

Summary: Analysis & Evidence

Policy Option 1

Description: Introduce Stalking Protection Orders

FULL ECONOMIC ASSESSMENT

Price Base Year 2016	PV Base Year 2016	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -4.23	High: -0.77	Best Estimate: -2.51

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.41	0.07	0.97
High	0.41	0.65	5.96
Best Estimate	0.41	0.36	3.47

Description and scale of key monetised costs by 'main affected groups'

The CJS will face increased costs, across the courts, CPS, Legal Aid, and NOMS: these are estimated to be £180,000 annually.

The police will face recurring costs from court fees, officer time, and legal services (estimated at £170,000 annually), and a one-off training cost estimated to be £410,000.

Other key non-monetised costs by 'main affected groups'

Local services may incur the cost of ensuring the subjects of these orders comply with positive obligations where these are imposed by courts as part of the order.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0.00	0.02	0.20
High	0.00	0.20	1.73
Best Estimate	0.00	0.11	0.97

Description and scale of key monetised benefits by 'main affected groups'

Victims are forecast to experience a reduction in victimisation with an economic and social value estimated to be approximately £75,000.

Other key non-monetised benefits by 'main affected groups'

Because these orders should enable the police and CJS to intervene earlier, victims should benefit from being subjected to fewer and less severe harms. The police and CJS should benefit from a reduced need for more costly interventions when the course of conduct escalates to become even more serious. Victims may have enhanced welfare from the knowledge that action to prevent stalking behaviour can be, and will be taken, by the police and CJS – irrespective of outcome.

The general public, including potential victims of stalking, may benefit from improved peace of mind, due to an awareness that the police and CJS now have the ability to impose these orders.

Key assumptions/sensitivities/risks

A key sensitivity is the number of orders imposed per year.

Discount rate (%)

3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			Score for Business Impact Target (qualifying provisions only) £m:
Costs: 0	Benefits: 0	Net: 0	
			N/A

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

1. In 2012, the Government amended the Protection from Harassment Act 1997 to introduce two new stalking offences. Since then, training has been delivered to police and prosecutors, and prosecutions under the new offences have increased. However, not all cases will progress to prosecution immediately, and for cases of 'stranger stalking' (where the perpetrator is not a partner or ex-partner) there are fewer measures available to protect victims. Victims, victims group and the police have expressed concern that under current legislation the patterns of obsessive behaviour which are indicative of stalking are not necessarily possible to address at an early enough stage.
2. Where stalking takes place in a domestic abuse context, a range of interventions are available, 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 for court, or if a victim does not want the perpetrator to be charged. These interventions are not always suitable for cases of 'stranger stalking' as they require that a relationship has existed or still exists:
 - **Non-molestation Orders and Occupation Orders** can be applied for where a relationship of some type has existed to prevent the perpetrator from being violent or threatening violence against the other party. As they require a relationship to have existed they cannot be used in cases of 'stranger stalking'.
 - **Restraining orders** can be applied for on conviction or acquittal of criminal proceedings. They therefore cannot be used in cases where the criminal threshold is not met or where the victim does not want the stalker to be charged.
 - **Out of Court Disposals** require evidence that a court would find proves the offence and a perpetrator who admits the offence. They therefore cannot be used to intervene at an early stage or where the perpetrator does not admit the offence (likely in the case of stalking as perpetrators may not accept that their actions are unacceptable).
3. There is therefore concern that existing legislation does not provide sufficient protection for victims of 'stranger stalking' and to tackle perpetrators at an early stage before their behaviour becomes entrenched. Data indicate that the Crime Survey for England and Wales indicates that approximately 1 in 5 women and 1 in 10 men have experienced stalking behaviour¹. Police Recorded Crime figures show that for the year 2015/16, they recorded 4,156 stalking offences. CPS data for 2015-16 show that 1,102 prosecutions were commenced under the stalking offences introduced in 2012. It is encouraging that prosecutions are increasing, however, a case can be made that further measures are needed to ensure that all forms of stalking behaviour can be addressed and that victims can be protected at the earliest opportunity.

¹ Crime in England and Wales Annual Supplementary Tables, Year Ending March 2016, Table S39, ONS

A.2 Groups Affected

4. Victims of stranger stalking.
5. Statutory agencies:
 - The police (responsible for protecting the public, responding to victims, investigating cases, applying for protection orders, referring cases for prosecution);
 - Local authorities (where positive obligations are imposed); and
 - The Criminal Justice System (CJS): the Crown Prosecution Service (CPS), HM Courts and Tribunal Services (HMCTS), the National Offender Management Service (NOMS), and the Legal Aid Agency (LAA).
6. Third sector support organisations (charities) who offer support to those who have been affected by stalking.

