



Home Office

# **Stalking Protection Orders**

## **Statutory guidance for the police**

January 2021

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## Section 1 – Status and purpose of this document

### Introduction

1. The Stalking Protection Act 2019 received Royal Assent on 15 March 2019. The Act introduces a new civil Stalking Protection Order. The new order closes a gap in the existing protective order regime. The threshold to commence criminal proceedings for the commission of an offence does not need to be met for an order to be made - this allows for early police intervention in stalking cases.

**Where that threshold has already been met, a Stalking Protection Order is not an alternative to prosecution for stalking offences under the Protection from Harassment Act 1997 (set out at [Annex C – Stalking offences](#)). A Stalking Protection Order can be used to complement a prosecution of a stalking offence.**

2. This guidance is issued as statutory guidance under [section 12 of the Stalking Protection Act 2019](#) which came into force on 20 January 2020.
3. The use of Stalking Protection Orders should be considered as part of local adult and/or child safeguarding and public protection procedures.

### Audience

4. This guidance is for the police in the exercise of their functions in relation to Stalking Protection Orders. It is designed to assist police officers to make appropriate and proportionate assessments when considering whether or not to apply for or to seek to vary an order.
5. The information within this guidance may also be relevant to assist the work of other criminal justice agencies and statutory bodies, as well as non-governmental and voluntary organisations which may be associated with victims or others affected by stalking behaviour.
6. This guidance applies to England and Wales only.

### Aims and purpose

7. This guidance has three key functions:
  - to provide strategic guidance to the police on the effective use of, and application process for, Stalking Protection Orders, including when to

consider applying for an order and how to manage the subject of an order effectively;

- to provide high-level information on what stalking is and how to identify it, including the motivations behind stalking behaviour and links to other forms of abuse ([Annex A](#)); and
- to signpost police to other sources of guidance on stalking ([set out at Annex E – Further guidance on stalking](#)), in particular regarding investigating cases of stalking; assessing and managing the risk posed by perpetrators; and safeguarding and supporting victims.

## Section 2 – Applying for an order or interim order

8. This section should be read alongside the specific provisions in the Stalking Protection Act 2019 in relation to applications for an order or interim order.
9. This Act has been created to enable early police intervention pre-conviction to address stalking behaviours before they become entrenched or escalate in severity and to protect victims from more serious harm. However, there is no restriction as to the stage of the criminal justice process at which an order may be made, and depending on the circumstances an order could be made following conviction or acquittal. Applications are freestanding and the Court has the power to consider an application and make a Stalking Protection Order at any stage, provided it is satisfied that the three criteria set out in section 2(1) of the Act are met.
10. A Stalking Protection Order is a civil order which can be sought by the police.

**No prior conviction for stalking offences is required to apply for an order.**

### **When to apply for a Stalking Protection Order**

11. The criteria for applying for an order are set out in section 1(1) of the Act. The police should consider applying for an order where it appears to them that:
  - The respondent has carried out acts associated with stalking;
  - The respondent poses a risk of stalking to a person; and
  - There is reasonable cause to believe the proposed order is necessary to protect the other person from that risk. (The person to be protected does not have to have been the victim of the acts mentioned above.)

**A magistrates' court may make an order only when the similar criteria in section 2(1) of the Act are met.**

12. The circumstances when the police may apply for a Stalking Protection Order are where:
  - a victim has reported stalking behaviour, or it has come to the attention of police during a separate investigation or by other means (such as a third-party referral through the MARAC / MAPPA processes or from another member of the public);

- at any point during the course of an investigation, up to and including the point of conviction (or acquittal), or where an investigation has not yet commenced; and
- there is a belief the victim is at risk of harm from the respondent and an order is necessary to protect them from such risk.

**13. It is important to note that stalking can affect people of all characteristics, and that although victims are disproportionately female, they come from all walks of life. Officers should also be aware that, according to Crime Survey for England and Wales data<sup>1</sup>, people with a longstanding illness or disability are disproportionately likely to be victims of stalking.**

14. The investigating officer should consider whether to apply for an order at the start of every stalking investigation, whether in a domestic abuse context (such as stalking by a former intimate partner) or a case of so called 'stranger stalking'. This allows for protection to be in place even if the case results in an acquittal.

15. The police can apply for an order against children and young people aged from 10 years old up to their 18th birthday. These cases will be dealt with by the youth courts.

16. The police should consider applying for an order not just to protect the victim but also, where necessary, anyone connected to the victim who may also be at risk of being stalked by the respondent.

17. Stalking Protection Orders can be applied for even if prosecution is not pursued.

18. The police will need to conduct an assessment of the risk posed by the respondent in order to decide whether to apply for a Stalking Protection Order. Investigators should consult with the victim at an early stage in this process as their views around the risks to them are important to consider. The police should ensure that an appropriate specialist stalking risk assessment or screening tool is used, in consultation with other relevant agencies or via an independent risk assessor where appropriate. This is to

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<sup>1</sup> Stalking: findings from the Crime Survey for England and Wales, year ending March 2019 - <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/stalkingfindingsfromthecrimesurveyforenglandandwales> (Table 6b)

ensure that they have a detailed picture, where possible, that informs decisions throughout the Stalking Protection Order process.

19. Stalking Protection Orders are not exclusive to cases of so called 'stranger stalking' and may also be used in a domestic abuse context where appropriate. They may be particularly relevant in cases of economic abuse which commonly occurs or continues after an intimate partner relationship has ended. See [Annex A](#) for further information on the overlap with other forms of abuse.
20. The police should consider reasonableness when considering whether to apply for an order, taking into account the circumstances of the matter and the background to the behaviour. The police should ensure that the victim reasonably finds the behaviour unwelcome, that the respondent ought reasonably to have known that and that the behaviour can reasonably be regarded as posing a risk to the victim.

**Note that victims may not be fully aware that all of the behaviour to which they have been subjected may amount to stalking.**

21. The risk of stalking posed by the respondent may be in respect of physical or psychological harm to the other person and/or physical damage to their property. Risk may arise from acts which the respondent knows or ought reasonably to know are unwelcome to the other person, **even if in other circumstances or individually the acts may appear in themselves harmless**. For example, sending someone unwanted gifts or flowers in conjunction with other behaviour may constitute stalking behaviour. For more examples of acts or omissions which may amount to stalking behaviour, see section 2A of the Protection from Harassment Act 1997 ([set out at Annex C – Stalking offences](#)) or [Annex A – Understanding stalking](#).
22. The behaviour which forms the basis for an application can have taken place:
- **in any part of the United Kingdom, or abroad;**
  - **before or after the commencement of section 2(5) of the Stalking Protection Act 2019.**
23. The victim may still be able to apply for other similar protective orders, such as Injunctions or Non-Molestation Orders in relation to anti-social behaviour, however this will depend on the circumstances of each case.

24. The police may, however, consider applying for a Stalking Protection Order before or during an investigation for a stalking offence for which a prosecution may be brought at a later stage. The purpose of applying for the Stalking Protection Order in those circumstances is to protect the victim from any stalking risk identified prior to or during the course of any investigation and criminal proceedings.

### **Interim orders**

25. An interim Stalking Protection Order is a temporary order imposing prohibitions and/or positive requirements as the Court considers appropriate.

26. The purpose of an interim order is to protect the victim during any period between the application for a full order and its determination. Breach of any of the conditions of an interim order is a criminal offence carrying the same maximum penalty as breach of a full order.

27. Interim orders are intended to provide a speedier process to obtain an order when there is an immediate risk of harm, for example in cases where there are factors that include suicidal or homicidal ideation, but where further information or investigation is required to meet the criteria to obtain a full Stalking Protection Order or when the court is unable to provide the full order in time.

28. It is a matter for the courts to interpret whether or not it is just to make an interim order. If an application is properly made and supported, an interim order may be granted. The court may make an interim order if it considers it appropriate to do so.

29. It is expected that any interim order granted will be for a limited period of time to enable this additional information to be obtained/investigation to be undertaken and that once complete an application for a full order will be determined.

30. The process for making an application for an interim order is the same as that for a full Stalking Protection Order. The police may be required to provide a written statement for court or provide evidence in person when applying for a Stalking Protection Order.

31. The court may, if it considers it appropriate to do so, make an interim Stalking Protection Order—



- a. prohibiting the respondent from doing anything described in the order, or
- b. requiring the respondent to do anything described in the order.

32. An interim Stalking Protection Order has effect only for a fixed period specified in the order, and ceases to have effect on the determination of the main Stalking Protection Order application.

### **What is the difference between a ‘full’ Stalking Protection Order and an interim order?**

33. When considering whether to make an interim order, the court can make one ‘if it considers it **appropriate** to do so’ [emphasis added] as per section [5\(3\)](#) of the Stalking Protection Act 2019. This is a **lower threshold** than that required to make a ‘full’ order, where the court can make one only if it is ‘satisfied’ that an order is ‘**necessary** to protect another person’ [emphasis added] from stalking as per section [2\(1\)](#) of the Stalking Protection Act 2019. So an interim order could potentially be made more quickly on an immediate assessment of risk, before a full examination of the evidence to determine the application for the ‘full’ order.

