

# SEXUAL OFFENCES REVIEW REPORT

## RECOMMENDATIONS AND OBSERVATIONS

A Review of the Crown's Approach to Sexual Offences in Scotland

Susanne Tanner KC

30 April 2025

Content Warning: Mentions of sexual abuse, sexual violence, traumatic events and mental illness



## Personal Statement by Susanne Tanner K.C. Chair of the Sexual Offences Review

*‘They [COPFS] need to start listening to us. Our voices haven’t been heard in the past, so they need to start listening’.<sup>1</sup>*

### *Starting in the right place*

The Review into the way in which the Crown in Scotland deals with sexual offences was commissioned in recognition of the disproportionate impact of sexual violence on women and girls.<sup>2</sup>

It was important to start our work in the right place, applying experience, enthusiasm and an open mind. The opportunity brought with it the duty to tackle the subject matter head on.

The vision for the work was a wide-ranging review to take account of a diverse spread of experiences and views, so that the work was relevant to as many people, groups and organisations as possible.

Pivotal to the success of the Review was asking the right questions.

In the first stage of the Review, I met with those who had an interest in the area under review to find out what was important to them. I spoke to 50 contributors from COPFS and a wide range of organisations in Scotland and other jurisdictions, to listen to their thoughts and ideas about what the Review should look at.<sup>3</sup>

I also had to consider the wider context within which the Review was taking place. Nothing stands still. The breadth and depth of the Review has meant that it has not been a snapshot; rather the Review has taken place over a number of years in which there has been considerable change influencing the Crown’s approach to sexual offences. We have been able to take into account the work arising from the Lord Justice Clerk’s *Review of the Management of Sexual Offences*.<sup>4</sup> As I publish this

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<sup>1</sup> Victim contributor to the Review.

<sup>2</sup> See Chapter 1: Introduction and Background to the Sexual Offences Review, paras. 1.5 to 1.7.

<sup>3</sup> See Chapter 1, paras. 1.8 to 1.9.

<sup>4</sup> Dorrian, Lady, Final Report of the Lord Justice Clerk’s Review Group, Improving the Management of Sexual Offences, March 2021.

Report, the *Victims, Witnesses and Justice Reform (Scotland) Bill* has recently passed into Stage 3<sup>5</sup> and a pilot for independent legal representation for victims of rape and attempted rape has been announced.<sup>6</sup> During the Review, HM Inspectorate of Prosecution in Scotland has looked at the Crown's approach to the use of character and sexual history evidence about victims<sup>7</sup> and the related issue of prosecution of domestic abuse.<sup>8</sup> Professors Cowan, Keane and Munro have published their report into the 'rape shield' law in sexual offences trials.<sup>9</sup> I have tried as far as possible to reflect these and other contextual changes that have occurred during the Review.<sup>10</sup>

### *The Terms of Reference and what we did*

The Terms of Reference<sup>11</sup> are wide ranging and demanded large scale enquiry. Our approach involved multiple different ways of gathering evidence.<sup>12</sup>

The Review was enriched by contributions from those with knowledge and experience of what we had to consider. We met and discussed the key issues with 349 contributors in Focus Groups, interviews and a Roundtable.<sup>13</sup>

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<sup>5</sup> The Bill ended stage 2 on 2 April 2025. <https://www.parliament.scot/Bills-and-Laws/Bills/S6/victims-witnesses-and-justice-reform-scotland-bill> [accessed 30 April 2025].

<sup>6</sup> Justice Secretary Angela Constance announced the pilot at the Scottish Parliament's Criminal Justice Committee during stage two scrutiny of the Scottish government's Victims, Witnesses and Justice Reform (Scotland) Bill. Ms Constance, said: "*The pilot will provide free specialist independent legal advice by dedicated solicitors for complainers in rape and attempted rape cases, utilising the expert Emma Ritch Law Clinic at the University of Glasgow.*" Scottish Legal News, 4 April 2025, <https://www.scottishlegal.com/articles/free-independent-legal-advice-pilot-for-complainers-in-rape-and-attempted-rape-cases> [accessed 30 April 2025].

<sup>7</sup> HM Inspectorate of Prosecution in Scotland, Inspection of COPFS practice in relation to sections 274 and 275 of the Criminal Procedure (Scotland) Act 1995, 19 October 2022.

<sup>8</sup> HM Inspectorate of Prosecution in Scotland, The prosecution of domestic abuse cases at sheriff summary level, April 2024.

<sup>9</sup> Cowan, S., Keane, E. and Munro, E., The Use of Sexual History Evidence and 'Sensitive Private Data' in Scottish Rape and Attempted Rape Trials, Universities of Edinburgh, Glasgow and Warwick, 17 April 2024. The Government funded project was undertaken with the assistance of Rape Crisis Scotland and a Project Advisory Board of criminal justice stakeholders.

<sup>10</sup> The Review's evidence gathering phase ended on 30 September 2023. The Review's fact checking phase ended in February 2025.

<sup>11</sup> See Appendix 1: The Sexual Offences Review Terms of Reference.

<sup>12</sup> See Chapter 2: Methodology

<sup>13</sup> See Chapter 2: Methodology, para 2.82.

In addition, we surveyed all COPFS staff dealing with sexual offence cases and Advocate Deputes to gather their views on a wide range of issues, receiving 266 responses.<sup>14</sup>

### *Victims*

*'I think there needs to be a better understanding that the victims – in this case me – are not just names on a piece of paper. I am not just another case that has to be processed. I am a real person; this is my actual life and I have to experience all of this'.<sup>15</sup>*

One thing remains constant. The need to listen to people and to actually hear what they are saying.

A key theme which has emerged in this Review has been the Crown's approach to victims of sexual crime and whether it protects their rights and meets their needs and interests.<sup>16</sup>

The Lord Advocate, in carrying out her functions, is required to have regard to a number of principles in relation to victims in criminal proceedings, including "*that victims should be treated in a respectful, sensitive, tailored, professional and non-discriminatory manner*".<sup>17</sup>

Central to our approach was how best to gather and reflect the views and experiences of victims of sexual crime.

It is clear from evidence we gathered and from the Literature Review<sup>18</sup> that victims of sexual crime and the third sector organisations supporting them have been saying the same things, in different forums, for what seems like an endless period of time. Nonetheless, I decided that it was important for the Review to speak to any victim who wished to speak to us, provided it was done in a trauma informed way, with any support required.

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<sup>14</sup> See Appendix 8: Internal Survey.

<sup>15</sup> Victim contributor to the Review.

<sup>16</sup> See Appendix 1: Sexual Offences Review Terms of Reference, para. 4.1: and Part I: Victims

<sup>17</sup> *Victims and Witnesses (Scotland) Act 2014* (ss.1A(1) and (2)(a)).

<sup>18</sup> See Appendix 3: Literature Review and Appendix 5: Recommendations from Previous Reviews.



I have therefore spoken to thirteen victims of sexual crime in this Review and I have listened carefully to their views and suggestions for change.

I am indebted to the victims who shared their experiences of the prosecution process with me and the Review. I know it is a big ask to expect them to re-live possibly the most difficult time in their lives, other than the crime itself, for the benefit of others. I acknowledge their existing trauma and hope that their participation in the Review did not unduly affect them.

The victims' contributions and those of the third sector organisations supporting them were a cornerstone of the Review. I hope that they see their views reflected throughout the Report and in many of my Recommendations. Amongst those are my Recommendations for COPFS to establish a Lived Experience Board<sup>19</sup> and to develop a feedback process for children and young people with experience as victims and witnesses of sexual offences in the criminal justice process, in collaboration with the third sector,<sup>20</sup> which will allow for effective listening to continue and to inform positive change tailored to those who are victims of sexual crime.

### *Acknowledgments*

I am grateful to all our contributors to the Review for their time, support, views, knowledge and expertise. All organisations from which there were contributors are thanked<sup>21</sup> and I repeat that acknowledgement here.

As part of my task was to look principally at the approach of COPFS to sexual offences, engagement with that organisation was very important. I thank John Logue, Crown Agent, for his support throughout the Review and for encouraging COPFS staff to participate in the Review on an open basis. He also welcomed ongoing feedback and discussion with me on emerging themes and proposed Recommendations and he began to implement some changes in response. In addition, my thanks go to all COPFS leaders and staff who participated for their time and interest, including Ruth McQuaid, Deputy Crown Agent, who reviewed the Report for fact checking on behalf of the Crown Agent.

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<sup>19</sup> Recommendation 61.

<sup>20</sup> Recommendation 62.

<sup>21</sup> See Appendix 20: Acknowledgement to Contributors.

I also appreciate the support and collaboration of Ashley Edwards KC, Principal Crown Counsel, the rest of the senior team and the Advocate Deputes.

But a solely inward-looking Review would not have met its intended purpose: to produce a prosecution approach to sexual crime which is fit for our age. In addition to COPFS contributors and victims, the wide spread of contributors from Scotland includes third sector organisations, Police Scotland, Scottish Courts and Tribunals Service (SCTS), Scottish Government, the defence bar, defence solicitors and academia. We also had the benefit of contributors from the prosecution services, third sector, academia and other organisations and individuals in England & Wales, Ireland, New Zealand and USA.

The Review Roundtable<sup>22</sup> was an early opportunity to road test our key recommendations with leaders of COPFS and a spectrum of partners. I am indebted to the participants for their range of views about what might work, what might not and what 'good' looks like, all of which helped to shape my findings and Recommendations.

My thanks also go to all those who participated in the fact checking process on behalf of their organisations. I know how much time, effort and thought went into reviewing the Report and I truly appreciate it.

#### *Thanks to the Sexual Offences Review Team*

Words are not enough for the gratitude I have for the dedication, support and hard work of the Review Team.<sup>23</sup> We started and remained an extremely small team, focussed on a large task. To the core Review Team - Angela Farrell, Emma Forbes, Mylene Cremers and Connor MacIntyre – thank you sincerely. I am also extremely grateful for the assistance of Alex Sutherland and Paul Harvey, Advocates; and to Erin Rennie, Glasgow Caledonian University, for her contribution to the Literature Review.<sup>24</sup> Thanks also to Sam Craib, Mhairi-Clare Collins, Styliana Papachristoforou and Kathryn Wilson, trainee solicitors, who assisted the Review Team with ongoing

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<sup>22</sup> See Chapter 2: Methodology, para 2.82.

<sup>23</sup> See Appendix 2: The Sexual Offences Review Team.

<sup>24</sup> See Appendix 3: Literature Review.

work and Tammy Hislop, Aslam Ramzan and Lindsay Shields, trainee solicitors, for proof reading.

### *The Recommendations and Observations*

I have made 197 Recommendations and four Observations.<sup>25</sup>

They are grouped by the five Parts of the Report: I. Victims; II. Initial Police Investigation; III. Crown Investigation and Prosecution of Sexual Offences; IV: Court Context and Constructively Working with Partners; and V: Implementation.

They are as wide ranging as the Review itself. Some are structural, such as my Recommendation for a single, focussed Sexual Offences function within COPFS, dealing only with sexual offences,<sup>26</sup> under the strong specialist leadership of a dedicated Deputy Crown Agent;<sup>27</sup> and my Recommendation for the appointment of a national Crown Counsel Lead for Sexual Offences<sup>28</sup> in place of the former National Sexual Crimes Unit, which I recommend is disbanded.<sup>29</sup> These Recommendations are designed to ensure that specialism becomes mainstream and will limit siloed ways of working that have developed under the current structures. Other Recommendations are focussed on key themes, such as communication with victims and more effective collaboration with the third sector and justice organisations.<sup>30</sup> A number are designed to increase accessibility and transparency about the way in which the Crown works and therefore to increase public confidence in COPFS, such as creating a sexual offences landing page on the COPFS website,<sup>31</sup> publication of COPFS policy on sexual offences<sup>32</sup> and charting the progress of implementation of the Recommendations of this Review.<sup>33</sup>

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<sup>25</sup> See Recommendations and Observations.

<sup>26</sup> See Recommendations 135 and 136.

<sup>27</sup> See Recommendation 137. This Senior Civil Service role level 2 has recently been re-named by the Civil Service as Legal Director.

<sup>28</sup> See Recommendation 148.

<sup>29</sup> See Recommendation 147.

<sup>30</sup> See, in particular, Recommendations in Part I. Victims and Part IV. Court Context and Constructively Working with Partners.

<sup>31</sup> See Chapter 8: Sexual Offences Landing Page on COPFS Website and Recommendation 63.

<sup>32</sup> See Recommendation 65.

<sup>33</sup> See Recommendation 204.

I encourage the Lord Advocate and the Crown Agent to consider my Recommendations and Observations as a package, and to adopt a shared vision of a unified approach to sexual offence cases; in which staff are empowered through specialist training and welfare support to do a difficult job; in which victims are supported and have their rights respected throughout the prosecution process, while respecting the rights of the accused; and in which there is genuine, positive and effective collaboration with Police Scotland, SCTS, Scottish Government, the third sector and the wider legal profession.

It is essential that trauma informed practice is embedded in these changes and that the Crown is ready to embrace any future legislative changes, such as a national Sexual Offences Court for rape and serious sexual offences<sup>34</sup> and pre-recording victims' evidence, or using their witness statements as the default methods.<sup>35</sup>

I am grateful to have been given the opportunity to do this work and I hope that my Recommendations lead to real, transformative change in the way in which the Crown deals with sexual offences now and in the future.

**Susanne Tanner K.C.**

30 April 2025

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<sup>34</sup> Victims, Witnesses and Justice Reform (Scotland) Bill, as introduced, Part 5.

<sup>35</sup> See fn., above, Part 5, ss.59 to 61.



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## Recommendations and Observations

This is a comprehensive list of all 197 Recommendations and four Observations in the Sexual Offences Review, listed by Part and Chapter of the Sexual Offences Review Report.<sup>36</sup>

### Part I: Victims

#### Chapter 4: Communication with Victims

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**Recommendation 1:** *Police Scotland should establish a victim's communication preferences and the information should be passed to COPFS as part of the handover of the case [see Recommendations 20, 21 and 22] [Terms of Reference 4.1 and 4.6].*

**Recommendation 2:** *COPFS should record any information about a victim's communication preferences obtained from Police Scotland and contact the victim (taking account of any stated communication preferences) to discuss the victim's preferences for contact with COPFS. When COPFS are seeking the victim's preferences, it should be made clear to the victim what forms and timing of communication by COPFS are available; and information should be sought by COPFS about any particular requirements of the victim in relation to communication [Terms of Reference 4.1 and 4.6].*

**Recommendation 3:** *Once received from Police Scotland and/or obtained by COPFS directly from the victim, the victim's communication preferences should be recorded by COPFS in an accessible way to be used by all who communicate with the victim.*

*This should be recorded in the bespoke app for victim and witness information [see Recommendation 170] and in the meantime in the*

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<sup>36</sup> The Recommendations are numbered 1 to 204. The following Recommendations were removed by the Review during final revisal of the Report, due to duplication, amalgamation, or because they were otherwise considered unnecessary: 48, 83, 125, 126, 141, 174 and 175.

