

# **NSPCC submission to the Stern Review of Rape Complaints**

## **Introduction**

The NSPCC is the UK's leading charity specialising in child protection and the prevention of cruelty to children. The NSPCC aims to end cruelty to children in the UK over future generations. In pursuit of our vision we will:

- create and deliver services for children which are innovative, distinctive and demonstrate how to enhance child protection most effectively;
- provide advice and support to ensure that every child is listened to and protected;
- provide advice and support to adults and professionals concerned about a child and if necessary take action to protect the child;
- work with organisations which work with children to ensure they effectively protect children and challenge those who do not;
- campaign for changes to legislation, policy and practice to ensure they best protect children;
- persuade everyone to take personal responsibility for preventing cruelty to children;
- inform and educate the public to change attitudes and behaviours towards children;
- use our statutory powers as necessary to protect children.

## **Summary**

In this submission we focus on three key issues concerning the sexual abuse of children and young people, much of which includes rape:

- The experiences of young witnesses, and the need to improve the support provide to them, which can assist in addressing issues of attrition in prosecuting child sexual abuse cases;
- the need for improved information gathering and record keeping in relation to sex offences against children, to provide an accurate picture of the extent of child sexual abuse and the ages of children affected; and
- the phenomenon of violence and exploitation in teenage intimate relationships, including rape, although children and young people themselves did not always describe it as such.

## 1. Young witness support services

It is an ordeal for a child who has suffered abuse to stand up publicly and give intimate details in front of strangers. By giving every child witness the best possible chance of telling what happened, crimes against children, young people and others are more likely to be prosecuted and criminals brought to justice. This will help to tackle attrition rates in such cases, which include cases of child sexual abuse and rape.

The NSPCC has been delivering young witness preparation and support services for over fifteen years. We currently have eight projects working with approximately 800 young witnesses each year<sup>1</sup>. The majority of young people are giving evidence in crown court trials relating to child abuse, but in some areas we also deliver a service where children are witnesses in magistrate court hearings and youth court trials. All our NSPCC Young Witness Services work closely with both local safeguarding children boards and local criminal justice boards to help develop and deliver services and share good practice. The NSPCC's experience of supporting young witnesses tells us that without support services there are significant impacts on the child, the offender and society as a whole.

Young witness support services aim to:

- Reduce the stress experienced by children and young people who may have to give evidence in court.
- Prevent further trauma that may be caused by their experience of the court and legal processes.
- Ensure, where possible, that the needs of young witnesses in general are given full and appropriate attention by the criminal justice system and professionals working in that system.

According to Crown Prosecution Service data obtained by the BBC, 47,817 children in the UK gave evidence in court in 2008-9<sup>2</sup>. For some, the unfamiliar court setting and complex procedures this involves are combined with the stress and trauma of facing their abuser. This can be increasingly distressing, as they also have to describe the personal details of abuse in front of strangers.

In its recent Concluding Observations on the UK's compliance with the UN Convention on the Rights of the Child, the UN Committee on the Rights of the Child called for the state party to "**Strengthen support for victims of**

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<sup>1</sup> During the last financial year (08-09) the NSPCC operated 6 projects dealing with Young Witness Support, of these 6 projects 872 children and young people directly received or benefited from the services provided. From 1st April 09 to 16th December 09 the NSPCC operates 8 projects dealing with Young Witness Support, of these 8 projects 727 children and young people have directly received or benefited from the services provided.

<sup>2</sup> <http://news.bbc.co.uk/1/hi/uk/8375293.stm>

***violence, abuse, neglect and maltreatment in order to ensure that they are not victimized once again during legal proceedings.***<sup>3</sup> [Our emphasis]

Our experience of working with children who have been abused informs us that the trauma in the aftermath of abuse goes far beyond the physical. Emotionally, these children are often tormented by their memories of abuse; changes in their behaviour can be indicative of internal anger and emotional upset, and this is often misunderstood by adults. In addition, we see children failing to achieve their potential and sometimes behaving anti-socially. Their concentration can be affected and children can fall behind in their school work. This leads not only to frustration on their part but also to challenges for those living and working with them and costs to the system which needs to provide additional resources to support children affected in this way.

Findings from the NSPCC's 2009 *Measuring Up?* research which looked at the experiences of young witnesses in criminal proceedings<sup>4</sup> reveal that there is still a significant gap between the vision of policy and practice in this area and the reality of many children's experiences. All 182 witnesses included in the research were called by the prosecution, 63 in relation to sexual offences. Overall, 67 per cent of the young witnesses interviewed for this research were themselves victims of crime.

