



Home Office

Introducing a Stalking Protection Order – a consultation

December 2015

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Ministerial Foreword by the Home Secretary

Stalking is an insidious and devastating crime which, at its most extreme, can lead to the loss of innocent lives.

We are addressing stalking as part of our wider work to tackle violence against women and girls (VAWG) and the work we are driving in this area will be captured in our refreshed VAWG strategy to be published shortly.

We have introduced new legislation to fill a gap in the law to tackle stalking and driven a programme of training for police and prosecutors to ensure that stalking is recognised and dealt with effectively. However, I want to be absolutely sure that we are doing all we can to protect victims of this frightening and often hidden act where behaviour can cause considerable fear and distress, irrespective of whether a prosecution can be commenced.

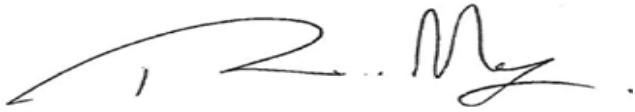
The nature of stalking can be delusional and obsessive with offenders going to extreme lengths to contact, follow and monitor their victims. I am determined that this Government will do everything possible to identify the fixated nature of stalking behaviour at the earliest opportunity, protect victims and intervene to deter perpetrators before stalking behaviour becomes entrenched.

We know that stalking can take place in the context of an ongoing pattern of domestic violence and abuse and we have introduced a range of measures to protect victims in these circumstances, including the Domestic Violence Disclosure Scheme to alert people to previous violent offending, and the Domestic Violence Protection Order which allows for protections to be put in place for victims irrespective of whether a prosecution can be commenced. Alongside our new offence of coercive or controlling behaviour, and the new stalking offences themselves, I know that these measures are helping to protect victims from this abuse.

However, in around half of cases, it seems stalking is taking place where only a very casual acquaintanceship exists between the perpetrator and their victim. While it is encouraging that prosecutions under the legislation the previous Government introduced in 2012 are increasing, I am concerned that there may still be a gap between the time when the offending behaviour begins and the time when a prosecution can be commenced where we could be doing more to deter the perpetrator from their obsession. The actions of a stalker can seem innocuous on the surface and there is a risk that the developing fixation, which may differentiate the stalker from the harasser, could be missed and therefore not addressed in the early stages when there is the best chance of heading off a prolonged campaign of stalking which may last for many years and cause significant harm to the victim.

I know that there are a wide range of strongly held views on this issue. This consultation does not prejudge the outcome or next steps. We want to hear the views of victims and those who work in this field to understand how we can offer the best possible protection against stalking and 'stranger stalking' in particular.

This Government is committed to making sure the police have the best possible tools to do their job, and that the law provides the best possible protection to victims. I want to ensure that all victims of stalking have the protection that they need to live safely and without fear. We are seeking your views on how we can achieve this. I am confident that together we can make a difference and keep more people safe from stalkers.

A handwritten signature in black ink, appearing to read 'T. May', with a long horizontal stroke extending to the left.

The Right Honourable Theresa May MP
Home Secretary

About this consultation

Why are we consulting?

This targeted consultation exercise is essential to enable the Government to fully scope and explore the potential impact of introducing new measures to tackle stalking, specifically a Stalking Protection Order.

Scope of this consultation

Topic of this consultation:	The consultation seeks views on the introduction of new measures to offer better protection to victims of 'stranger stalking' in particular.
Scope of this consultation:	This consultation is specifically focused on whether the introduction of a new civil Stalking Protection Order would offer further protection to victims of stalking generally and in particular victims of 'stranger stalking'.
Geographical scope:	England and Wales
Impact Assessment:	A consultation impact assessment will be available on request.

Basic information

To:	<p>This consultation is open to the public.</p> <p>We will be particularly pleased to hear from victims of stalking, organisations representing victims, the police, criminal justice practitioners, frontline workers including mental health workers, service providers and local authorities.</p>
Duration:	8 weeks
Enquiries and responses:	<p>New measures to tackle stalking consultation, 5th Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF</p> <p>You can also submit your response to this consultation via an online form at: http://www.homeofficesurveys.homeoffice.gov.uk/s/KC_SCMI_Stalkingconsultation/ Email: VAWGENQUIRIES@homeoffice.gsi.gov.uk</p>
Additional ways to become involved:	This will be an online consultation exercise. Please contact the Home Office (as above) if you require information in any other format such as Braille, large font or audio.
After the consultation:	A summary of responses will be published on GOV.UK .
Getting to this stage:	In 2012, the Home Office introduced two new offences of stalking into the Protection from Harassment Act 1997. Since then training has been delivered to police and prosecutors, and prosecutions under the new offences have begun to increase. However, not all cases will progress to prosecution immediately and for cases of 'stranger stalking' there are fewer interim measures available to offer protection to victims and place restrictions or positive obligations on the perpetrator. We now ask whether the introduction of a Stalking Protection Order will address this gap and provide the required protection to victims.
Previous engagement:	Key partners have been consulted informally during the development of these options.