A.3 Consultation

7. From 5 December 2015 – 29 February 2016 the Government ran a public consultation to explore whether the introduction of a new civil order to protect victims of stalking would be beneficial. The consultation sought views on:
 - the effectiveness of existing interventions;
 - the challenges of identifying stalking in its early stages;
 - how a stalking protection order might work in practice; and
 - what penalty should be imposed for breach of an order.
8. The consultation received 132 responses from a range of statutory and voluntary organisations, and the public. The majority of respondents (69%) did not believe that current measures provided sufficient protection to victims of stalking. Many respondents stressed that there was a gap in current measures for victims of ‘stranger stalking’. The majority of respondents (80%) answered ‘yes’ to breach of a stalking protection order being a criminal offence. A full consultation response is available on GOV.uk.

B. Rationale for Government Intervention

9. Evidence tells us that:
 - 21% of women aged 16-59 and 10% of men aged 16-59 say they have experienced stalking at some point in their life since the age of 16².
 - Stalking is one of the most common types of intimate violence, with the 2016 Crime Survey for England and Wales showing that 5% of women aged 16-59 and 3% of men aged 16-59 had experienced stalking in the last year.

² March 2016 CSEW

10. Action is required to address a possible gap in the provision of protection for victims of 'stranger stalking' in particular; specifically where there has been no previous relationship between the stalker and the victim or where criminal threshold has not been met. The absence of a previous relationship or in those instances in which the threshold for criminal proceedings has not been met, or where a victim may not wish to pursue charges, can result in existing orders such as those listed above (restraining orders, non-molestation orders and out-of-court disposals) not being applicable. Introducing a new civil protection order would require primary legislation, therefore Government would need to lead on this.

C. Objectives

- To ensure that victims of stalking are protected;
- To ensure that the police have the tools they need to effectively manage perpetrators; and
- To encourage reporting and increase confidence amongst victims of stalking to come forward.

D. Options

11. Option 0 is to make no changes (do nothing). This would not address the current gap in the provision of protection for victims of 'stranger stalking'.
12. Option 1: introduce a civil order to protect victims of stalking. This would be available to the police on application to the magistrates' court. A court would be able to impose restrictions and/or positive requirements on the perpetrator according to the specific circumstances of the case. Breach would be a criminal offence and the standard of proof required would therefore be akin to the criminal standard of proof.

E. Appraisal (Costs and Benefits)

ASSUMPTIONS & DATA USED IN CALCULATIONS

13. Police training and operational costs from the Domestic Violence Protection Order pilot³ are used here as a proxy. For DVPOs, forces have reported being charged a court fee of £205 for uncontested applications, and £720 for contested applications, with 25% of applications being contested⁴. It has been assumed that the same fees and contest rate will apply to SPOs.
14. We would expect 110⁵ orders to be made in the first year. This estimate was reached by identifying the number of orders per crime for other similar crimes, and finding the average of those orders-per-crime values (0.040). This number was multiplied by the number of police-recorded instances of stalking to estimate the number of orders (including both stranger and intimate stalking). This resulted in an estimate of 170 orders for all stalking offences (stranger and intimate stalking), as is shown in Table E.1.

³ Evaluation of the Pilot of Domestic Violence Protection Orders, Home Office Research Report 76, November 2013 (costs inflated to 2016 values)

⁴ Fees information provided by forces through email correspondence; Contest rate found at <http://www.essex.pcc.police.uk/wp-content/uploads/2015/11/20140416-0031-14-Est.-of-DVPO-unit-and-Court-fees-budget.pdf>

⁵ Numbers in the body of the text are rounded to two significant digits

15. This estimate includes both stalking by strangers and those with (ex-) intimate relationships with their victims. We therefore need to exclude the portion of those that relate to intimate stalking. In March 2016 CSEW, 1.2% of respondents reported intimate stalking, and 3.7% reported any kind of stalking. This suggests that 66% of stalking is perpetrated by strangers. Taking 66% of the 170 stalking orders gives us the estimate of 110 stranger-stalking orders.

