**Home Affairs Committee Inquiry: Policing Priorities**

**End Violence Against Women Coalition Submission**

November 2022

**Introduction**

Established in 2005, the End Violence Against Women Coalition (EVAW) is a leading coalition of over 120 specialist women’s support services, researchers, activists, survivors, and NGOs working to end violence against women and girls (VAWG) in all its forms.

As part of our efforts to end VAWG, EVAW has long been campaigning to draw attention to and address the injustices faced by victims and survivors of domestic abuse, rape and sexual violence, including scrutiny of the police. In November 2020, EVAW produced a joint report entitled *Decriminalisation of Rape: Why the justice system is failing survivors and what needs to change,[[1]](#footnote-1)* which helped to shape and inform the Government’s *End to End Rape Review*. EVAW now sits on multiple stakeholder and consultative groups to ensure there is independent scrutiny and development in this area, including the National Rape Working Group, the Rape Review Implementation Advisory Group, the CPS External Consultant Group, the HMICFRS External Reference Group (ERG), the MOJ Victim and Witness Sector Engagement Group, the NPCC lead for VAWG ERG, the Operation Soteria Bluestone Advisory Board, as well as the Mayor’s Office for Policing And Crime (MOPAC) VAWG Board.

At EVAW, we recognise that ending VAWG, which is a cause and consequence of inequality, cannot occur without well-resourced and evidence-based prevention work. We also champion a gendered approach to socio-economic policies[[2]](#footnote-2), and public-facing government-funded communication campaigns that are specifically aimed at challenging the harmful social norms which underpin VAWG.

For these reasons, we take great interest in this Home Affairs Select Committee consultation and focus our response on victims of gendered crimes such as domestic abuse, rape and sexual violence, within the broader context of violence against women and girls and gender and other structural inequalities. We’re facing an endless stream of revelations about police perpetrated violence against women, racism, misogyny and discrimination, and there is a tidal wave of public demand for change. We have to deal with an institutional policing culture which enables officers to evade accountability for abuse, and systemic failings to respond to violence against women and girls. This has a tremendous impact on women’s trust and confidence in policing and must be dealt with before we can take seriously promises that violence against women is a priority for the justice system. We welcome this consultation as an opportunity to make recommendations to the committee regarding how we build a better landscape for all victims and survivors inside and outside of the criminal justice system, as part of our work to transform the conditions that give rise to and exacerbate VAWG.

1. **What does a modern police service, fit for the 2020s and beyond, look like?**

Violence Against Women and Girls (VAWG) is not inevitable, but yet remains one of the most pervasive human rights violations for women and girls in the UK. It is a considerable proportion of all police emergency calls and a part of day-to-day policing work[[3]](#footnote-3). A woman is killed by a man every three days in the UK[[4]](#footnote-4). In order to tackle VAWG, we need to shift the societal structures, attitudes and cultures that drive violence against women and girls and normalise this harm. These shifts are not only about the ‘public’ but critically also about our institutions, including police forces themselves.

The required shift involves addressing the inequality underpinning these harmful attitudes and behaviours – reaching beyond gender and across other forms of inequality including ethnicity, migration status, disability, sexuality and more. However, as it stands, the police uphold these inequalities in a myriad of ways - from a culture of misogyny and racism within forces (see *Operation Hotton*[[5]](#footnote-5)) to the systemic failings of the criminal justice system for survivors of VAWG[[6]](#footnote-6), especially for those facing intersecting inequalities[[7]](#footnote-7). As the Home Affairs Select Committee has rightly noted, public confidence in the police is low, and for good reason - with at least six police forces currently in ‘special measures’; and serving officers involved in high-profile criminal cases, including sexual offences and murder.These events point to a persistent and systemic issue with policing and violence against women and girls: enabled by abuse of power and lack of accountability. They also underscore the danger of the government [handing an institution in such dire straits even more powers](https://www.endviolenceagainstwomen.org.uk/womens-rights-organisations-denounce-public-order-bill/) in legislation (e.g. Police, Crime, Sentencing and Courts Act 2022[[8]](#footnote-8) and the Public Order Bill[[9]](#footnote-9)), whilst also attempting to [withdraw our ability](https://www.endviolenceagainstwomen.org.uk/british-bill-of-rights-major-step-back-for-women-and-survivors/) to hold police to account through plans to scrap the Human Rights Act (e.g. Bill of Rights)[[10]](#footnote-10). These circumstances have been exacerbated by the current period of political instability, with changing Prime Ministers, Home Secretaries and Justice Secretaries impacting consistent political oversight and scrutiny of policing and VAWG.

