

Title: Legislative change to introduce offences of stalking and stalking where there is a fear of violence IA No: HO0067 Lead department or agency: Home Office Other departments or agencies: Ministry of Justice, Crown Prosecution Service, Attorney General's Office	Impact Assessment (IA)		
	Date: 04/02/2013		
	Stage: Final		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
Contact for enquiries: Suzanne Farrell suzanne.farrell7@homeoffice.gsi.gov.uk			

Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
--	--

Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
-£1.9m	£N/Am	£N/Am	No
			NA

What is the problem under consideration? Why is government intervention necessary?

The offences of harassment and putting people in fear of violence in the Protection from Harassment Act 1997 (1997 Act) came into force on 16 June 1997 and were always intended to cover stalking behaviour. However victims and stalking charities were concerned that the word 'stalking' did not appear on the face of the Act and the offences did not differentiate between stalking and other forms of harassment. This concern was reflected to some extent in responses to the Home Office consultation on how to protect victims of stalking more effectively (consultation ran 14 November 2011 – 5 February 2012) in which 56% of the 156 respondents stated that they did not feel that current legislation was effective in dealing with stalking perpetrators (q.12). Consultation responses from the police, including the Association of Chief Police Officers (ACPO) also stated that there was a need for police search powers for lower level stalking offences, currently captured under the Section 2 offence in the 1997 Act, in order to gather evidence to secure successful convictions. In light of these concerns, the Government tabled clauses in the Protection of Freedoms Bill, to introduce two new specific offences relating to stalking, and additional police search powers, which received Royal Assent on 1 May and came into force on 25 November 2012.

What are the policy objectives and the intended effects?

The main objectives of the policy are to raise the profile of stalking with practitioners and victims, securing more convictions and providing better protection for victims; and to give the police powers to enter premises, search and seize equipment used to stalk in respect of the summary only offence, in order to increase successful prosecutions of stalking perpetrators and improving protection of victims.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Policy option 1: (Do nothing) Continue to raise awareness of how to tackle stalking and harassment (including raising awareness of existing measures to tackle the issue) and address issues at an operational level.

Policy option 2: Amend the 1997 Act to introduce two new offences of (i) stalking and (ii) stalking where there is a fear of violence or serious alarm and distress and to introduce a power of entry, search and seizure (exercisable by warrant) for the police in respect of the offence of stalking.

Policy option 3: Amend sections 2 and 4 of the 1997 Act to make clear they refer to stalking and harassment behaviours, define stalking in the Act supported by a list of behaviours; and to introduce a power of entry, search and seizure (exercisable by warrant) for the police for s2 of the Act.

Policy option 2 is the preferred policy option for the reasons set out in Sections A-F.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: January 2016					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro No	< 20 No	Small No	Medium No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)		Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Do nothing: continue to raise awareness of how to tackle stalking and harassment (including raising awareness of existing measures to tackle the issue) and address issues at an operational level with the police and CPS.

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate		0	0

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

No costs could be quantified due to a lack of appropriate data.

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

Potential cost of producing and delivering training and guidance Criminal Justice System (CJS) (i.e. police, HM Courts & Tribunals Service, Crown Prosecution Service, National Offender Management Service, HM Prison Service and Legal Services Commission) to improve awareness of stalking and available legislation and powers to prosecute. Potential opportunity cost when staff across CJS completed training. For the purposes of this assessment it is assumed there would not be additional costs of implementing the 'do nothing' option.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate		0	0

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

No benefits could be quantified due to a lack of appropriate data.

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

This option would potentially raise the profile of stalking with practitioners and victims to increase successful intervention in stalking cases, securing more convictions of perpetrators and providing better protection for victims.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
-------------------------------------	-------------------	-----

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	NA

Summary: Analysis & Evidence

Policy Option 2

Description: Amend the 1997 Act to introduce two new offences of stalking (section 2A) and stalking where there is a fear of violence or serious alarm and distress (section 4A), and to introduce a power of entry, search and seizure for the police (exercisable by warrant) in relation to the offence of stalking (section 2A). The Section 4 offence already has these powers (without warrant) available.