INTRODUCTION

Stalking is an appalling crime that destroys lives. While there is no legal definition of stalking, most experts agree that it is a label for:

‘a long term pattern of unwanted persistent pursuit and intrusive behaviour directed by one person to another, that engenders fear and distress in the victim’

(Meloy and Gothard, 1995; Mullen and Pathé, 1994; Mullen et al., 2000; Zona, Sharma and Lane 1993)

Examples of stalking behaviour may include:

- Unwanted communications in the form of telephone calls, letters, e-mail, fax, SMS instant text messaging, graffiti, social networking websites;
- Loitering near the victim or where they live or work;
- Spying on the victim;
- Following the victim;
- Accosting the victim in private or public;
- Entering the victim’s home or workplace;
- Sending or leaving materials or gifts;
- Ordering or cancelling goods and services;
- Making vexatious complaints;
- Threats;
- Property damage;
- Violence;

While some behaviours that constitute harassment will be similar to those manifesting in stalking situations, a key difference between these offences is that a stalker is more likely to be obsessively fixated on one specific individual – their victim. The stalker may have delusions that they are in a relationship with the victim when no relationship actually exists for example and even if the victim moves or changes their name, the stalker will do everything possible to track them down.

The latest statistics reported in the Crime Survey for England and Wales (CSEW) suggests that 1 in 5 women and 1 in 10 men will experience stalking during their lifetime¹. Anyone can be a victim of stalking regardless of their gender, ethnicity, religion, sexuality, class, age, or disability.

From 1 April 2014, stalking became a specific legal offence for the purposes of police recorded crime data. Prior to this, stalking would have been hidden within data for other offences, largely harassment. In the year ending June 2015, the police recorded 93,423 harassment offences and 3,179 stalking offences.

Crown Prosecution Service (CPS) data for 2014-15 show that there were 1,103 prosecutions commenced under the new stalking offences (almost a 50% rise from the previous year)².

These data also suggest that around 70% of stalking cases take place within a domestic violence and abuse context, although victims surveys suggest that the split between stalking within a relationship and ‘stranger stalking’ is nearer to 50/50.³

¹ <http://www.ons.gov.uk/ons/rel/crime-stats/crime-statistics/year-ending-march-2015/rft-6.xls> (ref: S. 39)

² http://www.cps.gov.uk/publications/docs/cps_vawg_report_2015_amended_september_2015_v2.pdf,

³ <http://www.le.ac.uk/press/stalkingsurvey.htm>

Activity to tackle stalking

Tackling all forms of violence against women and girls, including stalking, is a priority for this Government. A refreshed strategy, building on the previous Call to End Violence Against Women and Girls (published in 2010) will be launched shortly. This will outline how we intend to progress work to tackle these unacceptable crimes over the course of this Parliament.

The previous Government introduced two new offences of stalking into the Protection from Harassment Act 1997 in 2012. This followed a consultation on stalking in 2011 and an Independent Parliamentary Inquiry into stalking in 2012.

Since the introduction of new stalking offences into legislation the College of Policing training package on stalking has been completed over 68,000 times by police staff. Over 1,600 prosecutors have completed the Crown Prosecution Service (CPS) training package. In addition, a joint protocol between the police and CPS to promote effective practice in investigating and charging such cases has been introduced.

The College of Policing is developing new Authorised Professional Practice on stalking and harassment. This will include revised guidance on the use of Police Information Notices (which are currently under review) as a non-statutory intervention police can use to stop low level harassment in its tracks. The new guidance will explicitly set out that use of such a notice is not appropriate for any cases where stalking behaviour has been identified.

Further work is underway to review the stalking risk assessment tools available to the police and other professionals. This includes consideration of whether there are further security measures that could be developed with Internet Service Providers to better protect victims online and how to improve the police capability to investigate reports of stalking particularly the online elements of such cases.

Each police force has now appointed a Single Point of Contact to lead on stalking and harassment issues, but more needs to be done to ensure that the fixated nature of the stalker is identified at the earliest opportunity, that a comprehensive risk assessment is carried out and that proper measures are put in place to protect the victim and deter the perpetrator before they become entrenched in a stalking campaign that could last for many years.

