



Victim-Survivor Views and Experiences of Sentencing for Rape and Other Sexual Offences

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Contents

Executive Summary	1
1. Introduction	4
2. Background	7
2.1 The legislative framework for rape and sexual assault in Scotland.....	7
2.2 Principles, purposes and processes of sentencing in Scotland.....	7
2.3 Research on the sentencing of sexual offences.....	8
2.4 Contextualising the justice journeys of victim-survivors	10
3. Study Design	11
4. Research Findings.....	13
4.1 Victim-survivor hopes and expectations in relation to reporting and sentencing	13
4.2 Pre-sentencing knowledge and understanding of sentencing.....	15
4.3 Experience of the sentencing hearing	16
4.4 Communication and understanding of the sentence imposed.....	21
4.5 Views on sentence imposed	25
4.5.1 Perspectives on custodial sentences.....	25
4.5.2 Length of sentence	28
4.5.3 Factors taken into account in sentencing.....	30
4.6 Post-sentencing concerns.....	33
4.6.1 Lack of information and support.....	33
4.6.2 Safety concerns	35
4.7 Wider views on sentencing of sexual offences.....	37
4.7.1 Views on custodial and non-custodial sentences.....	38
4.7.2 Length of sentence	40
4.7.3 Views on the purpose of a sentence.....	43
5. Key Messages	44
6. Recommendations.....	48
References.....	51
APPENDIX 1: Participant characteristics	54

Executive Summary

This report presents findings from a qualitative study that aimed to explore victim-survivors' views and experiences of sentencing for rape and other sexual offences in Scotland. It draws upon research undertaken with 14 adult victim-survivors of rape and/or sexual offences whose case resulted in a conviction and a subsequent sentence between 2021–2024. Findings and recommendations are provided to inform the development of sentencing guidelines for sexual offences by the Scottish Sentencing Council and contribute to improving policy and practice around sentencing in relation to victim-survivors.

Despite low expectations of the criminal justice process, victim-survivors in this study had an immense emotional investment in the outcome and sentencing of their case. The accounts presented in this report highlight victim-survivors' desire for procedural justice; that is, to be treated with fairness, dignity, respect and given a 'voice' within the criminal justice process. However, this was rarely evident in victim-survivor accounts of sentencing. Ironically, despite prolonged engagement with the criminal justice system, and reaching a case outcome widely deemed to be successful, victim-survivors who reach sentencing face continuing and heightened marginalisation from the criminal justice process.

Experience and understanding of sentencing

1. Prior to sentencing, most victim-survivors were provided with little or no information about the sentencing process or the sentencing options available to the court.
2. Attending the sentencing hearing was considered an important part of the often lengthy and arduous journey that victim-survivors had made through the criminal justice system.
3. Fear of seeing the perpetrator and a lack of emotional, practical, or financial support to attend sentencing hearings, prevented some from doing so.
4. There was a strong preference for victim-survivors to be given the option of attending the sentencing hearing remotely through a video link.
5. Some who did attend the hearing described feeling unprepared and unprotected, with their rights and interests being neglected.
6. The tone and content of judges' remarks at sentencing were significant to victim-survivors and impacted on their sense of justice.

Communication and understanding of the sentence imposed

7. Victim-survivors received sparse communication about the sentence, and some had considerable difficulty in understanding the sentence imposed, despite their attempts to gain information.

8. Key questions victim-survivors had related to the length of the sentence that would be served, the judge's reasoning for the sentence, and the breakdown of the sentence in terms of how it applied to individual victims and offences.
9. There was a lack of certainty about who was responsible for providing information about sentencing although there was a clear preference for being able to speak with someone who could help them to understand the sentence and for transcripts of the sentencing hearing to be made available at no cost.

Views on sentencing

Purpose of sentencing

10. While a custodial sentence was rarely the underlying reason for reporting to the police, custodial sentences were considered important to both victim-survivor recovery and feelings of safety.
11. Support for custodial sentences, and views on sentencing more broadly, were shaped by issues pertinent to sexual offences: namely, the nature and scale of the problem within society; low rates of reporting and conviction; the profound impacts upon victim-survivors, their friends and family; the likelihood of reoffending; and perpetrators ability to manipulate the system.
12. There was clear, though not unanimous, support for custodial sentences as a default in rape cases. Support for custodial sentences in sexual assault cases was more ambiguous due to these offences being viewed as less serious than rape.
13. There was a strong view that sentencing in sexual offences should primarily serve the purpose of ensuring the safety of individual victim-survivors and wider public protection. Relatively few explicitly mentioned punishment though several referred to the importance of rehabilitation as a key aim of a custodial sentence.
14. Non-custodial sentences were considered inappropriate by most victim-survivors due to the likelihood of the perpetrator reoffending.

Sentence length

15. Most victim-survivors believed that the sentence imposed in their case was too lenient.
16. Views on sentence length imposed varied according to prior expectations of what the sentence might be and were primarily informed by: the seriousness of the offence, including duration of offending; whether the sentence was proportionate to the impact the offence(s) had on their life; their relationship with the perpetrator; the amount of time they needed to recover from both the offence and the often lengthy criminal justice process; and the likelihood of the perpetrator reoffending.

17. Those who provided a view on specific sentence lengths, gravitated towards a minimum sentence of five to seven years for single charges of rape with a sentence of up to life for repeat offenders.

Aggravating and mitigating factors

18. Factors related to the perpetrator's character, previous analogous offending, and ongoing (abusive) behaviour during the criminal justice process were raised as important factors for sentencing since some perpetrators were thought to use the criminal process as a way of continuing their abuse and exacerbating victim-survivor distress, signalling a lack of accountability and remorse as well as the heightened potential for re-offending.
19. Where rape and sexual assault are perpetrated by someone known to the victim-survivor, as is the case with most sexual offences, the breach of trust that occurs was highlighted as an aggravating factor.
20. Perpetrator expressions of remorse and guilty pleas were viewed with scepticism and thought to serve the interests of the perpetrator rather than victim-survivors.
21. Most were critical of perpetrator age, either young or elderly, as a mitigating factor in sentencing.
22. Victim-survivor frustration with mitigating factors that were taken into account in sentencing, was compounded by their sense that the rights and interests of the perpetrator superseded their own.

Post-sentencing concerns

23. There is a lack of information and support for victim-survivors post-sentencing. Victim-survivors described feeling as if they were left with more questions than answers at the end of the criminal justice process.
24. Safety concerns did not cease following the imposition of a custodial sentence and there was a lack of certainty in relation to protective measures such as non-harassment orders.
25. Victim-survivors expressed a desire to be informed about what custodial sentences entailed, especially in relation to any rehabilitative work that may be undertaken in prison.

1. Introduction

Sexual offending has become an area of growing public concern and it accounts for a rising proportion of sentencing in Scottish courts¹. The processing of sexual offences in both the Sheriff and High Court in Scotland has significantly increased in recent years. Criminal proceedings for sexual crimes increased by 123 per cent from 151 in 2020-2021 to 336 in 2021-2022. Over the same period, there was an increase of 52 per cent in the number of convictions for sexual crimes (from 841 in 2020-21 to 1,279 in 2021-22). The number of convictions for rape and attempted rape, specifically, increased by 105 per cent from 78 in 2020-21 to 160 in 2021-22².

There are a number of challenges in the sentencing of sexual offences, including with regard to particular types of offender and particular types of offence (for example, historical sexual offences, or those involving children or young people). The sentencing of rape is considered contentious³ with concerns relating to how a sentence might reflect the seriousness of rape; the effect on the victim-survivor; the culpability of the offender; and how best to ensure that proportionate sentences are imposed⁴. Judges in Scotland enjoy wide sentencing discretion^{5,6} and sentencing is an individualised process⁷. Whilst case law is a valuable source of information on sentencing practice, and there are important points of principle in the sentencing of rape to be found in Court of Appeal guideline judgments to which judges are directed to have due regard, there is no statutory presumption that they will be followed by the judge in an individual case⁸.

The Scottish Sentencing Council (the Council), whose main remit is to provide guidance on sentencing to the Scottish Courts, is currently developing a suite of sentencing guidelines on sexual offences. It is anticipated that guidelines would bring significant benefits: they will provide judges and the public with a clear statement about the aims of current sentencing practice; increase transparency by providing the public with an understanding of the approach taken by judges when deciding sentences; and enable judges to articulate consistency in their sentencing⁹. The Council decided to

¹ Scottish Government (2023) Criminal Proceedings in Scotland, 2021-22. Edinburgh: Scottish Government.

² *ibid.*

³ Smith, O. and Daly, E. (2023) Who Gets to Challenge Contemporary Thinking on Rape? Contradictions and Confusion in Public Opinion of "Rape Justice" in M. Horvath and J. Brown (eds.) *Rape: Challenging Contemporary Thinking – 10 Years On*. London: Routledge.

⁴ Brown, G. (2020) *Sentencing Rape: a comparative analysis* Oxford: Hart Publishing.

⁵ Hutton, N. (1999), 'Sentencing in Scotland' in Duff, P. and Hutton, N. (eds), *Criminal Justice in Scotland* Aldershot: Dartmouth.

⁶ Hutton, N. and Tata, C. (2010) A Sentencing Exception? Changing Sentencing Policy in Scotland. *Federal Sentencing Reporter*, 22(4), pp. 272–78.

⁷ Brown, *op. cit.*, p. 122.

⁸ *ibid.*, p. 109.

⁹ Scottish Sentencing Council (2017) *Principles and Purposes of Sentencing: A Scottish Sentencing Council Consultation*.

develop multiple guidelines focusing on particular sexual offences, rather than a single guideline covering all offences, beginning with guidelines for rape, sexual assault and offences involving indecent images of children. This reflects the wide-ranging nature of sexual offending.

As an initial part of this work, the Council commissioned a review of the sentencing of rape in Scotland and other jurisdictions to include the available data on sentencing of rape, an overview of studies examining public perceptions of rape sentencing, and a consideration of the wider principles and purposes of sentencing¹⁰. This review was followed by the commissioning of research on public perceptions of sexual offences undertaken through the use of focus groups comprising members of the public, including a small number of interviews with women subjected to sexual offences¹¹.

The research that underpins this report was commissioned by the Council in 2023 to engage specifically with victim-survivors of rape and sexual assault. The key aim of the research was to explore victim-survivor views and experiences of sentencing for rape and other sexual offences to inform the development of sentencing guidelines. As such, the report draws on research undertaken with adult victim-survivors of rape and/or sexual offences whose case resulted in a conviction and a subsequent sentence in Scottish courts from 2021-24.

A note on terminology

In the research literature, the various terms that are used to describe those who have experienced sexual violence include 'victim', 'survivor', 'victim/survivor' and 'victim-survivor', and all are considered controversial¹². The term 'witness' is used in a legal context to describe the position of someone who sees or perceives an event happening and gives evidence on this in a trial. Further, the term 'complainer' is used in Scottish legal procedure to describe the alleged victim in a charge, though a Scottish Appeal Court judgment (*Wishart v HMA*) found it inappropriate to refer to a complainer as being a 'victim' until guilt is proven¹³.

All participants in this research have experienced sexual violence and their assailants have been found guilty and sentenced. Whilst the attribution of the term 'victim' does not connote an identity, it does signal that someone has been victimised. Following

¹⁰ Scottish Sentencing Council (2021a) Sexual Offences Involving Rape: Literature Review.

¹¹ Scottish Sentencing Council (2021b) Public Perceptions of Sentencing in Scotland: Qualitative research exploring sexual offences.

¹² Brown, J. M. and Horvath, M.A.H. (2009), 'Do You Believe Her and Is It Rape?' in Horvath, MAH and Brown, J. (eds.) Rape – Challenging Contemporary Thinking. Cullompton: Willan.

¹³ Brown, op. cit.

Daly¹⁴ we take the view that ‘victim’ is not to be taken as a categorisation or a description, rather it recognises the victimisation to which someone has been subject. The word ‘survivor’ signifies that many of those subjected to sexual violence are going or have gone through a recovery process and have achieved some form of resolution. However, the journey from victim to survivor is unique to each person and some may not complete that journey. For this reason, we use the term ‘victim-survivor’ in this report.

¹⁴ Daly, K. (2014) ‘Reconceptualizing Sexual Victimization and Justice’ in Vanfraechem, I., Pemberton, A. and Mukwiza Ndahinda, F. (eds), *Justice for Victims – Perspectives on Rights, Transition and Reconciliation*. Abingdon: Routledge.

2. Background

2.1 The legislative framework for rape and sexual assault in Scotland

Following comprehensive reform of the law of sexual offences by the Scottish Law Commission, the Sexual Offences (Scotland) Act 2009 came into force in December 2010. The 2009 Act created statutory sexual offences of rape, sexual assault by penetration, sexual assault, sexual coercion, coercing a person to be present during sexual activity, coercing a person to look at an image of sexual activity, communicating indecently, sexual exposure, voyeurism and administering a substance for a sexual purpose. It also created a series of specific 'protective offences' structured around different groups (adults, young children, and older children), 'mentally disordered persons' and those who had been victim to an abuse of trust. Notably the definition of rape was extended by Section 1 of the 2009 Act to include vaginal, oral and anal penetration, recognising for the first time in Scots law that men could be victims of rape¹⁵.