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -£1.9m
COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Cost (Present Value)
Low					
High					
Best Estimate	£1.9m		NK		NK
Description and scale of key monetised costs by 'main affected groups'					
No on-going costs could be quantified due to a lack of appropriate data. Police familiarisation costs have been estimated and include the cost of all officers completing a short e-briefing and attending a half-day workshop for key practitioners.					
Other key non-monetised costs by 'main affected groups'					
The principle costs are expected to be: one-off legislative costs; training and familiarisation costs to services across the CJS (i.e. police, HM Courts & Tribunals Service, Crown Prosecution Service, National Offender Management Service, HM Prison Service and Legal Services Commission); and potential downstream CJS costs if this leads to additional stalking offenders entering the system (if for example the police are more aware of the power they have to prosecute stalking behaviour); higher conviction rates for cases and/or cases shifting from the lower level harassment offence to the new stalking where there is fear of violence or serious alarm and distress offence. There will also be additional police costs arising from the introduction of the additional power of entry, search, and seizure and associated forensic resource, which may be offset to some extent by efficiency savings.					
BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)		Total Benefit (Present Value)
Low					
High					
Best Estimate	NK		NK		NK
Description and scale of key monetised benefits by 'main affected groups'					
No benefits could be monetised.					
Other key non-monetised benefits by 'main affected groups'					
This option provides an opportunity to raise the profile of stalking with practitioners and victims to increase successful intervention in stalking cases through enhanced search powers, securing more convictions of perpetrators and providing better protection for victims. Fear of stalking victimisation may be reduced through heightened awareness about how to address this issue, in the shorter term in particular. More stalking perpetrators may be brought to justice through the additional offences and the increased police powers of entry relating to the section 2A offence.					
Being stalked can have health, social and economic impacts on a victim. By more effectively tackling stalkers, victims may be healthier and more able to participate effectively in employment and their communities. These benefits cannot, however, be quantified.					
Key assumptions/sensitivities/risks					Discount rate (%)
Costs and benefits have not been quantified.					3.5

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	NA

Summary: Analysis & Evidence

Policy Option 3

Description: Amend sections 2 & 4 of the Act to make clear they refer to stalking and harassment behaviours, define stalking in the Act supported by a list of behaviours, introduce a power of entry, search and seizure for the police (exercisable by warrant) in relation to section 2 offence. The Section 4 offence already has these powers (without warrant) available.

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -£1.9m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	£1.9m	NK	NK

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

No on-going costs could be quantified due to a lack of appropriate data. Police familiarisation costs have been estimated and include the cost of all officers completing a short e-briefing and attending a half-day workshop for key practitioners.

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

The principle costs are expected to be: one-off legislative costs; training and familiarisation costs to services across the CJS; and potential downstream CJS costs if this leads to additional stalking offenders entering the system; higher conviction rates and/or cases shifting from harassment harassment where there is a fear of violence.

There will also be additional police costs arising from the introduction of the power of entry, search, and seizure and associated forensic resource, which may be offset to some extent by efficiency savings. As the search powers would relate to all Section 2 cases, this option would be likely to create higher costs than option 2.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	NK	NK	NK

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

No benefits have been monetised.

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

This option provides an opportunity to raise the profile of stalking with practitioners and victims to increase successful intervention in stalking cases through enhanced search powers, securing more convictions of perpetrators and providing better protection for victims. Fear of stalking victimisation may be reduced through heightened awareness about how to address this issue, in the shorter term in particular. More stalking perpetrators may be brought to justice through the amended offences and the increased police powers of entry relating to the section 2 offence.

Being stalked can have health, social and economic impacts on a victim. By more effectively tackling stalkers, victims may be healthier and more able to participate effectively in employment and their communities. These benefits cannot, however, be quantified.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
-------------------------------------	-------------------	-----

Costs and benefits have not been quantified.

There is a risk that the Government would be criticised for disproportionately extending police search powers for all Section 2 cases, which includes harassment cases such as neighbourly disputes.