It is evident that in its current form, the police and wider CJS response to VAWG is inadequate and often re-traumatising. Immediate action is needed within the CJS to prevent further victimisation and retraumatisation for survivors who come into contact with authorities and for the minority who commit to criminal proceedings. It is imperative that our police force is properly vetted, has consistent standards for the conduct of its employees, better understands and specialises in VAWG, with a focus on protecting people’s human rights, and preventing and reducing harm. This must be guided by a victim-centred approach which pursues suspects rather than complainants and operates within a robust framework of accountability and transparency.

What is also clear however, is that we cannot police our way out of VAWG and there is immense risk in a societal approach which primarily leaves women and girls’ safety in the hands of an institution so beset with problems. We must centre prevention and support, with far greater investment in education, housing, social security, health, youth services, and social care to reduce the extent to which we rely on police to intervene at points of crisis and primarily only after harm has already occurred.

1. **What balance police forces in England and Wales should strike between a focus on preventing and solving crime and carrying out their other functions?**

To note: our ability to answer this question is limited by the lack of information on what is included within categorisation of ‘other functions’.

As previously stated, EVAW would like to see the prevention of VAWG front and centre to a whole–society approach to ending VAWG. We welcome VAWG being named a strategic policing requirement, but we do not see the police as best placed to do much of this necessary work. For example, we are cautious about the impact of ever-expanding criminalisation as the best approach to tackling the societal issues which drive VAWG e.g. public sexual harassment, making misogyny a hate crime, and tougher sentences.

As is clear from current CJS data for existing offences[[11]](#footnote-11), the idea that increasingly tougher sentencing and criminalisation will act as a deterrent to VAWG has little evidential base. Furthermore, the victim blaming, retraumatization, and in the case for migrant survivors - immigration enforcement, that survivors experience from the criminal justice system is more likely to act as a deterrent to report rather than a deterrent to a perpetrator to commit further offences. Therefore, a clear priority must be to improve the experiences of victims going through the system.

Similarly, we would argue that the current strains placed upon the police force, which perhaps fall within these ‘other functions’, would be significantly alleviated if other services within that whole-systems response were more adequately resourced. For example, social security, mental health support, education, social care, and appropriately funded specialist women’s and third sector.

In terms of where police attention should be focused, police have various legal measures available to them to provide protection to women and girls, including domestic violence protection notices and orders, and the enforcement of non-molestation orders and restraining orders, and coercive control legislation. The overarching concern, however, is that these powers are not properly applied - or applied unequally, rather than that the police having insufficient powers to protect women[[12]](#footnote-12). HMICFRS found that their lack of application is partly because ‘sometimes officers don’t take the safety of vulnerable women and girls as seriously as they should.’[[13]](#footnote-13) In the case of rape and sexual violence, emerging evidence from Operation Bluestone Soteria highlights the extent to which investigations are often fixated on victim credibility rather than the behaviour of the suspect; in part due to victim-blaming discourses including rape myths and stereotypes. Furthermore, the Centre for Women’s Justice’s police super complaint relating to police perpetrated abuse laid bare why there are such questions about the in the institutions ability to respond to VAWG[[14]](#footnote-14).

Despite this - and in direct contradiction to the numerous inspectorate reports and revelations regarding police abuse of powers, we are deeply concerned by the government’s decision to continually expand police powers, as with recent legislative changes such the Police, Crime, Sentencing and Courts Act (PCSC) 2022, and the upcoming Public Order Act. This has included provisions such as the Serious Violence Duty in the PCSC Act, which facilitates police intrusion into victims and survivors’ lives without their consent[[15]](#footnote-15). We have also repeatedly highlighted how new police powers to crack down on protest and dissent are deeply harmful to women’s rights and create the risk for further harm and a further decline in trust.

Throughout history, protest has been central to feminist movements to end violence against women – from demonstrations of the Suffragettes, to anti-racist protests in Southall which led to the birth of EVAW member Southall Black Sisters, to the annual Million Women Rise marches - and indeed the vigil held in Clapham Common in 2020 to mourn the murder of Sarah Everard and protest police violence. The government is doubling down on plans scrapped in the Policing Act by reintroducing them into the Public Order Bill. Some of the Bill’s measures include:

* Protest banning orders which could include intrusive electronic surveillance of protester
* Unlimited fines for those carrying items suspected as being for protest
* Further expansion of stop and search, including suspicion-less stop and search, which will increase surveillance and discriminatory treatment of already over-policed Black and minoritised communities
* A new offence of obstructing stop and search.

