

FROM THE OFFICE OF THE JUSTICE MINISTER



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Dear Christine

PROTECTION FROM STALKING BILL

Thank you for your letter of 4 August 2021.

The Department have considered the attached very helpful summary table of evidence and other issues raised in respect of the Bill, and responses have been added accordingly. Officials are happy to enlarge on any of our responses if this would be helpful.

I trust that the Committee finds this response useful.

CLAIRE McCORMICK DALO

SUMMARY OF THE KEY ISSUES AND PROPOSALS RAISED IN THE WRITTEN EVIDENCE RECEIVED ON THE PROTECTION FROM STALKING BILL

PROTECTION FROM STALKING BILL		DOJ RESPONSE/COMMENTS
OFFENCES OF STALKING		
CLAUSE 1		
Creates the offence of stalking		
<p>The Council of District Judges (Magistrates' Court) in Northern Ireland</p>	<p>Notes the overlap in some of the statutory provisions contained in the Protection from Harassment (NI) Order 1997 and this Bill and questions whether consideration was given to amending the 1997 Order to contain the two offences created by the Bill as opposed to a stand-alone statute.</p> <p>From a lawyers' and judges' perspective there is merit in having related offences consolidated in one piece of legislation and the Council notes that the equivalent provisions in England and Wales were inserted into their Protection from Harassment Act 1997.</p>	<p>The Bill is the end result of an extensive review by Departmental officials of the existing legislative framework; engagement with other jurisdictions on their stalking policies and practices; and the development of policy proposals that drew on responses to a public consultation exercise. The majority of respondents to the stalking consultation, supported the introduction of a specific offence of stalking in Northern Ireland. The consensus from respondents was that stalking needed to be treated differently from harassment, given its more complex and insidious nature and lack of understanding from police of the risks posed to the victims.</p> <p>The Minister made the decision to introduce a stand-alone Bill in order to provide better protection for victims; to ensure reports of stalking were taken seriously by the criminal justice system; and to give stalking the prominence it deserved.</p>

<p>Women's Aid Federation</p>	<p>Current provisions under Protection from Harassment (NI) Order 1997 are not fit for purpose and offer little or no protection from stalking. There is an urgent need for specific stalking legislation that provides greater clarity for police officers, judges etc. on stalking behaviour and affords better protection for victims. Any law should be victim focused. Intent should not have to be proven, but instead objective reasonable test applied.</p> <p>Important that the grounds are wide enough to encompass all forms of stalking behaviours and the list should also be named as "not exhaustive."</p> <p>Highlights that in the England and Wales Stalking legislation there is an additional section for police power of entry in relation to stalking and believes that consideration should be given to including it in this Bill.</p>	<p>The Protection from Stalking Bill has been developed as a result of a consultation held in 2018/19 in which the majority of respondents were in favour of a stand-alone Stalking Bill. The Bill's main aim is to provide better protection for victims, than the 1997 Harassment Order offers, and to include a non-exhaustive list of behaviours which constitute stalking which will enable police to easily identify stalking cases.</p> <p>Intention does not have to be proven for the stalking offence as it includes the reasonable person test of 'ought in all the circumstances, to have known that engaging in the course of conduct would be likely to cause B to suffer fear, alarm or substantial distress.</p> <p>The Department has opted for a non-exhaustive list which includes at clause 1(4)(j) "acting in any other way that a reasonable person, or a reasonable person who has any particular knowledge of B which A has, would expect would cause B to suffer fear, alarm or substantial distress" which will provide a "catch all" of other behaviours not specifically listed.</p> <p>Police will have the power of entry and search as both the stalking offence and the offence of threatening and abusive behaviour are indictable offences. The 2A stalking offence in E&W is a summary only offence - that is why their legislation required a power of entry provision. These powers for police are contained within Part 3 of the Police and Criminal Evidence Order (NI) 1989 – powers of entry, search and seizure. Therefore, a specific search provision on the face of the Bill is not required.</p>
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<p>Suzy Lamplugh Trust</p>	<p>Clause 1(4) – would welcome the inclusion of a statement that clearly sets out that the list is not exhaustive beyond the reasonableness statement.</p>	<p>The Department has opted for a non-exhaustive list which includes at clause 1(4)(j) “acting in any other way that a reasonable person, or a reasonable person who has any particular knowledge of B which A has, would expect would cause B to suffer fear, alarm or substantial distress” which will provide a “catch all” of other behaviours not specifically listed.</p>
<p>Probation Board NI</p>	<p>Clause 1(1)(a) - Further clarity is required regarding what is meant by a ‘course of conduct’. Does the behaviour on two or more occasions have to be directed against the same individual and is the alleged perpetrator warned by the PSNI after the first occasion that their behaviour could be construed as stalking (along the lines of Child Abduction Warning Notices)?</p>	<p>A “course of conduct” involves conduct on two or more occasions and clause 1(4)(b) includes contacting, or attempting to contact, B <u>or any other person</u> by any means.</p> <p>Based on research by the Suzy Lamplugh Trust on average it takes approx 100 incidents before a victim of stalking contacts the police. However, the alternative offence of Threatening and Abusive Behaviour, can be made out after a single incident.</p>
<p>La Dolce Vita Project</p>	<p>Amend Clause 1 (4) to include:</p> <ul style="list-style-type: none"> ▪ ‘To make use of a person’s disability to cause fear, alarm or substantial distress on a person or their children’ ▪ ‘Blackmail or suicidal threats of harm to self or another that will cause fear, alarm or substantial distress on a person and/or their children’ ▪ ‘Employment status or professional capacity cannot be used, misused, or abused to cause fear, alarm or substantial distress on a person and/or their children’ 	<p>During the drafting stage of the Bill, it was agreed with Office of the Legislative Counsel (OLC) and the Departmental Solicitor (DSO) to include a “catch all” of all possible scenarios within the provision of clause 1(4). Therefore, clause 1(4)(j) was drafted specifically to include “acting in any other way that a reasonable person, or a reasonable person who has any particular knowledge of B that A has, would expect would cause B to suffer fear, alarm or substantial distress”.</p> <p>Using a person’s disability to stalk would therefore be covered by ‘the reasonable person who has any particular knowledge of B that A has’. aspect of the clause.</p>

