

# Victim Support Scotland submission of 3 May 2023

## PE1994/C: Review the trial process for sexual offence cases

Victim Support Scotland have been asked to share our views on the action called for in petition PE1994: Review the trial process for sexual offence cases.

The petition calls for the following action: *Calling on the Scottish Parliament to urge the Scottish Government to undertake a review of the trial process and handling of witness evidence in sexual offences cases.*

The following background information has also been provided: *The laws this government have brought in to protect the victim are long overdue but it has swung way over the other way, which is leading to more convictions. This has ruined a lot of innocent people's lives as the accused lawyers have been told their evidence is irrelevant and cannot be used.*

*There are lots of stories of medical reports being classed as not admissible to witness statements being taken but not used. People are told again that it's not relevant and it is only the accused evidence this is happening to.*

*The law should be seen to be fair for all but it is not. The Scottish Government's new laws are being blamed for it by the legal aid court lawyers.*

In response to this petition, Victim Support Scotland would strongly contest the view that laws which have been introduced to protect victims have resulted in innocent people being wrongfully convicted.

This view does not align with the experiences of people affected by crime, nor does it reflect the conviction rates for sexual offences.

Victim Support Scotland would also seek clarification on the specific laws which are believed to have resulted in an increase of wrongful convictions.

## 1. Conviction Rates for Sexual Offences

Criminal proceeding figures published by the Scottish Government in June 2022 revealed the number of convictions for sexual crimes decreased by 33% in the previous year.<sup>1</sup>

The number of convictions for sexual crimes was 817 in 2020-21, down 400 convictions from 1,217 in 2019-20.<sup>2</sup>

The number of convictions for rape and attempted rape decreased by 40% (from 130 in 2019-20 to 78 in 2020-21). The figure in 2019-20, was the second lowest in the past decade after 2011-12 (49) prior to the further decline in conviction rapes in 2020-21.<sup>3</sup>

Only 51% of rape and attempted rape trials result in a conviction, compared to a 91% overall conviction rate. In 2020-21 there were 2,176 rapes and attempted rapes reported to the police, but only 152 prosecutions and just 78 convictions.<sup>4</sup>

Scottish Government figures also demonstrate a recent decline in convictions for sexual assault. There were 147 sexual assault convictions in 2020-21, down 52% since 2019-20 (306 convictions). Prior to this year the number of convictions for sexual assault had been increasing, from 151 in 2011-12 to 306 in 2019-20.<sup>5</sup>

The above figures highlight a decline in convictions for sexual offences, with conviction rates for rape and attempted rape reaching almost record low levels. This does not support the petitions claim that laws implemented by the Scottish Government have resulted in an increase in wrongful convictions for sexual offences.

Rather, the contrast in the conviction rate for rape and attempted rape trials, when compared to the overall conviction rate, suggests that more needs to be done address this disparity.

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<sup>1</sup> National Statistics, Scottish Government, [Criminal Proceedings in Scotland, 2020-21.](#), June 2022 – ([www.gov.scot](http://www.gov.scot))

<sup>2</sup> National Statistics, Scottish Government, [Criminal Proceedings in Scotland, 2020-21.](#), June 2022 – ([www.gov.scot](http://www.gov.scot))

<sup>3</sup> National Statistics, Scottish Government, [Criminal Proceedings in Scotland, 2020-21.](#), June 2022 – ([www.gov.scot](http://www.gov.scot))

<sup>4</sup> National Statistics, Scottish Government, [Criminal Proceedings in Scotland, 2020-21.](#), June 2022 – ([www.gov.scot](http://www.gov.scot))

<sup>5</sup> National Statistics, Scottish Government, [Criminal Proceedings in Scotland, 2020-21.](#), June 2022 – ([www.gov.scot](http://www.gov.scot))

This is of particular concern as the decline in conviction rates takes place against the backdrop of the highest number of sexual offences being recorded in the last five years in December 2022. <sup>6</sup>

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<sup>6</sup> Scottish Government, *Justice Analytical Services (JAS) Safer Communities and Justice Statistics Monthly Data Report: April 2023 edition*, April 2021 – ([www.gov.scot](http://www.gov.scot))

## 2. Use of Evidence in Sexual Offence Cases

Victim Support Scotland are unaware of frequent reports of the accused in sexual offence cases being consistently told their evidence is non-admissible.

However, we do understand the challenges survivors face securing evidence in sexual offence trials.

Evidence compiled by Rape Crisis Scotland from its Survivors Reference Group highlights that securing evidence for a prosecution in cases of rape and sexual violence is incredibly challenging.<sup>7</sup>

The initial report from the Survivors Reference Group notes of these challenges:

*‘Even in prosecutions where there was significant supporting evidence – including an audio recording of the attack taking place – a not proven verdict was delivered.*

*Commenting on this, a local Rape Crisis Centre Manager said: “It is well worth all of us reflecting on what message it sends to survivors thinking about reporting rape – knowing full well that securing sufficient evidence is a challenge – that a literal audio recording did not carry the weight necessary to secure a conviction.”<sup>8</sup>*

This is only one example of the challenges survivors of rape and attempted rape face in obtaining a conviction and the extremely high threshold of evidence required.

The Scottish Government’s 2017 investigation and prosecution of sexual crimes: review noted that the requirement for corroboration of evidence in criminal cases under Scots Law presents challenges in sexual offence cases.<sup>9</sup>

The review notes: *“Corroboration is particularly problematic where the crime occurs in a private setting, as is very often the case with sexual crimes, as it is unlikely there will be any other direct eyewitness evidence to support the victim’s account of what happened.”<sup>10</sup>*

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<sup>7</sup> Rape Crisis Scotland, [Survivor Reference Group Initial Report](http://www.rapecrisisscotland.org.uk), 2019 – ([www.rapecrisisscotland.org.uk](http://www.rapecrisisscotland.org.uk))

<sup>8</sup> Rape Crisis Scotland, [Survivor Reference Group Initial Report](http://www.rapecrisisscotland.org.uk), 2019 – ([www.rapecrisisscotland.org.uk](http://www.rapecrisisscotland.org.uk))

<sup>9</sup> The Scottish Government, [Investigation and Prosecution of Sexual Crimes: Review](http://www.gov.scot), 2017 – ([www.gov.scot](http://www.gov.scot))

<sup>10</sup> The Scottish Government, [Investigation and Prosecution of Sexual Crimes: Review](http://www.gov.scot), 2017 – ([www.gov.scot](http://www.gov.scot))

Victim Support Scotland advocates for fair trials, considering the court experiences of people affected by crime.

Evidence from victims and survivors suggests that much work is still required to improve the experiences of people affected by crime in court. This has been highlighted by the recommendations of the Lady Dorrian review of the management of sexual offence cases.

Considering the above, Victim Support Scotland contest the action called for in petition PE1994: Review the trial process for sexual offence cases.