



## Stalking or Harassment

23 May 2018; renamed and revised 24 April 2023; minor updates 6 October 2023 and 22 April 2024 | *Legal Guidance, Domestic abuse, Cyber / online crime*

## Stalking or Harassment

23 May 2018; renamed and revised 24 April 2023; minor updates 6 October 2023 and 22 April 2024 | *Legal Guidance Domestic abuse, Cyber / online crime*

### [Introduction](#)

[CPS Violence Against Women and Girls Strategy](#)

[Evidential considerations](#)

[Extra-territorial jurisdiction](#)

[Public interest considerations](#)

[Selecting the Most Appropriate Charge or Charges](#)

[Drafting the charge/indictment](#)

[Support for victims](#)

[Acceptability of pleas](#)

[Bail and keeping a victim informed](#)

[Sentencing and Ancillary Orders](#)

[Annex A](#)

## Introduction

This prosecution guidance assists prosecutors with the general principles to be applied when making decisions about prosecutions involving stalking or harassment. It provides guidance on:

- the importance of focusing on whether conduct experienced by the victim in its entirety amounts to stalking or harassment, whether the police have investigated those or other individual offences
- selecting appropriate charges, in order to apply the [Code for Crown Prosecutors](#) where there is an overlap between stalking, harassment and/or controlling or coercive behaviour
- acceptance of pleas
- the prosecutor's role in supporting the victim

Stalking or harassment offences can be found in sections 2, 2A, 4 and 4A of the [Protection from Harassment Act 1997](#) (PHA 1997) and [section 42A \(1\) Criminal Justice and Police Act 2001](#). [Section 32 Crime and Disorder Act 1998](#) creates racially or religiously aggravated versions of the PHA 1997 offences, which have higher maximum sentences than the 'basic' PHA offences. Where a PHA offence involves hostility based upon sexual orientation, transgender identity or disability, then the sentence uplift provisions of section 66 Sentencing Act 2020 will apply. See the legal guidance on [Racist and Religious Hate Crime](#), on [Homophobic, Biphobic and on Transphobic Hate Crime](#) and [Disability Hate Crime and other crimes against disabled people](#).

It is essential that prosecutors work closely with the police and other agencies to ensure that the best evidence is gathered and presented to the court. Prosecutors should be aware of the [Protocol on the appropriate handling of stalking offences between the Crown Prosecution Service and the National Police Chiefs' Council](#).

In cases of stalking or harassment, the support and safety needs of victims should be identified from the outset, and continually considered throughout the life of a case, by the police in dialogue with the prosecutor. Where available, this should also be informed by any specialist support the victim is receiving, for example, through an Independent Stalking Advocacy Caseworker (ISAC) or an Independent Domestic Abuse Advisor (IDVA). Improving a victim's safety and managing risk through relevant protective orders is important. It may help to increase their confidence in the criminal justice system and facilitate their participation in the investigation and prosecution process.

Many cases of stalking or harassment will come within the definition of "domestic abuse".

Prosecutors should also apply the following guidance, where applicable:

- [Domestic Abuse: Policy Statement](#)
- [Domestic Abuse](#) prosecution guidance
- [Controlling or Coercive Behaviour](#) prosecution guidance
- [Statutory guidance framework: controlling or coercive behaviour](#)
- [Stalking Protection Act: statutory guidance for the police](#)
- [Sentencing Council Guideline on Harassment and Stalking](#)

## CPS Violence Against Women and Girls Strategy

The [Violence Against Women and Girls \(VAWG\) Strategy](#) provides an overarching framework for crimes identified as being primarily, but not exclusively, committed, by men against women within a context of power and control.

Stalking or harassment should be addressed within the overall framework of VAWG and human rights. The patterns and dynamics involved in these cases need to be understood to provide an appropriate and effective response. Though most reported victims of stalking or harassment are women, the CPS recognises that some offenders will be women, non-binary or identify in a different way and some victims will be men, non-binary or identify in a different way.

All references in this guidance are gender neutral and are applied to all suspects and victims of crime irrespective of gender, or sexual orientation, in accordance with the [Code for Crown Prosecutors](#).

Refer to the [Domestic Abuse](#) prosecution guidance for further information about the gendered approach to prosecutions.