Section 2 of the 2009 Act created a statutory offence of 'sexual assault by penetration' whereby a person commits the offence by intentionally or recklessly sexually penetrating the victim's vagina or anus, in circumstances where the victim does not consent, and the accused has no reasonable belief in consent. Section 3 created an offence of sexual assault making it an offence for someone intentionally to touch sexually another person without that person's consent, and the accused had no reasonable belief in that person's consent.

The Act also provided the maximum penalties which could be attached to each offence. The relevant penalties are set out in Schedule 2 of the Act, with life imprisonment as the maximum sentence for rape and sexual assault (if the latter is tried on indictment in the High Court) and maximum imprisonment of 12 months if sexual assault is tried on summary conviction in the Sheriff Court.

2.2 Principles, purposes and processes of sentencing in Scotland

The Council's guideline on the Principles and Purposes of Sentencing sets out a core principle that 'sentences in Scotland must be fair and proportionate'¹⁶ and a series of requirements following from this principle: that 'all relevant factors' be considered by the sentencer including the seriousness of the offence, the impact on the victim-survivor and others affected by the case and the offender's circumstances. The requirements also include acceptance of the principle of parsimony in sentencing in that sentences should be no more severe than is necessary to achieve the appropriate

¹⁵ Cowan, S. (2019) Sense and Sensibilities: A Feminist Critique of Legal Interventions against Sexual Violence *Edinburgh Law Review*, 23 (1): pp. 22-51.

¹⁶ Scottish Sentencing Council (2018) Principles and Purposes of Sentencing: sentencing guideline, p.3.

purposes of sentencing in each case. Duties are required of sentencers, namely that reasons for sentencing decisions must be stated as clearly and openly as circumstances permit; that sentencing decisions must be made lawfully; and sentencers must have regard to any sentencing guidelines which are applicable. Moreover, there is a duty to treat people equally and without discrimination, and to ‘treat similar cases in a similar way, assisting consistency and predictability’¹⁷.

Moving to the purposes of sentencing, the guideline states that the sentence selected should best achieve ‘the purposes of sentencing that are appropriate to the particular case but should always reflect the core principle of fairness and proportionality’¹⁸. The purposes of sentencing are listed as: protection of the public; punishment; rehabilitation of offenders; providing the offender with the opportunity to make amends; and expressing disapproval of offending behaviour. The purposes are however listed in ‘in no particular order’ thereby leaving it to individual sentencers to balance the purposes according to the facts and circumstances of the particular case¹⁹.

The Council’s guidelines on Sentencing Processes²⁰ sets out a sequence of steps (a framework) which courts should follow to reach a sentencing decision. These are: (1) assessment of the seriousness of the offence in terms of culpability and harm caused; (2) selection of a sentencing range; (3) consideration of aggravating and mitigating factors; (4) determination of the ‘headline sentence’; (5) consideration of any guilty plea; (6) consideration of any time spent in custody; (7) consideration of any ancillary orders; and (8) imposition of sentence and the provision of reasons.

The Sentencing Young People Guideline came into effect in January 2022 and applies in cases where the offender is aged 24 or under at the time they are found, or plead, guilty and reflects a consideration of young peoples’ level of maturity²¹. The guideline is premised on the view that young people may not reach full maturity until around age 25. It states that the court should make sure it has information to assess the maturity of the young person and that the nature and duration of a sentence imposed should be different to that which might be imposed on an older person. However, consideration of the harm caused to victim-survivors remains one of the most important things to take into account in a sentencing decision.

2.3 Research on the sentencing of sexual offences

¹⁷ *ibid.*

¹⁸ *ibid.*, p.4.

¹⁹ Brown, *op. cit.*, p.120.

²⁰ Scottish Sentencing Council (2021c) *The Sentencing Process: sentencing guideline.*

²¹ Scottish Sentencing Council (2022) *Sentencing Young People: sentencing guideline.*

There is a large body of public perception research examining attitudes to sentencing²². On the whole, this research highlights that members of the public overestimate the seriousness of a crime and have limited understanding of the sentencing process, but overwhelmingly consider sentencing to be excessively lenient. Yet, paradoxically, when provided with case scenarios and asked to suggest appropriate sentences, people are more likely to suggest sentences that closely align with actual sentences²³, indicating the need for greater public awareness-raising about sentencing practices.

There is relatively little research that focuses specifically on views and attitudes to sexual offences and even less that has been conducted with victim-survivors of sexual offences. In a notable exception, the Sentencing Council for England and Wales (SCEW) commissioned qualitative research on views about the sentencing of sexual offences from members of the public and victim-survivors of sexual offences²⁴. This research found that victim-survivors of sexual offences have a high emotional investment in the sentence imposed in their cases and were strongly of the view that the impact and long-term effects of the offence on them, such as recurring anxiety and difficulties in forming relationships, should be taken into account during sentencing. Reflecting on the wider impact of a sexual offence they suggested that the impact on victim-survivor's families and friends should also be taken into account. Consistent with research focusing on victim-survivor experiences of criminal justice proceedings as discussed in section 2.4 below, victim-survivors in the SCEW research spoke about the importance of support and information, and recognition of the seriousness of the offence by the presiding judge²⁵.

In 2021 the Council commissioned research on public perceptions of sexual offences, which also included a small number of interviews (5) with victim-survivors²⁶. Like the public perception research on sentencing in general²⁷, participants in this research also perceived sentencing to be too lenient and an inadequate reflection of the harm caused to the victim-survivor²⁸. They also considered sentencing for sexual offences to be inconsistent, with the variation across sentences difficult to understand. Somewhat unsurprisingly they too lacked a clear understanding of how different sexual offences were defined. Most, however, were of the view that there were marked differences between the harm caused by offences that involved physical contact (e.g. rape, sexual assault) and those that did not involve physical contact (e.g. indecent

²² See for example: Hutton, 2005; Freiberg and Gelb, 2008; Roberts and Hough, 2002; Black et al., 2019.

²³ Freiberg, A. and Gelb, K. (2008) *Penal Populism: sentencing Councils and Sentencing Policy*. Federation Press.

²⁴ Sentencing Council of England and Wales (2012) *Attitudes to Sentencing Sexual Offences*. Sentencing Council Research Series 01/12.

²⁵ Ibid.

²⁶ Scottish Sentencing Council, 2021b, op. cit.

²⁷ Hutton, 2005; Freiberg and Gelb, 2008; Roberts and Hough, 2002.

²⁸ Scottish Sentencing Council, 2021b, op. cit.

exposure). Offences that caused a high level of trauma were seen as more harmful. There were mixed views on whether sexual offences should carry a custodial sentence, but most participants felt that rape did require a prison sentence, as did any kind of sexual offence against children or those committed by repeat offenders.

2.4 Contextualising the justice journeys of victim-survivors

Research on victim-survivors' experiences of criminal justice following the reporting of sexual offences highlights the challenging nature of the process²⁹. This is despite a raft of legislative, procedural and policy reforms³⁰. Key ongoing concerns relate to poor communication; a lack of information provision; insufficient support provided to victim-survivors³¹; inordinate delays in the progression of cases³²; concerns over victim-survivor privacy and the retention of personal belongings including digital communication devices³³; the 'structural alienation' felt by victim-survivors³⁴; and the heightened risk of 'secondary victimisation'³⁵. Experienced as a result of the trauma of the investigation, prosecution and courtroom processes, and compounded by a lack of coordinated service provision³⁶, these concerns reveal a challenging landscape for the pursuit of safe and effective routes to justice for victim-survivors of rape and other sexual offences.

The criminal justice process of investigation, prosecution, and adjudication is punctuated by key decision points - charge, prosecution decision, plea, verdict, sentence - which may all impact on victim-survivor experiences of the process. Research by Brooks-Hay et al. (2019)³⁷ on rape victim-survivor's 'justice journeys' reveals that the impacts of key decisions do not emerge solely at specifiable points of the process but are experienced cumulatively and progressively across their journey. Whether or not victim-survivors are provided with information about the process, given explanations about what is going on, and crucially the ways in which they perceive

²⁹ See for example: Brooks-Hay, 2020; Burman, 2009; Smith, 2018.

³⁰ Burman, M. and Brindley, S. (2021) Challenges in the Investigation and Prosecution of Rape and Serious Sexual Offences in Scotland' in R. Killian, E. Dowds and A-M. McAlinden (eds.) *Sexual Violence on Trial: Local and Comparative Perspectives*. London: Routledge.

³¹ Scottish Government (2017) *Inspectorate of Prosecution in Scotland. Thematic Review of the Investigation and Prosecution of Sexual Crimes*. Edinburgh: Scottish Government.

³² Burman, M. and Brooks-Hay, O. (2021). *Delays in Trials: the implications for victim-survivors of rape and serious sexual assault: an update*. SCCJR Publication. December 2021.

³³ Information Commissioner's Office (2022) *Who's Under Investigation? The processing of victims' personal data in rape and serious sexual offence investigations*. London: Information Commissioner's Office.

³⁴ Doak, J. (2008) *Victims' Rights, Human Rights and Criminal Justice*. Hart Publishing.

³⁵ Campbell, R. (2006). Rape survivors' experiences with the legal and medical systems: do rape survivor advocates make a difference? *Violence Against Women*, 12(1), pp. 30–45.

³⁶ Brooks-Hay, O., Burman, M. and Bradley, L. (2019) *Justice Journeys: Informing policy and practice through lived experience of victim-survivors of rape and serious sexual assault*. SCCJR Research Report. 04/2019. Glasgow: Scottish Centre for Crime and Justice Research.

³⁷ *ibid.*

their treatment by criminal justice personnel along the way can all colour - positively or negatively - a victim-survivor's experience and in turn can have a profound effect on their satisfaction with the process. This means that when a case reaches the point of sentencing, which may be many months or even several years after first being reported to the police, victim-survivors have already had protracted involvement with the criminal justice process. What happens during the time since initial reporting strongly shapes their views about criminal justice engagement and the extent to which they perceive justice to be served.

Against this background, the Lord President and Lord Justice General in Scotland commissioned a wide-ranging review of the management of sexual offence cases in order to develop proposals for an improved system to deal with such cases. A key aim of the review, chaired by Lady Dorrian the Lord Justice Clerk, was the improvement of the victim-survivor's journey through the criminal justice process, from reporting through to trial³⁸. Lady Dorrian's review made a number of recommendations, including the need for the adoption of specialist trauma-informed training for all criminal justice personnel, the creation of a national specialist sexual offences court, and improved communication with victim-survivors.

Elsewhere, Hohl et al.³⁹ highlight the promising potential of a procedural justice framework to assess and improve engagement with victim-survivors of rape and sexual assault, which means making a victim-centred approach a central priority through the criminal justice proceedings whereby victim-survivors are treated with fairness, dignity and respect, and there is a recognition of the particular rights and interests of those who have experienced a sexual offence.

3. Study Design

The data presented in this report are based on semi-structured qualitative interviews with 14 victim-survivors of sexual violence whose cases resulted in a conviction and sentence within the Scottish criminal justice system between 2021–2024.

The research was undertaken between May 2023 and March 2024 following formal ethical approval by the University of Glasgow College of Social Science Research Ethics Committee. Through this process, a detailed application providing information on the study along with all associated documentation were submitted to a committee of reviewers who assessed whether ethical concerns had been fully addressed before giving approval for the research to commence. Ethical considerations in this research

³⁸ Scottish Courts and Tribunal Service (SCTS) (2021) Improving the Management of Sexual Offence Cases: Final Report from the Lord Justice Clerk's Review Group.

³⁹ Hohl, K., Johnson, K. and Molisso, S. (2022) A Procedural Justice Theory Approach to Police Engagement with Victim-Survivors of Rape and Sexual Assault: Initial Findings of the 'Project Bluestone' Pilot Study. *International Criminology*, 2, pp. 253–26.

are significant and they determined both the research design and the implementation of the research. In addition to ensuring the informed consent of all participants, maintaining confidentiality, and the minimisation/avoidance of harm, other ethical issues taken into account in the study design related to the potential for the research to cause distress, participant safety, and the power dynamic between researchers and the research participants.

Victim-survivors of sexual violence are often considered a 'hard-to-reach' research population and this is especially the case when recruiting victim-survivors whose case has recently resulted in a conviction given the relatively low number of cases reported to the police that achieve this outcome. Using purposive sampling, participants were recruited with assistance from specialist support organisations. To reach those not currently accessing services, information about the opportunity to participate in the research was also circulated via social media platforms, snowball sampling and a project webpage hosted on the website of the Scottish Centre for Crime and Justice Research (SCCJR).

