



BRIEFING PAPER

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Stalking: developments in the law

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Summary

The Protection from Harassment Act 1997

The *Protection from Harassment Act 1997* was originally introduced to deal with stalking but it did not specifically name the offence as that. Instead, it introduced two criminal offences of harassment:

- pursuing a course of conduct amounting to harassment
- putting a person in fear of violence

Problems with the 1997 Act

Campaigners, including the [Protection Against Stalking](#) charity, argued that the 1997 Act was not effective in dealing with stalking. The campaign led to an “Independent Parliamentary Inquiry” by the Justice Unions’ Parliamentary Group. Their report, published in February 2012, found that victims of stalking had a profound lack of confidence in the criminal justice system, and recommended that the 1997 Act be amended as part of a package of reforms.

The Coalition Government [consulted](#) in 2011-12 on whether or not there should be changes to the law, including a separate offence of stalking.

Two stalking offences introduced in England and Wales

The *Protection of Freedoms Act 2012* amended the 1997 Act and created two new offences of stalking:

- stalking (section 2A) which is pursuing a course of conduct which amounts to harassment and which also amounts to stalking
- stalking (section 4A) involving fear of violence or serious alarm or distress

The offences came into force on 25 November 2012. The maximum prison sentence for the more serious section 4A offence was doubled to ten years from April 2017.

In 2017-18, 1,616 prosecutions were started for stalking offences, up from 959 in 2016-17, an increase of almost 70 per cent.

New stalking protection orders

In December 2015, the Home Office published a [consultation](#) on whether to introduce a stalking protection order for cases of “stranger stalking”. The consultation closed on 29 February 2016. The Government published its [response to the consultation](#) in December 2016, promising that the Government would legislate to introduce stalking protection orders “as soon as Parliamentary time allows”.

In July 2017, Sarah Wollaston’s Private Members’ Bill, the [Stalking Protection Bill 2017-19](#) was published, with Government support. It received [second reading](#) on 19 January 2018, and had its [Committee stage](#) on 9 July 2018. Remaining stages are scheduled for 23 November 2018.

The Bill would allow the police to apply to a magistrates’ court for a new civil Stalking Protection Order in England and Wales. This could impose both prohibitions and requirements on the perpetrator. Breach would be a criminal offence.

Guidance

The Crown Prosecution Service (CPS) has published legal guidance on [Stalking and Harassment](#). The College of Policing website has current guidance for the police on its [Stalking and Harassment page](#) and [is working](#) with the Home Office on new Authorised Professional Practice on harassment and stalking.

In September 2014, the Crown Prosecution Service (CPS) and Association of Chief Police Officers (now the National Police Chiefs' Council) launched a [new protocol](#) on handling stalking cases.

Help for victims

Victims can call the [National Stalking and Harassment Helpline](#) (0808 802 0300).

The [Paladin \(National Stalking Advocacy Service\)](#) website includes [Advice for Victims](#) and [Guidance for Professionals](#).

Victim Support also provides [information on stalking and harassment](#), and has a telephone information line, the [Victims Information Service](#) on 0808 168 9293.

Scotland

Scotland introduced specific stalking offences two years before England and Wales, in the *Criminal Justice and Licensing (Scotland) Act 2010*. Section 39 of the 2010 Act defines conduct which amounts to stalking by means of a list of behaviours. This includes following or attempting to contact the victim; monitoring electronic communications; watching and spying. It also includes a "catch all" "acting in any other way that a reasonable person would expect would cause (the victim) to suffer fear or alarm".

The Scottish Government has information on support for stalking victims on the [Stalking: Support](#) pages of the [mygov.scot](#) website. Police Scotland has advice for victims on the [stalking](#) page of its website, including an [online Stalking Form](#).

[Victim Support Scotland](#) has a helpline on 0345 6039213

People in Scotland can also contact the [National Stalking Helpline](#) on 0808 802 0300.

A backbench SNP MSP said that she will bring forward a Member's Bill to introduce Stalking Protection Orders in Scotland.

Northern Ireland

Northern Ireland has the [Protection from Harassment \(Northern Ireland\) Order 1997](#) which is similar to Protection from Harassment Act 1997. However, it does not include specific stalking offences. Before the Northern Ireland Assembly was dissolved in January 2017, its Justice Committee conducted a [Review of the Need for Stalking Legislation in Northern Ireland](#).