## Evidential considerations

The four key offences concerning stalking and harassment are contained in the PHA 1997:

- the summary-only offences of stalking (section 2A) and harassment (section 2), which carry the maximum general sentence a magistrates' court can impose. As summary offences, an information must be laid within 6 months of the commission of the offence. The 6 months' limitation runs from the date of the last incident comprising the course of conduct: [Director of Public Prosecutions v Baker \[2004\] EWHC 2782 \(Admin\)](#)
- the either-way offences of stalking causing fear of violence or serious alarm/distress which has a substantial adverse impact on the victim's usual day-to-day activities (4A) and harassment causing fear of violence (section 4), which carry a maximum of ten years' imprisonment and/or a fine on indictment.

A jury which finds a defendant not guilty of the section 4A or 4 offences may in the alternative convict of the 2A or 2 offence: sections 4A (7) and 4(5). The 6-month time limit which applies by virtue of section 127 Magistrates' Court Act 1980 does not apply here because proceedings are on indictment. The alternative is available even if the section 4A or 4 offences has been the subject of a successful submission of no case to answer.

Harassment may be committed against two or more persons. This limb of the section 2 offence requires proof that the defendant intended to persuade any person not to do something that they are entitled or required to do, or to do something that they are not under an obligation to do. This covers collective harassment, whether directed towards members of the same family, neighbourhood, protected characteristics, trade or profession, organisation, or institution. Where this may amount to political protest, see the prosecution guidance on [Offences during Protests, Demonstrations or Campaigns](#). There are other reasons however why several persons may be harassed because of their collective identity or membership. This is distinct from harassment by proxy, whereby a single person is the victim of harassment, but the course of conduct is also directed at them via family members, new partners, or others.

## "Course of conduct"

The following principles may assist when considering whether there is sufficient evidence of a course of conduct:

- The concept of harassment or stalking is linked to the course of conduct which amounts to it.
- The course of conduct must comprise two or more occasions: section 7(3) PHA 1997.
- Harassment includes alarming a person or causing them distress: section 7(2) PHA 1997.
- The fewer the occasions and the wider they are spread, the less likely it is reasonable to make a finding of a course of conduct: [DPP v Lau \[2000\] 1 FLR 799](#).
- The court should adopt a cautious approach where a course of conduct is based upon a few incidents which are widely spaced in time. The issue for the court is whether the incidents, however many they may be, can properly be said to be so connected in type and in context as to justify the conclusion that they can amount to a course of conduct: [Pratt v DPP \[2001\] EWHC Admin 483](#).
- The court must consider whether the incidents give rise to a nexus sufficient for there to be a "course of conduct": [Patel \[2004\] EWCA Crim 3284](#).
- There is no requirement that the incidents comprising the course of conduct need be of the same nature.

The prosecution does not have to prove motive, or a particular behaviour. However, what may link different incidents in "type and context" and demonstrate a "nexus" is if they arise from a common motive or behaviour. For instance, for stalking, if the conduct is fixated, obsessive, unwanted and repeated, or if the conduct demonstrates a common delusional belief that the victim is in love with the suspect.

## "Stalking"

[Section 2A \(3\) PHA 1997](#) sets out examples of acts or omissions which are ones associated with stalking. The listed behaviours are:

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

This is not an exhaustive list and prosecutors should consider the offending in the round as to whether it reflects the concept of "stalking". "Stalking" may be understood as a pattern of Fixated, Obsessive, Unwanted and Repeated (FOUR) behaviour which is intrusive.

Information about types of stalkers and how stalking can impact victims of this crime can be found in [Annex A](#).

## Cyber Stalking

Stalking or harassment can take place on the internet and via other technologies. This is sometimes known as "cyberstalking". This can include the use of social networking sites, email, chat rooms and other forums facilitated by technology. The internet can be used for a range of purposes, for example:

- to locate personal information about a victim
- to communicate with the victim
- as a means of surveillance of the victim
- identity theft such as subscribing the victim to services, purchasing goods and services in their name
- damaging the reputation of the victim
- electronic sabotage such as spamming and sending viruses
- accessing spyware or malware
- tricking other internet users into harassing or threatening a victim

Further guidance can be found in [Social Media and other Electronic Communications](#) prosecution guidance.

