happened to you as a child. Reading material like this pack can also remind you about childhood abuse. The effects of a recent sexual assault can be very distressing and it is important that you get good help and support. For more information on where to get this see section 4.

The pack contains a lot of information. It has been designed so you can dip into it rather than read through from beginning to end. Some of it may not be relevant for you now but maybe useful in time. If you need more information or if there is anything you do not understand, you can contact any of the agencies listed in section 4.

It may also be helpful for you to show the pack to family, friends or others so they have a better idea of what you are going through and how they might help.

There are many people who are there to help you whether you want to talk about what's happened or want practical help with a medical or legal matter. Many agencies were involved in putting this information pack together. They are keen to make sure that you get any help you need.

The pack is written as clearly as possible. Some legal and medical terms are included because you may come across these. These are explained when used and there is a list of meanings in section 5.

If there is anything you do not understand, please speak to the person who gave you this pack.

About rape and sexual assault

Rape and sexual assault are violent crimes which can have a devastating affect.

There are legal definitions for these crimes and they are very precise (see page 55). You can use any words you like to describe what happened to you. What you have experienced may not fit the legal definitions but can be just as upsetting and frightening.

Whatever words are used, rape and sexual assault are wrong. They are an assault on your body, your mind and your dignity.

Who can be affected

Rape and sexual assault can happen anywhere and to anyone. People often ask ‘why me?’, but there is no answer to that question. Women, men, babies, elderly people, and all ages in between have been sexually assaulted. People are most likely to be raped or sexual assaulted by someone they know, live with or date. Most victims of rape and sexual assault are women.

Sexual assault of men

Although fewer men than women are sexually assaulted, the effects are just as devastating. It may be very difficult for men to talk about what has happened because of the common view that men should be ‘strong’ and able to protect themselves or (in the case of men who are straight) because they think the assault has ‘made them gay’. Because sexual assault of men is less common, they may not come forward because think they will not be believed. But men are affected and it is vital that they get the help they need.

Number of people who are raped/sexually assaulted

It is difficult to know how many people are affected because rape and sexual assault often happen in private. The most recent police records show that there were 1,161 reported rapes and attempted rapes (on women) and 1,508 indecent assaults (on men and women). There are likely to be many more that go unreported. Often, people who have been raped or sexually assaulted do not tell anyone what happened. They may feel ashamed or embarrassed, they may blame themselves and they may think that if they say anything they will not be believed. They may not really know what happened if they were unconscious or asleep at the time. Male victims may find it more difficult than women to come forward. People from ethnic minority communities, people who are disabled or those who are worried about their immigration status, people working in the sex industry or who are homeless or who are in some way disadvantaged may find it even harder to report.

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When it happens

For some people, rape or sexual assault may be a single incident. Others may be assaulted, regularly or periodically, over a long period of time, for example by an abusive partner. Yet others may be assaulted by different people at different times in their lives.

Newspapers and television tend to show rape and sexual assault being carried out by strangers, at night, up a dark alley and involving force. In fact, most assaults are carried out by someone known to the victim. This includes sexual partners, casual acquaintances, family members and others. Most rapes are committed indoors, usually in the home. Rape and sexual assault are often part of domestic abuse, alongside physical and emotional abuse, and one

in seven women is raped in marriage. However, many people who experience domestic abuse find the sexual violence the most difficult aspect to speak about.

Being violated by someone you know does not make the crime less distressing or more acceptable. In fact, it is a terrible breach of trust. Forced sex within a relationship is sexual assault and is still a crime.

Adults who have suffered sexual assault in childhood

Many people have experienced sexual abuse as children. If this happened to you, being sexually assaulted as an adult can re-awaken memories and feelings about what happened to you as a child. The effects of a recent sexual assault may be extremely distressing and may result in frightening symptoms such as flashbacks or panic attacks. This is an absolutely natural reaction and is NOT a sign of weakness. Section 4 gives details of services you can contact for help. You can also find out more at www.survivorscotland.org.uk

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What people think about rape and sexual assault

Unlike other crimes, some people think that those who have been raped or sexually assaulted are in some way responsible for what has happened because of their lifestyle, for example by putting themselves in a particular situation, previous sexual history, drinking alcohol or wearing revealing clothing. These views are wrong. They may also think that if a person did not struggle they must have agreed to or enjoyed it. But a common reaction to a shocking situation is to freeze. Many people do not fight back because they think this may make things even worse. Lack of physical injury does not mean that the sexual assault was any less serious or damaging or in any way invited.

What people read or see in the media might encourage these beliefs.

If you have been raped or sexually assaulted, you might also believe these things. It may help to know that:

- Rape and sexual assault are serious crimes
- The attacker is responsible for the rape/sexual assault. The attacker always has a choice
- Rape/sexual assault is never the victim's fault
- You do not have to put up with such violence
- You can live your life in any way you want. This does not mean you deserve to be raped or sexually assaulted
- Any sexual activity should always involve equal agreement between two people

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Section 1:

Practical things to think about after an assault

- What to think about immediately
- Your safety
- Your health
 - Shock, injury and pain
 - Pregnancy
 - Sexually transmitted infections
- Reporting to the police
- Claiming compensation

What to think about immediately

Rape and sexual assault can be shocking and traumatic. It is important to look after yourself at this time. You may feel that the last thing you want to do is go to different places (such as health clinics and other services) or make difficult decisions but you may have to do so. You do not have to do everything at once.

As soon as possible

If you have any physical symptoms after the assault get medical help. You don't have to tell the doctor about the assault if you don't want to (see page 18). However, the doctor will be able to advise you better if they know what happened.

If you think or are worried that your attacker might be in a high-risk group for Hepatitis B or HIV (see page 28 for details), go to your GP or Genito Urinary Medicine (GUM) or other clinic (see page 104).

Women: if there is a risk of unwanted pregnancy take emergency contraception (see page 23).

If you think you may have been drugged or had your drink 'spiked', tell the police at once. The police will then arrange for your blood and urine to be tested. The sooner samples are taken, the better the chance of drugs or alcohol showing up. If you need to pass urine, collect a sample and give it to the police.

If you want to report the assault, contact the police so that a forensic examination can be arranged to get as much evidence as possible. Do not wash, eat or drink. If you change your clothes, put the clothes you have removed into a bag and give to the police (see page 61).

You might not feel like reporting now, but you might do later on. So, keep the clothes you were wearing, don't wash them and put them in a plastic bag.

If you want to wash yourself, use safe products only. Don't use household cleaning products as they can be harmful.

Within two weeks

Go to your GP or Genito Urinary Medicine (GUM) or other clinic for testing for sexually transmitted infection (see page 104).

Women: do a pregnancy test (see page 24).

12 At any time

Ask for help. You can phone any of the agencies in section 4. They have helped many people in your situation and you can speak to them in private.

Do what you can to feel safe (see page 14).

Write down anything you can remember about what happened: what your attacker said to you, where it happened, whether there was a car involved, if there was anyone else around who might have seen or heard anything. These details may be useful if you report the assault.

If you want to report to the police, you can do so at any time (see page 32).

If you believe you are in immediate danger of assault dial 999.

You are not alone and there are people who want to help you.

Your safety

If you have been raped or sexually assaulted you may be frightened, whether or not you have reported the assault and whether or not the attacker has been caught.

You have a right to feel safe in your own home, in your neighbourhood and at work.

If you are frightened, there may be things you can do to feel safer. We give some suggestions below. **But it is important that you do what feels right for you.**

Your attacker may have threatened to harm you or someone you are close to if you tell anyone what happened. You may also be worried about any friends or associates of the attacker or other people in your community.

If you do not want to report your attacker because they or someone else has threatened to harm you if you do, it is better that the police know this so they can take measures to make sure that you are safe. You may find it helpful to talk this over with an agency such as Victim Support or Rape Crisis (see section 4). They can also help you if you decide to report the assault.

If you are in any way frightened, you should expect to be taken seriously if you ask for help.

If you are in any immediate danger, contact the police. You can phone your local police station (in the phone book under P) or, in an emergency, dial 999.

Thinking about safety

Do you have people around you who can support you and keep you company?

Think about how safe you feel today. Are things getting worse? Do you need help today? If so, is there anyone you can contact for help now?

If you do not need to do anything immediately, is there anyone you want to alert for the future?

It might be helpful to make a list of people to contact and their numbers, including agencies. That means if you are frightened or panicking at any point in the future, all the information you need to get help is already there for you.

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Think about the place where you stay. Is there anyone nearby you could speak to? You could think about asking for a visit from the police to give home security advice so you feel safer.

If you live in a block of flats is there a friendly neighbour you can ask to keep an eye out for you or tell you if there's anyone hanging about? It's best if this is someone you can really trust.

Did your attacker get your keys, address or ID? Do they know where you live? If so, you may need to think about home security such as changing locks. The police can advise on this.

If your attacker knows where you live or is a neighbour or a family member, you may prefer to move somewhere else temporarily or for the long term. You may need emergency accommodation or want to apply to be rehoused elsewhere (see finding somewhere safe to stay on page 16).

Is your attacker your partner or ex-partner? If so, you could contact the police Domestic Abuse Liaison Officer (DALO) and/or Women's Aid for help (see section 4).

Is there anything you need to think about in case of emergency? It might be helpful to make sure you keep your mobile with you, charged and in credit. You can phone 999 from most mobile phones even if you are not in credit. If you key in important numbers as speed dial you may be able to reach them more quickly. If you do not have a mobile phone and you feel unsafe, the police may be able to provide one for you.

If you leave your house, how will you do this? Do you need to take dependants with you? Do you have money put by for a taxi or for essentials? You might not have much spare cash, but any little you save helps.

Are there any times when you think you may be at risk? Is there anything you can put in place now just in case?

Staying in your home

If your partner is abusing you sexually, physically and/or mentally, you have a right to stay in your own home and to make your partner leave. You may be able to exclude a violent partner from the home and get a court order to keep them away from you. Some rights are not automatic so depending on your circumstances, you may need to go to court to enforce them. The law is quite complicated so you should first speak to an agency such as Women's Aid or Citizen's Advice Bureau (see section 4) or contact a solicitor. You can find details of solicitors at www.lawscot.org.uk

If you do not feel safe in your home or immediate surroundings, there may be other things you can do to make your home safer such as changing or improving the locks, installing a spy hole and security lights and changing the phone number. The police can give you advice and assistance to make sure your home is secure.

Finding somewhere safe to stay

If you do not have anywhere safe to stay or if you (or any dependants) are at risk from your partner, ex-partner or someone in your home or neighbourhood, you may be entitled to emergency and permanent housing. To find out more, contact your local council and ask for the housing/homeless department. You can also phone Women's Aid (see section 4) or Shelterline on 0808 800 4444 or see <http://scotland.shelter.org.uk>

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Legal protection from an abusive partner or someone who is intimidating you

You can get legal protection from a partner or ex-partner or someone else. To get this, you need to apply to the court through a solicitor. You may be able to get an interdict to prevent someone from coming near you or threatening you. You may be able to get a non-harassment order to stop someone from frightening or distressing you. The law is quite complicated so you should first speak to an advice agency such as Women's Aid or Citizen's Advice Bureau (see section 4) or contact a solicitor. You can find details of solicitors at www.lawscot.org.uk

If your attacker is released on bail (see page 71)

If you have reported your attacker and they have been arrested by the police and/or are awaiting trial, they can be released from custody on bail. This can be very frightening particularly if the

attacker is your partner or if they live near you. Anyone who is granted bail must agree not to behave in a way which causes or is likely to cause alarm to you or other witnesses. However, the Procurator Fiscal (see page 69) can also ask the court to make special bail conditions, for example that the accused should not approach you or enter a certain address. If the court makes these conditions, and the accused approaches you or tries to contact you, they have breached their contract with the court. You should report this to the police immediately or get someone to do this for you. If any of the accused's friends or family approach you or try to contact you and you feel unsafe or intimidated, you should report this to the police immediately or ask someone to do this for you. Victim Information and Advice (see page 70) will tell you if the court decides to release the accused on bail and the conditions of the bail.

If the person who attacked you is released from prison

If you are in any way concerned for your safety when your attacker is released from prison, contact the police immediately.

If the person who attacked you has been jailed it may be possible for you to register to be notified when they are due to be released (see Victim Notification Scheme page 95).

You have a right to feel safe.

There may be things you can do to feel safer.

You should expect to be taken seriously if you ask for help.

You can phone the police at any time. If you believe you are in immediate danger of assault dial 999.

Your health

Being raped or sexually assaulted can affect your physical and emotional health, so it is important to get medical help as soon as you can. [You can get help and treatment without reporting the assault to the police.](#) If the assault took place some time ago, it is still worth getting checked out. It is never too late to get help.

18 Many people who have been raped or sexually assaulted get help from health services without saying what happened to them. It is fine for you to do that. Even if you tell, you should not have to go over what happened in detail. The reason health staff ask you questions is so that they can work out the best way to help you. But you do not have to tell them anything you do not want to. Whatever you say will be treated in confidence. This means that information about you will not be passed onto anyone else without your consent, unless you are thought to be at serious risk of further harm. There are a very few exceptions. For example, if you are a young person under social work 'supervision', the health authority has a duty to tell the police.

It is important that you take care of yourself and get yourself checked out for your own peace of mind. Worrying about infection, pregnancy or other health matters can affect how well you recover from a sexual assault. It can also affect your relationships with the people around you. Also, early treatment can prevent long-term health problems or make them less likely. For some health matters (for example infection or unwanted pregnancy), the sooner you take action, the more choice and control you will have. Taking control is one way of helping yourself to recovery.

The trauma of what happened to you may mean that the thought of having to go through an intimate medical examination may be very distressing. It may put you off going for help. But it may be possible for you to get medical treatment without having to say what happened and without being touched by anyone. You can take a friend with you for support and you can ask to see a male or female doctor. Some clinics offer treatment without testing. Some offer testing and treatment, for example for chlamydia (see below) by post. It is possible to test for some infections on a urine sample so you will not necessarily need to be examined.

