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JiCSAV
Justice in COVID-19 for
Sexual Abuse and Violence

Justice in Covid-19 for Sexual Abuse and Violence

Impacts of the Covid-19 pandemic on criminal justice
journeys of adult and child survivors of sexual abuse,
rape and sexual assault

Project Report
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Individual stakeholder reports can be accessed [here](#)

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Abbreviations and terminology



ABE	Achieving Best Evidence
CCTV	Closed-Circuit Television
CEO	Chief Executive Officer
CHISVA	Children's Independent Sexual Violence Advisor
CID	Criminal Investigation Department
CJS	Criminal Justice System
CPS	Crown Prosecution Service
CVP	Cloud Video Platform
DCI	Detective Chief Inspector
FME	Forensic Medical Examination
FNE	Forensic Nurse Examiner
HMCTS	Her Majesty's Courts and Tribunals Service
ISVA	Independent Sexual Violence Advisor
IT	Information Technology
JiCSAV	Justice in Covid-19 for Sexual Abuse and Violence
LGBT	Lesbian, Gay, Bisexual and Transgender
OIC	Officer-in-Charge
PPE	Personal Protective Equipment
RASSO	Rape and Serious Sexual Offences
s.28	Section 28 of the Youth Justice and Criminal Evidence Act 1999
SARC	Sexual Assault Referral Centre
SOIT	Sexual Offences Investigation Trained

A note on terminology

We refer to any person in the research who has experienced sexual violence or abuse as a 'survivor' of abuse. This term is used as a shorthand with full understanding that not everyone who is a victim-survivor of sexual violence and abuse recognises or would describe themselves in this way. We sometimes use 'victim', especially if the term has been selected by the interviewee themselves. 'Complainant' is sometimes used by (legal) professionals in discussing people's criminal justice journeys, whilst 'client' and 'service user' are used in some instances when referring to statutory and third sector services. We have not used participants' actual names, but have instead use pseudonyms to refer to the survivors and family members who took part in our research. When referring to professionals, we provide a description of their main role or job title, but only in a way which ensures they are not identifiable.

Executive summary



Background

The Covid-19 pandemic presented significant challenges for the criminal justice system (CJS) in the investigation and administration of justice in sexual offences cases. All elements of the CJS were impacted, from the police through to the courts and judiciary. The pandemic also deepened systemic issues and many of the associated difficulties for complainants and survivors of sexual violence and abuse pursuing justice. We present findings from interviews with 109 stakeholders about impacts and innovations arising from the pandemic.

Key findings – Impacts of the Covid-19 pandemic

Sexual violence and abuse continued to impact the lives of individuals, families, and communities throughout the pandemic period. Abuse was most commonly perpetrated in home settings or in technology-facilitated environments. Abuse that occurred during non-adherence to lockdown rules was associated with particular difficulties for victims, who feared that reporting to the police may lead to penalties. Domestic violence and abuse was not only more prevalent but increased in severity. Children, young people and vulnerable adults at risk of abuse in the home faced increased risk due to lack of external contact and opportunities for abuse to be noticed, disclosed and safely responded to.

One of the most significant impacts of the pandemic, associated lockdowns and protective measures was the lack of progression of new and existing sexual offences cases. Delays built up across all aspects of the justice journey. These delays had significant impacts on the mental health and wellbeing of survivors and their supporters.

Covid-19 protective measures disrupted clinical and forensic care, as well as CJS procedures and settings, including Achieving Best Evidence (ABE) interviews, courtrooms, and the enactment of special measures.

Public and third sector workforces faced significant challenges: workloads grew in response to slower progression of cases; staff were in short supply; and recruitment was difficult. The move to remote working blurred work-life boundaries and reduced elements of workplace support, both of which are particularly important given the nature of this work.

Key findings – Innovation arising from the Covid-19 pandemic

Pace of change was accelerated across the CJS regarding sexual offences cases.

Digitisation of communication enhanced inter-agency collaboration, allowed equity of representation across organisations, and enabled new efficiencies. Video-conferencing software improved liaison and quality of communication with complainants and between CJS agencies. The Cloud Video Platform (CVP) within the courts enhanced remote hearings. Digitisation extended the reach of, and access to, training and staff development.

New interfaces for survivors accessing clinical and therapeutic care emerged, which promoted survivor choice – including more flexible care at Sexual Assault Referral Centres (SARCs), online advocacy and counselling via video-conferencing, online play therapy for children, and ‘walk and talk’ therapy.

Courtrooms were re-imagined with the introduction of the Nightingale Courts in various types of buildings, including sport stadiums, hotels, and theatres.

Notwithstanding the above, issues such as digital poverty (e.g. levels of skills/education; economic poverty and access to/stability of networks), privacy concerns, and domestic violence and abuse impinged on people's capacities to benefit from new practices. Mechanisms to support vulnerable witnesses were often incompatible with social distancing measures. Several areas of pandemic-inspired innovation require further development and evaluation to ensure their viability longer-term.

Implications for complainants and survivors in sexual offences cases

Our research highlights persistent difficulties facing complainants in sexual offences cases. Many difficulties relate to their navigation of, and treatment within, the complex ecosystem of the CJS, and may benefit from new practices highlighted in this report. Concerns raised by participants in the study were less about procedural problems, but instead reflected a lack of empathy and respect shown to complainants and families along their justice journey. Participants all too commonly referred to the journey after reporting their abuse/assault as more traumatic than the abuse itself. Professional participants were unanimous in their call to go further in embedding trauma-informed values and practice across the investigative, prosecutorial, and trial process. Whilst addressing systemic problems will require additional resources and investment, participants in our research have highlighted that respectful, empathic communication goes a long way in enabling complainants and survivors to be resilient through their justice journey and beyond.

Click [here](#) for the recommendations arising from this research.



1. Introduction



Over 150,000 sexual offences against people aged 16 years and above were recorded by police in the year ending March 2020 (ONS, 2020). There was a 9% decrease recorded in the subsequent 12 months to March 2021, driven by a significant decrease (20%) in recorded sexual offences between April and June 2020, the period of the first Covid-19 lockdown (ONS, 2021a). The numbers of recorded offences in subsequent quarters for that year were similar to their respective periods in the previous year (ONS, 2021a). However, there has been a substantial increase in recorded sexual offences since March 2021, with sexual offences recorded by the police at the highest level in a 12-month period (183,587 offences) for the year ending December 2021 (ONS, 2021b). This represents a 22% increase compared to the year ending December 2020 (ONS, 2021b).

There are indications that lockdown increased some sexual offences (e.g. online-facilitated abuse, sexual abuse within home/family settings) and decreased others (e.g. assaults by strangers/peers). For example, in 2020/21, there was a significant fall in the recorded number of child sexual offences committed by a person in a position of trust, but a significant increase in child sexual abuse image offences, with 2020/21 seeing the largest single-year increase (18%) since 2003/04 (Karsna, 2022).

Prior to the Covid-19 pandemic, there were significant challenges for the investigation and prosecution of sexual offences. This includes increased complexity in cases (ONS, 2018), delays, and variation in adherence to the Victims' Code, such as, poor communication across all stages of complainants' journeys (Criminal Justice

Joint Inspection, 2021, 2022; HM Government, 2021). A widespread and strongly held view of complainants was that they were the ones whose credibility was being investigated, rather than the focus being on the credibility and behaviour of the accused. (Criminal Justice Joint Inspection, 2022). Attrition by complainants from the criminal justice process is high, and prosecution and conviction rates are extremely low; for example, since 2014, rates of referral have been dwindling both at police and Crown Prosecution Service (CPS) stage with a 27% and 51% reduction in referrals respectively (Home Affairs Committee, 2021). Over the past four years, rape prosecutions in England and Wales have fallen by 70% (Home Affairs Committee, 2021) and over the past seven years, there has been a sharp decline in the proportion of child sexual abuse offence investigations ending in a charge, from 32% in 2014/15 to just 10% in 2018/19, before a slight increase to 12% in 2021/22 (Karsna, 2022). Public confidence in the criminal justice system's (CJS) ability to respond to rape could be at its lowest point (Home Affairs Committee, 2022).

The Covid-19 pandemic has led to widespread, rapid change in criminal justice responses to sexual offences cases, accelerating anticipated changes and prompting others. Alongside the more well-known impacts of Covid-19 such as the pausing and then remote resumption of jury trials, other significant changes included: the use of self-taken home forensic samples following rape or sexual assault; greater use of telephone or virtual consultations by SARC staff and support services; and the introduction of the CVP within the courts enabling all parties in a criminal hearing to engage

securely and remotely. This is not an exhaustive list and the period following the start of the first lockdown (in March 2020) saw unprecedented levels of innovation and changes in policies, practices, and procedures. The impacts of responses to the pandemic were felt by complainants as well as criminal justice practitioners and support agencies, from reporting through to trials in the courts and sentencing. This research project aimed to bring together a range of disciplinary perspectives and insights across survivor and stakeholder communities, to not only document innovations and change, but also to explore their impacts upon different stakeholders and survivors engaging with the CJS.

Over the course of this research project, other reviews captured the impact of Covid-19 for individual criminal justice agencies (e.g. Justice Select Committee, 2021; HM Crown Prosecution Service Inspectorate, 2020, 2021). These showed that the Covid-19 pandemic had presented an unprecedented challenge that “had a detrimental impact on the flow of cases through the courts” (Justice Select Committee, 2021, p.35), quickly resulting in an escalating backlog of cases (HM Crown Prosecution Service Inspectorate, 2020, 2021), and that it “may take several years before the backlogs ... return to pre-pandemic levels” (Justice Select Committee, 2021, p. 35). Research was also conducted into services that support survivors of abuse. These highlighted the rise in the number of referrals that services received, despite the increased barriers that victims and survivors faced in accessing services and longer waiting lists, as well as documenting changes to practices, e.g. self-taken forensic samples and greater online/virtual communication and support (Johnson et al., 2020; The Survivors' Trust, 2020). However, to-date there has been no review of the impact of Covid-19 on the whole criminal justice process, nor into the impact on journeys for survivors of sexual harms, from disclosure and reporting, to investigation, evidence-giving, trial, case disposal, and support across the journey.

In 2021, the Justice Select Committee called for an evaluation of “both the practical and qualitative effects of the changes carried out at pace in response to the Covid-19 pandemic” (p.5). This project aimed to respond to that call and provide unique insights into the experiences of survivors engaging with the CJS during the pandemic and the professionals working with them. Drawing on the perspectives and experiences of CJS stakeholders, including complainants and families, police, the CPS, criminal barristers, the Judiciary, SARCs, Independent

Sexual Violence Advisors (ISVAs), and third sector services, this research provides unique insights into the impact of the Covid-19 pandemic on the criminal justice system in sexual offences cases. Changes to procedures precipitated by the pandemic might offer longer-term benefits for survivors and stakeholders and we aimed to identify these and promote their implementation.

