

The Criminal Justice System

2019



**LONDON
SURVIVORS
GATEWAY**



RASASC
Rape & Sexual Abuse Support Centre
RAPE CRISIS SOUTH LONDON



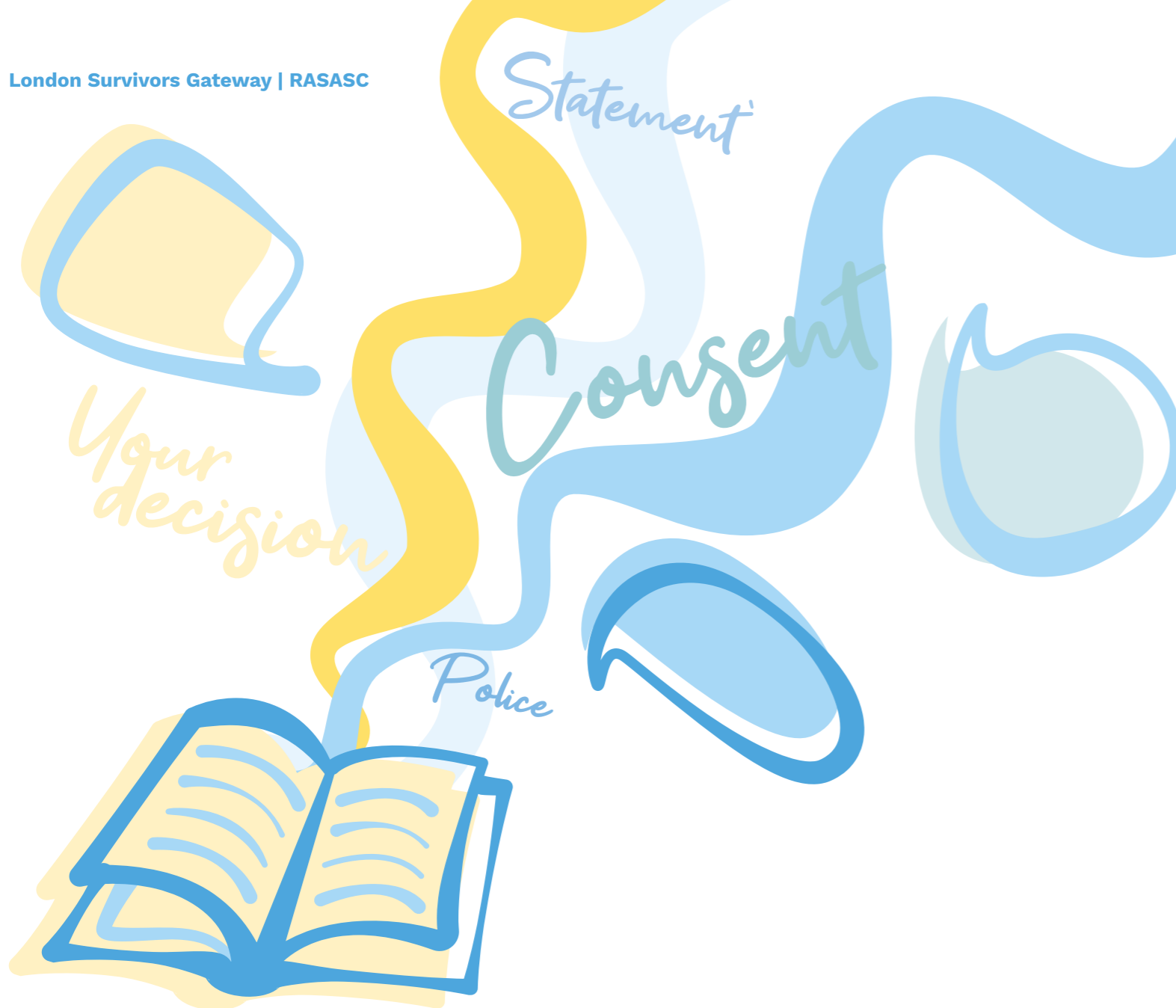
Rape Crisis South London (RASASC) have been working with female survivors of sexual violence since 1985. We offer professional and specialist services which include long term therapy (from 5 years old), Advocacy, supporting survivors through the Criminal Justice System, the National Sexual Violence Helpline for Rape Crisis, Outreach for marginalised women, and Training and Prevention workshops in schools, universities and with professionals to ensure that together we can end violence against women and girls.

This information is accurate for how rape and sexual assault by penetration are dealt by the Metropolitan police.

Whilst not all sexual violence is perpetrated by men, we know that most is. Throughout this guide we refer to the perpetrator of sexual violence as 'he' in order to make this resource as clear and concise as possible.