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	NA

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

The 1997 Act already criminalises stalking behaviour within the offences of harassment and putting people in fear of violence, although it is not made explicit that these offences also cover stalking. The Act sets out that harassment includes alarming the person or causing the person distress. This is important as the variety of activities employed by stalkers, when taken separately, may not constitute an offence. Section 2 of the Act makes it an offence to pursue a course of conduct which amounts to harassment; section 4 makes it an offence to pursue a course of conduct which causes another to fear that violence will be used against them on at least two occasions. The section 2 offence is summary-only and is tried in the magistrates' court; the section 4 offence an either-way offence triable in either the magistrates' court or Crown Court. As such, the police have a power of entry under the Police and Criminal Evidence Act 1984 to search and seize equipment in respect of the section 4 offence (putting people in fear of violence). The police do not have a power of entry in relation to the section 2 offence.

Anti-stalking campaigners believe that including stalking within the wider offences in the 1997 Act conflated it with nuisance crimes and disputes over property and failed to address adequately its serious impact and risk to victims. The Justice Unions' Parliamentary Group recently reported on the impact of the existing situation on stalking victims and also recommended the introduction of a specific offence of stalking.

Police responses, including ACPO, to the Government consultation stated that the police need search powers in respect of lower-level stalking behaviour in order to gather better evidence to secure successful convictions and prevent cases escalating.

On International Women's Day, 8 March 2012, the Prime Minister announced plans to introduce two new stalking offences. The Protections of Freedoms Act 2012, once commenced, amends the 1997 Act by introducing two new offences of stalking (section 2A) and stalking involving a fear of violence or serious alarm and distress (section 4A) and to introduce a power of entry, search and seizure (exercisable by warrant) for the police in respect of the section 2A offence.

A.2 Groups Affected

The proposals as set out in this Impact Assessment will have effect in England and Wales only.

Stalking victims
Agencies that represent/ support victims of stalking
Police
Prosecutors
Courts
Perpetrators of stalking
Legal Services Commission
Prison service
Probation service

A.3 Consultation

This Impact Assessment has been completed following the Home Office consultation, *Consultation on Stalking*, and following Government amendments to the Protection of Freedoms Act to amend the 1997 Act.

The consultation was open for comment from 14th November 2011 until 5th February 2012. 156 responses were received, including responses from the Association of Chief Police Officers (ACPO), the Crown Prosecution Service (CPS), individual police forces, charity and voluntary sector organisations working with victims of stalking, the National Association of Probation Officers (NAPO) and members of the public. The consultation sought views on how we can protect victims of stalking more effectively. Consultees were invited to offer views and comments on a wide range of issues.

The two questions that the proposals in this Impact Assessment are linked to were:

1. *“Should the police have the power, in addition to the limited powers available for summary-only offences, to search premises and seize property in relation to offences under section 2 of the 1997 Act? Please provide additional reasons to support your views.”*

A significant majority (74%) of consultation respondents supported the introduction of a new power of entry for section 2 stalking offences.

2. *“Is the current legislation sufficient in dealing with stalking perpetrators? If not, what evidence do you have of the gap in the law and does a specific offence of “stalking” need to be defined on the face of legislation? If you consider there should be a specific offence, we would be grateful for your views on what it should contain.”*

56% of respondents, including member of the public and stalking charities, felt that existing legislation was not sufficient. However, little evidence was provided to support this position and other respondents, including ACPO and the CPS, felt that the offences in the 1997 Act were sufficient and the issues were around better enforcement, training and awareness.

We have taken account of the views and evidence provided in response to these questions in developing final policy proposals and the final Impact Assessment. The policy option chosen is in line with the changes that the majority of respondents felt were needed. The Government response to the consultation has been published and is available on the Home Office website.

B. Rationale

The Government is committed to ensuring that the police and partner agencies have the tools they need to bring offenders to justice and to ensure victims have the support they need to rebuild their lives. There is a key role for the Government to support agencies in developing a better approach to tackling stalking. The Government has an opportunity to be a strong advocate for action, to bring organisations together and break down barriers, and to put in place a framework of policies that help the professionals – the police, charities, prosecutors etc. Although the legislative changes are being made in the context of the Government’s Violence against Women and Girls Action Plan, the preferred policy option will benefit all victims of stalking.