## "Substantial adverse effect"

The phrase "substantial adverse effect on another's usual day-to-day activities" is not defined in section 4A PHA 1997. The guidelines issued by the Home Office suggests some examples:

- the victim changing their routes to work, work patterns, or employment
- the victim arranging for friends or family to pick up children from school (to avoid contact with the stalker)
- the victim putting in place additional security measures in their home
- the victim moving home
- impact on physical or mental ill-health
- the deterioration in the victim's performance at work due to stress
- the victim stopping /or changing the way they socialise

There should be no assumption as to what a "typical" victim might look like or behave like when assessing the evidence as to "substantial adverse effect". Victims may respond to abuse in several ways including consuming drugs or alcohol, and/or by showing signs of humiliation, detachment, anger, and retaliation. Victims may also interpret abuse very differently including expressing feelings of guilt; this might depend on their social or cultural context. Victims can be resilient in some respects: it is important not to compare them to other victims but to consider how their day-to-day life has been affected. Refer to the [Domestic Abuse](#) prosecution guidance for further advice on self-defence and issues relevant to particular groups.

## Gathering Evidence and Case Building

Gathering evidence to build a robust prosecution case should focus on the wider pattern of behaviour and on the cumulative impact on a victim. The investigation may reveal evidence of substantive offences, such as physical or sexual assault, but even if the police investigation is not focused on stalking or harassment, prosecutors should be alive to whether a wider pattern of abuse should be investigated and prosecuted. Prosecutors should also be aware that a victim may not know the full extent of a suspect's conduct, for instance if they were being monitored without their knowledge. Annex 1 of the [Director's Guidance on Charging](#) confirms that prosecutors, not the police, must make charging decisions in cases of stalking or harassment.

The nature of stalking or harassment, particularly where the victim has been followed or subjected to periods of observation, will usually mean that the suspect has spent significant periods of time in the vicinity of the victim's home, place of work or other places that the victim habitually visits. It is therefore important for investigators, liaising where appropriate with prosecutors, to consider if neighbours and other potential witnesses such as routine visitors to the area may have evidenced behaviour or the impact to the victim. Sources of evidence could include:

- neighbours whose homes or workplace are in a line of sight of the location of the incident
- residents or those working adjacent to likely routes taken by the suspect
- those near to or who are users of potential sites for parking a vehicle
- those who use nearby leisure facilities, e.g., dog walking, sports facilities and playgrounds
- family or friends who may have seen a change in the victim's behaviour or witnessed the serious effect the behaviour has had on the victim
- where the suspect has obtained accommodation near the victim, the investigating officer should identify the address and interview neighbours about the suspect's movements

Third parties may also hold relevant material such as:

- the local council may have installed specialised equipment e.g. noise recording equipment

- parties may have been asked to sign an Acceptable Behaviour Contract
- noise abatement notices

## Taking a Suspect-Centric Approach

An effective strategy in the prosecution of these cases needs to involve scrutiny of the behaviour and actions of the suspect. This approach can:

- help ensure the effective consideration of the overall allegation within the wider context of any association or connection
- inform and support investigators to consider all available evidence, including evidence related to offending of which the victim maybe unaware
- lead to the swift and accurate assessment of risk which, in turn, can help to ensure a suitable multi-agency approach to increasing the safety of victims and where appropriate access to early intervention or health referral pathways for the suspect

A stalking or harassment suspect may weigh up the relative benefits and costs of pursuing abusive actions. This may involve taking several steps to minimise the likelihood of detection and punishment. In many of these cases the suspect may have already formed an association with the victim. They may be ex-partners, family members, work colleagues or friends. Information that they have gained as part of this connection may increase their access to the victim, their family or other friends and enable them to manipulate activity to maximise the impact on the victim.

Examples of tactics that suspects may use are listed below, these are not exhaustive:

- being highly manipulative such as: ‘love bombing’ where the suspect will intermittently do what appears to be loving acts, seeking to present these as interrupting or negating the course of conduct rather than forming part of it – prosecutors should consider whether these apparently “loving” acts form part of the course of conduct
- other manipulative steps, in order to disrupt or mislead the investigation and prosecution, including altering behaviour when being watched or supervised; using others to harass or stalk the victim including making spurious complaints to the authorities
- target vulnerable people, recognising that they may face additional barriers to accessing help or support, for example: exploiting someone’s vulnerability owing to their immigration status, disability, age, or sexual orientation
- minimising, or giving mitigation for, their offending behaviour. Claiming that they are not abusive but merely showing affection or care for the victim and that their intentions have been misconstrued