All of the above put women at greater risk of police harassment and violence, and they threaten women’s rights and ability to hold the powerful to account, including police failures. We would strongly argue that evermore police powers to prevent protest is absolutely the wrong direction. We also have long-standing concerns about police expanding their reach into immigration enforcement over and above the protection of victims and survivors[[16]](#footnote-16). Similarly the expansion of policing into schools, and the deeply distressing case of Child Q and other similar cases which evidence the systemic failures in child safeguarding within policing[[17]](#footnote-17).

The institution of policing must grapple with a meaningful analysis of abuse of power, alongside its work to tackle a culture of misogyny and racism, and in this vein we would strongly refute calls for the police to spend less time on ‘diversity and inclusion initiatives’ as recently suggested by the Home Secretary, Suella Braverman[[18]](#footnote-18).

1. **What roles police forces should prioritise?**

Focus on VAWG

As highlighted in our November 2020 report, rape has effectively been decriminalised - with only 0.6% of adult rape cases reported to police resulting in a charge[[19]](#footnote-19). Domestic abuse charge, conviction and prosecution rates appear to be on a similar downward trajectory according to the latest CPS data, with a decline in charges, completed prosecutions and convictions in the last quarter.[[20]](#footnote-20) We welcome the increased focus on rape and sexual assault with the End to End Rape Review and the Soteria project, however there is still a long way to go to remedy what are longstanding and systemic failings of VAWG survivors by the CJ system. The pace of change is slow and challenging, and it appears that worrying signs regarding domestic abuse are not aided by a siloed approach to domestic abuse and sexual violence by police forces, despite the frequent overlap. An ability to adequately respond to VAWG in its entirety requires specialist knowledge, which is a significant gap in police forces, despite the amount of policing time spent on VAWG. There also remains a lack of will, knowledge and means to tackle the ever-expanding abuse that takes place online, despite the fact that it is experienced by the majority of women and girls.

An understanding of the impact of multiple, intersecting forms of structural oppression and violence is crucial to understanding victim/survivor pathways to justice (individual, ‘cultural’ and structural). Women’s lived experiences of violence should be seen as a ‘continuum of violence’[[21]](#footnote-21) and a ‘continuum of oppression’[[22]](#footnote-22). Victim/survivors frequently experience more than one type of gender-based violence, which often intersect and overlap. These include, but are not limited to, child sexual abuse, rape, sexual exploitation and trafficking, sexual assault, forced marriage, domestic abuse, so-called “honour” based abuse, and female genital mutilation. As a result, the response to forms of VAWG should be informed by connected specialisms and specialist teams within policing.

Data collection

We know that domestic abuse, rape and sexual violence are predominantly gendered crimes, but that their prevalence is also shaped by intersecting inequalities across ethnicity, class, disability and immigration status. For example, Office for National Statistics (ONS) data in the two years to March 2020 found that disabled women are almost twice as likely to have experienced sexual assault than non-disabled women, whilst Black or Black British and Mixed ethnic groups were significantly more likely than those in the White, Asian or other ethnic groups to experience sexual assault within the last year.[[23]](#footnote-23) We suspect that disparities in prevalence are even greater than already evidenced, as research such as the Crime Survey for England and Wales exclude the experiences of homeless women, women in institutional care, prison, detention centres and other forms of accommodation that fall outside of the definition of “households” surveyed. The criminal justice system will also be experienced by victims and survivors in ways that are also shaped by these factors (race, ethnicity, age, migrant status, socio-economic background, disability, and sexuality).[[24]](#footnote-24)

Against this backdrop, we need to see much greater government commitment to addressing existing inequalities in police reporting and outcomes for marginalised groups, including Black and minoritised and migrant women, disabled and LGBT+ groups. However, progress is persistently curtailed by police failure to collect basic demographic data to fulfil their obligations under the Equality Act. EVAW has consistently called for disaggregated data to review the experiences and outcomes of women with overlapping protected characteristics across the criminal justice system; including independent research into the characteristics of those who do and do not report rape to the police, co-produced with specialist ‘by and for’ services and sexual violence and abuse services.[[25]](#footnote-25) In 2017, the Lammy Review[[26]](#footnote-26) recommended the principle of ‘explain or reform’ in every CJS institution, whereby there is an emphasis on institutions in the system to provide an evidence-based explanation for any disparities by ethnicity. However, in the case of VAWG we are not even able to reach the threshold of “explaining” any inequalities in policing because of their failure to collect data.