The Police Service Northern Ireland provides information on [Harassment and Stalking](#), including a leaflet, [Stalking and harassment: advice and information](#).

[Victim Support Northern Ireland](#) provides practical help and information for victims on their [Help for victims: Stalking](#) page. There have been recent calls for a change in the law.

Related Library briefing paper

The Library has published a [paper](#) on the *Protection from Harassment Act 1997*.

The Protection from Harassment Act 1997

1.1 Why was the 1997 Act introduced?

The Bill which became the Protection from Harassment Act 1997 was introduced following public concern and consultation on the problem of stalking.¹ When the then Government introduced the Bill, it described the intention as being “to put a stop to the fear and misery caused by stalkers, nuisance neighbours and racial abuse”.² However, crucially, the legislation did not use the term “stalking” but the broader term “harassment”.

The Protection from Harassment Act 1997 was originally supposed to deal with stalking, but used the wider term, harassment.

At the time, the Law Society expressed concern about the potentially wide application of the new legislation.³ Victim Support, on the other hand, strongly welcomed the proposal for it to be widely drafted in order to catch a wider range of activities than those of stalkers alone.⁴ The Act came into force on 16 June 1997, a few weeks after Labour won the General Election.

1.2 What offences did the 1997 Act create?

Section 1 of the 1997 Act prohibits a course of conduct amounting to harassment which, if carried out, would give rise to a criminal penalty under section 2 and might be the subject of a claim in civil proceedings under section 3.

Harassment is not fully defined, but section 7 of the Act states that “references to harassing a person include alarming the person or causing the person distress.” Whilst most stalking behaviours would fall within this, these provisions did not mention stalking by name, and did not provide examples of behaviour which would be covered.

Section 2 of the 1997 Act states that “a person who pursues a course of conduct in breach of section 1 is guilty of an offence”. The offence is subject to a maximum penalty of six months’ imprisonment, or an unlimited fine, or both, and is arrestable. It is a summary offence – i.e. triable in the magistrates’ court.

Section 4 of the Act creates a more serious criminal offence of carrying out a course of conduct which puts people in fear of violence. This is an “either way” offence – i.e. it can be tried in the magistrates’ court or on indictment in the Crown Court. Conviction on indictment for this offence may result in a maximum sentence of ten years’ imprisonment or an unlimited fine, or both. The maximum prison sentence was doubled from five years from April 2017 – see section 2.1. below for the background to this change.

A Library [paper](#) (CBP 6648) gives further information on the 1997 Act.

¹ Home Office, *Stalking - The Solutions: A Consultation Paper*, July 1996

² “New Bill to stop stalkers and intimidating neighbours”, Home Office press notice 375/96, 5 December 1996

³ Law Society, *Law Society Response to The Home Office Consultation Paper: Stalking - The Solutions*, October 1996

⁴ Victim Support, *Stalking - The Solutions: a response by Victim Support*, September 1996

2. Specific stalking offences introduced in England and Wales

2.1 The offences

Following a campaign to change the law – and a Coalition Government consultation - section 111 of the *Protection of Freedoms Act 2012* amended the 1997 Act and created two new offences of stalking:

- stalking (section 2A) which is pursuing a course of conduct which amounts to harassment and which also amounts to stalking
- stalking (section 4A) involving fear of violence or serious alarm or distress

The Coalition Government created two new specific stalking offences following a campaign.

The offences came into force on 25 November 2012.⁵ Further detail on the campaign to change the law is given in an appendix to this paper.

The maximum penalty for the section 2A offence is six months' imprisonment, an unlimited fine or both.

Until April 2017, the maximum penalty for the more serious section 4A offence was five years' imprisonment or an unlimited fine, or both. The maximum prison sentence was doubled to ten years from 3 April 2017 by the Policing and Crime Act 2017. This was through a Government amendment to the Bill,⁶ which followed a campaign by the National Stalking Advocacy Service, [Paladin](#), and a Ten Minute Rule Bill introduced in October 2016 by Alex Chalk.⁷

The maximum sentence for the more serious offence (stalking involving fear of violence) was doubled to 10 years in April 2017.