The majority of respondents (including stalking victims and campaigners) to the Government consultation on stalking stated that the 1997 Act, prior to enactment of the new offences, is not effective in bringing stalking perpetrators to justice. A significant proportion of responses stated that this was due to the absence of a specific offence of stalking. Although the CPS and ACPO responded stating that the current offences were sufficient, on balance the Home Office considered that revising legislation will benefit

victims. Another strong message in the consultation was that one of the main barriers to successful prosecutions is the difficulty in obtaining independently corroborated evidence in cases where there are no threats of violence, because the police do not have the power of entry, search and seizure under the lower level harassment offence in section 2 of the Act. A recent inquiry into Stalking Law Reform (led by the cross-party Justice Unions' Group), also raised similar concerns.

C. Objectives

The main objectives of the policy are to raise the profile of stalking with practitioners and victims, securing more convictions and providing better protection for victims; and to give the police powers to enter premises, search and seize equipment used to stalk in respect of the summary only offence, in order to increase successful prosecutions of stalking perpetrators and improving protection of victims.

D. Options

Policy option 1: (Do nothing) Continue to raise awareness of how to tackle stalking and harassment (including raising awareness of existing measures to tackle the issue) and address issues at an operational level with the police and the Crown Prosecution Service. For the purposes of this assessment it is assumed there would not be additional costs.

Policy option 2: Amend the 1997 Act to introduce two new offences of (i) stalking and (ii) stalking where there is a fear of violence or serious alarm and distress and to introduce a power of entry, search and seizure for the police in respect of the summary-only offence of stalking. This required changes to primary legislation.

Policy option 3: Amend sections 2 and 4 of the 1997 Act to make clear they refer to stalking and harassment behaviours, define stalking in the Act supported by a list of behaviours and introduce a power of entry, search and seizure for the police for the lower level harassment offence under section 2 of the Act. This would also have required changes to primary legislation.

Preferred policy option: On balance, the Home Office considers that specific stalking offences would lead to better awareness amongst victims and professionals, which could lead to reduced fear of stalking, improved reporting and improved responses from professionals (both of which could lead to more convictions). Based on responses to the recent stalking consultation, increased police powers are considered necessary to effectively gather evidence and prosecute stalking cases under the summary-only offence. Option 2 is preferable to Option 3 in this respect as it only extends powers in relation to stalking cases. Option 3 would extend this power to all Section 2 harassment cases, which is not the intention of the policy and would create additional costs. Although a net present value could not be quantified for either option, the Home Office's preferred option is Option 2 because it is believed that the creation of two new offences will have a greater impact than the altering of an existing offence.

The amendments to the 1997 Act were made by the Protection of Freedoms Act which received Royal Assent on 1 May 2012 and was commenced on 25 November 2012.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

Full appraisal of the policy options is not possible due to an absence of information on the potential scale of effects. All costs and benefits considered, whether quantified or not, will

be considered in comparison to the baseline, do nothing, option. The following costs and unit costs have been identified as relevant and are applicable as described under each option heading below:

One-off legislative costs: amending the 1997 Act will involve a one-off administrative cost. The costs will be subsumed under the overall costs of implementing the Protection of Freedoms Act 2012.

Familiarisation costs: the creation of a new offence or the adaptation of existing offences would impose familiarisation requirements on any agencies who are responsible for enforcing the offences. This is particularly relevant to the police and CPS who are responsible for investigating and charging any new offence. The cost of providing training for all officers in the new offence as well as providing additional bespoke training might be required for those officers whose roles make them particularly likely to be affected by the new legislation and new powers of entry, search and seizure has been estimated. In both cases it has been treated as an “opportunity cost” as it is likely to replace other training or activity. In the first year of the policy, it is assumed that all officers¹ complete a 20 minute e-briefing and that key practitioners (such as Public Protection officers) receive a half day workshop². The costs of providing and attending these is estimated at approximately £1.9 million. The unit cost of a police officer’s (at sergeant or lower rank) time, including “on-costs” is estimated to be £36.81 per hour in 2011/12 prices³. There could be some on-going familiarisation costs for the police but these could not be estimated. Familiarisation costs may also apply to other staff across the CJS.