Table E.1 Number of crimes and orders in similar offences			
Offence	Orders	Crimes	Orders per crime
Sexual offences	7,810 [^]	108,760 ^{^^}	.0072
Domestic abuse	3,470 ^{^^^}	413,630 [*]	.0008
Stalking (stranger and intimate)	170 ^{**}	4,160 ^{^^}	.0040 ^{**}
Stranger Stalking	110 ^{**}	2,750 ^{**}	.0040 ^{**}
[^] Sexual Harm Prevention Orders and Sexual Risk Orders, year to Sept 2016. ^{^^} Police Recorded Crime, 2015/16. ^{^^^} Domestic Violence Protection Orders, 2014/15, annualised. [*] Domestic abuse offences recorded by the police (experimental statistics), Apr - Sept 2015, annualised. ^{**} Estimated values based on calculations. Rounded to nearest 10 for values greater than 1; to nearest ten-thousandth for values below 1.			

16. There is a risk that a proportion of perpetrators will not comply with orders, and will breach their conditions. The proposal is that the breach of an SPO will be a criminal offence. This will lead to additional costs to the CJS. As breach of a SPO is a new offence there is no existing data on this to inform our analysis. To estimate the proportion of breaches we therefore use the breach rate for a proxy offence. Restraining Orders (ROs) is used as the proxy offence in this analysis because it has similar characteristics to an SPO: it is also used to prevent someone contacting or approaching a particular person, breach is also a criminal offence and the maximum sentence length is the same as that proposed for SPOs. The average breach rate for a RO was 29%⁶.

17. As this is a new offence, the CJS costs associated with it are estimated using proxy data. The CJS costs also use an RO as the proxy offence. However, due to availability of data, the cost of the application of an order uses DVPO as the proxy offence. Proxy offence data from MoJ suggests that application for an order generates a cost of £460 for HMCTS and £25 for the Legal Aid Agency. In the case of a criminal breach, unit costs for an RO are estimated to be £400 to the CPS, £720 to HMCTS, and £270 to LAA and £1,300 to NOMS (prison). We assume 90% of breach cases are heard in the Magistrates Court and 10% in the Crown Court. We assume 100% legal aid eligibility in the CC and 50% eligibility in the MC. These assumptions were provided by the MoJ. MoJ costs here and throughout are in 2015/16 prices.

⁶ Ministry of Justice internal data; calculated as number of offenders proceeded against divided by number of orders (2009-13 aggregate)

18. NOMS (prison) costs per breach proceeding are weighted by the estimated proportion of defendants proceeded against that receive a custodial sentence and the average custodial sentence length (ACSL) served for the proxy offence. 32% of offenders proceeded against for the proxy offence were given a custodial sentence, of average length 4 months. We assume they served, on average, half of this.
19. NOMS (probation) costs consist of two types of probation costs. The first type is post-release probation. We assume that an offender given a custodial sentence will then serve time on a managed licence. We assume that 81% of these offenders will be allocated to Community Rehabilitation Centres and 19% to National Probation Service. The second type is probationary sentences given to offenders as a disposal. This includes community orders and suspended sentence orders. Data for the breach CJS costs proxy offence (breach of a RO) shows that approximately 34% of offenders proceeded against received this type of disposal. We assume that the same proportion will apply for the new offence. We assume that around 90% of these offenders will be allocated to Community Rehabilitation Centres and around 10% to National Probation Service. NOMS (probation) costs are not reported on a unit basis, but aggregate NOMS (probation) costs are estimated to be £42,000, if 32 breaches occur (due to an assumed 29% breach rate and 110 orders).
20. The DVPO pilot found that an 11% reduction in victimisation occurred in the group for which DVPOs had been applied, when compared to a similar group without. We assume that the same rate will apply to Stalking Protection Orders. That study found an average cost of arrest that resulted in a DVPO of £6,100⁷. This cost is based on the offences for which alleged perpetrators were arrested during the pilot. For stalking orders, the historic and expected offences will differ from those in the DVPO pilot, but because a cost of crime specific to stalking has not been identified in the existing literature, the DVPO costs are the best available.

OPTION 0

21. Make no changes (do nothing). This will fail to address the current gap in the provision of protection for victims of stranger stalking. This is the baseline option against which the costs and benefits of the other option are assessed.

OPTION 1

22. Introduce a civil protection order to protect victims of stalking. This would be available to the police on application to the magistrates' court. A court would be able to impose restrictions and/or positive requirements on the perpetrator according to the specific circumstances of the case. Breach would be a criminal offence and the standard of proof required would therefore be akin to the criminal standard of proof.

COSTS

23. **HMCTS:** It is possible to obtain estimates for the unit cost to courts by using data on court costs for an existing offence. A hearing for a stalking protection order is assumed to have an average cost of £460. If there are 110 hearings, the court cost is estimated to be £51,000.