34. Additionally, it is likely that the courts will apply the criminal standard of proof (beyond reasonable doubt) to the fact-finding elements of a ‘**full**’ SPO application (whether the defendant has carried out acts associated with stalking, and whether the defendant poses a risk associated with stalking to another person), whereas it is likely that the courts will **not** apply the criminal standard to the fact-finding elements of an **interim** SPO application, but rather apply a lower test, namely treating it as an exercise of judgement or evaluation.

35. (It is likely that the courts will **not** apply the criminal standard to the non-fact-finding element of both the ‘full’ SPO application (whether an order is necessary to protect another person) **and** the interim SPO application (whether it is appropriate to make an interim order), but will rather take the position that they represent an exercise of judgement or evaluation.)

### **How to apply for a Stalking Protection Order and interim order**

36. An application for an order or an interim order can be made by a chief officer of police (as delegated) – including the chief officers of the British Transport Police and Ministry of Defence Police – in respect of a person

(respondent) who resides in the chief officer's police area, or who the chief officer believes is in that area or is intending to come to it.

37. It is not necessary for the respondent to have a prior conviction for a stalking offence for the police to apply for a Stalking Protection Order. The court can make a Stalking Protection Order if it is satisfied that the conditions in section 2(1) of the Act are met. The court may make an interim order if satisfied that it is "appropriate to do so", pending determination of the main application.
38. Where the respondent and the victim reside in different force areas, either at the time of the Order being granted or following a move of either party whilst the Order is in place, the respondent's local force should liaise with the victim's local force to develop a thorough understanding of the circumstances of the individual case and to ensure that the most appropriate prohibitions and requirements in the circumstances are requested or remain appropriate. Such co-ordination and sharing of information between forces is subject to existing police frameworks for doing so.
39. **It is also important that, if an Order is granted, the force which made the application passes full information (details of the Order including any risk assessments completed and any risk management plans) about the Order and conditions to the force in whose area the victim lives (if different). This is, to ensure that the victim is fully protected and that police in that area are aware of and can address any breaches of the Order that may occur in their area. Ideally, forces should identify a local point of contact to facilitate an agreed transfer process and ongoing case management (subject to existing police frameworks for doing so).**
40. To note that a victim may experience stalking behaviour in more than one police force area, for example if they live in one force area, work in another and experience stalking in both. In those cases, where the respondent lives in a third force area, the respondent's local force is advised to liaise with, and provide details of any Stalking Protection Order to, all relevant forces.
41. **An application for an order must be authorised by an officer not below the rank of superintendent.**

## Commencing Proceedings in the Magistrates' Court

42. An application for a 'full' Stalking Protection Order is made by way of complaint by the police – including the British Transport Police and Ministry of Defence Police - to a magistrates' court. This means that the court will act in its civil capacity and so the civil rules of evidence apply and hearsay is admissible. It is likely that the courts will apply the criminal standard of proof (beyond reasonable doubt) to the fact-finding elements of an SPO application (whether the defendant has carried out acts associated with stalking, and whether the defendant poses a risk associated with stalking to another person). If and when the court finds that the person has carried out the acts and poses a risk, it is likely that the courts will then not apply the criminal standard to the third element of an SPO application (whether an order is **necessary** to protect another person), but rather treat it as being an exercise of judgement or evaluation.
43. This assessment is based on the judgment in the House of Lords in *R (McCann) v Crown Court at Manchester* [2003] 1 AC 787. This related to Anti-Social Behaviour Orders, which were similar to SPOs. This case does not undermine the position that the SPO is a civil order and therefore the procedural rights under Article 6 of the ECHR apply. Every person is entitled to a fair and public hearing, within a reasonable time, by an independent and impartial tribunal. Assessment of whether these safeguards have been met will be determined on the facts of each case in the context of relevant caselaw.
44. If the respondent is under 18, the complaint is made to a youth court. The general provisions governing applications for civil orders in the magistrates' courts are as set out in Part 2 of the Magistrates' Courts Act 1980. In order to expedite the process, it is recommended that the police consider alerting the court prior to making an application, to help in its scheduling.
45. An application for an interim order is also made by way of complaint. This application may either be commenced at the same time as the main application or where the main application has been made but not yet determined. It is likely that the courts will not apply the criminal standard of proof for any of the elements of an interim SPO application, but rather apply a lower test than that used in 'full' SPO applications, and thus treat it as an exercise of judgement or evaluation.

46. A court may, and usually will, issue a summons to secure the respondent's attendance at the hearing. There is no legal requirement for the Police to issue an additional notice of hearing to the respondent.
47. Where the complaints for both the main order and an interim order are commenced at the same time, the Police should request that the court issues a summons for both the main application and the interim order, albeit to the same hearing date. Applications for both the main order and the interim order must be made by the same police force.
48. Where an interim order application is made at court whilst the respondent is present, there is no need for the court to issue a summons to consider the interim order application.
49. There is a financial cost to the police associated with applying to the court for an order. The fee should be paid at the same time as the application is made. Police forces may have arrangements in place locally for the payment of Court fees.
50. There is an additional fee if the application leads to a hearing and if the application is contested. Fees are prescribed in the Magistrates' Courts Fees Order 2008 (Amended)<sup>2</sup>.

### **Service of the summons**

51. The court will issue the summons to the police and then the responsibility for service of the summons to the respondent lies with the Police. Generally, a summons will be served by posting it to the respondent at an address where it is reasonably believed that they will receive it, leaving it at such an address for the respondent or handing it in person to the respondent. Rule 99, Magistrates' Courts Rules 1981 as amended by the Magistrates' Courts (Amendment) Rules 2019 clarifies other permissible methods of service.

### **The Hearing – Proceeding in the respondent's absence**

52. If the respondent fails to attend the hearing, the court may either:
- hear the application for the Stalking Protection Order in the respondent's absence. If the Stalking Protection Order is granted there will be no need for the court to consider the interim order;

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<sup>2</sup> The Magistrates' Courts Fees Order 2008 (Amended) - <https://www.legislation.gov.uk/uksi/2014/875/made?view=plain>

- issue a warrant for the respondent's arrest and consider an interim order if laid;
  - adjourn the main application and consider an interim order if laid; or
  - adjourn the main application, and an interim order if laid, to another date.
53. The court may issue a warrant or hear an application for the main order or any interim order in the respondent's absence only if the legal requirements in section 55 of the Magistrates' Courts' Act 1980 are met. The court needs to be satisfied either that the respondent was present at an earlier hearing or that the respondent has been served with the summons by one of the prescribed methods within what the court decides is a reasonable time before the hearing. Before the court can make an interim order in the respondent's absence, the respondent must have been summoned to answer the interim order complaint, alongside the summons for the main application.

### **Evidential Requirements**

54. The court may consider hearsay evidence in addition to live testimony from witnesses to determine the application for a Stalking Protection Order or interim order. Witnesses for the Police therefore need to be warned, if required, only after the respondent has confirmed at the first hearing that the evidential basis for the order is contested and the court has adjourned for a contested hearing.
55. Where the Police wish to rely upon hearsay evidence, a notice of the evidence must be served on the respondent at least 21 days before the hearing (Rule 3 Magistrates' Courts (Hearsay Evidence in Civil Proceedings) Rules and section 2 of the Civil Evidence Act 1995). The court or justice's clerk can apply discretion to vary the time limit on application or of its/their own initiative. Failure to comply with this requirement does not prevent the evidence being admissible but is a factor the court may consider in deciding how to proceed and on the issue of costs.
56. Whilst the Act provides for the Police to apply for Stalking Protection Orders to reduce the potential impact on vulnerable victims, there may be circumstances where it is appropriate for the victim or other witness to attend the application hearing to provide evidence in support of the application. Whilst there is no legislation underpinning the process by which the Court may grant special measures, it is able to rely on common law powers to do so where appropriate (R v X (1989) 91 Cr App Rep 36,

[1990] Crim LR 515). When completing the application for an SPO, if the Police decide that witness attendance is necessary and special measures are required, they should complete the relevant 'Special Measures' section of the SPO application confirming the witness's name, the reason special measures are sought, and the type of measure sought. The Court will consider the request on receipt of the application and prior to listing the hearing. The Police can then inform the witness in advance of the hearing about whether the request has been successful.

### **Terms for inclusion in the order**

57. Within an application for a Stalking Protection Order, or an interim order, police can request **both prohibitions and/or requirements** within an order to protect the victim from the risk of stalking. However, the final decision as to which conditions to include within an Order is for the magistrates' court to take.

58. A person who, without reasonable excuse, breaches a Stalking Protection Order or an interim Stalking Protection Order commits a criminal offence.

