



Scrutiny Report

Durham PCC Rape Scrutiny Panel

November 2015



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1. Purpose of the Report

- 1.1 This is the report of the first performance scrutiny carried out by the Durham PCC Rape Scrutiny Panel. The purpose of this report is to inform members of the work being carried out in relation to the Durham PCC Rape Scrutiny Panel and to report on the schedule of recommendations that have been identified by the Panel to date.

2. Background

- 2.1 Crown Prosecution Service (CPS) Scrutiny Panels were rolled out nationally in 2007/2008 following a successful pilot in West Yorkshire. There is currently a CPS North East Violence Against Women (VAW) Panel which is proving to be successful in critically examining the performance of the Crown Prosecution Service in its handling of VAW prosecutions.
- 2.2 The North East developed the first ever regional strategy to tackle violence against women and girls ([North East VAWG strategy](#)). It was launched in late 2013 by the three regional Police and Crime Commissioners (PCC), Northumbria's Vera Baird, Cleveland's Barry Coppinger and Durham's Ron Hogg. Together they devised the 20-point plan to provide support and protect women and girls who are victims of violence or abuse of any kind.
- 2.3 The Durham PCC Rape Scrutiny Panel plays a key part in delivering the Violence Against Women and Girls strategy. Priority twelve of the Regional PCC Violence Against Women's Strategy states: 'We will establish a Police Rape Scrutiny Panel in each police area to scrutinise case files which have failed to attain the requisite evidential level for prosecution or where a prosecution has failed and look for lessons to learn.'
- 2.4 The Durham PCC Rape Scrutiny Panel follows the model successfully implemented by the Crown Prosecution Service. The Durham PCC Rape Scrutiny Panel was officially launched by Ron Hogg, Durham Police and Crime Commissioner, on the 14th November 2014.



3. Aim and Purpose

- 3.1 The development of this panel aims to provide independent oversight of rape investigations in Durham to identify best practice and opportunities for improved working practices, adding transparency to the investigation and ultimately improving conviction rates.
- 3.2 The Panel considers whether the service provided to victims is the best it can get with the aim of giving more victims the confidence to report rapes, knowing that they will get the support they need to go through the criminal justice system and bringing offenders to justice.
- 3.3 The Rape Scrutiny Panel critically examines cases and ensures that lessons are learned, leading to positive change when conducting future investigations. It scrutinises case files which have failed to attain the requisite evidential level for prosecution or where a prosecution has failed.
- 3.4 Whilst the panel focuses on the work of the police, it is inevitable that other agencies also come under the spotlight. The office of the PCC ensures that the recommendations for other agencies are also passed on.
- 3.5 The purpose of this work is to improve the performance of the police in the investigation of rape cases and the support offered to victims. The Panel provides independent oversight of rape investigations in County Durham and Darlington to identify best practice and opportunities for improved working practice and to improve the community's confidence. By developing trust and confidence in victims and more importantly the general public, who are the future victims, we will increase reporting rates, and thereby identify perpetrators and prevent further offending.

4 Membership

- 4.1 The Durham PCC was keen to ensure that panel members are independent and provide a real benefit to improve the community's confidence in the police to deal with such serious crimes and therefore increase reporting and improve the investigation of rape offences and the support offered to victims.
- 4.2 An extensive recruitment exercise took place in September 2014 in order to recruit panel members who have the knowledge and expertise in supporting victims of rape and sexual violence.



- 4.3 The panel consists of 10 specially-trained volunteers from the voluntary and community sectors, and from statutory organisations, with expertise and an understanding of the issues relating to rape and sexual violence and have experience of supporting victims and witnesses of rape.
- 4.4 Due to the fact that the panel considers real cases, there was a requirement for panel members to undergo the required police vetting check and security clearance. Panel members were also required to sign an undertaking of confidentiality.
- 4.5 Terms of reference for the Durham PCC Rape Scrutiny Panel were agreed by all panel members on the 28th January 2015, and these can be found in [appendix 1](#).

5 Methodology

- 5.1 The Rape Scrutiny Panel meets four times a year. The first meeting took the form of a training and development day. The training provided the Panel with an in-depth understanding of police policy and procedure in the investigation of rape and other serious sexual offences, and an understanding of the role and function of the Police and the Crown Prosecution Service. The National Crime Reporting Standard and the Criming Process was also presented to the Panel.
- 5.2 The Durham Constabulary '*Investigation of Rape and other serious Sexual Offences*' presentation was delivered at the second meeting. This provided the Panel with information about the Risk Assessments undertaken by Call Handlers at Durham Constabulary when the initial call is made to the police. The meeting day was used as a pilot exercise to help shape the future and success of the Rape Scrutiny Panel meetings. A case was scrutinised in order to give the panel a clear indication of time and points to cover.
- 5.3 The third meeting formally examined two case files where it had been judged that no crime had been committed, or which were said not to have achieved the required threshold of evidence to be sent to the Crown Prosecution Service.
- 5.4 The structure of future meetings was formally agreed. Three hours are set aside prior to the meeting for Panel Members to read case files and highlight questions so that the meetings can be conducted efficiently. Two cases are scrutinised at each Rape Scrutiny Panel meeting and the process includes viewing the 'Achieving Best Evidence' DVD and interviewing the Officer in



Charge. Details of the main findings and recommendations are summarised in the sections below and are reported to Durham Constabulary.

