

Sexualabuse - epetition reply

21 June 2007

We received a petition asking:

"We the undersigned petition the Prime Minister to Deal with the issue of false allegations of sexual abuse in the following manner."

Details of Petition:

"1. Substitute financial compensation for therapy for genuinely sexually abused negating primary motive of making false allegations. 2. Remove cases from conviction target rates. 3. Deter adult false accusers ensure they serve the same time as their victims did or would have done. 4. False accusers to compensate their victim(s; if funds are available in other forms pay towards the public purse cost of prosecution and if applicable, HM Prison Service. 5. Protect anonymity of accused unless convicted. If convicted and still protesting innocence Press must print this. 6. If a particular date of abuse is specified and the defendant provides an alibi for that date, the CPS or Police should not "move the goal posts" to ensure a conviction. 7. If suspect requests lie detector test he should be given one; if negative should be used at trial. Complainant should also take the test if the defendant's proves to be negative. The same applies the other way around."

Read the Government's response

1: Substitute financial compensation for therapy for genuinely sexually abused negating primary motive for making false allegations.

Under the law, if a victim has been injured by a violent crime, he or she may be eligible for compensation under the Criminal Injuries Compensation Scheme. Victims who are sexually abused are therefore eligible for compensation and can use the award in a way that will benefit them, whether it is used for therapy or another means to help towards recovery.

The award is not placing a monetary value on sexual abuse, the pain and suffering caused to victims is immeasurable in terms of money. The award is recognition of the public's sense of sympathy with blameless victims and is funded by the tax payer. The government also fund Victim Support Groups, who deliver emotional and practical support to victims of crime.

Substituting financial compensation for therapy for genuinely sexually abused as a method for negating primary motive for making false allegations, would not be feasible. This would involve changing the rules of the scheme to discriminate against victims of sexual abuse, so that all victims of violent crime are eligible for compensation apart from victims of sexual abuse. It would also mean that victims of abuse are subjected to therapy when they might not wish to undergo such treatment and might not benefit from it.

Under the current system where an application for compensation has been made as a result of sexual abuse, the fact that an allegation has been made, or even an offender has been convicted, does not result inevitably in compensation being awarded. On the other hand, where the judicial process resulted in a

conviction, it is unreasonable to expect the Criminal Injuries Compensation Authority to disregard the outcome. As with any claim for compensation, the Authority will weigh up all the available evidence in the case before determining whether an award should be made. Therefore, every attempt is made to prevent paying out compensation to those who have made false allegations.

2: Remove cases from conviction target rates

We do not believe there is a case for excluding rape from the offences brought to justice (OBTJ) target. As rapes make up a very small percentage of overall convictions (of the 1,184,424 convictions in England and Wales in 2005, only 796 were convictions for rape) and require considerable effort to investigate, we do not think the OBTJ target creates an incentive to prosecute where it is inappropriate to do so.

3: Deter adult false accusers ensure they serve the same time as their victims did or would have done.

Within the broad statutory limits set by Parliament, sentences in individual cases are a matter for the courts alone taking into account the unique circumstances of the individual offence and the offender, including all mitigating and aggravating factors. It would therefore be neither practical nor desirable to sentence false accusers in sexual abuse cases to the same penalty as the accused party would have received, had they been found guilty and subsequently sentenced.

It is a serious matter for anyone to make a false allegation that a criminal offence has been committed, and there are a range of offences to deal with those who might seek to pursue such allegations, including the offences of perverting the course of justice, wasting police time and perjury. The latter carries a maximum penalty of seven years' imprisonment, and the courts have consistently held that a custodial sentence is appropriate for a deliberate perjury in the face of the court. The decision to investigate a possible offence against the administration of justice is a matter for the police.

4: False accusers to compensate their victims if funds are available in other forms pay towards the public purse cost of prosecution and if applicable, HM Prison Service.

There are a number of ways in which a false accuser could be made to pay compensation for their false accusation. Firstly, the innocent victim could sue the false accuser for damages (compensation) in the civil courts. Secondly, the Crown Prosecution Service could prosecute the false accuser for 'seeking to pervert the course of justice' and/or 'perjury' or some other apt offence, and, were the false accuser to be found guilty, the sentence could include an order to make restitution, and/or forfeit their ill-gotten gains, and/or compensate the victim or other financial loser etc; or finally the Criminal Injuries Compensation Authority could take action (for instance sue in the civil courts) to seek to recover from the false accuser any money it had paid in compensation to them.

5. Protect anonymity of accused unless convicted. If convicted and still protesting innocence Press must print this.

The Government attaches great importance to maintaining the principle of open justice. Defendants in sex offence cases are treated in the same way as defendants accused of all other offences and the Government has no plans to re-introduce anonymity for such defendants.

It is argued that even when acquitted of a sex offence the defendant's reputation is tarnished. However the Government takes the view that there are many other offences where a defendant who is acquitted may nevertheless suffer damage to his reputation.

Anonymity for defendants in sexual offence cases was repealed under the Criminal Justice Act 1988. It is important to note that the restrictions had caused practical difficulties: for example, if a man escaped custody before conviction, the police could not warn the public he was a suspected rapist unless the

judge exercised his power to lift the reporting restrictions.

Complainants retain their anonymity because many victims of these crimes would simply not come forward if they thought their identity might be revealed. However, even in these cases, the court has the power to lift the prohibition on publicity if it is necessary to encourage witnesses to come forward and the defence is likely to be prejudiced if it stays in place, or it would unreasonably restrict reporting and it is in the public interest to remove or relax the prohibition. The law also allows the reporting of criminal proceedings other than for the relevant offences. So, for example, the complainant's protection from identification would not extend to any proceedings for perjury or wasting police time following a false or malicious allegation.

6. If a particular date of abuse is specified and the defendant provides an alibi for that date, the CPS or police should not 'move the goal posts' to ensure a conviction.

The Police have a duty of doing thorough investigations and this includes looking at all forms of evidence to prove or disapprove the case.

7. If a suspect requests a lie detector test he should be given one; if negative should be used at trial. Complainant should also take the test if the defendant's proves to be negative. The same applies the other way around.

The Government has no plans to promote the use of lie detector tests as evidence in criminal trials. The admissibility of evidence in criminal proceedings is a matter for the courts. They have held that, as a matter of principle, evidence produced by mechanical, chemical or hypnotic truth test to show the veracity, or otherwise, of a witness is inadmissible in courts in England and Wales. The main reason is that there are concerns about the accuracy of such tests. Another concern is that introducing such evidence would impinge on the jury's function of assessing the witness's credibility.