59. The Courts, in line with their responsibilities under the Human Rights Act as a public body, will as far as possible have to interpret the Stalking Protection Act 2019 in a way that is compatible with the European Convention on Human Rights (ECHR), including the Article 2 right to life for the victim and the Article 8 right to privacy for the respondent. Any interference with the rights to life and privacy of a person would have to be justified for one of the reasons set out in Article 2 and Article 8 and be proportionate.

60. It is best practice for the police to engage with the victim to obtain their views on the most appropriate conditions to request within an application for an order. The application must effectively demonstrate the necessity for the order, the conditions requested and the risk of harm (which may be psychological and/or physical) posed, as well as that the conditions suggested are proportionate to the harm posed as per the criteria in section 1(1) of the Act.

61. An order has effect for a fixed period specified in the order or until a further order is made. Where a fixed period is specified in the order, it must be for a period of at least two years. Different periods may be specified in relation to different prohibitions or requirements in the terms of the order, depending on the circumstances.

62. A prohibition or requirement has effect in all parts of the United Kingdom unless expressly limited to a particular locality.

63. The conditions of an order could include **prohibiting** the respondent from:

- entering certain locations or defined areas where the victim resides or frequently visits;
- contacting the victim by any means, including via telephone, post, email, SMS text message or social media;
- contacting or interacting with the victim via third parties, for example friends or family;
- making reference to the victim on social media either directly or indirectly;
- making vexatious applications to the civil court (including the Family Court) which reference the victim;
- recording images of the victim;
- using any device capable of accessing the internet unless it has the capacity to retain and display the history of internet use;
- physically approaching the victim (at all, to within a specified area or as outlined on a map); and/or
- engaging in any form of surveillance of the victim by any means.

64. The conditions of the order could include positive **requirements** to:

- attend an assessment of suitability for treatment;
- attend an appropriate perpetrator intervention programme;
- attend a mental health assessment;
- attend a drugs and alcohol programme;
- surrender devices;
- provide the police with access to social media accounts, mobile phones, computers, tablets and passwords/codes; and/or
- sign on at a police station.

**Each application should be considered on its own circumstances when deciding the most appropriate conditions and the above lists are not exhaustive.**

65. When drafting an SPO application police are advised to ensure that any conditions sought in applications are clear, specific and proportionate to the circumstances to assist the court which is considering the application to impose the most appropriate conditions.

66. The police should **not** request that electronic monitoring be imposed to ensure compliance with the conditions of a Stalking Protection Order, as the infrastructure is not in place for that to happen.
67. The CPS will be involved if an order is breached and the breach prosecuted. It may therefore also be sensible to seek CPS advice on the wording of unusual or complex conditions to ensure that any breaches will be capable of being proved to the criminal standard of proof.
68. The police should consider seeking specialist advice regarding the terms which they request be included in the order. They may also wish to consider investigating the availability of relevant local services and programmes. For example, they may wish to consult with the Local Authority, their Police and Crime Commissioner, the local Clinical Commissioning Group, specialist healthcare practitioners or non-Governmental organisations.
- 69. Police making an SPO application should ensure that any positive requirements included within an application, such as perpetrator intervention programmes, are appropriate to the respondent's stalking behaviour and the circumstances identified.**
70. The police should also interrogate relevant police records to establish whether the respondent is already subject to another order or injunction. If so, they must ensure that the proposed conditions within the application do not contradict the terms of any existing order.
71. The police should ensure as far as is practicable that any prohibitions and requirements requested within an application do not conflict with the respondent's religious beliefs or times when they would normally attend work or education as prescribed in [section 2\(3\) of the Stalking Protection Act 2019](#). The police should take into consideration whether the respondent works with the victim or attends the same religious institution.
72. A Stalking Protection Order and an interim Stalking Protection Order must specify—
- the date on which the order is made;
  - the period for which it has effect. This may be fixed for a Stalking Protection Order but must be fixed for an interim order. An interim order will expire upon the determination of the main application;
  - each prohibition or requirement which applies to the subject;



- whether any prohibition or requirement is expressly limited to a particular locality and, if it is, what the locality is;
- whether any prohibition or requirement is subject to a fixed time period which differs from the period for which the order has effect and, if it is, what that period is.

### **Safeguarding a child or young person under the age of 18**

73. Persons under the age of 18 can be protected by a Stalking Protection Order.

74. The police have a duty to have regard to the need to safeguard and promote the welfare of a child or a young person when exercising their functions; in all investigations the principle that the welfare of the child is paramount should be observed.

75. See Working Together to Safeguard Children 2018<sup>3</sup> for statutory guidance on safeguarding children.

### **Applying for an order against a child or young person under the age of 18**

76. Persons under the age of 18 can be a respondent to an order.

77. Children and young people aged from 10 years old up to their 18<sup>th</sup> birthday, who are respondents to an order, will be subject to the same procedure as adults, but their applications will be dealt with similarly by the youth courts. Part 3 of the Children and Young Persons Act 1933 applies to children and young persons in such summary proceedings in youth courts and magistrates' courts.

78. Under section 34A of the 1933 Act, the court must in relation to a child under 16 (or may otherwise in any other case) require the attendance of a parent or guardian (which may include the local authority social services department), except in limited circumstances.

79. Every effort should be made in advance of a hearing to ensure a parent or guardian attends, so that the court does not need to require their attendance.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/779401/Working\\_Together\\_to\\_Safeguard-Children.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf)

80. When applying for a Stalking Protection Order when a young person is the respondent, the following principles should apply:

- That there is early consultation with and participation of the Youth Offending Service (YOS) in the application process where relevant. The application should be supported by a record of the contact with the YOS, identifying that their views about the order have been sought.
- That the nature and extent of any support required is based on a structured assessment that takes into account the needs of the young person and the imminent risk, for example of psychosocial damage.
- That the welfare of the child or young person is the paramount consideration, in line with local safeguarding procedures.
- That the requirements of all other orders and sentences that may already be in existence are taken into account to ensure that any requirements made by these orders do not restrict a young person's ability to complete other current orders or sentences, and the combined burden of requirements is taken into account to ensure the young person has the capacity to comply.

81. Section 11 of the Children Act 2004 requires the police to ensure they promote the welfare of and safeguard children when carrying out their duties, and the 'no order' principle (that alternatives to an order should be considered first) should apply in all cases.

### **Section 3 – Service of Stalking Protection Orders**

82. The designated officer for the court must serve a copy of a Stalking Protection Order or interim Stalking Protection Order as soon as reasonably practicable after such an order has been made. The order must be served by one of the methods set out in Rule 115 of the Magistrates' Court Rules 1981 as amended by the Magistrates' Courts (Amendment) Rules 2019.

83. If a respondent attends the hearing of the application, they should be provided with a copy of the order at court, where practicable. Where the

respondent is a child or young person, a copy should also be given to their parent or guardian if present.

84. If the respondent does not attend the hearing the order must be served by one of the other prescribed methods.
85. The order should be accompanied with a written notice informing the respondent:
- Of the appeal process
  - Of the notification requirements
  - That a breach of any of the prohibitions or requirements contained in the order without reasonable excuse, and/or the failure to comply with the notification requirements without reasonable excuse, and/or to knowingly provide false name and address details, is a criminal offence.

## Section 4 – Managing the subject of an order or interim order

### Registering an order

86. Once a Stalking Protection Order has been made it will need to be recorded on the Police National Computer (PNC) by including the order on the Operational Information page of a PNC record. This will include the dates the order was issued and the expiry date, individual force owners and reference numbers. Any conditions that are imposed as part of the order can also be added to the PNC entry. This will enable all users of PNC who need to view the associated record to see the information in respect of the order being issued and those conditions attached.
87. Throughout the process of applying for an SPO and during the course of an SPO being in place Police should consider whether a respondent also meets the criteria for being a Potentially Dangerous Person and therefore should be included on the Dangerous Persons Database (ViSOR)<sup>4</sup>.
88. There are additional risk factors which should be taken into consideration when managing the subject of an order, for example, the respondent's access to legal firearms, competency with firearms/weaponry, mental health difficulties, substance misuse etc. Investigators should conduct such

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<sup>4</sup> <https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/managing-sexual-offenders-and-violent-offenders/potentially-dangerous-persons/>

enquiries as are necessary to identify any additional risk factors and should include a plan of actions to mitigate the risks.

89. Please refer to the [College of Policing's guidance on information management](#) for more information.

### **Notification requirements**

90. A person subject to a Stalking Protection Order/interim Stalking Protection Order must notify the police of their name(s) and their home address, within a period of 3 days from the date when the order is served.

91. If the name used by or the address of the person changes during the duration of the order, they must notify the police within a 3-day period of that change.