The following section gives some ideas about where to go for medical help and treatment. Where you go will depend on what you prefer, where you live and where you feel most comfortable going. There are Genito-Urinary Medicine (GUM) clinics in most areas of Scotland. These cater for women and men and provide free, confidential services including testing for sexually transmitted infections and emergency contraception (see page 103). Other suggestions are family planning clinics, young people's clinics, local health centres and GPs (see also Sexual Assault Referral Centre page 101). If you are not sure where to go, you can phone the Sexual Health Helpline free on 0800 567 123 for advice or see online at www.nhs24.com/info/sexhealthclinic

You have the right to:

- Decide what to say and who to tell
- Have someone with you for support
- Ask to see a male or female worker, depending on your preference
- Confidentiality
- Ask for information and explanations
- An interpreter if your first language is not English
- Decide whether or not to take any tests offered
- Time to consider your options
- Complain, if you are not happy about how you are treated

Shock, injury and pain

In the immediate aftermath of an attack or in the hours and days that follow, you may feel a whole range of things including shock, pain, anger, numbness and denial. You may feel none of these. Everyone is different and there is no correct way to respond.

Shock

Injury or trauma can result in shock. This affects people in different ways but common reactions are:

- Uncontrollable shivering or shaking
- Unable to sit down or relax
- Crying without warning or unable to stop crying
- Laughing hysterically
- Being sick
- Feeling numb, distant or calm
- Unable to talk to anyone

If you are in shock it may be difficult for you to take in what is happening, or to remember the details of the assault. This is perfectly normal. It helps to:

- Keep warm
- Drink lots of fluids (non-alcoholic) **but only if you are not reporting to the police**
- Stay somewhere you feel safe
- Have people you trust with you
- Give yourself time

The effects of shock will pass but this may take less or more time depending on who you are, your circumstances and the nature of the assault. People all react differently. If you are in any way anxious about how you are feeling you may find it helpful to speak to your GP or a support agency (see section 4).

Bleeding and injury

If you are bleeding or injured you may need urgent medical treatment. Even if your injuries do not seem serious, it may be useful to get a check up in case of any internal damage.

If you need emergency help, go to the Accident and Emergency (A&E) department of your nearest hospital. If it's not an emergency, contact your GP for an appointment. Outwith surgery hours, you can phone NHS 24 on 08454 24 24 24 if you think you need to be seen by a doctor or want to ask for advice (see also www.nhs24.com). You will get medical attention and support whether or not you want to report the assault to the police.

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If you go to A&E and want to report the assault to the police, healthcare staff will contact the police for you. They will not examine you in case they spoil any evidence but they will treat injuries which need urgent attention.

If you go to the police and need urgent medical help, they will make sure you get this.

Pain

You may be in pain from an assault, sometimes in places where you do not remember being hurt. Sometimes the shock of what is happening means you block it out. Or you may have been unconscious or asleep at the time. Bruises may not appear until sometime later.

Even if the assault is not invasive, you may feel sore and stiff because you were scared and stressed while under attack.

Pregnancy

The risk of becoming pregnant after a one-off assault is small. It depends on various factors such as your age; whether you usually use certain methods of contraception; whether the attacker used a condom.

Preventing unwanted pregnancy

If there is any risk of pregnancy, you can take **emergency contraception** as soon as possible and up to 72 hours after the attack. You take one pill as soon as possible after the assault. The sooner you take this, the more effective it is. You can get emergency contraception over the counter from a pharmacy, from your GP, a police doctor, hospital A&E, GUM clinics or family planning clinics. It is free from hospitals, GUM and family planning clinics. For other places you may have to pay a prescription charge.

If it's over 72 hours, a doctor can fit an **emergency coil** (inter uterine device IUD) up to five days after the assault. This stops an egg from being fertilised or implanted in the womb. It can be removed after a normal period or left in as a contraceptive.

If you were pregnant at the time of the assault

If you know that you were already pregnant at the time of the assault, it is important to get checked in case you have picked up an infection (see below). You can get advice from a doctor in a sexual health clinic or the doctor looking after you in pregnancy. Early treatment can get rid of or reduce the chance of any damage to the baby.

If you are concerned about the baby being harmed during the assault, it will be helpful to see your doctor or midwife who may be able to check that the baby is well, depending on how far on in the pregnancy you are.

It is important to let anyone who is caring for you know that you are pregnant so you are only given medication or have procedures done which do not harm the baby.

If there is a possibility that you might be pregnant, a pregnancy test can be done.

If you were already pregnant before the assault but didn't realise, the emergency contraception pill will probably have little effect on the foetus, but an IUD may cause problems. An IUD would only be fitted if there was no risk of pregnancy before the assault. Medical staff will be able to discuss this and answer any questions you have.

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Pregnancy testing

If you think you might be pregnant as a result of the assault, it is best to get this confirmed as soon as possible. The sooner you know for sure, the more time you will have to decide what to do next. You can be tested by your GP, family planning clinic, GUM clinic and at some pharmacies. Pregnancy testing is free. You can also buy home pregnancy testing kits from any pharmacy. A pregnancy test can be done on the day your next period is due. It involves testing your urine. You should take a urine sample first thing in the morning in a clean dry jar and take it to the testing centre.

A positive result almost always means you are pregnant. A negative result may mean you are not pregnant but false negatives are fairly common early on. So, if it's negative but you still think you are pregnant, repeat the test a week later.

If you are pregnant, you may want to end the pregnancy or continue with it. You may have a clear idea about what you want to do but it may be helpful for you to talk over your options with a health adviser, for example at a GUM or family planning clinic or your GP. You should be given all the information you need to make your own decision about what you think is best for you.

If the result is positive and you want the pregnancy ended, you need to act as soon as possible. Although abortion is legal up to 24 weeks, this is very rare. It is also safer and easier within the first 12 weeks from the start of your last period. Abortions are available free of charge through the NHS but are generally only carried out up to 18 weeks. Private clinics may have a later upper limit but you will have to pay for the procedure. Surgical termination involves surgically removing the contents of the womb; medical termination involves taking tablets.

If you want to continue the pregnancy, you can choose to keep the baby or have it adopted after birth. These are difficult decisions with long-term implications for you and the child. You may want to discuss the various options with an adviser and trusted friends or family. Your local social work department can give you information and advice about adoption. The social work department is part of your local council. You will find the contact details of your local council in the phone book.

Evidence of paternity

If you become pregnant as a result of rape or sexual assault and undergo a surgical termination of the pregnancy, it may be possible to obtain DNA from foetal tissue. This can then be used to confirm or refute paternity and may help with forensic evidence.

Sexually transmitted infections

Sexually transmitted infections (STIs) can be spread through intimate sexual contact – through the vagina, anus and mouth. So, if you have been raped/sexually assaulted and your attacker did not use a condom, or if you don't know if they used one, it is important to get tested to make sure you have no infection. Also, STIs may have no symptoms so tests will show whether you need treatment.

Chances of infection

The chances of picking up an infection vary depending on the circumstances. It is not very common to pick up an infection from a one-off contact. If you do, it is likely to be one of the most common types, which are easy to treat. However, more serious infections are always manageable. It is best that any infections are treated early.

The sooner you start treatment, the less damage they can cause.

Chlamydia (see below) is very common while HIV, although many people are anxious about it, is not easy to pass on. The chance of being infected from a one-off exposure to HIV is very small. However, if you do get HIV, there is a huge amount that can be done to minimise its impact and help you stay well.

Testing for infection

Some infections can be tested for early on (after two weeks) while others may take some time to show up in tests (up to six months). Just because you have no symptoms does not mean there is no infection so it is important to be tested to make sure.

You may not feel able to cope with tests which may need samples to be taken from your mouth, anus or vagina (although it may be possible for you to take the samples yourself if you prefer). If you do not want to be tested, it is possible for many common infections to be treated with antibiotics.

STIs can be tested and treated by your GP, Genito Urinary Medicine (GUM) clinics and Family Planning clinics. You do not have to go through your GP to go to a GUM or Family Planning clinic. You can refer yourself. Treatment at GUM and Family Planning clinics is free and there are no prescription charges.

When you go to a clinic, you will be seen by a doctor/health professional who will take a case history. The doctor will find it helpful to know how you were raped/assaulted – vaginally, anally or orally – in order to discuss risks of infection with you, but you do not have to discuss the assault itself in detail. You can ask to see a male or female doctor.

Infections can be checked for by a combination of urine, blood and swab tests. Swab tests may be taken from the genital area (for women this requires an internal examination), the anus and the throat. This involves using something like a cotton bud to take samples from the affected area. This is not painful.

Some results can be given within a fortnight. Some infections are not detectable for several months, so you may be asked to return for further tests. The clinic may ask to take some blood for storage at your first appointment as a reference point for future tests.

Main sexually transmitted infections to be aware of

The list on pages 30/31 describes the main STIs to be aware of. The commonest infection is chlamydia. Gonorrhoea and trichomoniasis are far less common. They can all be tested for two weeks after the assault by taking a sample from the affected area(s). They are all treated easily with antibiotics. Some infections take a while before they show up in tests.

Syphilis and HIV can take three months and Hepatitis B and Hepatitis C can take up to six months before they show up in tests. These require blood tests.

Immediate treatment for Hepatitis B and HIV

If there is a risk that the attacker has Hepatitis B, you will be offered immediate vaccination rather than waiting for the result of the blood test. Some clinics offer this routinely for sexual assault. There is an increased risk of contracting Hepatitis B if the attacker is an intravenous drug user as it can be spread by sharing needles and equipment. Vaccination cannot prevent Hepatitis C.

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If there is a risk of HIV, it is possible to start a course of preventative treatment immediately. This is called post exposure prophylaxis (PEP). It should be started as soon as possible after exposure and within 72 hours. There are side effects from this treatment so you will not be offered it unless there is a high risk of HIV infection. There is an increased risk of contracting HIV if you were raped/sexually assaulted on holiday in an area where there is a lot of HIV; raped anally (because of tearing) or experienced tearing during a vaginal rape; for men who are sexually assaulted by men; or if the attacker is in a high risk group. A doctor or health adviser can give you advice about this.

Increased risk

Risk varies according to who the attacker is, the circumstances and the nature of the assault. If there is a lot of trauma or bleeding then risk is increased. If the attacker used a condom, the risk is lower. So it is important to speak to a doctor or health adviser who can assess the likely risks and explain the best action to take.

If you are male and you have been sexually assaulted by another man, there is a slightly higher risk of some infections. Infections that are more commonly found amongst men who have sex with men are gonorrhoea, syphilis, Hepatitis B and C, a more severe form of chlamydia and HIV.

Many men who are sexually assaulted feel embarrassed about reporting. Even if you do not wish to report to the police, it is important for your own health and the health of your partner(s) to get a check up at your local GUM clinic, where you can be advised about the risks of the different infections, checked and given treatment if needed.

Sexual contact

You may not want to have or think about sexual contact after the assault. If you do, you may want to use condoms until you have had the all clear from any tests.

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You do not have to do everything at once.

You have a choice. You can take all the tests, some tests or none at all.

You can go to a clinic of your choice.

You can be treated without testing.

You do not have to give your name and address or any personal details to get treatment.

The infection(s) you are most likely to get are the ones which are easiest to cure.

You do not have to inform your own GP if you choose not to.

More about STIs

Chlamydia: very common but most people do not have symptoms. In women it can cause vaginal discharge and irregular bleeding. In men it can cause a discharge from the penis and pain when urinating. If left untreated it can produce pelvic pain, testicular discomfort and in some cases reduced fertility in women. It can be cured with antibiotics.

Gonorrhoea: much less common than chlamydia. In men it causes pain/burning feeling when urinating and a discharge from the penis. In women it may cause a vaginal discharge. It can be cured with antibiotics.

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Hepatitis B: a very uncommon virus which attacks the liver. It can be passed through unprotected sex but it is preventable with a course of three vaccinations.

Hepatitis C: a virus which attacks the liver. It is only rarely spread by unprotected sex. About half the people who are infected clear the virus themselves and there is treatment to help those who don't.

HIV: a virus which weakens the immune system. People infected with HIV may not show symptoms at first, and if undetected it may lead to AIDS (Auto Immune Deficiency Syndrome). A person is said to have AIDS when their HIV infection has caused severe suppression of their immune system resulting in one of a very specific group of severe infections or cancers. The HIV virus can be suppressed and the immune system successfully preserved by drug treatment, preventing people from becoming ill. However, there is no cure for HIV.

Syphilis: still very uncommon in heterosexual men and women, but increasingly common in men who have sex with men. It is an infection which usually begins with a small painless sore or ulcer in the penis or vagina. Often it can go unrecognised, and needs a blood test to detect it. It can be cured with antibiotics.

Trichomoniasis: an uncommon infection which may have no symptoms but which often causes a profuse yellow or green discharge from the vagina with soreness. Men usually act as carriers and do not show symptoms. It can be cured with antibiotics.

More information

Sexual Health Helpline: 0800 567 123

NHS 24: 08454 242424

Brook Helpline: 0800 0185 023 (for under 25s)

British Association for Sexual Health and HIV: www.bashh.org

Directory of clinics by postcode:
www.nhs24.com/info/sexhealthclinic

NHS 24: www.nhs24.com

Family Planning Association: www.fpa.org.uk

Brook: www.brook.org.uk (includes secure online enquiry service for under 25s)

Reporting to the police

You can choose whether or not to report what has happened to the police. For some people, reporting their attacker and seeking justice is very important.

Other people do not want to tell anyone at all, far less report to an official body. They may feel embarrassed or ashamed; frightened about what the attacker might do; think they will not be believed; or be anxious about having to go to court and give evidence. If the attacker is a partner or close family member, they may worry about the effect on family or friends.

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The conviction rate for rape and sexual assault is low and this may put people off reporting. The Scottish Government, the police and the Crown Office are looking at ways to improve this.

People may also be reluctant to report if they were doing something illegal at the time; there may be an immigration issue; or they may be working in the sex industry and think they just have to put up with it or that they won't be believed.

It may help to talk about any concerns before making a decision. You can talk to a police officer first **without giving your name**. You can also speak to a support organisation (see section 4).

In making your decision, it may be helpful to think about the following:

If you report:

- This may stop your attacker from harming you again or from harming someone else

- You may feel better by taking control and doing what you can to ensure your attacker accounts for the crime
- You may be able to claim compensation for any injury (see page 36)
- The police will carry out an investigation. If, at a later date, you do not want to go ahead, your wishes would be taken into account but the police may continue the investigation

If you choose not to report:

- It is not your fault if your attacker harms someone else
- The attacker is responsible for what they do
- They always have a choice

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But, if you do not want to report because your attacker or someone else has threatened to harm you if you do, it is better that the police know this so they can take measures to make sure that you are not at risk.