Police costs: the introduction of a power of entry, search, and seizure could result in additional costs for police and forensic services as the number of warrants executed related to stalking incidents and the enforcement of stalking incidents could increase. These costs would be absorbed within the existing police budgets so any additional use of resource would constitute an opportunity cost rather than a financial one. The cost per case is not known and could vary considerably but would be based on the unit cost outlined above..

CJS costs: should an option result in an increase in reporting, enforcement, and convictions in relation to stalking incidents, then various additional costs can be expected. CJS unit costs are set out as follows:

- **HM Courts and Tribunals Service:** hourly costs for the Magistrates’ Court and Crown Court are £265 and £405 respectively⁴
- **Crown Prosecution Service:** for Magistrates’ Court and Crown Court are approximately £143 and £2,508 per case respectively⁵.
- **Legal Services Commission:** for Magistrates’ Court and Crown Court are approximately £632 and £4,268 per case respectively⁶
- **Prison costs:** £30,000 per year
- **Probation costs:** £2,700 per case⁷

¹ Calculated assuming that 130,000 officers ranked sergeant and below, and 10,000 officers ranked inspector and above require training.

² Calculated assuming that 20 officers per force require additional training.

³ Based on Annualised Survey of Hours and Earnings (ASHE) and Chartered Institute of Public Finance and Accounts (CIPFA) data

⁴ Costs provided by HMCTS: £1,313 per day in the magistrates court and £2,021 per day in the Crown court. A 5 hour sitting day is assumed. These are direct court and judicial near cash costs. Costs are for 2010/11.

⁵ Costs from the MoJ cost benefit framework for 2008/09. Uprated to account for inflation using the HM Treasury GDP deflator series – presented in 2010/11 prices.

⁶ These costs are assuming that stalking offences can be proxied by the *lesser offences involving violence or damage, and less serious drug offences* category. Costs have been taken from the LSC’s criminal higher report and lower report, and are in 2011/12 prices. Costs are per case assuming that each defendant will have one solicitor instructing one barrister.

- **Community sentencing costs:** £2,700 per case.

Assuming that S2A and S4A offences attract similar sentencing as the existing S2 and S4 offences respectively, every additional conviction could result in prison costs⁸ of approximately £3,375 for a S2A offence⁹ and £12,875 for a S4A offence¹⁰. Based on the same data, 9 per cent of S2A cases and 22 per cent of S4A cases would result in a custodial sentence.

BASELINE SCALE

There is no robust estimate of the number of stalking victims who might be affected by the proposed options. According to the 2010/11 Crime Survey for England and Wales¹¹, 3.6% of adults between the ages of 16 and 59 were the victim of stalking behaviour in the last year. This equates to 1,183,000 individuals across England and Wales. Although victims under the age of 16 and over the age of 59 are excluded from this count, it is possible that it could be a significant over-estimate of the number of people who could be affected by the proposals for the following reasons:

- The proposed offence of stalking requires not just one action, but a “course of conduct” in order to constitute an offence. Since the Crime Survey for England and Wales estimate does *not* require behaviours to be repeated, it is likely to be an over-estimate;
- The Crime Survey for England and Wales also doesn’t ask participants whether the behaviour alarmed or distressed them or put them in fear of violence. These are key elements of the harassment and putting in fear of violence offences in the 1997 Act and therefore would help explain why the figure is high compared to the number of cases that reach court;
- In addition, there is likely to be a substantial overlap with existing harassment offences since many of the behaviours asked about in the survey could apply to both harassment and stalking.