Project objectives

- Gather and synthesise the perspectives and experiences of criminal justice stakeholders, including survivors and family members, regarding the impacts of the Covid-19 pandemic on policies and practices in relation to sexual offences cases progressing through the CJS during the pandemic
- Identify how these perspectives varied by setting and stakeholder group
- Provide recommendations in the sphere of sexual offences and the CJS in England and Wales to inform future policies and practices and pandemic preparedness.

This research project aimed to bring together a range of disciplinary perspectives and insights across survivor and stakeholder communities, to not only document innovations and change, but also to explore their impacts upon different stakeholders and survivors engaging with the criminal justice system.

2. What we did

2.1 Data collection

2.1.1 Interviews

We conducted in-depth semi-structured interviews with survivors and their families, as well as with practitioners representing key CJS stakeholder groups from a range of geographical locations across England and Wales between May 2021 and May 2022. We focused on their experiences since the first lockdown came into force on the 23rd March 2020, and captured the evolution in practices that occurred, including during the winter lockdowns. Individuals were approached through a range of avenues, including via our partners and advisory group members, existing links with survivor and professional organisations and networks, and social media.

The study engaged 108 individuals across 7 stakeholder groups (see Appendix for more information):

- 19 survivors/family members
- 20 third sector professionals and ISVAs
- 14 professionals from Sexual Assault Referral Centres (SARCs)
- 21 police officers
- 9 CPS professionals working within RASSO units
- 6 criminal barristers who were RASSO prosecutors
- 19 judges holding authorisation to hear serious sexual offences cases

Survivors of sexual violence and abuse, and their family members (including parents/guardians of children and young people) were invited to talk about their involvement in any part of the criminal justice process during the Covid-19 pandemic. This could include reporting the offence, forensic medical examination, ISVA support, the Achieving Best Evidence (ABE) interview, CPS charging decisions, and experiences of the trial and post-trial context. Whilst we were particularly concerned with their experiences during the pandemic, we appreciated that

some aspects of their case may have occurred earlier, and so individuals were free to tell us about these if they felt comfortable. At the time of the research, 13 of the 19 survivor participants had exited the criminal justice process and were reflecting back on their experience as complainants. Participants from the third sector, ISVAs, SARCs, police, Criminal Bar, CPS, and Judiciary were invited to share their professional experiences of how the Covid-19 pandemic had impacted the progression of, and responses to, sexual offences cases within the CJS.

2.1.2 Workshops

In addition to the interviews, we held six workshops over the duration of the project to engage relevant CJS stakeholders and those from allied agencies, project partners, and our advisory group. In total, over 150 individuals attended these workshops, where we shared emergent findings and promoted rapid knowledge exchange with stakeholders. Workshops also informed further data collection/analysis and assisted with the timely framing of initial policy and practice recommendations.

2.2 Ethical considerations

Protecting the wellbeing of both research participants and researchers was a central consideration. Ethical approvals were gained at the following universities: Coventry, Lancaster, Leicester, and Warwick. Formal permission for judicial involvement in the project was obtained from the Judicial Office. CPS involvement in the project was formally approved by CPS Head Quarters. The Charter for Engaging Survivors in Research (2018) was used to inform our ethical approach and work. To ensure informed consent, all participants were provided with a detailed information sheet prior to interview, outlining the research project and its aims, and explaining the interview process. Interviews were conducted mainly through videoconferencing, recorded, transcribed verbatim, and de-identified in preparation for analysis. Audio files were deleted once transcribed and all electronic documents were password protected. It was made clear to all participants that they did not need to answer any questions that they were uncomfortable with, and that they could end the interview at any time. Survivors and family members were provided with details of support services that they could access both prior to and following their interviews. As a thank you for their time, survivors and family members received a £20 shopping voucher.

2.3 Involvement of individuals with lived experience of sexual violence and abuse

The JiCSAV project strived to be survivor-focused and to adhere to trauma-informed research practice. Survivors have been involved as both research participants, providing their experiences as data to be analysed, as well as in the research process itself.

In reflecting on the quality of survivor involvement in the project, we used the Survivors' Voices Research Involvement Ladder (Chevous & Perôt, 2019; Kennedy, Bewley, Chevous, Perôt, Vigneri & Bacchus, 2022), which has been designed to evaluate the quality of survivor involvement in research about survivors of abuse across: 'research activity'; 'planning and decision-making'; 'researchers'; 'data'; 'analysis'; 'dissemination'; and 'accessibility'. In applying this evaluation tool to the project, the score obtained for degree of survivor involvement was 20 of a possible 35 where the level achieved by the research sat between 'survivors as advisors' and 'survivors as co-producers.' This score was established based on a reflective process with six project team members at the end of the study and reflects the fact that the highest score possible would not have been achieved due to the inherent design of the study not being survivor-led in nature.

The research drew on survivor-centred guidance including the Survivors' Voices Charter (Perôt, Chevous, Survivors Voices Research Group, 2018). Our positive steps included active engagement of specialist (third sector) sexual assault and abuse services as partners and members of the advisory group, from project inception through to dissemination. We centred complainant and survivor voices during each of the stakeholder workshops, during which survivor voice was intentionally engaged through the participation of survivors and the sharing of key findings using survivor-focused cases studies. Findings and reports are also shared with each survivor and family member who participated. The leadership research team included an individual with lived experience who was involved in research design, all of the workshops and in aspects of the analysis, production of final report and several of the research briefings.

We ensured staff were prepared to undertake interviews with appropriate guidance and support and most survivor/complainant interviewees were referred to the research through current or former support workers. Each survivor

participant's sense of safety to take part and support available to them were checked. Resources were signposted in both the study documentation and in-person as the need arose. We had no noticeable adverse events reported at the time of interviews or in the follow-up with interviewees afterwards, when interviewers explored how participants found the process. Some survivors and family members described the healing effects of giving testimony as part of the research, relative to the distress associated with providing testimony in the criminal justice context. Further, as a result of their positive experience of participating in JiCSAV, two men went on to inform and shape, for the first time, other funded projects in the field.

Our reflective session led us to conclude that the team could have gone further to increase survivor involvement in the research process, and to engage and centre survivor experiences, the starkest example of this being the absence of a survivor/service user focused 'stakeholder' workshop as part of the data collection/analysis within the life of the project. We acknowledge these gaps and simultaneously draw attention to the tensions that can present themselves in respect of authentic co-production in a context of 'rapid' research within academia, as was the orientation of this research call, and other constraints facing survivor-researchers who are often engaging in the research process from outside the academic sphere.

To this end, we have made recommendations (Section 4) about how research teams and funders can advance meaningful and effective survivor involvement in research about sexual violence and abuse.

2.4 Analysis

Thematic analysis (Braun & Clarke, 2021) was used to identify patterns across the data using both inductive and deductive approaches. Research team members responsible for data collection with each participant group led the data analysis for that group, collaborating in the coding process with a research associate. The research associate supported the analysis of data across all participant groups to facilitate the identification of patterns and to ensure consistency and quality of data analysis. Key themes from participant groups informed the workshops held during the project and the thematic frameworks were refined in line with the data gathered

and discussions held during these workshops. Reviews of these findings were undertaken to further quality-check findings and recommendations.

A synthesis of the findings across the participant groups was developed through a research team workshop held prior to the final workshop. This used an integrative approach (Clarke & Wallace, 2015) of 'connecting the dots' between the data, to bind this together to provide a holistic view of the experiences of survivors engaging with the CJS during the pandemic and the professionals working with them.

2.5 Early knowledge exchange activities

The research produced six evidence briefings with key findings tailored to different stakeholder groups. These were distributed to and by project partners, the advisory group, CJS stakeholders, policy-makers, and social media, and can be accessed on our [website](#). As part of longer-term impact planning, the team intends to hold a lived experience/survivor-centred event in 2023. Additional knowledge exchange activities included:

- Invited contribution to *Inside Government Blog* sharing research findings, 'Justice for sexual violence survivors during the Covid-19 pandemic' (July 2021)
- Sharing research findings with over 50 Ministry of Justice policymakers as part of their Areas of Research Interest Seminar Series (February 2022)
- Publication of an article in *Frontiers of Socio-legal Studies* 'Pivoting through a pandemic: learning from criminal justice responses to sexual abuse' (8th March 2022) as part of the Centre for Socio-Legal Studies' International Women's Day 2022 Special Series
- Submission and acceptance of written evidence to the Home Affairs Committee Inquiry into the Investigation and Prosecution of Rape (2021), leading to multiple citations in the Home Affairs Committee Investigation and Prosecution of Rape Report (published 12th April 2022)
- Invited presentation sharing research findings at St Mary's SARC 19th Annual Conference 2022 (April 2022)
- Presenting findings to the National Rape Working Group (April 2022)
- Invited to be a panel contributor at Beyond Therapy-Festival of Activism Against Child Sexual Abuse (May 2022).

3. Research findings

3.1 Structure of the findings

Our findings are framed according to two overarching questions. The first question focused on identifying ways in which the pandemic produced new needs, or exacerbated existing needs (we refer to this in the diagram below as 'impacts' of the pandemic). The second set of findings addresses the innovations identified through the research that may have relevance beyond the pandemic (referred to as 'innovations' in the diagram). A final section to our findings concerns tensions that related to those innovations e.g. who they may have excluded (not depicted in the diagram).

The major themes related to impact and innovations are presented below:



3.2 Findings I – In what ways did the pandemic produce new needs, or exacerbate existing needs?

3.2.1 Shifting context of sexual violence and abuse: cases, complainants, and help-seeking

Throughout history, periods of social and economic upheaval and major events, such as natural disasters, war and conflict, have exacerbated, produced and altered the nature of abuse and violence. Our research underscored the relentless nature of sexual violence and abuse as witnessed in the context of the pandemic.

“Almost like a virus, sexual violence adapted to its new conditions.” (DCI)

Cases arising from the night-time economy dropped sharply during lockdowns, reducing the numbers of people reporting sexual assaults and presenting for assistance and support within this context. However, many professionals observed:

“It’s not the case that sexual assaults stopped happening in Covid, it’s just we didn’t hear about it.” (Clinical Lead)

Our findings mirror wider reports nationally of spikes in domestic violence and abuse, and in particular pointing to the severity of domestic violence and abuse incidents and the sexual violence that occurred in that context.

“The level of [domestic] violence we were seeing was off the scale. We’ve seen things this year that we haven’t seen in the time we’ve opened, in terms of how violently our clients have been assaulted by their partners. It was another level, and that really impacted staff.” (SARC Manager)

With the assistance of an interpreter, we interviewed a South Asian woman about her experience of both domestic and sexual violence and abuse during the pandemic. She had been on a spousal visa at the time and talked about the escalation in violence and limited opportunities to escape.