⁷ Evaluation of the Pilot of Domestic Violence Protection Orders, Home Office Research Report 76, p72, November 2013 (costs inflated to 2016 values)

24. Breaches of SPOs would lead to additional court costs. Using the breach rate for ROs as a proxy, we assume 29% of cases to lead to breaches. This would result in 32 breach hearings, with a unit cost⁸ of £700 to HMCTS per breach leading an estimate £23,000 in total costs for breach.
25. Total HMCTS costs are forecast to be £74,000.
26. **CPS:** The breach of a SPO would be a criminal offence. Therefore the CPS would incur some costs. The CPS cost per breach hearing is estimated to be £400 per offender proceeded against, giving a total of cost of £13,000 across the 32 estimated breaches.
27. **Legal Aid Agency (LAA):** For initial hearings, legal aid costs are estimated to be £25 per application for an SPO. This is estimated to result in approximately £2,800 cost to the LAA in total, across 110 orders. We estimate the costs to the LAA to be approximately £270 per defendant proceeded against for breach, and with 32 breaches, £8,700 in total. Total legal aid costs are forecast to be £11,000.
28. **NOMS (prison):** Using the information outlined in the Data & Assumptions section, the cost per defendant proceeded against is estimated to be £1,300, and with 32 defendants proceeded against, a total prison cost of £42,000.
29. **NOMS (probation):** Using the information outlined in the Data & Assumptions section, the estimated NOMS (probation) cost across the defendants proceeded against is estimated to be £42,000.
30. **Police:** Cost would be incurred by police in imposing for an order. In applying to a court, they will be obliged to pay a court fee. Forces have reported being charged a fee of £205 for uncontested applications, and £720 for contested applications for DVPOs. It has been assumed that 25% of SPO applications will be contested. It is assumed that the fee and contest rate will apply here, giving an average court fee of £330 per application. With 110 orders, the police would face a total court fee of £37,000.
31. The police will also incur costs due to the use of officer time, legal services and mileage. Using data gathered through the DVPO pilot in 2012, it is estimated that the cost to the police of a DVPO is £1,200. This figure is calculated by inflating costs to 2016 prices and dividing the total non-training cost of the pilot (£510,000) by the number of DVPOs applied in the pilot area (410). If 110 orders were imposed, that would lead to an estimated cost of £140,000.
32. The police will also incur training costs. The average training expenditure in the each of the DVPO pilot force areas was £9,400. If this level of spending was representative of the average force, and the training costs for SPOs were equal to those for the DVPO pilot, the total expenditure nationally on training the 43 forces would be a one-off cost of £410,000.
33. The annual recurring estimate of costs to police (the sum of the cost of imposing an order and non-training costs) are £170,000. The one-off costs to the police are estimated to be £410,000.

⁸ CJS costs for breaches were estimated using Breach of a Restraining Order, s. 5, Protection from Harassment Act 1997 as a proxy

34. **Local services:** there may be a cost to social services where an order includes positive requirements being placed on offenders (e.g. to attend a treatment programme). Because these positive requirements will vary depending on the specifics of the case, it is not possible to accurately cost them.
35. **Total:** The total quantified annual cost is £360,000. The total quantified transition cost, which is only applicable in the first year of operation, is £410,000. The ten-year present value of these costs is £3.5m.

BENEFITS

36. The DVPO pilot found that an 11% reduction in victimisation occurred in the group for which DVPOs had been applied, when compared to a similar group without. We assume that the same rate will apply to Stalking Protection Orders. That study found an average cost of arrest that resulted in a DVPO of £6,100⁹, with this cost distributed across victims, the police, the CJS, local services, and third sector support agencies. This cost is based on the offences for which alleged perpetrators were arrested during the pilot. It was calculated by using costs from Brand and Price (2000)¹⁰, with adjustments from Walby (2004, 2009)¹¹ for costs of domestic violence. For stalking orders, the historic and expected offences will differ from those in the DVPO pilot, but because a cost of crime specific to stalking has not been identified in the existing literature, the DVPO costs are the best available.
37. Based on 110 victims experiencing the above reduction in crime, we estimate a benefit of £75,000.
38. In addition to the quantified benefit above, the public may benefit from this policy in a number of other ways, which are discussed in the following three paragraphs.
39. Because Stalking Protection Orders should enable the police and CJS to intervene earlier, victims should benefit from being subjected to fewer and less severe harms. The police and CJS may benefit from a reduced need for more costly interventions when the course of conduct has escalated to become even more serious.
40. Victims may have enhanced welfare from the knowledge that action to prevent stalking behaviour can be, and will be taken, by the police and CJS – irrespective of outcome. Where a victim of stalking reports to the police that they are being victimised, it is likely that they would be more satisfied by a police response stating an intention to implement a Stalking Protection Order than what may happen at present: that the police do not act due to a lack of powers or evidence.
41. The general public, including potential victims of stalking, may benefit from improved peace of mind, due to an awareness that the police and CJS now have the ability to impose these orders. This may mean that the perceived threat, to themselves or others, of being subject to stalking without recourse to protection, is diminished.
42. **HMCTS:** The courts receive a benefit equal to amount of court fees paid by the police. This is estimated to be £37,000.
43. **Total:** Across stakeholders, the quantified annual benefit is estimated to be £110,000, and the ten-year present value of the benefits is estimated to be £970,000.

