

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



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 includes criminal proceedings against the perpetrator. This legal guide sets out information about reporting an offence to the police and police investigations. For information about what happens next see Rights of Women's legal guide **From charge to trial: a guide to criminal proceedings.**

Language

Domestic and sexual violence is most commonly perpetrated by men against women, but it can and does occur in same-sex relationships and occasionally by women against men. Consequently although we refer to the perpetrator of domestic or sexual violence as 'he' throughout this legal guide we recognise that this is not always the case.

Depending on the stage of proceedings we use the term 'suspect' or 'defendant' to describe the perpetrator and 'complainant' or 'victim' 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?

The Government defines domestic violence as: **"Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited**

to the following types of abuse: psychological; physical; sexual; financial; emotional.

Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour. Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.

This definition, which is not a legal definition, includes so called 'honour' based violence, female genital mutilation (FGM) and forced marriage, and is clear that victims are not confined to one gender or ethnic group."

'Domestic violence' is not of itself a criminal offence. However, specific behaviours within domestic violence are criminal offences, including: assault, harassment, stalking, rape, false

imprisonment, criminal damage or making a threat to kill.

Verbal abuse within the home and forms of emotional, psychological or financial abuse are not generally criminal offences (although theft and fraud would be). You can protect yourself from these types of abuse, as well as all types of abuse that are criminal offences, by applying for a protective injunction such as a non-molestation order, or an injunction under the Protection from Harassment Act 1997. For more information on applying for these orders, see our legal guide **A guide to domestic violence injunctions**.

What is sexual violence?

The **Sexual Offences Act 2003** sets out the law in relation to a number of sexual offences such as rape and sexual assault. Sexual violence can often form part of domestic violence. For information about sexual offences see Rights of Women's legal guides and handbook (all available free on our website).

Different complainants

The criminal law of England and Wales that deals with domestic and sexual violence should protect all women from violence. This means the police have an obligation to assist and protect you irrespective of your personal circumstances or immigration status.

Contacting 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.

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

- Telephoning your local police station or calling 101 which will connect you to your local police force; or
- Visiting the front desk of your local police

station in person (this may be easier if you cannot get through to speak to someone on the phone).

You can also report a crime anonymously by asking a friend, family member or support worker to report an offence for you or by calling Crimestoppers (see Other useful contacts). Reporting an offence anonymously will contribute to police intelligence but will not often lead to an investigation. However, the police can ask for your name and contact details, and may try to contact you if they do wish to investigate.

You may not want to report a crime to the police and/or you may want to contact a support organisation first (see Other useful contacts for details of organisations who may be able to help).

The initial report

When someone contacts the police to make a report of a crime this is called an **initial report**. An initial report can be taken over the telephone or in person and will cover the basic facts of what has happened. You may be expected to give details of the offence, your contact details and the name of the perpetrator, if you know this. If you are making an initial report at a police station you can ask to speak to someone privately. You could also take a friend, family member or support worker with you.

Following an initial report the police assess the information, and if what has been reported is a criminal offence, they usually contact the victim to ask them to make a witness statement.

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. If she does want to report to the police, staff at the SARC can arrange for her to do this. To find a SARC see Other Useful Contacts.

Making a witness statement

An initial report enables the police to begin making enquiries. The next stage is to take a formal statement from you about what happened, called a **witness statement**.

There are two ways of making a witness statement to the police. Victims of sexual violence or domestic violence will usually be videoed talking with specially trained police officers about what happened. This is called an **ABE** (Achieving Best Evidence) video and can be played to the court at any subsequent trial. If your statement is not video recorded, what you say will be recorded in writing by a police officer and written up into a statement. You will then be asked to check it is correct before signing it.

Whether or not your statement is videoed, it should be taken in a way that is appropriate for you (for example, with breaks when you need them). If you have problems understanding or speaking in English an interpreter should be provided for you. You may also want to have a friend or support worker with you when you make your statement (if the police do not think it is possible for them to be in the room with you they can wait outside). You can discuss any concerns you have about making a statement with the police.

After a witness statement has been made guidance for police suggests that **special measures** should be discussed with you, and an opportunity given for you to make a **Victim Personal Statement** (a VPS). Special measures are practical things to help you give your best

evidence at court (should the case proceed) such as giving evidence behind a screen or by video link. It is a good idea to think about special measures at an early stage in the investigation so you know what options there are.

A VPS is a statement from the victim explaining the impact of the crime on them rather than what happened. It can be made at any stage in the proceedings but it may be useful to make initially so that the police and **Crown Prosecution Service** (CPS) lawyers can assess the impact on you. Another VPS can be taken later if the impact changes.

What if I have problems communicating?

Contacting the police and making a witness statement can be difficult if you have additional barriers to communicating what has happened to you, such as a mental health problem, a learning disability or a physical disability. Government policy (*Achieving Best Evidence in Criminal Proceedings* [2011] Ministry of Justice) sets out how the police should take a witness statement from a 'vulnerable adult' (the definition of which includes victims with mental health problems, learning disabilities and physical disabilities). The document states the police should plan in advance how a witness statement will be taken from a vulnerable adult, what additional support that person may need and that a meeting prior to the witness statement should be considered to build rapport and address communication difficulties. If you have difficulties in communicating your experiences or understanding what is being asked, you may also be entitled to an **intermediary** at the police station and at court. This is someone who can help communicate for you, and you can ask for the police to consider this before you make a witness statement. You can also bring a support worker, family or friend with you. For organisations that may be able to support you, please see Other useful contacts below.