“My daughter had a really rough time. She was trying to study but couldn’t focus because all the time there was fighting, because my husband was at home all the time. If I have something happen to

me, what will happen to my daughter? We were not allowed any internet [to access school online]. We were so isolated. We used to go to [major supermarket] and download the [homework] before we went back home.” (Ankita)

Aside from sexual violence occurring within the context of domestic violence and abuse, participants referred to the use of dating apps leading to sexual assaults, with many such incidents going unreported to the police due to survivors’ concerns about breaking lockdown rules. Technology-facilitated abuse also targeted children and young people at home.

“People who groom children have really taken advantage of the online presence, that there is at the moment, for connection. There’s been a lot of referrals for people aged 13 to 18 who have maybe met someone ... on Snapchat and then they can’t go anywhere safe ... somewhere that’s like public where there’s going to be lots of people because everybody’s at home.” (CHISVA)

Other settings where participants referred to occurrences of sexual violence and abuse were care homes and institutional settings, but by far the most impacted environment throughout the pandemic was home and family settings. These environments where people were forced to spend the majority of their time exacerbated their risk (e.g. increased proximity to abusers, lack of exposure to bystanders/potential helpers). Similarly, personal characteristics and circumstances interacted with risk. Vulnerable people being cut off from their usual formal and informal support networks was associated with abuse. This particularly encompassed those with high mental health needs and learning difficulties, as well as children and young people, with many of the structures that promoted safety being stripped away for these individuals – for example, schools, peer networks, family networks, community activities, and voluntary and paid work settings. This was reflected in an influx of safeguarding needs into SARC, third sector, and ISVA services.

“We’ve had a massive increase in safeguarding referrals ... it’s just absolutely massive. We’ve actually trained more safeguarding leads to deal with the influx, and it’s especially around self-harm and suicide. I think that young people are isolated. You know if they’re already feeling isolated, Covid just increases that ten-fold.” (CHISVA)

The research also showed how the pandemic interacted with survivors' decision-making and capacity to seek help from police and therapeutic services. As pointed out above, for people living with perpetrators, lockdowns made it increasingly difficult to reach out for help. However, there was also an increase in reporting noted by those who had experienced non-recent abuse and for male survivors. Third sector professionals stated help-seeking had increased in these groups during the pandemic, triggered for some by the ways lockdowns reproduced the entrapment of past abuse and, for others, because time and space allowed people to process past traumas, encouraging them to seek help.

"[People were] ready to refer themselves because they've had so much time through the pandemic and through the lockdown to just sort of sit and realise that they are suffering, they're suffering in silence and they've suffered for a long time."
(Trauma Therapist)

It became clear that people's help-seeking could be discouraged or made more distressing by the increased impersonal nature of interactions, the PPE, and distance enforced between people. As alluded to above, some decisions not to seek help were affected by sexual assault occurring with the breaking of lockdown rules, and interviewees in the third sector and SARCs linked the observed surge in self-referrals with a reluctance to report to the police. Finally, usual opportunities for professional referral may have reduced in response to the increased inaccessibility of services in primary care, sexual health, other health providers and education settings.

"The survivors, you know, if you're living in lockdown on your own or in a hostile situation or not a nice family environment then, you're possibly more vulnerable than pre-Covid in terms of you might've had a school or a college or a university, all your peers and stuff, but there was none of that, so it felt like a lot of people, were literally isolated in terms of their own process with life."
(Crisis Worker)

3.2.2 Delays across the criminal justice journey: professional perspectives

CASE STUDY 1

Contextualising delays in the criminal justice system

Sophie was 29 years old and one month before the first national lockdown in 2020 she experienced sexual abuse by a close family friend. She reported this to the police the same day. Sophie experienced a range of delays during the police investigation and the court process, which impacted her and her family. Sophie hoped her counselling would continue until just after the trial took place, allowing her the support of her counsellor throughout the process. However, due to multiple delays to the trial date, her counselling sessions concluded months before the trial took place. Sophie was told about the delays at short notice and "I didn't get a reason, I just got told it had been put back... I think it got postponed about four times."

With multiple delays to her trial date, Sophie prepared herself each time to attend court and "by the time it actually happened I became quite dispassionate about the whole thing; I couldn't muster the energy...you don't want to invest yourself emotionally because you don't want to hurt again."

Although Sophie wanted family members to attend court with her, the recurring delays meant family could not continuously take time off work, "...by this point I'd given up on asking my family to take time off work. I was quite lucky in that my work were quite good so I'd booked all the time off and then they just let me unbook it off... but my step-dad who was going to drive us up there, like he couldn't unbook his time off work, neither could my brothers."

Professionals across all stakeholder groups shared that Covid-19 exacerbated and amplified pre-existing issues, delays, and backlogs across the CJS. Participants frequently identified underfunding as a major problem, for example, insufficient resources within police and CPS teams dealing with increasing numbers of sexual offences cases, and a shortage of judges and barristers.

“The chickens are coming home to roost, aren’t they? They’ve underfunded every aspect of the criminal justice system, for years and years and years, which meant that, when the crisis came, we were less well equipped to deal with it.”
(Circuit Judge)

Investigation

Participants recognised the increased pressures and challenges experienced by police investigating RASSO cases. Accessing external records and evidence (e.g. social services, GP, school records, CCTV) took longer; ABE interviews were paused in some forces; intermediaries and interpreters for interviewing complainants were harder to organise; investigations involving elderly defendants/witnesses (e.g. in cases of non-recent abuse) faced greater risks, and prisons stopped police officers from accessing defendants for interviews.

“So we did have a suspect that we needed to go and interview in prison and initially they said no, they weren’t allowing anyone into the prison. So that then caused a delay in our investigations, we haven’t been able to progress it, because we can’t go and do the interview.”
(Detective Sergeant)

Some police colleagues also explained how the investigation of historic cases was put on hold at the beginning of the pandemic, with live cases prioritised in order to manage the number of cases in a context of restricted resources. This was also reported by third sector services.

“When Covid happened ... [clients were told] okay the police are pretty much stopping all of the video interviews ... like the historic reports were pretty much put on hold completely.”
(Support Service Manager)

Delays in court processes also impacted on police officers who maintained contact with complainants for longer periods of time. Police officers talked in particular about having to have challenging conversations with survivors regarding the delays they were experiencing and the impact that this had on survivors.

ISVA care and other third sector services

Increased demands on services meant that some organisations had to actively manage support being offered.

“We’re holding on to our cases for longer, so our case lists and case numbers are going to go further and further up to the point where we’re actually having to consider whether we’ll employ a waiting list, and we never have done before.”
(Senior ISVA)

Delays in the CJS process also directly impacted third sector organisations, with them needing to support complainants for longer periods of time.

“The criminal justice system has slowed down so dramatically, where we may have worked with people in a worst-case scenario for three years, we’re now looking at six years.” (Specialist ISVA)

Trial processes and outcomes

Concerns were raised by both CPS and judicial interviewees that the increased delays within the CJS encouraged defendants to plead ‘not guilty’ prior to trial, especially if they believed that there was potential for the complainant(s) to withdraw from the case.

“As a consequence of Covid and as a consequence of them knowing that they’re not going to be tried for a very long time and, by the time they are, the complainant might have given up ... they’re waiting until the day of the trial before they finally think, that’s the end of the road and put their hands up.”
(Circuit Judge)

At the beginning of the pandemic, Crown Courts were closed to the public, and jury trials were suspended for several months. When Crown Courts reopened and trials recommenced, the Covid-secure measures that were implemented caused continued delays to the trial

process. For example, multiple courtrooms had to be used in some court buildings initially to conduct one trial, reducing the capacities of listings and buildings. The ways social distancing measures affected physical aspects of the courtroom are addressed in Section 3.2.4, but professionals also reflected on how the measures affected jury processes.

“Case progression, a huge effect because whereas you could swear in a jury in a normal trial, you would swear them in, in about 15 to 20 minutes. It was taking five times as long because they would have to come into court in dribs and drabs.” (Barrister)

Judges, barristers, and CPS lawyers reported being involved in cases affected by Covid-19 infections, with cases being adjourned, or abandoned and re-listed, due to ill-health or isolation of trial participants. Occasionally, trials continued with fewer jurors, or with witnesses or counsel appearing via CVP.

“I had another trial which had to be called off because the jury got Covid. Then another trial – it wasn’t the jury that got Covid, it was a close relative who suddenly became ill – and the jury, you know, all got nervous because they thought they were going to get Covid. And that’s been a problem.” (Senior Crown Prosecutor)

Covid-secure measures and delays associated with Covid-19 sickness exacerbated existing listing issues within the courts. Participants reported cases being listed into 2023, whilst others were being ‘pulled’ at the last minute, and some cases were yet to be listed at all.

“Listing was a problem pre the pandemic, but the pandemic has only made the situation worse. Initially when courts opened back up, it was absolutely horrific; we had very highly distressed victims wanting to know what was happening with their cases. We could give them very little information because there wasn’t much at that time.” (Senior District Crown Prosecutor and Head of CPS RASSO Unit)

The following quote from a police officer illustrates the severity of these delays.

“A case was listed for the Monday morning. The victims were told, on the Friday, to come in at 2pm on the Monday. Monday morning, it’s been adjourned until next May. So, you’ve got two victims that have not slept all weekend. [The offence] happened in 2018 and now it’s not been adjourned for a week or a few days, it’s ‘til May 2022.” (Detective Sergeant)

3.2.3 Impacts of stagnation of cases on complainants and survivors

Professionals and survivors identified how delays at any stage of the CJS had significant impacts on survivors’ mental health. Lack of progress in cases of historic abuse was associated with concerns that elderly defendants and witnesses may not live long enough to see the case through to an outcome. The prioritisation of cases of recent over non-recent (child sexual abuse) cases was distressing for complainants. Referring to this approach to investigation during the pandemic, a survivor commented:

“My ISVA was at a bit of a loss as to why third party statements haven’t been investigated ... it felt like because my case is difficult – it’s a cold case, it’s historical – it is a difficult to prove case, and I knew that from going into this, but it really felt like they would just kick this into the long grass ... it really made me feel like, it was kind of like, it was parallel to the abuse again ...and my mental health suffered quite badly.” (Noel)

The process of preparing for trial is highly emotionally demanding for a complainant and often involves investment from family members and friends, as well as practical considerations related to work and caring responsibilities. Participants spoke of the distress associated with trials being postponed, often only days or even hours beforehand.

“The build-up for our clients of going to court, you know, the work that’s put in and the, the trauma that they have to face to get to that point... to be let down is really hard for us to manage as a service, but obviously the massive impact on those clients.” (Senior CHISVA)

From a survivor's perspective, this was expressed as:

"I was there until really late. I was there, half two they told me, 'oh, by the way, it's not going ahead today' and I'd worked myself up, I'd watched my tapes. I'd spent that time in court watching my tapes. It was literally like a stab in the heart to then be told 'actually, it's not going ahead today', and I dunno, it was horrible." (Maeve)

The knock-on issue of being exposed to evidence each time complainants prepared for court was commonly identified.

"Before the court case it was a stipulation that I needed to re-watch the video...because of course each time I had to watch that video [ABE interview] again...in the end I ended up watching them six times". (Shauna)

Family members also spoke of the poor communication they experienced on the day the trial was intended to take place.