## Information Recorded by Victims

Given that this type of crime, by its nature, is often repetitive, it is sometimes helpful for victims to maintain a record or diary of events. Ideally, the record should be maintained, separately from personal details such as appointment times and other endorsements. It should also be completed as soon as possible after each event, with all entries timed and dated. This record could also be kept electronically on a computer or phone and may be automatically timed. For example, by the victim emailing the document to their own email address as each entry is included. Victims should also be encouraged to:

- note details of witnesses who may have observed or heard these events
- keep a record of how the suspect looked, details of their clothing or vehicle
- store/screenshot messages or tape any calls made by the suspect
- to use 1471 on the phone and write down details of calls received including the time received and the telephone numbers, this includes unanswered calls
- victims should also not to be afraid to inform neighbours, friends, and work colleagues (unless they suspect that the individual is indeed the suspect in the case). They should be asked to ask them to log any suspicious behaviour

Prosecutors should ensure they obtain a copy of this evidence, if available, when reviewing a case. When advising on cases of stalking or harassment, even where there has been a decision for no further action, prosecutors should remember to advise police officers to discuss with victims keeping such a record. It should be noted that there are potential risks to the victim if the suspect were to discover this and this should only be advised where the police consider it safe to do so.

## Extra-territorial jurisdiction

The common law provides that there is jurisdiction to try these offences where a substantial measure of the activities constituting a crime takes place within England and Wales, save where it can seriously be argued on a reasonable view that these activities should, on the basis of international comity, be dealt with by another country. This means that incidents which form part of the course of conduct may be charged as stalking or harassment even if not all of them occur within the jurisdiction.

In cases where the entirety or majority of the offending takes place outside England and Wales it may still be tried when committed by UK nationals and those habitually resident in England and Wales: section 74(1) & (2) and Parts 1 & 2 of Schedule 3 of the Domestic Abuse Act For more information prosecutors should refer to the [Jurisdiction](#) prosecution guidance.

## Public interest considerations

The [Code for Crown Prosecutors](#) sets out the framework for considering whether a prosecution is required in the public interest. It has never been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour.

At 4.14 a number of factors are set out for consideration. This offending will often combine factors of seriousness, culpability and harm to the victim. It is highly likely that a prosecution will be required in the public interest.

Where the evidential stage has been met, in circumstances that involve neighbour disputes which are being considered as a charge of section 2 PHA 1997, prosecutors should carefully consider all the public interest factors. Prosecutors should ensure consideration has been given to alternative disposals, noting that this could be a key factor to consider within the content of all public interest considerations. This should include whether the police and local authorities have taken into consideration the Home Office Anti-Social Behaviour Statutory Guidance. For example, if the police or local council has tried other remedies to resolve the issue like Anti-Social Behaviour injunctions. These injunctions can, in some circumstances, include a power of arrest. Where an injunction has been sought and granted previously, but has been breached or expired, and incidents have continued it may be in the public interest to prosecute. However, where they have not been considered they may be a more appropriate course of action to resolve issues.

## Selecting the Most Appropriate Charge or Charges

Prosecutors should note that the below paragraphs are duplicated in the [Controlling or Coercive Behaviour](#) prosecution guidance and should be applied when considering CCB, stalking or harassment charges. For further information on CCB please refer to the [Controlling or Coercive Behaviour](#) prosecution guidance.

It is for the prosecutor to consider all the circumstances and facts of the case to arrive at a decision on the appropriate charge, applying the principles set out in the [Code for Crown Prosecutors](#), in particular paragraph 6 'selection of charges'.

There is overlap in some elements of the offences of CCB, stalking and harassment. Monitoring a person's movement or social media may constitute both stalking and CCB; controlling who they meet and when they leave the house may constitute both harassment and CCB. The removal of the requirement to cohabit, so that CCB may be charged for non-cohabiting intimate or family relationships, furthers this overlap. It is important to select the charge based on an understanding of the cumulative harm caused to the victim and the harm in its totality. The evidence from the victim should set this out fully and inform the decision on charge, together with the context of the offending including the motivation of the suspect. This will also enable:

- victims to obtain appropriate specialist support (for example, via Independent Domestic Abuse Advisors and Independent Stalking Advocacy Caseworkers) and to access relevant risk assessments
- suspects to access early intervention, bespoke referral routes and where appropriate mental health pathways
- the courts to have appropriate sentencing provision and protective orders available to them

To present a case in a clear and simple way it may not be appropriate to charge stalking, harassment and CCB alongside one another. In order to ensure adequate powers of sentence where there is a higher maximum sentence for stalking or harassment, (i.e. section 4 and 4A PHA 1997) it is likely to tend in favour of charging those offences rather than CCB. Presenting a case which amounts to stalking, and the availability of a stalking protection order, may make stalking the more appropriate charge when choosing between stalking or harassment.

