



The Crown Prosecution Service

Introduction

In response to the extraordinary circumstances facing policing, complainants, support agencies, and the criminal justice system (CJS) during the Covid-19 pandemic, JiCSAV set out to identify specific impacts of the pandemic on criminal justice policies and practices in sexual offences cases. It enabled consideration of the ways in which Covid-19 has exacerbated existing problems and created new ones, as well as documenting innovations that could improve the experiences of victims and survivors of sexual violence and abuse engaging with the CJS. This briefing, the third in a series, emphasises the views and experiences of the Crown Prosecution Service (CPS).

What did we do?

Stage one of data collection involved interviewing nine participants from six CPS areas across England and Wales between July and November 2021. Interviewees all worked within CPS Rape and Serious Sexual Offences (RASSO) Units and included Heads of Unit and Chief, Deputy Chief, Senior, and District Crown Prosecutors. Preliminary findings based on these interviews, alongside interviews conducted with barristers, were presented at an online workshop held on 25th November 2021, which was attended by over 40 professionals, policy-makers, and CJS stakeholders. Additional data arose at this workshop, and were integrated with interview data in the analysis.

Findings

1. Impacts of the Covid-19 pandemic on the prosecution of RASSO cases by the CPS

Remote working

The CPS was viewed as having transitioned successfully to remote working during the first lockdown in March 2020. Interviewees identified a combination of increased productivity and flexibility with homeworking, as well as challenges associated with blurred work/life boundaries. Without an office commute to delineate the working day, long working hours became the norm for CPS staff. Increased caseloads exacerbated this issue.

'I don't remember the last time I worked under a 50-hour week. And before COVID I was pretty much sticking to my hours. When you're working from home and you have this huge caseload, there's actually no reason really to stop working. So, it's kind of never ending. It's the same with annual leave actually. I mean a lot of us are working on our annual leave which is not ideal. It's the new normal'

- Senior Crown Prosecutor.

The traditional physical separation between the workplace and home had helped to manage the impacts of sensitive and challenging areas of work on CPS staff wellbeing. However, during the pandemic, these materials encroached into personal and home spaces.

'[T]rying to work from home whilst considering the stuff that we consider is not always appropriate. I can't have my kid running around my feet whilst I'm considering the kind of material we have to consider' - Senior Crown Prosecutor.

Increased case loads

Interviewees all reported increased caseloads throughout the pandemic. The closure of the courts and subsequent backlog of cases, combined with continued cases being received from the police meant that it was (and is still) increasingly common for prosecutors to hold up to 80 case files at any one time. Where trials were postponed, these cases required a significant amount of additional 'holding' work from CPS staff, including ongoing communication and updates with complainants and witnesses, as well as addressing new issues or evidence raised by defence counsel.

'[T]he conveyor belt for cases coming through stopped, more cases started to come in and these at the end weren't dropping off and so lawyers are now carrying a significantly higher caseload than they were pre-Covid'

- Head of RASSO Unit.

Whilst new staff are being recruited to RASSO teams, several interviewees noted barriers to securing the 'right' people for these roles. RASSO work is characterised by unique features and challenges which require specific experience, training, and commitment

'There's a wider issue than just the resource: it's how do we get the people in and then how do we train them up so they're experienced enough to go to the RASSO teams'

- Deputy Chief Crown Prosecutor.

Case delays and complainant withdrawal

The closure of, and reduced capacity within, courts has significantly increased delays, with some trials being postponed on multiple occasions. Interviewees recognised the grave impacts of delays on complainants and noted instances where complainants had withdrawn from the prosecution process.

'I've got one case that's been adjourned three times, the first time was Covid. She's now saying she's not going to come back again. So it gets adjourned to the point sometimes where we lose our victims, and we lose the case because there's just so many delays now' - Senior Crown Prosecutor.

Interviewees referred to receiving increased queries from complainants in relation to delays, which they found distressing due to a lack of control and influence over case-listing decisions and court-related delays.

Inability to secure counsel to prosecute cases

Several interviewees observed a depletion of the Criminal Bar during the Covid-19 pandemic, reducing the counsel available to prosecute RASSO cases and further compounding delays and workload. Examples were given of 40, 60, and in one instance over 100 Chambers having to be contacted to try and find both appropriate and available counsel.