"It was like the day that [defendant] hadn't turned up ... we could hear his name being called on the like tannoy in the court building and it was called twice, so we were sat there saying, he's not turned up has he, he's not turned up and the next thing we know, the police officer is running around...and you don't actually get told... it just didn't start and there was no explanation." (Helen)

Disruptions to court dates and associated uncertainty was perceived to affect the quality of support complainants could expect from family, friends, and colleagues/ employers. It could also undermine a complainant's capacity to maintain confidentiality around the process (e.g. if they continuously needed to request time off work) and complainants spoke about having to change employment due to the issues created by repeatedly needing to request time off work for court.

"I've had to leave my old workplace because they were horrible to me about it. They made me feel so uncomfortable about having to attend court, then telling them that I wasn't attending court, then telling them again I was meant to be in court this day, this was happening on this day...I've actually changed workplaces because of court." (Maeve)

Aside from the impact of court cancellations, it also meant that the criminal justice journey was prolonged for complainants. For those who are waiting to take up counselling post-trial, these delays mean the therapeutic journey is also delayed, or that they may face additional delays due to growing wait times to access counselling services.

"You can't underestimate how difficult that is for them. It is hugely impactful. They psych themselves up for this... even if it's a fixed trial, you can't trust that it will go ahead at the time they say it will, it's just likely to change... So they just can't get on with their lives, they can't focus on their recovery, because they've still got this thing hanging over their heads... the waiting list [for therapy] is years long now. So they're just not getting access to that mental health support that they desperately, desperately need." (Senior SARC ISVA)

In such situations, complainants sometimes weighed up the impacts highlighted above against the statistical likelihood of a conviction being secured.

"It's incredibly distressing to the point that you have clients who want to withdraw even though they've been waiting two or three years at this point to go to court, because they just cannot deal with the emotional stress it's causing them." (CHISVA)

3.2.4 Covid-19 protective measures and the criminal justice journey

Quality of clinical and forensic care

SARC participants reported on how social distancing guidance was felt at times to be at odds with care for survivors. The example below relates to guidance to avoid throat swabs and underscores the potential risks to children and young people by stopping such practices, and the need for staff to improvise in order to reduce the risk associated with their continuation.

"We were told very firmly that under no circumstances were we to take throat swabs. One of the kids I'd seen, she was four and she had gonorrhoea in her throat, she'd not made an allegation, her sibling had. And I'd examined her

because [we wondered] if anything has happened to the other siblings. So here again, car parks and good weather... I carried on doing throat swabs. I mean I protected myself with the appropriate mask and visor." (FME)

Most SARC's introduced taking client histories over the phone prior to arrival of service users, with the intention of reducing the time spent at SARC. In some cases, remote care took the place of in-person care altogether, for example, where self-swabbing was provided as an alternative. On the whole, it was felt it undermined the quality of care provided by SARC services.

"A woman [offered self-swab due to having Covid-19] came back in after another assault a few months later, and a significant amount of self-neglect was picked up on. That had been totally, totally missed in the first case, because no one had actually laid eyes on her."
(SARC Manager)

Remote working with young people and vulnerable adults was difficult, with concerns about how to guarantee confidentiality and acquire the necessary information and understanding about the client's situation and circumstances.

"For some clients who have had multiple vulnerabilities perhaps mental health issues or learning disabilities, you could not get the information that you needed via telephone consultation; you don't pick up on the body language and explanations [or] get an understanding that they have understood what you've said."
(Lead FNE)

There was reduced accompaniment of service users at SARC by family/friends and access to facilities on site such as showers. Whilst remote triage and history-taking could be beneficial for some (e.g. due to caring or work responsibilities), SARC staff generally favoured a return to 'business as usual' where survivors could attend SARC without restrictions.

Provision of statements and Achieving Best Evidence (ABE) interviews

The ABE interview was frequently raised as a stage of the justice journey that was particularly disrupted by social distancing measures. Professionals raised concerns about the impact of not being able to use ABE interview

suites at SARC's (at sites where these are normally available) given that this arrangement was intended to promote survivor-centred practices.

In reference to ABE interview suites at police stations, officers described the barriers in relation to fulfilling social distancing requirements and the consequences of not using these facilities.

"We have two interview suites, one of which is in the station that I'm working at at the moment and it's very small, so we weren't really using the rooms here because even with the chairs far apart, it was still very small, there's no windows, there's no sort of natural ventilation or anything like that, so we were choosing to use the other suite which is probably about a 20 minute drive from here."
(Detective Constable)

While officers were sometimes able to conduct interviews once the necessary Covid-secure measures were in place, many reported that PPE and screens were barriers to communication. This was particularly the case where younger survivors were involved.

"You're talking to a child about sexual abuse and you've got this horrible plastic screen, just horrible for those children but that's what we've been told we have to do. That cannot be good. You try to get over it by having good banter with the child, a good rapport with the child, but it's still there."
(Detective Sergeant, Child Abuse Investigative Team)

Meanwhile, statements taken over the phone also presented several challenges.

"I found it stressful, probably because of the type of work that I did. So if it had been just taking a statement for a burglary or a theft, it's not quite as sort of inhuman almost, speaking to somebody over the telephone, but speaking to victims of domestic abuse, and people who are being stalked or, you know, saying that had previously been sexually abused in their relationships, over the phone, it was, yes, it's an easy way to get the statement, but it just felt a little bit more inhumane. And, at times, I couldn't get statements, because I just felt that you just didn't have that rapport, there. You're speaking to somebody down a phone, you weren't getting that face-to-face."
(Detective Constable)

Court experience

Social distancing measures in the courtroom had an impact upon barristers' advocacy. Barristers raised concerns that the clear plastic screens erected between individuals in the court affected both visibility and audibility.

"I had to look through something like five or six different sheets of plastic to see the jury and that is not a good way to do any advocacy because I could barely see them, dirty glasses and so on. It really did affect any advocacy." (Barrister)

These issues were also recognised by judges we spoke to.

"In some of the courtrooms, there are so many screens because there are screens on counsel's row as well, that it's a bit like looking into a hall of mirrors. Everybody's image is distorted, and you can barely see the defendant in the dock. Quite a lot of the time, counsel have their back to at least some members of the jury and if you've got a witness behind screens, that's really difficult for jurors to actually have any view of that witness, at all, which is not satisfactory." (Judge)

Jurors were unable to be seated together and instead separated out in a socially distanced manner around courtrooms, sometimes having to take up seating in the public gallery. The jury swearing in process took longer as did procedures when legal matters arose requiring jurors to temporarily exit the court room. Several judges raised concerns that social distancing may have impacted upon relationship building within juries due to the limited opportunities for them to bond as a group. Indeed, they reported observing less communication between jurors.

"I think it's much more difficult for them to come together as a group, because they are necessarily being told to keep separate. I don't get a sense that they are sort of chatting to each other in the way that you would expect juries certainly to do; there's an impact on how they work together." (Judge)

Survivors and family members shared how this affected their experience of being in court.

"The jury were like all spaced out, so you had to angle yourself in the witness box so that all of the jury could see you ... The judge had someone

move around the room so that...to make sure that where I was stood I [as a witness] could be seen by all the jury. Their seats were all like numbered one to twelve... So it did feel a bit odd, and the distance obviously between them all meant that it felt much bigger than actually it was." (Helen)

Enactment of Special Measures

Social distancing requirements affected the provision of special measures for complainants and witnesses in some courts. With trial participants spread out across courtrooms, it was difficult for privacy screens to be erected in a way that adequately shielded the complainant.

"We can't, geographically, erect screens so that they shield the dock and the jury can all see because the expanded size of the jury has made just the physics of it impossible. We have in one of the courts got - but it's not good - something like five or six screens in a sort of Jenga setup and so, the witness is looking down a tunnel." (Judge)

Some ISVAs reported that they were not permitted to be in close contact with their clients, preventing them from providing support both within waiting rooms and within courtrooms themselves.

"We weren't allowed to sit in the same waiting rooms as a client and refused access into the courtroom, or refused to sit with our clients. I went to a sentencing with a young boy that I'd been supporting. I know his triggers, how to talk him down from anxiety or panic, and he went into a panic attack in the court room. So, I'm knelt down doing breathing techniques with him and the usher came up to us and he was like, 'you need to leave'. So I had to sit outside the courtroom and leave my client who was in the middle of a panic attack." (Senior CHISVA)

Two judges also highlighted that video link rooms in their court buildings were too small to accommodate a complainant, an intermediary, and an usher in a socially distanced way.

"The big challenge is social distancing, where you've got an intermediary ... because you need a specially equipped room with a screen between the intermediary and the witness and enough

social distancing ... for the usher to be in there as well. Our video suite's too small. We've had to use facilities offsite to do that." (Circuit Judge)

One survivor described the invaluable support of her ISVA at court and the role of 'touch' in showing that her ISVA cared despite social distancing.

"I knew she was there, she walked me in and out of court a couple of times. I really struggled to walk in the first time, I had quite a big breakdown and she sort of kind of held my hand through it, even though we was in the middle really, still in the middle of the pandemic, I think she touched- she touched my hand and I in-instantly felt like she cared. She was like, it's okay, like, you can do this, you're brave, like, you're strong enough". (Maeve)

3.2.5 Gaps in trauma-informed practice across the criminal justice journey

The pandemic was seen among participants to have amplified well-documented pre-existing problems in the handling of sexual offences in the CJS.

"Covid has just thrown a spanner in the works." (FME)

Whilst there were examples of exemplary survivor-centred practices despite the extraordinary challenges facing the CJS workforce (Section 3.2.6), overall, complainants reported negative experiences in relation to investigative, prosecutorial, court processes and their outcomes. The majority of complainants and family members we spoke to identified instances of harmful practices in their journeys. Concerns were also raised by many of the professional participants and frustrations about the persistence of harmful practices such as victim-blaming, pathologising complainants, and the lack of empathy and sensitivity in communicating with complainants.

The negative experience of survivors in reporting sexual offences is depicted below. The quote also demonstrates what survivors value in this context.

"When you're reporting like that, you'd expect an officer to really sort of, you know, do their duty, but also have some empathy; he was really cold, he just expected you to go straight in the room, sit down and, and crack on with it. He didn't explain anything. I asked for a female for the interview ... We got a new officer... She was quite the opposite: she was very caring, she looked at you in the eyes when you were talking, she made sure that you had enough breaks and if you wanted to go for a cigarette, you know, she just wanted me to take me time." (Jamie)

One survivor who was experiencing domestic violence and abuse during lockdown shared her experience of the response she received when she managed to attend a police station on the day she left her husband.