92. The notification requirements in section 9 of the Stalking Protection Act 2019 do not apply to a person who is already subject to notification requirements under Part 2 of the Sexual Offences Act 2003, although if the latter were to cease before the expiry of the Stalking Protection Order, section 9 would then apply, with the deadline for notification being 3 days after they cease to be subject to the 2003 Act.

93. A person whose home address is in England or Wales gives a notification by:

- attending at a police station in their local police area, and
- giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.

94. The Stalking Protection Act states that “home address” in relation to a person means:

- the address of the person's sole or main residence in the UK; or
- if the person has no such residence, the address or location of a place in the UK where the person can regularly be found and, if there is more than one such place, such of those places as the person may select.

95. A person who does not have a home address in England or Wales gives a notification by—

- attending at a police station in the local police area in which the magistrates' court which last made a Stalking Protection Order or an interim Stalking Protection Order in respect of the person is situated, and

- giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.
96. Any notification provided to police must be acknowledged in writing and recorded, and in such form as the Secretary of State may direct.
97. To verify the identity of a person giving the notification the police can request to take the person's fingerprints and/or their photograph. The person giving the notification must allow the officer to do so.
98. The person subject to the order commits a criminal offence if they either fail (with no reasonable excuse) to comply with these notification requirements or provide information in accordance with those requirements that they know to be false. This is an either way offence punishable on summary conviction with imprisonment for a term not exceeding 12 months (or 6 months for offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force) or a fine or both, or on conviction on indictment, with imprisonment for a term not exceeding 5 years or a fine or both. However, the person may not be prosecuted more than once for the same failure to notify.
99. A person commits an offence on the day on which the person first fails without reasonable excuse to comply with the notification requirements under [section 9 of the Stalking Protection Act 2019](#). An example of a reasonable excuse would be if the respondent is in prison, another form of custody or hospital. Where the PNC shows that the respondent was in custody throughout the notification period and therefore unable to attend a police station, the respondent shall not be arrested for breach of the notification requirements. When a person who is subject to a Stalking Protection Order while in prison is released from prison, the Prison Service should notify the police of the anticipated release date so that monitoring of the notification requirements for the respondent can be appropriately managed.
100. Proceedings for this offence may be commenced in any court having jurisdiction in any place where the person charged with the offence resides or is found.

## **Breach**

101. A person who, without reasonable excuse, breaches a Stalking Protection Order or an interim Stalking Protection Order commits a criminal offence.
102. The police should act swiftly when a breach has occurred and need to fully investigate the offence, as the victim may not be aware of the full extent of the breach and/or the stalking. They should also consider whether any further stalking offences have occurred.
103. An arrest should be made at the first opportunity. It is important to be proactive, as any delay may (a) lead to a loss of the victim's confidence in the efficacy of the order; and (b) defeat the purpose of the order of preventing the stalker from causing further harm to the victim.
104. A delay in arresting respondents who breach Stalking Protection Orders may signal to the respondent that they will be permitted by the police to continue breaching the order and stalking their victim without action by police. This could increase the risk to the victim, particularly as the Stalking Protection Order itself may have been perceived by the stalker as a challenge to their control over the victim.
105. An application for a Stalking Protection Order may itself therefore also be a trigger for escalation by the stalker. It is crucial that the police understand these risks and take urgent action in cases where orders are breached. The onus should not be on the victim to ask the police to arrest the respondent when a Stalking Protection Order is breached; making an urgent arrest should be the standard response to breaches of Stalking Protection Orders.
106. A breach of an order will be a criminal offence punishable either way on summary conviction with imprisonment for a term not exceeding 12 months (or 6 months for offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force) or a fine or both, or on indictment, with imprisonment for a term not exceeding 5 years or a fine or both.
107. In breach proceedings a copy of the original Stalking Protection Order or interim Stalking Protection Order, certified by the designated officer of the court at which it was made, is admissible as evidence of its having been made. The weight attached to it will be the same as if it were presented orally at the breach proceedings.

108. A single incident would be a breach of the order. A pattern of behaviour is not required to breach a Stalking Protection Order. A breach of the order may be used as bad character evidence in subsequent court proceedings for the original substantive offence.
109. A case file should be prepared in a timely manner.
110. Prosecutions for breaches will be conducted by the CPS. Cases will be reviewed in the normal way in accordance with the Code for Crown Prosecutors, and sufficient evidence will need to be gathered before breach proceedings are commenced.
111. Cases are triable either summarily in a magistrates' court or on indictment in the Crown Court. Any cases against children and young people will normally be heard in the youth court.
112. The standard of proof for breach of an order will be the criminal standard i.e. 'beyond reasonable doubt'.
113. The Stalking Protection Act 2019 extends to England and Wales only and the criminal offences of breach of an order under section 8, or failure to comply with notification requirements under section 11, do not have extraterritorial effect. In order for behaviour to constitute an offence in England and Wales the offending must contain a substantial connection to the jurisdiction. An example might be where a respondent is undertaking stalking behaviour in Scotland in breach of an Order where a victim is located in England or Wales. If the police require further assistance regarding those criminal offences, they may wish to seek internal advice or speak to the CPS.

## **Section 5 – Variation, renewal and discharge of an order or interim order**

114. The police or the respondent can apply to a magistrates' court for an order varying, renewing or discharging a Stalking Protection Order or interim Stalking Protection Order. The application is made by way of complaint to the magistrates' court.
115. It is expected that the police will engage with the victim when making an application for the order to be varied, renewed or discharged.

116. The court must hear from the respondent and any chief officer of police who wishes to be heard before making a decision they consider appropriate on an application to vary, renew or discharge an order.
117. The court cannot impose additional prohibitions and requirements on an order unless it is necessary to protect a person at risk. Nor can the court discharge an order before the end of the 2-year period without the consent of the respondent and the chief officer of police who applied for the order or, if different, the chief officer of police in the police area in which the respondent resides.
118. Copies of the order dismissing the application, the variation order, the order for renewal or the order for discharge should be given or sent by first class post to the respondent. If the order requires the respondent to comply with the notification requirements, copies should be sent to all persons who were given notice of the respondent's obligation to comply with the notification requirements.

## Section 6 – Appeals

119. An appeal against an Order is made in the Crown Court.
120. A respondent can appeal to the Crown Court against –
- the making of an interim or substantive Stalking Protection Order;
  - the making of an order to vary, renew or discharge an order, following an application by the police; or
  - the refusal of the respondent's application to vary or discharge an order.
121. The chief officer of police who applied for the Stalking Protection Order, interim order or order to vary, renew or discharge can appeal to the Crown Court against –
- the refusal to make an interim or substantive Stalking Protection Order;
  - the refusal of the police's application to vary, renew or discharge an order; or
  - the making of an order to vary, renew, or discharge an order, following an application made by the respondent.



122. At the hearing of an appeal, the Crown Court may make such further orders as give effect to its determination of the appeal, including incidental or consequential orders.

123. Any order made by the Crown Court on appeal shall be treated for the purpose of any later application for variation or discharge as if it were the original magistrates' court order, unless it is an order directing that the application be reheard by the magistrates' court.

## **Section 7 – Legal Aid**

124. Legal aid may be available to subjects of a Stalking Protection Order or interim Stalking Protection Order for the making, varying, discharging, renewing and appealing of the order, as well as in relation to proceedings for breach of an order or failure to comply with notification requirements. Criminal legal aid providers should submit an application for a representation order in the normal way. The application will be subject to the standard means testing and 'Interests of Justice' test. Where an application is refused, the applicant will be given written reasons for the refusal and details of the relevant appeal and review processes. Further details of the process for applying for legal aid can be found at <https://www.gov.uk/guidance/apply-for-legal-aid>.

## Annex A – Understanding stalking

### What is stalking?

1. There is no specific legal definition of stalking. However, the police and CPS have adopted the following description<sup>5</sup>: **“a pattern of unwanted, fixated and obsessive behaviour which is intrusive. It can include harassment that amounts to stalking or stalking that causes fear of violence or serious alarm or distress in the victim.”**
2. There is no such thing as a ‘typical’ stalking perpetrator or a ‘typical’ stalking victim. This crime disproportionately affects women and girls; however, it is important to recognise that men and boys may be victims too. Stalking affects people of all ages, and victims come from a wide range of backgrounds - stalking is not restricted to public figures and celebrities.
3. Perpetrators will vary in the motivations driving their behaviour, the types of behaviour they engage in, and what they hope to achieve from their pursuit of the victim. The relationship between the perpetrator and the victim, as well as the context in which the stalking behaviour takes place, can also vary significantly.
4. The perpetrator’s behaviours may appear ‘harmless’ and may in themselves seem lawful, particularly if considered in isolation rather than as part of a pattern of behaviour.

However, these behaviours may amount to stalking depending on:

- the context of the behaviour;
- the motivations driving the behaviour; and
- the impact on the victim.

