

# BHATT MURPHY SOLICITORS

## PRESS RELEASE

20 September 2010

(FOR IMMEDIATE RELEASE)

### CPS ADMITS FAILING SEXUAL ASSAULT VICTIM

The CPS has admitted that it made the wrong decision in offering no evidence against an alleged perpetrator in a criminal prosecution for sexual assault and has agreed to pay his victim sixteen thousand pounds (£16,000) in recognition of its failure to protect her human rights. The CPS has also issued the victim with a detailed apology and agreed to undertake a comprehensive review of how it prosecutes sexual offences in the light of her treatment. The victim, the alleged perpetrator and the potential witnesses at trial cannot be identified due to a court order<sup>1</sup>.

**The victim** said as follows:

*“No amount of money can ever compensate me for the failure to bring my assailant to justice. The way I was treated at trial felt like I was being assaulted all over again and the way I was blamed after the trial was even more devastating. I am relieved that that the DPP has acknowledged these failings and I hope it will mean that other victims of sexual violence will not be failed as I was.”*

The victim’s solicitor, **Tony Murphy** of **Bhatt Murphy**, said as follows:

*“Policies designed to improve the prosecution of sexual assault cases have been in place for years. The criminal justice system does not need new policies; it needs transformational change to put those policies into practice. Without this victims will continue to be failed and perpetrators will continue to go free.”*

#### Note to Editor

- The text of the apology extended to the victim by the CPS on 12 July 2010 is set out at the end of this release.
- The victim reported the sexual assault on 7 March 2008. Her alleged attacker was due to face a criminal trial in London in 4 March 2009. On the first day of trial, the CPS barrister mishandled an application for the victim to be screened whilst giving her evidence and failed to warn her not to mention in front of the jury that her alleged attacker was already in prison in relation to another matter. As a result the victim had to give evidence at the last minute facing her attacker and the jury was discharged when she inadvertently mentioned that he was in prison.

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<sup>1</sup> The identity of the victim is also protected from publication by s 1 Sexual Offences (Amendment Act) 1992

- It was open to the CPS to apply for a fresh trial; however it instead took the extraordinary decision, without informing the victim, to offer no evidence against the alleged perpetrator.
- When the victim raised her concerns with the CPS, it initially blamed her for the failure of the prosecution; however it has since accepted in its apology that the victim: “*was not to blame in any way for the collapse of the prosecution*”.
- The victim issued a claim for judicial review against the Director of Public Prosecutions (‘DPP’), seeking a declaration that the CPS had breached her rights under the Human Rights Act and damages. The DPP conceded the claim and admitted that the CPS had breached its positive duty under Article 3 of the European Convention on Human Rights by failing to effectively prosecute the alleged assailant.
- At mediation on 25 June 2010 the DPP agreed to pay the victim £16,000.00 in damages and to undertake a series of safeguarding measures outlined in the apology.
- This agreement was approved by the Administrative Court on 27 July 2010.
- Any requests for interviews should be emailed to [t.murphy@bhattmurphy.co.uk](mailto:t.murphy@bhattmurphy.co.uk); [c.kinna@bhattmurphy.co.uk](mailto:c.kinna@bhattmurphy.co.uk)
- A recent review by Baroness Stern into how rape complaints are handled by public authorities in England and Wales echoes many of the concerns raised by this case. [http://www.equalities.gov.uk/PDF/Stern\\_Review\\_acc\\_FINAL.pdf](http://www.equalities.gov.uk/PDF/Stern_Review_acc_FINAL.pdf)

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12<sup>th</sup> July 2010



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Your ref: TPM/AGS 001720/0002

Dear

As you know I have read the papers in your case and had the benefit of hearing from you directly.

I apologised at the mediation hearing on 25<sup>th</sup> June 2010 for the way in which you have been treated by both the Crown Prosecution Service (CPS) and the Criminal Justice System. I thought it be right to follow that through with a written apology for the failings of the CPS. I am extremely disappointed with the way in which your case was dealt with and am very sorry for the distress these failings have caused you. I hope our responses to your proposed list of safeguarding measures have met your understandable concerns that the errors made in this case are not repeated or at least not likely to be repeated.

As discussed at the hearing, the CPS has clear policies for how we deal with cases involving sexual offences. The difficulty in your case is not with the policies but the lack of application as well as a wrong decision to offer no evidence.

As you know we have for some time agreed that the decision to offer no evidence and not to seek a retrial was wrong and in breach of our duties under the common law and Article 3. As far as I am concerned the events which occurred at the end of your examination in chief should not have affected your credibility nor have been used in the letter to you as reason for not seeking a retrial. I also accept that our failures to support you, including by consulting and informing you of that decision were unacceptable and in breach of our published guidance. In addition, I accept that the manner in which the application for screens was dealt with at court could and should have been dealt with more sensitively, proactively and competently.

At the hearing you raised a number of issues about the poor CPS communication with you. I accept that this too was not acceptable and I apologise. I am grateful for the opportunity to have heard from you directly about your experience and thank you for the frankness. I accept unreservedly that you were not to blame in any way for the collapse of the prosecution of MC and I apologise that you were made to feel that way by the CPS. The CPS accepts that you are an entirely reliable, honest and plausible person. As I mentioned, we are always seeking to improve our service to victims and witnesses particularly in cases of sexual assault and the learning arising out of your case will be fed back through our existing mechanisms to our prosecutors and caseworkers.

As I told you we have specialist prosecutors across London who deal with rape and sexual assault offences. They cannot be fully fledged specialists until they have undertaken training which involves visits to a Haven Clinic for study and observation. Our Rape Charging Centre ensures a thorough and consistent approach to offences of a sexual nature. Our prosecutors in the charging centre will advise the police on further lines of inquiry or actions to be taken to strengthen the case. As we said, this is advice not direction. The CPS acknowledges that there is no evidence that any advice was issued to the police by the CPS after charge in this case. Across London we now have recorded schedules of cases involving allegations of rape and serious sexual offending. This allows for better management control and monitoring. In addition, I receive a quarterly report on CPS activity across the Area from our Rape and Sexual Offences Co-ordinator. We have regular meetings with the MPS Sapphire Team at all levels. We have a list of advocates authorised to undertake prosecutions of rape and sexual offences which we are currently reviewing to ensure that we have the right advocates in that list.

With your agreement, I will be using your case to take this learning and improvement further. I will be referring the case to the Joint Advocate Selection Committee to establish whether the barrister instructed by the CPS in your case should remain on our authorised list of advocates. In addition, we will be doing the same with the CPS prosecutor and her manager. I will also be writing to the head of the MPS Sapphire Team to ensure that we together learn the lessons from this case, to improve the way we deal with cases and to ensure that this does not happen again.

Thank you for your bravery in coming forward as a witness and your frankness in explaining the impact the handling of your case has had on you. Please accept my sincere apologies for the conduct of the CPS and assurance that we will be learning lessons to improve our service to victims and witnesses.

Yours sincerely



**Alison Saunders**  
**Chief Crown Prosecutor**  
**CPS London**  
**(on behalf of the Director for Public Prosecutions)**