If you are not sure what happens when you report a crime to the police or how the legal system works, you can find out more in section 3.

If you know that you want to report to the police, do this as soon as possible. This is because the longer you leave it, the more likely it is that some evidence may get damaged or lost (see page 61).

Even if the assault happened some time ago, you can still report it to the police. Some people do not report until years later. There may still be evidence to help the police continue with an investigation.

Whether you choose to report to the police or not, there are many organisations which can help you.

How to report

You can report by phone or go to any police station. You can get the details of your nearest police station in the phone book, yellow pages or online (see page 35). Depending on the circumstances, police officers may come to your home first rather than ask you to come to a police station.

In some areas, you can report a crime through another agency. This means that you do not have to contact the police direct. The agency does this for you. This is called Remote Reporting. To find out if there is a scheme in your area, and for details of agencies to which you can report, you can check details on police force websites (see page 35).

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You can take a supporter with you to the police station. This could be a friend or family member or someone from a support agency.

If you report the assault immediately, take a change of clothes with you in case the police keep the ones you are wearing (see also page 61).

You can ask to speak to a male or female police officer.

The police will provide an interpreter if your first language is not English.

Tell the police if you are worried about your safety.

You can get support whether or not you report to the police.

You have a right to be treated sensitively and with respect.

You have a right to complain if you are not.

Reporting is the first stage in the criminal justice process. It may not result in a prosecution.

Contact:

For details of your nearest police station, check your phone book (under P) or contact:

Central Scotland Police:

www.centralscotland.police.uk 01786 456000

Dumfries and Galloway Constabulary:

www.dumfriesandgalloway.police.uk 0845 600 5701

Fife Constabulary: www.fife.police.uk 0845 600 5702

Grampian Police: www.grampian.police.uk 0845 600 5700

Lothian and Borders Police: www.lbp.police.uk 0131 311 3131

Northern Constabulary: www.northern.police.uk 08456 033 388

Strathclyde Police: www.strathclyde.police.uk 0141 532 2000

Tayside Police: www.tayside.police.uk 01382 223200

British Transport Police: www.btp.police.uk 0800 40 50 40

If you believe you are in immediate danger of assault dial 999.

Claiming compensation

You may be able to claim compensation under the Criminal Injuries Compensation Scheme.

This is a financial award to compensate for the pain and suffering caused by violent crime such as rape/sexual assault. In some cases, an additional payment can be made for lost earnings or special expenses directly resulting from the injury. The injury can be physical or mental. It does not matter whether the attacker is someone you know or a stranger.

To claim, you must report the assault to the police and cooperate fully with them. The attacker does not have to be caught or prosecuted for you to claim.

You apply to the Criminal Injuries Compensation Authority (CICA). CICA advises that you apply as soon as possible after the assault. You must apply within two years of the assault (except in certain circumstances).

You can get help with applying from an agency such as Victim Support Scotland or Citizen's Advice. You can also contact CICA direct.

If you are on welfare benefits, these could be affected by any money you receive. An adviser from one of these agencies can tell you more about this.

If your application is not successful or the award is less than you expect, you can ask for a review. If you are not happy with the review, you can appeal to an independent body, the Criminal Injuries Compensation Appeal Panel. Victim Support Scotland and Citizen's Advice can help with this.

You can get further information, download an application form and apply on line at www.cica.gov.uk

CICA

Tay House

300 Bath Street

Glasgow

G2 4LN

Tel: 0141 331 2726

Freephone helpline: 0800 358 3601 (open from 9am to 8pm on Mondays to Fridays and from 10am to 6pm on Saturdays)



2

Section 2:

How rape and sexual assault can affect people

- Feelings and reactions
- Long-term health
- Ways of coping

Feelings and reactions

Rape and sexual assault affect people in different ways. Everyone is different. We all feel differently about the things that happen to us in our lives. Whatever you feel and do is 'normal'.

What was happening in your life before the assault; whether you have people around you who believe you and support you; and your own circumstances all affect how you react to and cope with rape and sexual assault.

For example, men and women may share similar feelings but may react differently. Women may be more likely to cry and turn in on themselves. Men may be more likely to hurt themselves or damage things. But this is not always the case, and there is no 'right' or 'wrong' way for men and women to react.

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Men may feel particularly vulnerable because of expectations that all men should be strong, in control and able to protect themselves. This may be made worse if there is no one they can confide in or they think that friends, family or others will be unsympathetic or unsupportive. This in turn may make it more difficult for men to talk about the assault.

Gay men may think that the assault happened because they are gay. They may have been taunted about their sexuality as part of the attack. Straight men may feel very confused and wonder if they are gay as a result of the assault or because of how their bodies responded during the assault. They may be more distressed by the sexual element of the assault than the violence and be reluctant to say anything because they are worried about being seen as gay. However, sexual assault has nothing to do with the sexual orientation of the attacker or the victim. Sexual assault does not make you gay, bisexual or heterosexual. It is a crime of violence that affects straight men as much as gay men.

Sometimes, you may think that your reactions seem out of proportion to what happened. This may be because you are reacting to something that happened to you before.

If you have been sexually abused or assaulted as a child, or in another context, further assault may bring back memories of what happened or make your feelings and reactions even more intense.

If your partner raped or sexually assaulted you, this may be one part of a whole range of abuse which happens regularly.

Your feelings can be very strong and can last a long time. For example, you may feel too upset to eat or sleep. You may suddenly cry or lose your temper. You may feel angry at the attacker, yourself and other people for not protecting you. You may feel ashamed, guilty and embarrassed. You may feel frightened of being alone, of being in crowds and of the attacker coming back or finding you. You may also feel anxious about what other people are feeling and that you need to protect them. And you may find it difficult to be close to your partner, children, friends or family.

Or you may feel none of these things. Whatever you feel is OK.

Many people feel overwhelmed by their feelings and worry they are 'going mad'. If this is how you feel, it may be reassuring to know that you are simply reacting, in a very natural way, to a traumatic experience. There are things you can do to feel better.

You do not have to cope on your own. You can talk privately to someone who has helped other people in the same situation. Section 4 lists agencies you can contact.

Reactions during an assault

People often say that if they were assaulted they would fight back or run away. But, in fact, most people do not. Their automatic reaction is to freeze and not do anything. This is because they don't believe this can be happening to them; they are frightened they might get injured or killed if they resist; and/or they feel completely helpless. If this happened to you, it does not mean that you agreed to the assault. You were trying to survive the ordeal.

Your attacker may have frightened or threatened you. Or you may have been drunk, drugged, unconscious or asleep at the time.

It is possible for people to have a physical (sexual) response. This is an involuntary body reaction which can be very confusing. If this happened to you, it does not mean that you wanted to be assaulted or enjoyed the experience. If you are a straight man, it does not mean that you are now gay or bisexual.

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Reactions immediately after an assault

Immediately after a rape or sexual assault you may feel numb and shocked. You may be visibly upset. You may laugh uncontrollably, talk a lot, shout, cry or be tense and restless. Or you may be very calm and not want to say what happened. It is also common for people to talk about the attack as if it happened to someone else. Or you may feel very upset at some points and very controlled at others.

If you have not been fully aware of an assault you may feel confused and disoriented.

Factors which affect your reactions

The way you react can be affected by various fears including:

- Fear that you will not be believed
- Fear about how your friends and family will react
- Fear for your safety and that it might happen again
- Fear that people can tell what's happened by looking at you
- Fear of sexually transmitted infections
- For men, fear that you might be gay as a result of the assault or seen as weak
- For women, fear of being pregnant

42 Feelings immediately after an assault

You may feel some or all of the following:

- Numb or as if you are in a daze
- Helpless or powerless
- Sore – you might not know which parts of your body were hurt
- Confused about the detail of what happened
- Unable to concentrate and generally 'jumpy'
- Unable to sleep or that you want to sleep all the time
- Sick or unable to eat (particularly if the attack was oral) or that you want to binge
- The need to forget what happened and block out feelings by using alcohol, drugs, cigarettes or food
- Dirty and want to wash repeatedly
- Ashamed, embarrassed and angry
- Guilty

These feelings are very common and are a natural response to what has happened. Page 52 gives some suggestions about ways of coping with these feelings.

As time goes on

It is common to try to live life as normal and to cope by blocking out your thoughts and feelings. But memories can come back and you may experience:

- Panic attacks: the body responds as if it has a severe fright but with no obvious cause. This can lead to palpitations, dizziness, nausea, shaking, shortness of breath and sweating (see page 49)
- Flashbacks: can be brought on by something that reminds you of the assault or the attacker, for example when you talk about what happened (see page 49)
- Startle reactions: you may jump at the slightest thing and this can trigger a panic attack
- Dependency: you may feel more dependent on others; not want to be alone; and be anxious that family or friends might reject you
- Existing problems seem worse: you may find it more difficult to cope with any other problems in your life
- Need for drastic change: it is common for people to make a drastic change particularly if they knew the attacker and they are still in the area. This might include moving house, changing job, altering appearance
- Change of temperament/personality: you may become withdrawn and stop doing the things you used to do. You might not notice this

You may also:

- Feel very alone
- Feel ashamed and that you were to blame for what happened
- Go over the assault in your mind trying to work out why it happened to you and what you could have done to prevent it
- Feel unsafe and not want to go out if the assault happened outside your home or be at home if it happened there
- Find it hard to be on your own but also find it hard to be in company
- Be anxious about your sex life: sexual contact may cause flashbacks for some people; worry about being no longer attractive
- For men who are sexually assaulted by men, you may be concerned about your sexuality or what other people think of your sexuality
- Worry that your friends, family or community will reject you
- Be more aware of media reports of sexual assaults and, as a result, feel anxious and powerless
- Feel generally scared and anxious

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You might recognise some of these feelings and reactions. They are 'normal' and a common response to what's happened.

Longer-term reactions

You may feel angry at what has happened. It is very common for people to blame themselves rather than their attacker. If you have no outlet for your anger and continue to blame yourself or feel ashamed this can lead to depression, or self-destructive behaviour such as drinking too much, taking drugs, getting into fights or putting yourself at risk in other ways.

In the process of trying to regain control over your life you may end up becoming very 'controlling'. You may try to control people and things over which you can have no control.

You may find it difficult to trust and become withdrawn and suspicious of other people.

You may find that you become increasingly dependent on the people close to you and feel a strong need to be accepted and kept safe by others.

Other people's reactions

Friends and family members may react in unexpected ways. They may be very shocked and distressed for you and want to help in any way they can. Or, if you were assaulted by a family member, there may be reluctance to support you or cause 'upset' in the family.

You may come across some people whose attitudes are very unhelpful. Unfortunately this might include professionals such as employers or other influential people.

Even people who are well meaning may not understand your situation or what you are going through. People generally do not know very much about rape and sexual assault. What they see on TV or in newspapers may not help.

Your family and friends may not know how to handle the situation and so may avoid you. They may find you difficult, for example if you are irritable or withdrawn. They may have unrealistic ideas about how long it might take you to ‘recover’. And they may need some help themselves to cope with their own feelings and be strong enough to support you. It may help to:

- Think about who you tell and make sure that this is someone you trust
- Take care of yourself first. You are not responsible for how other people feel
- Give this pack to people you are close to so they can find out more about what you are dealing with
- Suggest they contact an agency such as Rape Crisis or Victim Support for advice on how they might support you

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Moving on

People adapt to difficult and traumatic experiences in different ways. You may wonder if you will ever recover from a sexual assault. People do, in the same way that they recover from other forms of loss. But it may change the way you see the world forever, and it may take a very long time to come to terms with it. You may need help at different times to cope with practical, health or emotional issues.

Some people tell no one and find a way of carrying on with their lives as if nothing happened. But many people say that talking to someone helped them. Talking to someone early on can prevent longer-term problems. There are many agencies which you can phone in a crisis and for ongoing support. They can also put you in touch with services in your area. See section 4.

You do not have to cope on your own.

Whatever you feel is OK.

You may have very strong feelings and reactions or feel numb or calm. This is natural.

It is OK to be angry. Being angry means that you are starting to come to terms with the assault. Try to find ways of expressing it that don't hurt you or other people.

If you can, avoid alcohol or drugs as they can just make things worse. If you do use them, try to do so as safely as possible. See also page 52 for ideas of other forms of coping.

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Whatever has happened, you have a right to help and support.

Try to find someone you can trust to confide in.

Ask for help if you need it.

There are things you can do to feel better.

Long-term health

Everyone's experience of rape and sexual assault is different. People respond differently to traumatic events and come to terms with them differently. Some people recover quickly. For others, there can be long-lasting physical and emotional effects and these are briefly described below. They are a natural response to what has happened and there are things you can do to feel better.

If you are concerned about any of these things, you do not have to cope on your own. You can make an appointment with your GP to explain how you are feeling or you can contact any of the agencies listed in section 4. They will be able to give you more information and also tell you about services in your area which have helped other people going through the same thing. You can talk to them in private.

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If you have been sexually abused as a child, the effects of a recent sexual assault may be particularly distressing. You may be more likely to suffer post-traumatic stress and symptoms such as flashbacks or panic attacks (see below). This is a natural reaction and is not a sign of weakness. It is important that you receive good help and support. You can contact agencies listed in section 4 or see www.survivorscotland.org.uk

Physical symptoms

These can include a whole range of problems such as lower abdominal pain and lower back pain, headaches, difficulty in defecating and bowel disorders and (for women) gynaecological problems. These can be linked directly to physical injury from an assault, the memory of the injury and can also be associated with health problems such as stress and depression.

Depression

This is a common reaction to being raped and sexually assaulted. Feelings of anger, self-blame, sleeplessness, lack of energy and low mood are a natural response to an assault. You have every right to feel this way. It may help to talk to someone about how you are feeling; to express strong feelings such as anger through exercise; and to take the time to look after yourself. But if these feelings continue without getting better, you may benefit from extra help such as counselling, therapy or medication.