The Rainbow Project	The use of intermediaries in continuing the abusive stalking or harassment behaviour is missing from the legislation. An abuser may instigate or coerce another individual to carry out actions on their behalf.	<p>Clause 1(4)(j) is a 'catch all' which will encompass seemingly innocuous behaviour such as A leaving a gift, or a message with a third party, with the intention that the third party should deliver the gift/message to B.</p> <p>This clause will also cover the situation where A makes use of a proxy C, to stalk B, therefore no specific reference to "third party" was required on the face of the Bill.</p>
NI Human Rights Commission	<p>The Commission questions whether stalking offences will be classified as a general offence under the Rehabilitation of Offenders (NI) Order 1978 as well as whether having a Stalking Prevention Order will be a spent conviction or require disclosure for specific employment. If an employer conducts vetting procedures on an employee with a Stalking Prevention Order what detail would be provided and where an individual has several Orders would this require enhanced vetting procedures to identify.</p> <p>The Commission recommends that clarity around how the rehabilitation of offender legislation will apply to all stalking offenders is provided.</p>	<p>The offence of stalking will be automatically captured by rehabilitation of offender's legislation as it is the sentence imposed upon conviction that dictates rehabilitation requirements, not the nature of the offence.</p> <p>Stalking Protection Orders are civil orders. However, any breach of an order will be a criminal offence and any subsequent conviction will trigger rehabilitation requirements in line with the sentence imposed.</p>
START 360	Vital that urgent work is undertaken to specifically look at stalking electronically and there is a joined-up approach between the DoJ, the PSNI and the social media companies to shut down this sort of threatening behaviour.	<p>Clause 1(4)(d) will capture online stalking. There are also other offences in place specifically for online abuse:</p> <p>the Malicious Communications (NI) Order 1988 – offence of sending letters or other articles with intent to cause distress or anxiety; and,</p> <p>the Communications Act 2003 - offence of improper use of public electronic communications network, whereby the sending of a message or other matter that is grossly offensive, obscene or menacing and the offence of causing annoyance, inconvenience or needless anxiety by sending a message.</p> <p>The UK Online Harms Bill is currently progressing through Westminster. This Bill will extend to NI and will require social media companies to deal more robustly with online abuse.</p>

	<p>Need to ensure that adequate rehabilitation should take place should someone spend time in prison for a stalking offence to address their behaviour and reduce the risk of reoffending. Offenders should also be provided with interventions including, but not limited to, mental health or psychological assistance where necessary.</p> <p>Complaints of stalking need to be handled on a case-by-case basis given the fine line between what could constitute stalking and what may be unfortunate ‘happenstance’.</p>	<p>Perpetrator interventions will be a key element in addressing stalking behaviours. The Promoting Positive Relationships Programme (PPRP) delivered by the Probation Board (PBNI) is an innovative programme, designed for those who have demonstrated the potential to be abusive in intimate partner relationships. The programme covers a range of behaviours including those that are associated with stalking type behaviour.</p> <p>The Department is committed to working collaboratively with partner organisations to develop and promote such interventions specifically for stalking perpetrators and PBNI will be a key partner in the development of these programmes.</p> <p>All cases will be handled on the basis of where the evidence leads. If the behaviour is not part of a pattern of offending behaviour it will be discounted.</p>
<p>HERe NI/Cara Friend</p>	<p>Definition of stalking should include cyberstalking and online harassment. As technology evolves additional protections may be needed – the legislation should include a mandatory review to allow for any changes needed e.g. the use of drones in stalking is a growing problem.</p> <p>There should be flexibility for the police, PPS and judiciary to consider whether behaviour constitutes stalking on a case- by-case basis.</p>	<p>Clause 1(4)(d) will capture online stalking. There is also legislation already in place which covers cyberstalking and online harassment: Section 127 of the Communications Act 2003 makes it an offence to use a public electronic communications network to send a message or any other matter that is grossly offensive or menacing and provides a penalty of a maximum 6 months’ imprisonment and/or a fine of £5000.</p> <p>Article 3 of the Malicious Communications (Northern Ireland) Order 1988 makes it an offence to send indecent, offensive, threatening or false letters or articles with intent to cause distress or anxiety, which attracts a penalty of up to a £2500 fine.</p> <p>The new stalking offence includes the following “catch all” in the list of behaviours associated with stalking at clause 1(4)(j) –</p> <p>“acting in any other way that a reasonable person, or a reasonable person who has any particular knowledge of B which A has, would expect would cause B to suffer fear, alarm or substantial distress” which should provide a “catch all” of other behaviours not specifically listed. This provision will ensure that police, PPS, and the judiciary have discretion in considering what constitutes stalking behaviour.</p>

<p>Parenting NI</p>	<p>There is potential for this Bill to be abused by malicious resident parents against non-resident parents. Anecdotal evidence from the non-resident parents we support already suggests that such individuals often misuse existing methods (such as non-molestation orders) to put temporary blockages on visitation between children and their non-resident parent – often part of what is termed ‘parental alienation’. Consideration should be given to mechanisms that would curtail the misuse of the provisions in the Bill to prevent access to children by a non-resident parent. 1(7)(b) is particularly open to interpretation that could result in malicious misuse of the Bill.</p>	<p>Policy on parental alienation and the matters the court is required to consider when determining applications relating to contact fall to the Departments of Health and Finance respectively and any change to the framework would be a matter for their determination rather than the Department of Justice. The legal framework does however already make the welfare of the child the paramount consideration and that would include the impact of any change of circumstances such as interruption of contact.</p> <p>We are also aware that the Department of Health intends to consider guidance and training for professionals involved with families suffering acrimonious dispute and associated negative behaviours.</p>
<p>Belfast Area Domestic & Sexual Violence and Abuse Partnership</p>	<p>Statistics show that the majority of victims of stalking are female while the majority of perpetrators are male. It may be useful to reflect the gendered nature of stalking in the legislation and to look at how it links to the wider issue of Violence Against Women and Girls.</p> <p>Although there is no specific definition of stalking included in the Bill it may be useful to reference the FOUR acronym to enable better understanding and recognition of what stalking is.</p>	<p>Legislation has to be gender neutral and be accessible to anyone in the community. The Department is aware that a high proportion of stalking victims are female and the perpetrators mainly male and this can be reflected in guidance and training delivered to our criminal justice partners.</p> <p>The Department notes the comments made and the benefits of using the FOUR acronym and intends to continue the use of the acronym in guidance and awareness raising.</p>
<p>Lisburn & Castlereagh City Council</p>	<p>Consideration should be given to hearing cases of threatening and abusive behaviour and stalking in the Family Court in order to protect victims with anonymity during the court process. This would encourage victims to come forward and provide confidence in the justice system.</p>	<p>Clause 3 of the Bill currently includes provision of special measures in criminal proceedings.</p> <p>Court rules for family proceedings already make provision for a court to allow a witness to give evidence by video link and other special measures can be considered by the court on a case by case basis.</p>