6. Recommendations

- 6.1 The body of this section details a summary of recommendations aimed at maintaining a consistent approach in rape investigations and victims care, made in light of the evidence gathered during the Rape Scrutiny Panel meetings
- 6.2 This section has been redacted pursuant to lawful and necessary exemptions within Sections 30, 31 and 38 of the Freedom of Information Act 2000. This is in line with data protection and confidentiality policies and the requirement to protect the public.
- 6.3 It is important to acknowledge that the Rape Scrutiny Panel agreed with the outcomes of all cases scrutinised. There are also numerous examples of good policy and practice identified throughout the evidence gathering sessions which are recognised as national best practice.
- 6.4 This section however focusses on the recommendations identified which provide a starting point to allow best practice to be maintained at all times. Equally, further exploration would help to confirm whether any issues identified in this sample are typical and therefore relate to current practice or whether they are specific to the individual cases examined. Any patterns appearing will be identified as the work of the Rape Scrutiny Panel progresses.

Recommendation 1

ABE interviews

Dip sampling of ABE interviews should be conducted on a regular basis within Durham Constabulary to ensure standardisation. As good practice, ABE training should also be reviewed regularly in line with any legislation/procedural changes.



Recommendation 2

Witness Assessments

The current assessment process should be reviewed, and witness assessments dip sampled. Comprehensive risk assessments should include third party verification of assessment and an assessment of mental health.

Recommendation 3

Soft Intelligence

There should be increased vigilance with respect to recording soft intelligence, and greater information sharing from other agencies.

Recommendation 4

Retraction Statements

In cases where the victim makes an informed decision to retract their statement, there should be thorough documentation of the retraction, which eliminates any possibility of misinterpretation.

Recommendation 5

Appropriate Adults

There should be a mechanism in place to ensure that appropriate adults are independent in the case, especially potential witnesses, or family members.



Recommendation 6

Intermediaries

The Ministry of Justice should review the availability of intermediaries and recruit a bank of trained local intermediaries to address the deficiency.

Recommendation 7

Training

There should be consistent and regular training on challenging rape myths and avoiding judgemental behaviours.

Recommendation 8

Evidence Gathering

CPS advice should be sought early to aid an investigation, and the investigation should be supervised by an officer of an appropriate rank.

Recommendation 9

Decision-Making Record

Where a decision is made not to proceed with a case, there should be recorded a written rationale, which is evidence based and avoids judgments.



7. Implementation of recommendations

- 7.1 In order to ensure that the recommendations made in this report are actioned, the Rape Scrutiny Panel is committed to monitoring progress against these recommendations. The report has been passed to Durham Constabulary, and the panel has requested regular updates.

- 7.2 The next step in this process is to discuss how the recommendations will be implemented with those persons responsible and the timescales for implementation. An action plan will be produced in due course.



Appendix 1

Durham PCC Rape Scrutiny Panel Terms of Reference

1. The Durham PCC Rape Scrutiny Panel (the Panel) will work with Durham Constabulary to improve performance in the investigation of rape cases and to improve the services offered by the Police to victims of rape. The Panel will achieve this by scrutinising current cases.
2. The Panel will be chaired by the CEO of the Rape & Sexual Abuse Counselling Centre [Darlington and County Durham].
3. The Panel will meet three or four times a year and dates will be decided by the Panel and agreed in advance, and will be chosen for the convenience of the maximum number of Panel members. The aim will always be to achieve 100% attendance of Panel members.

4. Membership

- a) Membership is for an initial period of two years, subject to review in December 2016.
- b) The aim is to ensure a fair representation of organisations working with victims of rape throughout County Durham. Should the Panel conclude that representation is not fair, then new members will be recruited by inviting applications from the targeted communities. Recruitment and selection of new members will be conducted by the Chair, the CPS North East Equality, Diversity and Community Engagement Manager and a representative from the office of the PCC.
- c) All members will co-operate with the PCC Office in obtaining DBS clearance in accordance with standard police vetting procedures. Members must notify the PCC Office of anything which may affect security clearance. At each Panel meeting, those present will sign a list of members attending the meeting, and in so doing will declare that they are not aware of any matters which have occurred since they last signed the declaration which may affect their security clearance.