Panic attacks

Panic attacks are a normal response to stress. But they are disturbing and unpleasant. The body acts as if it has had a bad fright but there is no obvious cause. This means you feel dizzy, short of breath, sick, your heart beats fast and you sweat and shake. This can be very alarming and make you feel frightened of panic attacks. They tend to happen when you are stressed or if you are in a situation which reminds you of the rape or sexual assault. They might happen when you talk about the assault. You cannot stop them from happening but there are things you can do to control them or reduce the impact they have on you. See www.mind.org.uk

Flashbacks

Flashbacks are a memory of a frightening or painful experience. They are a normal response to what you have experienced. They are not like an ordinary memory but more a sudden and unexpected intrusion. You may feel as if you are reliving the event and it can feel almost as real. They can happen at any time, anywhere and often occur without warning, even when you are feeling OK. They can be triggered by anything that reminds you of what you experienced such as someone who resembles the attacker, a smell, a taste or a sound. They take different forms: visual (you may see an image);

auditory (you may hear voices); sensory (you may feel like you are being touched). They can last from a split second to several days. You cannot stop them from happening but there may be things you can do to make them easier to get through. To find out what see www.rapecrisisscotland.org.uk

Eating difficulties

Some people develop eating difficulties which may take the form of compulsive eating, anorexia and/or bulimia. These affect women and men and may be a response to oral assault and to feelings of self-blame, self-hate and the need to be in control.

Self-harm/self-injury

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Some people harm themselves to relieve emotional distress. This can take many forms including cutting, burning, throwing themselves against things and overdosing. Physical pain is often easier to cope with than emotional pain and self-harm can make people feel temporarily relieved and calm. It is not an attempt to die. It is a way of coping with intense feelings. There are things you can do to minimise any harm. To find out what see www.rapecrisisscotland.org.uk

Drugs/alcohol/cigarettes

Some people drink too much or become dependent on other substances to help them relax or to forget about the assault. This can lead to a whole range of other problems with health, money and the people around you.

Suicidal feelings

Suicidal feelings are a natural response to fear, guilt, anger and flashbacks. Suicidal feelings are frightening and when you feel overwhelmed by everything, it is often the hardest time to ask for help. If you feel this way, contact one of the agencies in section 4 for help.

Post Traumatic Stress Disorder (PTSD)

PTSD is the name given to a collection of symptoms which may develop in people who have suffered severe trauma. Many victims of crime experience PTSD. But they are less likely to develop these symptoms if they get good support early on. Symptoms of PTSD include chronic anxiety and depression, sleeping disorders and nightmares, constant flashbacks and intrusive thoughts about the assault, and prolonged feelings of detachment from self and others. PTSD is complicated and having any of the above symptoms does not mean you have PTSD.

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Further information

The support agencies listed in section 4 can give you further information on the above. You can also speak to your GP or see online at www.nhs24.com

Ways of coping

This section tells you about some of the things that other people have found helpful after they have been raped and sexually assaulted.

Getting support

You don't have to cope on your own. There are people and agencies who want to support you. Think about the support you have around you. Is there anyone you can speak to? It may help to talk about what has happened but make sure you speak to someone you can trust. If you are worried about the reactions of your family or the people around you, you don't have to speak to someone from your own community. You have a choice about who to tell.

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The people you go to for help should listen to what you say and should believe you. If they don't, speak to someone else.

You can speak privately to any of the agencies listed in section 4.

Keeping safe

There are lots of aspects to keeping safe. Do you feel safe where you live, at your work or in your neighbourhood? If not, you may need to think about contacting the police for help (see page 35). Or you may want to make a practical change like your phone number. Are there any physical health risks as a result of the assault? It may be worth getting yourself checked out (see page 18). It's also important to take care of yourself and avoid things which might make everything worse. For example, some people blot feelings out through alcohol or drugs; or take it out on themselves or others; or get into risky situations such as driving when drunk. If you think you might be at risk of any of these, try to find some other outlet or speak to someone about what is going on.

Putting yourself first

Often the last thing people think of is being kind to themselves. It might be hard for you to find something you enjoy at the moment. But is there anything you could do that you might find relaxing or comforting? Try to think of something which is not connected with the assault.

Looking after yourself

If you are going through a hard time it's easy to neglect yourself. If you neglect yourself physically it can be more difficult to deal with emotional pain. So, it helps to take care of your physical health. You may be finding it difficult to eat, sleep or exercise. Is there anything you can do to care for your body? Examples might be to have your favourite food or a hot bath. Try to get some exercise suitable for your fitness level. It's also important to get yourself checked out physically in case you need medical attention.

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Keeping it simple

Often people find it helps to focus on day-to-day things that are easy to do like watching TV, playing computer games or a familiar sport or hobby. Is there anything small to get you started?

Try to cut down the stress in your life so you are not under too much pressure at work or at home.

Try to relax by breathing deeply.

It may help to write things down or draw or paint, depending on your interests.

Try to keep some kind of normal routine without overdoing it.

Being angry

You have a right to be angry. Expressing your anger can help you feel better as long as you do this without hurting yourself or other people. Are there things you can do safely? Some examples which other people have found helpful are walking or running, punching pillows, shouting, writing and painting.

Taking time

It may take a long time to feel that you are back in control of your life. You may go up and down. You may have to make a lot of difficult decisions. And there may be further stress such as a court case and having to give evidence. A lot depends on who you are and what kind of support you have. It helps if you give yourself time and don't expect too much of yourself.

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Counselling, medication and other therapies

As time goes on, you may find that you are not coping with your everyday life and that you need some extra help to express your feelings or feel a bit better. This might include counselling, complementary therapies such as aromatherapy or relaxation techniques, medication for physical symptoms such as ongoing pain or depression and/or other professional assistance. Your GP may be able to help you or may refer you to other health services. You can also contact the support agencies listed in section 4 for further advice and information.

There are services and individuals who want to support you.

There is information on websites (see section 4) and in books. You may find it helpful to read more about the subject and accounts of other people who have had a similar experience.

3

Section 3:

Investigating and prosecuting rape and sexual assault

- Legal definitions
- Diagram of police and prosecution process
- Police process
- Prosecution process
- Going to court
- Sentencing and after
- Private prosecution
- Civil action

Legal definitions

Rape and sexual assault are crimes of violence.

Legal definition of rape, attempted rape and assault with intent to rape

The legal definition of rape is ‘when a man has sexual intercourse with a woman without her consent’ (she did not agree to it). The penis has to enter the vagina although there does not need to be full penetration. The man does not need to ejaculate.

‘Attempted rape’ is when the man tries to rape a woman but does not manage to.

‘Assault with intent to rape’ is when a man intends to rape a woman and assaults her but his conduct does not amount to a charge of attempted rape.

Legal definition of sexual assault

Sexual assault is an assault which has a sexual element to it. The sexual element must be without consent.

Sexual assault includes a wide range of ‘indecent’ behaviour including:

- Forced oral or anal sex
- Penetration with an object
- Forcing the victim to masturbate the attacker
- Attacker masturbating the victim

The attacker can be male or female. The victim can be male or female.

There are various offences with which someone might be charged including:

- Indecent assault: an attack with some form of indecency
- Sodomy: penetration of man's anus by the penis without consent
- Unlawful sexual intercourse: sexual intercourse with girls under 13/ aged 13-16
- Abuse of a position of trust: sexual intercourse or activity by a person over 18 with person under 18 to whom attacker is in a position of trust, for example a carer
- Lewd, indecent and libidinous practices: indecent behaviour towards girls under 12 and boys under 14
- Incest: sexual intercourse between people related to one another (as specified by law)

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These offences are not more or less serious in how they affect the victim. They are all frightening, intimidating and can be violent.

Some people may experience more than one form of sexual violence in the course of their lives. This can affect how they react to and cope with separate incidents.

Legal definition of consent

For rape and sexual assault to be proved in court, it has to be shown that the assault took place without the consent (agreement) of the victim **and** that the person responsible knew or 'was reckless to' the fact that there was no consent. That means they disregarded or did not find out whether the victim consented.

In many situations, a person might not struggle against an attacker through fear or shock or might be asleep or unconscious at the time. It may be possible to prove in court that the person responsible knew that the victim did not consent or 'was reckless to' this even when there was no other physical violence or force.

A man can be found guilty of raping his wife, even if they were living together at the time of the offence, if it can be proved that the intercourse took place without her consent.

'Consent' can sometimes be difficult to prove in court. By law, there must be two independent pieces of evidence to corroborate (prove) that the victim did not consent **and** that the attacker knew or disregarded this.

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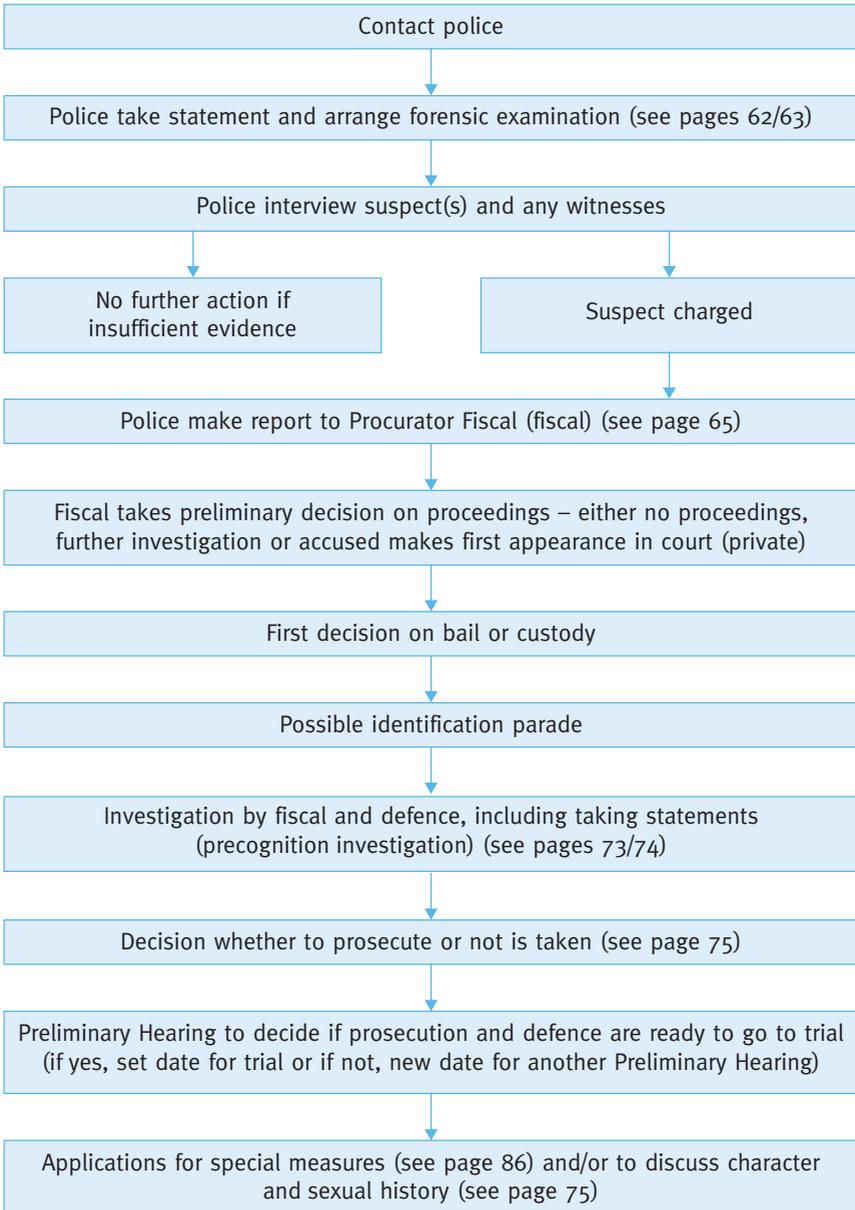
Because such crimes often take place in private, it can be difficult to get enough evidence to prove to a court that the crime took place, that the victim did not consent and that the attacker knew or disregarded this.

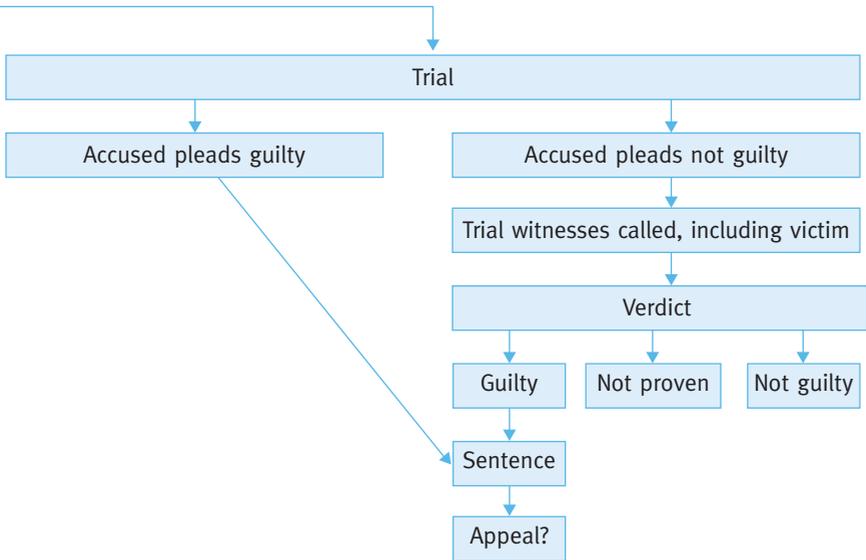
If you have been raped or sexually assaulted:

- You are not to blame. The person who raped or assaulted you is to blame
- You do not have to cope alone
- There are many support services which can help you. They know how difficult it is for people to come forward. They will respect you and believe you

Diagram of police and prosecution process

This diagram takes you through the police and prosecution process.





Notes

If you decide to involve the police, do this as soon as possible so that forensic evidence can be gathered from your clothes and body. Page 61 tells you more about what you should and shouldn't do before a medical examination.

Once the case reaches the Procurator Fiscal, and preliminary investigations begin, Victim Information and Advice should contact you and keep you informed of developments. Contact them (see page 83) at any time for information.

Discussions about special measures (see page 86) and applications to discuss sexual and character history (see page 75) can come up at any time between precognition and any trial.

There is no time limit on how long it can take from first reporting the assault until the accused is charged or first appears in court.

After the accused has first appeared in court, the trial should happen within one year if they are released on bail or within 140 days if they are remanded in custody. But the judge can extend this.