<p>NIWEP</p>	<p>Essential to amend the definition in subsection 1(4) to include reference to ‘any dwelling in which B resides,’ to ensure clarity and ensure victims renting a property have the same level of protection as those owning their home.</p> <p>Clarity in the definition that relevant premises include bars (including LGBTQ+ bars), gyms, semi private spaces and private spaces such as businesses would also be helpful to ensure victims can have confidence the legislation fully encompasses the wide forms in which stalking manifests.</p> <p>Explicit reference to online stalking and abuse in the definition would also be helpful as this is an increasingly prevalent form of stalking, particularly in the youngest age groups.</p> <p>Recommends that rehabilitation is a key part of all sentences and highlights the lack of offender rehabilitation services in NI which are needed to effectively address the high rates of reoffending associated with stalking and other types of violence against women.</p>	<p>Noted.</p> <p>Clause 1(4)(e) includes “any premises”</p> <p>Clause 1(4)(b) contacting or attempting to contact, B or any other person by <u>any means</u>.</p> <p>Clause 1(4)(d) will also capture online stalking</p> <p>Perpetrator interventions will be a key element in addressing stalking behaviours. The Promoting Positive Relationships Programme (PPRP) delivered by the Probation Board (PBNI) is an innovative programme, designed for those who have demonstrated the potential to be abusive in intimate partner relationships. The programme covers a range of behaviours including those that are associated with stalking type behaviour.</p> <p>The Department is committed to working collaboratively with partner organisations to develop and promote such interventions specifically for stalking perpetrators and PBNI will be a key partner in the development of these programmes.</p>
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<p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p>	<p>States that legislation that relates to areas of violence that disproportionately impacts women needs to recognize the gendered nature of the crime and underlying, deep-rooted attitudes of misogyny in our society.</p> <p>It is important that the legislation is wide enough to encompass all forms of stalking behaviour and the list is ‘not exhaustive’.</p> <p>The growing issue of cyberstalking needs to be covered adequately in this Bill.</p> <p>Questions whether the section covering police power of entry in relation to stalking that is in the England and Wales legislation should be included in this Bill.</p> <p>The new legislation must be victim-led with recognition of the intersectional needs of difference groups and societal factors that put some victims at greater risk or create barriers to accessing justice e.g.</p> <ul style="list-style-type: none"> • the barriers for disabled women seeking support and unique forms of coercive abuse they face • harmful heteronormative stereotypes that prevent LGBTQI+ people seeking help or recognising abuse • inhumane policies such as No Recourse to Public Funds which create further barriers and fear for women with uncertain immigration status from reporting abuse due to fears of being reported to the Home Office 	<p>Legislation has to be gender neutral and be accessible to anyone in the community. The Department is aware that a high proportion of stalking victims are female and the perpetrators mainly male and this will be reflected in any guidance and training delivered to our criminal justice partners.</p> <p>The Department has opted for a non-exhaustive list which includes a “catch all” at clause 1(4)(j) “acting in any other way that a reasonable person, or a reasonable person who has any particular knowledge of B which A has, would expect would cause B to suffer fear, alarm or substantial distress” which should provide a “catch all” of other behaviours not specifically listed.</p> <p>The above ‘catch all’ provision will ensure that police, PPS, and the judiciary have discretion in considering what constitutes stalking behaviour – it is behaviour of any kind that causes the victim to suffer, fear, alarm or distress.</p> <p>Clause 1(4)(d) will capture online stalking</p> <p>Police will have the powers of entry and search as both the stalking offence and the offence of threatening and abusive behaviour are indictable offences. The 2A stalking offence in E&W is a summary only offence therefore that is why their legislation required a power of entry provision. These powers are contained within Part 3 of the Police and Criminal Evidence Order (NI) 1989 – powers of entry, search and seizure. Therefore, a specific search provision on the face of the Bill is not required.</p> <p>The protection of victims of stalking is at the heart of this legislation. The Department is committed to working with the voluntary organisations and justice partners to ensure that all victims have the protection they need and deserve.</p>
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<p>Scottish Charity Action Against Stalking</p>	<p>The challenge of bringing in robust, strong legislation is to transcend the complexity of the crime of stalking. We need to make the legislation very robust, very clear and very concise.</p> <p>There is no overall consensus on an academic, clinical or legal definition of stalking because of the wide range of behaviours that constitute the crime. Stalking is not harassment.</p> <p>An awful lot of stalkers do not set out to trigger fear and alarm in their victim. That is not their intention, therefore not knowing should not be a defence in the legislation.</p> <p>We have developed a framework with the police – if a victim feels that the police have not recognized them or that they are unhappy with something that is happening in the investigation of their case we can trigger a response which is a review of that case at a higher level. We can also do the same with the Crown Office if the case has already been reported to the procurator fiscal. The agreement is that we manage and stabilise the victim and we allow the police of the Crown Office to review the case. This framework has worked really well.</p>	<p>The Protection from Stalking Bill does not include a definition of stalking. The Department introduced a stand-alone Stalking Bill and it did not intend amending the Protection from Harassment Order (NI) 1997 to ensure that stalking is not conflated with harassment.</p> <p>Intent does not have to be proven in the Protection from Stalking Bill - the legislation includes the reasonable person test and ‘ought to have known’ test as follows:</p> <ul style="list-style-type: none"> • engaging in the course of conduct would be likely to cause B to suffer fear, or ought in all the circumstances to have known, • A’s course of conduct ...is such that a reasonable person, or a reasonable person who has any particular knowledge of B that A has, would consider to be likely to cause B to suffer fear, alarm or substantial distress <p>The Department are working closely with police through the Stalking Implementation Oversight Group. It is intended that Single Points of Contact (SPOCs) will be a key element in the operationalisation of the legislation.</p>
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Clause 2

Creates the offence of threatening or abusive behavior

		DOJ RESPONSE/COMMENTS
The Christian Institute NI	<p>A more targeted offence should be considered.</p> <p>The proposed offence with its low threshold, broad scope and significant penalties risks restricting freedom of expression and lawmakers have a responsibility to ensure the public are free to disagree with each other and able to debate issues without the threat of censure through the criminal law.</p> <p>The offence as drafted is based on Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 and this is one of the most common offences that people are charged with by Police Scotland. It was introduced after a court judgement was believed to make certain behaviour more difficult to criminalize using an existing breach of the peace offence. The rationale for importing the offence to NI is less clear. It is more commonly used in Scotland for behaviour unrelated to stalking. The impact of the proposed offence as currently drafted will be much more extensive than stalking behaviour.</p>	<p>During policy development and drafting of the Bill the Department worked closely with officials in Scottish Government on the success of their stalking offences.</p> <p>Scottish officials advised that when drafting what became the section 38 offence account was taken of the fact that, it was very difficult to use breach of the peace to prosecute domestic abuse in cases where there was no physical violence that could be prosecuted. The Bill provides for the offence of threatening and abusive behavior as an alternative conviction for the domestic abuse offence and also the stalking offence. It will be a decision for the court whether any behavior constitutes behavior that a reasonable person would consider to be “threatening or abusive” using the reasonable test at clause 2(1)(a).</p>

