

REPORTING AN OFFENCE TO THE POLICE: A GUIDE TO CRIMINAL INVESTIGATIONS



It is estimated that domestic violence affects one in four women and that sexual violence affects one in six women. It is also known that there is a significant link between domestic violence and sexual violence, for example, over half of all adult rapes are committed by the complainant's current or former partner. If you are experiencing or have experienced domestic violence and/or sexual violence there are a number of ways the law can protect you. This information sheet is designed to give information about reporting an offence to the police and the investigative process. For information about what happens after a suspect has been charged and at trial see Rights of Women's information sheet **From Charge to Trial: A Guide to Criminal Proceedings**.

Rights of Women also publishes a number of other information sheets and publications that may be useful (on domestic violence injunctions and sexual offences). For further information about these and other Rights of Women publications contact us or visit our website at www.rightsofwomen.org.uk.

Language

Almost all domestic violence and sexual violence is directed by men against women, but it can and does occur in same-sex relationships and in a small minority of cases, by women against men. Consequently, although we refer to the abuser as 'he' throughout, we

recognise that this is not always the case.

In this information sheet we will use the terms "suspect" or "defendant" to describe the abuser or perpetrator of violence and "complainant" to describe the survivor of domestic and/or sexual violence as these are the terms most commonly used in the law.

What is domestic violence?

There is no legal definition of domestic violence. However, the Government defines domestic violence as “...any incident of **threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been in a relationship together, or between family members, regardless of gender or sexuality.**”

This definition includes violence from family members other than a woman’s partner.

Some criminal offences that may be committed by a perpetrator of domestic violence include breaching a non-molestation order or restraining order, assault such as common assault, or assault occasioning actual bodily harm, harassment, putting someone in fear of violence or making a threat to kill.

What is sexual violence?

The **Sexual Offences Act 2003** sets out the law in relation to a number of sexual offences such as rape, assault by penetration, sexual assault and causing someone to engage in sexual activity. For information about sexual offences see Rights of Women’s information sheets **Understanding Sexual Assault and Causing Someone to Engage in Sexual Activity** and **Rape and Assault by Penetration: information for survivors of sexual violence** as well as our book **From Report to Court: A handbook for adult survivors of sexual violence**.

Different complainants

Domestic and sexual violence affects women from all ages and backgrounds, regardless of economic or social status,

race, religion or immigration status. The criminal law of England and Wales that deals with domestic and sexual violence should protect **all women** from violence (Scotland and Northern Ireland have different arrangements). This means that the police have the same obligation to assist and protect you whether you are a British citizen, an overstayer, an asylum applicant or someone with leave to remain in the UK as a spouse, student or worker. For detailed legal advice on your situation, contact our legal advice line(s). Further information about Rights of Women’s advice lines and their opening times can be found at the end of this information sheet.

Getting help from the police

In an emergency you can contact the police for assistance by **dialling 999** or **textphoning 0800 112 999**. The police may be able to attend the scene of the incident to protect you from violence and/or arrest the perpetrator.

If it is not an emergency you can report a crime by:

- contacting your local police station by either going there in person or ringing the number listed in your local telephone directory; or
- making an anonymous report to **Crimestoppers** (see **Other useful telephone numbers**).

You can ask a friend, family member or someone from a support organisation to report an offence for you. You can also report an offence anonymously to the police. However, in order for the police to be able to investigate the crime they will need your personal details, such as your name and where you live, as well as information about the offence.

The decision to report an offence to the police is a difficult one for many women. For details of organisations that may be able to assist you see **Other useful telephone numbers**. In addition to, or as an alternative to reporting an offence to the police you may want to seek protection from the civil courts from the perpetrator by getting an injunction (court order) such as a restraining order or non-molestation order. For further information about civil remedies see our information sheet **A Guide to Domestic Violence Injunctions**.

Getting help following sexual violence

If you have experienced sexual violence you may be able to get support and assistance from a **Sexual Assault Referral Centre (SARC)**. SARCs enable women to receive medical help following an incident of sexual violence including obtaining a forensic medical examination, counselling or other support. A woman may be taken to a SARC by the police or she can refer herself.

One of the benefits of going to a SARC is that it enables a woman to access the support she needs without having to report the offence to the police. A woman can have samples taken and stored while she makes a decision about whether or not to report the offence. She can also have the samples passed on to the police anonymously. There are currently 22 SARCs across England and Wales and more are planned to open. To find the closest to you visit the Home Office website (see **Other useful telephone numbers**).

Taking a statement and giving evidence

The initial report that you give the police enables them to start their investigation.

The next stage is to take a formal statement from you.

Survivors of sexual violence or serious domestic violence will usually have the evidence they give to the police recorded on video. This video can then be played to the court at any subsequent trial. If your statement is not video recorded it will be recorded by a police officer and written up into a statement. You will then be given an opportunity to read your statement through to check it is correct before signing it. Whether or not your statement is videoed, it should be taken in the language of your choice and in a way that is appropriate for you (for example, with breaks when you need them). If necessary, an interpreter will be provided for you. You may also want to have a friend or support worker with you when you make your statement. You can discuss this and any other concerns you have about making a statement with the officer dealing with your case.