The research found that - leaving aside young witnesses who gave evidence in the youth court, from which the public is excluded - 41 per cent of children who testified in sex offences cases or who had been intimidated appear to have been eligible for the Section 25 special measure (to exclude the public from the courtroom). However, this measure was used for only one child in the study.

Forty-five per cent of those who attended court in person saw the defendant in the building, or while entering or leaving. Only seven per cent of young witnesses in the study used a remote live link away from the trial court.

Overall, the research found that the experiences of young witnesses remain disappointing, especially in relation to:

- visually recorded statements: all young witnesses have a right to make a statement in the form of a video-recorded interview but only 55 per cent who gave evidence did so;
- assistance received before trial: 44 per cent of young people neither met a supporter before trial nor had a familiarisation visit to the court before the day of trial;
- standards of questioning at court: 65 per cent of young witnesses described problems of comprehension, due either to the complexity of

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<sup>3</sup> Paragraph 51 of Committee on the Rights of the Child Concluding Observations: United Kingdom of Great Britain and Northern Ireland. Available at:

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

<sup>4</sup> Plotnikoff, J. and Woolfson, R (2009) *Measuring up? Evaluating implementation of Government commitments to young witnesses in criminal proceedings*, NSPCC, available at: [http://www.nspcc.org.uk/Inform/research/Findings/measuring\\_up\\_wda66048.html](http://www.nspcc.org.uk/Inform/research/Findings/measuring_up_wda66048.html)

the questions, questions that were asked too fast, or having their answers talked over;

- emotional support for young witnesses while they give evidence: two-thirds of young witnesses were accompanied to the trial by someone they had not met before.

**More detail about their experiences can be found at Appendix 1.**

The report makes a number of detailed and important recommendations for strengthening the support provided to young witnesses, and providing services which help children and young people to give their best evidence. Recommendations focus on:

- offering support tailored to young witnesses' needs;
- ensuring appropriate questioning at court;
- avoiding delays in young witness cases;
- considering special measures, taking account of young witnesses' views;
- helping young witnesses feel safe;
- safeguarding young witnesses as a collective responsibility; and
- listening to young witnesses about their experiences.

**We attach a copy of the executive summary of the report, where these recommendations are set out in full. The report is also available from: [http://www.nspcc.org.uk/Inform/research/Findings/measuring\\_up\\_wda66048.html](http://www.nspcc.org.uk/Inform/research/Findings/measuring_up_wda66048.html).**

## **2. Information-gathering and record keeping in relation to sex offences against children:**

The NSPCC is calling on the Government to collect and publish annual data from police forces showing the number and ages of victims, and to clearly link this with the number of convictions, and other penalties, resulting from the recorded offences. This should be used to develop a more strategic response to the issue of sexual violence, including rape, against children.

In 2008 the NSPCC made a Freedom of Information request to each police force in England and Wales to elicit the following data:

- How many people were convicted or cautioned for committing a sex offence against an under-18-year-old by your police force last year?
- Can you supply a gender and exact age breakdown for these offenders?
- How many children (under 18) were victims of sex offences committed in your police force area last year?
- Can you please supply a gender and exact age breakdown for these victims?

A total of 42 out of 43 forces responded. Only Greater Manchester police force said they could not respond to the FOI request. However, not all police forces gave a specific age or gender breakdown. (Some only gave age ranges).

The statistics provided show that in 2007-08 there were 20,758 under-18s recorded by police as victims of sex crimes, including rape, gross indecency and incest. The number of offences recorded against girls was six times higher than the number against boys.

In nearly one in four cases (4,984) the victims were ten or younger. In more than one third of cases (7,622) victims were aged 13-15.

There were 859 offences involving children aged four and under. In 163 cases the victims were infants aged just one and two.

Just over 1,000 offences by young people were recorded.

The Home Office gathers data from police forces for its annual crime report, which shows there was a total of 53,540 for all sexual offences in 2007-08. However, this report only lists broad age ranges as defined by the recorded offence, such as 'sexual assault on a female child under 13', or 'sexual assault on a male aged 13 and over'.<sup>5</sup>

By mixing adult and children's statistics the Home Office reporting does not provide a clear picture of the number of child victims. Detailed age breakdowns of victims are collected by police but are not passed on to the Home Office.

### **Conclusion and recommendations**

These statistics will be an underestimate of the numbers of children who have been sexually abused because most children do not speak out about abuse and find it very difficult to seek help through social services and the police.<sup>6</sup> Clearly, very young children who are sexually abused cannot speak out.