<p>Suzy Lamplugh Trust</p>	<p>If Clause 2 is retained as drafted a reasonable person test as recently included in the Scottish hate crime legislation could be included. This would be in addition to the reasonable person test in 2(1)(b) which relates to the potential <u>impact</u> rather than the <u>nature</u> of the behaviour.</p> <p>Welcomes the offence of threatening or abusive behaviour but is concerned that this not only applies to a single incident but also to a course of conduct. Notes that the offence does not include serious distress (impact on day-to-day activities) but experience shows that a course of conduct without serious distress is hardly ever seen. However, the ‘downgrading’ of the offence from stalking to the offence of threatening or abusive behaviour is likely (as seen in many cases of stalking being charged as harassment in England and Wales).</p> <p>Recommends that the course of conduct element of this offence is removed to provide clarity that where there is a course of conduct this is always stalking.</p>	<p>Colleagues in Scottish Government advised they are not sure that the addition of a ‘reasonable person’ test adds a great deal in the context of a ‘threatening or abusive behaviour’ offence. There is an ‘implied’ ‘reasonable person’ test already in the offence. If a court was of the view that the behaviour was not behaviour that a reasonable person would consider to be “threatening or abusive” then the test at clause 2(1)(a) would not be met.</p> <p>It will be for the court to decide if the clause 2 offence is used as an alternative conviction for the clause 1 stalking offence.</p>
<p>NIWEP</p>	<p>Recommends a gendered element is included in the definition given the disproportionate prevalence of women amongst stalking victims but it is essential to ensure the language is inclusive of LGBTQ+ people.</p>	<p>Legislation has to be gender neutral and be accessible to anyone in the community. The Department is aware that a high proportion of stalking victims are female and the perpetrators mainly male and this will be reflected in any guidance and training delivered to our criminal justice partners, but equally the Department will also want to make sure that the guidance is inclusive of the LGBTQ+ community.</p>
<p>Scottish Charity Action Against Stalking</p>	<p>Not sure how many incidences are taken under Section 38 of the Scottish legislation (offence of threatening or abusive behaviour) but we suspect it is probably quite a lot. Sometimes it is what is easier for the police and it is much easier to prosecute under this offence and it does not have as high a test.</p>	<p>The new offence of threatening and abusive behaviour, comparable to the current harassment offence, will see the sentence increase to 5 years (compared to 2 years) on conviction on indictment. On summary conviction, the sentence again increases to 12 months (compared to 6 months). Whilst this may be an alternative offence to the main offence of stalking, the offence of threatening and abusive behaviour carries substantial penalties.</p>

Clause 3

Special Measures Directions

Clause 3		
Special Measures Directions		
		DOJ RESPONSE/COMMENTS
Here NI/Cara Friend	Special measures need to be adequately resourced.	<p>Clause 3 of the Bill currently includes special measures in criminal proceedings.</p> <p>Court rules for family proceedings also already make provision for a court to allow a witness to give evidence by video link and other special measures can be considered by the court on a case by case basis.</p> <p>The Department notes the call for adequate resourcing for special measures and is working closely with all agencies and partners in the Stalking Implementation Oversight Group.</p>
Victim Support NI	<p>It is vital that if special measures are to be offered they should be fit for purpose. Failings in technology must be urgently addressed by the courts to ensure that victims who avail of special measures to give evidence are not disadvantaged due to failing or inadequate technology.</p> <p>People who are stalked by ex-partners have to go to civil and family courts to obtain divorce or establish contact rules. The experience is equally traumatic to that of criminal trials and the need for special measures is the same. The Committee may wish to consider whether special measures should be extended to victims of stalking for the purposes of civil and family cases in which their stalker is also party or involved.</p>	<p>As above.</p> <p>As above.</p>

<p>Women's Aid Federation Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations NIWEP</p>	<p>Special measures provisions need to be available and resourced appropriately so the victim is not let down on the court date when they are not there.</p> <p>The problem is most acute in the Family Courts where access to special measures is so poor that survivors are being attacked, abused, harassed and left too frightened to effectively advocate for the on-going safety of their child. Failure to ensure parity in the court systems will leave survivors at continued risk of harm and an inconsistent approach to safety between the court systems.</p> <p>There needs to be a guarantee of special measures for victims and survivors in all courts.</p>	<p>As above.</p> <p>As above.</p> <p>As above.</p>
<p>NIWEP</p>	<p>There is evidence that not all complainants are aware of special measures and it is essential to strengthen communication so that all complainants are aware of their options.</p> <p>Recommends that responsibility for information and communication is assigned to a specific agency within the criminal justice system. Alternatively, responsibility for communication regarding all procedures and services should lie with the Department of Justice as part of its role in providing guidance on this legislation.</p>	<p>As above.</p> <p>The Department will be carrying out a public awareness campaign in conjunction with the Bill receiving Royal Assent and will also be providing guidance for criminal justice partners.</p>

Clause 4

Alternative to conviction of the domestic abuse offence

		DOJ RESPONSE/COMMENTS
HERe NI/Cara Friend	If used as an alternative it must not create a hierarchy of offences.	It is envisaged that Clause 1 (offence of stalking) or Clause 2 (offence of threatening or abusive behaviour) would only be used as alternative offences to the domestic abuse offence where it is not possible to evidence a personal connection between two individuals (which is required) and therefore convict of the domestic abuse offence but it is considered that the behaviour would amount to an offence under clause 1 or 2. It would be for the court to determine, on conviction, that an alternative offence should be provided for. This would only be determined when all the evidence of the case has been considered. (VAP)
Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women's Aid Federation NIWEP	If used as an alternative to a conviction of domestic abuse it needs to take adequately into account, the offence and not be seen as a lesser offence.	As above.

<p>NIWEP</p>	<p>Recommends that where this is used the reasons why it was deemed that the domestic abuse offence was not proven should be recorded in the conviction.</p>	<p>It is envisaged that an offence under clause 1 or 2 would only be provided for as an alternative offence to the domestic abuse offence where it is not possible to evidence a personal connection between two individuals (which is required) and therefore convict of the domestic abuse offence, but it is considered that the behaviour would amount to an offence under clause 1 or 2. It is envisaged the number of instances of this would be low, given that both the police and Public Prosecution Service will have to be satisfied in bringing forward a case that that two individuals are (or have been) partners, family members or in an intimate personal relationship.</p> <p>The reason for electing for an alternative offence should be set out as part of the case. Furthermore, operationally it would be difficult, and likely prohibitively expensive, to record why the domestic abuse offence was not proven on an individual case basis. This may also be as a result of a jury decision where the offence is tried at Crown Court. This is an issue that would be dealt with as part of the case. (VAP)</p>
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Clause 5

No right to claim trial by jury

		DOJ RESPONSE/COMMENTS
Law Society NI	In some instances, there are prolonged and repeated offences of harassment by individuals. If the offence is purely summary in nature, then the court will only have limited power to deal with the offender. If the status of the charge was hybrid rather than summary this would allow for sentencing to be appropriate with regard to prolonged and repeat offenders and is something that should be considered.	The offences in the Bill are triable either way, i.e. summary and indictment.
Women's Aid Federation	There is an issue with regard to the knowledge and understanding of the Judges sitting in these courts and it is paramount that they are aware of stalking behaviours, signs and high-risk indicators.	The Department will be working with the Judicial Studies Board in developing appropriate awareness raising sessions.

STALKING PROTECTION ORDERS

Clause 6

Meaning of act associated with stalking and risk associated with stalking

		DOJ RESPONSE/COMMENTS
Council of District Judges (Magistrates' Court) in NI	Notes that the England and Wales Act defines a risk associated with stalking to include "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". The Council states this appears to be a more subjective test than that at 6(2)(j) in the Bill.	Clause 6(5) provides "the acts mentioned in subsection (3) may be acts which the person knows, or ought to know, are unwelcome to a person even if, in other circumstances, the acts would appear harmless in themselves".
PSNI	Questions whether these applications are civil or criminal. Notes that a breach gives rise to criminal culpability but questions whether the standard of proof before the Magistrates' Court is the civil standard or 'a balance of probabilities'.	Stalking Protection Orders (SPO) will be civil orders. However, breach of a SPO will be a criminal offence. It is likely that the courts will apply the criminal standard of proof (beyond reasonable doubt) to the fact-finding elements of a <u>'full' SPO application</u> (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 <u>interim SPO application</u> , but rather apply a lower test, namely treating it as an exercise of judgement or evaluation.