The police investigation

You may have received injuries as a result of the domestic and/or sexual violence. If this is the case you should contact your GP, a hospital or a SARC (see above) as soon as possible. If you have received visible injuries as a result of the incident you may be asked if photographs of these can be taken. In sexual violence cases a forensic medical examination may be arranged. This may be done by taking you to a SARC or, if there is not one in your area, arranging for you to be examined by a **Forensic Medical Examiner (FME)**. If you went to your GP or hospital as a result of your injuries you may be asked for your permission for the police to obtain your medical records.

All police investigations are overseen by an Investigating Officer. If a case concerns sexual violence there will also be a Specially Trained Officer (an STO) who will be responsible for supporting you throughout the investigation and any trial.

In order to investigate the offence the police may:

- contact any witnesses and ask them to make a statement;
- seize any evidence that may be relevant, such as from CCTV, a computer or a mobile phone;
- send evidence for forensic examination or analysis;
- complete identification procedures such as an identity parade or video identification;
- arrest the suspect; and / or
- interview the suspect.

The police officer may arrest someone if they:

- **know or suspect** a person's involvement or attempted involvement in a criminal offence; and
- have reasonable grounds for believing that the person's arrest is **necessary**.
- A person may be arrested to enable the police to interview them or to seize evidence.

Bail

A person who is suspected of committing a criminal offence cannot be held in police custody for more than a certain period of time before he has to be either **charged** (see below) with an offence or released. A person can be held in police custody for 24 hours initially. This can be increased to 36 hours with the permission of a police superintendent and finally, if necessary, up to a maximum of 96 hours in certain

circumstances. Consequently, during a police investigation a defendant may be given bail. This means that he is released under certain conditions and required to attend the police station at a later date.

If the suspect is released on bail he may have conditions imposed on him, including:

- Not to contact the victim or witnesses, either directly or indirectly.
- To live at a certain address.
- Staying in or out of certain areas.

If you are concerned about whether or not the suspect or defendant will be granted bail, or, if he is granted bail, under what conditions, you can discuss those concerns with your STO or the police officer dealing with your case.

Charge

When the police have completed their investigation they will pass the evidence on to the **Crown Prosecution Service (CPS)** who will decide whether the suspect should be charged with a criminal offence. When deciding whether or not to charge a suspect Crown Prosecutors (the lawyers who make decisions in the CPS) must first consider whether there is **sufficient evidence** available that is reliable and able to go before a court for there to be a realistic chance that the defendant will be convicted. If there is sufficient evidence the Crown Prosecutor must go on to consider whether or not a prosecution is in the public interest. The policy of the CPS is that in domestic violence and sexual violence cases it is almost always in the public interest to proceed with a prosecution. When considering whether or not to charge a suspect the CPS must consider alternatives to a prosecution (such as giving a caution). Further information on the decision to

charge is available on the CPS website (see **Other useful telephone numbers**).

A caution

A **caution** is a formal warning that can be given to a suspect who has admitted committing a criminal offence. Cautions are usually only given in cases where the offence is relatively minor and the person concerned does not already have a criminal record.

Harassment warnings or notices

If a woman is experiencing harassment a police officer may **warn** a suspect of the effect of his actions and keep a note of this warning. Harassment warnings may deter the person harassing you from committing further acts of harassment and be useful in showing that the person who is harassing you knew or ought to have known the effect that his behaviour was having on you.

No further action taken

If a suspect is not charged or cautioned with an offence then it may be that **no further action will be taken** against him. The case will then be closed but information about the offence and investigation should be kept by the police.

If the suspect is charged

If the suspect is charged with an offence he can either be released on police bail to attend the magistrates' court on a set date within a week or be **remanded in custody** (held in prison) and taken to court within 24 hours. For information about criminal proceedings from charge through to the defendant's trial see our information sheet **From Charge to Trial: A Guide to Criminal Proceedings**.

Withdrawing a complaint

It may be that you decide that you do not want the police to continue to investigate your case or your case to go to court. If you have not already made a full statement to the police you can decide not to give one. Without a statement from you there can be no investigation. If you have already made a statement you can withdraw it at any time by contacting the police officer dealing with your case and asking to make a **withdrawal statement**. In the withdrawal statement you will have to explain why you no longer want the investigation to continue. If a complainant states that information given in her previous statement was false she could be investigated for wasting police time or perverting the course of justice. The police may, however, continue to investigate the offence after you have made a withdrawal statement.

Support for survivors of domestic and sexual violence

Cases are investigated by the police and prosecuted (prepared and presented to the court) by the CPS. This means that your role in criminal proceedings is as a **witness** for the prosecution and you are not able to make decisions about how your case is investigated by the police or prepared for trial by the CPS.

However, victims of crime should receive a certain level of service from all of the agencies in the criminal justice system. **The Code of Practice for Victims of Crime** (the "Victims' Code") sets certain standards that the police and other agencies should meet. The Victim's Code states that survivors of domestic and/or sexual violence should receive an **enhanced service**. Those who are

receiving the enhanced service should be:

- Told by the police within one day if the suspect (or defendant) is arrested, charged or released on bail.
- Kept updated by the police on the progress of the investigation on a monthly basis.