BACKGROUND TO THE CONSULTATION

The Government is committed to ensuring that the police and other agencies have the tools they need to tackle stalking, protect victims and bring perpetrators to justice.

In November 2012, the previous Government introduced two new offences of stalking into the Protection from Harassment Act 1997. It is encouraging that prosecutions under the new offences are increasing. However, the actions of a stalker can appear innocuous early on and it can be challenging to identify the signs of the developing fixated nature of stalking in the early stages where intervention could be more effective. We need to ensure that the patterns of obsessive behaviour which are indicative of stalking (as opposed to harassment which may, but does not necessarily, involve the same motivation) are being identified early, risk assessed and managed appropriately.

While there are examples of good practice, we also know that this is not the case consistently across all areas where victims may come into contact with the police or other professionals. Concerns raised include occasions when reported incidents are treated in isolation rather than being considered as part of a pattern of behaviour directed towards the same victim and that the developing fixated nature of the offending can be missed in the early stages. Actions taken to address the situation may therefore miss the true cause and be less effective. A new order could offer opportunities to complement police training and work underway to review risk assessments for stalking cases and embed this early identification effectively.

This consultation seeks views on whether the introduction of a new Stalking Protection Order would provide further opportunities for the police to protect victims and deter perpetrators before reaching the stage where a charge can or should be brought. 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).

Data from the CPS on prosecutions commenced indicates that around 70% of stalking cases took place in a domestic violence and abuse context⁴. A survey of just over 1000 victims by the University of Leicester in 2005 indicated that around half of the sample had a prior intimate relationship with the person who became their stalker. The Electronic Communication Harassment Observation Survey⁵ of 353 victims (in 2011) found that in 22% of the cases, the stalker was a complete stranger to the victim and in 21% merely an acquaintance. The results also showed that 18% of cases developed from casual relationships and stated that only 40% of cases involved a close relationship that had gone awry.

This suggests that the number of incidences of what could be termed 'stranger stalking' may be increasing. One reason for this could be that a growing usage of social networking and online communities may increase the opportunity for people to 'meet' and interact in some way. The

⁴ http://www.cps.gov.uk/publications/docs/cps_vawg_report_2015_amended_september_2015_v2.pdf,

⁵ http://www.beds.ac.uk/__data/assets/pdf_file/0003/83109/ECHO_Pilot_Final.pdf

internet may also facilitate the ability for an individual to discover information about a person they are interested in. With stalking this behaviour may become extreme. For example, in one case, a stalker had googled the name of his victim 40,000 times over the course of a year⁶. In that same case, the perpetrator (finally jailed in 2015) had been handed three restraining orders over more than a decade of stalking his victim but persisted with unwanted attempts to make contact.

We are therefore 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.

⁶ <http://www.independent.co.uk/news/uk/crime/stalker-who-googled-victims-name-40000-times-jailed-for-three-years-10214860.html>

Current Legal Framework

Two new offences of stalking were included in the Protection of Freedoms Act 2012 and came into force in November 2012. These two offences sit alongside existing offences of harassment in the Protection from Harassment Act 1997.

Section 2A of the 1997 Act prohibits a person from pursuing a course of conduct that amounts to stalking. Although stalking is not specifically defined in the 2A offence, it generally includes a pattern of persistent and repeated contact with, or attempts to contact, a particular victim.

Section 4A of the 1997 Act prohibits a course of conduct which amounts to stalking and causes either the victim to fear that violence will be used against them on at least two occasions or serious alarm or distress which has a substantial adverse effect on their day to day activities. It is designed to recognise the serious impact that stalking may have on victims even where an explicit fear of violence is not created by each incident of stalking.

A course of conduct must involve conduct on at least two occasions in relation to a single person. In some cases, charges have been brought in respect of one incident relating to a specific offence in an ongoing campaign against the same victim (for example for criminal damage). While this approach may mean that the perpetrator does face consequences for their actions, the disturbing fixation on the victim is not acknowledged, challenged or disrupted.

There is also a range of offences that can be used in case where stalking, harassment or abuse is taking place online, including offences under the following pieces of legislation:

- Malicious Communications Act 1988
- Computer Misuse Act 1990
- Protection from Harassment Act 1997
- The Criminal Justice and Public Order Act 1994
- Communications Act 2013
- While not in itself an offence, the actions may also amount a breach of the peace

Should a new Stalking Protection Order be introduced?