"I had an appointment with the police at two o'clock. I went to the police station, the police talked a little bit. They were waiting for interpreters because I can't speak in English very well, we waited for translator till five o'clock. The translator didn't come but they had a three-way translation for me... I was told by police, 'you will need to go home, go back home'. So I said I can't go back home.... If I left I know I will be in danger... police were saying to me 'you can't stay here, you have to go, where, we don't know', but they gave me a domestic violence number...And then me and my daughter waited till six o'clock. ... Me and my daughter were very scared. We said 'where will we go?' And we went out of the police station and rang my support worker and gave a number to her to speak to police and the police then said 'it's not in our remit, she has to make her own way'. Then we went to a hotel." (Ankita)

The communication of charging decisions and other outcomes of the justice process has long been fraught with difficulties for both complainants/survivors and the professionals involved in their case and/or the delivery of these decisions and outcomes. The demands of the pandemic exacerbated these difficulties by further depersonalising the process and many survivors talked of the impact of how the outcome in their case was conveyed to them.

“Most of it [communication with police] was via the phone which felt a bit disconnected... over the phone it feels like it's another person you don't know... I literally woke up to a phone call from the person who did the investigation, a really unofficial phone call to say the case had been closed due to insufficient evidence. They should think more about how they give the outcome of the investigation.” (Poppy)

Poppy's evaluation of how the CPS outcome was delivered and the impact on her is in stark contrast to what was achieved by the careful handling of the decision in Jackson's case.

“The police officer delivered [the outcome from the CPS] in person because he said he didn't want to do it any other way. We went for a coffee... in a cafe near the police station.... And because he had the official letter to hand to me....But he said that, you know, obviously he could have posted that, but he said that he always prefers where possible to have those conversations in person. And at that point, you know, it was September, so we were kind of like out of the main bulk of restrictions. I kind of knew when he suggested meeting for a coffee, that that's probably what it was going to be about, but I was, I was really pleased that he did it like that. It, it just made me feel respected and it made me feel, you know, even though it wasn't going any further, at least this one police officer actually was taking me seriously. So that, actually meant quite a lot.” (Jackson)

There is a critical learning point here in terms of the long-term gains to be achieved by police and other professionals committing to trauma-informed practice. This may have implications on CJS organisations and institutions investing in implementing protocols, promoting cultures of respect and accountability, and appropriate screening of new staff and training all personnel involved in sexual offences in trauma-informed practices. To this end, there was a call for increased standardisation across the police and CPS.

“I think [responses that complainants receive is] very person dependent, it depends who you've got in leadership positions in the police and in the CPS which all means that the system itself is not fit for purpose.” (FME)

3.2.6 Workforce challenges across the criminal justice system

Staff shortages and loss of staff

Prior to the Covid-19 pandemic, people shortages were evident across the CJS. The pandemic saw the shortages worsen: staff exited the workforce entirely; redeployments created pressures in different sections of the CJS; and self-isolation of key staff became the everyday.

“There aren't enough judges, and there aren't enough barristers, so everything has just got worse and that's putting to one side police and CPS resources which are just as bad, and they're also snowed under.” (Barrister)

We documented evidence of the more serious aspects of this depletion. For example, participants highlighted the loss of barristers from the Criminal Bar, with the consequence that the number of Grade 4 RASSO prosecutors available for sexual offences cases had reduced significantly. Examples were given by CPS lawyers of 40, 60, and in one instance over 100 Chambers having to be contacted to try and find both appropriate and available counsel to prosecute a sexual offences case.

“The criminal bar are completely overwhelmed, there's a real shortage of barristers. It's really difficult finding barristers with availability.” (Senior Crown Prosecutor)

There were also references to staff leaving the CPS during the pandemic. Reflecting on the workforce issues facing the CJS as a whole, one judge stated:

“Everybody is just fed-up and that must translate to every aspect of it. You're probably hearing it from everybody that you interview about the frustration and the morale and the fact that nobody feels valued. And how that must translate, mustn't it, or come across to the people whose interests we're supposed to serve, whether it's witnesses, defendants, that sort of thing.” (Circuit Judge)

Complainants were directly impacted by workforce shortages and staff turnover, with examples provided of them not always being informed that a staff member had left, having to explain their accounts several times, information being lost in handovers, and new staff initially lacking appropriate training and experience.

“Somebody called me and said, ‘oh, we’ve got an email that you sent to [ISVA], but she’s, she’s left.’ I said, ‘well, that was like a month ago... nobody’s told me’ and she went ‘oh, well we’ll assign you a new ISVA.’” (Annie)

Whilst some complainants commented on challenges they faced when communicating with professionals and being the ‘go-between’ for agencies themselves, others felt that there was good communication and joined up working between agencies.

“They all email each other, they all talked regularly, they’ve all had meetings together. You know, I didn’t know about the police having a meeting today, it was my safeguarding social worker who said they’ve got the meeting today. So they’re always in contact. If I’m struggling, like I did last week, whoever finds out I’m struggling will let all the rest of them know and I’ll get the additional phone calls come through, can they do anything, or messages.” (Veronica)

Recruitment of new staff

Notwithstanding the CJS recruitment push throughout the pandemic, securing the ‘right’ staff was, and continues to be, difficult. Many agencies lost their most experienced colleagues, and replaced them with junior, more inexperienced staff. This has had knock-on effects related to staff training and development, support, and workforce capacity as explained by one CPS lawyer.

“We have some current issues around staffing, we are trying to get more and more people through the door, but the service nationally has shrunk with cuts in public services. What we found was that some of the older generation and experienced prosecutors left, which has left us with a bit of experience lacuna, and, coming into RASSO we really need lawyers that know what they’re doing and have a bit of experience... we’re having to do a lot of comprehensive fundamental training around rape and serious sexual offences.” (Deputy Chief Crown Prosecutor and Head of RASSO Unit).

Several reasons were put forward for these recruitment challenges, including the public and political scrutiny of those working in these areas; demoralisation across workforces because of high caseloads and insufficient resources; and the rates of pay being no different for RASSO cases compared to any other case type.

“We aren’t paid as specialist lawyers – we are called specialists, but we’re not paid as specialists, and that means that we’re in the kind of general population of lawyers that you could have an easier life elsewhere, and I think there is an issue trying to attract people.” (Senior Crown Prosecutor)

Retention was identified as challenging for police, connected with the nature of RASSO work.

“There’s not a lot in CID who have got a lot of experience, because of demands, you’ll find that a lot of your experienced officers are going on to other departments, because they’re thinking, naff this for a game of soldiers, it’s very busy here and, you know, I’m the only one with the experience, so I’m getting really put upon.” (Detective Sergeant)

The need for experienced and specialist teams to be working on RASSO cases, particularly within the police and CPS, was highlighted across all the groups we interviewed. Those working in areas without specialist RASSO units highlighted the detrimental impact that this has on case files and case progression through the justice system, something which was further highlighted during the pandemic with the increased workforce challenges.

“If I had a wish list tomorrow, re-introduce specialist investigation teams within the police forces, please, please, please, please, please. I forget the figures now, but we have a significant amount of our cases, 25 percent I think it was, investigated by uniform police officers.”
(Head of RASSO Unit)

Training staff during the pandemic

Although there was evidence of innovation when it came to training and development (see 3.3.1), inducting and training new staff members proved challenging. Trainee barristers joining the profession were delayed in completing pupillage due to being unable to attend court in person or shadow their pupil supervisors. Similarly, new CPS lawyers were unable to attend court and watch rape trials.

“One of the big things we have suffered from is the ability for lawyers to ‘think trial’, because historically they would go into the court quite often, and so they would see their cases play out in court and you’d take those lessons back, and you’d just evolve accordingly. It’s been 18 months now since many of them have seen the inside of a courtroom, let alone a rape trial.” (Head of RASSO Unit)

Remote working

The need for remote working presented a number of challenges for professionals across the CJS, including a blurring of work-home boundaries, over-working/increased workloads, a loss of informal discussions, intermittent or poor Wi-Fi connections, and increased isolation. The challenging materials and nature of RASSO work meant that important boundaries between work and home life were absent more of the time.

“The more crucial bit there is that there wasn’t that delineation between home and work. So when I commute that’s my transition into work, and then my transition back, and sometimes even it was 20 minutes/half an hour, that’s a really important time to be able to start switching off from work and entering back.” (Detective Superintendent)

Compounding this issue was increased workloads and/or working longer hours when working remotely. This was a critical issue for the CPS, the Criminal Bar, and the Judiciary. Court closures resulted in a backlog of cases, with cases continuing to be adjourned, and new cases being added to caseloads. The mental health impacts of these challenges were frequently highlighted.

“I’ve had two cases in the last three months where counsel in the case have literally and I mean literally, buckled under the strain and I had one, couldn’t go on at all. They had to ship in a replacement and the other, I had to adjourn for the day so that she could go and rest because she just wasn’t capable of coming in, in the afternoon. I think the mental health of those who are engaged in that side of the profession, is really fragile at the moment. And I think that’s that workload and the way in which we’re working. You know, their cases get pulled at the last minute. They’re trying to keep on top of everything. There are not enough of them. I think that’s a consequence of Covid and that will have a massive impact, I suspect.”
(Circuit Judge)

Participants referenced the value of informal discussions as an integral part of their working life, providing opportunities for sharing/checking good practice; producing benefits for wellbeing; and enabling personal and professional development. These became more challenging for some whilst working remotely. Whilst professionals acknowledged the ease of using video-conferencing to meet with colleagues, informal discussion did not occur as naturally or as frequently when remote working was the main modality. Experiences were mixed with regard to employee support within the CJS workforces; some commented on the challenges and limitations associated with workforce support moving online. This was particularly true for supporting new colleagues and integrating them effectively within existing teams. Other teams developed a positive culture around remote communication and support.

3.3 Findings II – What innovations did we identify that will be relevant beyond pandemic times?

3.3.1 Digitisation of the criminal justice system

The key innovation was the overhaul in how the CJS carries out its core business in relation to sexual offences cases through the digitisation of processes, in particular, communication across CJS teams and allied agencies and also with complainants.

CASE STUDY 2

Contextualising digital developments in the criminal justice system

Marie was a married woman, a professional worker and mother in her forties who experienced sexual assault by a stranger whilst outside for her daily exercise during a national lockdown. She reported her experience to the police immediately. Marie's communication with professionals throughout the CJS was predominantly through digital technology and she felt this was a positive experience.

Marie was able to virtually meet professionals the day before the sentencing, which she found informative and reassuring, "I actually had a meeting between the SOIT officer, the barrister, and a witness protection person, just to explain the process to me so that I knew exactly what was going to be happening, which was really helpful."

She appreciated having the option to dial into court by videoconferencing for the sentencing, "because of all the Covid stuff, it wasn't easy to actually go to court, but there was the option that I think they were only just starting to trial of somebody actually being able to dial-in via videoconference to the actual court which I did, and what they did was that I couldn't be seen and that I couldn't see him [defendant]."

Marie thought that the digital innovations worked effectively because they were well organised in their set up, there was good sound quality, and she

felt comfortable using the technology, "I think luckily I'm used to dialling in to videoconferences, so I was able to dial-In from home quite confidently...It was all very well organised, and I was able to see everybody I needed to be able to see, and hear everything. You sort of felt that you were part of it and understood how they got to where they did on the sentencing."