In their 2021 inspectorate report on the police response to VAWG, HMICFRS identified ‘large gaps’ in all police forces’ data regarding ethnicity, with one force without any self-defined ethnicity information recorded at all in half of their cases[[27]](#footnote-27). This was an issue already identified back in the 2014 HMIC report into the police response to domestic abuse,[[28]](#footnote-28) and yet nothing has seemingly changed. In 2022, the conclusions of Operation Bluestone Soteria are constrained by the systemic absence of data in relation to protected characteristics. Even in responses to police super-complaints, which are intended to identify systemic issues with policing, inspectorates are evidently constrained from making conclusions or recommendations with regards to inequalities because of the absence of police data. In the HMICFRS *Safe to Share* report for example, the inspectorate found that “limitations in available data on the outcomes of police responses to migrant victims of crime” ultimately meant that “neither the police nor the Home Office are able to assure the communities they serve that: (i) all people with whom they have contact will be treated fairly and safely and (ii) allegations of discriminatory behaviour are unfounded.”[[29]](#footnote-29)

Victim-Centred and Intersectional Approach

it is essential that police prioritise the protection of victims in all their work, and this should never be superseded by a role in border enforcement. However, currently migrant survivors are unable to report abuse to the police without fear of immigration enforcement. As outlined by the Step-Up Migrant Women coalition, such data-sharing agreements create a climate of impunity for those who abuse migrant survivors; who are able to weaponise women’s insecure immigration status as a means of coercive control and to secure their silence. The introduction of safe reporting mechanisms for migrant survivors is an absolute prerequisite to ensuring that all victims can seek justice, without discrimination. A call supported by the Domestic Abuse Commissioner, the Victim’s Commissioner, The London Victim’s Commissioner, and the Justice Committee (in their scrutiny of the upcoming Victim’s Bill) and Joint Committee[[30]](#footnote-30) that scrutinised the draft Domestic Abuse Bill[[31]](#footnote-31).

We also want to see the police prioritise work which improves the journey of a victim through the CJ system, this includes a trauma-informed approach, and understanding the impact of intersecting inequalities, including communication barriers. For example, in line with the Equality Act and the Public Sector Equality Duty, public bodies should take steps to meet the needs of people with protected characteristics and eliminate unlawful discrimination. In this vein, migrant victims who are likely to experience communication barriers should always be offered certified interpreters, and police must ensure they meet the communication and access needs for Deaf and disabled survivors and have the relevant training and understanding.

There is an absence of commitment to improving outcomes for Deaf and disabled survivors who we know are at disproportionate risk of crimes of VAWG (as acknowledged in the *End to End Rape review* in relation to rape). A comprehensive attempt to address crimes of VAWG must also contend with the severe under-funding of specialist provision for Deaf and disabled women subject to gender-based violence, and the gaps in legislation around abuse by paid and unpaid carers.[[32]](#footnote-32)

1. **What can be done to improve community policing and increase trust in police officers and forces, including on funding and on disciplinary powers when police officer behaviour falls below required standards?**
2. **Specifically, what the Metropolitan Police must do to increase trust under its new Commissioner?**

[We will be tackling these two questions simultaneously as our response can be applied to the Met and wider police forces]

It comes as no surprise that trust in policing has suffered greatly as a result of the attention to several tragic murders including Sarah Everards, and the appalling treatment by police officers in Nicole Smallman and Bibaa Henry’s case. But also due to many years of unacceptably low prosecutions rates for rape, and a series of high profile revelations about the scale of police abuse of women and girls.

We have commissioned nationwide research from YouGov which showed that almost half of women (47%) and 40% of men reported declining trust since the details of the rape and murder of Sarah Everard by a serving Metropolitan Police officer were made public[[33]](#footnote-33). When we talk about an overall decline in trust, we must also be clear that for women from certain communities, you are already starting from a far lower bar in terms of trust, or indeed no trust, for example our members supporting Black, Asian minority ethnic, and migrant women describe having significantly less confidence in policing and greater barriers to reporting.

The reasoning behind the current distrust of the police is well documented by the state itself. For example, on 2nd November 2022 His Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) published the results of its [inspection of vetting, misconduct and misogyny in the police service](https://www.justiceinspectorates.gov.uk/hmicfrs/publications/an-inspection-of-vetting-misconduct-and-misogyny-in-the-police-service/)[[34]](#footnote-34), which included findings of police officers and staff receiving vetting clearance after committing offences of indecent exposure and domestic-abuse related assaults, as well as being suspects of rape, racially aggravated damage and other serious violence. The inspectorate underlines the importance of these findings, noting the sheer scale of officers’ access to police information, and their “intrusive powers over other citizens”, normally people who are vulnerable at that time. This report is the latest in a growing pile of alarming evidence about the police response to violence against women and girls, including that perpetrated by its own officers. Baroness Casey’s [interim report](https://www.endviolenceagainstwomen.org.uk/casey-review-finds-misogyny-met-police/)[[35]](#footnote-35) on police misconduct in the Met found its culture of racism and misogyny empowers officers to abuse with impunity, days after [the National Police Chiefs’ Council and the College of Policing](https://www.endviolenceagainstwomen.org.uk/forces-failing-police-perpetrated-violence-against-women/) found forces are failing to act on police-perpetrated abuse[[36]](#footnote-36). These follow the Independent Office for Police Misconduct’s findings under [Operation Hotton](https://www.endviolenceagainstwomen.org.uk/iopc-cultural-issues-misogyny-racism-met-police/)[[37]](#footnote-37) earlier this year, which found misogyny in the Met Police, while the full conclusions of Baroness Casey’s Inquiry and the Angelini Review are still to come. The End Violence Against Women Coalition is clear that at the root of this is systemic misogyny, racism and other forms of discrimination that empower police officers to perpetrate violence with impunity. And 76% of women (and 71% of all adults polled in our earlier mentioned You Gov research) think the culture of policing has to change in order to better respond to violence against women and girls[[38]](#footnote-38).