<p>The NI Human Rights Commission</p>	<p>Stalking Prevention Orders do not explicitly include provision for the potential use of intermediaries in stalking. Considering stalking is a controlling behaviour it may be possible that the perpetrator may procure an individual to carry out offences and it is noted that The Protection from Harassment (NI) Order 1997 extends to third parties in this regard. It is therefore recommended that consideration is given to amending the Bill to include provision for third parties carrying out offences on behalf of the perpetrator.</p>	<p>Clause 1(4)(j) would cover the situation where A makes use of a proxy C, to stalk B, therefore no specific reference to “third party” was required on the face of the Bill.</p> <p>Clause1(4)(j) - acting in any other way that a reasonable person, or a reasonable person who has any particular knowledge of B that A has, would expect would cause B to suffer fear, alarm or substantial distress</p>
<p>Suzy Lamplugh Trust</p>	<p>Recommends that guidance is put in place for an appropriate professional, with stalking specific training, to complete a comprehensive risk assessment.</p> <p>Notes the reference made to psychological or physical harm but recommends that this remains in line with the stalking offence legislation and reflects the impact of stalking on day to day activities.</p>	<p>Stalking Single Points of Contact are being established within PSNI</p>
<p>HERe NI/Cara Friend</p>	<p>Stalking Behaviour or Domestic Abuse Behaviour Programmes would involve a lot of resources and implementation across NI is not currently available. Any programme must be adequately resourced.</p>	<p>The Department is committed to working collaboratively with partner organisations to develop and promote interventions specifically for stalking perpetrators. PBNI are a key partner in the development of these programmes.</p>
<p>Victim Support NI</p>	<p>Recommends that as a rule, victims are communicated with effectively to keep them updated about any application.</p> <p>Perpetrator programmes must be adequately resourced and quality assured, with built in protections for victims. They also should be tailored and run by experts who understand the manipulative nature of stalkers.</p>	<p>As answered above at HERe NI/Cara Friend.</p>

<p>Law Society NI</p>	<p>Clarity is required on whether these orders are civil applications as Clause 13 provides that a breach is a criminal offence.</p> <p>A rehabilitation period must be factored into the Bill as this will not be dealt with in existing legislation. The relevant period might be 12 months from the date that the original Order expires, although this may be influenced by any breaches of the Order during its term.</p> <p>Adequate resources are needed to provide services to persons subject to SPOs to help them overcome their behaviour and avoid re-offending.</p>	<p>The Stalking Protection Orders are civil orders – breach of an SPO is a criminal offence.</p> <p>Noted.</p> <p>As previously answered above at HERe NI/Cara Friend.</p>
<p>Multi-Agency Stalking Project (MASP) in Hampshire</p>	<p>Developing and making effective treatment programmes available is one of the challenges we are currently working through.</p>	<p>As previously answered above at HERe NI/Cara Friend.</p>
<p>The Rainbow Project</p>	<p>The Department should look to applying the perception test to the offence in conjunction with relationship/lack of between the stalker and the victim.</p> <p>Consideration should be given to how criminal justice agencies will work with offenders or those subject to an SPO. The majority of services and programmes are often unavailable to those who are experiencing abuse from a same sex abuser or are the perpetrator.</p>	<p>Question not understood.</p> <p>As previously answered above at HERe NI/Cara Friend.</p>
<p>Women’s Aid Federation Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p>	<p>Has concerns that the Stalking Behaviour (or Domestic Abuse Behaviour Management Programmes) will involve a lot of resources and implementation of services within all areas across NI which is currently not available.</p> <p>The obligation to manage an individual and report on progress and engagement is a big responsibility for those delivering the programmes, many of which are delivered through the voluntary sector, and resourcing is an issue.</p>	<p>As previously answered above at HERe NI/Cara Friend.</p>

Clause 7

Applications for Orders

		DOJ RESPONSE/COMMENTS
PSNI	<p>Requests greater clarity regarding the reference to “Chief Constable” in respect of who can seek a Stalking Protection Order. States that it is operationally essential that the decision making is capable of lawful delegation to make the process efficient either within the legislation or the accompanying guidance.</p> <p>Also requests greater clarity on the relationship between 7(3) – police can only seek orders on those resident in NI – and Clause 3(4) and Clause 11 5(a) and (b) – interim orders regarding all of the UK. While the provisions appear to reflect Section 10 of the Domestic and Civil Proceedings Act, clarity is requested that provision cannot be made for the PSNI Chief Constable to seek to make an application for an order on a ‘stalker’ resident elsewhere in the UK rather than NI. If not, the PSNI has indicated that how this gap can be remedied will need to be considered. This is specifically relevant in respect of Cyber Stalking.</p>	<p>Operational issue for the Chief Con to decide. In E&W an application for an order must be authorised by an officer not below the rank of superintendent. The Department will be working closely with operational partners on the use of Stalking Protection Orders when Guidance outlined in clause 17 is being produced.</p> <p>PSNI can only make an application for an order against a person who resides in NI or who PSNI believe is in or intending to come to NI as provided in clause 7(3). Clause 11(5)(a)&(b) requires the person to comply with the prohibitions or requirement in the order, in all parts of the UK and everywhere outside the UK, to ensure that if they travel outside the UK they are still prohibited from making any contact (offline or online) with the victim.</p>

<p>Suzy Lamplugh Trust</p>	<p>Recommends that the victim is fully engaged in the process, particularly in the development of prohibitions and positive requirements. Any positive requirements such as engagement in a perpetrator intervention programme should be subject to professional risk assessment and to a stalking specific intervention.</p> <p>Also recommends that monitoring takes place of the number of interim SPOs, those that become full SPOs and those where a subsequent stalking charge is made and that the number of non-molestation orders are recorded to evaluate the impact of SPOs.</p> <p>Highlights that there is anecdotal evidence from England and Wales that the financial cost to police forces of applying for an SPO is being used as a reason to defer the responsibility of prevention back to the victim, i.e. they are being encouraged to apply for a non-molestation order rather than the police applying for an SPO.</p>	<p>Noted.</p> <p>The Department will monitor and gather data on SPO's as part of an evaluation exercise 6 & 12 months after their commencement.</p> <p>The Department is aware of the issues surrounding the use and cost of SPO's in E&W across the 43 forces there. The Department will be monitoring and evaluating the use of SPO's following their commencement in NI.</p>
<p>Victim Support NI</p>	<p>Suggests the Committee may wish to consider whether victims should also be able to apply in person if they wish to do so.</p>	<p>The decision to issue an SPO rests with police which takes the onus away from the victim. This was an issue raised in the consultation - there were concerns about the victim having to make such a decision which could antagonize the perpetrator and increase the risk of serious harm to the victim.</p>
<p>HERe NI/Cara Friend</p>	<p>It is essential that the views of victims are sought and taken into account before any application for a SPO, with the option for the victim to be represented within any proceedings. Expresses the view that it would be best practice for the victim/survivor's consent to be obtained and only in certain exceptions would this be pursued without consent depending on risk to life etc.</p>	<p>Clause 17 of the Bill - Guidance - this section requires the Department of Justice to issue and publish guidance to the Chief Constable about the exercise of their functions under this Bill. The statutory guidance will provide information about the procedure for applying for a Stalking Protection Order as well as providing a practical toolkit for police to use when making applications.</p> <p>The Department anticipates that, while the guidance has yet to be developed, the victim will be consulted on the measures being considered by the police to keep them safe.</p>

