

Access to Justice

STAGE INFLUENCE GROUP BRIEFING

February 2021

This paper has been prepared for the STAGE Influence Group, drawing on learning and exploration within the STAGE project about how women who have survived sexual exploitation access and experience justice. Justice is understood in broad terms by the project partners, including accessing the criminal justice system, receiving protection and equitable treatment within this, to recovering from trauma.

This briefing raises awareness of the challenges faced by women who are adult survivors of sexual exploitation when attempting to access justice. It then makes recommendations to improve access to justice as part of a wider aspiration to create a new National Framework for Adult Survivors of Sexual Exploitation.

The briefing is based on learning from the STAGE Project, supported by the Department for Digital, Culture, Media & Sport (DCMS) Tampon Tax Fund to explore and highlight the nature and extent of sexual exploitation of adult women across our communities.

The STAGE Project brings together charities Changing Lives, GROW, A WAY OUT, Together Women, Basis and WomenCentre (Kirklees and Calderdale) to provide trauma-informed support for women who have been groomed for sexual exploitation across the North East and Yorkshire¹.

Background

Adult sexual exploitation is an underexplored or little understood area of justice. There is currently no statutory definition attributed to it, no specific statutory responsibilities, no national strategy, and a general lack of understanding about how exploitation occurs. The experiences of those who are subject to exploitation are varied and intersect with multiple crimes. This results in varying responses from Criminal Justice System (CJS) agencies² and those that support women who have experienced/are experiencing SE.

Women who access support from STAGE may or may not report their exploitation to the police. Those who do report undergo a lengthy and complex process. Sexual exploitation cases can last four or more years (this could be due to the legal complexities within sexual exploitation cases that involve multiple complainants, perpetrators and charges that include rape and sexual assault but also trafficking,

¹ Partners deliver services in eight areas where there are recent or live sexual exploitation investigations: Bradford, Huddersfield, Leeds, Newcastle, Rotherham, Sheffield, Stockton and Sunderland.

² For this paper, CJS agencies includes police, Crown Prosecution Service, courts, National Crime Agency.

kidnapping and the supply of drugs) and during this time, women could be subject to further abuse, exploitation and trauma. This has been further impacted by covid-19, as investigations and trials have been postponed and instances of sexual violence have increased³.

The STAGE partnership has held a series of workshops with project staff and partner leadership, to share experiences that women who access the service have had when attempting to access justice. This briefing, based on these conversations, describes a variety of experiences of how women have been treated within the CJS, after experiencing SE and wider sexual violence.

Key findings from reflective workshops

The reflective workshops identified the following themes, as explored below:

- 1. Access to justice**
- 2. Experiences of the Criminal Justice System**
- 3. Protection within the Criminal Justice System**
- 4. Role and status of women centred services in the voluntary sector**

1. Access to Justice

- A woman's journey from being exploited to recovery is a long one. If she chooses to report to the police, it is likely that she has already had to undergo a process of coming to terms with her exploitation and understand it as such, which can be traumatic in itself. STAGE partners commonly experience women disclosing exploitation to their case worker and taking some time (often years) before she might (or might not) decide to report to police or go to a sexual assault referral centre (SARC) after a recent assault, when exploitation is ongoing. It is often the case that women we support decide they do not wish to report for many reasons including awareness that the justice system may not be accessible to them. It is of grave concern that some women do not believe they are 'worthy' of seeking justice or come to believe that being victim of sexual violence is something to be expected.
- Women's confidence to report can be impacted by past traumas and negative interactions with CJS agencies. This includes previous interaction with sexual exploitation investigations, where experiences include not being believed, being treated negatively by the police and when women have withdrawn complaints (see item 2.). One example shared involved a young woman reporting to police, assisting investigations, and providing intelligence before her case received a decision of 'no further action' (NFA) by police. She was told this was due to her credibility as a witness. Much later, the police re-approached her woman to assist in investigations and report her exploitation, after finding new incriminating evidence relating to

³ See, for example ['Nowhere to Turn'](#) published by Changing Lives during the pandemic.

a much larger investigation. She required considerable support to re-engage with the police after her initial feelings of rejection.