*consolidated victim and witness information document [see Recommendation 172] [Terms of Reference 4.1 and 4.6].*

**Recommendation 4:** *Victims and witnesses should be told by COPFS that they can make changes to their communication preferences throughout the prosecution process and told how they can make those changes (also see Recommendations 6, 170, 171 and 172). Until new digital solutions are introduced, COPFS should record all information about a victim's communication preferences and requirements in a single, accessible document for that victim, which should be updated, as required.*

*This should be recorded in the bespoke app for victim and witness information [see Recommendation 170] and in the meantime in the consolidated victim and witness information document [see Recommendation 172] [Terms of Reference 4.1 and 4.6].*

**Recommendation 5:** *Anyone in COPFS communicating with a victim should follow the victim's established preferences, as far as is reasonable and appropriate. If COPFS is unable to adhere to the victim's preferences, an explanation should be provided to the victim, preferably in advance [Terms of Reference 4.1 and 4.6].*

**Recommendation 6:** *The COPFS Witness Gateway should include the following functions in relation to communication with victims of sexual crime:*

- (i) A facility to allow a victim to provide and update their preferences for mode and timing of communication with COPFS. To assist the victim, a menu of choices of possible modes and timing of contact should be provided. A free text box should be provided to allow victims to provide additional information about communication preferences and requirements. A victim should be able to update their communication preferences throughout the prosecution process. The information provided by the victim should be*

*updated on all COPFS systems on which their information is stored and be accessible to all those dealing with that victim/case [see also Recommendations 170, 171 and 172].*

- (ii) A facility to allow a victim to contact COPFS via an online email form, 'Request Contact From Us' button, or similar functionality. Any such contacts or requests for contact should be automatically, which failing manually, directed to one of the key points of contact for the victim and handled timeously. A commitment to timing of response should be stated on the online platform so that the victim knows when to expect to hear from their key point of contact and should be adhered to.*
- (iii) A 'live chat' widget should be installed and resourced during core work hours to allow victims to communicate with a member of COPFS staff about the case in which they are involved. Enquiries should either be handled by the staff member on the live chat or redirected to the appropriate points of contact in the organisation, with a time provided for a response which should be adhered to.*
- (iv) A 'chatbot' service outwith office hours to direct users to general (non-case specific) information sources, including the sexual offences landing page on the COPFS website [see Recommendation 63]. Victims should be able to make a request via the chatbot for human contact from COPFS. Where a contact request is made by a victim outwith core work hours, an acknowledgement stating an initial response time should be automatically sent and then adhered to.*
- (v) Information about the next court date for the case with a clear explanation about whether witnesses will be required [see also Recommendation 7].*
- (vi) Accessible links for victims to commonly sought information, in particular clear signposting to the sexual offences landing*

*page on the COPFS website [see Recommendation 63]  
[Terms of Reference 4.1].*

**Recommendation 7:** *COPFS should liaise with SCTS to explore whether the information available on live SCTS case tracking on the SCTS Criminal Online Portal can be made available on the COPFS Witness Gateway [Terms of Reference 4.1].*

**Recommendation 8:** *Accessible easy-read Victim Information Resource Packs should be developed and published online on the sexual offences landing page on the COPFS website [see Recommendation 63], as well as being available in printed form (if requested) so that they are available to victims before and during their involvement with COPFS.*

*The Victim Information Resource Packs should be developed with input and feedback from third sector agencies who specialise in supporting victims of sexual crime, victims on the Lived Experience Board [see Recommendation 61] and COPFS Equality Ambassadors, as appropriate, to develop information in a format that is trauma informed and suitable to meet the needs of as many victims as possible, taking account of potential vulnerabilities, protected characteristics and diverse needs.*

*The Victim Information Resource Packs should be kept under review with overall responsibility resting with the Deputy Crown Agent for Sexual Offences [see Recommendation 137] [Terms of Reference 4.1].*

**Recommendation 9:** *COPFS should introduce and consistently implement an organisation wide policy that, wherever possible, all staff, including National Enquiry Point operators, VIA staff, Case Preparers, prosecutors and anyone else communicating with victims on behalf of the organisation should avoid using the accused's name and date of birth as a case identifier in written and verbal communications. The case reference number and/or victim's*



*personal details, or other identifying information not connected with the accused, should suffice for this purpose [Terms of Reference 4.1].*

**Recommendation 10:** *All written correspondence from COPFS to victims and witnesses in sexual offence cases should use simple and accessible language as standard [Terms of Reference 4.1].*

**Recommendation 11:** *Translations by COPFS into languages other than English should use the appropriate language and dialect register [Terms of Reference 4.1].*

**Recommendation 12:** *COPFS should consult third sector agencies which support victims, including those for whom English is not a first language, and the COPFS Victims' Lived Experience Board [see Recommendation 61] to obtain and consider their feedback on any new style letters to victims [Terms of Reference 4.1].*

**Recommendation 13:** *COPFS should compile and publish its own detailed public statement committing to accessible communication with service users, similar to that published by the CPS in England and Wales; and adhere to that commitment. (This is in addition to the high level service commitment by COPFS 'to communicate clearly and effectively', in the existing partnership statement on Standards of Service for Victims and Witnesses) [Terms of Reference 4.1].*

**Recommendation 14:** *COPFS should revise and publish a process for telling a victim that a decision has been taken to discontinue a rape charge, whilst proceeding with another charge(s), including those proceedings which are transferred to a lower level of court. This process should be developed and revised as necessary if a Specialist Sexual Offences Court is created to deal with both High Court and Sheriff and Jury level sexual offence cases [Terms of Reference 4.1].*

**Recommendation 15:** *The process for telling a victim that a decision has been taken to discontinue a rape charge and continue with another charge(s) [see Recommendation 14] should identify a named legal role within the High Court unit with responsibility for timeously advising victims of such decisions (this discussion should not be delegated to non-legally qualified VIA staff, or Band D Case Preparers). The notifying prosecutor should also be in a position to tell a victim the Crown's view about whether another substantial and significant charge, or court proceedings for other substantial and significant charges with the same victim, continue(s); and consequently whether the victim has the option of exercising their right to review the decision in terms of the Victims' Right to Review (VRR) scheme. If applicable, information about the Rules for VRR and the possibility of Victim Support Scotland assisting the victim with VRR should be provided, or signposted [Terms of Reference 4.1].*

**Recommendation 16:** *The COPFS Witness Gateway witness statement functionality should be rolled out as soon as possible (allowing for appropriate testing, piloting and feedback) to provide victims and witnesses in all sexual offence cases at solemn and summary level the option to view their witness statement(s) securely and remotely at their chosen time, with whatever third sector, or other, support they require. There should be no restriction on the number of times a statement can be viewed once it has been loaded onto the platform and there should be no time limit from first access after which it becomes unavailable. The platform should incorporate a quick exit button which allows the victim to close the statement immediately if they experience trauma, feel unsafe, or for any other reason [Terms of Reference 4.1].*

**Recommendation 17:** *COPFS should provide victims and witnesses in sexual offence cases with the options for access to their witness statement(s) and they should be offered the choice as*

*to which method they would prefer [see also Recommendation 16]. Suitable arrangements should be made for the victim or witness to view their statement at their preferred time and place, or remotely, as far as possible. If that is not possible, clear reasons should be given to the witness in advance. The victim or witness should be told that they can arrange support for statement access with any existing third sector, or other, supporter [Terms of Reference 4.1].*

**Recommendation 18:** *Prior to the victim or witness viewing their witness statement, COPFS should provide easily understood information about why there may be words or sections redacted to remove sensitive material and to inform them that they are being given access to the same version of their statement as has been disclosed to the defence. This information should also be made available on the COPFS Witness Gateway witness statement functionality [see Recommendation 17] and on the sexual offences landing page on the COPFS website [see Recommendation 63] [Terms of Reference 4.1].*

**Recommendation 19:** *The COPFS Access to Witness Statements Policy should be amended in relation to access to statements by children and young people, as follows:*

- (i) To make it compliant with the United Nations Convention on the Rights of the Child (UNCRC);*
- (ii) To include consideration of the best interests of children and young people, taking into account their views and considering what support is in place;*
- (iii) To include a policy for access in person and/or remotely via Microsoft Teams;*
- (iv) To clearly state whether children and young people can access their witness statements on the COPFS Witness Gateway platform and whether any additional considerations*

*apply to access, such as the adequacy of the support in place and the wellbeing of the child or young person.*

*The revised policy should ideally be stated in one clear and easily accessible document and if referred to in other documents, they should all be consistent with one another. The policy should be published on the sexual offences landing page on the COPFS public website [see Recommendation 63] [Terms of Reference 4.1].*

**Recommendation 20:** *In every sexual offence case at solemn level, a structured handover meeting should be held when the case is reported from Police Scotland to COPFS. The attendees at the meeting should include: the police Sexual Offences Liaison Officer (SOLO), the allocated COPFS point of contact for the victim [see Recommendation 26], the Case Preparer and/or Solemn Legal Manager, the victim and, if the victim wishes, the victim's Advocacy Worker, or another support person. If the victim is a child or young person and wishes to take part in the meeting, consideration should be given their best interests and what support is required. The meeting should be held in person, or remotely, taking into account the victim's preference where possible. At the meeting, the following matters should be dealt with, amongst other things:*

- (i) Agree and introduce victims to point(s) of contact in COPFS;*
- (ii) Confirm and record victims' communication preferences for their communication with COPFS;*
- (iii) Advise victims that they can update their communication preferences at any point;*
- (iv) Explain basic process and procedure to victims;*
- (v) Acknowledge any vulnerabilities, needs and protected characteristics of victims recorded in the Police Victim Strategy and discuss as required; and*

- (vi) *Discuss likely timescales for steps in process [Terms of Reference 4.1 and 4.6].*

**Recommendation 21:** *Prior to the structured handover meeting [see Recommendation 20], Police Scotland should complete the Police Victim Strategy and this should be shared with COPFS in advance of the meeting to inform discussion [Terms of Reference 4.1 and 4.6].*

**Recommendation 22:** *Whilst the Review's recommendation in Recommendation 20 above is a structured handover meeting in every solemn sexual offence case, if this is not accepted by COPFS for implementation, because of resource implications for COPFS/Police Scotland or otherwise, the police Sexual Offences Liaison Officer (SOLO) should issue a comprehensive written handover to the allocated COPFS point contact for the victim [see Recommendation 26] and the Case Preparer or Solemn Legal Manager for the case. The written handover should include the victim's detailed communication preferences, vulnerabilities, needs, protected characteristics and any other relevant information [Terms of Reference 4.1 and 4.6].*

**Recommendation 23:** *Whether the information is presented in a structured handover meeting [see Recommendation 20] or a written handover by Police Scotland [see Recommendation 22], when making initial contact with a victim, COPFS should take into account any communication preferences, vulnerabilities, needs, protected characteristics and any other relevant information about the victim, until updated preferences can be confirmed [Terms of Reference 4.1 and 4.6].*

**Recommendation 24:** *If structured handover meetings from Police Scotland to COPFS are introduced in solemn sexual offence cases [see Recommendation 20], COPFS should develop a policy for those meetings in relation to children and young people (up to the*



age of 17) which complies with the United Nations Convention on the Rights of the Child (UNCRC) [**Terms of Reference 4.1 and 4.6**].

**Recommendation 25:** COPFS and Police Scotland should negotiate a Joint Protocol for handover in sexual offences cases, which includes the content of Recommendations 20 to 24, above. Once agreed, this should be published and it should be accessible through the sexual offences landing page on the COPFS Website [see Recommendation 63] [**Terms of Reference 4.1 and 4.6**].

**Recommendation 26:** COPFS should establish a COPFS point of contact for a victim in a sexual offence case prior to handover from Police Scotland [see Recommendations 20 to 25]. A COPFS VIA Officer within a specialist sexual offences team, or otherwise with appropriate specialist experience in sexual offence cases, will be the appropriate COPFS point of contact in most cases.

COPFS should notify the victim of the allocated COPFS point of contact's name and contact details, at the point of handover from Police Scotland. COPFS should also notify Police Scotland of the COPFS point of contact for the victim.

The COPFS point of contact should remain available to the victim throughout the duration of the case. If the COPFS point of contact is on leave, or otherwise unavailable, the victim should be provided in advance with name and contact details of an alternative temporary contact.

The victim should be notified in advance of any permanent change in COPFS point of contact and a handover to the new COPFS contact should take place with both COPFS points of contact and the victim, where possible [**Terms of Reference 4.1 and 4.6**].

**Observation 1:** In order to provide an acceptable standard of communication with victims throughout the investigation and

*prosecution process (unless a fully resourced single point of contact for victims is introduced in the criminal justice process), Police Scotland should provide victims of sexual offences with an established police point of contact during the police investigation until handover of the case to COPFS.*

*Police Scotland should explain to the victim that the case will be handed to an established COPFS point of contact [see Recommendation 26] who has also been made aware of their communication preferences, vulnerabilities, needs and protected characteristics and will take them into account [see Recommendations 22 and 23].*

*If a written handover is taking place [see Recommendation 22] rather than a structured handover meeting [see Recommendation 20], Police Scotland should provide the victim with the name and contact details of the COPFS point of contact [Terms of Reference 4.1 and 4.6].*

**Recommendation 27:** *VIA Officers should be appropriately allocated to victims, taking account of the VIA Officer's working arrangements and the victim's communication preferences, vulnerabilities, needs, protected characteristics, and any other relevant information about the victim. If having been allocated to a victim, circumstances arise which means that the VIA Officer can no longer meet the victim's needs and preferences (such as a change of communication preferences from the victim or a change of working arrangements by the VIA Officer), the VIA Officer should bring that matter to the attention of their manager and another VIA Officer should be allocated for that victim, with a proper explanation provided in advance to the victim, together with the name and contact details of the new VIA contact [Terms of Reference 4.1].*

**Recommendation 28:** *Telephone 'hunt groups' should be created for VIA teams, so that calls are redirected to the group and*

*answered by another VIA officer if the allocated VIA Officer is unavailable. A record of the call should be made by the VIA officer dealing with the call [see Recommendations 170, 171 and 172] and a message should be passed timeously to the allocated VIA Officer to respond to the witness in the manner and timescale agreed [Terms of Reference 4.1].*

**Recommendation 29:** *A Protocol or agreement between COPFS, Police Scotland and the Scottish Children's Reporter Administration (SCRA) should be agreed so that there is a process for victim communication when a case is transferred to the Children's Reporter [Terms of Reference 4.1 and 4.6].*

**Recommendation 30:** *Victims in all solemn sexual offence cases should be offered a meeting with the prosecutor in advance of giving evidence on Commission or at Trial.*

*Prosecutors should be allocated sufficient time in their working hours to prepare for and attend meetings, including travel time, where required.*

*At least one initial meeting should be offered to be held in advance of the Commission or Trial, in person or on Microsoft Teams, with the victim's preferences and needs as to the date, time and location, or remotely, being obtained by the allocated VIA Officer and taken into account, as far as possible [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 31:** *Unless/until any structural changes are implemented by COPFS as a result of the COPFS VIA Modernisation Programme, the allocated COPFS point of contact [see Recommendation 26] should have the sole responsibility for contacting the victim to offer a prosecutor meeting, explain the purpose of the meeting, to obtain the victim's preferences and needs, and to check the Advocate Depute's, or Procurator Fiscal Depute's, availability in advance of making arrangements.*

*The allocated COPFS point of contact should have responsibility for making arrangements, even if another VIA Officer is to attend on the day to facilitate the meeting.*

*When explaining the purpose of the meeting, the allocated COPFS point of contact should explain to the victim the potential benefits of attending the meeting. If another VIA Officer is going to attend on the day, that should be explained to the victim. Victims should be offered the option of being supported by a third sector Advocacy Worker, or other supporter, if appropriate. The ultimate decision whether to meet the prosecutor should be one for the victim.*

*Once arranged, the allocated COPFS point of contact should notify the victim with the arrangements for the prosecutor meeting, including the date, time, mode (including any Microsoft Teams invitation), name of the prosecutor and name of the VIA Officer attending [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 32:** *Victims in all solemn sexual offence cases should be offered a prosecutor meeting on the day they attend to give evidence at Commission or Trial (in addition to any meeting which has already taken place).*

*The allocated COPFS point of contact [see Recommendation 26] should have responsibility for making arrangements, even if another VIA Officer is to attend on the day to facilitate the meeting.*

*The allocated COPFS point of contact should notify the victim with the arrangements for the prosecutor meeting, including the name of the prosecutor and the VIA Officer who will attend. The victim should be told if the prosecutor has changed from the date of any first meeting due to case reallocation. Victims should be offered the option of being supported by a third sector Advocacy Worker, or other supporter, if appropriate. The ultimate decision whether to attend the prosecutor meeting on the day should be one for the victim.*

*The meeting should be short and victim focussed and should be designed to ease any anxiety and/or answer any practical questions about the prospect of giving evidence [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 33:** *If the victim tells the allocated COPFS point of contact that they do not wish to meet the prosecutor, either before and/or on the day of giving evidence, the COPFS point of contact should clearly record the fact that the meeting has been offered and any reasons given by the victim for choosing not to take up the offer, or any other reason(s) for divergence from policy. This should be recorded in the bespoke app for victim and witness information [see Recommendation 170] and in the meantime in the consolidated victim and witness information document [see Recommendation 172] [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 34:** *COPFS should develop and publish a policy for victim meetings where the victim is a child or young person under the age of 18, taking into account the victim's rights generally, as well as those in terms of the incorporation of the UNCRC into Scots law, with additional considerations including the best interests of the child or young person, the views of the child or young person and any additional support they may require to participate [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 35:** *Summary Trial Deputes conducting sexual offence Trials should meet victims before they give evidence, even if this occurs on the day of Trial.*

*All Summary Trial Deputes conducting sexual offence Trials should be properly trained, including training in trauma informed victim engagement to limit potential retraumatisation of victims on the day they are giving evidence [see Recommendations 87, 88 and 89].*

*If the victim is offered a prosecutor meeting and does not wish one, this should be clearly recorded in the bespoke app for victim and*



witness information [see Recommendation 170] and in the meantime in the consolidated victim and witness information document [see Recommendation 172]. If the meeting is offered on the day of Trial, it should be recorded by the Summary Trial Depute in the court minute; and then transferred to the bespoke app for victim and witness information / consolidated victim and witness information document, as above [Terms of Reference 4.1, 4.3 and 4.4].