This NSPCC investigation reveals how little scrutiny there is in relation to sexual violence against children. There is a need for much more comprehensive and systematic recording of information relating to sexual violence against children and in addition scrutiny of how crimes are recorded at the level of individual forces. These data should be routinely collected on annual basis. There is also a need for a proper investigation of what happens in specific cases to gain a better understanding of the process through from reporting to conviction. This would enable the weak points in the system to be examined and addressed accordingly.

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<sup>5</sup> Home Office Statistical Bulletin, Crime in England and Wales 2007-08.

<sup>6</sup> Three-quarters (72%) of sexually abused children did not tell anyone about the abuse at the time. 27% told someone later. Around a third (31%) still had not told anyone about their experience(s) by early adulthood. (Cawson et al., 2000, Child Maltreatment in the UK: A Study of the Prevalence of Child Abuse and Neglect, NSPCC, p.83)

The adult women's lobby has had some success in achieving a process like this in relation to rape against women through a joint ACPO /Home Office project which has undertaken an investigation of the high level of attrition in rape cases. However, despite requests from the NSPCC, this information has not been broken down or analysed in relation to children.

The NSPCC is calling on the UK Government to collect and publish annual data from police forces showing the number and ages of victims, and to clearly link this with the number of convictions, and other penalties, resulting from the recorded offences.

This data should be used as the basis of an improved national strategy to prevent abuse and develop local services.

Details of offenders and offences are kept by the forces but not all have statistics showing what happened after the crimes were reported.<sup>7</sup>

The statistics suggest a substantial number of child perpetrators among the offenders. The Government needs to improve its response to the issue of young people displaying sexually harmful behaviour. The NSPCC has for many years called for a child-centred response to such children and more consistent assessment and treatment of their behaviour. We are still awaiting a government strategy on this issue.

### **3. Partner exploitation and violence in teenage intimate relationships**

The NSPCC has recently published research commissioned from the University of Bristol into partner exploitation and violence in teenage intimate relationships.<sup>8</sup> This explored with young people their experiences of physical, emotional and sexual forms of violence in their partner relationships, including their coping strategies and views on intervention. A "partner" was defined in the research as any young person with whom they had been intimate; ranging from a serious long-term boyfriend or girlfriend, to a more casual partner or a one-off encounter. The more specific aims of the research included exploring:

- the nature, frequency and dynamics of different forms of partner violence;
- whether any groups were particularly vulnerable to becoming victims and/or assailants;
- wider social processes and structures which underpin such violence.

The study used a multi-method approach. A confidential survey was completed by 1,353 young people, between 13 and 17 years old, from eight

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<sup>7</sup> Similar issues exist in Northern Ireland, where the PSNI is similarly unable to disaggregate offences against children from all sex offences.

<sup>8</sup> Barter, Christine, and McCarry, Melanie, and Berridge, David, and Evans, Kathy (2009). *Partner exploitation and violence in teenage intimate relationships*. London, NSPCC.

schools in England, Scotland and Wales. In total, 91 in-depth interviews were undertaken with 62 girls and 29 boys. Careful consideration was paid to ethics and consent throughout the project. A young people's and an adult advisory group provided advice and consultation throughout the two-year project.

In talking of their experiences many young people described what would be understood as rape, although they did not always regard it as such themselves.

The survey findings clearly show that violence in young people's intimate relationships should be viewed as a significant child-welfare problem. The findings highlight a range of factors for prevention and intervention programmes. A central issue concerns gender. Compared to boys, girls reported greater incidence rates for all forms of violence. Girls also experienced violence more frequently and described a greater number of negative effects on their welfare. The research also found that younger participants (aged 13 to 15 years old) were as likely as older adolescents (aged 16 and over) to experience particular forms of violence. The majority of young people either told a friend about the violence or told no-one. Only a minority informed an adult.

Key findings with respect to sexual violence are:

- One in three girls and 16 per cent of boys reported some form of sexual partner violence, although some anomalies existed with regard to boys' responses, which may call into question the validity of some of the findings on male sexual victimisation;
- seventy per cent of girls and 13 per cent of boys stated that the sexual violence had negatively affected their welfare;
- the majority were single incidents. However, for a minority of young people, sexual violence was a more regular feature of their relationships.

### **Recommendations**

The report recommends the following, which are of particular relevance to the remit of the Review to 'explore public and professional attitudes to rape and how they impact on outcomes':

#### ***Impact of teenage partner violence – the gender divide***

The impact of partner violence is indisputably differentiated by gender; girl victims report much higher levels of negative impact than do boys. This is not to imply that boys' experiences of victimisation should be ignored. It may be that boys minimise the impact of the violence due to the need to portray a certain form of masculinity. However, although intervention programmes should ensure that the needs of both girls and boys are recognised, it is important that the wider experiences of girls remain a focus. In addition, boys' minimisation of their own use of violence – by dismissing it as "messaging around" and justifications based on mutual aggression – needs to be challenged.

