

## Response ID ANON-9H4B-UCSU-Q

Submitted to **Equally Safe: A consultation on legislation to improve forensic medical services for victims of rape and sexual assault**  
Submitted on **2019-05-08 14:26:30**

### Questions

**1 Should a specific statutory duty be conferred on Health Boards to provide forensic medical services to victims of rape and sexual assault, for people who have reported to the police as well as for those who have not?**

Yes

**Please provide reasons for your response in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider.:**

Yes, we support the provision of a specific statutory duty to be conferred on Health Boards to provide forensic medical services to victims of rape and sexual assault for people who have reported to the police as well as those that have not. This would offer a clear and structured, yet locally accessible, service for individuals at their most emotionally vulnerable period in a dignified and respectful manner.

**2 Do you have any views on how a legislative framework for the taking and retention of samples, personal data and other evidence in the case of police referral should operate?**

Yes

**Please provide reasons for your response in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider.:**

We would welcome a legislative system, which has an inherent principle-based approach to it. Any statutory provisions in this area should offer a balanced yet equitable service to both alleged victims and those accused of the offence, and capacity and consent should be an integral part of these legal provisions. Within the provisions, consideration must be given to protection of rights of all groups of people including children, individuals with additional support needs, older adults, and individuals with mental disorders and intellectual disability. A legislative framework would ensure appropriate streamlining of resource allocations and service provision across various parts of Scotland. This would also allow for strengthening of accountability and liability in personal data management and sample management.

**3 Do you have any views on how a legislative framework for the taking and retention of samples, personal data and other evidence in the case of self-referral should operate?**

Yes

**Please provide reasons for your response in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider.:**

Given the advancements in science and the increased prevalence of historical cases, we would welcome a legislative framework which promotes scientifically robust yet accessible sample collection, storage, analysis and disposal standards, which are future proof for a retrospective challenge.

**4 More generally, do you have any views on potential impacts of the proposals in the Chapters of this paper on data protection and privacy (the handling of personal data including "special category" data about health)?**

Yes

**If yes, please outline possible impacts in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider. :**

Given the very personal and sensitive nature of the data and information being handled, dignity, respect, privacy and data protection should form the integral part of the service standard and design being offered. This would allow services to promote and sustain public confidence in the system, and in consequence, we would hope the public would become more willing to access the services, when required.

**5 How might legislation help safeguard victims' rights to respect for their dignity?**

See below

**Please be as specific as you can and include any resources or references to evidence on this topic that we should consider.:**

Current provisions under the Criminal Procedure (Scotland) Act 1995 offer some statutory safeguards for victims. We believe that some of the most vulnerable periods for the alleged victims of a sexual assault are immediately after the incident, during reporting/evidence gathering, and during prosecution. Given the nature of the subject, when building a legislative framework, consideration should be given to what can be offered to victims by way of a gender, social and culturally sensitive safeguarding structure. Extending the existing resource provisions might not only be realistic and achievable but sustainable. For example, provision for Advocacy Workers, Key Workers and Appropriate Adults.

The preferred method of testimony of victims as witnesses in criminal proceedings should be pre-recorded video judicial examination. This would be particularly valuable to child and vulnerable adult victims. Mental health support should be at hand for victims who are witnesses at all stages of the criminal justice process. Health Board and Integrated Joint Boards (IJBs) should have a duty to provide appropriate mental health support for victims after conclusion of criminal proceedings and have a duty to provide evidence based accessible services for those who have experienced trauma.

**6 More generally, do you have any views on potential impacts of the proposals in the Chapters of this paper on human rights (including economic, social and cultural rights such as the right to the highest attainable standard of physical and mental health)?**

Yes

**If yes, please outline possible impacts in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider. For example, any particularly relevant general comments, recommendations or other guidance by treaty monitoring bodies on the interpretation and implementation of treaties – and any relevant international obligations not mentioned in this consultation paper.:**

The fundamental rights and freedoms that everyone in the UK is entitled to has clearly been set out under the provisions of The Human Rights Act 1998. Applying the United Nations Convention on the Rights of Persons with Disabilities would offer an additional layer of protection for the rights of persons with disabilities.

**7 Should special provisions be included in legislation to reflect the distinct position and needs of children and young people? Do you have any views on how such special provisions should operate?**

Yes

**Please provide reasons for your response in the box below and, if Yes, outline what special provisions might be required. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider.:**

In our view, 'special provision' should be included in the legislation, however, this should not be restricted to children and young people but must extend to wider vulnerable groups including (but not restricted to) individuals with additional support needs, older adults, and people with mental disorder and/or intellectual disabilities. The specialist knowledge which is being derived from the expertise of the taskforce for the improvement of services for adults and children who have experienced rape and sexual assault could offer additional insight into the fit-for-purpose nature of appropriate provisions.

**8 More generally, do you have any views on potential impacts of the proposals in the Chapters of this paper on children and young people including their human rights or wellbeing?**

No answer

**If yes, please outline possible impacts in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider. For example, any particularly relevant general comments or other publications by the International Committee on the Rights of the Child.:**

This has already been covered in our previous answers.

**9 Do you have any views on potential impacts of the proposals in this paper on equalities (the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation)?**

Yes

**If yes, please outline possible impacts in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider. :**

The public sector equality duty requires all Scottish public authorities to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations, which covers people in respect of all aspects of equality. Additionally, it is our view that the 'protected characteristics' should be applicable to both the accused and the alleged victim.

**10 Do you have any views on potential impacts of the proposals in this paper on socio-economic equality (the Fairer Scotland Duty)?**

No

**If yes, please outline possible impacts in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider. :**

**11 Do you have any views on potential impacts of the proposals in this paper on people in rural or island communities?**

Yes

**If yes, please outline possible impacts in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider. :**

A statutory responsibility under the provisions of a legislative framework would minimise the impact on people in rural or island communities.

**12 Do you have any views on the financial implications of the proposals in this consultation paper for NHS Scotland and other bodies?**

Yes

**If yes, please outline possible implications in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider.:**

We welcome the Scottish Government's recently announced funding commitment of £8.5 million over three years (financial years 2018-19 to 2020-21 including £2.25 million in financial year 2018-19 previously announced) to support Health Boards to improve healthcare facilities for forensic medical examinations. We would hope that Health Boards will share their experience in developing a model of care which would reach out to the widest community possible. In this regard, we also note that the CMO Taskforce has been tasked with working with Health Boards and wider Community Planning Partners to agree a preferred model for Scotland. From this, the taskforce will assess the resource implications required to meet the Healthcare Improvement Scotland National Standards in terms of premises, specialised equipment, and a skilled and competent workforce.

**13 Finally, do you have any other comments that have not been captured in the responses to the other questions you have provided?**

No answer

**If yes, please provide comments in the box below. Please be as specific as you can and include any resources or references to evidence on this topic that we should consider.:**

## **About you**

**What is your name?**

**Name:**

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**Email:**

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**Are you responding as an individual or an organisation?**

Organisation

**What is your organisation?**

**Organisation:**

Royal College of Psychiatrists in Scotland

**The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:**

Publish response only (without name)

**We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?**

Yes

## **Evaluation**

**Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)**

**Matrix 1 - How satisfied were you with this consultation?:**

Neither satisfied nor dissatisfied

**Please enter comments here.:**

**Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:**

Neither satisfied nor dissatisfied

**Please enter comments here.:**