**Recommendation 36:** COPFS should introduce a monitoring process to analyse data about the number and recorded reasons for meetings between victims and prosecutors in sexual offence cases which (i) do not occur, or (ii) are held on the day of evidence only [Terms of Reference 4.1, 4.3 and 4.4].

**Recommendation 37:** A detailed record of the prosecutor meeting with a victim should be taken by the VIA Officer attending the meeting (or the Summary Depute in summary cases, if no VIA Officer is present). This document should be stored in the digital case directory and clearly signposted in the victim record in the bespoke app for victim and witness information [see Recommendation 170]; and in the meantime in the consolidated victim and witness information document [see Recommendation 172] [Terms of Reference 4.1 and 4.4].

**Recommendation 38:** A post-evidence meeting with the prosecutor should be offered to the victim in a sexual offence case, at both solemn and summary level. If accepted, it should be arranged to take place on the day of evidence, or at a later date, in person, or remotely, taking into account the prosecutor's court commitments and the victim's preferences and needs, as far as possible [Terms of Reference 4.1].

**Recommendation 39:** VIA services should be available and offered to victims attending court to observe cases calling for appeal [Terms of Reference 4.1].

## Chapter 5: Victim Evidence

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**Observation 2:** *It would assist COPFS in the investigation and prosecution of sexual offence cases if officers from Police Scotland who are involved in obtaining the initial statement from the victim make the victim aware that they are entitled to correct, or add to, their initial police statement by giving a supplementary police statement; and to provide the victim with written details of the process for doing so via Police Scotland [Terms of Reference 4.1, 4.4, 4.5 and 4.6].*

**Recommendation 40:** *The COPFS Witness Gateway should include functionality to allow a victim in a sexual offence case to tell COPFS that they want to provide additional information once they have accessed their witness statement.*

*Victims in sexual offence cases should be made aware by COPFS that they are entitled to correct, or add to, their initial police statement; and be provided with details of the process for doing so by COPFS and Police Scotland, in each of the following ways:*

- (i) in the Victim information Resource Pack [see Recommendation 8] provided by COPFS to victims of sexual crime;*
- (ii) published on the sexual offences landing page of the COPFS website [see Recommendation 63];*
- (iii) discussed with the victim at the handover of the case from Police Scotland to COPFS [see Recommendations 20 and 22];*
- (iv) signposted on the COPFS Witness Gateway, as per (i), above; and/or*
- (v) provided verbally, or in writing, to any victim that has any language, accessibility, or other requirements made known to COPFS [Terms of Reference 4.1, 4.4, 4.5 and 4.6].*

**Recommendation 41:** *COPFS should collaborate with Police*

*Scotland and local authorities in relation to training for police officers and social workers conducting Joint Investigative Interviews with children and Visually Recorded Interviews with vulnerable adults, in relation to sexual offences, to:*

- (i) ensure a consistent, appropriate and trauma informed approach to the style and content of questioning of sexual offences victims, which acknowledges that it is both an investigative and safeguarding tool and also that it may be used as all, or part, of the victim's evidence in chief in any criminal proceedings which follow; and*
- (ii) for children and young people, to improve the quality of the interview in a way that recognises the rights and best interests of the child or young person [Terms of Reference 4.1, 4.4, 4.5 and 4.6].*

**Observation 3:** *The introduction of the flagship Bairns' Hoose in Scotland is a welcome development and it is hoped that further facilities in Scotland are built and resourced to sensitively obtain best evidence from children and secure their safe engagement in the criminal justice process [Terms of Reference 4.5].*

**Recommendation 42:** *There should be a presumption in favour of a Precognition Interview by a prosecutor of a victim of sexual crime in all solemn level cases.*

*Victims should be offered the option to be accompanied by a supporter of their choosing during any Precognition Interview by COPFS [Terms of Reference 4.1, 4.4 and 4.5].*

**Recommendation 43:** *COPFS should publish clear and easily accessible guidance which is available on the sexual offences landing page on the COPFS website [see Recommendation 63] including:*

- (i) Information about each special measure, with short video clips showing that measure in use;*

*(ii) The fact that a victim's views on special measures and their best interests will be considered in every notice or application for special measures;*

*(iii) Information about who has responsibility within COPFS for discussing and obtaining the victim's views and interests and for deciding the most appropriate special measure to apply for [Terms of Reference 4.1 and 4.5].*

**Recommendation 44:** *COPFS should develop clear and easily accessible guidance for staff and office holders, which includes clear role responsibility for:*

*(i) Ensuring that a victim has sufficient information to enable them to give an informed view about special measures;*

*(ii) Seeking a victim's views and considering their interests;*

*(iii) Making and lodging a Vulnerable Witness Notice/Application for special measures; and*

*(iv) Recording the outcome of every judicial determination on special measures [Terms of Reference 4.1, 4.4 and 4.5].*

**Recommendation 45:** *COPFS should introduce a new digital solution, or use its existing systems and processes, to capture detailed data about Vulnerable Witness Applications and Notices in sexual offence cases, so that information is properly recorded and easily accessible, including:*

*(i) the date the Application, or Notice is made or lodged;*

*(ii) the type of special measure(s) sought;*

*(iii) the date of the court interlocutor with the outcome; and*

*(iv) type of special measure(s) granted [Terms of Reference 4.1, 4.4 and 4.5].*

**Recommendation 46:** COPFS should ensure that staff dealing with sexual offences cases apply a presumption in favour of applying for the non-standard special measure of a closed court for a victim's evidence and the evidence of children in sexual offence cases, at all court levels.

The special measure should be explained to and discussed with the victim when seeking their views on special measures, to ensure that it accords with their preferences [Terms of Reference 4.1, 4.4 and 4.5].

**Recommendation 47:** COPFS should work with its third sector partners to challenge any misconception that there is a hierarchy of special measures and to reinforce that the most appropriate special measures for each victim will take account of that victim's views and best interests [Terms of Reference 4.1, 4.4 and 4.5].

**Recommendation 48:** [Removed by Review]<sup>37</sup>

**Recommendation 49:** COPFS should seek additional funding and/or re-allocate resources to meet the need for the increased use of pre-recording of victims' and witnesses' evidence on Commission in sexual offence cases. This includes: Advocate Depute, or Trial Depute, preparation time for procedural matters and preparation for taking evidence; time for the prosecutor and VIA Officer to meet the victim at least once in advance of the Commission; time to conduct the Commission; VIA presence at the Commission; administrative support throughout; time to review and edit transcripts in preparation for Trial; and time for the Trial prosecutor to review the Commission evidence where it is not possible for the same prosecutor to conduct the Commission(s) and Trial [Terms of Reference 4.1, 4.3, 4.4 and 4.5].

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<sup>37</sup> The following Recommendations were removed by the Review during final revisal of the Report, due to duplication, amalgamation, or because they were otherwise considered unnecessary: 48, 83, 125, 126, 141, 174 and 175.



## Chapter 6: Attendance at Court and Commissions

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**Recommendation 50:** COPFS should provide links on the sexual offences landing page on the COPFS website [see Recommendation 63] to third sector resources for victims of sexual offences about attendance at court and Commission suites [Terms of Reference 4.1].

**Recommendation 51:** COPFS should cooperate with third sector and other criminal justice partners in updating and developing new resources for victims of sexual offences about attendance at court and Commission suites, to ensure that they are accessible, up to date and relevant [Terms of Reference 4.1].

**Recommendation 52:** COPFS should offer every victim of sexual offences who is due to give evidence in person, a familiarisation visit to the court, or Commission suite, in which the victim will be giving evidence. The victim should be invited to be accompanied by any third sector, or other support person they wish. The familiarisation visit should not ordinarily take place on the day on which the victim gives evidence, unless this accords with victim preference and, if so, care should be taken to consider the victim's needs and interests. Further,

(i) If the familiarisation visit is scheduled before the day on which the victim is giving evidence, COPFS must consider the victim's needs and interests if also scheduling witness statement access in person (prior to rollout of the COPFS Witness Gateway, or where the victim has chosen access in person) and/or a prosecutor meeting [see Recommendations 30 to 37] on the same day. If the victim or any support person reports that the victim is overwhelmed on the day, the victim should be offered the chance to arrange a follow up meeting on another day, for one or more of the purposes; or

*(ii) If, as a result of the victim's preference, the familiarisation visit is scheduled to take place on the day of the Trial or Commission, the COPFS allocated point of contact should discuss with the victim before the visit about how best to support the victim. This is particularly important in a solemn case in which the prosecutor has also instructed that access to the victim's witness statement can take place (in terms of COPFS Operational Instruction 2 of 2024) and/or a prosecutor meeting [see Recommendations 30 to 37] is taking place for the first time (which is not best practice, unless as a result of victim preference) [Terms of Reference 4.1].*

**Recommendation 53:** *COPFS should make a request to SCTS that in all sexual offence cases (across all forums), the practice of a victim being required to wait in a witness room with other witnesses should be stopped, or minimised as far as possible. If this is the only possible arrangement, the reason for doing so should be recorded so that the information can be used for liaison between COPFS and SCTS in relation to implementing trauma informed arrangements for victims of sexual crime to attend court [Terms of Reference 4.1].*

**Recommendation 54:**

- (i) COPFS should inform victims of sexual offences, who are due to give evidence in person, about the arrangements for the court or Commission suite they are attending, including: access, timings, catering facilities, availability of other refreshments and arrangements for arrival and lunch breaks (particularly if the accused is on bail [see Recommendation 58]). The COPFS allocated point of contact should provide this information to the victim in advance of the day, at the same time as offering the familiarisation visit and/or at the familiarisation visit [see Recommendation 52]; and*
- (ii) COPFS should provide, or link to, general information about each court and Commission suite on the COPFS sexual offences landing page of the COPFS website [see Recommendation 63], to enable a*

*victim to familiarise themselves with arrangements and facilities when they wish to do so [Terms of Reference 4.1].*

**Recommendation 55:** *In all sexual offence cases, in all forums, in which a victim is giving evidence at Trial, including ‘live’ evidence from remote sites, the prosecutor should consider whether to offer ‘standby’ arrangements for the victim’s attendance, taking into account the victim’s needs and preferences. The standby arrangement could include support from a third sector organisation [Terms of Reference 4.1].*

**Recommendation 56:** *COPFS should set up a formal liaison group with a broad range of third sector support and advocacy agencies, community support agencies, and COPFS Equality Ambassadors to consider:*

- (i) how to communicate effectively with sexual offence victims and witnesses with protected characteristics and diverse needs; and*
- (ii) how to meet the needs of sexual offence victims and witnesses with protected characteristics and diverse needs who are attending court or Commissions [Terms of Reference 4.1].*

**Recommendation 57:** *The collaborative learning from the formal liaison group about how to communicate effectively with sexual offence victims and witnesses with protected characteristics and diverse needs [see Recommendation 56] should be used by COPFS to offer increased awareness and, where appropriate, effective practical training for all those in COPFS engaging with victims of sexual offences at court and Commissions [see Recommendations 87 and 112] [Terms of Reference 4.1].*

**Recommendation 58:** *If a sexual offence victim is attending court to give evidence at Trial, advance arrangements should be made by COPFS, in collaboration with SCTS, Victim Support Scotland and/or*

*other third sector supporters, in relation to means of access, timing, personal assistance and other measures to enable a victim, or any of that person's family members, to avoid contact with the person suspected, accused or convicted of the offence, or alleged offence, during attendance at court [Terms of Reference 4.1].*

**Recommendation 59:** *COPFS and other organisations, including SCTS, Police Scotland, Victim Support Scotland and other relevant third sector support providers, should agree a memorandum of understanding of roles, responsibilities, practices and processes of those different agencies to ensure the physical and emotional safety of victims at court and Commission suites, with agreed minimum standards and in accordance with trauma informed practice [Terms of Reference 4.1].*

**Recommendation 60:** *COPFS and other organisations, including SCTS, Police Scotland, Victim Support Scotland and other relevant third sector support providers, should establish a multi-agency 'Safer Victims & Witnesses Working Group' to collaborate nationally, with local input, in terms of the memorandum [see Recommendation 59] on issues relating to the safety of victims and witnesses at court and Commissions. The learning from the formal liaison group about victims with protected characteristics and diverse needs [see Recommendation 56] should be shared with this working group by COPFS [Terms of Reference 4.1 and 4.9].*

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## **Chapter 7: Victims' Lived Experience**

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### **Recommendation 61:**

- (i) *COPFS should establish a Lived Experience Board with board members who are victims of sexual crime with experience of the prosecution process in Scotland, provided the cases they were involved in are not ongoing (including*

*any Victim's Right to Review, or any COPFS complaint process). COPFS should consider collaborating with, or consulting, a relevant third sector organisation in relation to the establishment and facilitation of the Board. Consideration should be given to the appropriate size and composition of the Board to reflect a diversity of views, while allowing scope for honest discussion and feedback. Consideration should also be given to how long members should be asked to serve on the board and how best to support and assist board members with their contribution.*

- (ii) The Lived Experience Board should be fully briefed on all policies and practices on which they are being invited to provide feedback and views, based on their personal experiences.*
- (iii) The Board should be co-chaired on rotation by one of the victims, the Deputy Crown Agent for Sexual Offences [see Recommendation 137], the Crown Counsel Sexual Offences Lead [see Recommendation 148] and a representative of any third sector organisation involved in facilitating the Board. The COPFS Policy & Engagement Lead for sexual crime should be invited to sit on the Board as an observer.*
- (iv) COPFS should give special consideration to seeking the views of male victims in the feedback process. The views of women Board members should be sought about the potential inclusion of male victims in the Lived Experience Board. If necessary, the views of male victims should be sought outwith the Board.*
- (v) COPFS, and any third sector organisation involved in facilitating the Board, should regularly review composition of the Board [Terms of Reference 4.1, 4.4 and 4.10].*

**Recommendation 62:** COPFS should develop a feedback process for children and young people with experience as victims and witnesses of sexual offences in the criminal justice process in Scotland. The feedback process should be developed in collaboration with the third sector, including those involved with the ongoing development and review of the Bairns' Hoose project. Reflecting the fact that feedback affects both operational practice and policy, the feedback process should sit under the joint lead of the Deputy Crown Agent for Sexual Offences [See Recommendation 137] (or other suitable leader until their appointment), the Crown Counsel Sexual Offences Lead [See Recommendation 148] and the COPFS Policy & Engagement Lead for sexual crime, working in collaboration [**Terms of Reference 4.1, 4.4 and 4.10**].

