

SEXUAL VIOLENCE AND ASSAULT AGAINST OLDER PEOPLE IN HOSPITALS IN ENGLAND 2021



Research Paper

Sexual Violence and Assault against Older People in Hospitals in England

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Introduction

This research was inspired by a lady called Valerie Kneale. Valerie passed away in Blackpool Hospital in November 2018, initially thought to be due to a stroke. However, a post-mortem examination found Valerie had in fact died from internal haemorrhaging due to severe vaginal injuries. A member of staff from Blackpool Hospital was arrested on suspicion of raping Valerie and also rape of another employee. At the time of writing, the suspect has been questioned by police in relation to sexual assaults on other patients and colleagues and has been released on police bail. Valerie's case received very little media attention and updates have mainly been reported in local media which is a stark contrast to the case of Sarah Everard (2021) – also murdered by someone in a professional position of trust (although Sarah's murderer was unknown to her) – which gained national and international media attention and led to public demonstrations. This indicates that, where the victim is an older person, less media and public attention is placed on the case meaning the scale of the problem remains largely unknown.

Background

The main processes of data collection for sexual violence are police data and the Crime Survey for England and Wales (CSEW). However, until 2017, the CSEW capped data at age 59 resulting in a large portion of the population being excluded from data. From 2017, the age limit increased to 74 and from 2021 the age cap for the self-completion module on the face to face survey has been removed.ⁱ It will take several years until enough data is collated to provide meaningful analysis of sexual violence against older people.

The Office of National Statistics (ONS) state that 'Under-reporting to the police is particularly acute for sexual assaults, with many more offences committed than are reported to and recorded by the police.'ⁱⁱ Rape Crisis England and Wales say that only 15% of those who experience sexual violence report to the police.ⁱⁱⁱ

Sexual violence against older people rarely receives media coverage or research focus. Dr Hannah Bows states in her paper *Sexual Violence Against Older People – A Review of the Empirical Literature* (Bows, 2018),^{iv} 'Aging and sexual violence are both established areas of research, but little attention has been paid to research into sexual violence against older people.' Dr Bows' analysis of rapes and sexual assault by penetration offences involving a victim aged 60+ recorded between 2009-2013 found approx. 1 in 5 occurred in a care home and most offenders were other residents or carers.^v

A research paper on the subject is *Sexually Assaulted Older Women attending a Sexual Assault Referral Centre for a Forensic Medical Examination* (Lee, JA et al 2019^{vi}), which focused on women aged 70 or over attending a Sexual Assault Referral Centre (SARC) in Manchester over a ten year period. The researchers found that ‘the average age of clients was 83 years, all were white, and 95% were female. Two populations were identified: a less frail population who had been assaulted at home by an alleged stranger with greater physical violence alleged, and a frailer population, with a greater incidence of dementia (77%), who were alleged to have been assaulted by a care-giver or fellow resident in a place of care.’ However, data from the Office of National Statistics data for the year ending March 2020 found that, of victims who experienced sexual assault by rape or penetration (including attempts) since the age of 16 years only 16% reported to the police. They are also unlikely to have sought formal support from SARCs or other services.

Whilst NHS England publishes data around written complaints, which includes a category of Values and Behaviours of staff, as well as data on Section 42 Adult Safeguarding enquiries, this data is not disaggregated any further into the nature of the complaint.

Definitions

There is no official UK definition of an ‘older person’. Social Care services have a threshold of age 65 and NHS England state that ‘Generally, someone over the age of 65 might be considered an older person.’^{vii} National charity Age UK use 60 as the age at which a person can access their services^{viii}. However, some older people’s organisations and groups, such as social groups, who use age as a membership criteria will set the threshold at anyone over 50. The term is also subjective – a 60 year old may not consider themselves as an older person compared to, say, an 85 year old. It is also more usual for people to continue to work into their 60s and beyond than it used to be so this can also affect whether someone views themselves as an ‘older person’. Due to these discrepancies, for the purposes of this research I have focused on people age 60 or over as a middle ground.

The Crown Prosecution Service^{ix} defines rape and sexual assault as:

- A rape is when a person uses their penis without consent to penetrate the vagina, mouth, or anus of another person. Legally, a person without a penis cannot commit rape, but a female may be guilty of rape if they assist a male perpetrator in an attack.
- Sexual assault is when a person is coerced or physically forced to engage against their will, or when a person, male or female, touches another person sexually without their consent. Touching can be done with any part of the body or with an object. Sexual penetration is when a person (male or female) penetrates the vagina or anus of another person with any part of their body or an object without that person’s consent.

