
PROSECUTING YOUR ABUSER

A guide to
bringing your
abuser to justice
through the
criminal courts



INTRODUCTION

One of the hardest processes for abuse survivors is coming forward and reporting their experiences to the police, despite the fact that seeking a criminal prosecution against an abuser can be one of the best ways to seek justice and closure on the most difficult chapter of a survivor's life.

The process for prosecuting your abuser is not easy and takes courage and determination, especially as most criminal cases involving abuse are non-recent. This means that the evidence gathering process is more difficult for the police and the Crown Prosecution Service (CPS) than in modern cases.

It is important to note that abuse survivors will be offered support and counselling throughout the prosecution process. Even in cases where a prosecution is not possible or achieved through the criminal courts, there are legal benefits to making an initial report to police, if nothing else - making a report will add your case to national crime statistics, which can form the focus of future taskforces and police budget allocations.

This guide is designed to answer some common questions and lay out the main challenges and steps involved in bringing a prosecution against an abuser.

DECIDING TO REPORT ABUSE

Beginning the prosecution process is one of the most emotionally challenging steps and there are many reasons why it may take survivors decades to build up the confidence to speak out and report their abuse.

In many cases abuse survivors may have spoken out about their abuse at the time it took place and were not believed - this experience can stick with survivors and they may fear that they again will not be believed.

In other instances, an abuser may have exerted so much control over their victim that they do not feel able to come forward and speak out; survivors may have been threatened and blackmailed to such a great extent that they will never recover from the psychological damage done by their abuser, and it can take them decades before they feel comfortable about reliving their experience by coming forward and speaking out.

For some survivors there can be a prompt or trigger that causes a report to be filed with the police, for example media reports of a high-profile abuser being arrested can cause more of their former victims to gain the courage to come forward. These prompts often cause abuse survivors to realise that they are not alone and that others suffered abuse at the hands of the same perpetrator as them.

Having reservations about coming forward and reporting your abuser to the police is completely understandable, but it's important to focus on the positive aspects that can come from bringing a prosecution against your abuser, these include:

- The opportunity to finally bring your abuser to justice
- A sense of closure on the most difficult chapter of your life
- Adding the crime to police statistics, so the seriousness of the offence as a whole is properly recorded
- Encouraging others to come forward and file police reports once they hear their former abuser has been accused

REPORTING TO POLICE

The first step in attempting to bring a prosecution against your abuser is to file a report to the police. You can do this by either visiting your local station, calling 101, or reporting a crime online if the facilities exist.

When you do decide to file a report to the police you should ask to speak to the Child Protection Unit or the Public Protection Unit, both of which are staffed by specialised and dedicated officers with specified training in handling cases of serious sexual offences, child abuse, and child sexual exploitation.

The police will require a statement from you to establish the facts of the case. This statement should be taken in the environment that makes you most comfortable. Due to the heightened exposure to child abuse cases in the face of high profile abusers the police have become more aware of these crimes, as such you should be treated with respect and empathy.

After taking an initial statement the police should outline the remaining prosecution process and should let you know what to expect if you decide to proceed through the criminal courts. Before they proceed they may try to establish if you are comfortable with the process and they may ask some further questions so that they can be confident that you do want to proceed with prosecution.

If the police do feel confident that you wish to proceed with prosecution, they will begin their investigation.

The police investigation will involve:

- Interviewing anyone else that they believe could help the case
- Establishing any witnesses that can corroborate your report
- If possible, gathering forensic evidence
- Speaking to the accused. If appropriate, this will usually come after they've spoken to all other witnesses and investigated as many allegations as possible - this is so that they can put the strongest possible case to your abuser.

PROSECUTION TIMELINE

Reporting Abuse

Firstly, you need to report the crime to the police, this can be done over the phone or at a local station and should take no longer than a day.

Charge

The police will pass their findings to the CPS, who will decide if there is enough evidence and public interest to bring charges. The time this takes varies depending on whether the CPS need to undertake their own investigations into the case.

Sentencing

If the jury finds your abuser guilty a judge will then pass a sentence they feel is just and right. Sentences can be passed immediately but judges may take time to deliberate.

Investigation

Following your initial statement the police will gather evidence, seek witnesses and establish the facts of the case. Due to the non-recent nature of many child abuse cases, the investigation can go on indefinitely, on average child abuse cases take around eight months to reach their conclusion.

Court Case

The CPS will present a case against your abuser at the Crown Court, a jury will then return a verdict of guilty or not guilty after considering the evidence. The length of cases can vary from a few days to a few weeks, depending on the details of the evidence and the number of witnesses.