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## **Chapter 8: Sexual Offences Landing Page on the COPFS Website**

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**Recommendation 63:** COPFS should provide on its external website ([www.copfs.gov.uk](http://www.copfs.gov.uk)) a dedicated sexual offences landing page, designed in a trauma informed way (in collaboration with third sector partners and the Lived Experience Board [see Recommendation 61], as appropriate) to provide a 'one stop shop' of clear and accessible information for sexual offence victims in Scotland, including:

- (i) Accessible, easy read Victim Information Resource packs [see Recommendation 8];
- (ii) Easily understood information about Witness Statements [see Recommendation 18]; the amended COPFS Access to Witness Statements Policy [see Recommendation 19]; and details of the process for victims correcting or adding to their initial police statement [see Recommendation 40];



- (iii) *The Joint Protocol between COPFS and Police Scotland for handover in sexual offence cases [see Recommendation 25];*
- (iv) *Information about special measures [see Recommendation 43];*
- (v) *Links to third sector visual resources for victims and witnesses attending court (at all levels) or Commission suites [see Recommendation 50]; and information or links to information on each court and Commission suite [see Recommendation 54];*
- (vi) *The Sexual Offences Handbook [see Recommendation 65];*
- (vii) *Streamlined case journey maps, across all forums [see Recommendations 79 and 80];*
- (viii) *Memorandum of Understanding between COPFS and Rape Crisis Scotland for feedback of victims of sexual crime [see Recommendation 195];*
- (ix) *The Sexual Offences Review Report and Sexual Offences Review Implementation Progress Reports by the Deputy Crown Agent for Sexual Offences [see Recommendation 137] from the Sexual Offences Review Strategic Oversight Group [see Recommendation 204];*
- (x) *Guidance on the prosecution process in Scotland, incorporating the role of the prosecutor, Case Preparer and VIA service; an explanation of the Trial process, including witness examination; and the post-conviction process;*
- (xi) *Guidance on Crown and defence applications under section 275 of the Criminal Procedure (Scotland) Act 1995 (both the current position and if Independent Legal Representation is introduced by the Victims, Witnesses, and Justice Reform (Scotland) Bill);*

- (xii) *The COPFS Witness Gateway (once there is live functionality, to be updated as the functionality is rolled out);*
- (xiii) *Victims' Right to Review;*
- (xiv) *A list of external support agencies for victims of sexual crime, including contact details;*
- (xv) *The names of the Deputy Crown Agent Sexual Offences and Crown Counsel Sexual Offences Lead; and*
- (xvi) *Links to relevant policy, reports and publications.*

*The web page should incorporate a quick exit button which allows the victim to close the page immediately if they experience trauma, feel unsafe, or for any other reason [Terms of Reference 4.1].*

**Recommendation 64:** *COPFS should designate responsibility to an individual/team to ensure that all links in the COPFS website relating to victims, and/or to sexual offence cases are regularly reviewed; and that individual/team should ensure that the links remain operational [Terms of Reference 4.1].*

**Recommendation 65:** *COPFS should publish the COPFS Sexual Offences Handbook on the sexual offences landing page of the COPFS website [see Recommendation 63]. The Deputy Crown Agent for Sexual Offences [see Recommendation 137] should have an overarching responsibility for ensuring that the Handbook remains up to date and timeously reflects any major developments in the law and in policy and their impact on COPFS operational policy and practice [Terms of Reference 4.1].*

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## Part II: Initial Police Investigation

### Chapter 9: Quality of Police Reports

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**Recommendation 66:** *COPFS and Police Scotland should develop a protocol for the reporting of all sexual offence cases. The protocol should cover:*

- (i) the procedures and practices to be followed at the initial action and investigation stages, ensuring that all possible lines of enquiry are rigorously pursued;*
- (ii) the procedures and practices to be followed in order to safeguard children during the investigation;*
- (iii) the factors to be considered when assessing whether investigative liberation is appropriate;*
- (iv) encouraging early engagement between Police Scotland and COPFS, particularly where the case is complex or potentially high profile;*
- (v) guidance on when it might be appropriate for Police Scotland to liaise with COPFS to agree the submission and consideration of a draft Standard Prosecution Report (SPR);*
- (vi) requirements as to analysis of legal sufficiency, specifying the minimum requirements before a sexual offence case is reported;*
- (vii) guidance on the taking of witness statements, including information for victims about correcting or adding to statements [see Observation 2];*
- (viii) the procedures and practices to be followed when completing the Police Victim Strategy, including the victim's communication preferences [see Recommendations 1 and 2]; and*

- (ix) *the procedures and practices to be followed in relation to preparing for and conducting the structured handover from Police Scotland to COPFS (see Recommendations 20 to 25) [Terms of Reference 4.6].*

**Recommendation 67:** *Both COPFS and Police Scotland should gather statistics about Standard Prosecution Reports (SPRs) in all sexual offence cases which are not considered to be of sufficient quality for COPFS to make an informed marking decision and the recorded reason(s) for that; and the results should be regularly assessed to look for patterns, including geographical issues and to identify training gaps [Terms of Reference 4.6].*

**Recommendation 68:** *Police Scotland and COPFS should work together to ensure that training of appropriate quality and consistency is delivered to all police officers dealing with sexual offence cases about when, and how, to report sexual offence cases to COPFS. The training should include detailed consideration of the legal requirements for a sufficiency of evidence, including how that might operate in the context of domestic abuse cases which contain allegations of sexual offending and cases with multiple allegations, or courses of conduct; and practical examples should be included to enhance the relevance and usefulness of the training [Terms of Reference 4.6].*

**Recommendation 69:** *COPFS should second a prosecutor who is a specialist and practically experienced in the investigation, preparation and prosecution of sexual offence cases and trauma informed practice, to Police Scotland. The secondee should be based at the Scottish Police College to assist with the design and delivery of any police training that might impact on sexual offence investigations; and to provide a resource for police trainers to discuss the further development of the police training programme [Terms of Reference 4.6].*

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## Chapter 10: Digital Evidence

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**Observation 4:** *It would assist COPFS in the investigation and prosecution of sexual offence cases if Police Scotland could:*

- (i) carry out essential digital forensic examination before reporting cases to COPFS, to avoid, or limit premature reporting; and*
- (ii) when prioritising cases requiring digital forensic examination, take into account relevant factors in addition to statutory timebars, including the age of the offence and the time that has passed since the victim reported the incident [Terms of Reference 4.6].*

**Recommendation 70:** *COPFS and Police Scotland should agree a Joint Digital Forensics Protocol which adequately covers digital forensic examination, to include:*

- (i) Agreement on the parameters for the use of investigative liberation if digital forensic examination is outstanding;*
- (ii) Agreed timescales for completion of digital forensic examination;*
- (iii) Principles for setting out the scope of digital forensic examination required with reference to the COPFS Digital Devices Guidance (not publicly available) and Police Scotland Digital Device Examination - Principles ([digital-device-examination-principles.docx \(live.com\)](#));*
- (iv) Confirmation that where the target date for completion of digital forensic examination is renegotiated due to an inability by the relevant forensic unit to meet the target (as opposed to being changed either because the status of the case has changed or the wrong date was input as the target date) it is*

*recorded as a 'missed' target for the purposes of monitoring compliance with forensic instruction targets set out in the protocol; and*

- (v) *Capturing of accurate data by both Police Scotland and COPFS about target dates for digital forensic examination, including the volume of SFIs for digital forensic examination issued by COPFS to the police, the number of devices to be examined, the timescales being set by COPFS and the number of targets met and missed by Police Scotland.*

*Alternatively, the current COPFS, Police Scotland and Scottish Police Services Authority National Forensic Science Protocol should be amended to include a section on digital forensic examination that covers the five points specified above [Terms of Reference 4.3 and 4.4].*

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## Part III: Crown Investigation and Prosecution of Sexual Offences

### Chapter 11: Resources, Workload and Experience

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**Recommendation 71:** *COPFS should carry out a comprehensive review of the workload of VIA staff, either as part of the VIA Modernisation Programme, or as a standalone assessment, to ensure that there is a sufficiently resourced team of VIA Officers and VIA Assistants to afford each VIA Officer the capacity to respect victims' rights and identify the bespoke needs of victims and thereafter to meet those rights and needs [Terms of Reference 4.1, 4.3 and 4.8].*

**Recommendation 72:** *COPFS should, as part of the comprehensive review of the workload of VIA staff [see Recommendation 71], assess their workload at victim and witness level, as opposed to case level, to more accurately reflect the time and resource required to support each individual victim and witness in each case [Terms of Reference 4.1, 4.3 and 4.8].*



**Recommendation 73:** COPFS should, either as part of the VIA Modernisation programme, or as a standalone consideration of business requirements, give adequate consideration to the resourcing of VIA Officers and VIA Assistants, which includes adequate resilience cover for absences from work (e.g. leave, sickness, flexi time, or other reasons), or vacancies arising at the end of staff contracts. There should be clear processes in place to ensure that VIA Officers' workloads are covered and progressed in their absence or handed over in a reasonable time in the event of change of staff. The impact on other staff of providing such cover should be properly measured to ensure that there is sufficient resource in place [**Terms of Reference 4.1 and 4.3**].

**Recommendation 74:** COPFS should carry out a comprehensive review of the workload of Principal Deputes dealing with sexual offences, in conjunction with the creation of the Sexual Offences function [see Recommendations 135 and 136], to ensure that each Legal Manager has sufficient capacity to carry out their duties within their working hours, including capacity to provide support to Case Preparers during the investigation and case preparation process [**Terms of Reference 4.1, 4.3 and 4.8**].

**Recommendation 75:** COPFS and the Principal Crown Counsel team (using the services of external consultancy, as required) should together conduct six monthly reviews on the budgeted and actual size of the Advocate Depute team (full time equivalent and Ad Hoc Advocate Deputes) to take account of the volume of court business, in particular Evidence on Commission, having regard to relevant statistical data [see Recommendations 48 and 49] and the presumption that the same Advocate Depute will conduct the Commission(s) and Trial [see Recommendation 157]. Any resourcing gaps identified during reviews should be notified to the Lord Advocate to consider additional appointments, as required [**Terms of Reference 4.1, 4.3 and 4.8**].

**Recommendation 76:** COPFS should carry out a comprehensive review of the workload (pre- and post-Indictment) of Case Preparers dealing with solemn sexual offences, in conjunction with the creation of the Sexual Offences function [see Recommendations 135 and 136].

The review should take account of the data collected on the volume and weighting of post-Indictment work [see Recommendation 153].

The review should ascertain the current average caseload per Case Preparer. COPFS should introduce a recommended maximum caseload per Case Preparer, with a process introduced to monitor compliance and resource units accordingly [Terms of Reference 4.1, 4.3 and 4.8].

**Recommendation 77:** Following the review of the workload of Case Preparers dealing with solemn sexual offences in Recommendation 76, COPFS should routinely collect data at organisational level on Case Preparer workload (including data on post-Indictment work [see Recommendation 153]) and staffing levels of Case Preparers in solemn sexual offences teams and analyse the data to monitor trends and to inform resourcing requirements [Terms of Reference 4.1, 4.3 and 4.8].

**Recommendation 78:** COPFS should update the COPFS Homeworking Principles and the COPFS Agile Working guide to expressly state that ‘business need’ includes learning from colleagues through attending at COPFS offices, particularly for new or inexperienced members of staff [Terms of Reference 4.3 and 4.8].

**Recommendation 79:**

(i) COPFS should produce and publish comprehensive case journey maps for solemn sexual offence cases (both High Court and Sheriff and Jury) which include each step in the journey of a case to its

*conclusion and the role holder(s) having responsibility for each step of the process;*

*(ii) The High Court and Sheriff and Jury case journey maps can be amalgamated, if and when the specialist Sexual Offences Court comes into existence for solemn level sexual offences;*

*(iii) COPFS should produce and publish a comprehensive case journey map for summary sexual offence cases which includes each step in the journey of a case to its conclusion and the role holder(s) having responsibility for each step of the process;*

*(iv) Each step in the process which includes an interaction with a victim should be shown on the maps and those with responsibility for communicating with the victim should be clearly identified; and*

*(v) Once the case journey maps are produced, COPFS should carry out awareness raising for all staff dealing with sexual offence cases, to ensure that they understand the steps and the responsibilities of each role holder involved in the investigation, preparation and prosecution of sexual offence cases [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 80:** *COPFS should publish a simplified version of the solemn and summary case journey maps [see Recommendation 79] on the sexual offences landing page of the COPFS website [see Recommendation 63] [Terms of Reference 4.1].*

**Recommendation 81:** *COPFS should use the data collected about Commission applications made and granted in solemn sexual offence cases [see Recommendation 45] to prepare regular data reports and monitor the volume of Commissions to help to inform future projections on people and place resource requirements for such Commissions.*

*Once COPFS has developed new systems to allow automated extraction of data about sexual offence cases and data at victim*

*level in sexual offence cases [see Recommendation 200], the Commission data should be disaggregated between victims and witnesses in sexual offence cases [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 82:** *COPFS should regularly share data about Commissions [see Recommendation 81] with SCTS and Victim Support Scotland to help to inform people and place resource requirements both in SCTS facilities and in third sector provision (such as the Victim Support Scotland remote evidence suites) [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 83:** *[Removed by Review]*<sup>38</sup>

**Recommendation 84:** *COPFS should develop a process of collating the following data in relation to Crown and defence section 275 applications for all forums, in a way which can be easily extracted from COPFS systems:*

- (i) The number of applications made;*
- (ii) The number of applications granted, in whole or in part; and*
- (iii) The number of applications refused [Terms of Reference 4.1, 4.3, 4.5 and 4.10].*

**Recommendation 85:** *COPFS should develop a process to:*

- (i) review all Crown and defence section 275 applications which are granted in part or refused; and*
- (ii) identify any training needs or process issues arising and to inform the section 275 mandatory practical training course for all legal staff dealing with sexual offence cases [see*

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<sup>38</sup> The following Recommendations were removed by the Review during final revisal of the Report, due to duplication, amalgamation, or because they were otherwise considered unnecessary: 48, 83, 125, 126, 141, 174 and 175.