The Crime Survey for England and Wales indicates that 1 in 5 women and 1 in 10 men have experienced stalking behaviour. The latest Police Recorded Crime figures show that for the year to June 2015, they recorded 3,179 stalking offences. CPS data for 2014-15 show that 1,100 prosecutions were commenced under the stalking legislation introduced in 2012 – this is a nearly 50% increase from the previous year and is encouraging.

A new order is not a replacement for prosecutions being brought, but it is important to ensure that all victims of recorded stalking offences have the protection they need even if the victim does not want the stalker to be charged or if there are challenges in obtaining the evidence needed to commence a prosecution in the early stages of the offending behaviour.

Where stalking is taking place in a domestic abuse context, a range of interventions are available without a charge being brought including Domestic Violence Protection Orders, Non-Molestation Orders and Occupation Orders. These orders can be put in place to protect victims while evidence is gathered and a case prepared, or if the victim does not want the stalker to be charged (although this may not preclude commencement of a prosecution). These interventions may not be suitable for cases of 'stranger stalking' as they require that a relationship has existed or still exists.

We also recognise that some other existing measures could be used to assist with preventing stalking but, in practice, because stalking offending is so often driven by the obsessive nature of the behaviour, it is important that it is explicitly recognised and labelled as stalking at the earliest opportunity. If stalking is being treated as low level harassment or anti-social behaviour for example then existing measures, which may be well suited to dealing with those types of offending, may be being employed to try and address stalking. This may not always be sufficient or appropriate. Perpetrators of stalking often have specific needs and motivations that require a response, including interventions, that are specifically designed to address this type of behaviour. We are also aware of cases where stalkers have persistently breached restraining orders.

To label stalking as a different offence may also risk cases of serial perpetration being missed. If criminal justice or police records indicate that previous offending was harassment, anti-social behaviour, or even criminal damage, but these incidents are not identified as forming part of a stalking campaign, there is a possibility that the level of risk to any future victims could be underestimated and could even put lives at risk.

- **Section 3 Injunctions** are available to victims of stalking and harassment without a prosecution being brought. These do have limitations in that only the victim can apply for these injunctions and may not wish (or may fear) to do so. An order allowing the police to apply as well could be beneficial. Section 3 does not include any provision for positive requirements to be placed on the perpetrator. We are keen to explore the potential of an order which would include appropriate requirements to manage and deter the perpetrator before they become entrenched in their fixation on the victim.

- **Anti-Social Behaviour Injunctions** can be applied for by different agencies and can include positive requirements. To tackle stalking, it is the internal motivations of the perpetrator which need to be effectively addressed as well as providing preventative measures (such as restricting their access to a certain area). There is a risk that to label a perpetrator as anti-social rather than as a stalker may mean the current offending or any future offending are not tackled in the right way.
- **Restraining orders** can only be applied for on conviction or acquittal of criminal proceedings and therefore do not provide an option for protection in cases where the criminal threshold is not yet met or a prosecution cannot be brought for some other reason.
- **Non-molestation Orders and Occupation Orders** can only be applied for in circumstances where a relationship of some type has existed and therefore they do not provide protection for victims of 'stranger stalking'. In addition, the victim must consent to the application which in many cases they may not do through fear or other concerns.
- **Out of Court Disposals** are crime disposals and so require evidence that a court would find proves the offence and a perpetrator who admits the offence. This would not be an option where evidence is not available (at that point) or the offender does not admit the offence (likely in the case of stalking as many perpetrators do not accept that their actions are unacceptable).

There are arguments for and against the introduction of a new order to tackle stalking, but it is vital to obtain a wide range of expert views on whether there is a gap for victims of 'stranger stalking' in particular and, if so, how we can best address it and keep people safe. The identification and acknowledgement of stalking behaviour at an earlier stage could also facilitate an increase in prosecutions should the order be breached by providing stronger evidence to support a prosecution. What sanctions should be in place for a breach of any new order, including whether the breach itself should be a criminal offence, form part of this consultation and we welcome views on this.

Placing positive requirements on a perpetrator of stalking is another area where we would welcome views. As we noted previously, there is benefit in placing restrictions around the perpetrator's physical activity for example by limiting areas they frequent such as near to the victims home or workplace. Data from the CPS Annual VAWG Report 2014-15 indicates that re-offending rates for these perpetrators and breaches of restriction-only orders can be high. We want to explore what benefit there would be in engaging the perpetrator at an early stage and identifying interventions which may address the root causes of their behaviour – for example undertaking a mental health assessment if appropriate, engaging in an anger management programme or with other local services as deemed helpful on a case by case basis.