Police process

What the police do

The main role of the police is to investigate what happened. They do this by gathering evidence. This may include tracing witnesses. Depending on the evidence available, they will arrest and charge the suspect(s). If a suspect is charged, the police will send a report to the Procurator Fiscal who will decide what action should be taken next.

The police also provide initial support to people who have been raped or sexually assaulted. This includes making sure people get medical assistance; giving them information and advice; and telling them about other agencies which can help.

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All police forces have staff who are specially trained to deal with rape and sexual assault.

When you report to the police

Your first contact could be with any officer but you will very quickly be seen by a police officer who is specially trained in working with people who have been raped or sexually assaulted. They know that rape and sexual assault is distressing and traumatic, and they will be as sensitive as possible while continuing to investigate the crime.

If you need emergency medical help, the police will arrange for you to get this.

Recent assault

When you report rape or sexual assault, the police gather as much evidence as possible. This is used to prove what happened. So, if the incident has just happened try **NOT** to:

- Wash yourself (but if you do, wipe yourself with tissues first and keep these; don't use household cleaning products to wash yourself)
- Clean your teeth
- Clean your fingernails
- Change or wash any clothes you were wearing
- Eat or drink anything
- Take any alcohol or drugs
- Go to the toilet (if you do keep any tissues you use; also keep any sanitary protection)
- Change or wash your bedclothes if the assault took place there

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If you do these things it can destroy important evidence such as the attacker's semen, saliva or blood.

But, if you do any of these things, [this does not mean that there is no evidence for the police to find.](#)

When you are in the police station

Some police stations have special facilities for people who have been raped or sexually assaulted. These are designed to be as comfortable and private as possible. They are not available everywhere in Scotland, but each police force area has a facility and you may be taken there.

You can have someone with you (a supporter). But if your supporter is a witness to the incident, they will not be able to stay with you while you give your statement (see below).

The police will carry out their procedures as soon as possible but sometimes people have to wait in the police station for several hours while their statement is taken and any forensic examination arranged (see below). If you are having a forensic examination, it is helpful **not** to eat or drink anything until it is known whether or not samples from your mouth are needed as evidence may be damaged or lost.

There may be delays, for example, depending on how soon the doctor can attend.

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Your statement needs to be as detailed as possible so it may take a long time to complete.

If there is anything you are unsure or unhappy about, tell someone in the police station.

Giving information to the police (statement)

The police officer will ask you questions about the assault. This is to build up a picture of what happened, find out about your attacker and check if you think anyone else saw or heard anything. Some questions may seem awkward and difficult but are necessary for the police to take the case to the next stage. You should not be asked questions about your sex life that do not relate to the incident. But, the police may need to ask you if you had recent consensual (agreed) sex with someone as that may affect any forensic examination (see below). If you are not sure of the reasons for any questions, you can ask for an explanation.

It is best to be as open and honest as you can. If you can remember what happened, it is better to be upfront from the start rather than change the details later. For example, some people are reluctant to say that they were drunk or had taken drugs at the time of the assault. But, it is important to remember that the attacker is responsible for the assault and not you. Rape and sexual assault are never OK, **in any circumstances**. The police should not judge you or blame you.

You may find it difficult to remember anything much. This is not unusual and a normal response when something traumatic happens. You may not remember anything if you were raped or assaulted when you were asleep or unconscious.

The information you give is written up into a statement. This will be in your own words and in your first language. It will be read back to you. You can change or add to this before you sign it. The police may contact you the next day to go over the statement, and you can add to it then.

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You can take as much time as you need. You can ask for a break at any time. You can also add information later if other details come back to you some time afterwards.

Tell someone in the police station if you are unsure or unhappy about what is happening.

Forensic examination

If the assault was recent, you may be asked if you are willing to have a forensic examination by a doctor who works with the police. This is to gather evidence and note any injuries to help investigate what happened. You can choose whether or not to agree to this.

Forensic examinations are done by ordinary doctors with special training. You can ask to be seen by a male or female doctor and the police will do their best to provide this. The doctor will do everything they can to make you feel as comfortable as possible. You can ask for the examination to stop at any time.

You will be asked to drop any items of clothing touched by the attacker into a bag. This involves you undressing. If necessary, you will be given a gown to wear.

The doctor will ask you what happened and where on your body so that they know where to look for any evidence. Depending on what happened, the doctor will examine you. They may take samples of anything which may contain the attacker's DNA such as semen or saliva.

The doctor may ask for a police photographer to take photos of any bruising or injuries. You can choose whether or not to agree to this. You can ask for a male or female photographer.

After the forensic examination, a police officer may want to go over your statement with you as there may be information to add or change.

If the police keep your clothes, they will arrange to have other clothes brought to you. You will get your clothes back once the case is over. This may take some time.

You may be asked to attend a second examination although this is rare. This is to gather more evidence such as bruising which might not show at first.

Other evidence

The police may gather other evidence. For example, if you were assaulted in your home, the police may come to your house to look for evidence. If you were attacked outside, the police may take you there so you can show them exactly where it happened. There may be CCTV images from any cameras in the area.

The police will also trace and interview any witnesses.

You may be asked to go back to the police station to look at photographs or attend an identification parade. This is done by viewing a DVD, usually in the police station.

What the police are looking for

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The police are looking for evidence which shows what happened. This is to help confirm that the assault took place and that you did not consent to it. This can be difficult as rape and sexual assault often happen when no one else is around and there may be little evidence. Your statement is one piece of evidence. But, the law states that there must be other evidence for a case to go to court. So, if the police do not charge someone, it does not mean they do not believe you or that they have not taken the assault seriously.

Finding the attacker

Your statement is passed onto the police Criminal Investigation Department (CID), and a detective will try to identify and find the attacker. If the attacker is identified, detective officers will interview them at a police station. After this interview, they may be charged or released without charge. If they are charged, the police will report to the Procurator Fiscal (fiscal). The fiscal will examine the evidence the police have gathered and decide what action to take next (see page 72).

Detaining and arresting the attacker

If the police suspect someone has committed a crime but do not have enough evidence to arrest, they can keep (detain) them in the police station to allow for further enquiries and to interview them. They must then let them go unless they have enough evidence to arrest them. But they can still investigate the crime.

If the police have enough evidence that someone has committed a serious crime, they can arrest them and take them to a police station. The police will decide whether to keep them in the police station (custody) until going to court the next day or may release them (on undertaking) pending a report to the Procurator Fiscal. The ‘undertaking’ means that the person must agree to appear at court when told to do so. This is generally within two weeks. The court may place certain restrictions on them such as not contacting you or coming anywhere near you. If they break these restrictions, contact the police immediately.

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Whether a person is kept in custody or released from the police station depends on each case. If the assault happened some time ago, then they are more likely to be released. However, if the police think that you or someone else is at serious risk, then they are more likely to be kept in custody.

The officer in charge of the police station makes this decision. The police must be very sure about keeping someone in custody because the law states that a person is innocent until proven guilty by a court.

If you are at all worried about what might happen to you or someone else if your attacker is released, tell the police immediately.

The police will tell you what they decide and what will happen next.

If the police cannot find enough evidence or identify the attacker

If the police cannot find enough evidence or identify the attacker, they will record that the assault took place and keep any evidence and information they have gathered. They will tell you if no further action can be taken. **If this happens, it does not mean that you were not believed** or that the assault was not taken seriously. It means the police could not meet the legal test for taking the case forward. Many people find this upsetting and difficult. It may help to talk this over with a support agency.

Your safety

If it is not safe for you to return home or if you are in any way worried, the police will help to make sure that you are not at further risk. This might include finding somewhere safe for you to stay such as local authority emergency accommodation or organising an alarm service for your home.

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Support

The police will keep you updated about the case and explain any decisions made. If you agree, they will pass your details onto Victim Support Scotland (see page 102) who will keep you informed and support you through each stage. They can also tell you about other organisations which can help. The police officer you give your statement to is likely to be your contact throughout. Before you leave the police station, make sure you get a note of their name and phone number.

You have a right to be treated sensitively and with respect and to be kept informed while you are in the police station and during the police investigation.

You have a right to complain if you are not treated sensitively and with respect and kept informed.

If your first language is not English or if you have a sensory impairment or other additional communication need, interpreters and other assistance will be given so you can tell the police the details of what happened.

You can ask to speak to a male or female police officer.

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It may be difficult to remember what happened and to answer all the questions. This is very common. You may remember more at a later date.

Tell the police if you are worried about your safety or the safety of someone close to you.

Police contact details: see page 35

Prosecution process

This section explains how a crime is investigated once the police complete their report to the Procurator Fiscal. It also tells you what you can expect to happen at different stages of the investigation and about the support you will get.

The Crown Office and Procurator Fiscal Service (COPFS) is responsible for investigating and prosecuting crime. The Procurator Fiscal (the fiscal) is a lawyer who is employed by COPFS. (In the rest of this section, where we refer to the fiscal, this means the Procurator Fiscal or a member of their staff).

The police investigate crime on behalf of the fiscal. They work closely together and are in regular contact during the investigation.

COPFS investigates cases of rape and sexual assault very carefully. Members of the fiscal's staff will be in close contact with you, will keep you informed and will tell you what they think about the strength of the case and possible outcomes.

Victim Information and Advice (VIA)

Victim Information and Advice (VIA) is part of COPFS. VIA staff give information and advice to victims of serious crimes whose cases are being dealt with by the fiscal or courts. VIA will contact you once COPFS decides to bring criminal proceedings (see page 76) and will keep in touch with you until these proceedings (including any trial or appeal) are finished. VIA staff can tell you how the court system works and about progress in the case, for example, court dates, bail applications and any decisions taken.

If there is a trial, VIA staff can also help arrange support for you, for example, arranging with the Witness Service (see page 103) for you to visit a court before the trial, or talking to you about applying for any special measures needed at court (see page 86).

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VIA liaises with others involved in the investigation and court process to ensure that there are no barriers preventing you from giving your best evidence in a trial. This includes having an interpreter or any safety concerns.

Your safety during the investigation

When someone is suspected of rape or serious sexual assault (the accused), they will normally be arrested by the police and brought to court. Their first appearance in court is in private. The fiscal presents a document (petition) to the court which sets out the charge(s) and informs the court that the crime is being investigated. The accused can apply for bail. Bail means that the accused is released from custody until the trial. The law states that a person is innocent until proven guilty in a court and so very good reasons are needed to keep a person in prison before a trial.

It is up to the judge to decide whether or not to grant bail. They will normally grant bail unless they think the accused:

- May not attend their trial or earlier court appearance
- May commit an offence while on bail
- May behave in a way which causes or is likely to cause alarm to witnesses
- May disappear (abscond)

or the accused has previously been convicted of a serious offence.

The fiscal can oppose bail and will tell the judge if there is any concern for your safety if the accused is released. This may result in the accused being kept in prison (remanded in custody) until the trial or in special conditions being attached to the bail, for example not approaching or contacting you.

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If you are worried about your safety, tell the police, the fiscal or VIA. If the accused breaches their bail conditions, for example by phoning or coming near you, contact the police immediately. The fiscal can ask the court to review the bail order.

You should also tell the police, the fiscal or VIA if you have any reason to be frightened or worried by any of the accused's friends or relatives.

You may need help to ensure your safety during this time. This could include finding a safe place to stay or other practical support. The agencies listed in section 4 can help with this.

If the accused is under 18

If an accused is 16-17 years old, they are dealt with in the adult system unless they are under social work 'supervision'. If they are being supervised, the fiscal will liaise with the Children's Reporter to discuss whether they should be prosecuted in the adult system or dealt with by the children's hearing system. Given the nature of rape and sexual assault, they will usually go through the adult system.

If the accused is under 16, the fiscal and the Children's Reporter will discuss what action to take. Usually, they are dealt with by the Children's Reporter but, in serious cases, the fiscal will ask for approval from the Lord Advocate to prosecute the young person in the adult system.

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Considering the police report

The fiscal uses the report from the police to make an initial decision about starting the formal court process and investigating the case further. The fiscal considers the police report very thoroughly and can ask the police to carry out further enquiries.

The fiscal bases this initial decision on two main points:

1. Whether there is enough evidence in law and
2. Whether it is in the public interest to prosecute

The fiscal also takes into account anything else which may affect the likelihood of getting a conviction in court.

Evidence

By law, there must be enough evidence to prove the crime. There must be two independent pieces of evidence which show (corroborate):

1. That the rape or sexual assault happened and
2. The accused was the person responsible

These have to be proved ‘beyond reasonable doubt’ in court. Because rape and sexual assault often take place in private, with no witnesses, it can be difficult to find enough evidence.

Public interest

Public interest means that the fiscal looks at a case from all angles and not only from the point of view of the victim. However, for rape and serious sexual assault, there is a strong presumption that prosecuting is in the public interest.

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Investigation by the fiscal

The fiscal investigates the case mainly by interviewing (precognosing) any witnesses. This includes you as the person who was raped or sexually assaulted.

As well as speaking to witnesses, the fiscal looks at documents such as forensic reports and other evidence (productions) gathered by the police. This may include items of clothing.

If the fiscal wants to interview you, you will receive a letter (citation for precognition) with an appointment to go to the fiscal’s office. If you cannot manage to keep the appointment, you can ask for this to be changed. Otherwise, you must attend when asked. You are entitled to expenses for attending the interview. These cover travel, care costs, subsistence and loss of earnings. You will be given information about how to claim these.

If you think you would find it helpful to have a supporter with you, let the fiscal know before the interview that you would like this and who you wish to bring with you. The fiscal will discuss this with you and let you know whether this is possible.

You can have an interpreter if your first language is not English or you have a hearing impairment. Fiscal or VIA staff will ask if you need documents to be translated into your preferred language or provided in a certain format.

If you need any special arrangements, for example because of disability, to help you get to or take part in the interview, let the fiscal or VIA know.

74 The interview (the precognition investigation)

At this interview, the fiscal will ask you about what happened. They will be as sensitive as possible. Interviewers are experienced in cases of rape and sexual assault. They know how hard it is for people to have to go through what happened and that there are things that you might not want to say.

You may find the questions difficult and upsetting. Or, you may be asked what seem like daft questions. The reason they are asking these questions is to check information and to test how strong the evidence is against your attacker. Although it might seem insensitive, it is better that the fiscal knows the answer to these questions from the start.