### ***Older boyfriends***

Perhaps one of the most disconcerting findings concerned violence from older partners, and especially “much older” partners. The level of exploitation and violence in these relationships is so pronounced that it may be appropriate to consider any girl with “a much older” partner as a child in need. Guidance on this issue, such as that contained in *Working Together to Safeguard Children* (HM Government, 2006), needs to emphasise that, in professional assessments of harm, older partners – and especially “much older” partners – routinely represent a significant risk factor.

*The full report, and executive summary, can be accessed via the following link:*

[http://www.nspcc.org.uk/Inform/research/Findings/partner\\_exploitation\\_and\\_violence\\_wda68092.html](http://www.nspcc.org.uk/Inform/research/Findings/partner_exploitation_and_violence_wda68092.html)

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## Appendix One

### Key findings of the *Measuring Up?* research

#### *Treatment during trial*

Around half of the young people who gave evidence in this study did not understand some questions at court.

Sixty-five per cent experienced problems of comprehension, due either to the complexity of the questions, questions that were asked too fast or having their answers talked over. Young people in all age groups, including older teenagers, had such problems.

More than half of those with a problem did not tell the court, even though they had been advised they could do so.

Young people also reported problems with questions that came too fast; were repetitive; jumped around in time; focused on details that appeared to be unrelated to the substance of the case or which placed unrealistic demands on their memory; and which attempted to “put words in their mouth”.

Fifty-seven per cent said they were accused of lying, and most of them said this happened more than once.

Almost half of the children (all were prosecution witnesses) described defence lawyers as “sarcastic”, “rude”, “aggressive” or “cross”.

Eleven per cent of victims of sexual offences were asked to demonstrate intimate touching on their own body.

Judges and magistrates intervened in response to inappropriate questioning less often than when communication problems arose, according to young witnesses. They reported few such interventions by the prosecutor.

Young people appreciated personal introductions. While most were introduced to the prosecutor, few met the defence lawyer or the judge, district judge or magistrates.

Half of the young people had a familiarisation visit to the court before trial; most did not have the chance to practise speaking on the live link during this visit.

In the pre-trial period, 79 per cent of children felt anxious about giving evidence; 52 per cent experienced stress symptoms, and 20 per cent described themselves as intimidated by the defendant. Of those in full-time education, 38 per cent said their studies or attendance were affected (eight per cent dropped out altogether and two per cent changed schools due to intimidation).

While giving evidence, two-thirds described themselves as feeling upset, scared, shaky, sick, intimidated, annoyed, angry, tired, frustrated, under pressure or having fast heart beats.

According to their parents, 23 per cent of children had conditions including epilepsy, hearing or sight problems, learning difficulties, autistic spectrum disorders, ADHD, a short attention span or poor levels of speech.

Sixty-five per cent of children who gave evidence said they would be a witness again in future; 90 per cent of those willing to give evidence again had been thanked for being a witness.

### **Special Measures**

All young people under 17 are eligible to be considered for the intermediary special measure. In areas where the intermediary special measure was available, 70 per cent of children (74 out of 106) had problems with questions or underlying conditions potentially affecting their communication, which meant they may have benefited from assessment by an intermediary. Nevertheless, only one of these children was the subject of such an assessment.

Sixty-six per cent giving evidence by live link were accompanied by someone they had not met before.

Forty-five per cent who made a visually recorded statement saw it before the day of trial for the purpose of refreshing their memory. Crown Prosecution Service policy suggests that the pre-trial court visit is a good time to view the recording. Our study concludes this is not desirable because of time pressures and the risk of overloading the child.

Of the 55 per cent of children who watched their statement for the first time at trial, nearly three-quarters of them described the viewing as “upsetting”, “funny” or “strange”, or said that it was hard to concentrate, confirming that it is desirable for young witnesses to see their statement before it is used in evidence at trial.

Most were content with how they gave evidence, but nine per cent of those who used the live link and 40 per cent of those who testified in the courtroom did not want to give evidence this way. Among those who used the live link, several were unhappy about the defendant seeing them: for a few, the defendant’s screen was turned off or covered.

Forty per cent described problems caused by faulty live links, difficulties in playing visually recorded statements, or the lack of screens. Some gave evidence in court because the live link was not working.

Twelve per cent of those who used a live link saw the defendant on their TV screen and some reported seeing only part of the face of the questioner.