The police investigation

After you make a witness statement the police have a duty to investigate. This investigation does not have a set time scale and can take only a few hours or many months. All police investigations are overseen by an investigating officer and at the time of making a witness statement (if not before) you should be given details of a police officer who will be your point of contact throughout the investigation. You should be informed of progress in the case.

An investigation can involve a range of activities, including the police talking to witnesses; analysing mobile phones and computers; watching CCTV. 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, or if there are other enquiries that police would like to make, you may be asked for your permission for the police to obtain your medical records.

The arrest and bail

If the suspect is identified the police will usually want to arrest and interview him about the offence at the police station. The suspect can have legal advice and can answer questions, make a written statement or make 'no comment'.

A person cannot be held in police custody for more than a certain period of time (up to a maximum of 96 hours) before he has to be either **charged** (see below) with an offence or released. A suspect therefore may be given **bail**, which means that he is released under certain conditions and required to attend the police station at a later date. Bail conditions can be:

- 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 will be granted bail, or, if he is granted bail, under what conditions, you can discuss this with your police officer contact.

Charge

When the police have completed their investigation they will pass the evidence on to the **Crown Prosecution Service** (CPS) who will decide whether or not the suspect should be **charged** with a criminal offence. When deciding this CPS lawyers must consider a two stage charging test. They must first consider whether there is **sufficient evidence** available for there to be a realistic chance that the defendant will be convicted at court. If there is sufficient evidence the CPS lawyer must consider whether or not a prosecution is in the **public interest**. It is almost always in the public interest to proceed with a prosecution for domestic and sexual violence.

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 few weeks) or be held at the police station and taken to the next available court session. See **From charge to trial: a guide to criminal proceedings** for further information.

If the suspect is not charged

If a suspect is not charged or **cautioned** (see below) 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 should be kept by the police. You should be entitled to reasons in writing from the CPS as to why a decision was made not to charge. If you are dissatisfied with the reasons for the decision you

may be able to have a meeting with the CPS lawyer who made the decision and/or ask for a review.

Cautions

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. A caution is recorded on the police national computer and will appear on a person's criminal record but is not a conviction.

Harassment warnings or notices

If someone 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 and may 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. If the harassment continues then this may well lead to the arrest of the perpetrator.

Withdrawing a complaint

You may decide that you do not want the police to continue to investigate your case. If you have not already made a witness statement you can decide not to give one. Without a witness statement from you it is unlikely that the police will continue. If you have already made a statement you can withdraw it by contacting the police and asking to make a **withdrawal statement**. However, it is the decision

of the police and CPS whether or not the case proceeds.

Support for survivors of domestic and sexual violence during an investigation

Although victims of crime are not able to make decisions about the investigation and prosecution of the case, they should receive a certain level of service. **The Code of Practice for Victims of Crime** (the 'Victims' Code') sets standards of service that the police, the CPS and other agencies involved in the criminal justice system should offer victims. All victims of sexual violence and most victims of domestic violence will be entitled to an enhanced service, which means they should be told of major developments (e.g. charge) within **24 hours**. For more information see our legal guide **From charge to trial: a guide to criminal proceedings** and the Victim Support website (see Other useful contacts).

Criminal injuries compensation

If you received an injury as a result of a crime of violence you may be entitled to compensation through the Criminal Injuries Compensation Scheme, see Rights of Women's legal guide **A guide to criminal injuries compensation**.

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 legal advice line.

Please note that the law and procedure referred to in this legal guide 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 guide. This legal guide is designed to give general information only.

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For free, confidential, legal advice on family law issues including divorce and relationship breakdown, children, domestic violence and lesbian parenting call our Family Law Advice Line on **020 7251 6577 (telephone)** or **020 7490 2562 (textphone)** on **Mondays 11am–1pm, Tuesdays and Wednesdays 2–4pm and 7–9pm, Thursdays 7–9pm and Fridays 12noon–2pm.**

For free, confidential, legal advice on criminal law issues including domestic and sexual violence call our Criminal Law Advice Line on **020 7251 8887 (telephone)** or **020 7490 2562 (textphone)** on **Tuesdays 11am–1pm and Thursdays 2–4pm.**

For free, confidential, legal advice on immigration and asylum law, including in relation to financial support issues call our Immigration and Asylum Law Advice Line on **020 7490 7689 (telephone)** or **020 7490 2562 (textphone)** on **Mondays 2–4pm and Wednesdays 11am–1pm.**

Other useful contacts

Crimestoppers 0800 555 111 www.crimestoppers-uk.org

Crown Prosecution Service
(for information about the CPS) www.cps.gov.uk

Disability Law Service 020 7791 9800 www.dls.org.uk
(legal advice on discrimination for disabled people)

Mind 0300 123 3393 www.mind.org.uk
(advice and support for people with mental health problems)

National Domestic Violence Helpline 0808 2000 247 www.womensaid.org.uk
(for information and advice from Women's Aid and Refuge)

Rape Crisis Federation www.rapecrisis.org.uk
(for details of local services)

Respond 0808 808 0700 www.respond.org.uk
(support for people with learning difficulties affected by abuse and trauma)

Victim Support Line 0845 303 0900 www.victimsupport.org.uk

To find your local Sexual Assault Referral Centre (SARC) visit NHS Choices service Directory www.nhs.uk/ServiceDirectories. Search for 'Rape and Sexual Assault support' and enter your postcode to find the service closest to you.

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Charity number: 1147913

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