It is very important to be honest and to say exactly what happened. Try to remember that what happened to you was a crime and that the fiscal is not there to judge you but to prosecute crime. If you try to hide information because you feel ashamed, embarrassed or want to protect another's feelings, it could weaken the case and may come out in court anyway.

You may find it difficult to remember what happened. This is very common. It may help to write down anything you do remember. If the case goes to court, it may take many months.

If you have remembered anything about the assault since you spoke to the police, it is important to tell the person interviewing you.

You can ask the interviewer any questions you want. It is fine to phone back later if you think of any others. At any time, you can tell the fiscal or VIA if there is anything that you are worried about, for example your own or someone else's safety.

You can see your VIA officer before or after the interview.

Sexual history and character evidence

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In many cases, the defence will apply to the judge to be allowed to ask you questions at trial about your sexual history or your character (past behaviour). The prosecution may also want to ask you about this if they think it is relevant to the case.

If the defence makes an application about this, VIA will let you know and will tell you whether the judge is going to allow the questions or not. The fiscal will have to ask you about these issues as part of the precognition investigation. If the defence applies after you have already met the fiscal, you may have to meet with them again (re-precognition).

Decision about whether to prosecute or not

The aim of the precognition investigation is to decide if there is enough evidence to prosecute the case and if it is in the public interest to do so. It also helps to get an accurate picture of the evidence which would be presented to a court if the case is prosecuted.

Once the fiscal has completed these investigations, they send a report with recommendations to the Crown Office in Edinburgh. The final decision about whether the case should go to court and what the accused should be charged with is taken by senior prosecutors (Crown Counsel).

Decision not to proceed ('no pro')

The fiscal may decide that the case will not proceed or Crown Counsel may decide it will not go to trial. If so, you will get a letter telling you this. It may not give you detailed reasons as this information is confidential. But the fiscal should offer you a meeting, and they will explain as much as they can.

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It is important to remember that a case must be proved to a very high standard (beyond reasonable doubt) to secure a criminal conviction. A decision to take no proceedings does not mean that you were not raped or sexually assaulted.

The fact that the accused had a first appearance in court (on petition) does not guarantee that there will be a full trial. Its purpose was for the fiscal to set out the charge against the accused, and advise the court that they were investigating the crime.

If Crown Counsel decides the case will go to trial

You will get a letter (citation) saying that you will need to go to court to say what happened to you (give evidence). If the accused pleads guilty, you will not have to give evidence in court.

For the court case, you do not need a lawyer as you have done nothing wrong. COPFS prosecutes the case on behalf of the Crown. You are a witness for the prosecution.

VIA will give you information about the trial process, the Witness Service (see page 103) and can refer you to other agencies which offer practical and emotional support.

Decision about the court procedure

The fiscal decides how the case will be prosecuted. Cases of rape and serious sexual assault are prosecuted in front of a judge and jury (solemn procedure). Rape cases are always prosecuted in the High Court. Other serious sexual offences are prosecuted either in the High Court or the Sheriff Court before a jury.

The difference between the two courts is in the maximum sentences they can impose. The High Court can sentence up to life imprisonment. A Sheriff Court can sentence up to five years in prison but may refer the case to the High Court if they think the sentence should be longer.

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This information pack describes solemn procedure in the High Court and Sheriff and Jury Court (see pages 116-118) as this is always used for rape and serious sexual offences. Some sexual offences may be prosecuted using summary procedure (judge but no jury; sentence up to three months for a first offence and six months for a second or subsequent offence of this nature).

VIA will send you an information leaflet about procedures in the type of court that your case will be heard in.

Defence investigation

Before the case goes to trial, the lawyer (defence lawyer) for the accused may want to interview you. This is a normal part of the legal process. You cannot refuse to be interviewed. You should be open and honest at the interview. The interview gives the defence

lawyer a better idea of the case and helps them advise the accused whether they should plead guilty or not guilty. This sometimes means that a trial can be avoided.

You can ask for this interview to take place at a time and a place that suit you. You should be contacted in advance to arrange this. This could be at your home or in a police station, for example. You can have a supporter with you at the interview as long as they are not a witness in the case. The interviewer should treat you sensitively and with respect.

If there is more than one accused, you may need to speak to more than one defence lawyer.

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You can have an interpreter if your first language is not English or you have a sensory impairment. Let the defence lawyer know if you need any assistance to take part in the interview so they can make any necessary arrangements.

Your details

The names and addresses of all witnesses are given to the defence lawyer. This lawyer is not allowed to give your address or phone number to the accused. Your address, and all other civilian witnesses' addresses, will be given care of the police station.

Any statement you gave to the police may also be given (disclosed) to the defence lawyer. This is so that the defence lawyer can represent the accused fairly. Statements given to the defence are considered by the fiscal and may be edited so that only relevant information about the crime is included.

The defence lawyer is usually allowed to get details of any convictions or pending court cases you may have. The court may allow the defence lawyer to refer to this at trial if it is thought to be relevant to your evidence.

What information the fiscal can give you

The fiscal and VIA will tell you as much as possible. Sometimes, you may be given less information than you think you should get. This is because you are a witness and to protect the case. By law, the fiscal cannot coach you, for example advise you what to say in court or what to wear in court. This could lead to claims that an accused has not had a fair trial.

Sometimes a decision may be taken which you do not understand. If you are unsure about anything, ask the fiscal or VIA to explain.

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Length of time before trial

It may take some time before there is a trial.

If the accused has been remanded in custody, the trial has to begin within 140 days. If the accused is on bail, the trial has to begin within a year. There are sometimes delays, for example because more time is needed to prepare the case or witnesses are not available.

Before the trial, there are various procedural hearings at court. These are to sort out any legal details before the trial. Witnesses should not attend court (including procedural hearings) until they have given their evidence. Procedural hearings are a standard part of the process, and do not mean that the case is being delayed.

Preparing for the trial

You will be told when the trial is due to start. You will receive a letter (citation) which tells you where and when to attend. Once the date is set, it usually starts then. But it might change at short notice, for example, if the case before takes longer than expected. If you cannot attend on this date, contact the fiscal or VIA immediately as it may be possible to make other arrangements.

If anything has changed, for example your health, since you were last in touch with the fiscal, let VIA or the fiscal know so that any necessary arrangements can be made to help you.

Changing your mind

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You may have second thoughts about going to court during the investigation process. Some people worry about having to give intimate details in court. Some people don't want to have to remember and go over what happened to them or are frightened they might be harmed if they give evidence. The fiscal will take your feelings and what you say into account and will encourage you to get advice and practical help to deal with any concerns and fears. However, the decision about prosecuting the case is taken on the basis of the public interest and not your wishes alone. So, it is likely that, if there is sufficient evidence that the offence was committed and the accused was the person responsible, the prosecution will continue.

You cannot refuse to go to court to give evidence.

If you are in any way worried or scared contact VIA, the fiscal or any of the support agencies listed in section 4.

Plea negotiation

Sometimes the accused will offer to plead guilty to an amended charge, for example from rape to indecent assault or attempted rape. Sometimes an amended plea is accepted. This can save victims from the stress of having to go to court, and it means there will be a guaranteed conviction. Sometimes the plea is not acceptable, and the prosecutor will decide to continue with the prosecution. Unless circumstances prevent this, the prosecutor will tell you if they intend to accept a reduced plea and their reasons before the plea is accepted in court.

Not guilty plea

Sometimes the prosecutor might consider accepting a not guilty plea. Unless circumstances prevent this, the prosecutor will tell you if they intend to do so and their reasons. They will try to speak to you about this before the plea is accepted in court.

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Support through the process

There may be times when you feel as if you have no control over what is happening, that important decisions are being made for or about you, and that you are not getting all the information you expect. This can be upsetting. There are things you can do to help feel more in control:

- Ask someone if there is anything you do not understand or want to know. You have the right to ask questions at any stage of the process. If an official such as the fiscal is not able to give you certain information, then they should tell you why
- It may help to write down what you tell the police, the fiscal and the defence. This may help you keep things clear in your mind. It may also be a good memory aid if the case goes to court as this can take a long time

- If you feel at all worried, anxious or distressed, tell the police or the fiscal or talk through your worries with a support agency
- Take up VIA's offer to arrange for you to visit to the court so you can see it before you have to go to give evidence and so you can ask any questions about what happens in court

There are various support agencies which can help you at this time. Details of these are in section 4.

Remember

The legal process is complicated and can be confusing. This can be difficult to cope with on top of the actual assault.

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There are people who can support you at all stages of the process.

There may be things you do not understand about the case or how the law works. Ask Victim Information and Advice (VIA) or the Procurator Fiscal if there is anything you are not sure about.

Tell VIA or the fiscal if there is anything that is worrying you or if you have any information which might help the case.

You are entitled to be treated sensitively and with respect and to be kept informed about the case. You have a right to comment or complain if you are not.

Decisions always depend on the evidence available and, if the case goes to trial, whether a jury thinks that the case has been proved beyond a reasonable doubt.

If the case does not go to court or the outcome of the case is disappointing, it does not mean that you were not raped or sexually assaulted.

Victim Information and Advice contact details

You can phone VIA at any time to check progress. There may be periods when nothing seems to be happening. This is normal and it does not mean that the case is delayed or that there are problems with it. It takes time to sort out all the formal legal procedures before a case goes to court.

VIA offices are based within local Procurator Fiscal offices, providing a service in:

- Argyll & Clyde
- Ayrshire
- Central
- Dumfries & Galloway
- Fife
- Glasgow
- Grampian
- Highlands & Islands
- Lanarkshire
- Lothian & Borders
- Tayside

For further information and for details of your local office contact VIA at:

29 Chambers Street
Edinburgh
EH1 1LD

Tel: 0844 561 3701

Email: vianationalteam@copfs.gsi.gov.uk

Going to court

This section tells you about going to court, your role, the support you can get and what to expect.

If the accused pleads guilty then you will not have to give evidence in court. They might not plead guilty until the last minute.

What is expected of you

Your job is to tell the court what you remember (give evidence).

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The thought of giving evidence in court can make people feel anxious. There are things which can be done to make this easier for you and to help you give the best evidence you can. These are explained below. There are also people who can help you such as VIA and the Witness Service (see page 103). They will give you information about being a witness. You can also find out about going to court and being a witness at www.witnessesinscotland.com and from the booklet the fiscal's office gives you when you are called to be a witness (see also www.crownoffice.gov.uk).

The crime is prosecuted by the Crown against the accused. You are a witness for the Crown. The Crown is not acting for you but for the 'public interest'. You do not need your own lawyer as you have done nothing wrong.

It is against the law for the prosecution to coach witnesses. That means that they cannot advise you what you should say in court, how you should behave or what you should wear.

Unless circumstances prevent this, the Advocate Depute (High Court) or the Procurator Fiscal (Sheriff Court) will introduce themselves to you on the day of the trial. This is so you know who will be asking you questions in the courtroom. But they cannot discuss the case with you.

Support attending court

Before you are to give evidence, you can have a court familiarisation visit. VIA will refer you to the Witness Service for this unless you ask them not to. Many people find these visits very helpful. They let you see what a court looks like, who will be in court and who may ask you questions. You can have someone with you during a court familiarisation visit.

You can also apply to have a supporter with you while you are at court giving evidence. As long as they are not a witness in the case, they can sit in the court with you when you are giving evidence (but cannot talk to you). Think about who you want this person to be. While it may be very reassuring to have a close family member with you, you may not want them to hear very intimate details about you in court. You might prefer somebody from the Witness Service or an agency such as Rape Crisis. They are experienced in working with people who have been raped or sexually assaulted and they also know how the court system works.

Expenses are payable for court familiarisation visits, for attending court and to supporters. These can help with the costs of travel, loss of earnings, child or other care costs and meals/snacks while you are in court. The fiscal will send you details about these allowances and how to claim them.

Your safety

It is a criminal offence for anyone to try to frighten a witness, jury member or anyone helping the police with an investigation. If you are in any way frightened by the accused or other witnesses before or during the trial, tell the police, VIA or the Witness Service.

You can ask VIA or the Witness Service to arrange for you to be met at the court and to enter and leave the court from a different door to the accused or witnesses for the accused. You will be able to sit in a separate waiting area, and someone from the Witness Service can sit with you.

Feeling more comfortable about giving evidence

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You may be anxious about giving evidence and the fiscal is aware that this could affect your ability to do so. There are various ways to help you to give the best evidence you can.

The nature and circumstances of rape and other serious sexual offences mean that the fiscal can apply for you to be allowed to use **special measures** to help you give your evidence. If you are 16 or 17 you can apply for special measures and will be treated as a vulnerable adult.

Examples of special measures are giving evidence by live television link, sitting behind a screen in the courtroom so you do not have to see the accused and/or having a supporter with you in court. It may be possible for you to give your evidence through a prior statement. This means that you do not have to explain in court what happened, though you may be questioned in court about your statement. Another option is to give your evidence to a commissioner before the trial.

VIA will discuss these options with you and the fiscal will apply to the court for measures to be put in place. It is up to the judge to decide whether or not to approve special measures and if so, which ones.

The judge can agree to clear the court of everyone except essential court staff and the jury when you give evidence. If you want this to be considered, speak to VIA or the fiscal before the trial so that they can ask the judge.

The press are allowed to stay but they will ensure that details of victims are not included in reports of rape and sexual offences.

Usually witnesses stand to give evidence. But you can arrange to give evidence while sitting if it is difficult for you to stand for long periods. You should discuss this beforehand with VIA or the Witness Service.

People often worry about what will happen if they cry when giving evidence or if they need to go to the toilet. If you need a glass of water, a seat or a break, ask the judge. Questioning can take some time and can be very tiring.

You have a right to an interpreter if your first language is not English. This will be arranged before the trial takes place.

If you have a disability, you may need certain arrangements to be made to get into court and give evidence. These will be arranged before the trial takes place.

Length of time in court

It is not possible to say how long you will have to wait until you are called into the courtroom or how long you will be in court giving evidence.

It may be possible to call you to court around the time you will be needed to give evidence, rather than having you waiting at court all day. If you would like to do this, speak to VIA or the fiscal. You will need to let them have your phone/mobile number so they can contact you in time for you to get to court.

The accused in court

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If you are granted special measures such as a screen or CCTV, you will not be able to see the accused. They will be able to see you but this will be through a monitor.