Parenting NI	Parental access requirements should be considered in all orders as a legal duty. It should not be the case that a person cannot have any access to the other parent and it is important that the legal system recognizes that, while no individual has the right to harass or stalk another person, being convicted or doing so does not immediately also revoke their rights to access to their children as parents.	Matters which the court is required to consider when determining contact arrangements are a matter for the Department of Finance rather than the Department of Justice. However, the legal framework already provides for the welfare of the child to be the <u>paramount</u> consideration.
Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women's Aid Federation	<p>It is essential that the views of victims are sought and taken into account before any application for an SPO with the option for the victim to be represented within any proceedings. Considers that it is best practice for the victim/survivor's consent to be obtained and only in certain exceptions would this be pursued without consent.</p> <p>Potential concern around adverse impact on the implementation of Domestic Abuse Protection Orders and Notices. There should be no clash between the application process for a Domestic Abuse Protection Order and a Stalking Protection Order.</p>	<p>Clause 17 of the Bill – Guidance - this section requires the Department of Justice to issue and publish guidance to the Chief Constable about the exercise of their functions under this Bill. The statutory guidance will provide information about the procedure for applying for a Stalking Protection Order as well as providing a practical toolkit for police to use when making applications.</p> <p>The Department anticipates that, although the guidance has yet to be developed, the victim will be consulted on the measures being considered by the police to keep them safe.</p>
Women's Aid Federation	Stalking Protection Orders should not replace a criminal conviction of stalking.	The purpose of the Stalking Protection Order is to offer immediate protection to victims who are at risk of harm, whilst an investigation is ongoing. The Order is not intended to replace a criminal conviction.
NIWEP	Clarification regarding why power to make applications resides in the Chief Constable and whether delegated authority is in place is needed. It is also essential to ensure appropriate resources are available to support preparation of applications.	See response above at PSNI.
Belfast Area Domestic and Sexual Violence and Abuse Partnership	Clarification of whether the Chief Constable has to sign off all applications which would have implications for the ability of the police to obtain such orders would be helpful.	See response above at PSNI.

Clause 8

Powers to make Stalking Protection Orders

		DOJ RESPONSE/COMMENTS
Public Prosecution Service	Clarification of whether judges will be able to make SPOs of their own volition at the conclusion of criminal proceedings, and whether prosecutors can make applications to the court for Judges to consider such orders which would be in line with the current processes in respect of applications for restraining orders.	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 clause 7(2)(a) (b)& (c) of the Bill are met.
PSNI	<p>Would welcome clarity regarding how an order is served – can this be in an ex parte manner without attendance of the offender/alleged offender or in their presence – and at what point do the powers of the Order come into force.</p> <p>Also requests further clarity in respect of the positive obligations/requirements which are placed on an individual as a result of the Order and how this information can be effectively and efficiently shared with the police. Who has the responsibility to share this information and who has responsibility to report non-attendance/non-engagement to police to effect the breach of an order.</p> <p>The PSNI believes that this should be the agency/department/organisation providing the service.</p>	<p>Clause 17 Guidance requires the Department of Justice to issue and publish guidance to the Chief Constable about the exercise of their functions under this Bill. The statutory guidance will provide information about the procedure for applying for a Stalking Protection Order as well as providing a practical toolkit for police to use when making application.</p> <p>The statutory guidance will be drafted in conjunction with criminal justice partners and agencies/organisations.</p>

Council of District Judges (Magistrates' Court) in NI	Questions whether the potential limit to the SPO at 8(4) is necessary stating that Courts are well versed in imposing bail conditions, VOPOs, SOPOs and restraining orders and can be trusted not to make any orders which are impossible to comply with or are, in the circumstances, disproportionate.	The intention of clause 8(4) is to ensure that the terms of the order are proportionate. It is also designed to enable workability of orders and to avoid conflict with ECHR rights.
Suzy Lamplugh Trust	Clause 8(4)- Whilst recognizing the importance of not impacting on a perpetrators religious beliefs, education or place of work, it must always be considered that this subsection may be manipulated to enable the stalking behaviours to continue.	As answered above at Council of District Judges (Magistrates' Court) in NI.
Belfast Area Domestic and Sexual Violence and Abuse Partnership	Further information on how the process to obtain an order will work would be welcome – the process needs to be as streamlined as possible to avoid any delays and unnecessary bureaucracy.	As answered above PSNI.
The NI Human Rights Commission	<p>Raises issues regarding the inclusion of offences retrospect to the enactment of the legislation which engages Article 7 ECHR. It is concerned that the Bill currently provides that a Stalking Prevention Order can be sought for behaviour before the commencement of legislation even if there is no evidence of it having continued after the change in law. It proposes that the law must be satisfied after commencement of the legislation to ensure compliance with Article 7. However, on meeting this requirement, it suggests that consideration of a course of conduct prior to the change then be taken into account.</p> <p>The Commission recommends that an amendment to the Bill is considered to clarify that behaviour amounting to stalking offences must be satisfied after the change in legislation for the application for a Stalking Prevention Order. Only then can previous behaviour be considered retrospective of the changes in law.</p>	<p>Legislative Competence Advice prepared by DSO on the Bill outlines that behaviour that may be used to ground an application for an SPO or ISPO under Clause 7 and behaviour which may be taken into account by a court in determining such an application under Clause 8 may have taken place before the coming into force of those provisions.</p> <p>It is not considered that this would contravene Art 7 of the Convention as that Article focuses on criminal offences and the historical evidence will be used in civil proceedings.</p> <p>Whilst breach of a civil order is a criminal offence, the conduct will inevitably arise post enactment of the Bill and accordingly it is not considered that any Convention issues arise in respect of the provisions.</p>

