

## **SPEECH FOR EUROPEAN STAKEHOLDER EVENT: DAPHNE: COMPARING SEXUAL ASSAULT INTERVENTIONS: 4 APRIL 2013**

Good morning, I am Baroness Helen Newlove of Warrington. I am a member of the UK House of Lords, and the Champion for Safer Communities for England and Wales. On the 4th March I was appointed Victims' Commissioner of England and Wales and I speak in that role today. But I also speak as a victim of crime. And as the mother of three daughters who witnessed that terrible crime – the murder of their father.

I know how devastating it is to be at the very lowest point in your life and lost in a system which treats you as a case file rather than a person. That is why I was so pleased to support this project which focuses on individual needs and ways to minimise the harm caused to victims.

In my experience - and the experience of the many families and individuals I have met – the biggest risk of harm to victims comes from the risk of re-victimisation by the system. By that I mean there are far too many cases when the criminal justice system does not support and protect victims properly. The drive to secure a conviction in the “public interest” often becomes more important than the welfare of the individual. The system simply does not care enough about victims. And I intend to change that.

Nowhere is that lack of care more apparent than in the way we treat some victims of rape and sexual assault. We have seen the evidence recently in the UK as a result of the Savile Inquiry. As well as the so-called grooming and sexual exploitation of children and young people in the Rochdale case and others like it. And we have seen it in the tragic suicide of a rape victim – Frances Andrade. This is an issue which is very close to my heart and the hearts of the British public. And that is why I wanted to be here to talk to you today.

Let me be clear that it is not all bad news in the UK and we can bring plenty of examples of good practice to the project. Many police forces now have specially trained officers and specialist units to deal with sexual offence cases. The Crown Prosecution Service have specially trained and accredited rape prosecutors and they are setting up dedicated Rape and Serious Sexual Offence Units in Crown Court areas.

I don't usually talk statistics but there are some here worth mentioning. The number of sexual offence cases being brought to court and conviction rates have increased in England & Wales. More defendants are pleading guilty and around 3 in 5 rapists are being sent to prison.

The average prison sentence has increased and sexual offenders tend to spend more time in prison than any other offender.

There is no doubt that the criminal justice system in England & Wales takes these offences seriously. Some would say the changes made have been successful. But sexual offences remain massively under-reported. Around 85% of female victims of rape and sexual assault never tell the police what happened to them. They suffer the terrible consequences of this appalling crime in silence. And that has to stop.

We are failing the majority of rape victims and we need to understand why. Some of the answers are already emerging.

Many of you will be aware of the Savile Inquiry into accusations of wide scale child abuse by well known TV celebrities. This Inquiry recently concluded and the findings are very telling. 600 people have come forward to provide information to the investigation team. Around 214 criminal offences have been formally recorded across 28 police force areas. But for the majority of victims, it is the first time they have spoken to the authorities about what happened to them. They have given a number of reasons for not speaking out. Some thought they would not be believed. Some didn't trust the agencies they would have to report to. And some simply didn't have faith enough in the criminal justice system to get a conviction.

We are finding that to some extent they may well have good reasons for such concerns.

In May last year the Rochdale case was the first of a number of cases to come before the court involving the grooming and sexual exploitation of young and vulnerable victims. The defendants were found guilty of serious sexual abuse, including multiple rapes. They received sentences of up to 19 years in prison. But the shocking thing is that the prosecution almost didn't happen. The reason it did was because a decision not to prosecute in 2009 was reviewed and reversed.

This prompted the Director of Public Prosecutions to commission a review into the case. The victims in this case and in other similar cases around the country are considerably vulnerable. They are young – some as young as thirteen. Many have come from difficult family backgrounds or are in local authority care. They are unable to easily trust authority and find it difficult to talk about the intimate details of what has happened to them. They often self-harm and use drugs and alcohol. Lost and ashamed and feeling they have nowhere else to go, they often return again and again to the men that are harming them.

The review found that under current practice it is this behaviour by victims which brings into question their credibility and reliability as witnesses. It can influence any decision by statutory agencies to act to protect them and any decision by the police and the Crown Prosecution Service to prosecute. So what makes them vulnerable as victims to these terrible crimes also leaves them at risk of being unprotected by the law and child protection services.

This seems to be borne out by some of the evidence we have heard from the victims themselves. In a radio interview, one 15 year old victim from the Rochdale case explained how, despite appeals for help from her parents, her school and the police, social services refused to do anything claiming that she had made a "lifestyle" choice to become a "prostitute" and was only six months shy of 16 – the age of consent.

This review and the outcome of the Savile Inquiry have led to a fundamental review of the way sexual abuse cases are investigated and prosecuted. The Director of Public Prosecutions – Keir Starmer – has spoken of the importance of asking more questions and considering the answers more carefully when assessing the credibility of victims. He suggests that we need to consider a change of approach which tests the suspect as well as the victim and looks at patterns of behaviour. I fully support him on this and will be pushing for such a change.

The Association of Chief Police Officers (ACPO) and the Crown Prosecution Service (CPS) have agreed to look again at all their guidance and agree one approach which takes account of all these developments. But as we have seen, it's not only down to the police and prosecutors to solve this. Other agencies – including health and social services and victims' organisations - have a responsibility to help make this work. ACPO and the CPS will be consulting widely to achieve a consensus about the appropriate way to deal with some of the difficult questions and issues that continue to arise in these cases.

I will be working closely with Mr Starmer on the development of this guidance. I will also be working with David Whatton, Chief Constable of Cheshire, who is leading the police in implementing these changes to ensure that they are rolled out effectively across all force areas.

If we get this right then we will hopefully encourage more victims to come forward and protect them against further assaults. But having made that first brave step, we owe it to them to ensure that they are protected and supported from that moment onwards.