What happens when you give evidence

Witnesses cannot go into the courtroom before they give evidence. You will wait to be called in a waiting room. Your supporter can stay with you.

You will be taken into the courtroom to the witness box.

The judge will ask you to promise to tell the truth. You can give this promise in a way that fits with your religion, language or culture.

The prosecution (fiscal or Advocate Depute) will ask you questions. You may hear this referred to as 'examination in chief'. First, they will ask you your name, age and occupation. You will then be asked to tell the court about the assault. Your address will only be mentioned in court if it was the address where the offence took place. But it may become evident if, for example, the incident was viewed from the address or an item was recovered from it.

The defence will then ask you questions (called cross examination). They have a duty to defend the accused and you may find some of the questions upsetting. They may accuse you of lying or try to undermine you. It is difficult, but try not to take it personally. It is part of their job. It is up to the judge and the jury to decide what they think of your evidence. You cannot refuse to answer questions but the judge can allow or disallow questions. The judge should prevent any abusive, aggressive or inappropriate questions and the prosecution has a duty to object to them. If you are asked a question which is objected to, you may be asked to leave the courtroom while there is a legal argument about whether you need to answer the question.

You should not be asked about your past sexual behaviour unless it is relevant to the court case and the court has agreed to it being raised (see page 75). If a defence application was successful, an accused's previous convictions for sexual offences can be disclosed to the court.

The prosecution may ask you further questions (re-examination) in case they need to clarify anything which has come up from the defence cross examination.

The judge may ask you questions at any time.

The accused cannot ask questions.

You should answer the questions truthfully and as best you can. This is so that the court can see that you are reliable and credible. If you do not understand a question you can ask for it to be explained.

When you give evidence in court:

- Tell the truth
- Speak clearly and take your time
- Answer only the questions you have been asked
- Say if you do not understand a question
- Do not interrupt or jump in
- Tell the judge if you feel ill or upset or need a break

After giving evidence

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After you have given your evidence, the judge will ask you to remain in court or tell you that you can leave. If you want, you can sit on the public benches and watch the rest of the trial. Be aware that what you see and hear during the rest of the trial may make you feel very upset or angry. You cannot say anything or shout out.

How the case is decided

A jury (normally 15 members of the public) listens to all the evidence and to the information the judge gives about the law. They then decide on the result (verdict). The decision can be unanimous (all the jury members agree) or by majority (at least 8 of the jury agree). The jury can decide that the accused is 'guilty' or 'not guilty' or that the case is 'not proven'.

If the accused is found 'guilty' they are sentenced by the judge. This may happen there and then or may be delayed so that background reports on the accused can be prepared. The court may remand the accused in custody or grant bail until they are sentenced.

If the accused is found 'not guilty' or the case is 'not proven' they are free to leave the court. They cannot be tried on the same charge again. It is not possible to appeal this verdict unless the judge has made an error in law when speaking to the jury.

If the verdict is 'not guilty' or 'not proven' **it does not necessarily mean that the jury did not believe you**. It may be that the jury did not feel able to find the accused guilty 'beyond reasonable doubt'.

It is not possible to find out the reasons for a jury's decision.

Whatever the verdict, you are likely to have very strong feelings and it may be helpful for you to speak to your supporter or one of the agencies listed in section 4.

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Finding out the result of the case

If you are not in court to hear the verdict, VIA will contact you to let you know what it is or you can contact VIA or the fiscal's office.

Newspapers and television

Some cases of rape or sexual assault are reported by the newspapers and TV. There is little that can be done about this unless the victim or the accused is under 16. But there is an agreement that the press will not give out the names of victims.

If you are not happy about press reports, you can complain to the Press Complaints Commission. You can details from their helpline on 0131 220 6652 or at www.pcc.org.uk

You have the right to speak to the press after any trial if you want. But, remember you have no control over what is printed. If you want to speak to the press, it is best to speak to an advisor (for example from a support agency such as Rape Crisis or Victim Support) before you do this.

Scottish Court Service

The Scottish Court Service is responsible for running the courts. It works closely with VIA and the Witness Service. It produces several useful booklets:

Standard of Service for Victims

Guide to Attending a Criminal Court

92 Sources of Help and Advice for Victims

Court Users' Charter

These are available in court buildings and online at www.scotcourts.gov.uk

Sentencing and after

Sentences

The sentence for rape, indecent assault, incest and unlawful sexual intercourse (with under 13s) is up to life imprisonment. In practice, the length and type of sentence imposed is up to the judge. The judge will take into account how severe they think the crime was and the accused's previous record. The counsel for the accused will tell the judge about any factors which they think might reduce the sentence. This is called a 'plea in mitigation'.

If the accused pleads guilty, the judge is required by law to consider passing a shorter sentence than otherwise would have been the case. This is called a sentence discount. The judge decides how much, if any, of the sentence will be discounted. It might depend on when the guilty plea was made. The discount should not normally be more than a third of the maximum sentence available. The judge will state in court how much of a sentence has been discounted.

If you do not understand the sentence passed, VIA or the fiscal will try to explain more about this.

Telling the court how the crime has affected you

Victim statements are written statements that give victims the chance, once an offender has been found guilty, to tell the court in their own words how the crime has affected them.

Although victim statements cannot be made in Scottish courts at present, the Scottish Government plans to introduce them for serious crimes tried before a judge and jury, most likely sometime in 2009. When victim statements have been introduced, victims who can make a statement will be contacted direct. It is up to the victim to decide whether or not to make a statement.

Appeals

A convicted person can appeal against the conviction and/or the sentence. They can also apply for bail (interim liberation) while waiting for the appeal.

If they pleaded guilty, they can appeal against their sentence. The court may impose a different sentence (higher or lower).

If they pleaded not guilty but were found guilty at trial, they can appeal against the conviction and/or the sentence. The court may refuse or allow the appeal. If the appeal is allowed, the court may order a retrial or acquit (free) the person.

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Appeals are decided by three judges in the Appeal Court in Edinburgh.

Appeals for High Court and Sheriff and Jury trials (solemn procedure) should be lodged within 14 days.

The prosecution can appeal against a sentence which it thinks is 'unduly lenient'. To succeed, the prosecution has to argue that the sentence was unreasonable given the nature of the offence and the record of the accused. Because of this, it does not happen very often. This type of appeal must be lodged within 28 days.

The prosecution cannot appeal against the verdict unless there has been an error in law in what the judge said to the jury.

VIA will keep you informed about any appeal.

Length of time in prison

Offenders do not usually serve the whole of their sentence in prison. Most are released before the end of their sentence on strict conditions.

If someone is sentenced to life imprisonment, the court will specify how long they must spend in prison (the 'punishment part') before they can be considered for release. If they are released, they are subject to special conditions (life licence) and can be sent back to prison at any time for the rest of their life if they break the conditions. The Parole Board decides when a prisoner serving a life sentence will be released. They will only agree to release an offender if they think the offender is not a risk to the public.

If someone is sentenced to four years or more in prison, they are considered for release at the halfway point, and are entitled to automatic release at the two-thirds point of the sentence. They will be released subject to conditions (on licence). If they break these conditions they can be sent back to prison.

If you want to be notified about the offender's release

If the offender has been sentenced to four years or more in prison, you can choose to be notified when the offender is released by registering with the Victim Notification Scheme. There are two parts to the scheme which you can opt into.

If you opt into part 1, you will be told when the offender is released; if the offender dies before release; has been transferred out of Scotland; is eligible for temporary release; or absconds or escapes.

If you opt into part 2, you will get the chance to send written comments to the Parole Board. You can explain how the crime has affected you; how the offender's release might affect you; and whether you have any specific concerns about release. The Parole Board will take what you write into account when making its decision. You will be told what the Parole Board decides.

If you are eligible for the scheme, the Crown Office will send a form for you to complete and return to the Scottish Prison Service. You can choose whether or not to opt in. It may be difficult to make a decision about this immediately after the court case and you may want to speak to a support agency first. You can change your mind and opt in or out of the scheme at a later date (but before the offender is due for release).

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You can get more information on the scheme from the Scottish Prison Service at www.sps.gov.uk or 0131 244 8745.

The Victim Notification Scheme is being extended to offenders sentenced to 18 months or more. If you are eligible to join you will be contacted direct by COPFS.

Your safety

The police are told when a prisoner is released from prison. If you are worried about your safety contact the police. If you have been threatened or frightened by the offender, you can apply to the court for an interdict or a non-harassment order to prevent them from coming near you, your home or your work. You need to ask a solicitor to apply to the court on your behalf. The support agencies in section 4 can give you advice on how to go about this. You can find details of solicitors at www.lawscot.org.uk

Your reactions

Whether your attacker is found guilty or not guilty, you may have strong feelings and physical reactions at the end of the court case. Up to now, you may have focused all your attention on getting through the court case. You may not have had much of a chance to think about anything else. Remember that you do not need to cope alone. There are agencies which you can contact for support as often as you need (see section 4).

Private prosecution

If the Crown Office decides not to prosecute the case, in theory, you could go to a solicitor and ask them to prosecute the case for you (private prosecution). To bring a private prosecution you must have the Lord Advocate's consent. This process is very expensive and you cannot claim legal aid. So it is very rare. There has only been one 'recent' private prosecution. It was for rape and was in the early 1980s.

Civil action

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If your attacker is found not guilty by the court, you can take civil action against them. A civil action is based on a different level of proof (on the balance of probabilities). A decision in a criminal case is based on proof 'beyond reasonable doubt'. You would not be making a criminal allegation, but making a claim for damages. This can be a very long and expensive process and there is no guarantee that you would get legal aid. If you are considering civil action you should get advice from a solicitor. You can find details of solicitors at www.lawscot.org.uk

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Section 4: Help and information

- Main support organisations
- Helplines and websites

Main support organisations

This section gives details of main support organisations. You can speak to them in private. They can all tell you about other organisations in your local area which can help.

Rape Crisis Scotland

Rape Crisis Scotland (RCS) is the national office for the rape crisis movement in Scotland. Whether you are a woman or man who has experienced sexual violence, or a friend, family member looking for information and support, RCS can put you in contact with your nearest local service.

First Floor, Tara House
46 Bath Street
Glasgow
G2 1HG

Tel: 0141 331 4180

Minicom: 0141 332 2168

Email: info@rapecrisisScotland.org.uk

www.rapecrisisScotland.org.uk

Rape Crisis Scotland Helpline: 08088 01 03 02
(daily 6pm-12 midnight)

Offers initial and crisis support and information, and signposting to local services for ongoing support.

Rape and Abuse Line

Helpline for those who have survived rape or abuse however long ago the experiences were, and families or partners. Can offer face-to-face support or counselling in some parts of Grampian, the Highlands and Islands.

Helpline: 0808 800 0123 answered by women on most evenings from 7pm-10pm

0808 800 0122 answered by men on selected evenings from 7pm-10pm

24 hour answering machine gives times when lines will be open

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RAL

PO Box 10

Dingwall

Ross-shire

IV15 9HA

Tel: 01349 865 316

www.rapeandabuseline.co.uk

Sexual Assault Referral Centre (Archway)

There is one Sexual Assault Referral Centre in Scotland (Archway). This is based in Glasgow and is for anyone (over 13) who has been raped or sexually assaulted in Greater Glasgow within the previous seven days. It offers various services in the one place including forensic examinations; testing for infections; support and counselling. It can also store forensic samples to give you time to decide whether or not to involve the police. In future, there may be similar centres in other areas of Scotland.

You can contact Archway through any police station in Glasgow or by phoning direct on 0141 211 8175. See also online at www.archwayglasgow.com

2-6 Sandyford Place
Glasgow
G3 7NB

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Scottish Women's Aid

Women's Aid provides advice, support and safe accommodation for women (and their children) who been abused mentally, physically and/or sexually by their partner/ex-partner. A network of local Women's Aid groups is affiliated to Scottish Women's Aid. For details of local groups see the website or phone the number below.

2nd Floor
132 Rose Street
Edinburgh EH2 3JD

Tel: 0131 226 6606

Email: info@scottishwomensaid.org.uk

www.scottishwomensaid.org.uk

Victim Support Scotland

Victim Support provides practical and emotional support for victims of crime. They are experienced in working with women and men who have been raped or sexually assaulted. They can provide:

- Time to talk
- Information about reporting and the criminal justice process
- Support if your case goes to court
- Help with compensation claims
- Information about other agencies which can help

Victim Support Scotland runs the Witness Service (see page 103)

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You do not have to have reported the rape/sexual assault to get help.

There are local offices across Scotland.

You can contact the Victim Support Scotland helpline on 0845 603 9213 (Monday to Friday 9am to 4.30pm) or see online at www.victimsupportsco.org.uk

15/23 Hardwell Close

Edinburgh

EH8 9RX

Tel: 0131 668 4486

Email: info@victimsupportsco.org.uk

www.victimsupportsco.org.uk

The Witness Service

The Witness Service is provided by Victim Support Scotland to all witnesses. The Witness Service is free, confidential and independent and is based in every High Court and Sheriff Court.

The Witness Service can:

- Talk to you about how you are feeling (but not about the detail of the case)
- Arrange for you to visit the court before the trial so you can see what it looks like
- Sit in court with you, if approved by the court
- Explain how the court works and who does what
- Help with practicalities like filling out expenses forms or finding your way round the court building
- Tell you about other organisations which can help

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Victim Information and Advice (VIA) will refer you to the Witness Service for a court familiarisation visit unless you ask them not to.

If you want to speak to someone before you come to court phone the Victim Support helpline on 0845 603 9213 or get details of your local service at www.victimsupportsco.org.uk

Genito Urinary Medicine (GUM) Clinics

GUM clinics are part of the NHS. They offer free and confidential services for anyone, of any age, who has been raped or sexually assaulted. This includes support, testing and advice. Staff are sensitive and experienced in working with men and women. You can ask to be seen by a male or female doctor. You do not have to give your name or details. You do not have to go to your nearest clinic if you prefer to be seen outwith your own area.

At the clinic, staff will discuss your options with you fully and help you decide what course of action to take. They can also tell you about other services which support people who have been raped or sexually assaulted. GUM clinics do not take forensic samples, but if you wish to have a forensic examination and are thinking about reporting the assault to the police, they will give you details.

Clinics will not pass details to your GP without your permission. Records are kept separate from your general medical record.