In various VAWG strategies in development currently there is a focus on organisational culture, standards, and behaviour. This issue needs to be treated as an absolute priority to address trust and confidence issueswith far more robust procedures in place to deal with officers when they offend. Policing leaders must all work urgently to eradicate harmful workplace cultures which we know normalises violence against women and girls. The data does not point to isolated cases but systemic issues, with one woman a week reporting domestic abuse by a police officer and a super-complaint highlighting systemic failures to hold officers accountable[[39]](#footnote-39).

Investigations into allegations of abuse are welcome, but it shouldn’t have to get to this stage – given what we know about why women don’t report abuse, particularly when their abuser is a serving officer, these figures are all highly likely to be the very tip of the iceberg. But simply taking action against individuals doesn’t go anywhere near far enough. In order to prevent women from being abused by serving officers, we need to weed out and address systemic cultures of sexism and racism in policing, wherever they are found.

Part of the change and journey to regaining trust would be to ensure a balanced police force, with a higher number of female police officers. However, we recommend caution is given to the notion that an increased volume of female officers is a guaranteed route to resolving misogyny. A more diverse police force alone will not resolve the issues with normalised cultures of sexism and misogyny in policing, which need to be tackled as a priority to also ensure safe workplaces for female officers and staff.

As noted, the acute need for cultural change also applies in regard to racism across police forces. Racism within the police is well documented[[40]](#footnote-40), illustrated by the recent tragic death of Chris Kaba, stop and search data, and the recent reports on racially biased datasets and AI[[41]](#footnote-41). Inequalities in prevalence, access to support and outcomes continue to persist for black and minoritized women. A stark example of this is to be seen with domestic homicides where Black and minoritised women are disproportionately impacted by poor policing responses. Black and minoritised women face additional hurdles in accessing the criminal justice system but experience disproportionate rates of victimisation. Mixed race women experience the highest levels prevalence of rape of any ethnic group (3.4%) and over four times the level of prevalence for white women (0.8%), and prevalence among Black women is double (1.6%) that for white women (Crime Survey 2019[[42]](#footnote-42)). Imkaan’s Reclaiming Voice report[[43]](#footnote-43) examined how ’cultural framings’ and assumptions by agencies act as a barrier to effective responses to VAWG as the nuances of women’s contexts and experiences are not seen but instead assumptions regarding their “culture” and what types of VAWG are or are not experienced by certain women are used as a basis for non-intervention. All of which make for a strong evidence base to distrust the police, and again it is therefore the racism that must be tackled to build trust, not the trust as the starting point.

To rebuild trust the police must also first tackle a culture of ableism and develop greater understanding of the needs of disabled victims and greater collaboration with ‘by and for’ disabled organisations. Disabled victims are facing greater levels of disbelief and victim blaming, lack of understanding of the different ways that disabled women may be abused and who by; and failure to meet basic access needs or provide support as per the Victim’s Code e.g., information, interpreters, physical access/ other adjustments, intermediaries. As stated by Stay Safe East, a leading ‘by and for’ services for disabled people, what is needed to build trust are efforts to root out institutional disablism, racism and discrimination nationally and locally[[44]](#footnote-44). Stay Safe East is also calling for a statutory duty to meet access, communication, and support needs (for example through the Victim’s Bill), more resources for the mental health system so police don’t have to act as a substitute, disability VAWG leads in Police (preferably disabled officers), disability Independent Advisory Groups in each area, effective engagement with diverse disabled people’s organisations (user-led), training, and better data collection.

Finally, as previously mentioned, we have also seen the effective decriminalisation of rape and slow progress to improve these very poor justice outcomes for rape survivors - which has obvious implications for the level of trust felt towards the police. In February this year, the HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and the HM Crown Prosecution Service Inspectorate (HMCPSI) have published the [second and final part of their joint inspection of the investigation and prosecution of rape cases in England and Wales.](https://assets.smartcdn.co.uk/5040_24022022090824.pdf) The report affirms what survivors and advocates have long known: the criminal justice system is failing victims of rape and widespread, transformative reform is needed to build trust and secure justice.

