

Early advice protocol

Providing early advice in rape and serious sexual offence investigations, to ensure a proportionate approach is taken to the examination of devices for suspects and victims.

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Key details

Does it work?	Promising
Focus	Organisational
Topic	Child sexual exploitation and abuse Violence against women and girls Vulnerability and safeguarding
Organisation	Essex Police
HMICFRS inspection report	An inspection into how well the police and other agencies use digital forensics in their investigations
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Region	South East
Partners	Criminal justice (includes prisons, probation services)
Stage of practice	The practice is implemented.

Key details

Start date	January 2020
Scale of initiative	Regional
Target group	Offenders Victims

Aim

The aim of the early advice protocol was to create an inclusive approach. This focused on building strong working relationships and dialogue between the police and Crown Prosecution Service (CPS) early on in an investigation into rape and serious sexual offences (RASSO).

This involved agreeing joint action plans and a proportionate level of enquiries to improve outcomes for victims.

Intended outcome

- Improve investigative timeliness and file quality.
- Reduce unnecessary enquiries.
- Improve victim service.
- Bring more offenders to justice.
- Improve solved outcomes and higher CPS charging rates.
- Lower CPS further action (NFA) rates.
- Build a more positive and cohesive working relationship between police and CPS agencies, creating a prosecution team ethos.

Standard operation procedure

A standard operating procedure (SOP) will be created and revised. This will provide a performance structure to support inexperienced frontline investigators with embedded guidance documents. The SOP will help with the following.

- Setting clear expectations on investigative quality.

- Learning lessons from legacy cases.
- Creating investigative review templates at detective sergeant and detective inspector level, to deliver consistency in quality of investigative reviews.
- Early advice helps to reduce unnecessary enquiries and lack of proportionate approach to investigations. This remains a continued area of focus.
- Use of case law (R v Sultan Mohammed and R v Bater-James) is included within the SOP to build confidence and to support proportionate investigations.
- National Police Chiefs' Council (NPCC) guidance on frequency and level of rolling investigative reviews for release under investigation (RUI) cases mandated – detective sergeant every 28 days, detective inspector every three months, detective superintendent every six months. Good checking mechanism to ensure the early advice process was being delivered in practice.
- Custody app designed as system reminder when detective inspector and detective superintendent rolling reviews are due. This acts as performance audit.

Description

Joint inputs were delivered to frontline teams on early advice protocol, highlighting the benefits of the approach through case studies and reward and recognition.

All public protection frontline teams were included in the implementation, including the:

- Child Abuse Investigation Team (CAIT)
- Adult Sexual Assault Investigation Team (ASAIT)
- Historical Sexual Offences Investigation Team
- Child Sexual Exploitation (CSE) Proactive Investigation Teams

Inputs were delivered through briefings at detective sergeant and detective inspector levels.

Application was monitored through a performance framework with regular investigative reviews and at regional six-weekly RASSO governance boards.

The early advice memorandum of understanding (EA MOU) was agreed. This formalised with the process embedded within the public protection performance framework for monitoring at force and regional levels. The EA MOU was agreed by the CPS, police RASSO leads and at chief officer level.

Case Law R v Bater-James is included within the public protection SOP. This supports decision makers in taking a proportionate approach based on the circumstances of each case in digital media examinations in RASSO-type investigations.

R v Bater-James 2020 identified four principles when reviewing reasonable lines of enquiry.

Principle one

Digital material should only be reviewed in pursuit of a reasonable line of enquiry. Material should only be disclosed if it meets the disclosure test.

- There is no presumption that a complainant or witness's mobile phone or other devices should be inspected, retained or downloaded, any more than there is a presumption that investigators will look through all material held in hard copy. There must be a properly identifiable foundation for the interrogation – not mere conjecture or speculation. Where digital material is obtained, disclosure should only occur where it meets the disclosure test.

Principle two

A review should be proportionate and should not involve a review of wholly irrelevant material.

- If it is a reasonable line of enquiry – investigators should consider if the digital material can be reviewed without taking possession of the device.
- If more extensive enquiries are necessary – then the contents of the device should be downloaded with minimum inconvenience to the complainant and returned without any unnecessary delay.
- When reviewing digital material – the investigator should consider whether it is sufficient to view limited categories of data (for example, a string of messages or emails over a limited period).

Principle three

The witness or complainant should be kept informed.

- Investigators should inform them as to any decisions made to disclosure, how long the device will be kept, what it is planned to be extracted from it by copying, and what will be examined thereafter – potentially leading to disclosure. Material will only be provided to the defence if it meets the strictest test for disclosure and is suitably redacted.

Principle four

The prosecutor and investigator should consider the consequences of refusal.

- If a witness or complainant does not provide them with access to their mobile phone or other device – the investigator should explain the procedure above.
- If they continue to refuse, then consideration should be given as to whether it would be appropriate to apply for a witness summons for the device to be produced.

Overall impact

Despite having highest volume of RASSO cases, Essex Police investigation timeliness is the lowest in the eastern region. This is measured through analytical product prepared and reviewed every six weeks at the regional RASSO joint operational improvement meeting (JOIM).

Rape solved outcomes

Essex Police has solved more rapes in 2022.

Investigation timeliness

Despite higher volumes of recorded RASSO, analysis shared within the six-weekly RASSO JOIM shows:

- Essex Police has the best investigative timeliness in the Eastern region
- Essex Police has highest CPS charging rates in the Eastern region
- Essex Police has the lowest CPS NFA rates in the Eastern region
- Essex Police has the highest solved outcomes than in any previous calendar year (total 88 rapes)
- a 49% increase in overall rape solved outcomes since 2019 (pre pandemic)
- a 20% increase in overall rape solved outcomes over a rolling 12-month period

Other sexual offences solved outcomes

- Essex Police has solved more other sexual offences in 2022 than in any previous calendar year (total 452 offences).
- There has been a 75% increase in overall other sexual offences solved outcomes since 2019 (pre pandemic).

- There has been an 11% increase in overall other sexual offences solved outcomes over rolling 12-month period.

Investigation timeliness

Despite higher volumes of recorded RASSO, analysis shared within the six-weekly RASSO JOIM shows:

- Essex Police has the best investigative timeliness in the Eastern region
- Essex Police has the highest CPS charging rates in the Eastern region
- Essex Police has the lowest CPS NFA rates in the Eastern region
- Essex Police has the highest solved outcomes

The rape solved outcomes were the highest in Essex Police history. Joint reward and recognition of work by the police and CPS is delivered in several ways. For example, DCS Certificate of Merit, medals, chief officer commendations, newsletters, blogs and awards ceremonies.

Improved relations between both agencies fostered a positive, victim-first culture. Feedback is delivered within the strategic group and a separate operational RASSO group, where quality of CPS action plans are an agenda item. This aims to improve the action plans and ensure they are bespoke and not general plans.

Learning

The early advice protocol is supported through Operation Soteria Bluestone. It will eventually form part of the national operation model.

- [Read more about Operation Soteria Bluestone](#)

Learning was gained from the quality of completed action plans, ensuring police investigators identify any new lines of enquiry from completed actions before submitting the completed action plan to CPS response.

Early advice was only sought in relation to viable cases. Assessing the viability of a case is subjective and taken in consultation between the officer in case and their first- or second-line supervisor. The victim evidential account must have been obtained and the suspect must have been interviewed.

Following this, key areas for early advice discussion can include agreeing parameters. For example, areas such as forensic strategy, digital media, third party material and witness accounts. These discussions are all designed to ensure the investigation remains focused and unnecessary lines of enquiry are not pursued.

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Tags

Criminal justice Rape and sexual offences