Prosecutors should therefore consider potential charges in the following order:

- If there is sufficient evidence for the elements of stalking involving fear of violence or serious distress or substantial adverse effect on the victim's usual day-to-day activities, the offence contrary to section 4A Protection from Harassment Act 1997 may be the best offence to charge in order to reflect the seriousness and extent of the offending, give the court adequate powers to sentence and enable the case to be presented in a clear and simple way. The non-exhaustive list in section 2A (3) Protection from Harassment Act 1997 provides examples which can constitute stalking. These may overlap with CCB or harassment. However, behaviours which show a fixation, are obsessive, unwanted, and repeated might most clearly be presented to a court as stalking rather than harassment or CCB. This is relevant to the way the case is presented, note also in respect of sentencing powers that the maximum penalty is 10 years' imprisonment, and a Stalking Protection Order is available as a civil order to protect victims.
- If there is insufficient evidence to charge stalking, but there is sufficient evidence to charge section 4 Protection from Harassment Act 1997, the section 4 charge may be the most appropriate. Section 4 harassment is only available where fear of violence is caused, not serious distress which is available for section 4A stalking. Section 4 harassment may overlap with CCB, for example, threats to hurt or harm the victim or their family members and threats of sexual assault. Section 4 may be the more appropriate offence in respect of the sentencing powers available to the court, because the maximum penalty is 10 years' imprisonment.
- If there is insufficient evidence to prosecute section 4A and 4 offences, but there is sufficient evidence to charge CCB, then CCB may be the most appropriate offence. This will likely be in cases where the conduct was controlling or coercive, causing serious alarm or distress which affects the usual day-to-day activities of the victim but did not amount to stalking and where no fear of violence was caused. For example, controlling when a person can leave the house, who they can and cannot socialise with, control of their finances and coercing them into debt. The maximum penalty is 5 years' imprisonment. For that reason, it is likely to be the most appropriate charge in relation to the powers available at sentence, even where section 2A stalking or 2 harassment are also available.

It is also important that breaches of orders are carefully considered, as new offences may also have been committed in addition to the breach of the order. Prosecutors must review all new offences to assess whether a prosecution should follow for any new offence as well as the breach of the order.

Prosecutors are reminded to consider the section below titled "[Acceptability of Pleas](#)" when defendants offer pleas to some but not all offences charged.

## Drafting the charge/indictment

Behaviour that constitutes the course of conduct amounting to harassment must be properly particularised in the information laid or in the indictment: [Crawford v Crown Prosecution Service \[2008\] EWHC 148 \(Admin\)](#). This means that each incident alleged to form part of the course of conduct should be identified in charges or the indictment or at an early stage of the case.

While a course of conduct requires behaviour on at least two occasions, Prosecutors should note that when drafting an indictment for an either way stalking or harassment charge, the following should be borne in mind:

- section 4A(1)(b)(i) PHA 1997 (stalking), the wording must contain "at least on two occasions", as specified in the required elements of this offence
- section 4 PHA 1997 (harassment), the wording must contain "on each occasion", as specified in the required elements of this offence

## Support for victims

From the outset of a case, prosecutors should have regard to support for the victim when advising the police. They may:

- establish whether the victim's needs have been, or can be, assessed by specialist domestic abuse services, Independent Domestic Violence Advisors, Independent Stalking Advocacy Caseworker (ISAC) (or equivalent)
- identify what special measures would maximise the quality of the witness' evidence, especially given the challenges in providing a clear and coherent account a victim of stalking or harassment may have: see further, the [Special Measures](#) prosecution guidance
- consider whether a prosecution could proceed without the support of the victim e.g. an evidence led prosecution
- confirm what ancillary orders should be sought for example restraining orders and stalking protection orders: see further, the section below on sentencing and ancillary orders

## Identification, Assessing and Managing Risk

Identifying quickly and accurately the risks posed by a suspect toward a victim, group of victims or a victim's family is a crucial step in increasing their safety. Cases involving stalking or harassment can sometimes mean that the victim is particularly vulnerable due to the determined and persistent nature of the suspect's behaviour. Prosecutors should ensure that when they are presented with a case either for charge or at court, a full risk assessment has been recently conducted by the police and that they have had sight of the full assessment. It is crucial that the police or other agencies involved with the victim or suspect identify all risks to the victim and others (which may also include risks to the suspect), and where possible take appropriate action to reduce or remove such risks. In some cases, other professionals, and agencies such as probation officers and mental health professionals may feed into this risk assessment process.