### Examples of stalking behaviour

5. The Protection from Harassment Act 1997 (see [Annex B](#)) includes the following **non-exhaustive list of examples** of ‘acts or omissions associated with stalking’:
  - a. following a person,
  - b. contacting, or attempting to contact, a person by any means,

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<sup>5</sup> This is based on a description developed by [Paladin](#), the National Stalking Advocacy Service, to increase understanding of stalking.

- c. publishing any statement or other material—
    - i. relating or purporting to relate to a person, or
    - ii. purporting to originate from a person,
  - d. monitoring the use by a person of the internet, email or any other form of electronic communication,
  - e. loitering in any place (whether public or private),
  - f. interfering with any property in the possession of a person,
  - g. watching or spying on a person.
6. Other **examples** of behaviours which **may amount to stalking depending on the context of the behaviour, the motivations driving the behaviour, and the impact on the victim** include but are **not limited** to:
- Contacting the victim’s children, partner, other family members, friends, co-workers or other third parties.
  - Stalking by proxy (stalking people connected to the ‘primary’ victim).
  - Sending unsolicited gifts or other items to the victim.
  - Hacking the victim’s social media accounts, email, phone or computer.
  - Using multiple social media accounts, email addresses or phone numbers to contact the victim, which may include the use of aliases.
  - Information gathering on the victim, such as by contacting third parties, searching public records, stealing private documents belonging to the victim or viewing them without the victim’s knowledge.
  - Impersonating the victim in order to gather information about them.
  - Bringing vexatious litigation or making vexatious counter-allegations against the victim, or otherwise using official processes to perpetuate contact with the victim, cause them distress or drain their resources.
  - Cancelling or procuring goods or services to the victim.
  - Joining the same gym, church, medical practice, educational course, workplace, sports club or other group as the victim.
  - Criminal damage or breaking in to the victim’s home, garden or vehicle.
  - Creating or exploiting disputes between the victim and their friends, family or wider support network, to isolate the victim and make them dependent on the perpetrator.
  - Creating social media posts or websites containing malicious or personal content relating to the victim, or referencing things which would have meaning only to the victim.
  - Threatening violence against the victim, or actually attacking them.

- Monitoring the victim by planting tracking or bugging devices, or by installing or activating a programme or application on the victim's personal devices.
  - Publishing or threatening to publish personal information or images relating to the victim (so called 'revenge porn', or 'doxing').
  - Threatening suicide or self-harm, or otherwise manipulating the victim to respond to contact.
  - In the case of former intimate partners, carrying out a campaign of economic abuse (for example, seeking to control their access to money, employment, food or other essential resources).
- 7. The perpetrator can exhibit a combination of any of the above behaviours which the victim may or may not be aware of. These behaviours may be carried out online, or using specific technology, or may be otherwise 'digitally-enabled'. There may be a combination of online and offline behaviours.**

### **Motivations and behaviours driving stalking**

- 8. Motivation is a defining factor in the identification of stalking**, and what sets stalking apart from other harmful behaviours and crime types.
9. To understand the level of risk the perpetrator's motivations have on a victim, the police could consider the five stalker types:
- Rejected
  - Intimacy-seeking
  - Incompetent
  - Resentful
  - Predatory<sup>7</sup>

More detail can be found at these links:

<https://www.stalkingriskprofile.com/what-is-stalking/types-of-stalking/> / <https://safeguardinghub.co.uk/stalking-the-five-motivation-types/>. This is not the only recognised source of information about types of stalking.

- 10. The motivation(s) driving the perpetrator's behaviour may change over the period of victimisation.**

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<sup>7</sup> Mullen PE, Pathé M, Purcell R., "Stalkers and their victims", Cambridge University Press, 2000.

11. Even though the actual behaviours exhibited may vary between perpetrators, these behaviours will often share a consistent set of characteristics. Consider the stalking acronym **FOUR**. Are the behaviours **Fixated, Obsessive, Unwanted and Repeated**<sup>8</sup>?
12. Stalking perpetrators can be particularly adept at exploiting professionals, agencies and systems and may use a range of tactics in order to perpetuate contact with and control over the victim, including:
- Deliberately targeting people who might be vulnerable.
  - Manipulating a person's mental health (for example, making them think that they are 'going mad').
  - Causing or creating vexation, or using the system against the victim by making false or vexatious allegations.
  - Making counter-allegations against the victim e.g. calling in false reports or claiming to be a victim of the stalking behaviour of the actual victim.
  - Attempting to frustrate or interfere with the police investigation.
  - Using threats in order to manipulate the victim. For example, by telling the victim that they will make a counter-allegation against them; that the victim will not be believed by the police or other agencies; that they will inform social services; or that they will inform immigration officials where the victim does not have permission to be in the UK.
13. Police should examine whether any of the behaviours described above have been a feature in previous relationships where the perpetrator is a former intimate partner.
14. In light of the overlap between stalking and domestic abuse, police may refer to the [College of Policing Authorised Professional Practice on investigating domestic abuse](#), which states that "A manipulative perpetrator may be trying to draw the police into colluding with their coercive control of the victim. Police officers must avoid playing into the primary perpetrator's hands and take account of all available evidence." Stalking perpetrators may also use these tactics to manipulate the courts and other criminal justice agencies.

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<sup>8</sup> College of Policing (2019) Stalking and Harassment Guidance - <http://library.college.police.uk/docs/appref/Stalking-or-harassment-guidance.pdf>

15. For further guidance on assessing credibility and understanding perpetrator tactics, see table 1 of the [CPS Toolkit for Prosecutors on Violence Against Women and Girls Cases Involving a Vulnerable Victim](#).

### **Impact of stalking behaviour**

16. Being stalked can adversely affect all aspects of the victim's daily life, as well as their physical and mental health. The impacts of stalking can vary in each circumstance and can be severe and long lasting. They can continue to affect the victim after the period of direct victimisation has ended due to the cumulative effect of the ongoing unwanted behaviour.

17. Victims of stalking may experience:

- Feelings of helplessness, isolation, anger and distrust
- Sleep disturbance/ insomnia
- Stress-related symptoms
- Symptoms of anxiety
- Symptoms of depression
- Symptoms of Post-Traumatic Stress Disorder (PTSD)
- The exacerbation of existing health conditions
- Adverse health impacts as a result of increased use of drugs, alcohol or cigarettes to cope with their situation.<sup>9</sup>

18. Being stalked may force the victim and their family and friends to make significant changes to their daily activities, including **but not limited to**:

- Deleting or stopping using social media accounts.
- Changing their phone number.
- Buying new personal devices.
- Carrying a personal attack alarm.
- Changing their usual travel times or routes.
- Changing their mode of transport or buying a new vehicle.
- Changing their working pattern.
- Stopping regular activities such as socialising, exercising, walking pets or shopping, or doing these at different times or locations.
- Not leaving their home, or not leaving their home without being accompanied.

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<sup>9</sup> MacKenzie, McEwan, Pathé, James, Ogloff, & Mullen, 2011.

- Taking sick leave from work.
- Changing the locks in their home.
- Installing security equipment in their home, such as cameras, alarms or lights.
- Moving their children to a different school.
- Leaving their job.
- Ending a relationship with a partner.
- Moving house or living elsewhere temporarily.

**Equally, the victim may decide that they do not want to or should not have to make changes to their own life because of the stalker's behaviour.**

19. **Fear of serious harm or death does not have to be present for the perpetrator's behaviour to amount to stalking**, or for the victim to make significant changes to their daily activities. [See sections 2A and 4A of the Protection from Harassment Act 1997 \(Annex C\).](#)

20. The impacts outlined above may adversely affect the victim's ability to socialise, maintain their support network or form relationships, which can significantly increase isolation and vulnerability to further victimisation. Some of the impacts can lead to financial instability due to loss of income or costs incurred by the victim, including legal costs.

21. All the impacts outlined above can also indirectly affect the victim's partner, children, wider family members, friends or co-workers.

### **Working with victims**

22. On average victims may suffer up to 100 incidents of stalking before reporting to the police. This may be due to:

- feeling they may be overreacting and won't be taken seriously
- not realising that it is a case of stalking and the risk that they face
- a past experience resulting in a fear or dislike of the police
- lack of faith in the criminal justice system
- threats or fear of repercussions from the stalker
- not wanting to make matters worse if they call the police
- not being sure if the police can help.<sup>10</sup>

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<sup>10</sup> Dr Lorraine Sheridan (2005)

It is therefore crucial that, when victims do go to the police, their cases are recognised as stalking and dealt with and investigated appropriately.