All potential participants were provided with information about the research team, the aims of the research, why it is being conducted, and how its findings will be used in order to facilitate informed consent. Recognising the sensitivities involved in researching sexual violence, a bespoke victim-survivor led approach was adopted to enable victim-survivors to participate in the manner most comfortable to them. Participants were able to choose, how, where and when the research took place (in-person, online, or by telephone) and with a support person present if they wished. This resulted in online interviews with ten participants, two telephone interviews, and two in-person interviews.

All 14 research participants were adult women⁴⁰. Five cases involved a single victim-survivor; whereas nine cases involved multiple victim-survivors (ranging from two to seven victim-survivors). Nine cases related to recent or ongoing sexual violence and five cases related to historical abuse which took place between 10 and over 50 years previously. The perpetrator was a partner or ex-partner (8), family member (2), teacher (1) or an acquaintance (2). Most cases (11) included a conviction for at least one rape⁴¹. Almost all (13) cases resulted in a custodial sentence, ranging from two to 19 years. One case resulted in a two year community service.

In-depth qualitative interviews were chosen as a research method since they enabled interviews to be conducted that were responsive and tailored to personal experience. Key topics addressed within the interviews included victim-survivor goals in criminal justice engagement and sentencing, their awareness and view of different disposals,

⁴⁰ Further information about participant characteristics can be found in Appendix 1.

⁴¹ It is important to note that some participants were unsure of the exact charges against which a guilty verdict was returned, due to changes made to the indictment during the course of legal proceedings or a lack of familiarity with legal terms. It is not uncommon for victim-survivors to be unsure of exact charges in sexual offence cases, as found in other research (see, for example Brooks-Hay et al., 2019).

and their experiences of sentencing processes and associated support services in their cases. Interviews were designed to explore these specified research topics while also allowing for a more narrative approach to elicit participants' accounts more fully. The autonomy, privacy and dignity of participants was acknowledged throughout, with attention paid to the likely toll taken by interview participation, including debriefing and 'warm-down'. Interviews lasted between 50 and 90 minutes.

All interviews were transcribed by a secure third-party transcription service and NVivo 12 qualitative data analysis software was used for thematic coding of the data. The thematic coding process was supplemented by framework analysis (Ritchie et al., 2003) to synthesise and chart the data in a way that allowed the research team to retain oversight of the complete narrative belonging to individual participants. Where appropriate, identifying details relating to participants (including specific details of the offence and sentence) have been removed and pseudonyms have been used to protect participant anonymity. This is a particularly important consideration in this study due to the relatively low number of convictions for rape and other adult sexual offences in Scotland.

An important limitation to this research is that, while the qualitative approach adopted is able to demonstrate the views and experiences of victim-survivors of serious sexual violence about the sentences imposed in their cases, it is not possible to say how representative those views are without further research. As such, findings are not reported numerically but represent the range of views expressed.

4. Research Findings

In what follows we report on victim-survivors' expectations and understanding of sentencing, and their direct experiences of, and attitudes towards, sentences for sexual offences. Verbatim extracts from interviews are used to illustrate the points made in victim-survivors' own words. It is acknowledged that the verbatim descriptions of criminal justice processes or terms articulated by victim-survivors may not fully reflect legal terminology or processes. This is indicative of their lack of familiarity with the criminal justice system and the challenges they faced in navigating complex and technical legal processes.

4.1 Victim-survivor hopes and expectations in relation to reporting and sentencing

Consistent with the literature on reporting following a sexual assault⁴², victim-survivors' timeframes for reporting to the police varied considerably with some reporting

⁴² Jordan, J. (2004). Beyond Belief? Police, Rape and Women's Credibility. *Criminal Justice*, 4(1), 29-59; Sit, V. and Stermac, L. (2021) Improving formal support after sexual assault: Recommendations from survivors living in poverty in Canada. *Journal of Interpersonal Violence*, 36(3-4), pp.1823-1843.

immediately after the incident, whilst others reported historical sexual offences dating back over 50 years. Reasons for reporting to the police most commonly included: stopping the escalation of abuse and wanting to protect themselves and loved ones; seeking to have their experience heard and validated; preventing potential future harm to others; and establishing a record of the perpetrator's offending. There was a noticeable absence of direct references to sentencing by most of the participants as they relayed their initial expectations of the criminal justice process.

I don't think that I had the expectation of, I want this to go to court and I want to see justice, and I want there to be a custodial sentence. Really, the only reason that I came forward was because I wanted it to be written down on paper somewhere, I wanted to be available if he was then to go on and see somebody else and history was to repeat itself. I wanted it to be known somewhere that it wasn't the first time. (Linda)

I literally didn't expect it to go anywhere because I needed to just say what had happened to me to someone. (Kate)

However, one participant, who was involved in a case with multiple victims, was very clear about her hopes for sentencing due to the perceived risk posed by the perpetrator.

I really wanted him off the streets. Like, he's a dangerous, dangerous man, and I wanted him put away for life and never get out again. (Jane)

Expectations of what would happen following a report to the police were tempered by perceptions of negative public and criminal justice responses to sexual offences. This position was informed, in part, by public discourse surrounding victim-survivors of sexual offences, including victim-blaming and, for some, previous negative experiences with authorities and the criminal justice system. As a result, many feared that they would not be believed by the authorities whilst those with historical sexual abuse cases worried that the passage of time between the crime and their reporting would result in a dismissal by the police or it being '*washed under the carpet*' (Kinny).

Low expectations of prosecution, conviction and sentencing were clearly linked to a general awareness that convictions for rape and sexual assault are very low. Victim-survivors spoke about significantly managing their expectations whilst preparing emotionally for a 'not guilty' or 'not proven' verdict. Despite low expectations of the criminal justice process, as interviews progressed, it became clear that victim-survivors had immense emotional investment in the outcome and sentencing of their case, echoing findings from the SCEW⁴³ research which explored attitudes to sentencing of sexual offences.

⁴³ Sentencing Council for England and Wales, op. cit.

4.2 Pre-sentencing knowledge and understanding of sentencing

Prior to sentencing, most victim-survivors described having little or no information about the sentencing process or the sentencing options available to the judge. Those who were provided with information about sentencing cited Rape Crisis Scotland (Advocacy Workers) and, to a lesser extent, Victim Information and Advice (VIA)⁴⁴ or the Advocate Depute as the sources for this information.

I got more information off [advocacy worker] than what I did the court all the way through this. (Linda)

Others described doing their own research, often via online searches for information or similar cases reported in the media in an attempt to find some guidance on sentencing, or having discussions with family and friends to try to understand possible sentencing options and what might happen next.

I was doing as much as I could to be, like, you know, how much do you get for rape, and there's not really any structure of what people get. (Olivia)

I remember having conversations with my parents at the time about, realistically if there is a conviction, what does that look like? And I remember also looking online and trying to find guidance online. 'Cause with due respect, I had no idea. (Emma)

Victim-survivors undertaking their own research about sentencing is indicative of their uncertainty and anxiety about the process while also pointing to a significant gap in information provision. There was broad agreement that it would be helpful to be provided with information about sentencing options and guidelines in advance of sentencing to assist in understanding sentencing options and the principles underpinning why a particular sentence may be imposed. One participant, who described how, *'the eventualities were endless in my head because I just didn't know where to start'*, strongly advocated for the provision of fuller information about sentencing:

.. it's just the education, being given the resources that you need to understand the process, and why certain sentences are given, and what aggravations mean. 'Cause it is like a foreign language, like I say, you don't go through life expecting any of these things to happen to you or for you to be in that situation. There's a huge expectation on survivors to just suddenly understand what is a very complicated process ... I think that would've helped me to have just understood, generally, how sentences are decided. (Emma)

⁴⁴ Victim Information and Advice (VIA) is a service provided by the Crown Office and Procurator Fiscal Service (COPFS).

Emma went on to suggest that it may be helpful to have examples of sentencing statements prior to sentencing to help inform their understanding.

... I had the sentencing statement, but I didn't know that they were online either. And I think that might've been really helpful to have read through a couple of those prior, to understand this is the benchmark or this is the most common... You can see the methodology there or there's obviously some kind of grading framework behind it [...] what the charges are, what the minimum sentence is and then things like the aggravations I didn't know about until that came up in the sentencing statement. (Emma)

As will be discussed in Section 4.4, understanding sentencing is vitally important to victim-survivors, yet a lack of information, communication and understanding about sentencing persists during and even after the sentencing hearing.

4.3 Experience of the sentencing hearing

Just over half (8) of participants attended the sentencing hearing though almost all wanted to attend or at least receive a full account of what had been said at the hearing. Being able to attend the hearing was considered an important part of the often lengthy and arduous journey that victim-survivors had made through the criminal justice system. For some, it represented a form of closure and offered reassurance.

So, we were all still adamant we were going to go, because ... we were denied that opportunity to be at the verdict, so we were like, we're not missing the sentencing, like, we actually need to see him, and we need to know this is, like, final, he can't hurt us, he can't hurt anyone else. (Laura)

I wanted to go to the sentencing. I felt, like, I had to see him, just to see how he would react to the sentencing. I don't know why that was the case, but I just felt that way. I also wanted to hear it from the judge's mouth what was getting said. (Linda)

The importance of attending the sentencing hearing was also linked to a desire for inclusion in the criminal justice process following earlier experiences of exclusion and marginalisation from the process, which stem from their role as a witness in the case. However, not all who wanted to be present at the sentencing hearing were able to attend. In one case a mix-up in communication about whether the sentencing hearing was going ahead meant that the participant (Kate) and her Advocacy Worker missed the hearing. For others, practical difficulties such as childcare, transportation and work commitments meant that they were unable to attend. Difficulties in being able to travel to the hearing were compounded by changes to sentencing locations at short notice and a lack of support with the travel costs to attend. According to the Victims Code for

Scotland⁴⁵, victims can claim reasonable expenses when they attend court to give evidence. However, this does not extend to the sentencing hearing since victims are not required to give evidence. Linda explains how she, ‘didn’t really feel supported at all with the sentencing part’:

But it got changed to [location] and then it got changed to [location]. So, thankfully my partner and my friend came to [location]. We ended up travelling all hours of the morning just to get to [location] ... they [the court] weren’t willing to support me to get to the sentencing. And I was also, kind of, led to believe in some way that they would support me, but when I had asked about travel expenses and how I would get to [location] I was pretty much left to my own devices. And their attitude basically was, well, you don’t really need to go to this. You’ve done your bit now. So, it was basically if you can’t be there yourself then we’re not going cater to that. So, that was a bit of deflating. (Linda)

Similarly, Emma also described how she was unable to fund her travel to the sentencing hearing or receive any financial support to allow her to attend, leaving her with minimal information about what had happened in sentencing.

And the rationale seemed to be, well it’s not essential for you to be there ... we will inform you and then obviously when they did inform me, it was the bare bones of what had been discussed in that session. (Emma)

These accounts of a lack of support to attend the sentencing hearing revealed victim-survivors’ perceptions that they were superfluous to the process once they have given their evidence, reiterating well documented concerns about victim-survivors feeling marginal to the criminal justice process⁴⁶.

Whilst some participants had a strong desire to see the perpetrator being sentenced, others did not attend sentencing due to concerns about seeing the perpetrator. For Olivia, it was simply too distressing to be there though her Advocacy Worker played an important role in relaying the proceedings to her.

I didn’t go to the sentencing. I ended up in hospital the day that he was in for sentencing. I think it was just such a...it was a physical reaction, but I was really badly being sick, and she [Advocacy Worker] went to the sentencing for me, and just made such a difference to the experience because one person that you trust is there and able to give it in black and white. (Olivia)

Echoing these concerns, Rachel said that she found the prospect of running into the

⁴⁵ Scottish Government (2018) Victims Code for Scotland.

⁴⁶ See for example: Brooks-Hay et al., 2019.

perpetrator or anyone related to him around the court or en route to the sentencing hearing as *'really terrifying'*, nor did she want to see him in court:

I wasn't there for the sentencing because I didn't feel like, I would have to sit in the public gallery and then that means I would have to see the perpetrator and I just wanted to avoid it. So, I wasn't there for the sentencing and the whole explanation of it. (Rachel)

Through their experience of giving evidence at trial, victim-survivors were aware of special measures that can be used to prevent them coming into contact with the accused at court, though some remained sceptical about their effectiveness in practice and anxious about the prospect of seeing the perpetrator at sentencing. The options of being able to attend the sentencing hearing remotely, or at least receive a transcript of the hearing, were strongly advocated by victim-survivors, especially if they had been unable to attend. Rachel went on to note that:

Absolutely, I would have liked to hear it and be there for it, but if there could be an option that the victim doesn't have to see the perpetrator and still hear the sentencing from a judge, that would have been ideal. (Rachel)

Similarly, Emma described this as a *'best possible scenario'*, while Olivia, stated that being able to watch the sentencing via a *'live stream'*⁴⁷ would have meant that she *'could still experience the courtroom'* and what was happening without having to face the perpetrator or risk bumping into him.