2.2 Types of stalking behaviour

Section 111 of the 2012 Act gives the following examples of the type of behaviour associated with stalking:

- following a person
- contacting, or attempting to contact, a person by any means
- publishing any statement or other material - relating or purporting to relate to a person; or purporting to originate from a person
- monitoring the use by a person of the internet, email or any other form of electronic communication
- loitering in any place (whether public or private)
- interfering with any property in the possession of a person
- watching or spying on a person

⁵ Home Office circular 018/2012, [A change to the Protection from Harassment Act 1997](#), 16 October 2012

⁶ See Ministry of Justice Press Release, [Maximum sentence for stalking to double](#), 6 January 2017

⁷ [The Stalking \(Sentencing\) Bill 2016-17](#); [HC Deb 12 October 2016 cc310-312](#),

2.3 Prosecutions

The Crown Prosecution Service provides statistics on prosecutions for stalking offences in its annual Violence against Women and Girls reports. The eleventh report, published in September 2018, shows that:

In 2017-18, 1,616 prosecutions were started for stalking offences, up from 959 in 2016-17, an increase of 68.5 per cent.

This is a significant rise and highlights the positive impact of ongoing work between the CPS and police to improve the recognition, investigation and prosecution of stalking.

Over 17,000 prosecutions were begun for breaches of restraining orders, the highest volume ever recorded.⁸

2.4 Policing stalking

Guidance for police

The College of Policing produces guidance for police forces in the form of Authorised Professional Practice (APP). The College published an APP on the two new stalking offences in 2013 in the form of a [Briefing Note for Amendments to the Protection from Harassment Act 1997](#). According to the previous Government's Ending Violence against Women and Girls [Strategy](#) (March 2016), new authorised professional practice on stalking and harassment was due to be published by the end of 2016.⁹ However, it has yet to be published.¹⁰

Criticisms

The Suzy Lamplugh Trust published a [research report](#) for the April 2016 Stalking Awareness Week which found that stalking was underreported, and that some police forces were doing better than others.¹¹ The Suzy Lamplugh Trust and other organisations in the National Stalking Consortium produced a further report for the 2018 National Stalking Awareness Week, [Out of Sight Out of Mind: Two years on](#). This concluded:

In some areas, PCCs and police forces have adopted stalking as a strategic focus. This has led to, among other initiatives, comprehensive training programmes and a small increase in specialist services, which is creating an improvement in the response to stalking victims. This focus has led to an increase in recorded cases of stalking and better support for victims. However, the postcode lottery for stalking victims persists. Our research tells us that:

- there is a need for national leadership around improving support for stalking victims;
- police-recorded stalking figures, despite the increase in public awareness, are still worryingly low; and
- in most areas, PCCs are shirking their responsibility to provide support for victims of stalking

There is an urgent need for agencies to invest time and funding into taking stalking seriously¹²

Key recommendations included:

⁸ CPS, [Violence against Women and Girls Report: 2017-18](#), Tenth Edition, November 2017, p8

⁹ Ibid, p45

¹⁰ See the College of Police's [Stalking and Harassment](#) page of its Appropriate Professional Practice website, accessed 9 July 2018

¹¹ Suzy Lamplugh Trust, [Out of sight, out of mind](#), 2016, see Key Findings, p5

¹² Suzy Lamplugh Trust/ National Stalking Consortium, [Out of sight, out of mind – two years on](#), 2018

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- An updated, comprehensive training package for police and a mandated planned training package for prosecutors in the next 12 months
- Publication of the awaited guidance from the National Police Chiefs' Council and the College of Policing
- All police forces should commit to making stalking a strategic priority

2017 joint inspection of police and the CPS

In July 2017, HM Inspectorate of Constabulary (HMIC)¹³ and HM Crown Prosecution Service Inspectorate (HMCPIS) inspected the police and Crown Prosecution Service response to stalking and harassment crimes.¹⁴ This found that:

- Stalking in particular was misunderstood by the police and the CPS and went unrecognised as a result
- The absence of a single accepted, consistent definition of stalking was a very significant contributory factor to the unacceptably low number of recorded crimes and prosecutions.
- The result for victims was that offences were not dealt with appropriately by using stalking-specific powers (for example, the power to search premises and seize evidence)
- The lack of an exhaustive definition of stalking in legislation was one of the main reasons for a lack of common understanding about which actions can be counted as stalking, which resulted in subjectivity, error and/or omission.