### **Factors for consideration**

23. Women are predominantly the victims and men the perpetrators of stalking in ex-intimate partner cases (the group identified as the 'rejected' typology). These victims may also have previously been subjected to domestic abuse, but not in every case and the lack of previous abuse is not a protective indicator. For the other stalking typologies, the gender split is less clear and needs more research. It is the case that there are both female and male victims and underreporting is an issue across the board. Lack of recognition by law enforcement and professionals can also impact the accurate reporting of stalking offences. What the research does indicate is that risk of violent behaviour is linked more to the ex-intimate partner who engages in stalking behaviour. The risk of psychological harm spans all typologies of stalking, and is significant.<sup>11</sup>
24. Freedom from violence and abuse is explicitly recognised in international law with respect to both human rights and gender. Violence against women and girls (VAWG) is recognised worldwide, and by the UK Government, as a form of offending where gender plays a part. Where appropriate, links with other VAWG topics should be made, such as those referred to later in this annex, as well as child abuse, crimes against the older person, pornography, human trafficking and prostitution.

### **Understanding victim behaviours**

25. Officers should not make judgements about victims who do not follow safety advice. Victim responses and behaviours can vary according to the victim's circumstances. This does not mean that the victim is being 'uncooperative' – they are behaving in a way which they believe will keep them safe. It is important to understand that victims' levels of resilience vary.
26. **It is crucial to engage with the victim in order to understand what measures they are taking to keep themselves safe and why.**

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<sup>11</sup> McEwan, T., Mullen, P.E., & Purcell, R. (2007) Identifying risk factors in stalking: a review of current research. *International Journal of Law and Psychiatry*, 30,1-9



27. The police might consider the reasons as to why a victim may not want to start and/or continue criminal investigations. While it is ultimately for the police to decide if a criminal investigation takes place, the police should seek to explain the merits of pursuing a prosecution and should seek to reassure the victim about their concerns. If the victim remains of the same view, the police should proceed with a Stalking Protection Order. The police should make the victim aware that a breach of a Stalking Protection Order is a criminal offence and therefore it would result in criminal proceedings. However, the police should advise the victim not to develop a false sense of security just because an order is in place. **Stalking Protection Orders should never be used instead of a prosecution when a prosecution is a viable option.**

### **Collecting and preserving evidence**

28. It is essential to gather appropriate evidence to investigate a case fully and to understand the behaviours of the stalker. To do so, police officers should provide guidance for victims on how they can collect and preserve evidence, especially electronic evidence.
29. The following guidance should be provided for victims:
- Use the following link for use by victims  
<https://www.suzylamplugh.org/forms/how-to-record-incidents-and-collect-evidence-leaflet>
  - Victims should not tamper with or dispose of a mobile phone or its SIM card without first consulting the investigating officer.
  - Keep any stored messages, including text messages, or telephone numbers that have been received on a mobile phone or caller ID unit.
  - Compile a journal that is a chronological summary of events.
  - Keep originals in a safe place and a copy of everything in another location.
  - Take pictures of and/or keep unwanted gifts.

### **Stalking support services**

30. As police and community safety officers take appropriate action against the respondent and offer supportive action for the victim, consideration must be given towards -
- NHS treatment referrals or health and well-being support via social prescribing from a GP

- Access to selected community and advocacy support services. (examples listed in
- 
- Annex D – Stalking **support services**).

31. It is also important to consider referring victims to specialist support services. Please see [Annex D](#).

### **Overlap with other forms of abuse**

32. Stalking behaviours may share characteristics with other forms of abuse, including but not limited to domestic abuse, rape and other sexual offences, harassment, and so-called ‘honour-based’ abuse.

33. It is crucial that the perpetrator’s behaviours are considered **in context and as part of a pattern of behaviour** in order for stalking to be correctly identified and recorded at the earliest opportunity, and for appropriate risk assessment and risk management interventions to be put in place.

### **Harassment**

34. The actual behaviours exhibited by a perpetrator may appear to be similar in a case of stalking and a case of harassment. **The key feature which distinguishes stalking is that the perpetrator’s behaviours are motivated by obsession and fixation.** Consider the stalking acronym **FOUR (Fixated, Obsessive, Unwanted, Repeated)**. This means that acts commonly associated with harassment may amount to stalking depending on the context of the behaviour, the motivations driving the behaviour, and the impact on the victim.

### **Domestic abuse, including controlling or coercive behaviour and economic abuse**

35. There are notable similarities between stalking behaviours – particularly those related to surveillance, intimidation and control of the victim – and controlling or coercive behaviour occurring within a domestic abuse context. There may also be similarities in the impact on the victim and the changes they make to their daily activities.<sup>12</sup>

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<sup>12</sup> Home Office (2015), “Controlling or coercive behaviour in an intimate or family relationship – statutory guidance framework”,

36. The cross-Government definition of domestic abuse is 'any incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners or family members regardless of gender or sexuality. The abuse can encompass, but is not limited to psychological, physical, sexual, financial or emotional abuse.'
37. Controlling behaviour is defined as a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape, and regulating their everyday behaviour.
38. Coercive behaviour is defined as a continuing act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten the victim.<sup>13</sup>
- 39. Stalking behaviours can be a continuation of coercive control when an abusive intimate partner relationship has ended, and/or the perpetrator and the victim are no longer living together.**
40. Stalking Protection Orders are not exclusive to cases of so called 'stranger stalking' and may also be used in domestic abuse contexts, such as former intimate partners and cases of economic abuse, where appropriate. However, this does not mean that people who are victims of stalking by former intimate partners will always have experienced previous domestic abuse.
41. The relationship between the perpetrator and the victim may not always be clear, may change during the life cycle of the case, or may be disputed by either party. For example, the perpetrator may be acting in the belief that they are in an intimate partner relationship with the victim, when in reality this is not the case.

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/482528/Controlling\\_or\\_coercive\\_behaviour\\_-\\_statutory\\_guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/482528/Controlling_or_coercive_behaviour_-_statutory_guidance.pdf)

<sup>13</sup> From the cross-Government definition of domestic violence and abuse. This is not a legal definition. <https://www.gov.uk/guidance/domestic-violence-and-abuse#domestic-violence-and-abuse-new-definition>

42. Economic abuse is a form of domestic abuse which commonly occurs or continues after an intimate partner relationship has ended and the partners are no longer living together. It is a form of coercive control where the perpetrator deliberately limits their victim's ability to acquire, use or maintain fundamental economic resources including money, housing, food, transport, clothing or utilities. The impacts of economic abuse on victims and their children can be severe and long lasting.

43. Examples of economic abuse include, but are not limited to:

- Building up debt in the victim's name, which can damage their credit rating.
- Taking out credit cards or loans in the victim's name.
- Putting bills in the victim's name so that they have to pay them.
- Refusing to contribute to childcare costs.
- Bringing vexatious litigation against the victim so that they have to pay legal fees.
- Deliberately frustrating the sale of shared assets, or the closure of joint accounts or mortgages.

44. The perpetrator can exhibit a combination of any of the above behaviours which the victim may or may not be aware of. These behaviours may be carried out online, or using specific technology, or may be otherwise 'digitally-enabled', particularly if the former intimate partner knows the victim's passwords, answers to online security questions or other relevant personal information.

45. A Stalking Protection Order could be used in an economic abuse context to, for example, prohibit the respondent from making vexatious applications to the civil court which reference the victim, or from using any device capable of accessing the internet unless it has the capacity to retain and display the history of internet use.

### **Further guidance on stalking**

46. This guidance should be read in conjunction with other non-statutory guidance for police on stalking, which is set out at [Annex E – Further guidance on stalking](#).

47. For details of non-governmental organisations who provide information and training for professionals on stalking, see [Annex D – Stalking support services](#).



## Annex B – Stalking Protection Act 2019

# Stalking Protection Act 2019

### *Stalking protection orders*

#### 1 Applications for orders

- (1) A chief officer of police may apply to a magistrates' court for an order (a "stalking protection order") in respect of a person (the "defendant") if it appears to the chief officer that—
  - (a) the defendant has carried out acts associated with stalking,
  - (b) the defendant poses a risk associated with stalking to another person, and
  - (c) there is reasonable cause to believe the proposed order is necessary to protect another person from such a risk (whether or not the other person was the victim of the acts mentioned in paragraph (a)).
- (2) A stalking protection order is an order which, for the purpose of preventing the defendant from carrying out acts associated with stalking—
  - (a) prohibits the defendant from doing anything described in the order, or
  - (b) requires the defendant to do anything described in the order.
- (3) A chief officer of police for a police area in England and Wales may apply for a stalking protection order only in respect of a person—
  - (a) who resides in the chief officer's police area, or
  - (b) who the chief officer believes is in that area or is intending to come to it.
- (4) A risk associated with stalking—
  - (a) may be in respect of physical or psychological harm to the other person; may arise from acts which the defendant knows or ought to know are unwelcome to the other person even if, in other circumstances, the acts would appear harmless in themselves.
- (5) It does not matter—
  - (a) whether the acts mentioned in subsection (1)(a) were carried out in a part of the United Kingdom or elsewhere, or
  - (b) whether they were carried out before or after the commencement of this section.
- (6) See section 2A of the Protection from Harassment Act 1997 for examples of acts associated with stalking.