There were so many things that you just want to know and see the sentencing I wish that they would just live stream a sentencing, because who wants to go in the same room as that person [...] you're going in the exact same entrance that's for the sheriff and the high court. You can organise a back door, but see trying to do it, ...it never goes to plan. (Olivia)

When victim-survivors submitted requests to attend the sentencing hearing remotely, this was denied. Yet, at the sentencing hearing they discovered that the perpetrator appeared via a video link, exacerbating the sense of imbalance and lack of fairness with the offender's rights being prioritised over their own.

I had asked about doing a live feed. I said, well if I can't get to [location] can you not do me a live feed where me and other victims can feed into this. Because you see at the end of the day the person that was up in the stand he wasn't even in the Court. So, I went all the way to [location] and he wasn't even there. Then, he was on the TV screen. So, I questioned that, and I

⁴⁷ While some participants used the term *'live stream'*, *'video link'* is likely to be a more accurate term since there was no suggestion that the hearing be provided publicly online.

said, well, can we not get live fed in as well ... That was a big no. They didn't explain much as to why. It was just a clear no. (Linda)

We found out he will potentially be appearing by video link, not in person, and we were obviously very angry about that. Because, as we've mentioned, that opportunity to see him in person, and for it to feel real, was taken from us. So, we just felt, again, oh my goodness, like, we're not going to get what we're wanting here, or what we need, for like, our own healing journey. (Laura)

While most favoured the option of attending remotely via a video link, for a minority, being able to attend in person and see the perpetrator being sentenced remained an important part of their journey. However, those who did attend described feeling unprotected and unprepared in terms of understanding who would be there, what their role might be and how long the hearing would take.

So, we all did go to sentencing, but I don't think any of us knew what to expect. I think we all expected him to be there in person, and he wasn't, he was on video link. I think we all expected to be able to read our personal impact statements, our victim impact statements, whatever they're called. We weren't allowed [...] we knew his family were going to go. But I don't think we were prepared for the protection that they got in court, at sentencing [...] they had all the protection in the world, a police officer came out, stood by us to basically escort them past us. Sorry, where was our security, we were just let loose ... the only security protection there was the police for them, not for us [...] I don't think any of us were prepared for sentencing to be over that quick, either. Like, it just seemed, all this wait, all this prep, all this everything, for 10, 15 minutes in a room. (Carrie)

Others went on to describe how they were subjected to poor treatment from the defence lawyer during sentencing. Isabella, for example, highlighted an attempt to use her application for Criminal Injuries Compensation against her: 'this [application] got brought up in the sentencing, she's in it for the money, basically' (Isabella). Elaborating on feeling unprotected during sentencing, Meredith explained how she hoped that attending sentencing would result in a sense of closure, but instead she was left feeling humiliated and powerless due to the defence lawyer's treatment of her during the hearing. She relayed her experience in detail:

I definitely think that my sentencing experience was really, really horrible...sentencing was very difficult for me, because I had... a difficult cross examination, but I was hoping that sentencing would be more...an opportunity for me to get closure. I knew that obviously the defence would give mitigation, but I didn't expect the mitigation to be in the way that it was, because the defence turned around and [...] said that it was an injustice that I [was doing well in life] while he was going to prison...

I was obviously very surprised to be hearing all of this because I had expected the mitigation to be focused just on his client, not, sort of, on comparing me and him. And he went on to refer to [my sexual history] ... I just felt really humiliated and the thing is that ...in sentencing, I couldn't respond to any of this. At least in my cross examination I could come back on things and, sort of, challenge them. But I didn't have a voice at sentencing. No one intervened. (Meredith)

Based on her experience, Meredith expressed feeling re-victimised and disempowered by the sentencing hearing since she was not able to participate in the process nor defend herself against statements made by the defence during mitigation – an aspect of the process she had not anticipated and for which she felt practically and emotionally unprepared. As a result, although she was disappointed that the judge did not intervene, remarks he made at a later stage were important to her and she stated that it would have been ‘completely unbearable’ to have been humiliated in front of everyone and then not have anyone say anything in her defence.

... he [the judge] did say that ... people respond to trauma in different ways and that it was credit to me what I had achieved ... which was good because I think that if he hadn't have said any of that, then I would have left that day feeling just...like, even more broken. Because I found the whole court experience to be so, so, so traumatic. [...] So, I was pleased that there was at least some sense of balance in what the judge said, although I do also think that he shouldn't have allowed the defence to just, sort of, come out with that tirade against me. (Meredith)

The approach and comments made by the judge at sentencing were also significant to other victim-survivors. Sammy, for example, describes her appreciation when she felt fairly treated by the judge.

Yes, he spoke to us, the judge ... He spoke to us in the sense that...he thanked us for coming, he thanked us for our bravery. For the full process he was just brilliant ... having a good judge that was being fair to us and being nice to us, but ... not as lenient to him, if that makes sense. That was good. (Sammy)

However, the sense of imbalance and unfairness articulated by victim-survivors at earlier stages in the criminal justice process was compounded in some instances by their perceptions of the approach adopted by the judge when commenting upon the circumstances of the perpetrator. Following a conviction for rape within the context of domestic abuse that resulted in Emma relocating to a different country due to fearing for her life, she notes:

There was a lot more detail given to his references and his social work report. The way that it read, in all honesty, was very, ...almost empathetic towards him. It was very, 'your references show that you can be a valuable member of society and you are very well respected in your community' ... the wording of it was quite dismissive of the reason that he was there. It was very, 'I have no choice but to impose a custodial sentence', which, to me, when you've been through it and then you've gone through the trauma of court ... it did feel very dismissive. (Emma)

4.4 Communication and understanding of the sentence imposed

Following the sentencing hearing, victim-survivors described receiving sparse communication about the sentence and considerable difficulty in understanding the sentence imposed. Key questions they had related to the actual length of the sentence that would be served, the judge's reasoning for the sentence, and the breakdown of the sentence in terms of how it applied to individual victims and offences. The opportunity to have the sentence explained was considered particularly important, especially if they were unable to attend the sentencing hearing. However, even those who attended the sentencing hearing still had unanswered questions about what the sentence actually meant, especially around how much time the perpetrator would spend in prison and the role of the Parole Board in deciding on release. The following extract from Carrie illustrates the uncertainty that she was left with, despite her efforts to work out what the sentence meant. This raises the important question of how this information is communicated to victim-survivors and who is responsible for providing it:

So, we left the sentencing with many, many questions [...] we came out saying, so what does that sentence mean, like, it wasn't explained in court ... We've done our own research on what that means, it wasn't clear whether he must do the [xx years], and then do [xx years], like, I think it's called suspended, I'm not a hundred per cent sure. So, we were like, okay, so does he do the full [xx years], or can he get out early, and then do the [xx years], like, none of us could get our head around it, it wasn't explained, it wasn't made clear by the judge in the court either. So, I think we all just left with a lot of questions, and who answers those questions? Because, technically, at that point, the Fiscal service is done with you. (Carrie)

Another participant who had attended the sentencing hearing described being unable to fully understand what the judge was saying, partly due to her difficulties in hearing what was being said from behind a screen. This was also a complex case with multiple sexual offence charges and several victim-survivors, which contributed to a lack of clarity about how the sentence reflected individual experiences:

So, I basically just wanted to know if we were allowed to get a run-down of what the judge actually said, because we couldn't understand quite a lot of

it. I also wanted to know if we were allowed to get [...] like, a breakdown of each charge [...] when he done the breakdown he was going, like, maybe [xx years] for one charge, [xx years] for something, and then he said that this should have all amounted up to more than [xx years], but I can't obviously give him that [...] my questions would have been, well, why can't he give him that? (Linda)

Similarly, Emma had questions about how different elements of the charge are reflected in the sentence (or not) and how aggravating factors affected sentencing decisions:

There was a lot of questions 'cause at the time I didn't know what an aggravation was, I didn't know that would add extra time or really meant anything at all. Even the fact that there was an assault charge there that he was found guilty of that led to nothing. It's hard to understand that you can be in a court, and you can be found guilty of a charge and then the judge doesn't actually need to attribute any sentence to that specific charge, they can just decide it's not necessary. (Emma)

Where participants were given the opportunity to receive a verbal explanation of the sentence imposed this was greatly appreciated, even if the feedback provided was brief.

... when they did sentence him, they were pretty good actually, and they came on Facetime to me I think for five minutes and it was myself, the head of sexual offences, advocacy worker, and the AD in the case, who was great, he was amazing, but he was so pushed for time and it was five minutes, which obviously he didn't even have to do that, so I'm appreciative for it... (Olivia)

More typically participants received a letter following sentencing to confirm the sentence imposed. This was consistently described as being a very brief and factual, but rather confusing letter.

... how I knew about the sentence was only through a letter that had three lines saying this is the sentence, this is the charges... (Rachel)

The one really big thing is the absolute confusion over what a sentence means. Like, I have my letter here from the Scottish Prison Service that says, the sentence began on this day. The offender will be eligible to be considered for release after serving half of the sentence; if the Parole Board decides not to release the offender, the offender is not eligible for a further parole review. They will be released automatically on this day, which is not [xx years]. It's [xx years]. However, they will be on a non-parole licence until the sentence expires. It's confusing [...]. So, why is it ever called a [xx years]

prison sentence, because it can't be a [xx years] prison sentence. This letter says it will not be [xx years]. So, why are we using that language? And I think for victims who have been through a traumatic event, a harrowing process, to then get this letter that doesn't say that he's serving [xx years] in prison. Have I got it wrong? Do you know what I mean? You can't, you can never just know that you're right. (Kate)

Letters received following sentencing were deemed inadequate both in terms of the scope and the clarity of information provided. Confusion about the length of sentence to be served was heightened by perceived inconsistencies in the information provided from different parties. For example:

I was told that he'd have to serve two-thirds before he would be allowed to request parole and then I got the letter that said, actually it's half the sentence before he can ask to get parole [...] I think you just get to the point of realising that no one really knows what they're talking about. It'll be what it is and you, kind of, just have to get on with it. So, yeah, I don't think I still understand. (Kate)

... at the time I received, I heard about the sentence, I was shocked and upset, and I didn't feel like there was any justice at all because the Scottish Prison Service told me that [xx years] actually does qualify the perpetrator to be released after half of the sentence. Whereas the Procurator Fiscal told me anything [a lower number of years], they cannot be released after half of the sentence. So again, conflicting information and I'm not quite sure who can who tells me the truth here. I don't feel like it's justified. (Rachel)

In addition to information about what the sentence would mean in practice, victim-survivors expressed a strong desire to understand the judicial reasoning for the sentence. Emma, for example, describes being given 'very factual' information about what the sentence was, but 'little to no information about the judge's decision-making process'. In this instance, Emma considered herself 'lucky' that the sentencing statement was published so that she was able to gain some insight into the sentencing judgment. However, she highlighted the lack of consideration given to communicating this to her in advance of it being made publicly available despite being profoundly and personally impacted by both the offences in question and the criminal justice process, which took over two years to conclude.

I waited for the sentencing statement to be published online which felt like...you know, I'm finding out the sentence and the judge's reasoning behind that sentence at the same time anybody else on the internet can, which I think is crazy. You know, you've gone through all this and it's like, you're never the first to find the information out. (Emma)

With regard to the information that victim-survivors can access, it was suggested that transcripts of the sentencing hearing should be made available as soon as possible after the hearing. Rachel attempted to access a transcript of the sentencing hearing so that she could understand the sentence imposed but described the difficulties and financial cost of doing so.

I wanted to get the transcript, but it's not clear on how to get the transcript. I believe you need to apply for it. And then it's like a specific amount of money, it's not the world, but it's still a specific amount of money you need to pay for them to be sent out to you.

Understanding the sentence imposed was clearly very important, yet most described having little or no understanding of the reasoning behind the sentence despite their attempts to gain information. Several talked about being unable to either ask questions or to have questions answered about sentencing. This once again contributed to their sense that they were denied a voice and that their interests were marginal to the criminal justice process, whereby achieving a conviction is taken to be a successful conclusion.

I had so many questions, and they never really got answered...and it was very much a case of see once the Crown are finished with it, it's passed over to the Scottish Prison Service, and any communication that you have has to go through them, and I felt a little bit like they were washing their hands of it. It had been, like, right, good work guys, we've got the one per cent. We've got a conviction. Onto the next. (Olivia)

There's still, in my head now, even though it's all concluded, there's so many questions about that process and what happened [...] it was a phone call of this is what the sentence is but if you have any questions, I can't answer them. And that was the extent of it. (Emma)

Sammy indicates that she was given an opportunity to ask questions but suggested that a meeting with the Crown after sentencing should be a routine part of the process.

I think it could be more clear as to why that sentence has been imposed. I know I had the opportunity to go and ask about it, but that should be something that should be a session with either COPFS⁴⁸ or a prosecutor ... you want to sit down with somebody that actually knows the ins and outs of why they were sentenced. I think that would maybe help. (Sammy)

A consistent theme within participant accounts was a lack of certainty about *who* was responsible for providing information and answering questions about sentencing

⁴⁸ Crown Office and Procurator Fiscal Service.

although there was a clear preference for being able to speak with someone who could help them to understand the sentence and the rationale for it.