*Recommendation 97] [Terms of Reference 4.1, 4.3, 4.5 and 4.10].*

**Recommendation 86:** *COPFS should ensure that the development of the COPFS next generation casework systems, in so far as they relate to sexual offences, should require consultation with the Deputy Crown Agent for Sexual Offences [see Recommendation 137], the Crown Counsel Sexual Offences Lead [see Recommendation 148], the Lived Experience Board [see Recommendation 61] and other internal COPFS users, external service users and justice partners, as necessary; to obtain input on their development [Terms of Reference 4.3, 4.4 and 4.10].*

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## **Chapter 12: Internal Training and Guidance**

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**Recommendation 87:** *COPFS should develop practical ‘workshop style’ training on trauma informed victim engagement, including how to handle difficult conversations (Victim Engagement training).*

*Victim Engagement training should be developed in consultation with relevant external professionals with expertise in trauma informed practice, the Lived Experience Board [see Recommendation 61] and relevant third sector agencies.*

*Victim Engagement training should incorporate scenario-based learning and be delivered, at least partly, in person or, if remotely, in a way which allows meaningful real time engagement between instructors and participants, to offer participants the opportunity to share experience, learn practical tips from case examples and learn in a supportive environment.*

*Victim Engagement training should be designated as mandatory for all COPFS staff whose role involves communicating with victims in sexual offence cases whether in person, or remotely (by telephone, Microsoft Teams, or other platform).*

*The same Victim Engagement training should be designated as mandatory for Advocate Deputes and Ad Hoc Advocate Deputes dealing with sexual offence cases, or the Director of Advocate Depute Training should develop alternative bespoke mandatory training with similar content and include it in the Advocate Depute training programme.*

*Victim Engagement training should include the following topics:*

- (i) how to handle a difficult conversation;*
- (ii) how to ask questions in a trauma informed way;*
- (iii) how to deal with others' emotions;*
- (iv) how to communicate effectively with sexual offence victims and witnesses with protected characteristics and diverse needs [see Recommendations 57 and 112]; and*
- (v) information which should be provided to victims and information which should not be provided to victims [**Terms of Reference 4.1, 4.3 and 4.10**].*

**Recommendation 88:** *COPFS should ensure that 'Trauma Informed Practice – Part 2' training and any further Trauma-Informed Practice training for COPFS staff dealing with sexual offence cases are developed in a way that it is delivered, at least partly, in person, or, if remotely, in a way which allows meaningful real time engagement between instructors and participants, to offer participants the opportunity to share experience, learn practical tips from case examples and learn in a supportive environment.*

*The same Trauma Informed Practice training should be designated as mandatory for Advocate Deputes and Ad Hoc Advocate Deputes dealing with sexual offence cases, or the Director of Advocate Depute Training should develop alternative bespoke mandatory training with similar content and include it in the Advocate Depute training programme [**Terms of Reference 4.3 and 4.10**].*



**Recommendation 89:** COPFS and the Director of Advocate Depute Training should supplement the Victim Engagement training [see Recommendation 87] and Trauma Informed Practice training [see Recommendation 88] with written, regularly updated, accessible guidance to staff and Advocate Deputes that includes clear advice on appropriate language choice; factors to consider; and signposting to internal resources and relevant third sector resources [Terms of Reference 4.3 and 4.10].

**Recommendation 90:** COPFS should re-design the Sexual Offences two-day training to create two separate training courses based on role, which include the learning objectives in Recommendation 91, split as follows:

- (i) a training workshop for prosecutors (Sexual Offences Prosecutor training) which incorporates a module on advanced advocacy for sexual offence cases [see Recommendation 99]; and
- (ii) a training workshop for Case Preparers (Sexual Offences Case Preparer Course) which should form part of the Case Preparer training [see Recommendation 100] [Terms of Reference 4.3].

**Recommendation 91:** COPFS should ensure that the Sexual Offences Prosecutor training and Sexual Offences Case Preparer training [see Recommendation 90] include within their learning objectives:

- (i) The evidential difficulties which exist where an allegation of rape is libelled as part of a continuum of domestic abuse, as a contravention of section 1 of the Domestic Abuse (Scotland) Act 2018;
- (ii) The implications of Lord Advocate's Reference (No. 1 of 2023) and Lord Advocate's References (Nos. 2 and 3 of 2023);

- (iii) *How to deal with allegations of rape and serious sexual offences appearing in Standard Prosecution Reports (SPRs) and witness statements in cases being marked at summary level; and*
- (iv) *The movement of cases between cases at initial marking stage and after proceedings have commenced [Terms of Reference 4.3].*

**Recommendation 92:** *The training materials and resources from the Sexual Offences Prosecutor training and Sexual Offences Case Preparer training [see Recommendations 90 and 91] should be made available to course participants on online course pages, which should be updated by the course provider if the course content is modified. Participants should retain access to the course page after completion of the course [Terms of Reference 4.3].*

**Recommendation 93:** *COPFS should provide guidance and training to all relevant staff dealing with sexual offence cases on the Lord Advocate's Reference (No. 1 of 2023) [2023] HCJAC 40 and Lord Advocate's References (Nos. 2 and 3 of 2023) [2024] HCJAC 43 and the implications for the investigation and prosecution of sexual offence cases [Terms of Reference 4.3].*

**Recommendation 94:** *All Advocate Deputes should complete:*

- (i) *the Sexual Offences e-Learning modules within three months of appointment; and*
- (ii) *The Sexual Offences Prosecutor training, or bespoke equivalent training for Advocate Deputes [see Recommendations 90, 91 and 92] within six months of appointment [Terms of Reference 4.3].*

**Recommendation 95:** *All summary Deputes must:*

- (i) *complete the Sexual Offences e-Learning modules prior to undertaking a summary sexual offence Trial; and*

- (ii) *should complete the Sexual Offences Prosecutor training [see Recommendations 90, 91 and 92] within six months of being considered competent to conduct Trials; and before marking any summary level case [Terms of Reference 4.3].*

**Recommendation 96:** *COPFS should develop a system of annual refresher training on sexual offences to ensure that all COPFS staff dealing with sexual offence cases and Advocate Deputes, including Ad Hoc Advocate Deputes who deal with sexual offence cases, are kept updated on changes to the law and evidence in relation to sexual offences. The refresher training should be supplemented with ‘power-hour’ training sessions on specific issues relating to sexual offences, with reference to any new law, COPFS policy and guidance [Terms of Reference 4.3].*

**Recommendation 97:** *COPFS should make both the existing Section 275 Theory and Section 275 Practical training mandatory for all legal staff dealing with sexual offence cases and COPFS should monitor compliance.*

*The same training should be designated as mandatory for Advocate Deputes and Ad Hoc Advocate Deputes dealing with sexual offence cases, or the Director of Advocate Depute Training should develop alternative bespoke mandatory training with similar content and include it in the Advocate Depute training programme [Terms of Reference 4.3 and 4.10].*

**Recommendation 98:** *The Case Preparer Sexual Offences training [see Recommendations 90, 91 and 92] and the VIA Sexual Offences training [see Recommendation 103] should include training on speaking to victims about section 275 applications, with learning outcomes which ensure that:*

- (i) *Case Preparers who deal with sexual offence cases gain a sound understanding of sections 274 and 275 and the application process; and can discuss applications and*

*sensitively obtain victims' views on applications, if they need to do so; and*

- (ii) VIA Officers who deal with victims in sexual offence cases are equipped to inform victims in general terms about what a section 275 application is and the process which will be followed if an application is made [Terms of Reference 4.1, 4.3 and 4.10].*

**Recommendation 99:** *The Scottish Prosecution College and the Director of Advocate Depute Training should develop an advanced advocacy module for solemn sexual offence cases, to provide mandatory training for all Advocate Deputes and Procurator Fiscal Deputes who prosecute solemn level sexual offence cases (including taking Evidence on Commission).*

*The module should be delivered in-person and include practical training and shadowing in court in the appropriate forum.*

*The learning outcomes should include:*

- (i) equipping prosecutors to prepare lines of questioning;*
- (ii) how to sensitively ask questions to victims;*
- (iii) when and how to use a victims' witness statement during evidence in chief;*
- (iv) when to object to lines of evidence (including any evidence which is inadmissible because of section 274); and*
- (v) how to cross examine the accused.*

*For COPFS prosecutors this training should form part of the Sexual Offences Prosecutor training [see Recommendations 90, 91 and 92].*

*The same training should be designated as mandatory for Advocate Deputes and Ad Hoc Advocate Deputes dealing with sexual offence cases and should be included in the Advocate Depute training programme [Terms of Reference 4.3].*

**Recommendation 100:** COPFS should re-name the current ‘High Court Case Preparer’ training as ‘Case Preparer’.

*Attendance should be made mandatory for all Case Preparers dealing with solemn sexual offence cases.*

*The Case Preparer training should be revised to include the following mandatory components for Case Preparers dealing with sexual offence cases:*

- (i) Practical training on when and how to take a precognition statement;*
- (ii) An emphasis on the investigative importance of the Case Preparer role,*
- (iii) aspects of case preparation particularly relevant to sexual offence cases, providing practical context to scenarios that arise in sexual offence cases;*
- (iv) the COPFS Minimum Standards of Precognition*
- (v) attendance at court to observe a procedural hearing and a hearing at which evidence is taken [Terms of Reference 4.3].*

**Recommendation 101:** COPFS should introduce a process of mandatory certification for all Deputes involved in the marking, investigation, preparation and/ or prosecution of solemn level sexual offences (Sexual Offences Certification for Deputes), which includes completion of the following training within six months of taking up post:

- (i) Victim Engagement (including handling difficult conversations) training [see Recommendation 87];*
- (ii) Application of the Prosecution Code to sexual offence cases training [see Recommendations 125 and 126];*
- (iii) Sexual Offences Prosecutor training [see Recommendations 90, 91 and 92];*

- (iv) *Section 275 Theory and Section 275 Practical training [see Recommendation 97];*
- (v) *Advanced Sexual Offences Advocacy Training [see Recommendation 99]; and*
- (vi) *for those Deputes carrying out case preparation work, Case Preparer training [see Recommendation 100 and Recommendations 90, 91, 92, 98];*
- (vii) *Shadowing a more experienced prosecutor at a procedural hearing and a hearing at which evidence is taken.*

*COPFS should publish the Sexual Offences Certification for Deputes policy.*

*The COPFS Scottish Prosecution College Prospectus should clearly identify which courses and modules are mandatory for the purposes of Sexual Offences Certification for Deputes.*

*The Scottish Prosecution College should keep a record of training and certification for sexual offence cases. Thereafter to retain Sexual Offences Certification for Deputes, staff should be required to undertake mandatory refresher training [see Recommendation 96] [Terms of Reference 4.3 and 4.10].*

**Recommendation 102:** *COPFS should introduce a process of mandatory certification for all Case Preparers involved in the marking, investigation, preparation and/ or prosecution of solemn level sexual offences (Sexual Offences Certification for Case Preparers), which includes completion of the following training within six months of taking up post:*

- (i) *Victim Engagement (including handling difficult conversations) training [see Recommendation 87];*
- (ii) *Application of the Prosecution Code to sexual offences training [see Recommendations 125 and 126];*



- (iii) Case Preparer training [see Recommendation 100];*
- (iv) Sexual Offences Case Preparer training [see Recommendations 90, 91, 92 and 98];*
- (v) Section 275 Theory and Section 275 Practical training [see Recommendation 97];*
- (vi) Attendance at court to observe a procedural hearing and a hearing at which evidence is taken.*

*COPFS should publish the Sexual Offences Certification for Case Preparers policy.*

*The COPFS Scottish Prosecution College Prospectus should clearly identify which courses and modules are mandatory for the purposes of Sexual Offences Certification for Case Preparers.*

*The Scottish Prosecution College should keep a record of training and certification for sexual offence cases. Thereafter to retain Sexual Offences Certification for Case Preparers, staff should be required to undertake mandatory refresher training [see Recommendation 96] [Terms of Reference 4.3 and 4.10].*

**Recommendation 103:** *COPFS should develop VIA Sexual Offences training to form part of the proposed VIA Consolidated Module, for existing and new VIA staff, to include the following learning objectives and elements, with key modules being delivered in person:*

- (i) an overview of the definition of the VIA role and responsibilities and other key COPFS roles specifying how these roles interact with the VIA role;*
- (ii) input from relevant COPFS staff, Police Scotland and third sector agencies;*

- (iii) *a practical session on completion of COPFS VIA Minute sheets and the COPFS Victim Strategy (while those exist, and any replacement thereafter [see Recommendation 170]);*
- (iv) *a practical workshop on special measures and how to explore those with a vulnerable victim or witness;*
- (v) *a practical workshop on liaising with parents/guardians of children and young people and how to communicate safely, appropriately and sensitively with children and young people, taking account of their rights, including those in the UNCRC;*
- (vi) *a practical workshop on dealing with those who have experienced trauma and how to have difficult conversations; and*
- (vii) *an overview of relevant procedure and evidence [Terms of Reference 4.3].*

**Recommendation 104:** *COPFS should revise the Scottish Prosecution College prospectus to clearly identify all aspects of the VIA Sexual Offences training [see Recommendation 103] as being mandatory for VIA Officers within six months of taking up their role, or within six months of rollout for those in post who have not had training [Terms of Reference 4.3].*

**Recommendation 105:** *COPFS should create a VIA Training Officer post, with a remit which includes assisting the Scottish Prosecution College to develop, coordinate and deliver the VIA Sexual Offences training [see Recommendations 103 and 104] [Terms of Reference 4.3].*

**Recommendation 106:** *COPFS should develop its new UNCRC training to include input and liaison from relevant third sector organisations and the Children and Young People's Commissioner Scotland.*

*The UNCRC training should be mandatory for all staff dealing with sexual offence cases, including VIA staff; and for all Advocate Deputes, including Ad Hoc Advocate Deputes dealing with sexual offence cases [Terms of Reference 4.3].*

**Recommendation 107:** *COPFS should develop, and/or arrange externally, and offer management training for all new legal and business line managers and it should be offered to existing line managers in post who have not received such training [Terms of Reference 4.3].*

**Recommendation 108:** *COPFS should develop specialist management training for managers in sexual offences teams, with input from the Deputy Crown Agent for Sexual Offences [see Recommendation 137], the Crown Counsel Sexual Offences Lead [see Recommendation 148] and other COPFS specialist sexual offences staff.*

*Equality Ambassadors should be offered the opportunity to contribute key learning points on the protected characteristic, or topic they represent.*

*The learning outcomes should include a practical session on completion of the Legal Strategy, to ensure consistency of approach and quality of product, including training on strategic updates throughout the life of the case [see Recommendation 189] [Terms of Reference 4.3].*

**Recommendation 109:** *COPFS should develop a programme of ‘power hours’ for administrative staff dealing with sexual offences, with input across administrative grades on necessary and beneficial topics to cover as part of the learning objectives [Terms of Reference 4.3].*

**Recommendation 110:** *COPFS should develop and deliver training to administrative staff dealing with sexual offences and National Enquiry Point staff, which includes training on how to have a difficult*

*conversation, how to deal with emotional responses and an overview of the roles and responsibilities of others dealing with sexual offence cases in COPFS, including Case Preparers, VIA, and legal staff.*

*This training should be supplemented by a programme of observation of a sexual offences Trial, Preliminary Hearing or First Diet and Evidence on Commission [Terms of Reference 4.3].*

**Recommendation 111:** *COPFS (through the Equality Board, Equality Champion, Policy & Engagement, or otherwise) should ensure that there is a landing page/panel on COPFS Connect for each Equality Network, protected characteristic from the Equality Act 2010 and other equality/wellbeing area with an Equality Ambassador(s).*

*Equality Ambassadors and Network Leads should be given the opportunity to add content, promote the characteristic/need they represent and provide support via the relevant landing page/panel, within the scope of their role descriptor(s) [Terms of Reference 4.3].*

**Recommendation 112:** *COPFS (through the Equality Board, Equality Champion, Policy & Engagement, or otherwise), should:*

- (i) provide and maintain easily accessible, up to date equality and diversity resources for staff dealing with sexual offence cases;*
- (ii) signpost those staff to those resources; and*
- (iii) develop, or arrange access to training on equality and diversity issues with relevant external providers and/or with Equality Ambassadors and Equality Networks Leads, within the scope of their role descriptor(s) [see Recommendations 57 and 87] [Terms of Reference 4.3].*

**Recommendation 113:** COPFS should introduce a buddy system for new VIA staff, Case Preparers, administrative staff and Deputies dealing with sexual offence cases [**Terms of Reference 4.3**].

**Recommendation 114:** COPFS should develop a reciprocal system of training and shadowing opportunities for COPFS staff and Advocate Deputies with relevant third sector organisations, Police Scotland and other external partners [**Terms of Reference 4.1, 4.3 and 4.6**].