<p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women’s Aid Federation</p>	<p>Prohibitions on the subject of the order to prevent them from contacting the person at risk or prohibiting them from entering other specified locations to prevent approaching the victim at locations where they frequent could include:</p> <ul style="list-style-type: none"> • Removal of keys to the victim’s home • Prohibition on the perpetrator from returning to, approaching or entering the home • Prohibition from contacting/approaching the victim and children via text, phone or electronic means • Prohibition against damaging the property or evicting or excluding the victim from the home • Prohibition from approaching and entering women’s workplace, children’s school, college, university, gym, nursery, LGBTQ+ social spaces etc. 	<p>An order can prohibit the defendant from doing something, as far as is necessary, to protect the other person from risk of stalking, and could for example include prohibiting the defendant from:</p> <ul style="list-style-type: none"> • entering certain locations or defined areas where the victim resides or frequently • contacting the victim by any means, including via telephone, post, email, SMS text message or social media; • physically approaching the victim, at all or to within a specified distance. <p>This is not an exhaustive list and other prohibitions as described opposite could be considered by the court in order to protect the victim.</p>
<p>Probation Board NI</p>	<p>Prohibitions and requirements should only be imposed if they are deemed necessary to protect the victim from harm; are effective in managing the risk towards the victim; and are clear, realistic, and readily capable of compliance. None of the prohibitions/requirements should be oppressive. Rather they should be proportionate and tailored to the facts of the case.</p>	<p>Subsection (2) requires that the court must be satisfied that the defendant has carried out acts associated with stalking; that they pose a risk of stalking to another person; and that each of the prohibitions and requirements included within the terms of the order is necessary in order to protect the other person from that risk.</p> <p>Subsection (4) provides that any prohibitions or requirements included within the terms of the order (if deemed necessary as defined in subsection (3)) must, so far as is practicable, avoid conflict with the defendant’s religious beliefs, or their work or educational obligations. The intention of this subsection is to ensure that the terms of the order are proportionate.</p>

Clause 9

Duration of orders

		DOJ RESPONSE/COMMENTS
Victim Support NI	The Committee should review how Clauses 9 & 10 will work in cases where a victim is stalked over a number of years and the perpetrator remains a risk to their safety. While prohibitions cannot be indefinite, especially in cases where there has been no conviction for any crime, there is an obligation to preserve the life and safety of the victim and to minimize further harm to them.	<p>If the threshold for an offence has already been met, then a Stalking Protection Order should not be used as an alternative to prosecution for a stalking offence. Stalking Protection Orders can, however, be used to complement a prosecution of a stalking offence.</p> <p>These are issues which will need to be included and rolled out in any successful training of criminal justice partners on the use of these new orders and will also be included in Departmental guidance to the Chief Constable on their use.</p>
	A system should be put in place whereby victims are communicated with effectively when an Order is set to run out or in the event that the Order is to be changed substantially or shortened. Seeking and considering victims' views on the impact of their safety should be a mandatory part of this process. An obligation should also exist for police to contact victims to explain the contents of the SPO, its conditions, what constitutes a breach and how to report a breach.	The Department will be preparing detailed guidance on the use of these new orders to the Chief Constable.
Women's Aid Federation Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations	Highlights that many women point out that placing a maximum time limit leaves victims with severe anxiety. Many women have discussed giving up employment or further education as a result of being stalked/harassed. Placing a maximum duration may act as a 'bandage' with them simply giving this up further on down the line due to the fear that has been placed on them.	As answered above.

Clause 10

Variations, discharges and renewals

		DOJ RESPONSE/COMMENTS
Council of District Judges (Magistrates' Court) in NI	Notes the clause is silent in respect of appeals which is in contrast to the 2019 Act as well as, for example, the Justice Act (NI) 2015 which does contain specific appeal provisions in respect of Violent Offences Prevention Orders made in the Magistrates' Court.	The appeal provision is not on the face of the Bill - as an application for an order and an interim order is made by way of complaint, then the appeal provision in Article 143 of the Magistrate's Courts (NI) Order 1981 will apply - <i>an appeal shall lie to the county court from any order of a magistrates' court in proceedings to which this Article applies.</i>
Victim Support NI	See comments under Clause 9	As previously answered at clause 9.
HERE NI/Cara Friend Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women's Aid Federation	Supports a renewal of a SPO when required and where considered proportionate. This should include the completion of a further risk assessment to identify any other incidents of stalking and the risk posed to the individual by the accused. The assessment should be trauma informed, robust and effective in identifying high risk indicators and also take into account safeguarding issues and offer continued protection.	Police may apply to renew an order if the duration of the order is about to expire and they are satisfied that the renewal of the order is necessary to continue to protect the victim from risk of stalking.

Clause 11

Interim Stalking Protection Orders

Clause 11		
Interim Stalking Protection Orders		
		DOJ RESPONSE/COMMENTS
Suzy Lamplugh Trust	States that while these are a useful tool whilst the full order is being applied for they are not a replacement for a full order.	<p>The purpose of an ISPO is to protect the victim whilst the main application for the stalking protection order is being determined.</p> <p>Interim orders have effect only for a fixed period specified in the order and cease to have effect on determination of the “main” application.</p>
Parenting NI	<p>Would like to include in the Bill or the guidance specific considerations when an interim stalking order is being imposed. These should consider any children involved in the case and give legal requirement to act in a way that supports their best interests (which will often mean continued contact with both parties). Suggests as an interim consideration a third party (either Statutory such as the police or social services) or a registered third sector organisation be engaged to facilitate contact between the child and their parent without necessitating any contact between the victim and potential perpetrator.</p>	<p>Matters which the court is required to consider when determining contact arrangements are a matter for the Department of Finance rather than the Department of Justice but the legal framework already provides for the welfare of the child to be the paramount consideration. The courts will also already provide for contact to be facilitated through third parties such as contact centres, relatives etc. where it is not possible for parents to be involved in the handover for contact.</p>
Women’s Aid Federation	Important that the interim SPOs are available quickly to ensure that there are no gaps in a victim’s protection.	<p>Interim SPOs are temporary orders imposing prohibitions and/or positive requirements as the Court considers appropriate. They 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.</p>

Clause 12

Content of, and procedure for, orders

		DOJ RESPONSE/COMMENTS
HERe NI/Cara Friend Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women's Aid Federation	Have concerns regarding the criminalization of under 18 year olds – anyone under 18 should be dealt with in a Youth Court setting. Do not believe that a SPO is appropriate for a child and giving anyone under 16 years old a SPO risks criminalizing children unnecessarily.	Clause 12(4) to (7) provides that where a person is under 18 when an application for an order is made, or when an application is made to vary or renew or discharge an order, the application is to be heard in a youth court.