5. Durham Constabulary commitments

The Police will:

- Make available for selection for scrutiny current rape files under investigation, primarily those that have been classified 'NFA' (no further action) and of any specific types requested by the Panel.
- Note all recommendations made by Panel members and act upon them whenever possible
- Provide performance data in relation to rape investigations at each Panel meeting



6. Durham PCC commitments

The PCC will:

- Reimburse Panel members' reasonable travel expenses for attending panel meetings and any other Panel business, upon production by the Panel member of a correctly completed expenses claim form and all required receipts.
- Endeavour to meet other Panel member reasonable expenses incurred as a result of attending Panel meetings or carrying out Panel business (e.g. childcare costs)
- Note all recommendations made by Panel members and act upon them whenever possible

7. Chair commitments

The chair will:

- Convene with Panel meetings three or four times a year on a date convenient to all Panel members or, if this proves impossible within a reasonable timescale, on a date convenient to the majority of Panel members
- Maintain a Schedule of Outcomes for the Panel, recording significant recommendations, actions taken and outcomes

8. Panel member commitments

Panel members will:

- Attend all Panel meetings unless there is good reason for non-attendance
- Feedback agreed messages from the Panel to their communities
- Feedback to their communities about the work of the PCC, the Police and the work of the Panel with a view to building confidence in the police amongst communities
- Treat all Panel members, all police staff and all guest speakers with respect
- Value diversity, and avoid any comments, statements or actions which may be offensive to other Panel members.
- In terms of conduct as a member of the Panel, individual members are expected to comply with professional standards relating to professional bodies of which they may be members as part of their professional role outside of the work of their Panel.

9. Conflict of interest

Panel members are expected to scrutinise cases objectively. It is understood that, through the nature of their work and their community contacts, Panel members may well know individuals affected by the cases the Panel is scrutinising – whether victims, witnesses or defendants. The following applies whenever a victim, witness or defendant in a case to be scrutinised is known to a Panel member:



- The panel member must notify the Panel Chair as soon as they realise that an individual involved in the case is known to them, and must not then read the rest of the file until a decision has been made
- The Panel will then consider whether there is a conflict of interest for that Panel member in discussing that case, and whether the member's ability to take an objective view of the case has been compromised. If deemed appropriate by the Panel, the member will absent themselves from the discussion of that case
- If the Panel member takes the view that there is a conflict of interest or their objectivity is compromised, then they should immediately stop reading the case, and should notify the Chair that they cannot be involved in the discussion of that case.
- If a Panel member finds discussion of a case too distressing, then it is agreed that the Panel member may leave the room until that discussion is concluded

10. Confidentiality:

All Panel members have signed a confidentiality agreement, confirming that they are subject to the Data Protection Act and the Official Secrets Act. It is important that Panel members do not discuss with anyone outside of the Panel the personal details of any victim, witness or defendant in any of the cases scrutinised. At the end of each Panel meeting key messages will be agreed by the Panel for dissemination amongst communities. At this point any doubts as to information to be disseminated can be discussed and resolved. If Panel members are in any doubt as to what information they should and should not disclose, they should seek advice from the Chair.

11. Police participation

Police representatives will be invited to attend the sessions in which files from their own investigation are to be scrutinised.

12. Member De-selection

A member may be de-selected from the Panel if they are reasonably believed to be in breach of the commitments set out above. A Panel member who fails to attend two consecutive meetings without offering an explanation and apologies will also be liable for de-selection. The following procedure will be followed in any instance where there is cause for concern in relation to a Panel member's conduct:

1. Any complaint about a Panel member's conduct should be addressed to the Chair of the Panel. Complaints may be made by another Panel member, by any member of PCC staff or Police staff, or by any member of the community who is concerned about the conduct of a Panel member. The Chair may also instigate this process if they have concerns of their own. The complaint need not be in writing nor in any specific format.



2. On receiving a complaint, the Chair will discuss it with a representative from the Office of the PCC to consider how best to ensure that the complainant and the Panel member concerned may be supported throughout the process.
3. The Chair will either have a discussion with the complainant to ensure that the nature of the complaint is fully understood and that the complainant is aware that the complaint is receiving full consideration.
4. The Chair will then meet with the Panel member who is the subject of the complaint, to explain the nature of the complaint and invite the Panel member to respond.
5. The Chairs and the representative from the Office of the PCC will then discuss how to resolve the matter. If it is the view of this group that the Panel member concerned has breached the Code of Conduct (as outlined in sections 8,9 & 10) and that their continued membership of the Panel will be damaging to the effective working of the Panel or to the Panel's reputation in the community, they may require the Panel member to leave the Panel. Any such decision will be explained to the Panel member, and confirmed in writing.
6. Any Panel member required to leave the Panel under this process who is dissatisfied with that decision, may contact the PCC to request a review of the decision.

13. Panel member concerns:

Any Panel member who has concerns about the running of the Panel should raise these with the Chairs or the representative from the PCC Office. The Chair and the representative from the PCC Office will then meet to discuss how best to address the concerns raised, and will provide a full response to the Panel member raising the concerns. If the Panel member remains dissatisfied, then he or she should follow the PCC complaints procedure, a copy of which will be supplied on request.