**Recommendation 115:**

- (i) The Director of Advocate Deputy Training, in conjunction with the Crown Counsel Sexual Offences Lead, with other appropriate support and assistance, including liaison with the Scottish Prosecution College, third sector and external experts, as required, should develop and publish an advance annual programme of Advocate Deputy training on sexual offence cases.
- (ii) The training programme should include all scheduled training on sexual offence cases for the upcoming year, to include all bespoke Advocate Deputy training and any training provided by the Scottish Prosecution College, including e-learning, which is classed as mandatory, or primary training for Advocate Deputies, after removal of courses which Advocate Deputies are not expected to attend (see para. (v), below).
- (iii) The Advocate Deputy training programme should be provided in advance to full time Advocate Deputies and Ad Hoc Advocate Deputies who deal with sexual offence cases (who should also receive invitations to all such training).
- (iv) A record should be kept by Advocate Deputy Support of all training undertaken by full time and Ad Hoc Advocate Deputies.

- (v) *COPFS, after consultation with the Director of Advocate Depute Training, should remove Advocate Deputes from the participant list for Scottish Prosecution College training which they are not expected to undertake [Terms of Reference 4.3].*

**Recommendation 116:** *The Director of Advocate Depute training, in conjunction with the Crown Counsel Sexual Offences Lead [see Recommendation 148] with appropriate support and assistance from COPFS staff, should create Advocate Depute online guidance resources specific to the work of Advocate Deputes dealing with sexual offence cases, including: styles for documents drafted by Advocate Deputes; example jury speeches in sexual offence cases; crib sheets for meetings with victims; and any recordings and slides from relevant training sessions [Terms of Reference 4.3].*

**Recommendation 117:** *The Director of Advocate Depute Training, or another identified role, with appropriate support and assistance from COPFS staff, should develop an Advocate Depute Manual in accessible, electronic form. The manual should include practical guidance on the way in which sexual offence cases move through COPFS and on roles and responsibilities, with links to comprehensive case journey maps [see Recommendation 79] and contact details for relevant COPFS staff.*

*The same person (with support and assistance, as required) should be given responsibility for maintaining the manual to ensure that it remains up to date [Terms of Reference 4.3].*

**Recommendation 118:** *COPFS (through the Advocate Depute support staff, or otherwise) should provide to Ad Hoc Advocate Deputes who are instructed in sexual offence cases:*

- (i) *the guidance resource for Advocate Deputes dealing with sexual offence cases [see Recommendation 116];*



(ii) *the COPFS Sexual Offences Handbook (until such time as it is published [see Recommendation 65]); and*

(iii) *the Advocate Depute Manual [see Recommendation 117];*

*so that they are not disadvantaged by reason of not having COPFS internal system access. If pen drives are to be used rather than a secure remote site, these must be regularly updated. No printed copies of out of date guidance should be left in courts or Commission suites [Terms of Reference 4.3].*

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## **Chapter 13: Considering the Rights and Interests of the Accused**

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**Recommendation 119:** *COPFS should amend the COPFS Prosecution Code to explicitly state that assessment of the public interest must include consideration and protection of the rights of the accused, throughout the life of the case [Terms of Reference 4.1].*

**Recommendation 120:** *COPFS should amend the COPFS Case Marking Instructions Chapter 1 – General Marking Policy, to explicitly state that when marking a case, the prosecutor must consider and protect the rights of the accused; that the duty continues throughout the life of the case; and that the rights of the accused must be considered when cases are kept under review to ensure that the chosen action continues to remain appropriate [Terms of Reference 4.1].*

**Recommendation 121:** *COPFS should develop mandatory training for all staff and Advocate Deputes dealing with sexual offence cases (either as a standalone module or incorporated into relevant Sexual Offences training [see Recommendations 90, 91, 94 and 100] to re-enforce the requirement to consider the rights of accused both at the initial marking stage and throughout the life of the case. Examples should be provided of the way in which the requirement is relevant to different roles and the learning objectives should also include the*

*proactive requirement to keep decisions under review [Terms of Reference 4.1].*

**Recommendation 122:** *COPFS should amend guidance to prosecutors dealing with solemn sexual offence cases (including the COPFS Sexual Offences Handbook) to include an instruction that they must proactively advise the defence representatives within a reasonable time of any Crown decision to instruct digital examination of any device(s), or that no examination will be instructed by the Crown [Terms of Reference 4.1].*

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## **Chapter 14: The COPFS Prosecution Code and its Application in Sexual Offence Cases**

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**Recommendation 123:** *COPFS should revise the COPFS Prosecution Code and the COPFS Sexual Offences Handbook, as soon as possible, to address the lack of clarity in the test for prosecutorial action in sexual offence cases. In particular, there must be consideration of whether there is requirement in the prosecution test to assess whether there is ‘no realistic prospect of a conviction’ and, if so, the stage at which it should be assessed and the relevant considerations and approach. The same terminology should be used in the COPFS Prosecution Code, the COPFS Sexual Offences Handbook and any other COPFS instructions and guidance [Terms of Reference 4.1 and 4.3].*

**Recommendation 124:** *COPFS and the Director of Advocate Depute Training should develop and deliver training on the revised COPFS Prosecution Code and the COPFS Sexual Offences Handbook about the test for prosecutorial action in sexual offence cases. The training should be mandatory for all COPFS staff and office holders whose roles include making recommendations and decisions in sexual*

*offence cases. This could be a standalone module, or form part of the recommended training for COPFS staff and Advocate Deputes [see Recommendations 90, 91, 94 and 100] [Terms of Reference 4.1 and 4.3].*

**Recommendation 125:** *[Removed by Review]*<sup>39</sup>

**Recommendation 126:** *[Removed by Review]*<sup>40</sup>

**Recommendation 127:** *Following conclusion of the review instructed by the Lord Advocate of the way in which prosecutors deal with diversion from prosecution in serious sexual offence cases and publication of revised guidance, COPFS and the Director of Advocate Depute Training should develop and deliver training about the considerations to be applied when assessing whether diversion from prosecution in sexual offence cases is appropriate. The training should be mandatory for all COPFS staff and Advocate Deputes whose roles include making recommendations and decisions in sexual offence cases. This could be a standalone module, or form part of the recommended training for COPFS staff and Advocate Deputes [see Recommendations 90, 91, 94 and 100] [Terms of Reference 4.1 and 4.3].*

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## **Chapter 15: Support and Wellbeing**

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**Recommendation 128:** *COPFS should replace the current Vicarious Trauma Support Service with a new vicarious trauma support service for COPFS staff dealing with sexual offence cases (in the same categories as the current service) and Advocate Deputes, in which they are given sufficient time in an annual one to one session to explore the following issues: (i) the type and impact*

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<sup>39</sup> The following Recommendations were removed by the Review during final revisal of the Report, due to duplication, amalgamation, or because they were otherwise considered unnecessary: 48, 83, 125, 126, 141, 174 and 175.

<sup>40</sup> See fn., above.

*of the materials/work that the individuals will be involved in; (ii) the psychological awareness of stress; (iii) current coping mechanisms; (iv) identification of sensitivities to particular stressors; and (v) support structures already in place.*

*COPFS should provide a detailed briefing to the service provider which includes descriptions of roles and responsibilities of those staff members and Advocate Deputies being referred, so that those conducting the sessions are aware in advance [Terms of Reference 4.3].*

**Recommendation 129:** *All line managers within sexual offences teams and the Principal Crown Counsel (PCC) team should take steps, if they do not already do so, to ensure that:*

- (i) members of their team are aware of the vicarious trauma service and the fact that an annual session is mandatory;*
- (ii) a staff member, or Advocate Deputy, attends an initial resilience session prior to taking up a role in a sexual offences team, or the Advocate Deputy team; and*
- (iii) all members of their team attend their annual vicarious trauma review session. Any failure to comply should be explored with the staff member, or Advocate Deputy [Terms of Reference 4.3].*

**Recommendation 130:** *COPFS should regularly review the new vicarious trauma service, including direct feedback from COPFS staff and Advocate Deputies after their annual session, to ensure that it is meeting its stated aims.*

*This review should include an assessment of the quality of the sessions to ensure that (i) those conducting the sessions have an awareness of the roles and responsibilities of the COPFS staff members and Advocate Deputies and (ii) that their purpose is met [see Recommendation 128] [Terms of Reference 4.3].*

**Recommendation 131:** COPFS should introduce Welfare Modules for all COPFS staff dealing with sexual offence cases and Advocate Deputes, delivered by psychologists and therapists, similar to those offered to staff in Rape and Serious Sexual Offences (RASSO) teams within the Crown Prosecution Service (CPS) in England & Wales.

*There should a separate module for managers designed to increase their confidence in having conversations with members of their team about their mental health.*

*COPFS should introduce optional yearly reflection sessions with a psychologist for staff dealing with sexual offence cases and Advocate Deputes [Terms of Reference 4.3].*

**Recommendation 132:** The Lord Advocate should refer the matter of a full, independent assessment of all wellbeing measures in place for COPFS staff and Advocate Deputes dealing with sexual offence cases for the programme of review by HM Inspectorate of Prosecution in Scotland; or COPFS should instruct an external body to carry out a similar review [Terms of Reference 4.3].

**Recommendation 133:** COPFS should ensure that a discussion takes place between a manager and a staff member prior to appointment to a role requiring the staff member to deal with sexual offence cases and every Advocate Depute, to ensure that they understand the nature of the role and the subject matter [Terms of Reference 4.3].

**Recommendation 134:** COPFS staff and Advocate Deputes should be able, as far as practicable and subject to business need, to decline to deal with sexual offence cases. Where this is not possible, the initial resilience building session [see Recommendation 129] and participation in the RASSO Welfare Modules [see Recommendation

*131] should be completed prior to commencing work on sexual offence cases [Terms of Reference 4.3].*

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## **Chapter 16: Specialism**

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**Recommendation 135:** *COPFS should create a specialist Sexual Offences function for:*

- (i) initial marking of all sexual offences in a dedicated initial case marking unit; and*
- (ii) the investigation, preparation and prosecution of all solemn sexual offences.*

*COPFS should not delay establishment of a Sexual Offences function to coincide with the possible implementation of a national specialist Sexual Offences Court (as proposed in the Victims, Witnesses, and Justice Reform (Scotland) Bill) [Terms of Reference 4.1, 4.3, 4.4 and 4.10].*

**Recommendation 136:** *The Sexual Offences function should deal only with sexual offences.*

*‘Sexual offences’ should be defined as in the Victims, Witnesses, and Justice Reform (Scotland) Bill, Section 39 and Schedule 3 [Terms of Reference 4.1, 4.3, 4.4 and 4.10].*

**Recommendation 137:** *The Sexual Offences function [see Recommendations 135 and 136] should be led by a newly created role of Deputy Crown Agent for Sexual Offences [Terms of Reference 4.1, 4.3, 4.4 and 4.10].*

**Recommendation 138:** *COPFS should prepare a memorandum of understanding between the Sexual Offences function [see Recommendations 135 and 136], National Initial Case Processing (NICP) and Local Court outlining the duties that will be undertaken*



*by the Sexual Offences function, NICP and Local Court Sherifffdom teams in relation to summary sexual offence prosecutions [Terms of Reference 4.1, 4.3, 4.4 and 4.10].*

**Recommendation 139:** *COPFS should review the charge codes used when cases are reported to enable sexual offences to be more quickly identified and moved to the Sexual Offences function for marking [Terms of Reference 4.1, 4.3, 4.4 and 4.10].*

**Recommendation 140:** *COPFS should request that statements from victims and key witnesses in all sexual offence cases are automatically submitted by Police Scotland at the same time as the Standard Prosecution Report (SPR) [Terms of Reference 4.1 and 4.4].*

**Recommendation 141:** *[Removed by Review]<sup>41</sup>*

**Recommendation 142:** *COPFS should integrate office-based Sheriff and Jury VIA Officers and Assistants in Case Preparation Teams dealing with sexual offence cases and they should be managed by the Principal Depute in the team (as already introduced in the High Court Sexual Offences Team) [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 143:** *COPFS should establish a Sexual Offences Oversight Committee/Board to oversee policy, training and delivery (including debriefing and review) in relation to sexual offence cases. The board should be chaired by the Deputy Crown Agent for Sexual Offences [see Recommendation 137] and membership should include the Crown Counsel Sexual Offences Lead [see Recommendation 148], the Policy leads on Sexual Offences and children, the Director of Advocate Depute Training and the Director*

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<sup>41</sup> The following Recommendations were removed by the Review during final revisal of the Report, due to duplication, amalgamation, or because they were otherwise considered unnecessary: 48, 83, 125, 126, 141, 174 and 175.

*of the Scottish Prosecution College [Terms of Reference 4.1, 4.2, 4.3 and 4.10].*

**Recommendation 144:** *Until such time as a Sexual Offences Court is established, the Sexual Offences function [see Recommendations 135 and 136] should prepare Sheriff and Jury level sexual offence cases and pass them to Local Court function for prosecution (including meetings with victims, Evidence on Commission and Trial Diets). Ownership and responsibility for post-Indictment case preparation work should remain with the Sexual Offences function.*

*If a Sexual Offences Court is established in which there is a phased introduction of Sheriff and Jury level cases, any cases at that level which become included in its remit should be prosecuted by prosecutors from the Sexual Offences function [Terms of Reference 4.1, 4.3, 4.4 and 4.10].*

**Recommendation 145:** *COPFS should prepare an interim memorandum of understanding between the Sexual Offences function [see Recommendations 135 and 136] and the Local Court function, outlining the duties that will be undertaken by the Sexual Offences function and Local Court Sherifffdom teams in relation to Sheriff and Jury level sexual offence prosecutions. The memorandum should apply until such as time as there is a Sexual Offences Court which includes Sheriff and Jury level sexual offence cases [Terms of Reference 4.1, 4.3, 4.4 and 4.10].*

**Recommendation 146:** *COPFS should develop a policy and process (either by revisal of the COPFS Career Movement and Development Policy or by developing a standalone policy) to enable COPFS staff to transfer out of a specialist sexual offences role where the work is having a detrimental emotional or psychological impact on them, to the extent that they are unable to stay in the role. There should be no requirement for that member of staff to have*

*been in the role for two years before such a lateral move could be considered [Terms of Reference 4.3].*

**Recommendation 147:** *COPFS National Sexual Crimes Unit (NSCU) should be disbanded.*

*COPFS should remove the roles of Head and Deputy Head of National Sexual Crimes Unit [Terms of Reference 4.2].*

**Recommendation 148:** *COPFS should create a new role of Crown Counsel Sexual Offences Lead. This position should be at the level of Assistant Principal Crown Counsel and the role holder should form part of the Principal Crown Counsel Team. The role holder will be a national lead for sexual offences, overseeing policy, training and support of Advocate Deputes in relation to sexual offence cases, as well as conducting high profile and/or complex sexual offence Trials and appeals. The role holder should be consistently available during working hours (when not engaged in court) for consultation and advice to Advocate Deputes dealing with sexual offence cases. If the role holder is unavailable for any of their duties, the role should be covered as far as possible by another member of the Principal Crown Counsel team [Terms of Reference 4.2].*

**Recommendation 149:** *To support the role of Crown Counsel Sexual Offences Lead [see Recommendation 148]:*

- (i) five Senior Advocate Deputes should be nominated as Specialist Sexual Offences Counsel; to be key points of contact, together with the Crown Counsel Sexual Offences Lead, for Advocate Deputes dealing with sexual offence cases; and*
- (ii) separate dedicated administrative support should be identified for the Crown Counsel Sexual Offences Lead to assist with diary management and other duties [Terms of Reference 4.2 and 4.3].*

**Recommendation 150:** *COPFS must apply the following principles to ensure that there is specialism in sexual offence cases across the full Advocate Depute team (and Ad Hoc Advocate Deputies dealing with sexual offence cases) within a reasonable period of time:*