## 2 Power to make orders

- (1) A magistrates' court may make a stalking protection order on an application under section 1(1) if satisfied that—
  - (a) the defendant has carried out acts associated with stalking,
  - (b) the defendant poses a risk associated with stalking to another person, and
  - (c) the proposed order is necessary to protect another person from such a risk (whether or not the other person was the victim of the acts mentioned in paragraph (a)).
- (2) A magistrates' court may include a prohibition or requirement in a stalking protection order only if satisfied that the prohibition or requirement is necessary to protect the other person from a risk associated with stalking.
- (3) Prohibitions or requirements must, so far as practicable, be such as to avoid—
  - (a) conflict with the defendant's religious beliefs, and
  - (b) interference with any times at which the defendant normally works or attends an educational establishment.
- (4) A prohibition or requirement has effect in all parts of the United Kingdom unless expressly limited to a particular locality.
- (5) It does not matter—
  - (a) whether the acts mentioned in subsection (1)(a) were carried out in a part of the United Kingdom or elsewhere, or
  - (b) whether they were carried out before or after the commencement of this section.
- (6) Subsection (7) applies where a magistrates' court makes a stalking protection order in relation to a defendant who is already subject to such an order (whether made by that court or another).
- (7) The court may not include any prohibition or requirement in the new stalking protection order which is incompatible with a prohibition or requirement in the earlier stalking protection order.

## 3 Duration of orders

- (1) A stalking protection order has effect— (a) for a fixed period specified in the order, or (b) until a further order.
- (2) Where a fixed period is specified it must be a period of at least 2 years beginning with the day on which the order is made.
- (3) Different periods may be specified in relation to different prohibitions or requirements.

#### 4 Variations, renewals and discharges

- (1) The defendant or a relevant chief officer of police (see section 14(1)) may apply to a magistrates' court for an order varying, renewing or discharging a stalking protection order.
- (2) Before making a decision on an application under subsection (1), the court must hear—
  - (a) the defendant, and
  - (b) any relevant chief officer of police who wants to be heard.
- (3) On an application under subsection (1) the court may make any order varying, renewing or discharging the stalking protection order that the court considers appropriate.
- (4) But the court may not—
  - (a) in renewing or varying an order, impose an additional prohibition or requirement unless satisfied that it is necessary to do so in order to protect a person from a risk associated with stalking;
  - (b) discharge an order before the end of 2 years beginning with the day on which the order was made without the consent of the defendant and—
    - (i) where the application was made by a chief officer of police, that chief officer, or
    - (ii) in any other case, the chief officer of police who applied for the stalking protection order and (if different) the chief officer of police for the area in which the defendant resides, if that area is in England or Wales.

#### 5 Interim stalking protection orders

- (1) This section applies where an application for a stalking protection order (the “main application”) has not been determined.
- (2) A magistrates' court may make an order (an “interim stalking protection order”) in respect of the defendant on an application—
  - (a) made at the same time and by the same chief officer of police as the main application, or
  - (b) if the main application has already been made, made by the chief officer of police who made that application.
- (3) The court may, if it considers it appropriate to do so, make an interim stalking protection order—
  - (a) prohibiting the defendant from doing anything described in the order, or
  - (b) requiring the defendant to do anything described in the order.
- (4) Prohibitions or requirements must, so far as practicable, be such as to avoid—



- (a) conflict with the defendant's religious beliefs, and interference with any times at which the defendant normally works or attends an educational establishment.
- (5) A prohibition or requirement has effect in all parts of the United Kingdom unless expressly limited to a particular locality.
- (6) An interim stalking protection order—
  - (a) has effect only for a fixed period specified in the order, and
  - (b) ceases to have effect, if it has not already done so, on the determination of the main application.
- (7) The defendant or the chief officer of police who applied for an interim stalking protection order may apply to a magistrates' court for an order varying, renewing or discharging the interim stalking protection order.
- (8) On an application under subsection (7), the court may make any order varying, renewing or discharging the stalking protection order that the court considers appropriate.

## 6 Content of orders

A stalking protection order and an interim stalking protection order must specify—

- (a) the date on which the order is made;
- (b) whether it has effect for a fixed period and, if it does, the length of that period;
- (c) each prohibition or requirement that applies to the defendant;
- (d) whether any prohibition or requirement is expressly limited to a particular locality and, if it is, what the locality is;
- (e) whether any prohibition or requirement is subject to a fixed period which differs from the period for which the order has effect and, if it is, what that period is.

### *Appeals and enforcement*

## 7 Appeals

- (1) A defendant may appeal to the Crown Court against—
  - (a) the making of a stalking protection order,
  - (b) the making of an interim stalking protection order,
  - (c) the making of an order under section 4 on an application by a chief officer of police, or
  - (d) the refusal to make an order under section 4 on an application by the defendant.

- (2) A chief officer of police who applied for a stalking protection order, an interim stalking protection order or an order under section 4 may appeal to the Crown Court against—
  - (a) the refusal to make a stalking protection order,
  - (b) the refusal to make an interim stalking protection order, or
  - (c) the refusal to make an order under section 4 on an application by the chief officer.
- (3) A relevant chief officer of police (see section 14(1)) may appeal to the Crown Court against the making of an order under section 4 on an application by the defendant.
- (4) On any such appeal, the Crown Court may make—
  - (a) such orders as may be necessary to give effect to its determination of the appeal, and
  - (b) such incidental or consequential orders as appear to it to be appropriate.

## 8 Offence of breaching stalking protection order etc

- (1) A person who, without reasonable excuse, breaches a stalking protection order or an interim stalking protection order commits an offence.
- (2) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine or both, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or both.
- (3) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (4) If a person is convicted of an offence under this section, it is not open to the court by or before which the person is convicted to make an order under subsection (1)(b) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (conditional discharge).
- (5) In proceedings for an offence under this section, a copy of the original stalking protection order or interim stalking protection order, certified by the designated officer for the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.

## *Notification requirements*

### 9 Notification requirements

- (1) A person subject to—
  - (a) a stalking protection order (other than one which replaces an interim stalking protection order), or
  - (b) an interim stalking protection order, must, within the period of 3 days beginning with the date of service of the order, notify to the police the information set out in subsection (2).
- (2) The information is—
  - (a) the person's name and, where the person uses one or more other names, each of those names; (b) the person's home address.
- (3) A person who—
  - (a) is subject to a stalking protection order or an interim stalking protection order, anduses a name which has not been notified under this section,

must, before the end of the period of 3 days beginning with the date on which that happens, notify to the police that name.
- (4) A person who—
  - (a) is subject to a stalking protection order or an interim stalking protection order, and
  - (b) changes home address, must, before the end of the period of 3 days beginning with the date on which that happens, notify to the police the new home address.
- (5) The requirements imposed by this section do not apply to a person who is subject to notification requirements under Part 2 of the Sexual Offences Act 2003.
- (6) Subsection (7) applies where—
  - (a) a person is subject to a stalking protection order or an interim stalking protection order,
  - (b) at the time the order is made, the requirements imposed by this section do not apply to the person as a result of subsection (5),
  - (c) the person ceases on a subsequent day (“the final day”) to be subject to the notification requirements mentioned in that subsection, and (d) the order remains in effect on the final day.
- (7) The requirements imposed by this section apply to the person as from the final day, but as if the reference in subsection (1) to the date of service of the order were a reference to the final day.

## 10 Method of notification and related matters

- (1) A person whose home address is in England or Wales gives a notification under section 9(1), (3) or (4) by—
  - (a) attending at a police station in the person's local police area, and
  - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.
- (2) A person who does not have a home address in England or Wales gives a notification under section 9(1), (3) or (4) by—
  - (a) attending at a police station in the local police area in which the magistrates' court which last made a stalking protection order or an interim stalking protection order in respect of the person is situated, and
  - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.
- (3) In relation to a person giving a notification under section 9(4), the references in subsections (1) and (2) to the person's home address are references to—
  - (a) the person's new home address if the person gives the notification after changing home address, or
  - (b) the person's old home address if the person gives the notification before changing home address.
- (4) A notification given in accordance with this section must be acknowledged—
  - (a) in writing, and
  - (b) in such form as the Secretary of State may direct.
- (5) When a person gives notification under section 9(1), (3) or (4), the person must, if requested to do so by the police officer or person mentioned in subsection (1)(b), allow that officer or person to—
  - (a) take the person's fingerprints, (b) photograph any part of the person, or (c) do both of these things.
- (6) The power in subsection (5) is exercisable for the purpose of verifying the identity of the person.