Most GUM clinics have both drop-in and appointment services. Some GUM clinics also have special clinics for people who have been raped or sexually assaulted. Phone first for details.

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There are clinics across Scotland. You can get details of your nearest clinic from www.nhs24.com/info/sexhealthclinic or phone the Sexual Health Helpline on 0800 567 123

Citizen's Advice Scotland

Citizen's Advice Bureaux (CAB) provide free, independent, impartial advice. There are local bureaux across Scotland. They can tell you about local services. For details of bureaux locations see www.cas.org.uk or check your phone directory or phone Citizen's Advice Scotland on 0131 550 1000. You can get basic information online at www.adviceguide.org.uk

Helplines and websites

The following helplines offer free and confidential support. They are mostly based in Scotland. They can all tell you about support available in your area. 0800 and 0808 numbers are free from landlines and will not show up on phone bills. Calls from a mobile may cost depending on your provider and may show up on the bill.

SEXUAL VIOLENCE/SURVIVORS OF CHILDHOOD SEXUAL ASSAULT

Rape Crisis Scotland Helpline: 08088 01 03 02
(daily 6pm-12midnight)
www.rapecrisisscotland.org.uk

Initial and crisis support and information, and signposting to local services for ongoing support

Rape and Abuse Line:

0808 800 0123 answered by women on most evenings from 7pm-10pm

0808 800 0122 answered by men on selected evenings from 7pm-10pm

24 hour answering machine gives times when lines will be open

www.rapeandabuseline.co.uk

Support for people who have survived abuse and their families

DOMESTIC ABUSE

Scottish Domestic Abuse Helpline: 0800 027 1234 (24 hours)

www.domesticabuse.co.uk

Advice and support for anyone affected by domestic abuse

MEN

Survivors UK National Helpline: 0845 122 1201 (Mon, Tues and Thurs 7pm-10pm)

www.survivorsuk.org

Information, support and counselling for men who have been raped or sexually abused

Men's Advice Line: 0808 801 0327 (Mon-Wed 10am-1pm and 2pm-5pm)

www.mensadviceline.org.uk

For men experiencing domestic abuse from their partner

VICTIMS OF CRIME

Victim Support: 0845 603 9213 (Mon-Fri 9am-4.30pm)

www.victimssupportsco.org.uk

Information for victims of crime

CRISIS SUPPORT AND COUNSELLING

Breathing Space: 0800 83 85 87 (6pm-2am)

www.breathingspacescotland.co.uk

For people (particularly young men) feeling down or depressed or unusually worried and needing someone to talk to

Samaritans: 08457 90 90 90 (24 hours)

www.samaritans.org.uk

For people experiencing feelings of distress or despair, including those which could lead to suicide

HEALTH

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Sexual Health Helpline: 0800 567 123 (24 hours)

www.nhs24.com/info/sexhealthclinic

Sexual health information and advice

NHS 24: 08454 242424 (24 hours)

www.nhs24.com

Health advice, information and help

Brook Helpline: 0800 0185 023 (Mon-Fri 9am-5pm)

www.brook.org.uk

Information about sexual health for under 25s

Terence Higgins Trust: 0845 122 1200 (weekdays 10am-10pm, weekends 12pm-6pm)

www.tht.org.uk

Information, support and help on HIV and sexual health

YOUNG PEOPLE

Eighteen and Under: 0800 731 40 80 (weekdays 9am-5pm)

www.18u.org.uk

Confidential support and information for any young person, aged 18 and under, who has experienced sexual, physical or emotional abuse

Childline: 0800 1111 (24 hours)

www.childlinescotland.org.uk

For children and young people

Young Scot Infoline: 0808 801 0338 (weekdays 10am-6pm)

www.youngscot.org

Scottish youth information for 12-26 year olds

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ETHNIC MINORITY WOMEN

Amina – Muslim Women’s Helpline: 0808 801 0301
(Mon-Fri 9.30am-5pm)

www.mwrc.org.uk

Confidential information, advice and listening ear

HOUSING

Shelterline: 0808 800 4444 (daily 8am-midnight)

<http://scotland.shelter.org.uk>

Housing advice helpline

DISABILITY

UPDATE: 0131 558 5200 (weekdays 9am-5pm)

www.update.org.uk

Scotland's national disability information service

DRUGS AND ALCOHOL

Roofie Foundation: Scotland: 0845 241 2154 (Monday to Saturday 9am-6pm). UK: 0800 783 2980 (9am-9pm)

www.roofie.com

Advice and information for victims of drug-facilitated sexual abuse

Know the Score: 0800 587 587 9 (24 hours)

www.knowthescore.info

Drugs information and advice

Drinkline Scotland: 0800 7 314 314 (24 hours)

Alcohol information and advice

LESBIAN, GAY, BISEXUAL, TRANSGENDER

Lothian Gay and Lesbian Switchboard: 0131 556 4049

www.lgls.co.uk

Confidential telephone counselling

Strathclyde Gay and Lesbian Switchboard: 0141 847 0447

www.sglis.co.uk

Confidential telephone counselling

Other useful websites

www.scottishvictimsofcrime.org.uk

Information for victims of crime

www.survivorscotland.org.uk

Information for adult survivors of child sexual abuse

www.caledoniayouth.org

Services for young people on any aspect of sex, contraception and relationships

www.womenssupportproject.co.uk

Information on violence against women and children

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Section 5: Meanings and court procedures

- Meanings
- Court procedures
 - Sheriff and Jury
 - High Court

Meanings

This section gives the meanings of some of the words which are used in this pack or which you might hear during an investigation or trial. They are listed in alphabetical order. Meanings are given of all words in blue.

Accused: the person charged with a crime.

Adjournment: break in court proceedings. This may be for lunch, overnight or to a completely new date.

Advocate Depute (AD): advocate or senior **Procurator Fiscal** who works only for the prosecution and prosecutes only in the High Court.

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Affirmation: promise to tell the truth. Used instead of the **oath** by a witness who has no religious belief, or has religious beliefs that prevent them taking the oath.

Appeal: challenge to the **accused's** conviction and/or sentence. The prosecution can only appeal against an unduly lenient sentence.

Appear on petition: **accused's** preliminary (first) appearances in court. These are held in private. The accused will be granted **bail** or **remanded** in **custody**.

Bail: when the **accused** is released from **custody** by a court. The accused has to agree to certain conditions before they are released. See also **undertaking**.

Charge (to the jury): the **judge's** legal direction to a **jury** in matters of law and evidence before they decide on their verdict.

Citation: formal letter from the **Procurator Fiscal** which tells a **witness** to attend court to give evidence at a trial. It says where the court is, and the date and time the witness has to be there.

Clerk of Court: assists the **judge** and is responsible for the smooth running of the court.

Committal for further examination (CFE): at the end of the accused's first court appearance they will either be granted **bail** or **remanded** in **custody** until **full committal** for trial.

Corroboration: an **accused** cannot be convicted of a crime unless there is evidence from at least two independent sources that the crime was committed and that the accused was responsible for it.

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Counsel: the advocate who acts for either the prosecution or the **accused** (a different advocate acts for each).

Court familiarisation visit: chance for witness to see round a court before the trial.

Crown Counsel: senior prosecutors (also called Advocates Depute) who decide whether a criminal prosecution should take place against whom and on what charges.

Custody: person is kept in prison before a court appearance, unless they are in police custody, when they are kept in a police cell.

DNA: Deoxyribonucleic Acid – substance found in all cells of the human body including body fluids such as blood. Samples of DNA may provide evidence (for example of the identity of the attacker).

Forensic evidence: the scientific evidence collected from a victim, a crime scene and others, such as fingerprints and **DNA**. Samples may be gathered from a victim by 'forensic examination'.

Full committal (FC): The second appearance by the **accused** in court (if they were remanded at **committal for further examination**). It takes place in private. It is held to confirm that the accused should be brought to trial. The accused will be granted **bail** or **remanded in custody**.

Indictment: the document that sets out the charge(s) in writing. It is given to the **accused** so that they know what they are accused of.

Judge: presides over cases heard in the High Court. In a Sheriff Court, the judge is called a sheriff. The judge oversees the trial and decides on the **sentence**.

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Jury: 15 members of the public, chosen randomly, who listen to the evidence and decide on the **verdict**.

Law Officers: the most senior legal figures – the Lord Advocate and the Solicitor General.

Licence: when an offender is released from prison before the end of their sentence, the licence sets out the conditions of behaviour which they must meet.

Lord Advocate: Scotland's senior prosecutor with overall responsibility for prosecuting crime.

Macer: officer of court who attends to the judge and assists with **witnesses** and **productions** in the trial.

Oath: promise to tell the truth by raising your right hand and swearing ‘by almighty God’. See also [affirmation](#).

Parole: when an offender is let out of prison before the end of the sentence. The release is subject to [licence](#). The offender is still under supervision in the community.

Petition: the first document which sets out the charge(s) against the [accused](#) and starts the formal court process.

Plea: the [accused’s](#) answer to the charge(s). There is no trial if they plead guilty.

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Plea in mitigation: any factors that the [accused’s counsel](#) thinks should be taken into account before the judge passes [sentence](#).

Precognition investigation: the process of getting information from witnesses to find out what they know about a crime. This usually involves interviewing witnesses and taking a statement. It is done by the prosecution ([Procurator Fiscal](#) or precognition officer) and may also be done by the defence (solicitor or precognition agent).

Proceedings: general term for the court process.

Procurator Fiscal (PF or fiscal): a qualified lawyer who is the public official responsible for investigating rape and sexual assault on behalf of the Crown.

Productions: documents shown as evidence in court during a trial. Other items such as clothing are called ‘labels’.

Remand or remanded in custody: when a person is kept a police cell or prison before a court appearance.

Sentence: the punishment imposed on the **accused** such as time in prison.

Sentence discount: when the judge reduces the length of sentence because the **accused** has pleaded guilty. The discount should be stated in court and should not be more than a third of the maximum available sentence.

Sheriff: judge in the Sheriff Court.

Solemn procedure: when a trial takes place in front of a judge and jury.

Special measure: a form of support which may be considered for a witness to help them give evidence.

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Undertaking: often called police bail. After the police arrest someone they may release them from the police station if the person signs a document undertaking (promising) to come to court on the date the police have given them. They must agree to other conditions such as not committing any other crimes.

Verdict: the decision made by the **jury**. The options are guilty, not guilty or not proven.

Warrant: a court document which allows the police to take certain action such as to arrest someone or search premises.

Witness: person who gives evidence to the court.

Court procedures

Sheriff and Jury

Cases are heard in the Sheriff Court by a Sheriff (judge) and jury. The jury is made up of 15 members of the public drawn randomly from the community.

The Sheriff and some of the lawyers wear wigs and gowns.

A hearing is held so that the accused can state their plea of 'guilty' or 'not guilty'.

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If the accused pleads **guilty**, the sheriff may sentence the accused then or may choose to sentence at a later date.

If the accused pleads **not guilty**, the case will go to trial during a 'sheriff and jury sitting'. This is a set time when several trials will be timetabled.

At the trial, the evidence for the prosecution is presented by the Procurator Fiscal (fiscal). The accused has a defence lawyer to speak for them.

Both sides may call witnesses to give evidence. There may be other evidence such as photos and clothing. The prosecution, the defence and the Sheriff can question witnesses.

After the evidence has been presented, the fiscal and the defence lawyer give short speeches which sum up the evidence. It is up to the prosecution to prove the case 'beyond reasonable doubt'. The Sheriff then speaks to the jury on matters of law. The speeches are to help the jury reach a decision. The jury then decides the verdict.

If the verdict is guilty, the Sheriff decides the sentence. They may choose to sentence then or at a later date. If the Sheriff thinks the accused should receive a higher sentence than the Sheriff Court can impose, they may refer the accused to the High Court for sentencing.

People in court

The following people will be in court. Only three of them take part in the trial: the Sheriff, the Procurator Fiscal and the Defence Lawyer.

Accused: the person charged with the offence

Procurator Fiscal: represents the prosecution

Defence Lawyer: acts on behalf of the accused

Sheriff: acts as a 'judge' and decides on any sentence

Jury: 15 members of the public who decide the verdict

Clerk of Court: assists the Sheriff and responsible for the smooth running of the court

Court Official: calls each witness into the court when it is their turn to give evidence

Other people: these include police officers, members of the public and journalists

For more information see Crown Office and Procurator Fiscal Service booklet: *Being a Witness in the Sheriff and Jury Court* which is available at www.crownoffice.gov.uk

High Court

Cases in the High Court are heard by a judge and jury. The jury is made up of 15 members of the public drawn randomly from the community.

The judge and advocates can wear wigs and gowns.

If the accused pleads **guilty** the judge may sentence then or may choose to sentence at a later date.

If the accused pleads **not guilty**, the case will go to trial. This will be timetabled during a High Court sitting.

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At the trial, the person who speaks for the prosecution and presents the evidence is the Advocate Depute.

The accused has their own lawyer and advocate.

Both sides may call witnesses to give evidence. There may be other evidence such as photos and clothing. The prosecution, the defence and the judge can question witnesses.

After the evidence has been presented, prosecution and the defence give short speeches which sum up the evidence. It is up to the prosecution to prove the case 'beyond reasonable doubt'. The judge then speaks to the jury on matters of law. The speeches are to help the jury reach a decision. The jury then decides the verdict.

If the verdict is guilty, the judge decides the sentence. They may choose to sentence then or at a later date.

People in court

The following people will be in court. Only three of them take part in the trial: the Judge, the Advocate Depute and the Defence Advocate.

Accused: the person charged with the offence

Advocate Depute: represents the prosecution

Defence Advocate: Junior Counsel or Queens Counsel (QC)
represents the accused

Defence Solicitor: lawyer for the accused

Judge: oversees the trial and decides on sentence

Clerk of Court: assists the judge and is responsible for the smooth running of the court

Macer: escorts witnesses and jury to and from the courtroom;
provides trial with photos, clothing and so on

Court Officer: police officer who does not participate in the trial but makes sure that things are in order in the court

Jury: 15 members of the general public who decide on the verdict

Other people: these include police officers, members of the public and journalists

For more information see Crown Office and Procurator Fiscal Service booklet: Being a Witness in the High Court which is available at www.crownoffice.gov.uk



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Notes



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