Media reported cases

In addition to the case of Valerie Kneale, an internet search for reports over the last five years produced the following results:

- An A&E Doctor who allegedly groped a 65 year old woman – there were other similar allegations made against him going back several years and the GMC eventually took action by prohibiting him from seeing female patients alone.^x
- A nurse who was convicted of sexually assaulting a 65 year old woman in Ulster Hospital.^{xi}
- A hospital porter convicted of sexually assaulting an 84 year old woman.^{xii}

Methodology

Freedom of Information Requests were submitted in June 2021 to all NHS Hospital Trusts in England requesting the following information:

- Total reports of sexual assault related incidents perpetrated by NHS/hospital staff (including agency and support staff) where the victim was a patient aged 60 or over covering the financial years 2016-17 to 2020-21.
- The role of the suspect / perpetrator linked to the above incidents.
- The gender of suspects / perpetrators linked to the above incidents.
- The gender of victims linked to the above incidents.
- Whether the report led to a crime being reported to police.
- The outcome of crime reports (ie NFA, charge, conviction).
- Any misconduct process outcomes linked to the above incidents / crimes.

In addition, information about the research was placed in the Rape Crisis England and Wales newsletter, requesting anonymised information about numbers of people fitting the criteria who have sought support from Rape Crisis.

Findings

- The Freedom of Information request was sent to all 233 NHS Trusts in England (some NHS Trusts cover more than one hospital).
- 45 responded were a 'nil return' (ie no recorded incidents or data not available)
- 45 responded that they held data on the subject of the FOI.
- Of the NHS Trusts not represented in this data, some of them were specialist hospitals – ie children's hospital or ante-natal service only – so not relevant to this research.

Of the 45 NHS Trusts that did provide some data in their response:

- Of the data that was provided, there were 50 individual reports of sexual assault against patients over 60 where the alleged perpetrator was a member of staff and the hospital were able to answer all or most of the questions.
- 19 hospitals advised that the number of incidents on their records were less than 5, therefore under the GDPR they are not required to provide this information as low numbers may lead to identification of individuals. Assuming that these account for at least one case each, that makes a total of at least 69 reports.
- One hospital advised they had 93 safeguarding reports but could not break these down by age or type of incident so this data has been disregarded for purposes of this research.

Gender of alleged perpetrator(s)

- The alleged perpetrators in 17 incidents were male and 8 were female.
- The remaining alleged perpetrator genders were withheld under the GDPR or were unknown.

Gender of victims

- 6 of the victims were male and 19 were female (the remaining victim genders were withheld under the GDPR or were unknown).

Role of alleged perpetrator

- Health Care Assistant was given as the role of the alleged perpetrator in 11 cases.
- 'Doctor' was given as the role in 5 cases and 'Nurse' in 6 cases.
- For other cases, the role of the perpetrator was listed as unknown.

Reports to Police

- 11 of the incidents were reported to police, 9 of the cases were deemed as No Further Action by Police.
- In 41 of the cases the hospital did not know the outcome of the police investigation.

Internal Disciplinary Processes

- In 2 cases, the staff member was dismissed and in 2 other cases a disciplinary process of another sort (unspecified) was followed.

A Rape Crisis organisation from the South of England advised confidentially that they supported an older person who was a survivor of sexual assault in hospital but not only did the hospital not report the matter appropriately, it was deemed that the patient's account was unreliable as they were suffering from a Urinary Tract Infection. There were also other cases that the centre was aware of where patients said they were

assaulted or raped whilst unconscious – and one patient with a known latex allergy suffered from latex allergy symptoms in the genital region although the reason for being in hospital should not have involved a medical professional having any contact with this area of the body.

Analysis

Responses to the FOI request indicate that there is no consistency in recording of sexual assaults in hospitals. In some cases, incidents are recorded under safeguarding processes with no identification of the type of incident. In cases where the type of incident was recorded, many did not record other details such as the age of the victim or role of the alleged perpetrator. The NHS England procedure Managing Safeguarding Allegations Against Staff^{xiii} sets out that record keeping should include the nature of the allegation, policy for NHS Scotland and NHS Wales does not set out the requirements of recording however.

It is concerning that in 41 of the incidents, the NHS Trusts did not know the outcome of the police investigation – section 115 of the Crime and Disorder Act 1998 enables a permissive pathway to consider sharing information to help detect or prevent a crime.