“ Reporting to the police is a huge step and it is so important that the decision is yours to make. You deserve to have all the information to make the choice that feels like the right one for you. ”

ISVA Team, RASASC



Reporting an offence to the police

It is important that it is **your** decision to report and you have not been pressured into it. In England and Wales there is no time limit, you can go to the police at any time after the crime has taken place. However, if you have been raped or sexually abused recently there may be evidence such as DNA that would help an investigation. This evidence can be gathered at Sexual Assault Referral Centres called **The Havens**.

If the assault has just happened then you can call 999. If it has taken place some time ago, you can call 101 which is the police switchboard and you will be put through to your local police. They will take some details from you and arrange for a uniformed officer to take your **initial statement**. This will either be in your home or in a police station, or if you have an advocate this may be able to take place with them in a Rape Crisis centre. You can request to give this account to a female officer when you call 101.

When the officer is taking the **initial statement** they will ask you what happened, where and when it happened and who the perpetrator was. If you know them, they will also ask for a description. At this stage the police do not need to know every detail of what happened but they do need to know which crime has been committed so they may ask you to use clear language to describe what happened such as penis or vagina. They do not want to embarrass you, it is so that it is clear to everyone what has happened.

From this point the uniformed officer will put your **initial statement** on the crime reporting system and it will be handed over to the specialist sexual offences team. It is here that a specially trained Sexual Offences Investigative Techniques (SOIT) officer will be allocated to your case and will be your point of contact throughout the case.

The next stage of the process is your **full account** of what happened which is usually taken in a police station. Again, you can arrange for an ISVA or someone you trust to accompany you if it would help you to feel more comfortable. This is called a **'video-recorded interview'**. If the case goes to court, this video will be played as part of your evidence. If you do not want to do a video recorded interview you can do a written statement. These often take longer so may take a couple of sessions with the police.

This is a particularly difficult time because your statement has to include as much of the incident as you can remember and it is often the first time you will have spoken about it in such detail. If there is something the police ask that you don't remember just say so, it is totally understandable not to remember everything.

Legal definitions

Rape is the penetration of the vagina, anus or mouth of another person with a penis, without the person's consent, where the perpetrator does not have reasonable belief there was consent. You cannot consent if you are too frightened to say no, if you don't want it, if you were too drunk to know what was happening or were asleep.

Sexual assault by penetration is defined as: a person intentionally penetrating the vagina or anus of another person with an object, or part of the body other than the penis, without their consent, and without having reasonable belief in consent.

The police investigation

When you have given your full account the **police investigation** can begin.

The first step is usually to find and question the perpetrator (the police will call him a suspect) and take a statement from him asking him about what he did. The police will decide whether the perpetrator can be arrested. In most cases he will be released under investigation which means he will be told not to contact you directly or indirectly. In some cases the perpetrator will be remanded (held in prison) while the investigation takes place. If you do not know the perpetrator the police will try to find him. You may be asked to identify him from a selection of photos or video that also show other people who are not suspects.

The investigation may include the police gathering CCTV and DNA evidence if it is still available, talking to friends or family that were aware of what happened, or anyone you have spoken to about your experiences. They may also look at your medical records and anything they feel is relevant. The police will also take your mobile phone to download any messages or contact that may be relevant.

This process can take anywhere from 6 to 18 months. It is important to have support in place to help you cope while waiting for decisions and updates which can be tiring and frustrating. Every survivor finds different ways to manage their feelings at this time.

When the police have completed their investigation the detective in the case will write up a report and give it to a senior officer. This senior officer will decide whether there is enough evidence for the case to go to the Crown Prosecution Service (CPS). If the officer believes there is not enough evidence the case will be “no further actioned” (NFA’d). This is not because the police do not believe you, but because they don’t think there is enough evidence to convict the perpetrator.

If this happens and you feel uncomfortable about the decision, you can:

- Ask for the case to be reviewed under the Victim’s Right to Review scheme
- Have a face to face meeting with the officers that made the decision so these reasons can be explained to you
- Have these decisions set out in writing



Will my case go to court?

If the police think there is enough evidence for the case to be considered for trial they will send the file to the **Crown Prosecution Service (CPS)**. It is here that a specialist lawyer will decide whether the perpetrator will be charged with one or more offences and stand trial.

The CPS lawyer receives all the evidence collected by the police. They will then review this evidence and ask themselves two questions when making this decision:

- Is there enough evidence for there to be a likely prospect of conviction by a jury?
- Is it in the public interest to bring this case to trial?

The evidence test is a high bar to jump as the system here says that a jury must be certain “beyond all reasonable doubt” in order to find someone guilty, and that is difficult when they weren’t there. This is why the decisions have to be based on evidence because that is what the jury will see.