I called the court to find out if they could just tell me about the reasoning or if they could just send me a letter and it told me that I need to request it ... and that could take so long, so it's really not transparent to me, who's completely unfamiliar with the whole court system here [...] it should be a bit more transparent to the victim. There should be a bit more information that's provided and it should be easier to access the information afterwards. Even if it's just a call from the Procurator Fiscal but explaining how the judge has reached the conclusion that this sentence is appropriate. Just so you're not completely left out and can understand the reasoning behind it, that's literally all I'm looking for. (Rachel)

Under the Victims and Witnesses (Scotland) Act 2014, victims and witnesses can request information about any reasons given for the sentence imposed by the court by submitting a 'request for information' form⁴⁹. However, Rachel was the only participant who mentioned the possibility of being able to request this information. This indicates that many victim-survivors may be unaware that they can do so. It is also possible that having to formally request information via a form and process that lacks transparency and ease of use acts as a barrier to pursuing information and does not provide victim-survivors with the verbal explanation that many sought.

4.5 Views on sentence imposed

A custodial sentence was issued in all but one case where two years community service was imposed. Custodial sentence lengths ranged from two to 19 years. Despite many participants stating that a custodial sentence was not the underlying reason for their reporting the offence, most believed that the sentence imposed in their case was too lenient. However, the rationale underpinning these beliefs varied and was linked, not just to the severity and impact of the offences in question, but also to their relationship with the perpetrator and their overall experience of the criminal justice process, again reflecting concerns with procedural justice. In the following section, participant views on custodial sentences, sentence length, and factors that should be taken into account in sentencing are discussed.

4.5.1 Perspectives on custodial sentences

Whilst some participants expressed a concern with achieving substantive justice through the criminal justice system, most indicated that a custodial sentence was not the underlying reason for their reporting, echoing long-standing research findings that

⁴⁹ Scottish Courts and Tribunals Service: Request for information under Section 6(7)(j) of the Victims and Witnesses (Scotland) Act 2014. [s6\(7\)\(j\)-request-form-\(2\).doc \(live.com\)](#)

victim-survivors do not consistently place a priority on retribution⁵⁰. Rather, they placed significance on obtaining a guilty verdict, reflecting a need for the harm they had experienced to be recognised and the desire for the perpetrator to be held publicly responsible for their actions. Kate, for example, reflects that although she would have been ‘devastated’ if there had been a not-guilty verdict, ‘*I certainly didn’t go into the process thinking he needs to be in prison*’. Upon hearing the sentence imposed was longer than initially anticipated, she went on to say that:

I burst into tears because I was devastated still that he hadn’t just apologised and told me why he’d done what he’d done. You know, literally that was it, and in the moment, I remember everyone else being, like, yes, this is great and I was just, like, oh my God I’m devastated. (Kate)

Kate’s account highlights the disparity that can exist between a victim-survivor’s justice interests and public perceptions of ‘justice’ being served. Although her case resulted in a ‘successful’ substantive justice outcome, that is a conviction and longer than anticipated sentence, she was devastated by the lack of responsibility and remorse on the part of the perpetrator. For others, a conviction was important since it signalled that they had been believed. This was especially significant within the context of their experiences in court and in other aspects of their life, as Isabella notes:

Everyone was on my side; everyone heard my story and saw what he clearly did. So, for me, that’s my result. Because up until this point, I’ve been called a liar, I’ve been called all of this stuff from actually being in court. (Isabella)

A conviction also meant that the perpetrator was being held accountable for his actions. This extended to being placed on the sex offenders register and other protective mechanisms including non-harassment orders (NHO’s).

... from my perspective, the custodial sentence was the last thing that I would’ve worried about or necessarily wanted. I think my main concern was that he was on a register, which did happen. The second thing was that there was some kind of non-harassment order or, I don’t know, some consideration for my protection in there based on the fact that I felt like I had put myself through these two years of hell and especially the few weeks in court which was worse than the offence itself. (Emma)

Nonetheless, for most participants, a custodial sentence was very important to both their recovery and feelings of safety.

⁵⁰ Konradi, A. and Burger, T. (2000) Having the Last Word: An Examination of Rape Survivors’ Participation in Sentencing *Violence Against Women*, 6(4), pp. 347-459.

It was really important that he went to prison because as soon as I found out he was going to prison it was like so much trauma left my body [...] I would not have done it for four years and taken all that time out of my life unless I was so sure that there was going to be a custodial sentence at the end of it. (Olivia)

When they said the sentence, [xx years], I did feel a sense of relief, and that did last for a few days, I would say, for me personally, because I just thought, I could breathe again, I could sleep again, knowing he is not going to hurt me, or hurt anybody else, for a long time. (Laura)

I think that one of the important things about him being in prison is not necessarily just to punish him, but for me it's about having space and time to actually move on. (Meredith)

In the case where community service rather than a custodial sentence was imposed, Isabella describes how she was 'massively' disappointed with this outcome and believed that 'he's free... It's not a punishment'. She also articulated concerns about continued risk the perpetrator will pose to others.

I never thought it'd be community service ... the main thing for me is the fact that this man is a dangerous man. He premeditated what he did to me, which means he took time to think about it, which means I think he's mentally unwell, needs help, is a danger to society, probably will do this again. It's a mental thing. It's not been a spur of the moment, oh, I might do this. It's a thing that's in his head, it's probably been embedded there for years. He's a dangerous man, he's a sick man, and he needs help. And he won't be receiving the help that he needs by taking out the bins. (Isabella)

Victim-survivors were often concerned that the perpetrator was a danger to other women, believing that he would offend again if he had the opportunity to do so. The imposition of a custodial sentence, therefore, meant that the risk posed to other women was also significantly reduced, as Emma notes:

I've always felt like he is not a risk in prison. He is not a risk to people in prison because he's not around women in the same social landscape that he is outside. (Emma)

While custodial sentences brought relief in some cases and Jane, for example, expressed how she was 'really happy he's put away', discussion of custodial sentences also revealed the emotional burden placed on victim-survivors, particularly within the context of intimate or familial relationships when someone is sent to prison.

... you've just been through such a traumatic thing, reliving all of this, and now you're trying to process, oh my gosh, okay, he actually is going to jail. And I know for us, like, we've had quite a lot of mixed feelings about that,

we've went through waves of emotions of feeling quite guilty. (Laura)

While victim-survivors sought recognition of the abuse they had been subjected to, they also struggled with the idea of someone they once loved being punished. Emma, for example, highlighted the way in which '*a lot that sits on survivors' shoulders with custodial sentences*', within the context of domestic abuse:

...it's funny how little I worried about the custodial part of the sentence because I think it was a really hard thing to accept that that person who you once loved, or you were with for that time is now going to be punished very severely for what they've done. (Emma)

4.5.2 Length of sentence

As noted above, while a custodial sentence was not the main priority for some victim-survivors, the majority considered the sentence imposed in their case to be too lenient. Views on sentence length imposed varied according to prior expectations of what the sentence might be and were primarily informed by: the seriousness of the offence, including duration of offending; whether the sentence was proportionate to the impact the offence(s) had on their life; the amount of time they needed to recover from both the offence and the ensuing criminal justice process; and the likelihood of the perpetrator reoffending. It should be acknowledged that feelings about sentence length were not static, rather they can change over time. While some described coming to terms with the sentence after initial disappointment that it wasn't longer, the initial relief felt by others was later replaced by the feeling that the sentence was not long enough.

Those that sought lengthy sentences highlighted that rape is a serious crime, and its seriousness should be recognised through the severity of the sentence. These women believed that the perpetrator had seriously physically and/or psychologically injured them and this should be reflected in the length of sentence. For some, the sentence simply didn't reflect the seriousness of the offence: '*it just doesn't feel like it's enough, the amount of time he got for what he did*' (Alison).

As discussed previously, most victim-survivors had little understanding or expectation of what the sentence might be due to a lack of information about sentence options and decision-making processes. Jane, for example, describes her disappointment that a 'life' sentence did not reflect her prior understanding: '*I thought it would be life as...in, like, America, life is life*'. Those who had some knowledge of how parole may operate to reduce the length of time served in prison, were disappointed with the length of sentence imposed.

... the more we thought about it, I think, a lot of us expected more from that. I think, a lot of us were expecting, sort of, the 12, 15, 18 mark, knowing that he's likely to only serve half. (Carrie)

I was happy, in principle, with [xx years] ... but obviously I know that they are...can be considered for release halfway through their sentence ... once, you know, I began to think about that, I was like, actually I don't think that is a great sentence. (Meredith)

Views on the sentence imposed were coloured by the duration of the offending, the impact that the offences had already had on the lives of victim-survivors, and the lifelong impact that they would continue to have. For example, Sammy suggested that it was 'poetic justice' when the perpetrator in her case was given a custodial sentence that matched the number of years he had been on a 'rampage' of sexual offending. Meanwhile, Doreen, reflected on the long-term impact that the abuse has had on her when she was asked for her views on sentence length:

... well, I'm [50 years +], and I've carried that all my life. I still take night terrors, and everything, it's never went out my head ... I'm still going through it. (Doreen)

Rachel described herself as being 'lucky' since her case resulted in a conviction, though she questioned the seemingly arbitrary and short length of the sentence compared to the impact that the offence had on her in terms of trauma, anxiety and the fears that she would have to live with for the rest of her life. She believed that the sentence length was instead linked to a timeframe that would mean the perpetrator could be considered for parole, thus reducing the amount of time that he would serve in prison. She went on to express her disappointment about the length of the sentence, especially since it took almost as long for the case to get to court.

I'm just defeated at that point. I just know that I have to accept this sentence, there's nothing else that I can do. There's nothing else that's going to come out of it. And the only justice I get is that this man has been put on the sexual offenders register indefinitely, and that's the only long-term effect it's going to have. And it doesn't feel enough. (Rachel)

Many of the cases reported on here took a considerable length of time to reach court (typically two to four years) and this influenced views on appropriate sentence length. There is a body of research on the material and psychological impacts of delays in sexual violence cases⁵¹, which highlights not only the likely impact on the quality of evidence but also on the personal, domestic and professional lives of victim-survivors. As a result, victim-survivors frequently describe the need to recover from both the sexual violence inflicted upon them and their experience of the criminal justice

⁵¹ Burman and Brooks-Hay, 2021, op. cit.; Gillen, J. (2019) Gillen Review: Report into the law and procedures in serious sexual offences in Northern Ireland Part 1. Northern Ireland Department of Justice.

process. For example, following a four-year criminal justice process, Isabella stated that she had '*been in jail for the last four years*'. It is within this context that participants reflected on whether time spent in prison would be a sufficient amount of time for them to recover and feel safe.

Some people want their rapist to go down for a really long time. I'm just grateful that he went down for something. Do I think the [xx years] is enough time for me to get back in the position that I would have been in before any of this happened, probably not, but that's very subjective. (Olivia)

Three participants did not share the majority view that the sentence imposed was too lenient (Linda, Emma and Kate). Whilst Linda's case received a lengthy sentence, she didn't express a view on whether the sentence was too lenient or too excessive, although she did say that the sentence imposed was more than she had anticipated. Further, that she hoped that he would serve the full custodial part of the sentence in prison due to concerns about '*what he will be like when he gets out*'. Emma and Kate adopted a more ambivalent position, due to uncertainties about the length of sentence that would actually be served due to the possibility of parole and different parts of the sentence running concurrently.

It doesn't really mean anything to me, the length of sentence, because when it comes down to it, it's not a [xx year] sentence [...] I don't think that's what he'll serve. Yeah, I think it probably means very little to me because it's not definite, it's not set in stone, is it? (Emma)

So, I was actually quite horrified at first that he'd got [xx years]. I thought that was a really long time. I didn't understand the [xx years] concurrently. I still don't really get that. That's a bit of a cop-out for me [...] but, yeah, the duration for me it was what it was. I think, the only thing would have made it better would be ... if it was what it said on the tin. So, tell me that he's got a year in prison, and I'd be, like, yeah that's great. If you tell me he's got two and he's only serving one, you're not telling me the truth almost. (Kate)

4.5.3 Factors taken into account in sentencing

In discussion about the factors that should have been considered during sentencing, most victim-survivors highlighted previous analogous offending, linking this to the increased likelihood of reoffending. For example, Kinny thought that the sentence should have been double what it was because the perpetrator has a history of sexually abusing young girls and '*he will do it again when he gets out*'.

Concerns were also raised about the ongoing behaviour of perpetrators during the criminal justice process, signalling a lack of accountability and remorse as well as heightened potential for re-offending. Olivia recounted the perpetrator's behaviour since she reported the offence, including his continued harassment of her throughout

the criminal justice process and suggested that this should be taken into account during sentencing. However, his sentence was reduced due to a guilty plea:

He was sentenced...it was [xx years], reduced by a third for pleading guilty ... which is ludicrous considering his behaviour during the court case, and you almost wish that all of that was taken into account as one, but the high court deal with certain types of crimes, they don't care about breach of bail.