Some hospitals recorded brief reasons for an allegation not proceeding further internally and these include 'patient has dementia', 'Patient unable to identify perpetrator' and 'patient had fluctuating behaviour'. None of these are proof that a sexual assault did not take place and appear to place the onus on the victim to prove that an assault took place. This may be impossible for a number of reasons including the patient being unwell, on medication (such as anaesthesia) or being too scared to report what has happened in case it affects their future medical care. As reasons for not proceeding were not recorded in all cases this research is not able to comment further on this point.

The findings from this research show that reports of sexual assault against older people by hospital staff are happening but that there is a lack of consistent recording about such cases and it appears from this research that the majority do not lead to a crime being raised by police or an internal disciplinary process by the NHS Trust. The research indicates that some reports do not proceed to crimes being raised or internal disciplinary action as the victim is seen as unreliable either due to mental capacity or ill health.

Recommendations

- 1 All hospitals should record allegations of sexual assault separately within safeguarding recording, ensuring details such as gender and age of victim are recorded. NHS England Managing Safeguarding Allegations Against Staff sets out the record keeping requirements, however the policy states that these records should only be retained until the patient is 79. This could result in allegations being deleted from file or this may be interpreted as recording not needed if the patient is over 79 years. NHS Scotland and NHS Wales policies do not appear to set out the recording requirements so this should be considered.
- 2 Where an allegation is made by an older person, it should not be assumed by hospital staff that the allegation is false if the patient has underlying health issues such as dementia, lacks mental capacity or if they cannot remember or prove who the perpetrator was.
- 3 If an older person makes an allegation of sexual assault in hospital, they should be signposted to specialist support by the hospital such as Rape Crisis or the nearest Sexual Assault Referral Centre. These organisations may need to ensure their services are suitable for older people and that awareness materials do not focus solely on young survivors.
- 4 NHS Trusts should consider the use of the permissive pathway to share information to prevent a crime (Section 115 of the Crime and Disorder Act 1998) in requesting the outcome of police investigations into reports of sexual assault by hospital staff, as a potential way to monitor conduct of staff accused of such crimes.
- 5 The Crown Prosecution Service should review their Policy for Prosecuting Crimes against Older People^{xiv} to ensure it is up to date and being followed by CPS staff.

References

- ⁱ [Improving Crime Statistics for England and Wales – progress update July 2021 - Office for National Statistics \(ons.gov.uk\)](#)
- ⁱⁱ [Nature of sexual assault by rape or penetration, England and Wales - Office for National Statistics \(ons.gov.uk\)](#)
- ⁱⁱⁱ [Statistics about sexual violence | Rape Crisis England & Wales](#)
- ^{iv} Bows H. Sexual Violence Against Older People: A Review of the Empirical Literature. Trauma Violence Abuse. 2018 Dec;19(5):567-583. doi: 10.1177/1524838016683455. Epub 2017 Jan 2. PMID: 29333969.
- ^v <https://academic.oup.com/bjc/article/57/1/1/2566697?login=true>
- ^{vi} Lee JA, Majeed-Ariss R, Pedersen A, Yusuf F, White C. Sexually assaulted older women attending a U.K. sexual assault referral centre for a forensic medical examination. J Forensic Leg Med. 2019 Nov;68:101859. doi: 10.1016/j.jflm.2019.101859. Epub 2019 Aug 20. PMID: 31476524.
- ^{vii} [NHS England » Improving care for older people](#)
- ^{viii} [Who we are | Age UK](#)
- ^{ix} [Sexual offences | The Crown Prosecution Service \(cps.gov.uk\)](#)
- ^x [Hospital doctor is banned from treating women | Milton Keynes Citizen](#)
- ^{xi} [Nurse sexually assaulted pensioner who couldn't move because of amputated leg \(irishtimes.com\)](#)
- ^{xii} [This is the face of PRI hospital porter who sexually assaulted frail OAP - Daily Record](#)
- ^{xiii} [Managing Safeguarding Allegations Against Staff: Policy and Procedure](#) NHS England 2014
- ^{xiv} [Layout 1 \(cps.gov.uk\)](#)

Appendix

Number of reports			
Known	GDPR		
50	19		
Role of alleged perpetrator			
HCA	Dr	Nurse	Unknown
11	5	6	28
Gender of alleged perpetrator			
M	F	Unknown	
17	8	25	
Gender of Victim			
M	F	Unknown	
6	19	25	
Reported to Police?			
Yes	No	Unknown	
11	7	32	
Outcome of Police investigation			
NFA	Unknown		
9	41		
Internal Investigation outcome			
Disciplinary	Dismissal	Not provided	
3	2	45	



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