If the CPS lawyer decides there is not enough evidence to charge him and take the case to trial the police will give you a letter setting out the reasons why. You can:

- Request that the decision is reviewed under the Victim’s Right to Review Scheme (more information can be found on the CPS website: http://www.cps.gov.uk/victims_witnesses/victims_right_to_review/)
- Request a meeting with the lawyer who made the decision to talk through the reasons the decision was made

If the CPS decides to take the case to trial then you will be informed of this decision by the police. The CPS will then start organising the trial.

Getting ready for trial

Before the trial a **Plea and Trial Preparation Hearing** will take place at the crown court. You do not attend this, but the police and a prosecution barrister representing the case will be there, as well as the perpetrator and his defence barrister. He will be asked for his plea: guilty, not guilty or no plea.

A guilty plea means that the perpetrator has pled guilty to one or more of the charges against them. If the perpetrator pleads guilty to all charges, a trial will not take place. If they plead guilty to some charges, a trial may still take place around the remaining charges.

A not guilty plea means the perpetrator has pled not guilty to some or more of the charges against them. If the perpetrator pleads not guilty to charges, a trial will take place.

No plea mean he hasn't decided which way to plead yet which means that a trial will still be organised. **It is extremely rare for perpetrators to plead guilty.**

At this hearing the judge will check that everything is ready for the trial, if not they will ask to see the lawyers again at a later date.

If you have requested **special measures** these will be raised at this hearing and be granted by the judge. Special measures include:

- A screen between you and the perpetrator in the court room
- Giving your evidence via a video link from a room separate from the court room
- The judge and barristers to remove their wigs and gowns (usually for younger people)

When you have the date for the trial it can be useful to arrange a **pre-trial visit** to the crown court you will be giving your evidence in. Your police officer or ISVA can help you to arrange this. Going to the court beforehand can help you to have more of a picture of what will happen and what a court room looks like and help you to feel less anxious about giving your evidence. You will also be given the opportunity to watch your video statement, or read your written statement, to refresh your memory.

At trial

The trial will take place in a crown court in front of a judge and a jury made up of 12 members of the public. The judge is there to make sure the law is followed, that everyone is treated fairly and to settle any arguments between the prosecution and the defence. The police will let you know what time you need to be at court and you will be able to wait in safe space before you give your evidence.

The prosecution barrister who will be presenting the case will usually come and introduce themselves on the first day, though they won't discuss any of the evidence with you. There can be a lot of waiting around at court while legal discussions take place. This is normal and happens at every trial.

If you have recorded a video statement, the jury will be shown this before you go into the court room. You will then be called in to give further evidence. The defence barrister, representing the perpetrator, will be asking you questions that challenge your account of what happened. It is important to remember that you are telling the truth and you know what happened. It is incredibly brave to speak out about your experiences and you should be allowed to speak without being bullied or interrupted. When you have finished your evidence the judge will thank you for coming and you will be able to go home.

When **the jury** have heard all the evidence from the prosecution and defence, which usually takes a few days, the judge will sum up the prosecution and defence cases to the jury and send them out to a private room to make their decision.

The jury are only allowed to find the perpetrator guilty if they are sure that there is enough evidence to prove the perpetrator didn't believe you consented. If they cannot be certain of this then he will be found not guilty – **this does not mean that they did not believe you** but that there was not enough evidence for them to find him guilty. If he is found not guilty he will be able to leave court. The police officer you have been working with will let you know of the outcome and talk it through with you.

The police will ask you to make a **Victim Personal Statement** which is a space for you to talk about how the sexual violence you have survived has impacted on your life. This can be read out by you or someone else at the sentencing hearing, or the judge can read it in their own time. This can be a difficult thing to do and again it is important to have the support you feel you need. If you have an ISVA, you can ask for their support when writing it.

Recovering and moving forward

Going through the criminal justice system can be a long and difficult process but it is extremely powerful to speak out and have your voice heard. If you feel you would like a space to talk, therapy is available from Rape Crisis Centres across England and Wales.

Whether you decide to report or not, remember that you have survived and deserve to recover and live life to the full.





The London Survivors Gateway offers victims and survivors of rape and sexual abuse help to access specialist services in London.

We provide information on what support is available after rape, sexual assault, sexual abuse or any form of sexual violence and can help survivors to access these services. We work with anyone aged 13 or above regardless of gender, sexuality, disability, language, ethnicity or immigration status.

The Gateway is a partnership between the four London Rape Crisis Centres, Galop, SurvivorsUK and the Havens and is run by the Women and Girls Network.

www.survivorsgateway.london
0808 801 0860