*(i) All Advocate Deputies should, within twelve months of taking up their commission, be provided with sufficient training and guidance to gain expertise to prosecute sexual offence cases, including: trauma-informed victim engagement, enhanced trauma informed practice, Sexual Offences Prosecutor (or equivalent) training, annual refresher training, section 275 practical training, advocacy for sexual offence cases, UNCRC training, reciprocal training with Police Scotland and third sector organisations, publication of an advance programme of Advocate Depute training, online guidance resources for Advocate Deputies, an Advocate Depute Manual and resources for Ad Hoc Advocate Deputies dealing with sexual offence cases [see Recommendations 87, 88, 91, 94, 96, 97, 99 and 106, 114, 115, 116, 117];*

*(ii) Only suitably experienced Advocate Deputies should make marking decisions in sexual offence cases, with allocation to be decided by the Crown Counsel Sexual Offences Lead [see Recommendation 148] in consultation with the Principal Crown Counsel;*

*(iii) Daily 'hubs' should be set up for marking sexual offence cases (in Crown Office, with a remote option) to provide and promote a shared working environment, in which Advocate Deputies are allocated only to marking on that day and can seek advice and support from the Crown Counsel Sexual Offences Lead [see Recommendation 148] and/or Specialist Sexual Offences Counsel [see Recommendation 149]. The Crown Counsel Sexual Offences Lead, or one of the Specialist Sexual Offences Counsel should be allocated to the marking hub, even if in combination with other office*

*duties. Those Advocate Deputes allocated on the rota for hub marking should also be available for Solemn Legal Managers to contact as required to discuss cases informally prior to reporting to Crown Counsel [Terms of Reference 4.2 and 4.3].*

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## **Chapter 17: Case Ownership in COPFS**

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**Recommendation 151:** *COPFS should issue an instruction that cases should be allocated to Case Preparers as soon as possible after the accused has first appeared on Petition and not later than two months after Committal for Further Examination in all bail cases and within seven days of Full Committal in all cases where the accused is remanded in custody [Terms of Reference 4.3 and 4.4].*

**Recommendation 152:** *COPFS should issue an instruction that all solemn sexual offence cases should be allocated to a Case Preparer as early as possible after Committal for Further Examination and the case should remain with that Case Preparer throughout the life of the case, including post-Indictment work, through to the conclusion of the Trial and where applicable, sentencing [Terms of Reference 4.1 and 4.4].*

**Recommendation 153:** *COPFS should introduce:*

*(i) a weighting system to assess the amount of post-Indictment work required on each solemn sexual offences case, which should be assessed by the Solemn Legal Manager managing the Case Preparer to whom the case is allocated; to be done within a reasonable time of the case being indicted and no longer than 14 days without good reason; and*

*(ii) an effective digital system for capturing and monitoring data about the volume of post-Indictment work for all solemn level sexual offence cases, which takes account of both caseloads and the*

*volume/weighting of post-Indictment work on sexual offence cases. The data should be collated in a way that allows it to be used at team level and extracted at organisational level. The data should be used to inform the allocation of work to Case Preparers and to consider resourcing requirements within sexual offence teams [see Recommendations 76 and 77] [Terms of Reference 4.3 and 4.4].*

**Recommendation 154:** *COPFS should allocate administrative teams/staff to provide administrative support to Case Preparers for post-Indictment work [Terms of Reference 4.3 and 4.4].*

**Recommendation 155:** *COPFS should issue an instruction that the digital Pathway App for every solemn sexual offence case should include alternative contact arrangements for situations in which Case Preparers and Solemn Legal Managers are on leave, or otherwise unavailable due to flexible, or agile working patterns, which should include arrangements for situations in which the Case Preparer and the Solemn Legal Manager for a case are both unavailable [Terms of Reference 4.3 and 4.4].*

**Recommendation 156:** *COPFS should issue an instruction that in all solemn level sexual offence cases, at least one pre-Trial meeting should be held between the prosecutor allocated the case for Trial (and any Commission(s)), the Case Preparer, the COPFS point of contact / allocated VIA Officer [see Recommendation 26] and the Solemn Legal Manager [Terms of Reference 4.1 and 4.4].*

**Recommendation 157:** *There shall be a presumption that in all High Court sexual offence cases, which include Commission(s) for at least one victim, or witness, an Advocate Depute should be allocated the case, to prepare for and conduct all Commission(s) and the Trial, as far as possible.*

*If the Trial Diet is adjourned, the same Advocate Depute should be allocated the case for any future Trial Diets, as far as possible [Terms of Reference 4.1 and 4.4].*



**Recommendation 158:** *The Preliminary Hearing Advocate Depute should complete a detailed Preliminary Hearing Handover Note in all High Court sexual offence cases. They should be allocated time in the rota to do so.*

*The Crown Counsel Sexual Offences Lead [see Recommendation 148] and the Director of Advocate Depute Training should develop a Preliminary Hearing Handover Note template for use in all sexual offence cases.*

*All Advocate Deputes should be trained in the appropriate standard of completion for Preliminary Hearing Handover Notes, with oversight from the Crown Counsel Sexual Offences Lead and the Director of Advocate Depute Training.*

*The Preliminary Hearing Handover Note should be made accessible as part of the electronic case papers for Advocate Deputes [see Recommendation 167] [Terms of Reference 4.4].*

**Recommendation 159:** *The Crown Counsel Sexual Offences Lead [see Recommendation 148], in consultation with the Principal Crown Counsel should:*

- (i) agree categories of High Court sexual offence cases which should be allocated to an Advocate Depute at the point the Legal Strategy is prepared and be retained until the case reaches a conclusion, so far as possible;*
- (ii) identify individual sexual offence cases which require early allocation;*
- (iii) apply a presumption that those cases in (i) and (ii) will be allocated to an Advocate Depute at the time the Legal Strategy is prepared and be retained until the case reaches a conclusion, as far as possible;*
- (iv) ensure that allocated Advocate Deputes have time provided on the rota to prepare the case at each relevant stage, including the*

*Preliminary Hearing(s), Commission(s) and Trial [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 160:** *COPFS should roll out the ‘Hamilton Sheriff and Jury Victim Strategy – Sexual Abuse Cases’ for all Sheriff and Jury sexual offence cases across the Local Court function.*

*All Sheriff and Jury level sexual offence cases should be allocated to a Depute at the time Indictment is served, who should retain ownership of the case until it reaches a conclusion, including conducting the First Diet, any Commission(s) for victims or witnesses and Trial.*

*The strategy should be reviewed if and when Sheriff and Jury level sexual offences are dealt with in a specialist Sexual Offences Court [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 161:**

*(i) COPFS should issue an instruction that all summary sexual offence cases should be marked as Advance Notice Trials, as a minimum;*

*(ii) The Deputy Crown Agent for Sexual Offences [see Recommendation 137] should identify categories of summary sexual offence cases which should be allocated to a Depute as an Advance Preparation Trial;*

*(iii) COPFS should issue an instruction that Advance Notice Trials / Advance Preparation Trials in summary sexual offence cases are allocated to a Depute as soon as possible after a Trial Diet is fixed, and in any event, in advance of the first Pre-Intermediate Diet Meeting (PIDM) and be retained until the case reaches conclusion, as far as possible;*

*(iv) Principal Deputes in summary teams should ensure that Deputes with allocated Advance Notice Trials in sexual offence*

*cases are given time in the rota for a meeting with the victim in advance of Trial, as far as possible [see Recommendation 35]; and*

*(v) Principal Deputes in summary teams should ensure that Deputes with allocated Advance Preparation Trials in sexual offence cases have time provided on the rota to prepare the case at each relevant stage, including a meeting with the victim in advance of Trial, as far as possible [Terms of Reference 4.1, 4.3 and 4.4].*

**Recommendation 162:** *COPFS should (i) scope and establish the average number of Advance Notice Trials and Advance Preparation Trials in summary sexual offence cases and the average preparation time required per case and (ii) factor this data into resourcing and staffing requirements within Summary Local Court teams [Terms of Reference 4.1 and 4.3].*

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## **Chapter 18: Quality of COPFS Precognition Reports**

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**Recommendation 163:** *COPFS should review all guidance on Precognition Reports for solemn sexual offence cases, withdraw all out of date guidance and consolidate all relevant current guidance into one accessible resource (or if multiple concurrent resources continue to exist, they must be cross checked, made consistent and cross-referenced, as required).*

*As part of this process, all caveats on this guidance stating that staff should satisfy themselves as to whether guidance is ‘relevant’ i.e. valid, should be removed [Terms of Reference 4.3 and 4.4].*

**Recommendation 164:** *COPFS should revise Operational Instruction 9 of 2022 on Minimum Standards for COPFS Precognition Reports (the Minimum Standards):*

*(i) to extend its requirements to Sheriff and Jury sexual offence cases; and*

*(ii) to make clear that where the marking Advocate Depute assesses that a Precognition Report does not meet the Minimum Standards, the Advocate Depute should always inform the local office of why it has failed to do so; and that if there is sufficient time prior to the relevant timebars, the instruction should be to correct and re-report. However, if the timebars do not allow time to correct and re-report, the Advocate Depute should still provide feedback to the countersigning Principal Depute and relevant Assistant Procurator Fiscal that the case has not met the Minimum Standards and the way in which it has failed to do so. The issues which have been identified must be discussed by the Principal Depute with the Case Preparer who prepared the Precognition Report, so that they can learn from the feedback [Terms of Reference 4.3 and 4.4].*

**Recommendation 165:** *Data should be collected by all local offices about the number of cases which are identified as failing to meet the Minimum Standards (whether returned or not) and provided to the Deputy Crown Agent for Sexual Offences [see Recommendation 137]. Any organisational training need should be identified and addressed in Case Preparer training [see Recommendations 100 and 164] and training for Solemn Legal Managers [Terms of Reference 4.3 and 4.4].*

**Recommendation 166:** *The Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable COPFS leader until their appointment) should direct the compilation of an online resource of exemplar Precognition Reports which meet the Minimum Standards for Precognition Reports. An identified member of staff should have responsibility for creating, maintaining and updating the resource.*

*Solemn Legal Managers and Advocate Deputes should provide suitable Precognition Reports for consideration to the identified staff member.*

*COPFS should make all Case Preparers aware of the resource as part of their training and guidance [see Recommendation 100] [Terms of Reference 4.3 and 4.4].*

**Recommendation 167:** *COPFS should ensure that a process is put in place to ensure that at all stages of the court process after reporting to Crown Counsel, Advocate Deputes' case papers in sexual offence cases (whether by Electronic Reporting to Crown Counsel, or otherwise) are kept fully up to date, including all section 67 notices and related materials, final versions of Joint Minutes of Agreement of Evidence, Victim Impact Statements and Preliminary Hearing Handover Notes [see Recommendation 158] [Terms of Reference 4.3 and 4.4].*

**Recommendation 168:** *COPFS should instruct that post-Trial feedback meetings are mandatory for all High Court and Sheriff and Jury sexual offence cases that proceed to Trial.*

*These meetings should be attended (virtually or in person) by the Trial prosecutor, the Case Preparer, the Principal Depute (Solemn Legal Manager), the allocated COPFS point of contact/VIA Officer and/or the court-facing VIA Officer. At the discretion of the Trial prosecutor, invites can be extended to the Indicter and the Reporting Officer from Police Scotland.*

*These meetings should be arranged by administrative members of staff with regard to the diaries of the attendees. Where possible they should take place either while the jury is deliberating, or shortly after the conclusion of the Trial [Terms of Reference 4.3, 4.4 and 4.6].*

**Recommendation 169:** *The Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable leader until their appointment) should consult with relevant COPFS staff and leaders on replacement of the title of Case Preparer with a new title that better describes the role [Terms of Reference 4.3].*

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## Chapter 19: Recording and Accessing Victim and Witness Information

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**Recommendation 170:** COPFS should develop or commission a bespoke app consolidating all information currently stored in (i) the COPFS VIA Minute Sheet, (ii) the COPFS Victim Strategy VSCV / Contact Form and (iii) the COPFS Witness Contact Record. The app should be the single, accessible and reliable source of victim and witness information for COPFS. The app should be easily accessed and updated by users. All staff who use the app for any purpose (whether to update the information, or to consult the information) should be provided with appropriate training.

The information collected and stored on the app should include, amongst other things:

- (i) The victim's up to date communication preferences and requirements;
- (ii) The up to date name and contact details of COPFS and Police Scotland personnel allocated to the case;
- (iii) Separate tabbed pages, or hyperlinked sections for each witness with VIA engagement;
- (iv) Chronological dated entries of contact, listed in reverse order, with the most recent appearing first;
- (v) Clear identifying details for the staff member (name and user number) making each record; and
- (vi) A record of any non-VIA witnesses [**Terms of Reference 4.1, 4.3 and 4.4**].

**Recommendation 171:** Until the bespoke app for victim and witness information has been developed and introduced [see Recommendation 170], COPFS should introduce an interim



*measure to ensure that the data from the COPFS Witness Contact Record is also saved to:*

- (i) the Case Management in Court App (CMIC), so that the information is available to prosecutors in court; and*
- (ii) FOS and SOS-R Case Management Systems [**Terms of Reference 4.1 and 4.4**].*

**Recommendation 172:** *Until the bespoke app for victim and witness information has been developed and introduced [see Recommendation 170], COPFS should introduce an interim measure to ensure that the information on the following documents is consolidated and included in the Pathway App for every solemn sexual offences case:*

- (i) COPFS VIA Minute Sheet;*
  - (ii) COPFS Victim Strategy VSCV / Contact Form; and*
  - (iii) COPFS Witness Contact Record [**Terms of Reference 4.1, 4.3 and 4.4**].*
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## **Chapter 20: Ongoing Communication between COPFS and Police Scotland**

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**Recommendation 173:** *COPFS and Police Scotland should establish a Protocol for the ‘roll up’ of multiple pending cases against the same accused, at least one of which involves sexual offences.*

*The Protocol should specify:*

- (i) that the case marker should decide and confirm the lead Reporting Officer who will have responsibility for the roll up case. This should normally be the Reporting Officer for the most serious report. Where the reports are of a similar level of offending, there should be a discussion between COPFS and Police Scotland to identify the most appropriate Reporting Officer;*

*(ii) the process for communicating ‘roll ups’ of two or more cases to Police Scotland and the identified Reporting Officer; and*

*(iii) Police Scotland must advise COPFS if a Reporting Officer no longer has responsibility for a case and provide details of the new Reporting Officer. On receipt of the updated information, COPFS should update all relevant Case Management Systems [Terms of Reference 4.4 and 4.6].*

**Recommendation 174:** *[Removed by Review]*<sup>42</sup>

**Recommendation 175:** *[Removed by Review]*<sup>43</sup>

**Recommendation 176:** *COPFS should issue an instruction that staff sending communications to Police Scotland in relation to sexual offence cases should include their full name and contact details, including their direct telephone number and email address [Terms of Reference 4.4 and 4.6].*

**Recommendation 177:** *COPFS should request that officers from Police Scotland sending communications to COPFS in sexual offence cases include their full name and contact details, including their direct telephone number and email [Terms of Reference 4.4 and 4.6].*

**Recommendation 178:** *COPFS should consult with Police Scotland about the roll out of police liaison officers / problem-solving units across all sheriffdoms in Scotland, for all COPFS staff dealing with sexual offence cases, regardless of forum [Terms of Reference 4.4 and 4.6].*

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<sup>42</sup> The following Recommendations were removed by the Review during final revisal of the Report, due to duplication, amalgamation, or because they were otherwise considered unnecessary: 48, 83, 125, 126, 141, 174 and 175.

<sup>43</sup> See fn., above.