In 2010, 7,500 cases of harassment were prosecuted in England and Wales under the 1997 Act. Given that the 1997 Act includes stalking behaviour, albeit without a specific offence of stalking, the enactment of the new offences may not significantly increase the total number of stalking case prosecutions. However, there may be additional prosecutions, or cases being prosecuted under the more serious S4A that would previously have been prosecuted under S2, as a result of:

- the police being more aware of their powers in relation to stalking cases;

⁷ Costs are for 2008/09 from the Ministry of Justice Cost Benefit Framework, inflated using HMT data to get 10/11 nominals. These are converted into real figures in 10/11 prices and Spending Review real efficiencies from 2010/11 are applied on top.

⁸ Assuming that half of the average sentence is served in prison and the remainder is served on probation in the community, except in cases where sentences are less than 12 months, where no probation is served.

⁹ Average custodial sentence length is 2.7 months, based on analysis of Ministry of Justice data for 2011. A breakdown of sentence types and lengths were provided for offences under the Protection from Harassment Act 1997

¹⁰ Average custodial sentence length is 10.3 months, based on analysis of Ministry of Justice data for 2011. A breakdown of sentence types and lengths were provided for offences under the Protection from Harassment Act 1997

¹¹ The CSEW asks: “And has anyone done any of these things has happened to you in the LAST 12 MONTHS, that is, since the first of [DATE]. This may have been a partner, a family member, someone you knew casually or a stranger.

YOU CAN CHOOSE MORE THAN ONE ANSWER AT THIS QUESTION IF YOU WISH

1. Sent you unwanted letters, emails, text messages or cards that were either obscene or threatening
2. Made a number of obscene, threatening or silent phone calls to you
3. Waited or loitered outside your home or work place
4. Followed you around and watched you
5. Deliberately interfered with or damaged your personal property
6. None of these
7. Don't know/ can't remember
8. Don't wish to answer”

- cases that could not meet the fear of violence test in S4 potentially meeting the serious alarm or distress test in S4A;
- new powers of entry in relation to the 2A offence enabling better evidencing and charging of cases.

OPTION 1 – (Do nothing)

There would have been no additional costs or benefits arising as a result of implementing the do nothing option. Though the option description refers to raising awareness and addressing operational issues, this activity is already ongoing in the baseline so no additional expenditure or resources would be required.

OPTION 2 – Amend the 1997 Act to introduce two new offences of stalking and stalking involving a fear of violence or serious alarm or distress, and to introduce a power of entry, search and seizure for the police in respect of the lower level offence of stalking

COSTS

One-off legislative and administrative costs from amending the 1997 Act will be subsumed under the overall costs of implementing the Protection of Freedoms Act 2012.

Option 2 will also require familiarisation and training costs to the police and the CPS as outlined above. It has not been possible to estimate the number of officers and CPS employees who would require training, nor the time that such training would take up. Therefore these costs (assumed to be “opportunity” in nature) remain unquantified.

Existing Cases

This option could result in an increase in the number of applications for warrants of entry, search and seizure by the police in pursuance of evidence to support prosecutions for the new offence of stalking, assuming that some cases currently charged under an offence of harassment would now be charged under an offence of stalking. Information on search warrants is not collected centrally so it has not been possible to estimate the number of additional applications that might result from a change in the law. Any associated police and forensic resources will be absorbed within the police budget but may result in opportunity cost.

Granting the police the power of entry, search and seizure exercisable by warrant is expected to result in an increase in the number of lower level stalking cases which proceed to prosecution and subsequently conviction of offenders, compared with cases currently reported that do not result in a conviction. It will increase the likelihood of there being independently corroborated evidence to support a prosecution, and remove the situation where the outcome of the case depends solely on the credibility of the victim’s testimony. In 2010, around 10% of harassment cases proceeded against resulted in immediate custody. There is no evidence on which to estimate by how much this ratio might increase under new legislation, and therefore there is no way of forecasting potential CJS costs arising from this measure.

New Cases

The new offences could conceivably cause an increase in reporting (through victims possessing an increased awareness and knowledge of the avenues open to them), in charging, and in convictions (through an explicit offence of stalking aiding prosecutors, and police powers of entry, search, and seizure facilitating evidence gathering). Due to a lack of precedent and uncertainty around modelling an appropriate baseline, there is no estimate of the extent to which these factors might increase and therefore no way of

modelling a total cost. Any increase would lead to CJS costs as set out under General Assumptions.