## 11 Offences relating to notification

- (1) A person commits an offence if the person—
  - (a) fails, without reasonable excuse, to comply with section 9(1), (3) or (4), or with section 10(5), or
  - (b) notifies to the police, in purported compliance with section 9(1), (3) or (4), any information which the person knows to be false.
- (2) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine or both, or

- (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or both.
- (3) A person commits an offence under subsection (1)(a) on the day on which the person first fails, without reasonable excuse, to comply with section 9(1), (3) or (4).
- (4) The person continues to commit the offence throughout any period during which the failure continues.
- (5) But the person may not be prosecuted more than once in respect of the same failure.
- (6) Proceedings for an offence under this section may be commenced in any court having jurisdiction in any place where the person charged with the offence resides or is found.
- (7) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.

### *Guidance*

#### 12 Guidance

- (1) The Secretary of State must issue guidance to chief officers of police about the exercise of their functions under this Act.
- (2) The Secretary of State may, from time to time, revise the guidance issued under subsection (1).
- (3) The Secretary of State must arrange for any guidance issued or revised under this section to be published in such manner as the Secretary of State considers appropriate.

### *General*

#### 13 Procedure

- (1) An application to a magistrates' court under any provision of this Act is to be by complaint.
- (2) Section 127 of the Magistrates' Courts Act 1980 (time limits) does not apply to a complaint under any provision of this Act.

## 14 Interpretation

(1) In this Act—

“acts” includes omissions;

“chief officer of police” means—

- (a) the chief constable of a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);
- (b) the Commissioner of Police of the Metropolis;
- (c) the Commissioner of Police for the City of London;
- (d) the chief constable of the British Transport Police;
- (e) the chief constable of the Ministry of Defence Police;

“defendant” has the meaning given by section 1(1);

“home address”, in relation to a person, means—

- (a) the address of the person’s sole or main residence in the United Kingdom, or
- (b) if the person has no such residence, the address or location of a place in the United Kingdom where the person can regularly be found and, if there is more than one such place, such of those places as the person may select;

“interim stalking protection order” has the meaning given by section 5(2);

“local police area”, in relation to a person, means—

- (a) the police area in which the person’s home address is situated,
- (b) in the absence of a home address, the police area in which the home address last notified is situated (whether that notification was in accordance with the requirements imposed by section 9 or in accordance with notification requirements under Part 2 of the Sexual Offences Act 2003), or
- (c) in the absence of a home address and of any such notification, the police area in which the magistrates’ court which last made a stalking protection order or an interim stalking protection order in respect of the person is situated;

“magistrates’ court”, in relation to a defendant under the age of 18, means youth court;

“photograph” includes any process by means of which an image may be produced;

“relevant chief officer of police”, in relation to an application for an order under section 4 or to an appeal under section 7, means—

- (a) the chief officer of police for the area in which the defendant resides,
  - (b) a chief officer of police who believes that the defendant is in, or is intending to come to, that chief officer's police area, and
  - (c) the chief officer of police who applied for the stalking protection order to which the application or appeal relates;
- “stalking protection order” has the meaning given by section 1(1).

- (2) In this Act, references to a “risk associated with stalking” are to be read in accordance with section 1(4).

## 15 Extent, commencement and short title

- (1) This Act extends to England and Wales only.
  - (2) This section comes into force on the day on which this Act is passed.
  - (3) The other provisions of this Act come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
  - (4) This Act may be cited as the Stalking Protection Act 2019.
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## Annex C – Stalking offences

### Protection from Harassment Act 1997

#### [Section 2A - Offence of stalking

(1) A person is guilty of an offence if—

- (a) the person pursues a course of conduct in breach of section 1(1), and
- (b) the course of conduct amounts to stalking.

(2) For the purposes of subsection (1)(b) (and section 4A(1)(a)) a person's course of conduct amounts to stalking of another person if—

- (a) it amounts to harassment of that person,
- (b) the acts or omissions involved are ones associated with stalking, and
- (c) the person whose course of conduct it is knows or ought to know that the course of conduct amounts to harassment of the other person.

(3) The following are examples of acts or omissions which, in particular circumstances, are ones associated with stalking—

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

(4) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, or a fine not exceeding level 5 on the standard scale, or both.

(5) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (4) to 51 weeks is to be read as a reference to six months.

(6) This section is without prejudice to the generality of section 2.]



**[Section 4A - Stalking involving fear of violence or serious alarm or distress**

(1) A person (“A”) whose course of conduct—

(a) amounts to stalking, and

(b) either—

(i) causes another (“B”) to fear, on at least two occasions, that violence will be used against B, or

(ii) causes B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities,

is guilty of an offence if A knows or ought to know that A's course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress.

(2) For the purposes of this section A ought to know that A's course of conduct will cause B to fear that violence will be used against B on any occasion if a reasonable person in possession of the same information would think the course of conduct would cause B so to fear on that occasion.

(3) For the purposes of this section A ought to know that A's course of conduct will cause B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities if a reasonable person in possession of the same information would think the course of conduct would cause B such alarm or distress.

(4) It is a defence for A to show that—

(a) A's course of conduct was pursued for the purpose of preventing or detecting crime,

(b) A's course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or

(c) the pursuit of A's course of conduct was reasonable for the protection of A or another or for the protection of A's or another's property.

(5) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding [ten years], or a fine, or both, or

(b) on summary conviction, to imprisonment for a term not exceeding twelve months, or a fine not exceeding the statutory maximum, or both.

(6) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in subsection (5)(b) to twelve months is to be read as a reference to six months.

(7) If on the trial on indictment of a person charged with an offence under this section the jury find the person not guilty of the offence charged, they may find the person guilty of an offence under section 2 or 2A.

(8) The Crown Court has the same powers and duties in relation to a person who is by virtue of subsection (7) convicted before it of an offence under section 2 or 2A as a magistrates' court would have on convicting the person of the offence.

(9) This section is without prejudice to the generality of section 4.]

## Annex D – Stalking support services

Action Against Stalking	<a href="http://www.actionagainststalking.org/">http://www.actionagainststalking.org/</a>	
Alice Ruggles Trust	<a href="https://alicerugglestrust.org/">https://alicerugglestrust.org/</a>	
Aurora New Dawn	<a href="https://www.aurorand.org.uk/">https://www.aurorand.org.uk/</a>	
Black Country Women's Aid	<a href="https://blackcountrywomensaid.co.uk">https://blackcountrywomensaid.co.uk</a>	0121 553 0090
Changing Pathways Independent Stalking Advocacy Team	<a href="https://changingpathways.org/community-services/independent-stalking-advocacy-team/">https://changingpathways.org/community-services/independent-stalking-advocacy-team/</a>	
Freephone National Domestic Abuse Helpline (operated by Refuge)	<a href="https://www.refuge.org.uk/get-help-now/phone-the-helpline/">https://www.refuge.org.uk/get-help-now/phone-the-helpline/</a>	0808 2000 247
National Stalking Helpline (operated by the Suzy Lamplugh Trust)	<a href="https://www.suzylamplugh.org/Pages/Category/national-stalking-helpline">https://www.suzylamplugh.org/Pages/Category/national-stalking-helpline</a>	0808 802 0300
Paladin National Stalking Advocacy Service	<a href="https://paladinservice.co.uk/">https://paladinservice.co.uk/</a>	020 3866 4107
Supportline	<a href="https://www.supportline.org.uk/">https://www.supportline.org.uk/</a>	01708 765200
Sussex Stalking Support	<a href="https://www.sussexstalkingsupport.co.uk/">https://www.sussexstalkingsupport.co.uk/</a>	01273 083647
Suzy Lamplugh Trust	<a href="https://www.suzylamplugh.org/">https://www.suzylamplugh.org/</a>	
Veritas Justice	<a href="http://veritas-justice.co.uk">http://veritas-justice.co.uk</a>	01273 234 773
Victim Support	<a href="https://www.victimsupport.org.uk/">https://www.victimsupport.org.uk/</a>	0808 1689111
You Trust	<a href="http://theyoutrust.org.uk/">http://theyoutrust.org.uk/</a>	01329 825 930

## Annex E – Further guidance on stalking

- [NPCC / CPS \(2018\) Protocol on the appropriate handling of stalking offences \(see link under 'Introduction'\)](#)
- [College of Policing \(2019\) advice to police responders to ensure an effective response to reports of stalking or harassment](#)
- [Domestic Abuse, Stalking and Harassment and Honour Based Violence \(DASH, 2009-16\) Risk Identification and Assessment and Management Model](#)
- [CPS legal guidance on stalking and harassment](#)
- [College of Policing \(2013\) Briefing Note for Amendments to the Protection from Harassment Act 1997](#)
- [Home Office circular 018/2012: A change to the Protection from Harassment Act 1997](#)

### Other relevant guidance

- [Home Office \(2015\) Controlling or coercive behaviour in an intimate or family relationship – statutory guidance framework](#)
- [CPS Toolkit for Prosecutors on Violence Against Women and Girls Cases Involving a Vulnerable Victim](#)
- [College of Policing Authorised Professional Practice on investigating domestic abuse](#)
- [Suzy Lamplugh Trust \(2017\) Exploring the Relationship between Stalking and Homicide](#)