Which brings me on to another issue that I'm very passionate about. That is ensuring victims are properly cared for on their journey through the criminal justice system.

Aside from fraud cases, sexual offence cases take longer to complete than any other case in England & Wales – on average around 16 months (491 days). That's 16 months of waiting to go to court. I understand that these cases are complex and can take some time to prepare for. But we owe it to victims to look at what more we can do to speed up this process. I will be working with criminal justice agencies to do just that.

Where victims are faced with delays, we must ensure that they are not facing these alone. And we must put in place the support and protection they need to help them cope and recover from the crime whilst they are awaiting the trial.

Aside from physical injury, sexually transmitted infections and unwanted pregnancy, victims of sexual assault are likely to suffer the long term consequences of post traumatic stress disorder, anxiety, panic attacks, depression, social phobia, substance abuse, obesity, eating disorders, self-harm and suicide. They need very specialised services.

There are 65 Rape Support Centres across England & Wales and I'm pleased to say that figure is going to rise to 78 over the next year or so. Rape support services are vital. They provide a safe place for victims to access counselling and any other help they need. They offer them the time and space to regain their health and well being. With the right support victims can become survivors. They may eventually feel strong enough to report the offences against them and cope with the ordeal of going to trial.

But unfortunately it is at trial that we fail so many victims. This is one of my main concerns and one I'm determined to put right as Victims' Commissioner.

In England & Wales Victims of sexual offences are automatically eligible for special measures. In most cases they should give their evidence by video recorded statement, which will be played during the trial as their evidence. Any cross examination will be conducted via live link from outside of the court room or from behind a screen.

These measures are very important and help keep the number of times they are questioned and forced to re-live what happened to them to a minimum. But not all rape victims take these up. So it is important that the benefits of special measures are fully explained to them.

This should be part of the preparation work done with victims to ensure they understand what to expect when they go to court and are able to ask for any support they might need. They have a right to know how long they are likely to be in court, and what types of questions they will be asked. I'm tired of hearing from judges and lawyers that such preparation could be considered as coaching the victim. This isn't coaching – it's about treating a victim with basic human decency.

The court can be an unfriendly and even intimidating place. But it doesn't have to be. There is nothing to stop court staff from treating victims with sensitivity and respect. And I know how important that is and how much it matters to victims to see a kind face at such a difficult time.

Courts can arrange pre-trial visits to show the victim around the building and introduce them to staff. They can discuss ways of avoiding contact with the defendant and his family on the day. For example victims should have the option of coming into the building through a separate entrance and waiting in a separate area where they feel safe and comfortable.

It won't surprise you to know that there is evidence to suggest that victims who make such a visit before the trial feel considerably more confident about attending the actual trial. It's not rocket science. And yet it doesn't always happen. I will be working with the courts in England & Wales to try and make sure it does.

Judges can also show a more human face at the trial. They can for example consider the order in which the evidence is heard to ensure that victims are not kept waiting any longer than necessary. They can ensure victims get the breaks they need when they are giving their evidence. And they can and should stop inappropriate questioning.

Why is it that a 16 year old victim of sexual exploitation who has been repeatedly raped by seven different men must then be questioned seven times over by seven different barristers? It is unnecessary and unacceptable. And it has to be stopped. Mr Starmer – our Director of Public Prosecutions - has said this needs to be looked at. And I will be ensuring that it is.

Only specially trained prosecutors can take on rape cases. I will be asking whether defence barristers should be similarly trained to handle the cross-examination of vulnerable victims more sensitively. Cross examination should not be about badgering and tricking the victim, it should be about getting to the truth. As one barrister has said "*Cross examination is not the art of asking questions crossly.*"

I am not a psychologist but I am familiar with some of the research and understand that all rape victims are likely to suffer post traumatic stress. I understand that their world has been turned on its head. That they no longer feel safe. In order to recover they need to make sense of what's happened to them. They need to understand that their life has changed irrevocably but they can - and will - be safe again. A good experience within the criminal justice system can help them to come to terms with this awful thing that has happened to them and put it into perspective. It can be part of their recovery.

A bad experience can have terrible consequences. As it did for Frances Andrade. Frances was 48 years old and a highly regarded violinist and mother of four. As a child she was sexually abused by her music teacher. She did not initiate but reluctantly agreed to assist the police investigation. She was offered but refused special measures.

It must have been incredibly painful to re-live all the memories but she very bravely agreed to give evidence in court. Her family reported that, despite the recommendation by her GP to seek counselling, Frances was advised not to do so until after the trial as it might impact on her reliability as a witness.

At the trial in February, Frances was subjected to a very difficult cross examination during which she was accused of being a liar and a fantasist by the defence barrister. She told her friends that it felt as if she had been raped all over again.

Thanks to Frances' testimony, her former teacher was found guilty of indecent assault. However, the whole experience proved too much for Frances and she committed suicide.

I found myself wondering, where is the justice in that case? It has raised a very difficult question for me which I think we must all consider. Do we want a conviction at all costs? Are we prepared to harm victims in order to put a perpetrator behind bars? Or can we legitimately decide to drop a prosecution because to continue with it will cause further harm to the victim?

I don't have the answer. But it is a question I wanted to leave with you. And I also want to leave you with one thought. Never forget that victims are people. They are individuals who should be central to the criminal justice process – not left to watch on the sidelines while the so-called professionals and experts make decisions about their cases. And as you continue your discussions today and take forward work in the future, your aim in every case should be to achieve the best possible outcome for each individual victim. Because if that is not the focus for

everything we do in the future on this project then we are not only doing victims a disservice, we are doing justice a disservice.