Accountability and transparency are key to trust. The Human Rights Act (HRA) is a crucial mechanism of accountability for the police, and Government commitments to overhaul this law represents a grave risk to women and girls. Under the HRA, ‘positive obligations’ require public authorities, which include the police, to take proactive action to protect women’s rights. The Bill of Rights’ objective to limit such positive obligations is antithetical to improving police practice, and subsequently trust. Such obligations are currently relied on: toensure rape and other forms of VAWG are adequately investigated and prosecuted; to prevent serious violence against, or the death of, women subject to abuse; to ensure that there is a full Article 2 compliant inquest into the murders and suicides of women which will identify state failings that may have caused or contributed to those deaths; to ensure police investigate modern slavery and trafficking; and take steps to protect women subject to stalking and harassment. When challenged on the impact of such proposals for addressing VAWG, the Secretary of State for Justice has stated that *“it is important that the police…are able to exercise their professional judgement in operational decision-making, and the allocation of resources.”[[45]](#footnote-45)* He also stated, without evidence, that such challenges *“skew public attention, priorities or resources”* towards defending litigation. This position totally disregards the growing pile of evidence regarding poor police professional judgement with regards to VAWG over recent years, and the conclusions of various independent inspectorates that have taken measures to place such institutions under greater scrutiny.

The public’s (in particular, women, racialized, disabled and LGBT+ communities’) trust in the police is broken for good reason. It is therefore essential that the starting point is not a question of how we rebuild trust, but instead how we tackle the issues which led to such mistrust to a point in which it is warranted for the police to ask communities to trust them. There is a great deal of work to do until we reach that point (as highlighted by numerous damning reviews of late). When a serving Chief Constable openly states they would ‘have to think long and hard’ if they’d recommend to a family member to report a rape[[46]](#footnote-46), we have to question the legitimacy of a swift leap towards initiatives aimed at improving public perception of policing.

1. **What steps can be taken to improve national conviction rates, including via relationships with other bodies such as the Crown Prosecution Service.**

In 2020, EVAW, alongside our partners Centre for Women’s Justice, Rape Crisis England and Wales and Imkaan, published a report - The Decriminalisation of Rape[[47]](#footnote-47). This report outlined the failings of the criminal justice system for survivors of rape and made a series of recommendations, the vast majority of which remain critically relevant:

Leadership and Accountability

* A designated Ministerial lead on rape who will hold chief constables and CPS leaders to account and champion all issues pertaining to rape and sexual abuse
* High-level awareness of rape and sexual abuse, and political will to appropriately address and prevent rape and sexual abuse
* Improved policy join up between Government departmental teams and strategies
* An in-depth review of CPS governance
* An ongoing and Government backed public awareness campaign about consent and rape myths.

Access to Justice for All

* Independent research to be commissioned into the characteristics of those who do and do not report rape to the police, co-produced with specialist ‘by and for’ services and sexual violence and abuse services
* Parallel research of what rape and sexual abuse victims/survivors actually want from the justice system and more broadly to support their recovery
* Further developing and piloting of legally qualified advocates for victim/complainants in rape and sexual abuse cases
* Further research into and policy development on how to prevent rape and sexual abuse.

Victim/Survivor Advocacy and Wraparound Specialist Services

* We recommend a sustainable funding model for the provision of specialist Rape Crisis services and specialist ‘by and for’ services which are independent, trauma-informed and offer advocacy and ‘wraparound’ support for all victims/survivors of rape and sexual abuse
* Access to specialist, high quality, non-medicalised counselling and therapy as and when victim/survivors need it, including pre-trial therapy
* We recommend that the commissioning of rape and sexual abuse services should be underpinned with a thorough equalities analysis
* Victims/survivors who do report to the Police should in the first instance have the choice of a specialist female officer for the purposes of safe disclosure.