HMIC concluded:

As a result, we consider the harassment and stalking legislation should be reviewed to ensure it is as effective as possible in protecting victims of stalking and bringing perpetrators to justice.

Home Affairs Committee

In October 2018, the Home Affairs Committee published a report on [Domestic Abuse](#) which recommended that a national register of serial stalkers and domestic violence perpetrators should be introduced "as a matter of urgency":

29. Stalking is a serious crime which can have a devastating impact on the lives of victims. Victims of stalking often endure years of abuse before the crime is taken seriously. We were told that existing criminal justice responses were often ineffective in stopping perpetrators. We recommend that a national register of serial stalkers and domestic violence perpetrators, as recommended by Paladin, is introduced as a matter of urgency and that individuals placed on the register should, like registered sex offenders, be managed through multi-agency public protection arrangements (MAPPA). We believe that a more integrated VAWG and domestic abuse strategy would support a better statutory response to stalking, and a more joined-up approach to supporting victims and managing the behaviour of perpetrators.¹⁵

¹³ HMIC is now called Her Majesty's Inspectorate of Constabulary and Fire & Rescue services

¹⁴ HMIC/ HMCPIS, [Living in fear – the police and CPS response to harassment and stalking: A joint inspection by HMIC and HMCPIS](#), July 2017, pp44-49

¹⁵ Home Affairs Committee [Domestic Abuse](#), 22 October 2018, HC 1015 2017-19, p13

3. A new civil stalking protection order?

3.1 Government policy

In December 2015, the Home Office published a [consultation](#) on whether to introduce a stalking protection order for cases of “stranger stalking”:

(...) A new order may have benefits specifically for those who are victims of ‘stranger stalking’ who may not be protected by measures available to those victims who are stalked by an (ex) intimate partner or where another type of injunction may not provide adequate provision to deter the perpetrator effectively. What we have termed ‘stranger stalking’ could include for example a patient becoming fixated on their doctor or other health professional, a work colleague, or originate from an online interaction (a chat room for example).

(...) We are...concerned that a gap may exist in measures available to protect victims of ‘stranger stalking’ in particular and to intervene early with these perpetrators and prevent these deeply entrenched obsessions from developing.

We are clear that the introduction of any new measure would not be intended to replace robust investigation and prosecution of these cases. It would be a measure to be used at the early stages where a concerning pattern of behaviour is emerging but when a prosecution was not possible at that time or further evidence was required to progress to a charge, to ensure the safety of the victim, and allow interventions to help deter the perpetrator from carrying on their offending behaviour.¹⁶

The consultation closed on 29 February 2016.

The Conservative Government’s response document was published on 7 December 2016, and this confirmed that it would legislate to introduce civil stalking protection orders “as soon as Parliamentary time allows”:

The responses to the consultation highlight that there is a gap in the current protections available, and lend strong support to the introduction of a civil stalking protection order. The Government will therefore legislate to introduce a new stalking protection order as soon as Parliamentary time allows. The order will address the legislative gap and allow the police and the courts to intervene early. It will:

- be available on application from the police to the courts where a victim of stalking requires protection, ensuring the onus to take action is not on the victim;
- have the flexibility to impose both restrictions and positive requirements on the perpetrator, to allow the imposition of effective and appropriate interventions; and
- have a criminal penalty for breach, to ensure that there are consequences where an individual does not comply with its conditions .

The Conservative government said it would introduce new civil stalking protection orders when Parliamentary time allowed.

We are clear that the introduction of an order should not deter police and prosecutors from seeking a prosecution where it is possible to do so. The order is intended to ensure that a tool is available to protect victims before the stage is reached when a charge can be brought. It will support our commitment to continuing to lead efforts to tackle violence against women and girls at home and abroad.

The new order will be part of a broader set of measures to tackle stalking - these include ongoing work to improve the police response to stalking, raise awareness

¹⁶ Home Office, [Introducing a stalking protection order - a consultation](#), December 2015, pp7-8

amongst professionals, and increase the number of prosecutions for stalking offences.¹⁷

No legislation had been introduced at the time of the 2017 General Election. However, in February 2017, the Prime Minister, Theresa May, announced plans for a “major programme of work leading towards bringing forward a Domestic Violence and Abuse Act.”¹⁸

3.2 The Stalking Protection Bill

The Bill

On 19 July 2017, Dr Sarah Wollaston’s Private Members’ Bill, the [Stalking Protection Bill](#) was published, along with [Explanatory Notes](#) prepared by the Government.