(Olivia)

As will be discussed in Section 4.7, there was scepticism about sentence reduction stemming from a guilty plea due to concerns that this was thought to operate in the interests of the perpetrator rather than reflect any genuine remorse on their part. Where judges acknowledged perpetrator lack of remorse as a factor, this was appreciated by participants.

I couldn't quite fully hear what the judge said, but I know a bit of it was ... he showed no empathy, he showed no remorse, and I think that played in it as well in his sentencing by the looks of it. So, it was good to get that closure. (Linda)

On the whole, participants were also sceptical about perpetrator age, either young or elderly, as a mitigating factor in sentencing. While a small minority were supportive of a slight reduction in sentence on the basis of a perpetrator being under the age of 25, others were critical of such an allowance being made when, as an adult, they would be deemed old enough to consent to sex, vote, and buy alcohol.

Meanwhile, Doreen believed that a relatively lenient sentence was imposed as a result of the perpetrators older age and expressed her frustration with this:

I was angry that he only got that length of time [xx years] ... It wasn't 'till later on, I started feeling a wee bit easier, well, at least he still got jailed, at least people out there know what he's like ... I think he only got that because of his age. (Doreen)

Victim-survivor frustration with mitigating factors that were taken into account in sentencing, was compounded by their sense that the rights and interests of the perpetrator superseded their own. Victim Impact Statements (VIS)⁵² provide an opportunity for victim-survivors to articulate how their life has been affected by the offences in question and facilitate victim-survivor voices within sentencing (and the wider criminal justice process). All of those interviewed submitted a VIS. While the opportunity to do so was broadly welcomed, there was uncertainty about how they

⁵² Victim Impact Statements are also known as Victim Statements. The terminology used here reflects the terms used by research participants.

were used by the court and whether they had been considered in determining the sentence. As Meredith notes, *'I wasn't really sure as to what the purpose was'*.

For some, completion of the VIS was described as *'therapeutic'* (Sammy) and a space where they *'poured their heart out'* or were able to have their *'own narrative'* (Olivia), something that was considered to be particularly important since this was described as being lost through the court process: *'you have 'yes' and 'no' questions the majority of the time, you have not got a chance to say what you feel'* (Sammy). In a similar vein, Linda notes, *'I wanted to make sure I got out everything and not just what I was allowed to say in court'*. Hence, to some extent, the VIS was a channel for the victim-survivor's voice and emotions although it was noted that the structuring of the form for the VIS doesn't fully allow people to *'say their piece'* (Meredith). Nonetheless, some hoped that their statement would influence the judge in sentencing.

... in court I couldn't be as emotional as I wanted to be. Whereas in a victim impact statement it is going straight to a judge to read that whilst he is away making his decision. I was as emotional as I possibly could be. (Sammy)

Similarly, Alison highlighted the value of the VIS in capturing *'the aftermath of how it's affected your life, because you don't really get to portray that in court very much, and the jury doesn't get to hear about how your life has been impacted'* though she also describes how it was *'really difficult'* to complete and it took weeks to do so. The challenging nature of completing a VIS was evident in other accounts. Rachel reflected that, *'it just brings back up all the things that you just try to not think about every day'* while Kate described how, *'I didn't like writing it. I remember at the time, every time I read it back, just bursting into tears, and be like, oh my God my life is so terrible'*.

Despite both the potential value and the arduous nature of completing a VIS, participants expressed uncertainty about whether it would be taken into account by the judge in relation to sentencing and how and when the victim statement would be used in practice.

I just filled it [VIS] out. I thought, yeah, I'll do that, I guess it would help. But I didn't quite understand, I got a bit of conflicting information from online resources and the court about when the victim impact statement comes into play, if it's after the sentencing or before the sentencing. So that was a bit confusing, but completely out of my control, so I didn't really bother doing something about it. But definitely something that could be improved. (Rachel)

Some were uncertain about whether or not their VIS would be read out at the sentencing hearing or whether they would be able to read it out in person. Carrie explained that she was *'desperate'* to read hers and thought that she would be able to do so. Similarly, Alison stated that:

We were under the impression that we could read them [VIS] out if we wanted to, or the judge would at least read them out. It wasn't until we got to sentencing, that we realised he referenced one line ... So, to write, kind of like, all the things that trigger you, and all the things that have hurt you, like, from that situation, it just felt pointless. Like, did it even impact, or sway the judge's decision, would it have even mattered if they were done?
(Alison)

Emma felt that little consideration had been given to her VIS due to the judge's decision not to grant a non-harassment order. The reasons given for not granting a non-harassment order were that the victim-survivor had relocated and the perpetrator had not tried to contact the victim-survivor while on bail. However, she had relocated as a direct result of the offence and no longer feeling safe, despite her life and her friends being in her previous location. Emma reflected that *'the sentencing statement was not reflective of that [VIS], I don't think the sentencing statement was really about me at all'*.

Non-harassment orders were very much welcomed, and they helped to provide reassurance of their safety, however, some highlighted the way in which the granting of a non-harassment order felt like an afterthought that was not explained to them:

4.6 Post-sentencing concerns

Within the public domain, a conviction and custodial sentence are typically perceived to be a 'successful' or at least appropriate outcome in serious sexual offence cases. However, it was apparent that the victim-survivors' concerns did not cease with the custodial sentence.

... we've worked up to this for so long, and it's now like, okay, it's over, but it doesn't feel over for us. Like, we still have to live through this. Great, it went to the courts, but what about us, what about what you've just put us through, like, where do we get that support from? (Alison)

In fact, for most, incarceration gave way to further concerns and apprehension due to a lack of information and support post-sentencing, as well as fears for personal safety. Each of these concerns are discussed below.

4.6.1 Lack of information and support

A consistent finding of this research is the lack of information provision about the sentencing process, the details of sentences imposed and how this relates to the amount of time that will be served. Victim-survivors described feeling as if they were left with more questions than answers at the end of the criminal justice process. As a result, an overarching recommendation from them was to enhance victim-survivor centred communication and support post-trial and sentencing.

... there's just something there that's missing for, to support survivors if they wanted it after sentencing. How do you begin to process that, and not blame yourself, and not listen to people who are victim blaming, and how to protect yourself a bit more? And also, to understand that whatever you feel, whatever thoughts and feelings you have, like, it is okay, and it's actually quite normal. (Laura)

I don't know who it falls on. But even just someone to sit down, and you can sit down for half an hour, or an hour, and like, these are my questions, what answers can you give me, if I sign up to that, what does that mean? Right down to even criminal compensation, like the CICA53 scheme, we had no idea about that ... Just to sit down and ask those questions, and to find out about these schemes. (Carrie)

A number of victim-survivors were not aware of their right to claim Criminal Injuries Compensation at the point at which they could apply, indicating another gap in information provision. While this information could be included in post-sentencing information as Carrie suggests, it would be highly beneficial to provide this information at an earlier stage in proceedings given the time limits for applying to CICA and the length of time taken for cases to come to trial. Some only became aware of CICA when it was too late to apply and expressed their frustration that they had missed this opportunity to access funds that could have helped compensate them (e.g. for loss of employment as a result of the offence and the ensuing criminal justice process) and provide them with resources to enhance their safety (e.g. by allowing them move home).

As discussed previously, victim-survivors received a court issued letter outlining the sentence imposed but relatively little information beyond this. They highlighted a particular lack of information about where to obtain further victim-centred support or about their future safeguarding - a concern that all participants raised in some form or another.

... the lack of information after court, again, we were just in a position where we didn't know about the appeals process, we didn't know about parole, we didn't know about the [victim] notification scheme. We all just got a letter. I've still got my letter next door, and it was just like, okay, well you can apply. Not, like, this is what it means, the information pack you get with it isn't particularly great. It was just like, okay, well you can apply to that, and we'll let you know when he gets out. Great, I would love to know when he's roaming the streets again, but what protection are you going to give me? Like, because by this point, he's just spent [xx years] ruminating, who knows

⁵³ Criminal Injuries Compensation Authority (CICA).

what he's going to do ... again, you don't have anyone you can go back to with, what does that mean, when do I get updates? (Carrie)

The lack of information resulted in a further sense of imbalance and unfairness within the criminal justice system especially as so many felt re-victimised by the process and had unanswered questions relating to the sentence. It further revealed that many of their concerns and queries were directly connected to their ongoing fear for personal safety.

4.6.2 Safety concerns

Most victim-survivors felt that a custodial sentence was viewed as providing short and long-term 'safety' for them, but this did not reflect their lived reality as safety considerations remained an enduring concern for them.

I think there will always be an element of me that's, like, am I safe? Is he going to come out with some sort of revenge plan? Are my family safe? Do I have to be conscious of who I am online, or what my LinkedIn says if I have a new job, or, you know, do I have to make sure that everything that I put online is private. I've really wanted to get involved in campaigns for this, but I'm so conscious about having to have that anonymous element because ... of him. (Olivia)

I was taking [...] a walk the other day and I'm saying to myself, one of his family could know who I am ... I was getting panicky and stuff like that. Because he has got family in the same town ... I get quite nervous when I'm out. But I've started taking a wee spray of hair lacquer with me in my pocket. (Jane)

Continued fear of the perpetrator or people close to him, and the lengths that victim-survivors went to keep themselves and their families safe, were striking. They variously described moving to a new country, seeking new employment, avoiding the community and area where the perpetrator is from, monitoring their own movements, increasing home security, changing mailing addresses and bank accounts, as well as deregistering from the electoral roll, all in the hope of keeping themselves and their families safe. Crucially, this highlights how safety concerns are ongoing despite the physical removal of the perpetrator. It also underlines the traumatic impact of the sexual violence they were subjected to, resulting in ongoing anxiety and concern about safety.

Linked to these concerns about safety, and also to public protection, participants wished to be informed about what custodial sentences entailed. Specifically, they wanted to know if perpetrators of rape and other sexual offences are required to undergo mandatory rehabilitation courses. As Olivia notes, 'I don't know what he's actually doing in prison, and I think I would feel a lot better if I knew that prisons were

for reforming'. This concern commonly arose from views that the perpetrator had not shown any remorse throughout the criminal justice process and seemingly did not accept any wrongdoing. It was also indicative of the participants' concern for public safety and their desire to stop re-offending - one of the underlying reasons for initially reporting the crime. Olivia spoke about this at length:

There almost needs to be knowledge in the public domain about what is going to happen if you are charged and convicted and sentenced with rape.

I really, really, really, would like more information about prisons.

...it would be nice if when he was coming up for parole, I got a letter to say he's been in jail for this amount of time. Within the first six months he had completed this, like anti-abuse course ... Would you want to hear how he's got on kind of thing, but ultimately it comes back to the fact I still feel like that's my data because it's my experience. I got raped by him ... do I not deserve some kind of information about it, or does it all come down to we must protect this person [the perpetrator]? (Olivia)

Yet those who knew their abuser held little hope that imprisonment would make any difference to their behaviour.

Knowing him I had, no, there was no hopes of anything. You know there's not going to be any change. If he manages to persuade a parole board that suddenly he's remorseful then his acting skills must have come on in his time in prison. So, yeah, because of who he is and how well I know him, I've no expectation of change. I've no expectation of some educational programme working. (Kate)

This cynicism stemmed from a deep familiarity with the perpetrator's behaviour and capacity for manipulation.

He was so premeditated, and calculated, and how does rehabilitation like that work? And I understand, that's the Sentencing Council's aim, is to rehabilitate, which, a hundred per cent, I would hope that in some kind of world, that he could be rehabilitated, and find the source of his anger. A hundred per cent, that would be better for everybody. But for somebody who's been doing this from [a young age], like, how does that happen, how do you rehabilitate somebody who is so firm in his ways and is so calculated. And literally, down to the last detail, he knows how to manipulate. (Alison)

I always get different fleeting thoughts about what I would want the outcome to be. Do I want him to be rehabilitated and write me a letter to say sorry and have that opportunity to apologise for what he has done? I don't know.

All I know is I don't want him to get out before the [xx years]. I would rather he stay in there for the full [xx years] because then I know where he is. (Sammy)

Linked to concerns that the perpetrator would continue to be abusive after time spent in prison, many vocalised concerns about the impending release date and the consequences that might arise at this point. These fears highlighted how victim-survivors felt unprotected.

It's quite quickly creeping up to two years. In my head, I'm starting to think it's likely he's going to get released. And at that point, what happens? Because as far as I've understood it, he's free to contact me with no repercussions at all and that is clearly concerning. It does feel very unresolved, as much as I say the verdict itself gave me closure, I'm not sure the sentence has. (Emma)

So, yeah, I don't know, I feel like there needs to be something there, that he's not going to come after you, after [xx years], like, there needs to be that kind of further thinking. Because although the Fiscal is done with it, and the police are done with it, this is our life. (Alison)

There was dismay about the lack of clarity in relation to whether victim-survivors will have continued legal protection from the perpetrator, such as non-harassment orders, and how they will operate in practice. These concerns and a desire for consistency contributed to a view that in sexual offence cases, non-harassment orders should be imposed by default and be lifelong.