Police, CPS, Courts, and Juries

* Rape investigation and prosecution work should be a clear, named specialism in all forces and CPS areas, with a strong and rewarded career route
* Investigations should explicitly return to a clear examination of the seeking as well as the giving of consent
* All rape investigations should have the oversight of a senior rape and sexual abuse specialist lead
* Rape and sexual abuse investigators and prosecutors should have compulsory clinical supervision on a regular basis; the workforces should be protected from harm, burnout and vicarious trauma.
* We recommend a consideration of reintroducing the ‘Merits Based Approach’. Rape and serious sexual offences needs specific guidance in addition to the Code Test, because without there is a clear risk of prosecutors taking ‘the bookmaker’s approach’.
* We recommend a formal second opinion at each No Further Action decision, and a significant review of the Victim’s Right to Review process. This data should be disaggregated across all of the protected characteristics.
* We recommend that the ‘admin finalised’ category of rape casefiles at the CPS is abolished and replaced with a clearer categorisation.
* We recommend formalisation of the process of seeking ‘early investigative advice’ (EIA) by police from CPS.
* We recommend that all cases which are discontinued, whether at police or CPS stage, be reviewed by gender/race/class/age/disability and results analysed and reviewed annually
* We recommend amendment of the law on sexual history evidence (SHE) to create an up to date, clear, meaningful ban on the use of ‘SHE’ by the defence in court
* We recommend a review of the courtroom cross examination rules.
* We recommend a Special Commission on the efficacy of juries in rape trials; and we recommend the judiciary in England and Wales consider how a more inquisitorial judicial approach might be adopted in rape trials
* We recommend that legal profession leaders encourage an urgent, open conversation about how the practice of defence in rape cases may exploit and perpetuate in society harmful prejudices about rape, and how their codes of conduct can be better adhered to.

EVAW also put forward a series of recommendations in our submission to the Victim’s Bill Consultation in February 2022, including:

* Gendered approach and equalities analysis:
	+ Draw on the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Istanbul Convention, to ensure that survivors have access to protection and support without discrimination (including on the basis of immigration or refugee status).
	+ Introduce a safe reporting mechanism for migrant and refugee survivors, which separates services and support from immigration control
	+ Commit to long-term sustainable funding and ring-fenced funding for specialist ‘by and for’ services
	+ Mandate that criminal justice agencies collect, review and publish disaggregated data on all of their outcome statistics
	+ Require that the Public Sector Equality Duty is properly applied
	+ Commit to consultation in an accessible way, in accordance with the Equality Act.
* Diversity of victim and survivors experiences and needs in the pursuit of ‘justice
	+ Legal constraints on the indiscriminate use of third-party materials in rape investigations. Safeguards must be in place to guarantee victims protections against over-intrusive and excessive police requests for third-party material, such as victims’ medical notes, school reports and therapy notes.
	+ Legal privilege afforded to counselling notes, meaning they will be confidential and only disclosable to the criminal justice system in very specific circumstances.
		- As part of our Keep Counselling Confidential campaign, led by Rape Crisis England and Wales and in partnership with the Centre for Women’s Justice, we are calling for legislation similar to that found in New South Wales - a presumption of non-disclosure by law under the [sexual assault communications privileg](https://legislation.nsw.gov.au/view/pdf/asmade/act-1997-122#:~:text=Communications)%20Act%201997.&text=This%20Act%20commences%20on%20a,to%20be%20appointed%20by%20proclamation.&text=The%20Evidence%20Act%201995%20is%20amended%20as%20set%20out%20in%20Schedule%201.&text=loss%2C%20stress%20or%20shock%2C%20damage,shame%2C%20humiliation%20and%20fear).)e[[48]](#footnote-48). This strikes a “[middle ground](https://www.legalaid.nsw.gov.au/publications/factsheets-and-resources/subpoena-survival-guide/sexual-assault-communications-privilege-sacp)” between balancing survivors’ and defendants’ rights, where confidential counselling notes may only be disclosed in a criminal proceeding if the information has “significant value” as evidence and the public interest in disclosure “substantially outweighs” that of non-disclosure[[49]](#footnote-49). Importantly, the New South Wales model safeguards both the right to privacy and the right to a fair trial; therapeutic records can be requested by a party to a criminal case, such as counsel, who apply to a court for leave to issue a subpoena post-charge, where they believe there is a compelling factual reason for disclosure.
	+ Survivors having a right to access specialist therapeutic and advocacy support at any time: recovery is not linear, and victim/survivors may require access to specialist sexual violence and abuse services before, during and after accessing the criminal justice system, if indeed they choose to report their sexual violence and abuse
	+ Legal Advocacy for all victims and survivors of VAWG going through the criminal justice system
	+ Cease the misapplication of the law on corroboration in rape cases
	+ Victim and Survivors to be exempt from means testing of legal aid to ensure they can access legal support in family courts[[50]](#footnote-50)
	+ Additional powers and resource attached to the Victim Commissioner role so as to provide monitoring and oversight of Victims Code compliance, in accordance with the Equality Act
	+ For the Victims’ Bill to provide recognition, protection and policy improvements for inappropriate criminalisation where offending is linked to women’s experiences of domestic abuse.
* Fragmentation of VAWG:
	+ The Victim’s Law should uphold the established international and human rights-based definitions of VAWG and deliver a comprehensive and integrated approach to tackling all forms of VAWG – including rape, sexual violence and domestic abuse.
	+ Commissioners should also take an integrated approach, including recognising the role of specialist VAWG advocacy services which provide holistic support to victims which address overlapping forms of abuse.
	+ A commitment to training and upskilling, with a drive towards specialism in the police, CPS, Counsel and judiciary to better understand the continuum of violence against women and girls and its wide-ranging impacts