The Victims' Code can be enforced by complaining about the agency involved. Information about the Victims' Code and how to complain is given in a booklet called **The Code of Practice for Victims of Crime, A Guide for Victims** which can be obtained from the Office for Criminal Justice Reform (see **Other useful telephone numbers**).

In some areas of England and Wales survivors of domestic or sexual violence may be offered specialist support from an **Independent Sexual Violence Advisor (ISVA)** or an **Independent Domestic Violence Advisor (IDVA)**. ISVAs and IDVAs can help you access services and support you through the investigation and any subsequent criminal proceedings. ISVAs and IDVAs are usually only involved in cases where the complainant is considered to be at high-risk of further violence or abuse.

Multi-Agency Risk Assessment Conferences (MARACs) have been developed to respond to the needs of people who are experiencing domestic violence. MARACs are made up of local agencies that

come into contact with survivors of domestic violence, such as the police, social services and local domestic violence support services. When a domestic violence case is referred to a MARAC for consideration, those attending the conference are able to develop a safety plan and a multi-agency response to ensure the safety of the survivor and other family members, such as children, who may be at risk. There are currently MARACs running in 100 areas across England and Wales and more are planned.

Criminal Injuries Compensation

If you received an injury as a result of a crime of violence (whether or not anyone was charged or convicted of an offence) you may be entitled to receive compensation through the Criminal Injuries Compensation Scheme. For further information about the Scheme see Rights of Women's information sheet **A Guide to Criminal Injuries Compensation** or visit the Criminal Injuries Compensation Authority's website (see **Other useful telephone numbers**).

The law relating to domestic and sexual violence is complex and we have provided a basic overview of the law and terminology. We would strongly advise you to seek legal advice by telephoning our free, confidential legal advice line.

Please note that the law and procedure referred to in this information sheet is as it stood at the date of publication. The relevant law and procedure may have changed since then and accordingly you are advised to take up to date legal advice. Rights of Women cannot accept responsibility for any reliance placed on the legal information contained in this information sheet. This information sheet is designed to give general information only.

RIGHTS OF WOMEN PUBLICATIONS

From Report to Court: A handbook for adult survivors of sexual violence (third edition)

From Report to Court provides information and support to people who have experienced sexual violence, as well as to their families, friends and the organisations that support them. *From Report to Court* sets out the relevant law and the obligations the different agencies in the criminal justice system have towards survivors of sexual violence.

From Report to Court is available free of charge (subject to availability).

Domestic Violence DIY Injunction Handbook (second edition)

This extensive, detailed and accessible handbook enables women to obtain protection from violence and abuse under the Family Law Act 1996 Part IV and includes:

- What kinds of injunctions are available and who can apply
- Preparing and making an application
- Representing yourself in court
- Enforcing the injunction

This revised edition has been substantially updated to include all relevant changes to the law introduced by the Domestic Violence Crime and Victims Act 2004.

The *Domestic Violence DIY Injunction Handbook* costs £8.

Pathways to Justice: BMER women, violence and the law

Pathways to Justice is a practical, accessible and empowering guide to the legal rights of Black, Minority Ethnic and Refugee (BMER) women including women seeking asylum. It provides extensive coverage of issues including forced marriage, female genital mutilation, immigration and asylum, trafficking, child abduction, domestic violence and honour crimes.

Pathways to Justice costs £12.

For further information about these and other Rights of Women publications visit our website at www.rightsofwomen.org.uk.

For free, confidential legal advice on family law including domestic violence, divorce and relationship breakdown, children and contact issues call 020 7251 6577 (telephone) or 020 7490 2562 (textphone) on Tuesday, Wednesday and Thursday 2pm – 4pm and 7pm – 9pm and Friday 12 noon – 2pm.

For free, confidential legal advice on sexual violence, criminal, immigration and asylum law please call 020 7251 8887 (telephone) or 020 7490 2562 (textphone) on Monday 11am – 1pm and Tuesday 10am – 12 noon.

Other useful telephone numbers

Crimestoppers	0800 555 111	www.crimestoppers-uk.org
Criminal Injuries Compensation Authority	0800 358 3601	www.cica.gov.uk
Crown Prosecution Service (for information about the CPS and the decision to charge)		www.cps.gov.uk/yourcps.html
National Domestic Violence Helpline (Women's Aid and Refuge)	0808 2000 247	www.womensaid.org.uk
Office for Criminal Justice Reform and the Criminal Justice System for England and Wales (includes the Victims' Code and other useful information)		www.cjsonline.gov.uk
Rape Crisis Federation (for details of local services)		www.rapecrisis.org.uk
Rape & Sexual Abuse Support Centre (RASASC)	0845 122 1331	www.rasasc.org.uk
Samaritans	08457 909090	www.samaritans.org.uk
Victim Support Line	0845 3030900	www.victimsupport.org

To find your local Sexual Assault Referral Centre (SARC) visit www.homeoffice.gov.uk/crime-victims/reducing-crime/sexual-offences/ and follow the links.

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