Marie was enabled through various digital features to feel part of her justice journey, "I also got to read my Victim Impact Statement over the video conference which made me feel part of it." She did not report social and economic barriers to gaining justice and did not express any harms from her experience of seeking justice.



Enhanced communication within the CJS and across partner agencies

Using videoconferencing produced efficiencies, improved accessibility, and in particular, enhanced the quality of communication taking place internally among colleagues and between different agencies.

“Lots of very useful meetings, and that’s probably a big positive that came out of it all, during the crux of things, we were having a meeting once a week with that sort of multi-agency. We had the FME leads, our SARC, police leads, and [another SARC] I don’t think I would’ve been comfortable ringing up one of the chiefs of police quite happily before, whereas you sort of feel like you’ve come through that crisis together.”
(SARC clinical lead)

“[Video/communication platform] has been very, very good in relation to that. I’ve got a really quite a close-knit team and even now, I can see the chats going up whilst I’m on this to you, so they do talk to each other a lot and everybody’s available all the time,”
(District Crown Prosecutor)

The increased levels of communications across agencies, and in particular between police and the CPS, offered critical benefits to building closer working relationships. These provided subsequent benefits for survivors in better progress on case files, faster resolution of issues, and time-saving when compared to face-to-face meetings.

“You can schedule short meetings much more easily. I’ve got a huge case at the moment, it’s now getting to eight complainants, it may get to twelve. I and the DCI and the OIC all have a Teams meeting recurring in our diaries on a Thursday, just the 15 minutes. And all it is, is an opportunity just to exchange and just keep the momentum of the case. And I think that wasn’t happening before Covid.”
(Senior Crown Prosecutor)

However, it should be noted that these benefits could only be realised where professionals had access to appropriate technology and good quality internet connectivity to prevent interruptions in communications and loss of information (Section 3.4).

Connecting with complainants in new ways

Notwithstanding the challenges outlined in [Section 3.2](#), we heard positive examples of novel communication taking place with survivors online. For example, the CPS used videoconferencing to support communication with complainants and witnesses. Rather than writing letters, which several interviewees identified as problematic when used in isolation, using videoconferencing provided an alternative forum where questions could be answered immediately, and decisions communicated more clearly.

“Our gold standard around victim meetings is that it’s been maintained throughout the pandemic ... So to be able to do it repeatedly over [common video link platform] has allowed that, in the travel time and everything else, allows that opportunity to actually really meet a victim’s needs. So, for example, the case that had seven adjournments, seven different listings, seven different counsel, very, very vulnerable victims in that case, well, we made sure we had seven different meetings. We could never have done that without the technology, because there wasn’t just one victim in that case, there were five, so, you know, that’s a lot of meetings. So, I think in terms of being flexible and really meeting victim’s needs, that’s been great.”
(Senior District Crown Prosecutor and Head of RASSO Unit)

Some survivors experienced these remote methods of communication as less formal and offering flexibility, which was perceived positively. However, they flagged the need to ensure that such communication was still done with empathy and sensitivity, for example, agreeing timings in advance to prepare themselves for when case updates would be received. Choice was key for survivors, including in how they engaged with services and professionals.

“Throughout it all, because I knew I had [police officer] on speed dial, and because I had all the other support there, and I’m quite a logical and pragmatic person, so I knew that I couldn’t go and see them in person because of Covid, so, I just accepted it. And because my day job ... I spent all my day on calls and on video calls with people, so it wasn’t really a culture shock. It was just what I did at work, I’m now doing for the court, for me, it was exactly what I spent all my time doing anyway... before Covid happened, there was a lot more, you’d have to go, you’d have to be there

in person and that would've meant for me having to like take time out of work, to drive, travel... I could have these calls and if I went back to work afterwards, I could just like have my camera off and no one could see that maybe I'd been upset." (Cynthia)

One police officer referred to this as having "more tools in the toolbox", which may increase the ways in which survivors can work with police forces to provide case information.

Digital courtrooms

The pandemic also saw increased use of remote methods being used within the courts. The introduction of the CVP, at the beginning of the pandemic, enabled them to continue administrative hearings whilst the courts were closed to the public, and jury trials suspended. CVP has continued to be used since then, allowing advocates, complainants, witnesses, and defendants to virtually attend court, and hearings to take place completely virtually if necessary. As a result of the pandemic, survivors and other witnesses were given greater opportunities to give evidence via live link, whereas previously they may have been encouraged to attend court. Criminal barristers were universally positive about the use of CVP. As with other aspects of remote working, CVP enabled barristers to work more flexibly, and to attend more hearings in a day. This was vital in helping barristers to cope with the workloads. Survivors and professional participants raised some concerns about the impacts of CVP on the justice process and these are set out in [Section 3.4](#).

Expanding access to training and development

There was widespread acknowledgement of the need for ongoing training programmes for all staff involved across the CJS.

"You need a lot more training from people who are experienced in dealing with victims of the trauma, lots of education about normal responses to trauma, I think all of that is lacking." (FME)

The pandemic was associated with increased access to such training opportunities. Training which was previously delivered face-to-face was moved online, often with great success, particularly where it involved larger cohorts of staff.

"The training programmes that we would previously do very, very quickly went to virtual, so any training programmes that were face-to-face very quickly became held over [online platform] and they adapted to that really well. It looks like going forward, that is going to be the primary way of delivering training. So it's fitting quite well with the role and has been really convenient for people to undertake courses actually." (District Crown Prosecutor)

3.3.2 New interfaces for clinical and therapeutic care

Flexible care at SARCs

As highlighted in [3.2.4](#), SARCs remained open in order to provide clinical and forensic care and this included triaging clients over the phone prior to their attendance at SARC. Some benefits were noted with regards to the introduction of this measure. For example, it was recognised that it may be useful for those with childcare responsibilities to give their history over the phone to reduce the time spent at the SARC.

"Obviously it made it more flexible for certain people, so, for example, you've got childcare issues and you can't get out of the house for three hours, but you can go out for one hour, so you can have a telephone consultation at home and then come in for a shorter amount of time." (SARC Manager)

Spending a shorter amount of time at the SARC may also be particularly beneficial for children.

"Youngsters, little ones, taking the history over the phone [from a carer], it's far better because it means they're here a lot less, so there's less time for them to get agitated, bored, you know and I'm talking say like a two-year-old or a three-year-old." (Clinical Director)

During the pre-visit telephone conversation/remote history-taking, staff were able to provide an overview of the SARC experience, the time commitment, informing survivors of what to expect when they arrived and helping to address specific needs and concerns.

“We often get alcohol dependent clients coming through ... and their main concern is that they don't want to go into withdrawal if they can't have a drink, so, we explain the processes and how we will manage their alcohol dependency within the SARC, and that does relieve some of their anxieties.” (Lead FNE)

Several drawbacks were also highlighted surrounding this and are addressed in the section on inclusivity tensions (Section 3.4).

Another important feature introduced at SARCs in response to the pandemic was self-swabbing. Self-swabbing was infrequently used and predominantly at the beginning of the pandemic. Although self-swabbing may be an option under certain circumstances, overall, our study found no support for this practice. The reasons for this were twofold. Firstly, there were concerns about the forensic integrity and admissibility of the samples obtained.

“That [self-swabbing] will have a huge impact on the criminal justice process, because I'm pretty certain that they're not going to be able to use those samples. SARCs are so tightly regulated about how forensics should be done and it's about to get even tighter, the regulations, so to suddenly throw all of that out the window and say it doesn't matter and say people can just do it themselves, is just totally counterculture to what forensics is trying to achieve.”
(SARC Manager)

These concerns were also raised by police officers.

“The risk with all of that approach is that if it's not done under proper conditions, not done supervised et cetera, potentially, it might not be admissible in court if it's challenged.”
(DCI and Head of Specialist Rape Investigation Unit)

Secondly, professionals expressed concern that survivors who self-swabbed would not receive the holistic, wraparound care usually provided by SARCs.

“They were missing out on all the other support that the SARC could give them. It isn't just a criminal justice process, this is about people's health and wellbeing.” (Head of SARC Services)

Given this, participants reported that self-swabbing was not used often, and the consensus among the professionals interviewed was that this practice should not be retained.

Shift to remote support in the third sector

Whilst remote forms of communication and support should not be assumed to be preferred by all those using services, social distancing requirements did lead to innovations in the use of space, both in physical and digital terms. With regards to the support provided by ISVAs and other third-sector support workers, this shifted from largely in-person to remote support. Indeed, counselling and advice was provided either via the telephone, or videoconferencing through online platforms such as MS Teams. It was emphasised that working in this way was new for the sector.

“Covid-19 just changed everything overnight for us as an organisation. We literally went from being a face-to-face organisation where everything was done in a room with a person. We were one of the first organisations to make the decision to close and go completely on phone or [online video platform], all the staff were working from home. The IT infrastructure, of course, wasn't quite ready for that. We were using our personal mobiles because our phones at work, we've never needed mobile data for them and then all of a sudden we're all [contacting via online platform] each other.”
(Head of Services)

Some survivors felt that the experience of receiving support virtually was more effective if they had already met their ISVA or third sector support worker in person prior to this.

“It's helpful to have virtual support, it's even better though if you've met them in person before.”
(Jamie)

In addition to providing one-to-one support remotely, some services were also able to transition from hosting peer support groups in-person to online.

“We’ve managed to successfully get our groups now up online and develop some of the psychoeducational courses online, that was a lot later coming because of the, you know, the rationale around making sure that was safe and that it was ethical, and we were getting the right people um on it, that knew what – you know, had an understanding of what it might be like on screen. So we were able to develop that.”
(Head of Sexual Violence Services)

Participants highlighted that remote support enhanced access, for example, for clients with physical disabilities or mental health problems; it assisted clients with childcare and work responsibilities as well as those living in more rural areas or if they had moved geographical location during the pandemic. It was also linked to fewer cancellations and missed appointments.

“If a client has three kids and they can’t do the commute, but they could see the counsellor from home. For disabled clients, some clients might have never contacted us because they could never commute, let’s just say, in a wheelchair.”
(CEO, Third Sector)

“The people who benefit are the ones that are agoraphobic or have panic attacks and they prefer not to either come into the town, or they struggle with public transport, or they can’t afford to come in.”
(LGBT ISVA)

“It [peer support group] was online because of the pandemic, so I was able to do it even though I was in a different city. Instead of being, you know, once a fortnight in-person, it was once a fortnight over Zoom. I did it and it was, it was brilliant.”
(Jackson)

Online play therapy

One participant reported that, in response to the particular difficulties in providing play therapy for children remotely, their agency began to provide such therapy via the online game Minecraft. She spoke of the success of this innovation.