2. Experiences within the Criminal Justice System

- When women who access STAGE have reported the crimes committed against them related to sexual exploitation, the CJS process is lengthy. In several large cases, it has taken four years or more to get to court.
- The impact of this is traumatic and physically draining, with several flashpoints of re-traumatisation and risk. This can be a dominant factor in women withdrawing from the process, especially in view of delays caused by Covid-19.
- Women are subject to high levels of personal scrutiny throughout, from the onset of reporting (by police), throughout prosecuting (by the Crown Prosecution Service) and later, the defence, due to their status as 'witnesses' in the case.
- Women's personal lives, including their interactions with support agencies, are highly scrutinised in pursuit of anything that would make them less 'credible' in proceedings and therefore impact the probability of prosecution and conviction.
- In STAGE's experience, women are scrutinised over substance dependence, homelessness, mental illness (or assumed mental illness), relationships with men or other women, child safeguarding, criminal activity, and previous reports of sexual violence.
- Women have further had labels attributed to them by CJS agencies such as sex worker, 'recruiter', 'pimp' or that their exploitation is a 'lifestyle choice'.
- These are all factors that can be linked to experiences of being groomed for the purpose of sexual exploitation yet can undermine credibility in these cases and limit access to justice, with many cases receiving a decision of NFA due to 'reliability' and 'credibility'. Police officers have been open with STAGE partners about this. One said, "*this person will never get justice as will never be seen as credible.*"
- Caseworkers have, on varying occasions, been both excluded from communication with women about No Further Action (NFA) decisions and asked by police to deliver these decisions to women themselves, without police presence. These decisions, and how they're communicated, can result in women feeling confused, worthless, not believed, or begin to question whether what they experienced was abuse.
- Survivors are aware of this scrutiny and that notions of 'credibility' are likely to endure. Some women are therefore reluctant to report further incidents or be witnesses in others' trials, due to the risk of traumatisation and relapse (into substance misuse or mental-ill health).

- STAGE partners commonly state that perpetrators seem aware of this scrutiny and appear to target women who are unlikely to be deemed as credible or reliable witnesses.
- If a case does reach court, women's experiences vary significantly, often depending on which judge is overseeing proceedings. Partners noted that a judge's management of a case can determine either a more positive experience for women or, in extreme examples, lead to the collapsing of sexual exploitation cases, without perpetrators being subject to a full trial.
- Cases can be disrupted and/or adjourned several times, often to the benefit of the defence. One trial was disrupted several times when there were 14 defendants in the courtroom, along with their respective legal representation, facing one complainant at a time. This caused significant disruption and intimidation. STAGE partners observe that despite disruption and adjournments often seeming like strategic moves from the defence, there are examples when this has been tolerated by judges without due attention to the needs of vulnerable and intimidated witnesses.
- STAGE staff concluded that there is inequality and injustice in the CJS, resulting in the decreased chance of justice for women with complex needs.

3. Protection within the Criminal Justice System

- Survivors of sexual exploitation are at high risk of intimidation and repeat victimisation from perpetrators and their associates.
- There are cases of women being intimidated at several stages of the criminal justice process, with moments of heightened risk. This includes after initial arrest, when perpetrators are released on bail with limited conditions and during the investigation.
- Survivors can be additionally at risk of intimidation and further grooming when perpetrators are in prison and on release. Whilst STAGE partners agree that the achievement of a guilty verdict is positive, they also say that it is not a panacea for women's recovery. Once court proceedings are concluded, wider access to recovery and protection remain long-term factors.
- Intimidation can be carried out by the perpetrator themselves or the wider community. One woman was identified and kidnapped by associates of the perpetrator(s) during the criminal justice process. Another was forced to withdraw her complaints by her family on several occasions, impacting upon the police response she received and her witness 'credibility'. STAGE partners note that there can be particular pressures for black and

minoritised women, those with learning disabilities and for those that live in the same locality as their perpetrators.