Information about risk factors can be obtained from several sources including police information systems, victims, witnesses, other agencies, and people close to the suspect and victim. The victim, although an important source of information, is just one avenue that should be explored. In making an identification and assessment of risk, police officers should also consider information about the suspect (for example, previous history of behaviour and their circumstances) and behaviour of which the victim may be unaware (for example covert surveillance and cyber stalking).

## Risk assessment and risk indication checklists

Risk assessment tools may vary between police forces but the most commonly used are DARA (Domestic Abuse Risk Assessment) which is used by police first responders and DASH (Domestic Abuse Stalking and Honour Based Violence) risk checklist which continues to be used for secondary assessment by specialist investigators, Independent Domestic Violence Advisors (IDVAs) and victim support organisations.

Additionally, in cases of stalking or harassment the police can also utilise S-DASH which enables them to ask additional questions to identify high risk cases of stalking or harassment. Prosecutors should ensure that they have been provided with copy of the risk assessment tool and not just the risk assessment rating. This is required as part of the [Director's Guidance on Charging](#).

In general, where a risk factor is identified, measures should be taken to address that factor by the police. For example, factors relating to harassment may require safety and security measures to be put in place. Factors relating to the suspect may require law enforcement measures or other police action (for example, revocation of a firearms licence). Prosecutors should ensure that they have considered the risk assessment when considering any application for bail, when considering bail conditions and throughout the progress of the case through the criminal justice system to ensure the victim is not put at any further risk.

Multi-Agency Risk Assessment Conferences (MARAC) may also take place. These are meetings about victims of domestic abuse who have been identified by local partner agencies as high risk. The MARAC is an opportunity for partners to share information which might identify further risk to the victim and develop a multi-agency action plan to address those risks.

The safety of the victim, and other dependents or family members should be considered throughout a prosecution case and updated risk assessments requested where appropriate but especially when there is a change in circumstances, for example if further incidents occur. Prosecutors should ensure they have had sight of the full risk assessment and not just a summary in accordance with the [Director's Guidance on Charging](#).

## Acceptability of pleas

Prosecutors should refer to the [Attorney General's Guidelines on the Acceptance of Pleas and the Prosecutor's Role in the Sentencing Exercise](#) and paragraph 9 of the [Code for Crown Prosecutors](#) when determining acceptability of pleas.

In some cases, the defendant may offer a guilty plea to a different charge or plead guilty to some of the charges made against them, but not all.

When considering whether to accept a plea in these instances, prosecutors should discuss the situation with the victim or the victim's family where possible.

Prosecutors should consider the following factors when deciding whether to accept a plea to a lesser offence or a plea to one or some of the offences charged, taking into consideration the strategy and rationale for charging the offence or offences selected:

- whether the defendant offers a plea that is in accordance with the evidence available to the prosecution
- whether the plea fetters the discretion of the court in relation to sentencing
- whether the defendant has any previous incidents recorded against them
- whether it would be advantageous to the victim and any children or dependents not to have to give evidence
- the victim's views on the pleas offered, some victims would prefer to give evidence rather than accept a plea to a lesser offence
- if the victim is reluctant to attend court, would it be in the public interest to witness summons them
- what explanation can be given to a victim who for example, felt they had been stalked but a plea to harassment was accepted
- has there been any changes in circumstances since the decision to charge stalking was made
- whether the difference between the prosecution and defence version of events is such that it would significantly affect the sentence that would be imposed (if it does, there should be a Newton Hearing to determine the facts)
- would this close any relevant early intervention or health pathways for a defendant
- the fact that defendants will often seek to minimise the offence or mitigate their offence; and
- whether the acceptance of plea could impact upon the ancillary orders, such as stalking protection orders or other orders available to the court at sentence

Where there has been an agreed basis between prosecutors and the defence to a plea, this should be put into writing and signed by both parties.