“They actually did a pilot which has been so successful it was then rolled out across the agency. Because of the difficulties with children speaking online, they started to do therapy in Minecraft and they developed a therapeutic relationship through Minecraft. This young child’s created this world that he wanted and then smashed it up, but then built another world, and how this animal became the perpetrator and the, the counsellor would leave little messages that when he’d go on and play, little messages, just to support him and keep him going through one session, and how then he could build this new world which is this world now after the abuse. Oh, it was phenomenal to see, it gives me goosebumps now talking about it, and how then this animal lives side by side with him on the island, but there was a protective barrier and that was his new resilience, it was just amazing.”
(Head of Sexual Violence Services)

Outdoor support

Several services also began to provide ‘doorstep visits’ or ‘walk and talk’ sessions to provide in person support in a socially distanced manner. Working with clients outside was seen as hugely beneficial and many agencies noted their commitment to maintaining outdoor support following the pandemic. Two participants who worked with male survivors noted that men, in particular, might find such support useful.

“There’s one young man that I work with, and I think this is really helpful in particular for young men. Especially for lads or people who maybe just find it all a little bit challenging. I think I will definitely be thinking about doing more outside work with people, getting a bit of training about the best way to do that because it just ticks loads of boxes for people, just being out and going for a walk has kind of done the trick, you know, has done this magic thing really.” (CHISVA)

3.3.3 Challenging the traditional courtroom

To help to address the backlog of cases, which had increased due to court closures, and to accommodate trials in a socially distanced manner, there was a shift from the exclusive use of court buildings to the creation and use of 'Nightingale Courts'. These were 'courtrooms' that had been set up in various types of buildings, including sport stadiums, hotels, and theatres. It was noted that the atmosphere was markedly different in Nightingale Courts than in traditional court buildings, and that this could be beneficial for survivors and witnesses.

One CHISVA highlighted that the less formal environment of such courts may have a positive impact upon children in particular.

"It's a lot less stressful because it's less formal, and I think in a lot of people's views it's less archaic, which is less frightening for the children. It's a function room that feels a little bit warmer and friendlier. It's a lovely atmosphere for the young people, well as lovely as it can be when you have to give evidence in court."
(CHISVA)

It was also noted that survivors may feel more anonymous when attending a Nightingale Court given that they are public buildings that, in contrast to Crown Court buildings, an individual could be entering for a number of reasons other than attending a court case.

"Victims and witnesses spoke very favourably about it because it was very accessible. It was a hotel so it was a comfortable environment. It was seen as a really positive thing for those who had to go through that venue. It's not that imposing environment and it's very anonymous. You could be going into a hotel for any reason."
(Chief Crown Prosecutor)

Nightingale Courts could also accommodate social distancing requirements, which was something that could not be done in some smaller courtrooms, with more restrictive layouts.

"With the [hotel], we'd taken over all of their conference rooms, every single one, some of them had been turned into courts, some of them we turned into jury rooms, excellent facilities, the court rooms work really, really well, we've been able to space the jury out nicely in separate desks, so we're not having to work with the furniture we've got because [city] Crown Court is a listed building ... We've been able to sort out the furniture in the rooms really well, so juries have a great experience, they, you know, they can see everybody really well, they can hear everybody really well."
(Circuit Judge)

The Nightingale Courts also helped to address the backlog of cases within some court areas.

"We were also part of one of the Nightingales, so we managed to shed out a whole load of work out there that way. So, given that, I mean yes we've got a backlog, but our backlog's not anything nearly as bad as some people's."
(Circuit Judge)

Notwithstanding the positive responses conveyed through this research, it is acknowledged that alternative and/or casual settings may not feel appropriate for all complainants and others involved. For example, such settings may be seen to undermine the serious nature of the case being heard.

3.4 Findings III - Tensions between innovation and inclusion, and areas for further consideration

3.4.1 Limits of the innovations

The study identified innovations in the domains of digitisation, survivor-professional interface and estates/use of space that brought benefits to complainants, professionals and services. This section highlights important limitations and caveats to consider in applying any evidence arising in these domains.



Digitisation

Systems of the CJS and allied partners adapted with unprecedented efficiency to the demands of the pandemic. The main drawback with digitisation related to the capability of systems such as CVP to fulfil all of the functions of the court. Judges raised concerns about the impact on relationship-building between advocates, as well as between defendants and their representatives.

“I think the worry is, though, that defendants can become very disengaged in the process if they’re not physically at court and I think communication with their lawyers is very difficult if they’re not physically at court. And for vulnerable defendants in particular, I think it does not work. So, I think it’s very much a case-by-case and what the purpose of the listing is.” (Circuit judge)

These concerns led judges to consider CVP to be appropriate for use, but under specific instances, e.g. for administrative hearings, as opposed to universal adoption.

“So, I think you’ll find that most judges think the CVP’s been valuable during a crisis, and it has a value for very short cases. But it’s not good for the administration of justice or the public perception of the administration of justice.” (Resident judge)

Survivors raised additional concerns about the use of technology within court, for example, whether virtual processes were treated as seriously, or had the potential to be manipulated by defendants.

“I’ve had the feeling that because of Covid, and that’s because everything is at home or over the phone or by Zoom, people don’t take the things as

serious as they should, I've got that feeling because you feel too comfortable, because it didn't feel like it's serious and professional at all." (Paula)

The other major drawback of digitisation of the CJS and allied services is that it required complainants and survivors to have access to appropriate devices that would allow them to engage with the court and other services. However, 'digital poverty' affects a wide range of complainants and survivors including those unable to acquire or use devices and those unable to afford access to secure, stable Wi-Fi or located rurally where connectivity problems are an issue.

"It was a really bad signal, like, I felt like half the time I couldn't hear anything. Then my ISVA had to come back and explain to me, like, what he'd actually been sentenced, what his sentence was... half the time I couldn't hear, half of it was, like, stuttered, the connection wasn't incredible so I feel like if I'd have been there, it probably would've been better." (Maeve)

New interfaces for clinical and therapeutic care

Participants identified several drawbacks of remote methods in respect of clinical and therapeutic care. It created a barrier to communication, in particular, for building rapport with survivors. This could be in relation to conversations with staff at SARCs, with ISVAs, and with counsellors over the phone and online.

"It was quite difficult as a crisis worker, for me to kind of get any rapport built, that's been quite difficult, only having that short amount of time with them. Pre-Covid, we have a nice sort of lounge room with sofas, TV, and that and we'd give them food, hot drinks, that sort of stuff. So all of that, it's that time where you can build a better perhaps relationship and rapport with people and understanding of specific needs."
(Male Outreach/Crisis Worker)

Participants noted the importance of retaining an element of in-person support where possible. It was felt that aspects of face-to-face support cannot be replicated online.

"The support group which I still attend, has been online up until recently... Now they offer an in person and they still do an online for those that prefer that but I prefer in person, I don't know why, I just find it better ... I'm more a kind of physical,

talking to the person there, I find it helps you kind of say more and be more honest, and I just think there's something about it that's just better." (Ethan)

"I think the support of Anna [daughter] was really impacted by Covid, and the fact that for a very long time she couldn't see people face to face, even like when things started to lift, everything was being done over Zoom when what she really needed was face to face support... All I ever wanted from day one as a parent was to speak to parents who were going through the same thing and I found it really difficult to find...what I really needed was some face to face support too." (Helen)

Participants were concerned about the capacity for survivors to engage with or obtain care remotely if they lived in an unsafe home or were safe but lacked opportunity for privacy.

"I think doing it over the phone ... you've got no control of where that person is ... they're in their home, we don't know how vulnerable they are really we don't know what support network they've got there they could open up a lot of what's happened to them and then really struggle with that, not then come in. Part of the role of the crisis worker is to make sure when they give them their history or when they're talking to the FME that they understand, that they feel comfortable, do they need the process to slow down?"
(Head of Services)

Participants were also clear that telephone triage in SARCs was inappropriate for particular groups, such as those with learning disabilities, addiction and mental health issues.

"For some clients who have had multiple vulnerabilities perhaps mental health issues or learning disabilities that was inappropriate as well, because you could not get the information that you needed, via telephone consultation, you don't pick up on the body language and explanations, et cetera and get an understanding that that they have understood what you've said." (Lead FNE)

In the following quote, the shift that took place when an initial triage consultation with a neuro-diverse client moved from being remote to on-site at the SARC is highlighted.

"Talking to him over the phone, erm, he didn't engage with me at all well. So his responses to my questions were very short, monosyllabic, and I really wondered whether he was willing to go ahead with the medical but he insisted he was. So we, erm, arranged to meet at the SARC And the moment I saw him, everything changed because then we could have a proper conversation, we could make eye contact, I could find out what his worries were and I could also discover ... he did have autism. So then I could speak to him appropriately and, erm, it was a really florid illustration of how limited we are when we take telephone histories and as soon as we were allowed to, I stopped doing that." (Clinical Lead)

In addition to this, concerns were raised about the ability to identify and manage safeguarding issues when supporting individuals remotely rather than face to face.

"I had two young girls that I worked with for quite some time, and we worked online because mum was saying that she was very busy. We built that trust enough for them to be brought into the office, and when we did we noticed quite significant neglect. So the smell of the children, the clothes they were wearing, things like that. There were signs you just couldn't tell over a video call." (CHISVA)

Challenging traditional courtrooms

The study learnt that, while some Nightingale Courts were well set-up to afford more layout flexibility, in others it was difficult to accommodate special measures, at least initially. Several participants noted, for example, that there were no separate complainant entrances, and consideration had not always been given to how the full range of special measures would work within these spaces.

"At the [hotel – Nightingale] Court in [city], there's no separate victim entrance so the ISVAs and CHISVAs had to make their own arrangement with the security guards, for people to go in a different – well that's not acceptable. They have to try and create some sort of work around because it's not considered. They don't get the special measures that they want, I've had that on numerous occasions because of various issues with the pandemic, but that's not communicated in advance." (Senior District Crown Prosecutor and Head of RASSO)

"Yesterday I was speaking to a judge here, and he's in a Covid court, and he had three young children, and the court doesn't have screens ... they sorted out, can you believe this, that the witnesses sat on the bench with him so the defendant couldn't see them? And I said to him, 'you shouldn't have done it, to be honest.' But he said, 'Well, what do I do? I've got three children, they're here to give evidence.' But that's another example of mending and make-do, which we shouldn't be put in that position." (Judge)

Given that there were no custody facilities in Nightingale Courts, they also could not accommodate cases in which defendants were on remand, and there were challenges associated with hearing cases that could result in custodial sentences.

"The Nightingale Courts themselves only deal with offences where the defendants are on bail, so they don't deal with any custody matters at all, so they – they were like a sticking plaster to deal with the bail cases and highlighted by the fact that there weren't enough of them." (Barrister)

Several participants also noted that whilst it would be beneficial to maintain the Nightingale Courts for longer in order to address case backlogs, this would only be possible if staffing issues, in terms of the judiciary, barristers, and court staff, were also addressed.