## Chapter 21: COPFS Record Keeping in Sexual Offence Cases

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**Recommendation 179:** *COPFS should issue an instruction that all section 76 reports (offering to plead guilty before service of the Indictment) in High Court sexual offence cases should be submitted to Crown Counsel in the Pathway App for the case.*

*COPFS should regularly monitor compliance with the process at the appropriate level, under the strategic oversight of the Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable leader until their appointment) and the Crown Counsel Sexual Offences Lead [see Recommendation 148], respectively [Terms of Reference 4.4].*

**Recommendation 180:** *COPFS should introduce a process to ensure that all final agreed written narratives for section 76 pleas in solemn sexual offence cases are requested by administrative staff from Advocate Deputes, or Sheriff and Jury prosecutors. Once obtained, they should be uploaded by administrative staff into the case directory.*

*COPFS should provide guidance / training to COPFS staff and Advocate Deputes about the process.*

*COPFS should regularly monitor compliance with the process at the appropriate level at High Court and Sheriff and Jury level, under the strategic oversight of the Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable leader until their appointment) and the Crown Counsel Sexual Offences Lead [see Recommendation 148], respectively [Terms of Reference 4.4].*

**Recommendation 181:** *The Crown Counsel Sexual Offences Lead [see Recommendation 148] and the Director of Advocate Depute Training and COPFS should ensure that Advocate Deputes and prosecutors are reminded and trained to follow the instruction to capture all plea negotiations in solemn sexual offence cases and*

*any agreements about pleas in the Pathway App for the case, in either section 5, or section 9 if Crown Counsel's Instructions to indict have already been issued.*

*COPFS should regularly monitor compliance with the process at the appropriate level, under the strategic oversight of the Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable leader until their appointment) and the Crown Counsel Sexual Offences Lead [see Recommendation 148], respectively [Terms of Reference 4.3 and 4.4].*

**Recommendation 182:** *The Crown Counsel Sexual Offences Lead [see Recommendation 148] and the Director of Advocate Depute Training should provide guidance and training to Advocate Deputes on the way in which to approach and record decision making in sexual offence cases. This should include the requirement to accurately record reasons for marking decisions in all cases using all requirements specified in sections 9.1 (for High Court cases) and 10.1 (for Sheriff and Jury cases) of the Pathway App (even if to state the requirement is not applicable).*

*The guidance / training should also reinforce the importance of ensuring that all Crown Counsels' Instructions are captured in the appropriate section of the Pathway and set out an unambiguous process to be followed, whether that be that the Advocate Depute adds their instructions directly into the Pathway, or sends them to the relevant COPFS administrative staff member for uploading.*

*The Crown Counsel Sexual Offences Lead [see Recommendation 148] should regularly monitor compliance with the process [Terms of Reference 4.4].*

**Recommendation 183:** *COPFS should revise the No Action and No Further Action Marking Codes and associated Case Marking Instructions, Operational Reminders and other guidance, as follows:*

- (i) The Marking Code entitled ‘Crown Counsel’s Instructions’ (CCIN) should be withdrawn from use as a Marking Code for No Further Action decisions;*
- (ii) Should ‘no realistic prospect of conviction’ exist as a basis for a decision to take No Action or No Further Action in a sexual offence case [see Recommendation 123], clear instructions should be provided regarding the Marking Code to be used to record the reason for the decision;*
- (iii) Instructions and guidance should expressly state whether a case that includes pre-Petition investigation but does not result in proceedings, should be marked using a No Action or a No Further Action Marking Code; and*
- (iv) The Marking Code ‘Attitude of the Victim’ should be considered for revisal by COPFS, taking account of the views of victims through the Lived Experience Board [see Recommendation 61] and the third sector; and guidance should be updated to state that this Marking Code should be used where this is the sole, or primary reason for taking No Action or No Further Action in a case [Terms of Reference 4.1 and 4.4].*

**Recommendation 184:** *Following the revisal of No Action and No Further Action Marking Codes, and associated Case Marking Instructions, Operational Reminders and other guidance [see Recommendation 183], COPFS should consolidate all updated resources and make them accessible on Connect, remove all out of date resources and raise awareness for all relevant staff and Advocate Deputes [Terms of Reference 4.1 and 4.4].*

**Recommendation 185:** *COPFS should regularly obtain and monitor statistical data about the Marking Codes for No Action and No Further Action decisions in solemn level sexual offence cases.*

*COPFS, under the strategic lead of the Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable*

leader until their appointment), and the Crown Counsel Sexual Offences Lead [see Recommendation 148] should analyse the data to identify any trends and to inform review of the Marking Codes and associated training and guidance [**Terms of Reference 4.1 and 4.4**].

**Recommendation 186:** COPFS should issue an instruction that staff and Advocate Deputes should add their full name and user number to any updates they make to shared documents in sexual offence cases, such as the Pathway App, COPFS Victim Strategy, COPFS VIA Minute Sheet (until replaced [see Recommendation 170]) and COPFS Legal Strategy [**Terms of Reference 4.4**].

**Recommendation 187:** COPFS should update Section 1 of the Pathway App (the Case Information Sheet) for solemn sexual offence cases to include a field for recording the name of the Section Manager / dedicated Fiscal Officer (if applicable) with responsibility for the case.

COPFS should issue a reminder to all staff dealing with solemn sexual offence cases that the Case Information Sheet should be fully populated and updated with any changes in personnel [**Terms of Reference 4.4**].

**Recommendation 188:** COPFS should provide guidance and training for Case Preparers dealing with sexual offence cases on the process to follow if they consider that it is appropriate to deviate from the Legal Strategy prepared by their Legal Manager. This process should always include a discussion with their Legal Manager which should be summarised and recorded in Section 7.1 of the Pathway App for the case, along with the outcome [**Terms of Reference 4.3 and 4.4**].

**Recommendation 189:** COPFS' guidance and training for Legal Managers on completion of the Legal Strategy [see Recommendation 108] should include an instruction that it must be



*updated with all strategic decisions throughout the life of the case. All updates should include the name of the person making the update and a record of what has been discussed and agreed [Terms of Reference 4.4].*

**Recommendation 190:** *COPFS should develop and issue an instruction on a set of standardised naming conventions for all case related documents in sexual offence cases at all levels, to ensure a consistent organisational approach. The instruction and related guidance should include documents created or stored in common folders and documents created or uploaded to COPFS Case Management Systems. It should require that documents are clearly labelled as draft or final documents (where applicable) and that the date the document is created or uploaded is specified in the name. The instruction and guidance should be made accessible on Connect [Terms of Reference 4.3].*

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## Part IV: Court Context and Constructively Working with Partners

### Chapter 22: Collaborative Court Programming

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**Recommendation 191:** *COPFS should collaborate with SCTS and seek support from the judiciary to consider an amendment of the ‘Joint Protocol on Court management and preparation of cases for Sheriff Court business between SCTS and COPFS’ to reflect:*

*(i) as a matter of best practice, summary sexual offence Trials should not be transferred to a different prosecutor on the day of the Trial without further consideration of whether a pre-Trial meeting has taken place with the victim [see Recommendation 35] and other factors such as the impact on the victim, the impact on the accused, the availability of a suitably trained prosecutor and the amount of preparation in the case; and*

*(ii) If a transfer on the day is being considered, COPFS should retain discretion to indicate to the Sheriff that a particular case is not*

*suitable for such a transfer because of something particular to the victim, something particular to the case, or the availability of a suitably trained prosecutor in the other court (if that is the case); or at least to request sufficient time during the court day for the new prosecutor to both properly prepare and to meet the victim in advance of the Trial [Terms of Reference 4.1, 4.3, 4.4, 4.7 & 4.9].*

**Recommendation 192:** COPFS should collaborate with SCTS to collect and analyse monthly data on:

- (i) The number of priority Trials scheduled in each summary Trial court (expressed as a number and as a percentage of each court's loading);*
- (ii) The number of sexual offence cases listed as priority Trials in each summary Trial court;*
- (iii) The number of sexual offence priority Trials transferred between courts and/or prosecutors on the day of Trial; and*
- (iv) The number of sexual offence priority Trials adjourned due to lack of court time on the day of Trial [Terms of Reference 4.4 and 4.9].*

**Recommendation 193:** COPFS should collaborate with SCTS to discuss an amendment to the 'Joint Protocol on Court management and preparation of cases for Sheriff Court business between SCTS and COPFS' to extend the principle of Trial prioritisation to Sheriff and Jury sexual offence cases [Terms of Reference 4.1 and 4.9].

**Recommendation 194:** COPFS should collaborate with SCTS, Victim Support Scotland, Children First / Bairns' Hoose and other remote CCTV link providers to (i) assess the number of applications granted in Sheriff and Jury cases for the special measure of live television link [see Recommendations 44 and 45] and the capacity for video link facilities within SCTS, or other approved remote

*premises and (ii) increase capacity, as necessary [Terms of Reference 4.1 and 4.9].*

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## **Chapter 23: Working Constructively with Third Sector Partners**

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**Recommendation 195:** *COPFS should publish the 'Memorandum of Understanding between COPFS and Rape Crisis Scotland' (dated 10 December 2017, with revised Feedback Forms) establishing the feedback mechanism for victims of sexual crime who are supported by Rape Crisis Scotland in cases which are reported to COPFS on:*

*(i) on the sexual offences landing page of the COPFS website [recommendation 63]; and*

*(ii) internally on COPFS Connect [Terms of Reference 4.1, 4.4 and 4.10].*

**Recommendation 196:** *COPFS should collaborate and actively explore with other third sector organisations which support victims of sexual crime (particularly those in under-represented groups, including men, ethnic minorities and the LGBTQI+ community):*

*(i) ways to improve methods of gathering victim data and feedback on the investigation and prosecution of sexual offences; and*

*(ii) the possibility of entering into and publishing Memoranda of Understanding similar to that between COPFS and Rape Crisis Scotland for victim feedback [see Recommendation 195] [Terms of Reference 4.1, 4.4 and 4.10].*

**Recommendation 197:** *COPFS should arrange a meeting to invite views from leaders and policy makers in the third sector and Police Scotland about the ways in which their organisations might contribute to the development of improved information sources and means of communication with victims of sexual crime, with participants to include:*

- (i) a relevant and diverse group of policy / executive staff from third sector organisations which support victims of sexual crime;*
- (ii) the Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable COPFS leader until their appointment;*
- (iii) the Crown Counsel Sexual Offences Lead [see Recommendation 148];*
- (iv) the COPFS Policy Lead for Sexual Crime;*
- (v) a representative from the COPFS VIA Modernisation Programme Board;*
- (vi) a representative from the COPFS Strategic Communications & Engagement team; and*
- (vii) a relevant representative of Police Scotland.*

*Thereafter a regular series of communications should be continued to maintain and develop this collaboration at a policy level [Terms of Reference 4.1, 4.4 and 4.10].*

**Recommendation 198:** *COPFS should arrange a meeting to invite views from operational staff in the third sector and Police Scotland about the ways in which their organisations might contribute to the development of improved information sources and means of communication with victims of sexual crime, with participants to include:*

- (i) a relevant and diverse group of operational staff from third sector organisations which support victims of sexual crime;*
- (ii) the Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable COPFS leader until their appointment;*
- (iii) the Crown Counsel Sexual Offences Lead [see Recommendation 148];*

- (iv) the COPFS Policy Lead for Sexual Crime;*
- (v) a representative from the COPFS VIA Modernisation Programme Board;*
- (vi) a representative from the COPFS Strategic Communications & Engagement team; and*
- (vii) a relevant representative of Police Scotland.*

*Thereafter a regular series of communications should be continued to maintain and develop this collaboration at an operational level [Terms of Reference 4.1, 4.4 and 4.10].*

**Recommendation 199:** *COPFS should arrange a meeting with third sector representatives and Police Scotland about:*

- (i) development of collaborative training and learning opportunities;*
- (ii) formal incorporation of COPFS and Police Scotland input into Rape Crisis Scotland Advocacy Worker training;*
- (iii) possible extension of the COPFS Sexual Offences Certification for Deputies and Case Preparers [see Recommendations 101 and 102] to include time with a support or advocacy service providing support to victims of sexual offending; and*
- (iv) the possibility of inviting Advocacy Workers to spend time within COPFS in a reciprocal arrangement.*

*Participants should include:*

- (i) the COPFS staff member from Scottish Prosecution College with responsibility for sexual offences training;*
- (ii) the Director of Advocate Deputy Training;*
- (iii) the Deputy Crown Agent for Sexual Offences [see Recommendation 137] (or other suitable COPFS leader until their appointment);*

(iv) the Crown Counsel Sexual Offences Lead [see Recommendation 148];

(v) the COPFS Policy & Engagement Lead for Sexual Crime;

(vi) representatives from Rape Crisis Scotland and other relevant third sector organisations dealing with victims of sexual crime; and

(vii) a representative from Police Scotland [**Terms of Reference 4.1 and 4.3**].

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## Chapter 24: Improving Statistical Data about Sexual Offences

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**Recommendation 200:** COPFS should design and develop new Case Management Systems and processes which facilitate statistical analysis and are capable of automated data extraction for all sexual offence cases.

Any design brief should recognise the current issues with data collection and analysis, identify the data required, identify how that data is to be gathered and input and provide a system that is built in a way to allow automated extraction of data, including the following:

(i) identification of all solemn and summary sexual offence cases; and

(ii) identification of victims.

The design and development should form part of the COPFS Digital Strategy for 2023-2027 [**Terms of Reference 4.4 and 4.10**].

**Recommendation 201:** COPFS should actively engage with Police Scotland, SCTS, the Scottish Government and relevant third sector partners to improve: (i) data collection and sharing between criminal justice agencies about the criminal justice response to sexual offences in Scotland; and (ii) the data which is made publicly available [**Terms of Reference 4.4, 4.6 and 4.10**].

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## Part V: Implementation

### Chapter 25: Implementation of the Recommendations of the Sexual Offences Review

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**Recommendation 202:** *COPFS should establish a clear governance and oversight structure for consideration and implementation of accepted recommendations of the Sexual Offences Review. In particular:*

- (i) The remit of the COPFS Audit and Risk Committee should be expanded to include corporate oversight of the implementation by COPFS of all accepted Recommendations of the Sexual Offences Review;*
- (ii) A Sexual Offences Review Strategic Oversight Group should be established, chaired by the Deputy Crown Agent for Sexual Offences [see Recommendation 137] and should also include the Crown Counsel Sexual Offences Lead [see Recommendation 148], the COPFS Head of Policy & Engagement, the Director of Advocate Depute Training, the Director of the Scottish Prosecution College and other relevant senior leaders, staff and office holders. This group should have responsibility for providing strategic direction and oversight of implementation of Recommendations and should be supported by a Sexual Offences Review Implementation Working Group;*
- (iii) A Sexual Offences Review Implementation Working Group should be established to take forward workstream development and delivery of tasks set by the Sexual Offences Review Strategic Oversight Group and should include relevant senior leaders, COPFS staff and office holders; and*
- (iv) The Deputy Crown Agent for Sexual Offences should provide reports from the Sexual Offences Review Strategic Oversight*

*Group to the COPFS Audit and Risk Committee, as required;  
and*

- (v) *The Deputy Crown Agent for Sexual Offences should provide updates from the Sexual Offences Review Strategic Oversight Group to the Law Officers and to the Crown Agent [Terms of Reference 4.4 and 4.10].*

**Recommendation 203:** *The Sexual Offences Review Report and its Recommendations and Observations, as well as tracking of implementation of accepted Recommendations [see Recommendation 202], should be retained for permanent value and for operational purposes for an appropriate period of time, subject to any relevant GDPR considerations.*

**Recommendation 204:** *The Deputy Crown Agent for Sexual Offences [see Recommendation 137], and/or another member of the Sexual Offences Review Strategic Oversight Group [see Recommendation 202] should prepare bi-annual Sexual Offences Review Implementation Progress Reports for publication on the COPFS public website (with an accessible link from the sexual offences landing page [see Recommendation 63]), until implementation of the accepted Recommendations has been completed.*

*Progress should also be appropriately reflected in the Minutes of the COPFS Audit and Risk Committee, which are published on the COPFS public website [Terms of Reference 4.4 and 4.10].*

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