Once they have gathered all of the relevant evidence and information from available witnesses the police will pass the file over to the Crown

Prosecution Service, who will decide whether to charge your abuser with a crime.

It is important to note that the decision to charge will not necessarily result in a conviction; similarly even if the CPS decides not to charge it does not mean you have not been believed, it could just mean that the police were unable to find sufficient evidence to proceed with a charge.

If charged, the police will decide whether your abuser can return home on bail or if they should be kept in police custody until the time of their initial hearing.

CROWN PROSECUTION SERVICE

If the police do decide to file charges against your abuser then they will pass their evidence over to the Crown Prosecution Service (CPS). The CPS is the independent public authority responsible for prosecuting people in England and Wales after they have been charged by the police with a criminal offence.

Communicating directly with the police, the CPS will:

- Offer advice to the police regarding the possible prosecution of your abuser
- Review the case for prosecution submitted by the police
- Make the final decision on whether a case has merit and is in the public interest to prosecute
- Consider if there could be any alternatives to prosecution that would hold more benefit to the public
- Prepare and present a case against your abuser at court

If the CPS decide that there is not enough evidence to pursue a prosecution, or that a prosecution is not in the public interest, then the case will be stopped. Unless there are special circumstances surrounding

the case, you should be informed of the reason that the case has been dropped.

CIVIL CLAIMS

Survivors of abuse may be able to achieve further justice via a compensation claim brought through the Civil Courts. Compensation claims can hold accountable the organisations that failed in their duty of care to vulnerable children and are not punishable through the criminal courts.

Many claims are settled before they reach court but if yours does reach the Civil Court compensation will be awarded by a single judge who sits without a jury. The case heard in the Civil Court will likely be more straightforward than that in a criminal prosecution, with each side simply disclosing evidence of damages to the judge, before making closing remarks. The judge usually gives an immediate ruling, however they may take a few days or weeks to consider the case if it contains certain complexities.

The civil claims procedure should come after any criminal case reaches its conclusion and the solicitors you employ for your civil claim should not be involved in the criminal prosecution process, as your abuser's defence team could try and discredit your character and claim you're only seeking prosecution for the money that could come from a civil claim.

It is also possible to make a claim for compensation through the Criminal Injuries Compensation Authority. The amounts awarded under this scheme are set via a tariff, which fixes the amount survivors are entitled to recover.

There are strict limits imposed upon anyone who decides to proceed with a civil claim, so the sooner you take action the better. This rule applies to any type of case.

You can find out more about the civil claims process by getting in touch with one of your abuse law experts, or by referring to our website.

The code for crown prosecutors outlines the legal guidance that the CPS must follow when deciding whether to prosecute. If you feel that the CPS have not followed these guidelines and want the decision not to proceed with a case reviewed then you can refer to the Victims' Right to Review scheme.

This was introduced after a Court of Appeal judgement, establishing that:

- Victims of a crime have a right to seek a review on the CPS's decision not to prosecute
- Victims should not have to undertake a judicial review to achieve this review
- There should be clear guidelines and time limits for the process of calling on a case review

If you disagree with a CPS decision not to prosecute, you can begin the review process by using the contact details that should be provided in the correspondence that informs you that the case against your abuser has been discontinued.

PRE-TRIAL WITNESS INTERVIEW

In many cases of non-recent abuse, prosecution lawyers may request that you attend a pre-trial witness interview. Pre-trial witness interviews may take place after the police hand a file to the CPS and before they decide whether to prosecute. These follow-up interviews are common in non-recent abuse cases because they allow prosecution lawyers to confirm technical aspects in a case, namely a timeline of events or identifying descriptions about a location or perpetrator.

Pre-trial witness interviews can be especially difficult for abuse survivors as a second disclosure can be emotionally draining, especially after overcoming the first hurdle and gathering the confidence and bravery to make the initial report to police. It is important to note that these types of interviews are voluntary, however they can be a huge help for

prosecution lawyers to understand the details of the case.

During pre-trial interviews, the lawyers tasked with prosecuting your abuser will likely read your initial witness statement, you will then be asked if you are still happy with this statement or if you would like to change what you shared in your initial police interview.

It is likely that your pre-trial witness interview will be recorded; this is merely a precaution that ensures the prosecution lawyer is not coercing or coaching your answers to try and fit a pre-conceived narrative of the case.

Simply put, recording the witness interview will protect both your interests and those of the prosecuting lawyer.

If a pre-trial witness interview is required for your case you can bring someone along with you for support. They will not be permitted to answer questions on your behalf but having a familiar face travel and wait with you before the interview can be a big help.