⁹ Evaluation of the Pilot of Domestic Violence Protection Orders, Home Office Research Report 76, p72, November 2013 (costs inflated to 2016 values)

¹⁰ Brand, S. and Price, R. (2000) The economic and social costs of crime.

¹¹ Walby, S. (2004, 2009) The cost of domestic violence.

NET BENEFIT

44. Aggregating costs and benefits across stakeholders, the quantified net present value (NPV) is estimated to be -£2.5m. It is important to note that this value does not include the unquantified benefits due to the harms averted due to early intervention, victims' knowledge that action is being taken, and the public awareness that these orders can be imposed. If these benefits could be taken into account in the quantification of impacts, it is possible that that would demonstrate that the benefits of this policy outweigh the costs.

	Costs	Benefits	Net benefits
Transition	0.41	0.00	-0.41
Average annual (ex. Transition)	0.36	0.11	-0.24
10-year present value	3.47	0.97	-2.51

Rounded to nearest £10,000

F. Risks and Sensitivities

Risks

45. **Budget:** there is a risk that forces will be unable to find resources within their existing budgets to apply for stalking protection orders.
46. **Number of Orders:** there is a risk that the orders will be applied for/granted a small number of instances, and therefore have a limited impact. Alternatively, a very high number of orders would create a larger-than-expected burden for police and the CJS.
47. **Spread of disposals:** we do not know what the spread of disposals will be for breaches of SPOs. If a larger portion of cases than assumed lead to custodial sentences, the costs to the CJS could be higher than estimated.
48. **Victim-blaming:** if victims make applications, there is a risk that the perpetrator may blame the applicant, become angry towards them, and harm them.
49. **Breach rate:** if there is a low level of compliance with the orders, victims may be subjected to further, potentially aggravated, abuse.

Sensitivities

50. Because the number of orders is a key driver of the impact of the proposal, alternative scenarios in which order volume varies have been assessed. The alternative volumes are derived from the data in Table E.1.
51. **High volume:** The high-volume case uses the number of orders implied by the orders-per-crime rate of sexual offences. This means that the implied 2,750 stranger-stalking crimes induce orders at a rate of 0.072 orders per crime, giving 200 orders. This increases the quantified annual recurring cost to police and the CJS to £0.65m. It also increases the quantified benefit to victims and HMCTS to £0.20m. The overall NPV would be -£4.2m.

52. **Low volume:** Another possibility is that the orders-per crime rate is more similar to that of domestic abuse, where there were 0.008 orders per crime. This would lead to 23 stranger-stalking protection orders. In that case, the quantified cost to police and the CJS would fall to £66,000. Correspondingly, the quantified benefit to victims and HMCTS would decrease to £23,000. The overall NPV would be -£0.77m.

G. Enforcement

53. Enforcement will be carried out by the police in accordance with existing codes and guidance.

H. Summary and Recommendations

54. The Government has consulted on whether the introduction of a new civil stalking protection order would offer further protection to victims, and in particular to victims of 'stranger stalking'.

55. Our preferred option is Option 1: to introduce a new stalking protection order, in order to provide better protection to victims, support more effective early identification of offending behaviour driven by stalking, and support interventions with perpetrators which may deter them from continuing their stalking behaviour.

56. Table E.2 summarises the quantified costs and benefits.

I. Implementation

57. The Home Office will work with the police, CPS, and others in the run up to implementation of the new order to ensure that a comprehensive plan is in place.

J. Monitoring and Evaluation

58. The effectiveness of the new orders will be monitored and evaluated by the Home Office. In reviewing the effectiveness of the orders, we will consider a range of quantitative and qualitative sources, including police and CPS data and feedback from victims and frontline practitioners.

K. Feedback

59. We will continue to hold regular engagement events with key partners, including the police and voluntary and community sector organisations and will use these opportunities to gather their feedback.