He's not allowed to contact me for [xx] years, which is stupid to say the least. Why is that even being brought up in court? Why should he ever be allowed to contact me? It baffled me. (Isabella)

I don't really understand why non-harassment orders aren't just a default. If somebody's found guilty of an offence, I cannot understand why a non-harassment order isn't given in every case [...] It's like the judges have quite a lot of leniency between them and what I find, certainly, is that there are judges that just grant them as standard and there's judges that never grant them and I think that's really unfair. I think there needs to be a bit more consistency. (Emma)

4.7 Wider views on sentencing of sexual offences

Victim-survivors were asked to share their views on sentencing for sexual offences, beyond their own case, though it should be acknowledged that their views will inevitably be informed by their own experiences. Their views on custodial and non-custodial sentences, the appropriate length of custodial sentences including

aggravating or mitigating factors in determining a sentence, and the purpose of sentencing in sexual offence cases are outlined below.

4.7.1 Views on custodial and non-custodial sentences

There was clear, though not unanimous, support for custodial sentences as a default in rape cases. While punitive views may be anticipated amongst those who have been subjected to sexual violence and opted to engage with the criminal justice system, participants' accounts revealed a more complex picture. Support for custodial sentences, and views on sentencing more broadly, were shaped by issues that are especially pertinent to sexual offences: namely, the nature and scale of the problem within society; low rates of reporting and conviction; the profound impacts upon victim-survivors, their friends and family; the likelihood of reoffending; and perpetrators ability to manipulate the system.

Rape and other sexual offences were considered a serious social problem that merits a serious response. Non-custodial community sentences were considered inappropriate in sexual offence cases due to the scale of the problem of sexual violence within society, described by one participant, Olivia as a '*rape epidemic*'. Similarly, Kate described sexual offences as '*a massive problem*' happening '*on a daily basis to loads of people*'. Support for custodial sentences were partially informed by a sense that sentences could signal the unacceptability of sexual offending and contribute to social change through attitudinal change and deterrence in a way that community-based sentences could not.

...only at a point where men, most men, not all men, start to hold their peers accountable will things start to change, and we're not there ... community-based stuff isn't going to work because the influence isn't strong enough ... everyone claims that it's awful but then nothing changes. (Kate)

...if you don't have a custodial sentence for rape, all that does is send a message that it's okay to rape and that rape is not taken seriously ... I'm saying that if people knew that there was a high sentence. That this was a crime that was taken really, really, really, seriously, I think that it would act as a deterrent to people doing it. (Olivia)

Olivia also suggested that custodial sentences were especially important in rape and sexual offence cases due to their low conviction rate, and the need, therefore, to '*come down hard*' through '*really strict sentencing*' on the few that are convicted to ensure that, '*it's just widely known that if you get caught raping somebody you're going to go down for a long time*'. Support for custodial sentences in sexual assault cases, however, was more ambiguous. While there was still clear support for custodial sentences in such cases and recognition of the harms that resulted from them, this was less emphatic due to these offences being viewed as less serious than rape.

In terms of minor sexual assault, the things that I could classify as being small like touching without consent, things like that, I don't feel that should be a jail term. I feel like that should be educational and rehab and offered community programmes where they can go. (Sammy)

Support for custodial sentences was also underpinned by an acute awareness of the detrimental impact of sexual offences on victim-survivors and their friends and family. The impacts on individual victim-survivors were linked to harms resulting from the removal of their rights and control over fundamental and intimate aspects of their life.

You should go to jail. You get killed in other countries for doing this. It is so beyond anything else. It's more personal than getting stabbed, it's more personal than getting mugged, it's more personal than getting robbed because it's... Yes, okay, you might be more wary if you got robbed, couldn't go out at night, you might be a bit scared, might hurt you for a bit, but the mental hurt is worse than any physical hurt anyone's ever going to experience. (Isabella)

Where rape and sexual assault are perpetrated by someone known to the victim-survivor, as is the case with most sexual offences, the breach of trust that occurs was highlighted as an aggravating factor (e.g. where the perpetrator is known to the victim-survivor in an intimate or familial relationship or in a position of trust).

I think that a prison sentence should be the minimum ... to me it's like taking away one of the only things a person has real control about is to be who you want to be intimate with. (Rachel)

Wider impacts upon victim-survivors' friends and family were also highlighted by Sammy who, drawing upon her own experience of 'seeing the way it is slowly tearing my family apart', described this as a 'ripple effect':

Very frequently when somebody sexually abuses or rapes someone it has got an effect on that individual, but [also] other people, their family, their friends, their partner, their children. (Sammy)

Non-custodial sentences were also considered inappropriate by most participants due to the likelihood of the perpetrator reoffending and therefore presenting a threat to public protection.

I don't think a community payback, because if it's a sexual offence then it should be a custodial sentence. Community...because not all sexual predators but I think most – well, my opinion, and it's only my opinion – will do it again. And if they're doing a community payback, they would have the chance to do it again. (Kinny)

One participant, who was generally supportive of custodial sentences due to the lesser impact of community sentences on changing attitudes to sexual offences, acknowledged the limitations of custodial sentences in general but thought that there was a lack of alternatives.

I don't necessarily think that prisons are great... I know it's not a great way of doing it but I'm also not seeing many other ways. (Kate)

4.7.2 Length of sentence

Only a small number of participants opted to provide a view on specific sentence lengths. Those who did so gravitated towards a minimum sentence of five to seven years for single charges of rape with a sentence of up to life for repeat offenders.

I think that victims should have the right to be able to rebuild their lives and ... the reality is they cannot rebuild their lives with that person out on the streets. If you give them five plus years to try and rebuild their life, then they have a much greater chance of being able to do that. (Meredith)

I think people that repeat things like that should get life. If they're repeating, you know, like, say somebody went out and raped somebody once, but then they went out more and more times, and done it, they should get total life ... but if it's just the one offence, I'd say, five to seven years. (Doreen)

Sexual assault, and this is really horrible to say, but it's not as bad as rape. But it's still bad. But rape, it demeans the person, it makes them feel unworthy, it makes them feel stupid, trash, all that. So, I think rape should be five years no matter what, that's the least they could get. (Kinny)

In keeping with others, Kinny highlighted the profound impact that rape has on a victim-survivor's life and that their sense of demeaned self-worth should be taken into consideration in sentencing. However, Olivia added an important caveat about relying upon VIS following a sexual offence:

I think that's something that they need to be careful of, like, yes, the victim impact statement is important, but somebody shouldn't get a lesser sentence because the survivor has dealt with it in a better way, you know. (Olivia)

Similar to the arguments articulated in support of custodial sentences, the context of the relationship in which the abuse occurred was underscored as an important contextual and aggravating factor.

But I think if you're married to someone and they do those kinds of things to you, I think it's... It's not belittling other rape cases, but because you're in the position and you trust them and you think you love them, break that

is...to me, is worse. Because they've broke...a lot of the fundamental things as humans that we have is trust and belief in someone, and they break that, to me, it's more severe than raping a stranger. (Kinny)

Perspectives on the length of sentence were also based on the perceived severity of the offences. This was defined not just in terms of the category of offence (as discussed above), but also the duration of abuse and the number of victims.

It all again depends on the severity of the case [...] if they've done it, like, for a long time, and then all these people have come out, it should be...I'm not saying life but it should be at least 20 to 25 years [...] the more that they've done, the more that the sentence should be [...] he should have a sentence for each individual person instead of just for the whole thing. (Kinny)

If it happened on more than one occasion, I definitely think that that's an aggravating factor 'cause it shows a course of conduct. (Meredith)

Factors related to the perpetrator's character and behaviour during the criminal justice process were also raised as important factors for sentencing. Both were considered to be significant to the likelihood of reoffending.

I think the intention or the reason why a man decides to assault a woman, touch a woman without her consent, like whatever he says to that I feel should be taken into consideration because it can really show the character and the likeliness of them to re-offend [...] because if it's such a rotten character, it's more likely that he'll, even after the prison sentence, continue to just display that sort of behaviour. (Rachel)

The behaviour of the accused throughout the criminal justice process was highlighted as a factor that should be given consideration in sentencing. According to victim-survivors, this would give an indication of whether they were in any way remorseful or whether they simply utilised the criminal process as a way of continuing their abuse and exacerbating victim-survivor distress.

I definitely think, like, how well they've cooperated with the justice system, like have they engaged with the police. Have they shown remorse for their behaviour. Have they admitted it. Have they played games with solicitors. Have they showed up for their court date. Have they respected the court essentially. Have they respected the charges. (Olivia)

While remorse was cited as a potential mitigating factor in sentencing, participants displayed a lack of faith in perpetrator expressions of remorse. Scepticism about perpetrator remorse stemmed from the belief that perpetrators were adept at 'saying sorry' so that they could continue their abuse. In a similar vein, guilty pleas were

viewed critically. In response to being asked whether a guilty plea should affect the sentence imposed, Linda gave the following response:

...no, because obviously this is coming from the person's lawyer and with the experience of the defence. So, personally speaking if they are not sorry at all for what they've done or don't own up to and they're not willing to actually plead guilty but they're getting advised to plead guilty then, no, it shouldn't. (Linda)

Pleading guilty was described as a, 'cowards' way out' (Sammy) that serves the interests of the perpetrator rather than victim-survivors and does not make the perpetrator any less responsible for their actions.

A lot of the cases, they say, I'll plead guilty and I'm trying to save the victims all the trauma. No, they're trying to save themselves, to get a lesser sentence, and that's the only reason they do it [...] they know, they'll get a lesser sentence if they plead guilty, and that should not be brought into consideration. (Kinny)

A small number of victim-survivors expressed the view that a 'slightly lesser sentence' (Kate) could be imposed if there was an early guilty plea, at the police stage, since this would save 'a lot of people heartache' (Doreen).

I think unless on initial questioning they have said to the police, yes, I have done this. I don't think that there should be any change in sentencing, because actually that was your chance. You don't make more than one chance. You certainly don't need 20 chances and if you just look at it from a victim's point of view, you've not done anything better by pleading guilty. You know, you've still done the crime. (Kate)

However, following a lengthy and arduous journey through the criminal justice system, Isabella held an alternative view and was supportive of guilty pleas:

Looking back on it now, if that had been the bargain of, okay, so if you plead guilty right now, we'll set you free, we'll give you no charge, we'll give you two months community service, whatever, I'd prefer that than what happened ... because the process has been so traumatising, worse than the actual incident. (Isabella)

While participants such as Doreen and Isabella were clear that a guilty plea can spare victim-survivors the ordeal of difficult and protracted court processes, others highlighted the negative consequences of guilty pleas in terms of the removal of victim-survivors' opportunity to have their story heard.

I think there should be a reduction because it's at least showing some level of accountability and responsibility ... rehabilitation isn't possible unless you actually accept responsibility for your actions. And so I do think there should be a slight reduction because to me, someone that pleads guilty is maybe, like, slightly less of a danger to society because they're at least accepting what they've done ... but I think that those survivors whose perpetrator has entered a guilty plea, I think they should have an opportunity at some point to be able to have their say. (Meredith)

Reflecting on how she might have felt if the perpetrator had pled guilty in her case, Rachel highlighted why a late guilty plea would have been problematic for her:

I would have been annoyed at the fact that they would have pled [not guilty] and made me go through everything up until the trial stage. I still had to come forward and do all this and relive everything for you just to plead guilty. I know it would be a good outcome, but in my head, I would want that justice, for other people to serve that justice. I wanted a jury to find him guilty. (Rachel)

As discussed previously, victim-survivors endure a lengthy and often traumatic process as they proceed through the criminal justice system. Whilst a guilty plea may spare them the ordeal of the trial, some felt strongly that they wanted to have 'their day in court' and for the perpetrator to be held publicly accountable.

4.7.3 Views on the purpose of a sentence

There was a strong view that sentencing in sexual offences should primarily serve the purpose of ensuring both the safety of individual victim-survivors and wider public protection:

I think public protection, protection for the people in that area or protection for the people in that family or whoever is designated as that victim or family of that victim ... I definitely think that jail, yes, keep them where they are. (Sammy)

Relatively few participants explicitly mentioned punishment as a key purpose of sentencing though several participants referred to the importance of rehabilitation within a custodial sentence.

It should be a punishment, like part of it should be viewed as a punishment for taking away someone else's rights, making them your own [...] There should be an effort to help the perpetrator realise the impact of what he's done, help them relearn their patterns of behaviour and just get them back to be able to socialise in a normal way. So almost like they can learn out of their mistakes. (Rachel)

Rehab 100 per cent whilst they are there. (Sammy)

I think custodial sentences could help to facilitate that [rehabilitation] by, you know, offering them time and space away from the rest of society to reflect upon their actions. And also, be offered ... all of these courses I think that are available in prison. (Meredith)

However, scepticism regarding the effectiveness of prisons, and short prison sentences in particular, for the rehabilitation of offenders was expressed by some participants.