We also want to note the wave of recommendations that have come from a swell of reviews, reports and action plans from Government and CJS institutions in recent years, which although welcomed, begs the question of the will, leadership and joined up nature of this work in light of how little change is being felt on the ground. Example reviews and reports with recommendations of note:

* The Home Affairs Committee in April 2022 published its [report on the investigation and prosecution of rape](https://publications.parliament.uk/pa/cm5802/cmselect/cmhaff/193/summary.html)[[51]](#footnote-51), which has been in sharp decline since 2016. We welcome a number of the Committee’s other findings, including:
	+ Warnings that reforms to justice agencies will make little national impact without significant funding.
	+ Highlighting the need to transform focus on victims’ often traumatic experience of the justice system, including addressing lengthy delays in cases reaching court, harmful evidence-gathering processes such as examination of previous sexual history, and poor provision of support services due to a paucity of funding.
	+ Dedicated rape teams and specialised training for officers would significantly improve the police response to rape and sexual offence cases but are yet to be set up in many forces. Data concerning the number of specialised officers and wider dedicated services is poor and will need to improve if the criminal justice response is to be better coordinated.
	+ Concerns that there is inadequate availability of specialist therapy and pre-trial counselling due to long waiting lists that are a result of lack of funding to specialist support centres. Demand continues to far outstrip supply.
	+ Lack of clarity around how and when pre-trial therapy notes can be requested and shared with police, prosecutors and the defence is concerning and risks survivors not accessing the vital support they need.
	+ The absence of oversight and accountability of the different reviews, strategies and plans which are being implemented, but not yet evidencing any real change for survivors
* In February 2022, the HM Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) and the HM Crown Prosecution Service Inspectorate (HMCPSI) published the [second and final part of their joint inspection of the investigation and prosecution of rape cases in England and Wales](https://assets.smartcdn.co.uk/5040_24022022090824.pdf)[[52]](#footnote-52)[.](https://assets.smartcdn.co.uk/5040_24022022090824.pdf) Some of the inspectorates’ joint recommendations include significantly improving communications with victims from the point of charge onwards, setting up specialist rape offence courts to help clear the backlog of cases, and for the Home Office and the Ministerial Lead for Rape and Serious Sexual Offences to consult on the benefits of a commissioner for tackling rape and serious sexual offences. We welcome the inspectorates’ centring of victims’ voices and experience, and naming of the deeply problematic relationships between CPS and Police. We also welcome calls for funding for vital support services. What’s more, we echo the inspectors’ frustration at the gravity of the situation for survivors, as well as the lack of positive change. However, we find the report totally lacking in addressing problems with accountability structures within the CPS, and it fails to address deeply rooted attitudinal and leadership issues driving problems with the treatment of rape. The inspectorates instead look to investment and clinical supervision as the answer to these issues, which are factors, but alone will not fix the systemic nature of victim blaming, and rape myths and stereotypes in the justice system. It is this which impacts decision making in cases of rape as well as the treatment of survivors.
* NPCC VAWG Framework which noted police must enhance their processes for listening to women and girls, with a focus on those who have little or no trust in policing[[53]](#footnote-53).
* Information Commissioner Report (May 2022) called for CJS agencies to immediately stop collecting excessive amounts of personal information from RASSO victims[[54]](#footnote-54).
* Operation Bluestone Soteria - we are also awaiting the publication of year one’s finding from this academic deep dive into police forces and CPS response to RASSO, and presentation of the new National Operating Model. Although we again welcome the focus of this work, we do question the lack of join up between the police and CPS strands, the delays and under-resourcing of the CPS strand, and concerns on public transparency and the leadership and accountability for this work at senior Governmental level. EVAW and others did write to the Home Secretary in April 2022 asking to place these findings in the public domain for reasons of transparency and accountability, but they have neglected to do so to this point. We hope the committee has access to findings as part of this inquiry.

We are concerned by what often feels like a scattergun approach to the current crisis of the CJS in relation to VAWG; and note that ultimate accountability for the dire straits of policing sits with the Home Office, and in this vein argue it is essential to reflect on the real-life consequences of the political chaos and turmoil of recent years for survivors of violence against women and girls.

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