The Bill would allow the police to apply to a magistrates’ court for a new civil Stalking Protection Order. This could impose both prohibitions and requirements on the perpetrator. Breach would be a criminal offence. The Explanatory Notes say:

The new order is designed for use particularly in cases where:

- the stalking occurs outside of a domestic abuse context, or where the perpetrator is not a current or former intimate partner of the victim (so called ‘stranger stalking’); or
- the criminal threshold has not, or has not yet, been met (such as while a criminal case is being built), or the victim does not support a prosecution.¹⁹

Clause 1 would allow a chief officer of police to apply to a magistrates’ court for the order if “it appears” to that officer that:

- the defendant has carried out acts associated with stalking;
- the defendant poses a risk associated with stalking to another person; and
- there is reasonable cause to believe the proposed order is necessary to protect another person from such a risk.

The risk could be of physical or psychological harm.

Under **clause 2**, the court may make the order if it is satisfied of the same points. The order could last either for a fixed period of at least two years, or until a further order.

Clause 4 contains the procedures for varying, renewing and discharging the order. Under **clause 7**, a defendant may appeal to the Crown Court against the order. **Clause 8** makes breach of a Stalking Protection Order would be an offence punishable by:

- up to six months imprisonment²⁰ and/or an unlimited fine in the Magistrates’ Court;
- or up to five years imprisonment and/or an unlimited fine in the Crown Court

Clauses 9- 10 would impose notification requirements, so that a person subject to a Stalking Protection Order would have to give their name and address to the police by attending the local police station. If he or she changes address, they would also have to notify the police of the new address.

Clause 12 would require the Home Secretary to issue statutory guidance.

¹⁷ Home office, [Introducing a stalking protection order - a consultation: Summary of responses](#), December 2016

¹⁸ Prime Minister’s Office/ Home Office/ Ministry of Justice Press release, [Prime Minister's plans to transform the way we tackle domestic violence and abuse](#), 17 February 2017

¹⁹ [Paragraph 2](#)

²⁰ 12 months if section 154(1) of the Criminal Justice Act 2003 comes into force

Second reading debate

Introducing the Bill at second reading, Sarah Wollaston said:

Stalking is an insidious form of harassment, characterised by fixation and obsession. The relentless nature of the unwanted contact from perpetrators, which sometimes continues for many years, can make it feel completely inescapable. It is often directed not only at the intended victim, but at all those around them—their family, friends, neighbours and colleagues. It can seriously affect both the physical and the mental health of victims, leaving them feeling isolated and fearful. It can also escalate, as we know, to murder and rape. It is much more common than many people realise. About one in five women and one in 10 men will experience some kind of stalking behaviour in their adult lifetime, according to the crime survey for England and Wales. However, it typically takes about 100 episodes of stalking for victims to come forward.²¹

The Bill was widely welcomed in the debate. Alex Chalk welcomed the Bill but hoped that it would be possible to compel perpetrators to undergo psychiatric evaluation:

An order will be able to prohibit acts associated with stalking or require an individual to

“do anything described in the order.”

(...)

That is all welcome, but if I may, I will add a couple of notes of caution. First, it would really help if, as part of the positive obligations, the court could require an individual to undergo psychiatric evaluation. One of the things that makes victims’ testimony even more disarmingly powerful is that they often show a measure of compassion towards the people who have tormented them to their wits’ end, and even sometimes close to the point of suicide. They recognise that they are often struggling with their own mental health problems. It would be helpful if the courts could have, in the toolbox that I mentioned, the power to compel individuals to undergo psychiatric evaluation.²²

Shadow Home Secretary Diane Abbot said that Labour Members gave “wholehearted support to this Bill, which will form an important part of the toolkit to deal with the menace of stalking.”²³

For the Government, Victoria Atkins (Parliamentary Under Secretary of State at the Home Office) said that “where appropriate” a court would be able to require a stalker to have a psychiatric assessment.²⁴ She continued:

Once the police have these powers, they must use them. Through the police transformation fund, we have provided £4.1 million to the police, in partnership with the Suzy Lamplugh Trust, for a multi-agency stalking interventions programme to share best practice and learning on the development of effective interventions for stalking. Last week, I had the pleasure of meeting officers from Hampshire and Gloucestershire who are doing great work on this. Again, I hope that that will address the concerns of my hon. Friend the Member for Torbay about early intervention. The proposed stalking protection orders will form part of the bigger picture of tackling stalking as a vital additional tool at the disposal of our police forces..²⁵

Committee stage

The Bill was debated in Committee on 9 July 2018. The only amendment made was to narrow the long title of the Bill, so that rather than making “provision for protecting persons from risks associated with stalking” it now reads “to make provision for orders to

²¹ [HC Deb 18 January 2018 c1229](#)

²² Ibid c1234

²³ Ibid c1243

²⁴ Ibid c1244

²⁵ Ibid

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protect persons from risks associated with stalking; and for connected purposes.” Sarah Wollaston moved that amendment to ensure that it better reflected “the content of the Bill, which is limited to stalking protection orders and related matters.”

Dr Wollaston again welcomed the cross-party support and constructive debate. She said that she was exploring the possibility of the British Transport Police and the Ministry of Defence Police to be able to apply for Stalking Protection Orders, and that she hoped to provide an update on report.²⁶ She also raised the issue of a stalking register:

Other measures, beyond the scope of the Bill, were suggested on Second Reading. One was a stalking register. I know that the Government are committed to looking at wider options to improve the response to stalking, and to linking those considerations to wider work on supporting vulnerable victims. However, it is important to note that the notification requirements that could be imposed on a perpetrator under clause 9 are similar to those that can be imposed on registered sex offenders. I look forward to hearing the Minister’s thoughts on that point.²⁷

Sarah Champion raised the issue of the College of Policing’s promised new Authorised Professional Practice on stalking and harassment:

The Government, in their violence against women and girls strategy, promised to publish new authorised professional practice on stalking and harassment by the end of 2016, but they did not fulfil that commitment. I now understand from the Suzy Lamplugh Trust that the College of Policing intends to produce guidance in a more accessible form for police officers.²⁸

She also pointed to the lack of a national mandatory stalking training programme for police officers.²⁹

Responding for the Government, Victoria Atkins reiterated that the Bill has “the Government’s wholehearted support”. She said that work was continuing on guidance, which would be delivered “shortly”, and on “refreshed training”:

I will answer a couple of sensible questions posed by the hon. Member for Rotherham about the consistency of police training and the police response to investigating stalking across the country. The Home Office continues to work with the national police lead, Deputy Chief Constable Paul Mills, and will deliver the updated police guidance shortly. That is being overseen by the Home Secretary, who chairs the national oversight group, which I also attend and which does a great deal of work. The hon. Lady also made a valid point about mandatory police training. Clause 12 provides for statutory guidance to the police on stalking and we are committed to working with the College of Policing to deliver refreshed training across public protection portfolios, because we understand that some forces do much better than others, and we need to bring them all up to the same high standard.³⁰

²⁶ [PBC \(Stalking Protection Bill\) 9 July 2018 c4](#)

²⁷ c5

²⁸ c6

²⁹ c7

³⁰ c8

4. Further sources of information

The Crown Prosecution Service (CPS) has published guidance on [Stalking and Harassment](#).

In September 2014, the Crown Prosecution Service (CPS) and Association of Chief Police Officers (now the National Police Chiefs' Council) launched a [new protocol](#) on handling stalking cases.³¹

Help and advice

- [National Stalking and Harassment Helpline](#) (0808 802 0300)
- The [Paladin National Stalking Advocacy Service](#) (020 3866 4107) was formed in 2013 by some of those who had campaigned for specific staking offences. The Paladin website includes [Advice for Victims](#) and [Advice for Professionals](#)
- [Suzy Lamplugh Trust](#) (020 7091 0014)
- Victim Support provides information on [stalking and harassment](#), and has a telephone information line, the [Victims Information Service](#) (0808 168 9293)

³¹ ACPO/CPS, [Protocol on the appropriate handling of stalking offences between the Crown Prosecution Service & ACPO](#), September 2014; ["New stalking legislation helps to bring thousands more prosecutions as CPS and ACPO launch protocol to improve service to stalking victims"](#), National Police Chiefs Council, 11 September 2014

5. Scotland

5.1 Stalking offences

As the Appendix of this Briefing Paper sets out, the offences in England and Wales were based on the specific criminal offence of stalking introduced in Scotland by the *Criminal Justice and Licensing (Scotland) Act 2010*. This in turn was based fairly closely on the offence of harassment in the *Protection from Harassment Act 1997*, although with important differences. The new offence came into force in December 2010.

