

**The Royal College of Psychiatrists in Scotland  
Response to the Scottish Parliament Health and Sport Committee's call  
for views on the Forensic Medical Services (Victims of Sexual Offences)  
(Scotland) Bill  
29<sup>th</sup> January 2020**

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.

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.

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.

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.

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.

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, providing the implementation of UNCRPD is done in a workable approach to Scots law and the current provisions.

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.

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.

A statutory responsibility under the provisions of a legislative framework would minimize the impact on people in rural or island communities as geographical location should not impact on a person's care.

We welcome the Scottish Government's previous 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.