BENEFITS

Criminological theory suggests that increased awareness of stalking and an increase in the perceived risk of apprehension to offenders of getting caught (if more likely to be reported, charged and convicted) might have a small deterrent effect and therefore reduce the volume of stalking offences. And if stalking offenders are convicted and incarcerated as a result of the proposed changes, the volume of stalking offences might be reduced if those incarcerated offenders are not “replaced” by new offenders. However, it should be noted that there is a lack of robust evidence in support of either deterrence or incarceration effects on crime. Therefore no crime reduction benefits have been quantified.

Other potential benefits include a reduction in the fear of stalking brought about through increased awareness of the avenues available to victims, a perception that perpetrators are more likely to face punishment, and the fact that victims may avoid the negative mental and physical impacts of stalking and therefore be healthier and more able to participate effectively in employment and their communities. These benefits cannot, however, be quantified.

Granting the police the power of entry, search and seizure exercisable by warrant is expected to result in an increase in the number of stalking cases which proceed to prosecution (some of these offences would currently be charged under the offence of harassment which does not attract any power of entry or potentially new cases where the evidence was previously lacking and the charges were dropped). It would increase the likelihood of there being independently corroborated evidence to support a prosecution and reduce situations where the outcome of the case depends solely on the credibility of the victim’s testimony.

NET

Neither costs nor benefits could be quantified. Some “opportunity” costs to the police and potentially some CJS costs are likely. Therefore some reduction in crime and fear of crime or some increase in public satisfaction that perpetrators are brought to justice, would be required for the option to be cost beneficial. On balance, it is considered that option 2 could provide a net benefit.

ONE-IN-ONE-OUT (OIOO)

This policy option has no business impact and is therefore not in the scope of one-in-one-out.

OPTION 3 – Amend the 1997 Act to define stalking and the behaviours involved, to make it explicit that it is covered under the existing offences of ‘harassment’ and ‘putting people in fear of violence’ and introduce a power of entry, search and seizure for the lower level harassment offence under s2 of the Act

COSTS

Costs arising would be similar to Option 2. If implementation of this option leads to an increase in reporting, charging and convictions, then there would be associated costs to the police and other agencies in the CJS. The application of search powers to all S2 cases could lead to higher resulting costs than Option 2.

BENEFITS

Benefits arising would be similar to Option 2. The application of search powers to all S2 cases could lead to higher resulting benefits than Option 2.

NET

As with Option 2, the net effect cannot be determined. However, on balance it is considered that this option could create a net benefit.

It is possible that Option 2 may result in a greater raising of the profile of stalking in the shorter term than Option 3 would, due to the creation of a specific offence – although it should be noted that this expectation is not based on existing evidence.

ONE-IN-ONE-OUT (OIOO)

This policy option has no business impact and is therefore not in the scope of one-in-one-out.

F. Risks

OPTION 1 – Continue with awareness raising work

If the Government had not legislated, there was a risk that stakeholders would feel it was not taking the problem seriously, particularly given the outcome of the public consultation and the recent Justice Unions' Parliamentary Group inquiry into stalking law reform. However, this could be partly mitigated by greater emphasis on awareness raising, training and guidance for the police and prosecutors.

Existing problems in bringing perpetrators to justice would continue, even if public and professional awareness of stalking increased. The absence of search and seizure powers in respect of the section 2 summary-only offence would not address the risk of perpetrators not being brought to justice because of the lack of corroborative evidence that could prove guilt.

OPTION 2 – Amend the 1997 Act to introduce new offences of stalking and stalking involving a fear of violence or serious alarm or distress

There is a risk that the introduction of the new offences will not result in an increase in offenders being brought to justice and enhanced protection of victims.

The police and the CJS may not understand sufficiently the difference between stalking and harassment. This could result in the revised provisions of the Act not being used effectively. The police could also fail to use the additional search and seizure powers effectively, leading people to question why the powers were implemented in the first place. We will mitigate these risks by ensuring that guidance and training is in place.