3.4.2 Areas for further consideration

Section 28 Youth Justice and Criminal Evidence Act 1999 (YJCEA 1999)

Whilst not directly related to the Covid-19 pandemic, Section 28 was discussed by many of the ISVAs, CPS lawyers, criminal barristers, and judges that we interviewed. Section 28 (s.28) of the Youth Justice and Criminal Evidence Act 1999 (YJCEA 1999) provides for the special measure of pre-recording evidence and cross-examination prior to trial. This special measure is subject to judicial discretion and enables vulnerable and intimidated complainants and witnesses to have their evidence and cross-examination recorded closer to the time of the offence. The recording is played in court during the trial in lieu of the complainant or witness attending court. Prior to the pandemic, the use of s.28 for cases involving vulnerable witnesses (most commonly children) had been piloted in three Crown Courts: Kingston-upon-Thames, Leeds,

and Liverpool. This was then rolled out to all Crown Courts across England and Wales throughout the pandemic (by November 2020). It is widely anticipated that the government will continue the roll out of the s.28 special measure to intimidated witnesses, defined as those suffering from fear or distress as a result of testifying in a case, which automatically includes all adult complainants in sexual offences cases.

There was universal agreement that the principles underpinning s.28 were the right ones. In particular, comment was made about the importance of using s.28 to ensure the best quality of evidence and experience, particularly for child complainants.

“On the whole Section 28 works really well, it’s organised, it’s quick, it’s how a court is supposed to be ... smooth, quick, not ridiculous, questions are agreed beforehand, nobody gets a hammering. You know, everybody’s respectful and everybody’s respectful of the process ... they are just significantly less stressful [for complainants].” (CHISVA)

The ability of complainants to complete the submission of their evidence in a more timely manner under s.28, and to then hopefully begin the process of healing and moving on with their lives was also discussed positively.

“I think the concept is a really good one ... so, obviously, [you’re] getting the evidence in the bag quickly and also, for re-trials if there is one, so, you’ve got it captured.” (Circuit Judge, s.28 lead).

However, significant logistical concerns over the use of s.28 were raised by all groups we spoke to, with these being particularly heightened in the context of its expansion to intimidated witnesses. CPS colleagues commented on the increased speed with which everything must be completed – by police, prosecution and defence – in a s.28 case. This is challenging within a context where staff and resources are already significantly stretched.

“There is a really big impact for the police and lawyers because everything has to be completed early. So again, with people who are already enormously busy, it’s kind of another thing. ... I just wish that we had resources in the right places across the piece so that it worked in the way that it really should do.” (Senior District Crown Prosecutor and Head of RASSO Unit)

Despite these defined timescales, which have the aim of completing s.28 cases more quickly, we heard examples of cases being further delayed precisely *because* they were s.28 cases.

“I’ve had in a couple of cases the Section 28 has been recorded with the complainant, and as that’s been completed, the court have then decided to bump off the trial date for another six months to a year, because the complainant has taken part in his or her bit, essentially.” (Senior Crown Prosecutor)

This left witnesses facing an extended period without trial outcome, which still made it difficult for them to move on with their lives, despite having given their own testimony.

“That [pre-recorded cross-examination] does really help to have that out of the way...but they’ve still got a wait for the outcome. So they just can’t get on with their lives, they can’t focus on their recovery, because they’ve still got this thing hanging over their heads.” (Senior ISVA)

The requirement for continuity of prosecution counsel in s.28 cases was also identified as a source of practical challenges. Barristers are having to be released from active rape trials to participate in s.28 hearings, often causing additional delays. Concerns arose about the prospect of this worsening with a widened eligibility for the s.28 special measure.

“If I have a list of Section 28s of adult witnesses I’m gonna be interrupting every other case that I do, it really is impossible to do Section 28s of every complainant in such cases. Our courts will grind to a halt if we have to do that.” (Resident Judge)

Prosecution barristers in particular also raised concerns about complainants not appearing in-person to undergo cross-examination, and the ways in which this might be received by jurors.

“A witness in court is always much more impressive. Some of the most poignant moments in my career have been where adult rape witnesses, complainants, have come into court and given their evidence. And you can hear a pin drop because I always say that sometimes, when it’s like this, it’s almost like television. It’s not like a reach out and smell the fear, you don’t get that perspective from a video link.” (Barrister)

In addition, it was highlighted that there can be particular challenges in cases where there are multiple witnesses known to one another, and not all of them are eligible for a s.28 process.

"I'm told by ISVAs and CHISVAs, particularly CHISVAs actually that that's creating some problems for them because they want to undertake work that is for the family and that's very difficult when you've got one person who's completed, the child has completed their evidence, but the adult hasn't. I think there is still that feeling amongst practitioners and supporters of victims that the adult is now kind of left waiting for the trial to then be able to reconnect with their child and I think that's quite difficult." (Senior District Crown Prosecutor and Head of RASSO Unit)

These difficulties and concerns notwithstanding, in the context of the pandemic, where there have been increased delays and disruption to cases as a result of

Covid prevention measures and infections, we also heard examples where judges have made innovative use of s.28.

"We've used Section 28 for cases which would not have attracted Section 28 when they first came into the system. So I had a case which had to be cut short because the defendant, I think it was, went off with Covid. I was really worried then that the four young women in that case, all vulnerable witnesses, all under the age of eighteen, would potentially have to go all through this again, and so I took the decision, with the assistance of counsel, that we would simply get their evidence 'in the can' and we would do it by Section 28, which we did; and actually which then resulted in guilty pleas from the defendant." (Circuit judge, s.28 lead)

CASE STUDY 3

Contextualising Section 28

Laura's teenage daughter Eve experienced child sexual abuse by a family member. She reported to the police in 2019, before the pandemic. Eve had her s.28 hearing during the pandemic and the trial went ahead 12 months after the s.28 hearing. Laura had expected there to be more urgency.

"You would think that if you've got a case like that, where the young child has done the Section 28, they would then push that forward to get completed. But that just didn't happen."

Due to Covid-19 social distancing measures, Eve had been expecting to have a virtual tour of the courtroom before her s.28 hearing. However, the virtual tour did not go ahead, "because of people working from home, not sending links." Some of the Covid-19 restrictions were later lifted which meant that Eve was able to

physically visit the courtroom prior to the s.28 hearing, which she found helpful.

On the morning of Eve's s.28 hearing, Eve and Laura were informed that the prosecuting barrister for the case had changed. Laura felt that this kind of change should have been communicated earlier to both of them. Notwithstanding this, Eve had a very positive experience of s.28 overall, and felt that it should be rolled out more widely and benefit other complainants.

"... when she actually went in to do her Section 28, literally she was 10 minutes at the max. And she was 'oh, I'm really nervous.' She came out; she was smiling. I know. I was gobsmacked, she was smiling. So that means that process must have been a lot less intimidating than she thought it was going to be."

4. Recommendations

Recommendations for policies and practices

1. Immediate (within 12 months) and long-term investment is needed in all workforces across the CJS and allied agencies, including the creation and maintenance of RASSO teams – with secure, ring-fenced funding and up to date, specialist training – within all police forces and CPS areas.
2. Maintain and enable hybrid models of working (in-person and remotely) across the CJS and allied agencies to maximise productivity and flexibility, with support structures and processes in place that ensure staff welfare.
3. Develop and evaluate (within 24 months) new work structures and methods of communication piloted during the pandemic across the CJS and allied agencies to determine if collaborative working is being sustained.
4. Embed trauma-informed structures, practices, and training across CJS agencies, using the voices of those with lived experience to improve the experiences of complainants.
5. Maintain and enable blended service delivery across the CJS and allied agencies for best results for service users, emphasising survivor-choice and paying attention to digital poverty (economic poverty, access/geography, and skills/education).
6. Evaluate the implications of scaling up the use of technology by CJS agencies to improve communication with complainants and witnesses, in particular related to rescheduling of court dates and charging decision feedback and develop a protocol for use.
7. Immediate (within 12 months) and long-term investment is needed within the courts estate to ensure facilities are fit for purpose and will support the reduction of the case backlog.

8. Ensure that the challenges and issues associated with Section 28 are fully understood and addressed as a priority to ensure effective future use of the special measure, particularly within the context of any expansion of eligibility to intimidated witnesses.
9. Recognise the impact of the pandemic (and other atypical events) on the nature of sexual violence and abuse affecting different communities. Ensure services have pandemic-preparedness policies in place and ensure that services are designed in the future to respond to changes in need in a way that considers all agencies involved simultaneously.

Recommendations for survivor involvement in research

1. Development of intentional involvement of survivor-researchers, survivor-led organisations and survivor-advisors at various stages and levels of future projects.
2. Research work plans should include regular intentional reflection spaces about the nature and quality of survivor involvement in a project.
3. Increased use of tools such as the Survivors' Charter and Survivor Involvement Ladder at the start of a research project as well as during evaluation and reporting in research papers. Support a shift in research culture that both assumes and robustly evaluates survivor involvement in research that is about trauma, violence and abuse.
4. Research projects to actively work towards survivors being treated as stakeholders with equivalence to other interest groups in study designs and execution and if there is disparity, that this is explored and explained.

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Appendix

Survivors and family members	Age range	Gender	Ethnicity
N=19	23-52 years	Female <i>n</i> =15 Male <i>n</i> =3 Non binary <i>n</i> =1	White British <i>n</i> = 14 White Irish <i>n</i> = 1 Asian or Asian British <i>n</i> =2 Black British Caribbean <i>n</i> = 1 Polish <i>n</i> = 1
Professional group		Geographical location	
Third Sector		Greater London <i>n</i> =2 South East <i>n</i> =2 South West <i>n</i> =4 West Midlands <i>n</i> =2 North West <i>n</i> =3 North East <i>n</i> =1 Yorkshire and the Humber <i>n</i> =1 East Midlands <i>n</i> =1 East of England <i>n</i> =1 Wales <i>n</i> =3 National <i>n</i> =1	
SARC		South East <i>n</i> =3 South West <i>n</i> =1 West Midlands <i>n</i> =2 North West <i>n</i> =1 North East <i>n</i> =1 East Midlands <i>n</i> =2 Wales <i>n</i> =3 National <i>n</i> =1	
Police		London <i>n</i> =1 South East <i>n</i> =6 South West <i>n</i> =2 North West <i>n</i> =1 Yorkshire and the Humber <i>n</i> =1 East Midlands <i>n</i> =3 East of England <i>n</i> =3 Wales <i>n</i> =2 National <i>n</i> =2	
CPS and Barristers		London <i>n</i> =3 South West <i>n</i> =2 West Midlands <i>n</i> =3 North West <i>n</i> =2 North East <i>n</i> =1 Yorkshire and the Humber <i>n</i> =1 East Midlands <i>n</i> =1 East of England <i>n</i> =1 Wales <i>n</i> =1	
Judiciary		South East <i>n</i> =5 South West <i>n</i> =4 West Midlands <i>n</i> =1 North West <i>n</i> =4 North East <i>n</i> =2 East Midlands <i>n</i> =2 Wales <i>n</i> =1	