Victim Support, an independent charity established to support those affected by crime in England and Wales, are also able to attend pre-trial interviews with you; it is likely that the police will connect you with Victim Support after your first disclosure, as they can offer confidential advice and support throughout the police investigation and court process.

COURT CASE

Once charges have been brought the case will have to be heard in court. Due to the seriousness of child abuse cases they are almost exclusively heard in the Crown Court in front of a judge and jury. Your abuser will attend a hearing at the Magistrate's Court but that will likely be a short hearing where

the accused will confirm their details and the Magistrate will refer the case to the Crown Court.

Your abuser's trial at Crown Court will vary in length depending on the number of charges they face, the number of survivors and witnesses due to present evidence and the amount of time it takes for the jury to reach a decision. Normally criminal trials range from a few days to several weeks.

You may be asked to give evidence during the criminal trial, which can be a daunting prospect but remember the courts are set up to be sympathetic to victims and abuse survivors can request special measures to help the disclosure process - these special measures can include giving evidence via video link or anonymously from behind a screen.

It's important to note that the defendant lawyers may ask you follow-up questions after your disclosure to the prosecution. This is known as cross examination and you should be prepared for a difficult line of questioning as the defence will try to discredit both yourself and the evidence you have presented to court.

The judge may step in to protect you if the defence becomes too aggressive or overzealous in its questioning but you should still be prepared for a testing line of question from a lawyer who has been tasked with establishing reasonable doubt about the guilt of your abuser.

VERDICT

Once the court has heard all of the evidence and testimony from both the prosecution and the defence, the judge will sum up the details of the case for the jury, who will then retire and consider what they have heard during the trial.

The summing up of the case by the judge can be broken down into two parts, these are as follows:

- **Legal directions** - the judge will describe the legalities of the charge and any special

considerations that need to be made for the particular case at hand, due to the non-recent nature of most abuse cases special directions are common as the judge should attempt to explain the implications of non-recent abuse and the associated difficulties in gathering hard evidence in such cases

- **Summary of facts** - this will see the judge giving a balanced view of the facts presented during the trial. Judges often speak with both sets of lawyers without the jury present before providing a summary of the facts, just to be sure that both sides are happy with the summary due to be presented

After receiving this summary, it is up to the twelve jurors to decide whether there has been enough refutable evidence that proves that your abuser is guilty. The judge will always ask the jury to return a unanimous decision, meaning that the jury discusses the details of the case at such lengths that they all agree that the defendant is either guilty or not guilty.

Depending on the length of the jury's deliberation and the nature of the case the judge may allow a majority decision, which would allow a verdict to be passed with a ratio of 11:1 or 10:2. The concession of a majority verdict will only be made if a unanimous decision cannot be reached after two hours and the judge feels the complexities of a case mandates a majority decision; a judge will always push for a unanimous verdict.

As difficult as it is to consider it is important to remember that the non-recent nature of abuse cases means that evidence can be difficult to present and may result in a not guilty verdict. As with the decision not to charge your abuser, such a result does not mean that you have not been believed by a jury, rather they may feel that a prosecution is not appropriate or the evidence presented may not have been strong enough to

overcome any reasonable doubt the jury may have had about the case.

SUPPORTING ABUSE SURVIVORS

Having your abuser prosecuted is an emotionally draining process that inevitably requires you to relive your abuse. You will be questioned and quizzed by the police, the CPS and both the prosecution and defence lawyers during the court case.

This can be daunting but as many abusers are repeat offenders you may find that other abuse survivors come forward and make their own reports after they hear that another survivor has spoken out. This is why making a report is so important, as you may finally find out that you were not the only victim of this abuser and you may help to protect children from suffering in the same way as you.

Even without other survivors coming forward to support your testimony you will find that the prosecution process is set up to be sympathetic to the victims of crimes and you should be supported at every step of the way.

The police will likely refer you to Victim Support after your first report, who should offer you emotional support and practical guidance throughout the entire process; you may receive a single contact from Victim Support that is dedicated to help you through your specific case.

As a victim of a sexual crime you will be granted anonymity throughout the entire process and will not be named during the trial. While some abuse survivors waive their anonymity in an attempt to raise awareness of non-recent abuse, it is a right of every abuse survivor to remain anonymous and not be named in any court reports or news articles covering the case.

If you wish to pursue a criminal prosecution against your abuser and don't know how to begin, one of our specialist abuse solicitors can give you advice in complete confidence. We will handle your details and information with the utmost sensitivity and can give simple, practical advice for your next steps.

Email us on legalhelpline@simpsonmillar.co.uk or call us on **0800 260 5002 and we can help you seek justice and find closure.**

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