Section 39 of the 2010 Act defines conduct which amounts to stalking by means of a list of behaviours. This includes following or attempting to contact the victim; monitoring electronic communications; watching and spying. It also includes a “catch all” “acting in any other way that a reasonable person would expect would cause (the victim) to suffer fear or alarm”.

The provision resulted from a successful amendment by Rhoda Grant MSP. Ms Grant opposed the Scottish Government’s own proposed amendment, which was much more general. She argued that the specific approach would be more effective than that of the 1997 Act:

Action Scotland Against Stalking has made it clear that the approach that was taken in the Protection from Harassment Act 1997 in England and Wales, which does not name the crime of stalking, has kept stalking hidden in the same way as breach of the peace has done in Scotland. (...) By calling that behaviour stalking, we recognise it and mark it as unacceptable.³²

Further background can be found in a [paper](#) published by the Scottish Parliament Information Centre (SPICe).³³

In May 2018 Mairi Gougeon, then a backbench MSP, announced that she was planning to introduce a bill which would introduce new stalking protection orders.³⁴ She was appointed to a ministerial post in June 2018. In November 2018, another MSP, Rona Mackay, was reported as saying that she would be introducing the bill which Ms Gougeon had initially proposed.³⁵

5.2 Information and support for victims

The Scottish Government has information on support for stalking victims on the [Stalking: Support](#) pages of the [mygov.scot](#) website.

Police Scotland has advice for victims on the [stalking](#) page of its website, including an [online Stalking Form](#).

Scotland introduced a specific stalking offence in December 2010, two years before England and Wales.

³² Scottish Parliament Justice Committee 2010, col 2835. Further background can be found in the [Written Submission to the Scottish Parliament’s Justice Committee by Action Scotland Against Stalking, CLJ/S2/11](#)

³³ Frazer McCallum, *Criminal Justice and Licensing (Scotland) Bill: Stage 3*, SPICe Briefing 10/35, June 2010, pp15-6

³⁴ [MSP calls for new stalking protection order](#), BBC News, 14 May 2018

³⁵ [“New law to protect stalking victims in Scotland”](#), *The National*, 13 November 2018

[Victim Support Scotland](#) has a helpline on 0345 6039213

People in Scotland can also contact the [National Stalking Helpline](#) on 0808 802 0300.

6. Northern Ireland

6.1 The law

Northern Ireland has the [Protection from Harassment \(Northern Ireland\) Order 1997](#) (SI 1997/1180/N.I. 9, as amended) which is similar to Protection from Harassment Act 1997. However, it does not include specific stalking offences.

Before the Northern Ireland Assembly was dissolved in January 2017, its Justice Committee conducted a review [Review of the Need for Stalking Legislation in Northern Ireland](#) from November to December 2016. The Northern Ireland Assembly's Research and Information Service produced a [background briefing paper](#) providing detailed comparative information about the law in England and Wales, Scotland, Northern Ireland and the Republic of Ireland.³⁶

A campaign group, Stalking Northern Ireland, gives an [overview of the law](#). It is calling for new stalking legislation in Northern Ireland.³⁷

6.2 Advice for victims

The Police Service Northern Ireland provides information on [Harassment and Stalking](#), including a leaflet, [Stalking and harassment: advice and information](#).

Victim Support Northern Ireland provides practical help and information for victims on their [Help for victims: Stalking](#) page.

Northern Ireland does not have a specific criminal offence of stalking, although the Northern Ireland Assembly's Justice Committee was reviewing this.

³⁶ Northern Ireland Assembly Research and Information Service, [Legislative Position on Stalking and Relevant Statistics in the UK and the Republic of Ireland](#), Paper 20/17. 16 January 2017

³⁷ ["Stalking law call as Northern Ireland harassment cases rise by almost 1,000%,"](#) *Belfast Telegraph*, 13 June 2017

Appendix: The campaign to change the law in England and Wales

In November 2011, [Protection Against Stalking](#) (PAS) published the results of research into victims' experiences.³⁸ The report collected the views of over 140 victims and showed considerable dissatisfaction with the way the criminal justice system dealt with victims of stalking. It found that stalking victims had little confidence in the system, with two thirds of those who contacted the police being unhappy with the way officers and the Crown Prosecution Service handled their cases.