In addition, when assessing the acceptability of a plea to harassment when stalking has been charged, prosecutors should always consider which plea best reflects the totality of the offending and the overall impact on the victim. Rather than looking at individual incidents, prosecutors should note that it is the cumulative effect of the stalking behaviour on the victim.

Where a prosecutor has charged a section 4A PHA 1997 offence and a defendant offers a plea to a section 2A PHA 1997 offence, the decision has already been made that there is sufficient evidence that the impact on the victim cross the threshold to charge a section 4A offence. It should be considered only exceptional circumstances appropriate to accept a plea to the lesser offence.

Prosecutors should bear in mind the fact that defendants will often seek to minimise the offence or give mitigation for their offence or seek to avoid the "stigma" of being labelled as a stalker. Other stalkers may exploit the fact they have been able to affect victims to such an extent and use this to further impact victims.

In general, the prosecution should proceed on the basis that if the behaviour is clearly indicative of stalking, then that is the appropriate charge and should not accept a plea to harassment simply out of expediency.

## Bail and keeping a victim informed

Every effort should be made to ensure that views of victims in cases of stalking or harassment are available prior to making bail decisions.

Where the initial police investigation is complete, there may be circumstances in which a charge, caution or prosecution is not possible. For example, there may not be sufficient evidence of a course of conduct which breaches the PHA 1997. This may be because actions complained of are reasonable and lawful and were adequately explained by the suspect. Also, a victim may be reporting a single act and no offence has occurred.

In such a case, it may be relevant to remind the police that they should inform victims that they may be able to seek additional recourse via the civil court by making application for a non-molestation order or other injunctive relief, see Part IV of the [Family Law Act 1996](#).

## Sentencing and Ancillary Orders

There are specific [Sentencing Guidelines](#) for these offences:



- Stalking
- Stalking (involving fear of violence or serious alarm or distress)
- Harassment
- Harassment (putting people in fear of violence)

Prosecutors should ensure they consider the culpability and harm factors within the sentencing guidelines when making submissions about the appropriate venue for section 4 and 4A PHA 1997 offences to be sentenced.

A defendant may seek to make repeated applications for variation of the ancillary orders or engage in other litigation to continue harassing the victim. In such cases, the court should be reminded of its powers to control abuse of its process. Victims should be informed of applications to vary and asked to express their views and to attend if necessary.

## Restraining Orders

A Restraining order may be sought upon conviction ([section 360 Sentencing Act 2020](#)) or acquittal ([section 5A PHA 1997](#)). It is imperative that prosecutors are supplied with up-to-date relevant information such as a victim personal statement or MG6 form from the police in good time for a sentencing hearing or before the case concludes if the order is to be made on acquittal. Breach of an order is a criminal offence.

Further information about restraining orders and the prosecution of breach of the orders (as well as variation) can be found in [Restraining Orders](#) prosecution guidance and the [Domestic Abuse](#) prosecution guidance.

## Stalking Protection Orders

The [Stalking Protection Act 2019](#) introduced Stalking Protection Orders (SPO), which are civil orders. A SPO is made on application to the magistrate's court by the police. Applications for interim or full orders can be made. Within an application for a SPO or an interim order, police can request both prohibitions and/or positive requirements to protect the victim from the risk of stalking. Breach of either the interim order or the full order is a criminal offence.

Prosecutors can find further guidance on SPOs in the [Stalking Protection Orders](#) prosecution guidance.

## Injunctions

Section 3 PHA 1997 enables harassment under section 1(1) PHA 1997 to be defined as a tort for which a victim can bring civil legal proceedings. Section 3A into the PHA 1997, permits a person who is, or may be, a victim of conduct within section 1(1A) PHA 1997 to apply to the High Court or County Court for an injunction.

## Civil proceedings

Where there are concurrent criminal and civil proceedings prosecutors must ensure that the courts have the relevant information to enable the correct orders to be made which prioritise the safety of victims and children. Prosecutors must ensure that they alert the court to any proposed orders that may conflict with current civil orders.

## Breach of a Stalking Protection Order, an injunction or restraining order

It should be noted that whereas the section 2 and 4 PHA 1997 offences require a course of conduct, breaches of court orders require only a single act. However, given the repeated nature of this type of offending prosecutors should also consider whether the behaviour contained within the breach forms part of a new course of conduct which could be a new offence of stalking or harassment.

