

PE2102/C: Require anyone found guilty of rape or sexual assault to be registered as a sex offender

Rape Crisis Scotland written submission, 14 November 2024

Thank you for contacting us regarding petition PE2102.

The Scottish Sentencing Council has recently published draft sentencing guidelines for rape. These guidelines address a significant amount of the subject of this petition. We have outlined our position on these guidelines, and where we believe more action is needed around sentencing for rape in Scotland, below.

Sentencing for rape must be transparent, consistent, and robust. We are hopeful that new proposed sentencing guidelines for rape can go some way to ensuring that this is the case for sentencing across Scotland.

We often hear from survivors that they do not understand why their rapist received the sentence they did, and that they are left confused by the process. We hope these guidelines will bring clarity. We also hope the guidelines will make sentencing more consistent.

The sentencing guidelines set out the factors that should be considered when determining a sentence, and what this sentence should be. The guidelines set out a minimum tariff for a rape sentence, which is four years' custody. In our view, it is difficult to imagine any circumstance where an absolute discharge would be appropriate for a crime as serious as rape.

The guidelines also set out that any offender in receipt of the sentences outlined within the guidelines after a rape conviction would automatically be made the subject of the notification requirements of the Sexual Offences Act 2003. This is commonly referred to as the sex offenders register.

Harm is a significant factor in how the guidelines set out that sentences should be reached. We need more clarity on how this harm will be assessed by the justice system.

If harm is to be such a significant factor in the determination of a sentence, it's vital that survivors have the right to read out a victim impact statement in court to communicate, in their own words, what harm the perpetrator's crime has caused them, or have a person of their choice read this statement for them. Victims already have the right to read their impact statement in England and Wales. While the extension of this right to survivors in Scotland is outwith the remit of the Scottish Sentencing Council, we hope it will be actioned by the Scottish Government.

We also believe mandatory non-harassment orders must be part of sentencing in order to protect survivors when their rapists are released from prison.

Currently, participation in sex offender programmes for convicted rapists is optional. This means many rapists leave prison without having undergone any rehabilitation of

this nature. We are calling for the sentencing guidelines to include mandatory participation in such programmes as part of sentencing.

Sentencing is just one aspect of the justice system in Scotland where we see the need reform to improve survivors' experiences of seeking justice after rape. We hope that transparent, robust, and consistent sentencing can play a part in making the justice process a more positive experience for survivors, and a greater equity of outcomes.

Yours sincerely,

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Chief Executive

Rape Crisis Scotland