

Guide Five – Collecting and sharing evidence

When you report a crime to the police they investigate by looking at any evidence that relates to the allegation. This can include:

- Your witness statement
- Physical evidence, like the clothes you were wearing,
- Forensic medical evidence, like swabs from your body
- Digital evidence, like your phone, access to your emails and social media accounts
- CCTV footage
- Written notes of therapy or counselling sessions you may have had
- Statements from witnesses or experts, like your friends or your therapist

Police will collect a lot of different things while they are investigating. Some of this will help prove the case – you will hear this being called evidence - and some will not – you might hear this being called unused material. To make it simple, these guides will use the term ‘evidence’ to cover both types. If you want to know more about the evidence that could be collected, take a look at Guide Three (if the sexual assault was committed recently) or Guide Four (if the sexual assault was committed a while ago).

The police investigate to see if there is enough evidence that the assault took place. If they think there is enough evidence they will give the case to the Crown Prosecution Service (CPS) who will decide whether or not to prosecute. **Any evidence that the police collect to help prove the case must be provided to the defence**, this is to make sure that the trial is as fair as possible and everyone has the same information. The defence should provide any evidence that they will use in court to the prosecutor for the same reason.

Sometimes the police will find something in their investigation which might help the defence instead of the prosecution. They still have to provide this to the defence even if they don't want to use it in the prosecution. This is called disclosure. **You can state that you do not want to provide this information to the police, or the defence, if you do not want to.** If you choose not to provide this information it could mean that the case may not be able to continue but this will be explained to you. You should be given the opportunity to explain why you do not want this information provided to defence.

Collecting evidence

The police will only ask you to provide evidence that forms a ‘reasonable line of enquiry’ to help investigate the case. This means they will only ask for evidence which might help them understand what happened. What is a reasonable line of enquiry will depend on the actual facts of your case. **Any evidence which is collected can be used in court.**

With physical or medical forensic evidence this is quite straightforward – they will ask for things that could have been touched during or around the assault, or evidence from where your body was touched.

When asking for statements from witnesses or experts this should also be quite clear – those who give statements should have direct information about the crime. With therapy notes, they should not be asked for unless the assault has been mentioned, and your therapist will be able to advise the police on this. If you want to know about the relationship between therapy and the case then take a look at Guide Ten.

Things can be more complicated with digital evidence. In the case of your phone calls, text messages, emails and social media it can be more difficult to know what directly relates to the case. This means that the police will often have to look at a lot of information to work out whether any of it is relevant. For example, if the police have reason to believe that you and the person who assaulted you know each other, they might need to read messages between you to see if you spoke about assault, or they might need to look at the messages you sent to your friends about it afterwards. The police might also want to look at the digital evidence from the person who assaulted you. The police can use their powers to collect this evidence from the person who assaulted you and do not need to ask their permission.

Sharing evidence

The police should explain to you why they need the evidence they are collecting and what might need to be provided to the defence if the case goes to court. **You have the right to decide what is to provide to the police.** Once you've given evidence to the police you can ask them not to provide it to prosecutors or the defence. Once the evidence has gone to prosecutors you can ask them not to provide it to the defence. If the prosecutors agree this means that they also won't be able to use it in the case. The prosecutors can refuse this request and still provide the evidence to the defence, or they can accept this request and it might mean that the case has to stop.

It can feel like an invasion of privacy to let the police look at this information, especially your digital messages, but it can be very important in building a case. As with all evidence, anything the police do find which could be used to prove the case will need to be provided to the defence. This will only happen if the case gets to court. **If the case does not get prosecuted the information will not be provided.** You will be asked for your permission before anything is shared and you can always say no. It can be difficult to make a case if you choose not to share this.

At every stage of the process where your evidence may be disclosed/provided you should be asked for your consent again. **You can refuse your consent at any point.** If your case goes to court, the prosecutor should remind you about the information that has been provided to defence so you are prepared for any questions you may be asked in court.

The police should explain to you the effects that refusing your consent may have on your case, so you can make an informed decision. This will be different in every case. **If you do not share information with the defence then the prosecution will also be unable to use this information to make their case.**

As well as the physical evidence, the police will keep a digital record of all of the evidence they collect during the case, whether or not the case goes to court. The police will keep this record just in case they need it in the future, but it is kept completely secure so only they can see it. The CPS will also keep a digital record of the evidence they receive and the case the prosecutor makes. The CPS will also keep this information securely in case they need it in the future.