- There are difficulties in attaining then sustaining protection for victims which range from CCTV and letterbox protection to the removal of women from their area of residence. Decision making over access to protective measures can seem arbitrary and inconsistent (both within police force areas and between them).
- STAGE partners have all experienced women relapsing (into substance misuse or mental ill-health) at different stages of the CJS, due to fear, intimidation and traumatic triggers. Women have also disengaged or withdrawn from the process, for example after their children's lives have been threatened by associates of the perpetrators. Some have returned to harmful and dangerous people as a form of protection and then are subjected to further abuse. The consequences of this can be devastating including women's children being removed from their care as a direct result of perpetrator behaviour.
- It is not unusual for a caseworker to be called to court as a witness by the defence. When this occurs, a caseworker cannot engage with the woman they usually support, until evidence has been provided. As a result, women are left without the support they trust and can feel scared and guilty they have done something to cause this. This can cause a woman to withdraw from the process at this final stage.
- In all such cases, caseworkers have not been offered protective 'special measures' (which are available to vulnerable or intimidated witnesses for the achievement of best evidence) in court. This presents a significant risk to individual staff members and services, as staff are exposed to perpetrators and their associates (who sit in the public viewing gallery, for example).

4. Role and status of women centred services in the voluntary sector

- Voluntary sector services are often supporting women for several years. These specialist services can be the main point of contact for women and a trusted source of support. Despite this, caseworkers and services are repeatedly excluded from some processes, jeopardising access to justice and the relationships held with survivors.
- Voluntary agencies are routinely excluded from:
 - **Serious Case Reviews (SCRs):** There are instances where partners have been fundamental to supporting multiple women identified as victims during SE operations but excluded completely from the SCR process. This results in crucial information being lost.

Partners also have experience of unsuccessfully requesting SCRs without any follow up communication to justify the decision.

- **Coroners Inquests:** Women who engage with partners' services are at risk of early death. One partner agency experienced six deaths over two local authority areas in one year. Voluntary sector services can be the key knowledge holders on survivors' lives and the last service to have contact with survivors before death. Despite this, they are not included in inquiries into unexplained deaths. There are fears across the partnership of missed opportunities when women have died uncertain circumstances. One partner's CEO spoke about being excluded from an inquest, after explicitly applying to be part of the process due to holding crucial information. The request was ignored and crucial information was missed by the Coroner. It was noted that this woman "*will never get justice, not even in death.*"

Key recommendations

STAGE recognises that there is a need for radical change to the justice system for survivors of sexual violence and exploitation. The partnership supports wider recommendations for change proposed by the violence against women and girls sector⁴. For the purposes of this paper, we focus on the following recommendations that would make a significant impact for the women we support. We would like to see:

1. An increase in understanding of the need for long-term funding for specialist, trauma informed sexual exploitation services.
2. The national roll out of the scheme for Sexual Violence Complainant Advocates, giving complainants (and their guardians, where appropriate) free and independent legal representation from report to court.
3. Better guidance to CJS agencies (including those referenced above and including judges and barristers) on the handling of complex sexual exploitation cases.
4. CJS agencies urgently review and reform the tests that determine the reliability and credibility of witnesses who report sexual exploitation. Reforms should ensure the proper recognition of the often systemic nature of grooming for exploitation and the resulting complex vulnerabilities of survivors, including the associated impact on capacity.
5. CJS agencies to give full written explanations of decisions of 'no further action' and decisions not to prosecute, including the basis of decisions made on reliability and credibility, exceeding obligations within the Victim's Code.

⁴ Please see '[The Decriminalisation of rape: Why the justice system is failing rape survivors and what needs to change](#)' by the Centre for Women's Justice, End Violence Against Women coalition, Imkaan and Rape Crisis for England & Wales.

6. Decisions on the protection of witnesses and bail conditions made and enforced based on ongoing assessments that recognise the risk, control and coercion associated with sexual exploitation.

7. Greater application of special measures offered under Youth Justice and Criminal Evidence Act 1999, in particular sections:

- 16 & 17 to enable the achievement of best evidence from intimidated support agency staff,
- 25 to clear the public gallery during the giving of witness's evidence,
- 28 to offer all complainants the opportunity to have their cross-examination pre-recorded.

8. Statutory guidance and training are implemented to enhance understanding of the role and value of the voluntary sector in contributing to Coroner's Inquests and Serious Case Reviews.