It has not been possible to establish likely costs for this option, which represents a risk for the CJS.

OPTION 3 – Amend the 1997 Act to define stalking and the behaviours involved and to make it explicit that it is covered under the existing offences of 'harassment' and 'putting people in fear of violence'

There is a risk that these changes to the 1997 Act would not have gone far enough to satisfy supporters of the proposal for a separate offence in that it would not deal with the criticism that stalking is conflated with harassment offences and needs to be reported

separately. This could be amplified if the change to the Protection from Harassment Act do not result in an increase in the numbers of offenders brought to justice.

The risks arising from not using the new police search and seizure powers outlined under Option 2 would also have applied to Option 3.

There is a risk that there would be public criticism of police search powers being used in less serious section 2 harassment cases, such as neighbourly disputes, as well as in stalking cases.

It was not possible to establish likely costs for this option, which would have represented a risk for the CJS.

G. Enforcement

For Options 2 and 3, enforcement of this policy change would be by the police and public protection agencies in similar ways to the 1997 Act.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Option	Costs	Benefits
2	£1.9m	NK
	One-off legislative and police training costs (£1.9m); downstream police and CJS costs of enforcement	Potentially reduced crime; reduced fear of crime in society; increased sense of justice to society; increased prosecution of offenders.
3	£1.9m	NK
	One-off legislative and police training costs (£1.9m); downstream police and CJS costs of enforcement	Potentially reduced crime; reduced fear of crime in society; increased sense of justice to society; increased prosecution of offenders.
Source:		

Although a net present value could not be quantified for either option, the Home Office's preferred option is Option 2 because it is believed that the creation of two new offences will have a greater impact than the altering of an existing offence.

I. Implementation

For all options, the Government would have needed to consider what activity was required to ensure that both statutory and voluntary agencies working with victims of stalking and the public were made more aware of stalking. This would have included working with the Ministry of Justice and the National Policing Improvement Agency to produce revised operational guidance for the Crown Prosecution Service, the courts and the police.

Option 2 will be introduced by primary legislation. Option 3 would have been introduced in the same way.

J. Monitoring and Evaluation

We will continue to monitor the effectiveness of work to tackle stalking through milestones on the Violence Against Women And Girls Action Plan (which include actions specifically on stalking). This action plan is monitored and reviewed regularly through senior official cross-government 'delivery board' meetings and through quarterly inter-ministerial group meetings. The effectiveness of the policy will be reviewed in light of court data on how the new offence is being used, as well as data on police use of the new powers.

K. Feedback

Feedback from those affected by this policy will continue to be sought through the bi-monthly National Stalking Strategy group meetings, the quarterly ACPO stalking and harassment group meetings, and through violence against women and girls stakeholder meetings.

L. Specific Impact Tests

See Annex 1.

Annex 1. Specific Impact Tests

Statutory Equality Duties

Equality Impact Assessment

An Equality Impact Assessment is not required but we have demonstrated adherence to the statutory equality duty through completing a Policy Equality Statement.

Economic Impacts

Competition Assessment

No economic impacts have been identified.

Social Impacts

Justice

Raised awareness may lead to an increase in reporting of stalking crime. There are also cost implications for the CJS in terms of increases in the numbers of applications for warrants for entry, search and seizure by the police (in relation to section 2A cases) and in the numbers of cases proceeding to prosecution. There is potential for an increase in the volumes of new cases entering the system as well as existing cases being dealt with under the harassment offence moving across to the new stalking offences. In some cases, additional evidence gained and the new definition of the 4A offence could mean that offences that would previously have been dealt with under Section 2 of the 1997 Act would be prosecuted under the 4A offence in the Crown Court and would subsequently create higher costs within the CJS.

Criminological theory suggests that greater awareness of stalking by the police and the CJS and a greater likelihood of perpetrators being prosecuted will act as a deterrent and reduce the incidence of stalking. An increase in imprisonment rates may also remove perpetrators from the streets. However, the evidence for deterrence and incarceration effects is weak and therefore it is not possible to quantify either costs or benefits.