The Independent Parliamentary Inquiry

A PAS campaign, in conjunction with the National Association of Probation Officers, included advising a backbench parliamentary inquiry into the problem of stalking led by the chair of the Justice Unions' Parliamentary Group.

The inquiry was led by the then MP Elfyn Llwyd and the panel included parliamentarians from the Commons and the Lords. The resulting report was published in February 2012.³⁹ Its recommendations included the introduction of a specific offence of stalking to replace section 4 of the *Protection from Harassment Act 1997*.

Coalition Government consultation

In November 2011, the Coalition Government launched a [consultation](#) on whether or not there should be changes to the law, including a separate offence of stalking.⁴⁰

The Prime Minister's announcement (March 2012)

On 8 March 2012, at a reception marking International Women's Day, the then Prime Minister, David Cameron, announced that a separate criminal offence of stalking would be introduced.⁴¹

Yvette Cooper, the then Shadow Home Secretary, called for the Government to make "rapid progress" by backing a Labour amendment to the *Protection of Freedoms Bill*.⁴²

³⁸ Protection Against Stalking, [Stalking and harassment: the victim's voice](#), 10 November 2011

³⁹ [Independent Parliamentary Inquiry into Stalking Law Reform Main Findings and Recommendations](#), February 2012

⁴⁰ Home Office, [Consultation on stalking](#), November 2011; The Government's [response](#) was published in July 2012 – after the *Protection of Freedoms Act 2012* had received Royal Assent – see section 3 of this Paper. The response noted that the 1997 Act had now been amended.

⁴¹ Number 10 Downing Street, [Transcript: International Women's Day 2012](#), 8 March 2012

⁴² ["Stalking to be made specific criminal offence – Cameron"](#), BBC News, 8 March 2012

Amendments to the Protection of Freedoms Bill

The shadow Leader of the House, then Baroness Royall of Blaisdon, moved amendments in committee⁴³ and on report⁴⁴ which were based very closely on the Scottish offence.

The Government amendments introduced in the Lords were designed to introduce a separate criminal offence of stalking but not quite in the way recommended by the Justice Unions' Parliamentary Group's Inquiry recommended. Instead of replacing the more serious section 4 offence with the offence of stalking, the Government proposed introducing two new offences to sit alongside the two existing harassment offences.

The changes were different from what the Independent Parliamentary Inquiry had recommended in that:

- the new offence of stalking would only be triable either way (and therefore liable to the longer sentences which the Crown Court could give) if it involved a fear of violence
- the section 4 harassment offence would still be on the statute books

When the amendments were introduced in the Lords during the third reading debate of the *Protection of Freedoms Bill*, Baroness Royall moved amendments which (as the Parliamentary Inquiry had proposed) would have made the lesser offence of harassment triable either way, and replaced the section 4 offence of harassment with a new stalking offence.⁴⁵ The then Home Office Minister, Lord Henley, acknowledged that fear of violence might not cover all the trauma suffered by victims of more serious cases of stalking, and promised to bring forward further amendments when the Bill returned to the Commons.⁴⁶

When the Bill returned to the Commons for Consideration of Lords Amendments on 19 March 2012, the Government tabled amendments to extend the scope the more serious offence in new section 4A.⁴⁷

The result would be that there would be a triable either way offence of stalking in cases where this had caused **either** fear of violence **or** serious alarm or distress which had a substantial adverse effect on a person's usual day-to-day activities.

Elfyn Lwydd, who had chaired the independent inquiry on stalking, said he was "delighted" with the outcome.⁴⁸

⁴³ [HL Deb 6 December 2011 c648](#)

⁴⁴ [HL Deb 6 February 2012 c75](#)

⁴⁵ [HL Deb 12 March 2012 c21](#)

⁴⁶ [HL Deb 12 March 2012 cc25-6](#)

⁴⁷ See [House of Commons Notices of Amendments given up to and including Thursday 15 March 2012](#)

⁴⁸ [HC Deb 19 March 2012 c554](#)

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