'[T]he criminal bar are completely overwhelmed, there's a real shortage of barristers. It's really difficult finding barristers with availability, we end up with barristers that fall slightly short of the mark in terms of experience' - Senior Crown Prosecutor.

2. Innovations in practice

Digital evidence sharing

Notwithstanding the challenges posed by Covid-19, there was also evidence of positive innovation. While beginning prior to the pandemic, there has been exponential growth in digital evidence sharing between agencies and settings e.g. ABE interview files being accessed via online secure links rather than from hard discs. The transition to digitisation was welcomed on the basis of streamlined working practices, increased productivity, and improved inter-agency communication.

'[W]e are seeing big strides [in] the reduction in hard media. We're finding digital ways of moving evidence across our systems [it] makes it very seamless. There's the ability to look at that information much more quickly, some of that is very positive I have to say' - Chief Crown Prosecutor.

Interviewees emphasised the need to continue the digitisation of systems and processes across the CPS and further improve connectivity between police and CPS computer systems.

Improved communication with the police and other criminal justice partners

Microsoft Teams was introduced to enable continued communication between CPS lawyers and police colleagues during the pandemic. Interviewees indicated that this had been hugely positive and that opening lines of communication via this medium addressed some of the longstanding challenges associated with cross-agency working, including geographical and resource barriers to face-to-face meetings. It was suggested that early legal advice was now being sought/provided more effectively, and weekly Teams meetings were being scheduled to discuss complex cases.

'[W]e've agreed methods of working with the police to increase our communication in cases. Lawyers are able to have a Teams meeting with the officer in the case before they provide their advice [and] that really has sped up the process. I think there's that face-to-face, albeit via a screen, interaction where a lot more issues are resolved' - Senior Deputy Crown Prosecutor.

Interviewees also reported that MS Teams allowed RASSO teams to meet more regularly and effectively with other partner agencies, for example Independent Sexual Violence Advisors (ISVAs) and Children's ISVAs (CHISVAs).

'[W]e have an ISVA/CHISVA working group that [attending] was often difficult for people because whilst we'd rotate the location of it, it was always challenging across this large area. Now doing it via Teams means that everybody comes on each occasion. So I think they've been really, really positive outcomes and the feedback I've had has been excellent' - Head of RASSO Unit.

Communicating with complainants and witnesses

Some interviewees reported that MS Teams had also been introduced to support communication with complainants and witnesses. Rather than writing letters, which several interviewees recognised as problematic, using Teams provided an alternative forum whereby questions could be answered immediately, and decisions communicated more clearly.

'[W]e offer the victim the opportunity that rather than writing them a letter, you can speak to me, we can have a Teams meeting. Ideally there's an officer with them at the time, they've got an ISVA support there. So we're looking to do that, and that's come out through Covid, so we can do Teams now' - Head of RASSO Unit.

Recommended actions

- 1. Urgently address the increased caseloads held by CPS colleagues and support appropriate recruitment and selection for RASSO teams.** Additional staff are needed in response to increased RASSO caseloads. Attracting and retaining the right fit of talented, experienced, and committed candidates is a priority, including via improved benefits and pay scales for those working within RASSO units to reflect the particularly complex and demanding nature of the work.
- 2. Develop CPS best practices in new work structures and methods of communications with police and other CJS partners.** The improvements in cross-agency working and communication prompted by the novel application of technology, particularly with the police, should be developed, evaluated and shared across all CPS areas. Best practices should be developed to support and maintain improvements within cross-agency communication and working.
- 3. Enable hybrid models of working to maximise productivity and flexibility.** Clear benefits of remote working were identified. However, several interviewees also indicated that they would benefit from a day or two a week working in CPS offices to meet face-to-face with colleagues and work in a different environment. Thus, a hybrid model of working should be introduced going forward, providing flexibility for staff and enabling benefits from both office and remote working to be realised.
- 4. Evaluate implications of scaling up the use of technology to communicate with complainants and witnesses and develop a protocol for use.** The use of video conferencing to support communication with complainants and witnesses has clear potential. A clear, evidence-based protocol for the use of technology in this context should be developed and tested. It needs to be informed by a range of perspectives including CPS lawyers, ISVAs, the police, complainants, and witnesses, with consultation with these groups around what constitutes best practices.