

**RAPE
CRISIS
SCOTLAND**



**Police and
Legal Advice**

Rape Crisis Scotland

The **Rape Crisis Scotland Helpline** offers initial and crisis support and information on the phone and by email for anyone aged 13 or over who has been affected by sexual violence, no matter when or how it happened.

It is free and confidential.

The **helpline** supports survivors of stalking and can also put you in touch with local Rape Crisis Centres or other services for ongoing support. There is a minicom for deaf or hard of hearing people and we can arrange for language interpreters if your first language is not English.

08088 01 03 02

Reporting to the police

If you have been raped or sexually assaulted and decide to report to the police it is best to do so as soon as possible. The timescales for forensic evidence from an internal source are generally within the first 72 hours, however other forensic evidence such as a hair or stains to clothing can be detected for sometimes up to 10 days. Regardless of which form of forensic evidence, it is always better for this to be collected as soon as possible as it can easily be lost.

It is possible to report attacks out-with this timescale and also to report historic attacks.

When you report to the police it is likely that you will be seen in a Family Protection Unit where there are specially trained officers and facilities. You can ask to speak to a female police officer if you prefer, it is a good idea to note the name and number of the police officer for future contact. You will be asked to make a statement about the attack and the circumstances around it. It's very natural to be unable to remember everything and you will have the opportunity to add to the statement the following day if you wish.

If you are reporting a recent attack you will be asked to have a medical examination to collect forensic evidence. Forensic evidence can be easily lost and police advise that survivors should not, if possible, wash, drink or eat before having a forensic examination.

It is likely that you will also be asked to return to the place where the attack happened in order for the police to look for further evidence.

When reporting to the police it can be helpful to know:

- It can take a number of hours to make a report.
- It can be helpful to ask someone you trust or a Rape Crisis worker to accompany and support you.
- As forensic evidence can be easily lost it is important to report as soon as possible.
- It is a good idea to take a change of clothes as items may be required as evidence. If you change your clothing following an attack take them with you in a plastic bag as forensic evidence may still be present.

Once the police have collected the evidence they will report their findings to the Procurator Fiscal who will decide if there is enough evidence to take the attacker to court. Scots Law requires two pieces of evidence to corroborate or support each other so evidence will be sought to support your report. If it has not been possible to establish corroborative evidence the Procurator Fiscal can not proceed with your case to court, this does not mean that you have not been believed.

The accused

It is possible that the attacker will be held in custody, however it is likely that he will be released on bail either on his first appearance in court or up to a week after this. You should be contacted by VIA (Victim Information & Advice) and advised of this. It will be a condition of his bail that he can not approach or contact you, if this were to happen it should be reported to the police as a breach of his bail conditions.

Precognition investigation

Whether or not the attacker appears in court to answer charges it is likely that the evidence in the case will be investigated by the Procurator Fiscal. This is called a precognition investigation. It is normal for the Procurator Fiscal to ask you to go in for a meeting to discuss the case, including any applications for special measures (eg a screen or a supporter).

The Procurator Fiscal may also ask the police to take an additional statement from you, if they require any further information. If you wish to see the statement that you made to the police you can access this at the Procurator Fiscal's office. If you feel able to do this, it can be helpful as it can take up to a year before cases reach court and it is your statement that will be the basis of questions you will be asked.

The accused's lawyer is also likely to want to speak to you before the trial. This is a normal part of the legal process. You do not have to agree to the interview but the fiscal will encourage you to take part.

Cases to court

If the case goes to court it will be within four months if the accused is in custody, or one year if he is on bail. You will be contacted by Victim Information & Advice, part of the Procurator Fiscal service, who will be able to keep you informed of the case progression.

Rape trials are always heard in the High Court, other sexual offences can be heard in either the High Court or Sheriff Court. If the accused pleads guilty you will not be called to give evidence. However if the case is going to court you will receive a citation detailing when you should attend. It is worth remembering that cases do not always go ahead on their first date. You can request to have a supporter in court with you when you are giving your evidence.

Once a case has made it to court it is taken forward by the Crown rather than by you. This is because of the seriousness of the crime and its impact on public safety. However, it means that you will be a witness in the trial and that as such you will not have a lawyer. An Advocate Depute will speak on behalf of the Crown against the accused.

When giving evidence at the trial you will be asked to give your name, age, address and occupation. If you do not wish to state your address you can ask the judge's permission to write it down or give it as care of the police station you reported to. You will then be asked in detail about the attack itself and will be questioned by the Advocate Depute and the accused's defence Advocate. You can request, in advance, that the court be cleared when you give evidence, this means that the public benches are cleared but that court officials

and the jury are still present (about 27 people).

The accused is not allowed to conduct his own defence, and although he will be present in court throughout, he will not be able to ask you any questions.

Sentencing

There are three possible verdicts: guilt, not proven and not guilty. A verdict of not proven or not guilty does not necessarily mean that you were not believed, but that jury may not have felt there was enough evidence for a conviction. The conviction rate for rape and sexual assault is low in Scotland, and decisions are often made on the basis of legal and technical points (eg insufficient corroboration). This can be explained to you by the PF staff.

Sentencing is always set by the judge on the basis of perceived severity of the crime and any previous record of the accused. In practice judges seem to sentence between two and ten years, although a maximum sentence of life imprisonment can be carried for rape, indecent assault, incest and unlawful sexual intercourse with children under 13 years old.

If your case has been heard in a Sheriff Court there are two possible procedures: a summary trial is heard before a Sheriff and carries a maximum sentence of three months, extendable to six months if the accused has a previous record of violence; and a solemn trial which is heard before a Sheriff and jury and carries a maximum sentence of ten years. If the sheriff thinks that a higher sentence is appropriate the convicted man can be passed to the High Court for sentencing.

If you or someone you know has been affected by any form of sexual violence no matter when it happened please call the free and confidential

Rape Crisis Scotland Helpline on

08088 01 03 02

or contact our email support service on

support@rapecrisisscotland.org.uk

Trained female support workers are there to offer support and information, and can let you know about support in your area.

Local Rape Crisis Centres

Aberdeen:

01224 620 772

Argyll & Bute:

women **0800 121 46 85**

men **0800 032 0399**

Central Scotland:

01786 471 771

Dumfries & Galloway:

01387 253 113

Dundee:

01382 201 291

East Ayrshire:

01563 541 769

Edinburgh:

0131 556 9437

Fife:

01592 642 336

Glasgow:

0141 552 3200

Lanarkshire:

01698 527 003

Perth & Kinross:

01738 630 965

Scottish Borders:

0800 054 2445

Western Isles:

01851 709 965