

Clerk  
Health and Sport Committee

13 July 2020

Dear Clerk

Thank you for your email of 23 June requesting further information about existing self-referral services in Scotland, following the Stage 1 oral evidence session earlier that day.

You asked for clarification on who is responsible for ensuring that a person attending a self-referral service for a Forensic Medical Examination (FME) following a rape or sexual assault, understands the difference between police referral and self-referral so that they can make an informed choice.

In NHS Greater Glasgow and Clyde, a forensically trained nurse within the Archway service will explain the whole process in detail including what will happen in the examination and what evidence will be taken. As I noted in my letter to you of 18 June and in my oral evidence on 23 June, the nurse will make it clear that the biological samples obtained in a self-referral case are no different to that obtained in a police referral case. Decision making as to which samples to take are based on the account given by the person and in accordance with Faculty of Forensic and Legal Medicine (FFLM) guidance about the capture of forensic evidence following a rape or sexual assault. The nurse will also explain that other evidence which may be gathered as part of a police investigation (such as CCTV footage, crime scene evidence or the person's mobile phone) will not be obtained. They will also reiterate that no forensic testing is undertaken until the person chooses to engage with the police.

In NHS Tayside, these conversations initially take place with a Rape Crisis support worker who is the first point of contact for someone who wants to access the self-referral service offered by the health board. The person is given further information (as described above) by the sexual offence examiner or forensically trained nurse when they attend for an examination.

The work under the remit of the CMO Taskforce self-referral sub group will ensure that there is a consistent, national approach for accessing self-referral services, as well as to the provision of relevant information, in accordance with the agreed national self-referral protocol.

I would also like to take this opportunity to clarify a point made by the Interim Chief Medical Officer, Dr Gregor Smith, in response to a question from Mr Whittle regarding the examination of children suspected of causing serious harm. Dr Smith noted that this work is being progressed by a sub group of the CMO Taskforce.

The recommendation in the 2017 HMICS report states that '*Police Scotland should work with NHS Scotland to ensure suspected perpetrators of sexual abuse who are under 16 years old are not forensically examined within police custody facilities.*' This recommendation is out with the remit of the CMO Taskforce and is being led by the National Police Care Network (NPoCN).

The remit of the NPoCN includes facilitating and supporting the delivery of person centred healthcare and high quality forensic medical services for people in police custody, recognising that each health board in Scotland will have different service models in place to meet the needs of their population and geography.

In response to the above HMICS recommendation, the NPoCN established a multi-agency Short Life-Working Group to review the process for the examination of children under 16 who are suspected of causing serious harm, to ensure that there is consistency in approach across Scotland. A set of principles and an accompanying pathway have been drafted to inform further discussion with key agencies. The children and young people expert group of the CMO Taskforce retain a close interest in this work.

Thank you for inviting me in your email of 23 June, to also provide the Committee with any other information that may be helpful to them at this juncture.

I note that the Faculty of Advocates submitted further written evidence to the Committee to highlight the code of practice published by the Forensic Science Regulator (FSR). To clarify, the FSR is responsible for matters relating to forensic sampling for criminal investigations in England and Wales and their remit does not extend to Scotland.

However, in February 2020, the Home Office invited the CMO to nominate a Scottish representative to join a new Medical Forensics Specialist Group (MFSG), set up under the remit of the FSR. The lead forensic scientist for sexual offences at the Scottish Police Authority was nominated by the CMO and was accepted as a member of this specialist group.

The MFSG was established to develop the code of practice, which covers the appropriate storage and retention of samples and information relating to forensic medical examinations undertaken in Sexual Assault Referral Centres (SARCs) in England and Wales. This was in recognition of the need to bring greater consistency to the quality of service provided by the SARCs (which largely operate under a commissioning model).

The SPA representative on the MFSG also co-chairs a group under the remit of the CMO Taskforce which is responsible for developing a national protocol for Scotland to ensure a consistent process for the retention and storage of forensic evidence in self-referral cases.

The FSR published their code of practice in May 2020. The scope of this document applies to cases for submission to criminal courts in England and Wales and states that Scotland and Northern Ireland may also institute parallel arrangements for their jurisdictions.

The SPA representative on the MFSG, together with our multi-agency partners, will ensure that the national protocol being developed for Scotland takes full cognisance of the FSR code of practice as well as the requirements of the Scottish Criminal Justice system - to ensure that the chain of evidence is maintained in self-referral cases. It is however important to clarify that all forensic medical examinations in Scotland already comply with the aforementioned FFLM

guidance. Furthermore, national sampling kits<sup>1</sup> were rolled out in Scotland in 2017 to ensure consistent practice across the country. This is not yet in place in England and Wales.

The approach to the delivery of Scottish Sexual Assault Response Coordination (SSARC) services by health boards in Scotland, together with a single national police force and a single body providing forensic analysis (the Scottish Police Authority), also ensures that standards, protocols and practice, can be applied consistently across the country and enables greater control over the quality of services provided. Indeed, the FSR code of practice does not contain the level of detail already provided in a range of published national documents including the Healthcare Improvement Scotland Standards (December 2017); the decontamination protocol (October 2019) and the SSARC specification document (December 2019). Compliance with all of these is closely monitored by the Scottish Government.

I would also like to take this opportunity to acknowledge the recommendation from the Crown Office Procurator Fiscal Service (COPFS) in their supplementary written evidence to the Committee, that the Lord Advocate, the head of the system of prosecution of crime in Scotland, should approve the self-referral protocol referred to above. The Lord Advocate approved the Taskforce decontamination protocol and we would very much welcome adopting this approach again. A representative from the COPFS plays a key role on the Taskforce self-referral sub group and can ensure that this is facilitated.

Lastly, I note that the NSPCC written evidence states that in Scotland, there has been ‘a failure to develop any kind of Sexual Assault Referral Centre (SARC) estate, unlike in other parts of the UK.’ As I explained in my oral evidence on 17 March 2020 and in my subsequent letter to you of 3 June 2020, Taskforce funding has been invested to create new (or to enhance existing) SSARC services in each of the fourteen Territorial health boards in Scotland.

I hope this information is helpful but if you require anything further, please do not hesitate to get in touch.

Yours Sincerely



**Tansy Main**  
**Unit Head – Rape and Sexual Assault Taskforce and FMS Bill**

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<sup>1</sup> These are modular kits containing the swabs to be used in a forensic medical examination. The examiner will sample using the appropriate kit depending on the nature of the assault (e.g. vaginal, anal, penile).