We have a number of orders in place to protect victims or people at risk of becoming a victim of specific offences such as forced marriage, female genital mutilation and domestic violence. We have also introduced new measures to manage sex offenders and those who pose a risk of sexual harm in the community. These provide a number of models that we may wish to consider for an order designed specifically to tackle stalking.

Feedback from the pilot of the Domestic Violence Protection Orders for example indicated that it could be helpful that police could apply for them (which in itself may provide an additional layer of protection as the victim would be less likely to be blamed by the perpetrator for an order

being put in place), with one officer noting *“I thought it was a fantastic tool that didn’t put the onus on the victim and that’s something we get an awful lot where the victim doesn’t want to make that decision”* (Police Officer – DVPO pilot evaluation).

These benefits could translate to a Stalking Protection Order as well as providing police with a tool allowing them to take action comparatively swiftly and easily. There would be cost implications to introducing a new order which would need to be assessed and would depend on what model was considered appropriate. Costs incurred may be offset by longer term savings to police and courts if a prolonged campaign can be stopped early.

The Government is seeking views on whether such an order would provide an additional option for protecting victims, provide an opportunity for early identification of stalking behaviour, and to place positive requirements on a perpetrator to help break the fixated nature of their offending.

Questions

We ask specifically for responses to the following questions:

1. Are there orders or injunctions already available that could be used to better effect to address stalking?
 - a. Do such measures provide sufficient protection to victims of stalking and in particular victims of 'stranger stalking' in advance of a prosecution, or if a prosecution is not yet possible?
 - b. Do you have experience of the use of currently available civil measures in this way?
2. What do you see as the restrictions or deficiencies in the use of the currently available measures?
3. What do you see as the additional features a new Stalking Protection Order might have in order to enhance the range of options available to protect victims?
4. What restrictions should it be possible to place on a perpetrator to help protect victims through a civil order (new or existing)?
5. What positive requirements, if any, could be placed on a perpetrator to help break the fixated nature of their offending at an early stage that could be included in a Stalking Protection Order?
6. If we were to introduce a Stalking Protection Order, what should the penalty be for breaching such an order: should it be punishable as contempt of court and/or as a criminal offence?
7. Do you think any existing civil order in another area would be a useful model for any Stalking Protection Order?
8. Should any new order specifically protect victims of harassment as well as of stalking?

In addition, we would ask for views on the following issues to help increase our understanding of the challenges involved in identifying and prosecuting cases of stalking:

9. What are the main challenges in identifying cases of stalking at an early stage (as opposed to harassment)?
10. What more could be done to support the effective gathering of evidence to bring stalking charges?

Groups affected by this consultation

During the initial development of this consultation, the Home Office has given due consideration to the impact it will have on different groups and does not consider that introducing a new Stalking Protection Order as set out in this consultation highlights any specific issues in relation to:

- Race
- Disability
- Gender
- Gender identity
- Religion, belief and non-belief
- Sexual orientation
- Age

We will take account of the evidence gathered through this consultation in developing final policy proposals.

Timescales and next steps

A summary of responses will be published on GOV.UK following the completion of the consultation period.

If, following consideration of the consultation responses, the Government's preferred way forward is to introduce a Stalking Protection Order, we will work to develop its option into formal proposals for new legislative provisions.

Summary of consultation questions:

1. Are there orders or injunctions already available that could be used to better effect to address stalking?
 - 1a. Do such measures provide sufficient protection to victims of stalking and in particular victims of 'stranger stalking' in advance of a prosecution, or if a prosecution is not yet possible?
 - 1b. Do you have experience of the use of currently available civil measures in this way?
2. What do you see as the restrictions or deficiencies in the use of the currently available measures?
3. What do you see as the additional features a new Stalking Protection Order might have in order to enhance the range of options available to protect victims?
4. What restrictions should it be possible to place on a perpetrator to help protect victims through a civil order (new or existing)?
5. What positive requirements, if any, could be placed on a perpetrator to help break the fixated nature of their offending at an early stage that could be included in a Stalking Protection Order?
6. If we were to introduce a Stalking Protection Order, what should the penalty be for breaching such an order: should it be punishable as contempt of court and/or as a criminal offence?
7. Do you think any existing civil order in another area would be a useful model for any Stalking Protection Order?
8. Should any new order specifically protect victims of harassment as well as of stalking?
9. What are the main challenges in identifying cases of stalking at an early stage (as opposed to harassment)?
10. What more could be done to support the effective gathering of evidence to bring stalking charges?