Section 3(6) PHA 1997, section 5A(2D) PHA 1997 and section 363 Sentencing Act 2020 make it an offence for the defendant to do anything which they are prohibited from doing under an injunction issued under section 3 and 3A PHA 1997, a restraining order issued under section 360 Sentencing Act 2020 and a restraining order issued on acquittal under section 5A PHA 1997.

Section 8 of the Stalking Protection Act 2019 makes it an offence for a person, without reasonable excuse, to breach a stalking protection order or an interim stalking protection order.

## Breach of a non-molestation order

Non-molestation orders are civil orders which cannot be applied for by the CPS. Orders are made on application by the victim or a representative to the Family Court under section 42(2) or section 45(1) (for ex parte applications) of the Family Law Act 1996.

[Section 12 Domestic Violence Crime and Victims Act 2004](#) makes the breach of a non-molestation order a criminal offence which can be prosecuted by the CPS. Proceedings for breach of a non-molestation order can only take place in one jurisdiction and therefore prosecutors must ensure that the breach has not been dealt with at civil courts, before prosecuting the offence in a criminal court.

## Annex A

### Types of Stalking and Stalkers and the Impact of Stalking on Victims

There may be different motivating factors which prompt the suspect's behaviour. These could include revenge; retribution; loneliness; resentment; a desire for reconciliation; response to a perceived insult or humiliation; or a desire for control. The suspect may have a delusional belief that an individual is in love with them (termed "erotomania"), and that sooner or later they will respond. In other cases, the behaviour may relate to the obsessive preoccupation with a particular cause or issue. These motivations will inevitably impact on the risk posed by a suspect to a victim.

Information about the motivation of the suspect is crucial in informing the investigation, the approach to risk and ensuring that suspects are subject to an appropriate multi-agency response. For example, the recognition of an individual's delusional fixation on another person can enable them to access mental health services which could assist.

In "Study of Stalkers" (1999) Mullen, Pathé, Purcell and Stuart provided a useful classification for stalking which is now generally accepted. It comprises five motivational types, that can be summarised as:

- The "Rejected Stalker" who commences stalking after the breakdown of an important relationship that was usually, but not always, sexually intimate in nature. In this group the stalking reflects a desire for reconciliation, revenge, or a fluctuating mixture of both.
- The "Intimacy Seeker" who desires a relationship with someone who has engaged their affection and who, they are convinced, already does, or will, reciprocate that love despite obvious evidence to the contrary.
- The "Incompetent Suitor" also engages in stalking to establish a relationship. However, unlike the "Intimacy Seeker", they are simply seeking a date or a sexual encounter.
- The "Resentful Stalker" who sets out to frighten and distress the victim to exact revenge for an actual or supposed injury. "Resentful Stalkers" are differentiated from 'Rejected Stalkers' in that the cause of their resentment does not lie in rejection from an intimate relationship.
- The "Predatory Stalker" who engages in pursuit behaviour to obtain sexual gratification.

### Impact and Dynamics of Stalking or Harassment

In most stalking or harassment cases, there will be some connection between the victim and the suspect, even if the victim is unaware of who the suspect is (for example, where they have only briefly met before in passing).

There are several circumstances in which stalking, or harassment can occur, examples are given below, but this is not an exhaustive list:

- in the context of domestic abuse
- when the suspect is personally known to the victim, for example, a neighbour or work colleague
- where the suspect does not personally know the victim, but their identity is known. This could include harassment of a person in the public eye, but is not restricted to this
- where the identity of the suspect is not known. This could be because of a rogue telephone call by the suspect the outcome of which is ongoing harassment
- where the victim(s) is/are a target of a campaign involving domestic extremism (for example, animal rights extremists)

Behaviour by a suspect as part of a campaign of stalking or harassment could include:

- frequent unwanted contact, for example, attending at the home or the workplace of the victim, telephone calls, text messages, emails or use of other mechanisms such as the internet and social networking sites
- driving past the victim's home or work
- following or watching the victim
- sending letters or unwanted 'gifts' or items to the victim
- arranging for others to deliver unwanted items to the victim
- damaging the victim's property
- boasting that they are aware of the location or address of other family members or children
- burglary or robbery of the victim's home, workplace, vehicle or other
- becoming further and further embedded within a victim's life, for example, by making contact with their friends and family
- threats of physical harm to the victim (including sexual violence and threats to kill)
- physical and/or sexual assault of the victim and even murder

Victims may also be forced to alter their lifestyle choices which can include having to move home or job, restricting their social activities or otherwise altering their routines.