... it's forcing perpetrators to actually look at their behaviours, in an uncomfortable environment ... I guess it's about forcing an attitude to change which I probably don't think works because I think you have to want anything, don't you? (Kate)

I struggle to see how a custodial sentence is going to make the situation better for that person. And maybe that's a lack of knowledge, maybe there's schemes and things that have happened that I don't know about, but I feel like almost taking that person out of society for two to four years is going to do very little. (Emma)

I do think the research tends to show as well that really short sentences don't actually do very much ... I mean, what's the point in locking someone up for one or two years? It's not really long enough to have actually had an impact on their behaviour. And in fact, could lead to an increased risk of criminality but without actually having addressed the behaviour. (Meredith)

5. Key Messages

The findings presented in this report offer a window into how sentencing is both experienced and functions for victim-survivors of sexual violence, including their views on issues such as seriousness, risk, harm, and aggravating or mitigating factors in sentencing. Victim-survivors are not all the same and so bring diverse experiences, knowledge and viewpoints on sentencing. However, there are a number of commonalities across their accounts. At the point of engaging with the criminal justice process, retribution was rarely the primary reason for victim-survivors reporting to the police and most had low expectations about the possibility of prosecution and conviction. However, sentencing was a very important and emotive issue for all. Not least because of the distinctive harms of sexual violence, the challenges experienced at earlier stages of the criminal justice process, concerns about the perpetrator reoffending, and a perception that consideration given to the rights of the accused outweighs any consideration given to the rights of victim-survivors.

Victim-survivor accounts of their experiences and expectations of sentencing reflect philosophies of deterrence and rehabilitation and, to a lesser extent, retribution. This echoes other research on sentencing more generally⁵⁴. Victim-survivors referred to the importance of the crime being publicly recognised and the perpetrator being held accountable. They hoped the sentence imposed would provide rehabilitative opportunities that would prevent further offending against future victims.

However, some also sought substantive justice through the imposition of longer custodial sentences, to take account of the profound impact that the offending behaviour had on them. Echoing existing research on the experiences of victim-survivors of sexual violence, participants in this study had undergone particularly traumatic and stigmatising experiences. Indeed, sexual offences are recognised as crimes that 'fundamentally challenge a victim's sense of dignity and autonomy'⁵⁵ and culminate in multiple and often enduring physical and emotional impacts. Harms particular (but not exclusive) to sexual violence stem from the removal of an individual's control and bodily integrity, fear, and the abuse of trust (given that most rapes are committed by someone known to the victim-survivor).

Discussion about expectations of trial outcome and sentencing rendered visible a possible contradiction in the participants' views and beliefs around custodial sentences. Although custodial sentences were not the primary reason or goal of reporting to the police, and some reported '*feeling guilty*' or uncomfortable about the perpetrator being imprisoned, there was clear support for custodial sentences in rape cases and most believed that the sentence imposed in their case was too lenient. In discussion around mitigating factors, participants were fairly unanimous in their views that guilty pleas and expressions of remorse on the part of the perpetrator should carry limited weight in mitigation. For those cases where the Sentencing Young People Guideline⁵⁶ required consideration of perpetrator age, this was largely viewed as '*unjust*' on the basis that the perpetrator held capacity as an adult in other domains despite his youth.

There were, however, differences in terms of the levels of satisfaction about the sentence imposed and the extent to which it was felt that 'justice' had been achieved. The rationale underpinning these beliefs varied and linked, not just to the severity and impact of the offences (including duration of abuse and number of victims), which were considered to be important aggravating factors, but also to their relationship with the perpetrator, their understanding of the likelihood of his re-offending, and the overall experience and length of the criminal justice process, reflecting concerns with procedural justice⁵⁷.

⁵⁴ See Hutton, 2005; Freiberg and Gelb, 2008; Roberts and Hough, 2002.

⁵⁵ McMillan, L. (2014) The role of the specially trained officer in rape and sexual offence cases. *Policing and Society*, 25(6), pp. 622-640.

⁵⁶ Scottish Sentencing Council, 2022, op. cit.

⁵⁷ See Tyler, 2006; Hohl et al., 2022.

The accounts presented in this report highlight victim-survivors' desire for procedural justice and, in particular, to be treated with fairness, dignity, respect and given a 'voice' within the criminal justice process (e.g. being given the opportunity to have their questions and concerns listened to and addressed). It is well-recognised that criminal justice engagement can prove traumatic for victim-survivors and precipitate 'secondary victimisation'⁵⁸. Taken together with the inordinate delays in court proceedings that many victim-survivors face, the meaning and significance of procedural fairness for victim-survivors becomes clearer. Where there is a perception of fairness, and being treated with dignity and respect, this can lead to greater victim satisfaction and more positive experiences⁵⁹. Wemmers⁶⁰ terms this 'therapeutic jurisprudence' achieved by victim-survivors receiving support and feeling recognised, empowered, and respected by criminal justice authorities.

Procedural justice was rarely evident in victim-survivor accounts of sentencing processes. Despite considerable emotional investment in the outcome of their case, many victim-survivors reach the sentencing stage with little knowledge, information, or preparation. Most wanted to see the criminal justice process through to the very end, often after lengthy journeys through the system, and as such sentencing was significant to them, their sense of closure and safety. Yet, it was apparent that they are not adequately supported to attend or sufficiently understand the sentencing hearing. Nor were they certain about whether or how their VIS would be considered at sentencing, leading some to question whether the significant emotional investment in completing them had been worthwhile. Further, some who attended the hearing described feeling unprepared and unprotected.

It is well-established that victim-survivors of sexual violence feel a sense of alienation and experience marginalisation in relation to the criminal justice process, due in part to their status as witnesses in the case⁶¹. This de-centres them from the case and means that their rights are bound to elements of their participation that are deemed essential to the prosecution of the case. The closure of the trial therefore signals the end of their formal participation and victim-survivors reported feeling 'superfluous' to the proceedings after this point. Since their job as witnesses is done, they are 'no longer needed' and inadequately supported to attend the sentencing hearing. Ironically, despite getting 'further' in the criminal justice process than most, victim-survivors who reach sentencing arguably face heightened marginalisation.

Following the sentencing hearing, victim-survivors commonly described receiving little information and having difficulty in understanding the sentence imposed, with no

⁵⁸ Campbell, *op. cit.*

⁵⁹ Wemmers, J.A., van der Leeden, R. and Steensma, H. (1995) What is procedural justice: Criteria used by Dutch victims to assess the fairness of criminal justice procedures. *Social Justice Research*, 8, pp. 329–350.

⁶⁰ Wemmers, J. (2008) Victim participation and therapeutic jurisprudence. *Victims and Offenders*, 3, pp. 165–191.

⁶¹ see for example, Smith, 2018; Brooks-Hay et al., 2019; Molina and Poppleton, 2020.

avenue to ask questions. Key questions that they were left with related to the actual length of the sentence that would be served, the judge's reasoning for the sentence, and the breakdown of the sentence in terms of how it applied to individual offences and victims within the case. The limited provision of this information contradicts the principle of the 'right to understand and be understood' as specified in the Victims Code for Scotland. It was also apparent that safety concerns persisted for victim-survivors despite the imposition of custodial sentences. In some instances, these concerns were alleviated through the granting of a lengthy sentence and/or non-harassment orders though, again, a lack of certainty about release dates and the subsequent protection afforded to them compromised victim-survivor recovery and wellbeing.

There is little doubt that for victim-survivors of sexual violence, sentencing is experienced as a complex, bewildering and emotional issue. A range of concerns were expressed about their treatment before, during and after the sentencing process. Collectively, these concerns point to the importance of emotional and practical support, including the provision of clear and timely information throughout the process. Whilst there were some differences in views about whether and how 'justice' was achieved for individual participants, and the role of sentencing within that, there was a strong desire from all that sentencing processes and decisions reflect an understanding of the all-encompassing and harmful effects of sexual violence on the lives of victim-survivors.

6. Recommendations

The recommendations outlined below are structured in four sections: pre-sentencing; sentencing hearing; sentencing decisions; and post-sentencing. Some of the recommendations are directly relevant to the work of the Council and the development of sentencing guidelines for sexual offences, while others are wider in scope. Where recommendations are specific to the Council, this is stated explicitly.

Pre-sentencing

- 1) Victim-survivors should be provided with information about sentencing options in sexual offence cases, the factors that a judge may take into account in sentencing, and the rationale for considering these factors.
- 2) The Council should work with key agencies, including the Scottish Government, COPFS, Rape Crisis Scotland, and Victim Support Scotland to ensure that clear and consistent information about sentencing is routinely available to victim-survivors.
- 3) This should include the incorporation of Scottish Sentencing Council resources for victims in information provided to victim-survivors by key agencies i.e. the Scottish Government, COPFS, VIA, Rape Crisis Scotland and Victim Support Scotland.
- 4) The Council should extend the training that they provide about sentencing to all key agencies in contact with victim-survivors e.g. VIA, Victim Support Scotland, and Rape Crisis Scotland.
- 5) The opportunity to provide a Victim (Impact) Statement should be given after reporting to the police and then closer to the court case to provide a more representative account of impacts on victim-survivors.

Sentencing hearing

- 1) The importance of attending the sentencing hearing to victim-survivors must be recognised.
- 2) Prior to the sentencing hearing, victim-survivors should be given an indication of the processes and practices followed at sentencing i.e. who will be present, the order and likely duration of proceedings, what type of information will be discussed and how their victim statement will be used.
- 3) Victim-survivors should be offered emotional and practical support to attend the sentencing hearing, if they wish.
- 4) The right for victim-survivors to claim reasonable expenses if they attend court to give evidence should be extended to sexual offence victim-survivors attending sentencing hearings.

- 5) With victim-survivor's permission, the Victim (Impact) Statement should be read out at the sentencing hearing either by the judge or by the victim-survivor if they wish.
- 6) Victim-survivors should have the option of a video link to view the sentencing hearing so that they are able to witness proceedings, without having to be in the same room as the perpetrator where this will cause distress, or where practical difficulties are an obstacle to attending.
- 7) The rights of victim-survivors attending or viewing the hearing should be a central consideration in conducting the hearing. This should include protection from attacks on their character or sexual history, references to CICA applications, and the use of their life circumstances as mitigating factors in sentencing.

Sentencing decisions

- 1) To protect victim-survivor safety and provide consistency in sentencing, a non-harassment order should be considered as a default in sentencing of sexual offences, unless it can be demonstrated that the victim-survivor will be safe without one.
- 2) The development of guidelines for sentencing in sexual offence cases should take into account key factors identified by victim-survivors as aggravations: the severity of the offence including duration of the abuse and number of victims; the enduring impact on their lives; the time that a custodial sentence allows for rebuilding their life and providing safety; and, the likelihood of reoffending and public protection.
- 3) The development of guidelines for sentencing in sexual offence cases, should take into account factors that victim-survivors believe merit no, or only limited, mitigation: age, guilty pleas, and expressions of remorse.

Post-sentencing

- 1) To comply with 'right to understand' within the Victims Code, a clear explanation of the sentence imposed should be provided verbally and in writing to victim-survivors. This should include (1) the judge's reasoning for the sentence and (2) information about what the sentence means and how it may operate in practice, particularly in relation to the duration of sentence actually served in prison, release dates, and eligibility for parole.
- 2) Letters communicating decisions must be written in plain English and offer a contact point for any questions that victim-survivors may have.

- 3) As a matter of course, victim-survivors should be offered a meeting (in-person, online, or by telephone) to provide a verbal explanation, further information and the opportunity to ask questions about the sentence imposed.
- 4) These written and verbal forms of communication should be offered irrespective of whether the victim-survivor attended the sentencing hearing, and in addition to the existing SCTS 'request for information' form and application process.
- 5) If a victim-survivor does not attend the sentencing hearing, they should be offered access to a transcript of the hearing as soon as possible after the hearing at no cost to them.
- 6) Victim-survivors should be offered information about educational and rehabilitative work undertaken in prisons in relation to domestic abuse and sexual offences.

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APPENDIX 1: Participant characteristics

Q1. ETHNICITY	WHITE-SCOTTISH	4
	WHITE-BRITISH	2
	WHITE-EUROPEAN	1
	WHITE-ENGLISH	2
	MIXED ASIAN	1
	UNKNOWN	4
Q2. AGE	18 – 25	2
	26 – 35	4
	36 – 45	1
	46 – 45	0
	56 – 65	3
	UNKNOWN	4
Q3. DO YOU CONSIDER YOURSELF TO HAVE A DISABILITY?	YES	4
	NO	6
	UNKNOWN	4
Q4. WHAT IS YOUR SEXUAL ORIENTATION?	BI	2
	HETEROSEXUAL/ STRAIGHT	8
	UNKNOWN	4
Q5. HOW DO YOU DESCRIBE YOUR SEX?	FEMALE	10
	MALE	0
	UNKNOWN	4
Q6. IS YOUR GENDER IDENTITY THE SAME AS THE SEX YOU WERE ASSIGNED AT BIRTH?	YES	9
	NO	1
	UNKNOWN	4

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