



Report on Recommended Changes to Khayelitsha Court Supporter Office

Background

Established in 1976, Rape Crisis is the most experienced organisation in South Africa working in the area of adult rape and sexual violence. We have a vision of a South Africa in which women are safe in their communities and where the criminal justice system supports and empowers survivors of rape and other sexual offences and acts as a deterrent to perpetrators of crime. Our mission is to promote safety in communities, to reduce the trauma experienced by rape survivors, to encourage the reporting of rape and to work actively to address flaws in legislation. One of the ways in which we do this, is through our Road to Justice Programme where we ensure that rape survivors are supported within the Criminal Justice System (CJS), experience reduced secondary trauma, remain in the CJS and offer effective testimony in the rape trial so that conviction rates for rape increase. We offer consultation and support in five Cape Town courts in service of this.

As part of this programme, Rape Crisis has been offering support to survivors in Khayelitsha Regional Court since 2005. Due to limited office space at the court, as well as issues of confidentiality preventing the sharing of office space, the Rape Crisis court supporter was moved to a container on the edge of the court's premises. This was meant to be an interim measure, but the situation has not changed.

Problem Analysis

The court supporter currently occupies one half of a container placed at the far edge of the court's premises. The other half is occupied by a form of legal support to perpetrators. The container space is unsuitable as an office for the court supporter.

Firstly, the location of the container is far from the court building and on the other side of the security gates, which makes it unsafe and inaccessible. The fact that the container is on the other side of the security gates means that it is remote and, should a survivor or the support be in any kind of trouble, no one would know. One of our staff members have even had the experience of meeting the court supporter in the container and then not being able to get back to the court building because the security gates were locked. In wind and rain, it is extremely unpleasant to walk to the container and this creates a barrier to access. There is also no signage to indicate what services are offered there.

Secondly, the container has very little natural ventilation and insulation and is in fact quite unsuitable to be used as a full time office. In the winter, the space is extremely cold and in summer it is unbearably hot. Bearing in mind that the survivors must testify in court after meeting with the court supporter, the physical condition of the particular container is possibly detrimental to the success of the court case.

Thirdly, the current situation means that when survivors have to enter the courtroom, either coming from the court supporter container or the waiting room, they have to walk past the corridors where the perpetrators and their supporters wait. This causes secondary trauma and often affects whether the survivor can tell her version of events as the state's witness. This has been confirmed by both prosecutors and intermediaries at this particular court.

Although this issue has been raised at both the Gender Justice Forum hosted by the Department of Justice as well as at the Victim Empowerment Forum hosted by the Department of Social Development on numerous occasions, the situation has not been resolved.

As a result of the above, survivors are not able to access the support that they need in the setting that it should be provided in. Due to the unsuitability of the court supporter's current office space, she sometimes consults with the survivors in the waiting room upstairs, but this room offers no privacy and is therefore also unsuitable for consultations. In addition to this, although one of the courtrooms hears mostly sexual offences cases, it is not established as a sexual offences court and therefore cannot offer the specialised services, personnel and infrastructure that such a specialised court would be able to offer.

The Rape Survivors' Justice Campaign highlighted this problem during gatherings in front of the court building in both 2016 and 2017. At the latter, RSJC handed over a memorandum to the Deputy Minister of Justice and Constitutional Development, Minister John Jeffery, to demand that a sexual offences court be established at the Khayelitsha Regional Court to serve the community of Khayelitsha. An important aspect to this is the upgrading of the space in which survivors receive court support and the waiting room for complainants.

The Deputy Minister of Justice since visited the Khayelitsha Regional Court, together with the Regional Head of the Department of Justice, Mister Hishaam Mohamed, as well as a delegation from the Department of Public Works to discuss possible solutions to the problem. Tiffany Melless from Michelle Sandilands Architects, *pro bono* architects to the Rape Crisis Cape Town Trust, was also part of the delegation in order to offer their professional services on a *pro bono* basis and assisted by proposing various solutions to the problem.

Proposed solution

In the Budget Vote Speech in Parliament on 9 May 2018, the Department of Justice and Constitutional Development stated that it currently has severe resource constraints. This might make extensive capital works to address the above problems unattainable. In the light hereof, we have consulted with Michelle Sandilands Architects to propose more cost effective solutions that will provide long term solutions instead of more costly capital works.

Kindly see attached the Drawing Package Pages 1 to 5 for more detailed sketches.

Recommendation 1

It is recommended that two containers should be placed in a safe and secure space that would help to reduce the secondary trauma suffered by survivors by providing easy access to the court room, limiting the possible contact with the perpetrator. We therefore propose that the containers be placed in the court yard, as illustrated on Page 2 of the Drawing Package. As illustrated on Page 5, the proposed containers are extremely durable and should be considered as a long-term solution.

One of these containers will house the court supporter's office and consultation area and the other container will house the waiting room for complainants and witnesses. We did consider the possibility of moving the current container and retrofitting it, but we were advised that it is not fit for long-term use. In addition, the container is fragile and will in all likelihood collapse should it be moved.

The two new containers should have a hospitable and comforting interior with openable windows allowing natural light into the containers. Furthermore it should be ventilated, either naturally or mechanically and insulated against winter cold and summer heat. Power should be provided internally.

The fact that these containers are constructed off-site and then placed in the court yard, also means no disruption in court time for extensive capital works.

Recommendation 2

The current bathroom facilities are in the passage at the far end of the court room. This means that survivors who wait in the waiting room container or who consults with the court supporter, has to walk past the perpetrator to access the bathroom facilities. We therefore propose that the store room space next to the intermediary office (Page 1) be converted into a bathroom (Page 2) to provide easy access for survivors.

Recommendation 3

We propose that some minor changes be made to the current intermediary room to allow survivors to access the court room and the intermediary room without contact with the perpetrator. This is in line with the objects of the Criminal Law (Sexual Offences and Related Matters Act)¹ by protecting complainants of sexual offences and their families from secondary trauma through a sensitive criminal justice system. The proposed changes to the current intermediary room are indicated on Page 2.

Conclusion

We wish to express our appreciation towards the Department of Justice and Constitutional Development as well as the Department of Public Works for their willingness to explore appropriate solutions in order to create infrastructure that would ensure that survivors have access to much needed court support services in a safe and dignified manner.

The proposed changes will assist the Department of Justice in its quest to provide a criminal justice system that reduces the secondary trauma experienced by survivors and it is the first step in establishing a Sexual Offences Court in Khayelitsha.

We would like to avail ourselves to meet to discuss the above recommendations and the roll that Rape Crisis and Michelle Sandilands Architects can play in this process.

¹ 32 of 2007.