Clause 13

Offence of breaching order

		DOJ RESPONSE/COMMENTS
<p>HERe NI/Cara Friend Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women’s Aid Federation</p>	<p>The issues in relation to current breaches of non-molestation orders not being taken seriously by the police when reported, need to be addressed before implementation of a new Order to make sure breaches are dealt with seriously.</p> <p>It should be a breach of a SPO for the recipient of the order to continue to behave in a manner that had been prohibited in an order, such as carrying out further unwanted communication with the victim. This might, for example, include behaviour that would not otherwise be an offence but that was causing an individual to suffer fear and alarm. Similarly, it should be a breach of an order not to comply with any requirements set out in the order.</p> <p>13(3)(b) – the maximum sentence should be 12 months (rather than 6 months) on summary conviction to bring our law in line with England and Wales. There should not be a disparity between breaches of SPO’s in different areas.</p> <p>Breach of an SPO should be considered an aggravation of any offence perpetrated while the SPO is in place so any stalking, threatening behaviour putting someone in fear etc.</p>	<p>The statutory guidance on SPOs will provide detailed information about the procedure and use of these Orders as well as providing a practical toolkit for police to use and reference.</p> <p>The Stalking Implementation Oversight Group, that includes key stakeholders and criminal justice partners, will be involved in the production of the statutory guidance.</p>
<p>Victim Support NI</p>	<p>An obligation should be put in place in cases where a breach has been reported to contact victims in a timely fashion to inform them of the outcome of the proceedings or decisions on bail.</p>	<p>As answered above at HERe NI/Cara Friend.</p>

NIWEP	Vital that victims are taken seriously and supported when reporting a breach. Failing to do so not only leaves the victim at risk of harm from the perpetrator but also creates severe additional harm in reducing the victim's trust in the ability and willingness of the justice system to support and protect them.	As answered above at HERe NI/Cara Friend.
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Clause 14

Notification requirements

		DOJ RESPONSE/COMMENTS
HERe NI/Cara Friend Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women’s Aid Federation	<p>Notification requirements should include those proposed and:</p> <ul style="list-style-type: none">• Last address if less than 3 months• Are they currently in a relationship and if so the name of the person• Any children living in the property• Any addictions• Any other issues including poor mental health <p>This would ensure that a stalker could not continue to stalk a victim by using a different name or by changing their address so that they could not be found by the police.</p>	<p>The Department notes the addition of notification requirements and these issues will be addressed with police partners to ensure effective operationalization of these SPOs.</p>

<p>PSNI</p>	<p>Notes that the legislation does include what home address means but it does not go as far as other guidance in respect of temporary accommodation/stays away from their permanent residence e.g. does a subject have to notify if they are staying in a holiday property somewhere else within the UK, if they leave the UK or if they stay in a hotel overnight.</p> <p>Clarification on this and whether notification means that they would be subject to management in the same way as a PPANI offender would be helpful.</p> <p>Clarification on whether a Stalking Protection Order is expected to bring an individual into the Public Protection Arrangements and if so at what point – upon conviction, interim Order or full Order – is required.</p> <p>The police have also questioned whether there will be a positive obligation on it to visit/monitor or manage an individual subject to a full or interim Order in the same way for a Violent Offender or Registered Sex Offender and notes that this would have a significant resource and financial implication for the PSNI and other PPANI agencies and the Manual of Practice for PPANI will also need revised.</p> <p>Notes that the positive obligation may be key given that some of the offending behaviours, which amount to stalking, are done without the knowledge of the victim e.g. on-line monitoring of the victim. States that if there was a positive provision within an Order similar to that within a Sexual Offences Prevention Order, this would allow officers to examine devices to ensure compliance with the Order and there would be benefit from further discussion and guidance.</p> <p>The PSNI supports this approach in principle as an effective tool to prevent further or on-going stalking behaviour but highlights that it will have a significant impact on resources and budgets to be able to robustly manage the resultant demand</p>	<p>The Department notes the addition of notification requirements and these issues will be addressed with police partners to ensure effective operationalization of these SPOs.</p> <p>The Department has commenced collaboration and discussion with colleagues in Public Protection Branch regarding the stalking offence and subsequent SPOs coming within Public Protection Arrangements NI (PPANI). This work-stream is being developed further within the remit of the Stalking Implementation Oversight Group.</p> <p>The Department notes the approach supported by PSNI and these issues will be developed further with police partners and within the remit of the Stalking Implementation Oversight Group.</p>
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Clause 15

Method of notification and related matters

Clause 15		
Method of notification and related matters		
		DOJ RESPONSE/COMMENTS
PSNI	Requests clarity in respect of how notification should take place and whether there is a requirement for this to be in a proscribed police station or whether this can be undertaken via for example video conferencing.	The Department are working closely with operational partners on the use of SPOs and drawing on the experience from forces in E&W before their commencement in NI.
Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations HERe NI/Cara Friend	The amendments made through the Stalking Protection Act 2019, Section 10 which are more comprehensive should be used.	Office of Legislative Counsel (OLC) and DSO agreed that this clause was drafted in line with other legislation with notification requirements therefore it is not tied to only those with a home address in NI.

Clause 16

Offences relating to notification

Clause 16		
Offences relating to notification		
		DOJ RESPONSE/COMMENTS
Women’s Aid Federation HERe NI/Cara Friend Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations	16(2)(b) – the maximum penalty on summary conviction should be 12 months (rather than 6 months) for failure to comply with the notification requirements without reasonable excuse to provide police with false information.	The Department considers the penalty for failure to comply with notification requirements as currently drafted to be consistent and proportionate.

Clause 17		
Guidance		
		DOJ RESPONSE/COMMENTS
Women’s Aid Federation HERE NI/Cara Friend Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations NIWEP	Guidance should be established by the Department for information with regard to this Bill and it should be developed in conjunction with voluntary and statutory partners. Want assurances from the Department that they will be involved in this process.	Clause 17 – Guidance - This clause requires the Department to issue and publish guidance to the Chief Constable about the exercise of their functions under the second part of this Bill. It is envisaged that the statutory guidance will provide information about the procedure for applying for a Stalking Protection Order as well as providing a practical toolkit for police to use and reference.
PSNI	Detailed guidance from the Department will be essential to the successful “operationalisation” of the new offence and the Stalking Protection Orders	As answered above at Women’s Aid Federation
Law Society NI	Guidance will be key to the effectiveness of SPOs together with a clear understanding of the difference between SPOs and other existing protective orders. The guidance needs to be clear and unambiguous. Supporting documentation such as a practical toolkit for PSNI should assist with the introduction of this new power.	As answered above at Women’s Aid Federation

OTHER ISSUES/PROPOSALS		DOJ RESPONSE/COMMENTS
<p>TRAINING</p> <p>Education and training of criminal justice agencies and of judges is vital to ensure the effective implementation of the legislation and clear understanding of the difference between harassment and stalking as well as understanding the dynamics of stalking, its a pattern of behaviour and how it impacts on victims.</p> <p>The training should impart an understanding of different types of stalking and awareness of scenarios where stalkers enjoy a position of power either over their victim individually or societally where the stalker holds a position of power or standing.</p> <p>Emphasises the importance of capacity building for professionals across the justice system to ensure all stakeholders have the knowledge and skills to deal sensitively and effectively with victims and the expertise to assess evidence of stalking behaviour.</p>	<p>START360 La Dolce Vita Project HERE NI/Cara-Friend Belfast Area Domestic & Sexual Violence and Abuse Partnership Law Society NI NI Human Rights Commission Women’s Aid Federation NIWEP</p> <p>Victim Support NI</p> <p>NIWEP</p>	<p>The Department does not underestimate the importance and necessity of training for all of its criminal justice partners.</p> <p>The Department recognizes that the successful implementation of the new legislation is paramount and that our criminal justice partners will require training on the new offences and SPOs.</p> <p>The Department has previously led on two awareness raising events with key speakers from the College of Policing, Aurora New Dawn Advocacy Service (Hampshire Stalking clinic), Crown Prosecution Service and a former police officer who trained forces in E&W on recognizing stalking behavior and the use of SPOs.</p> <p>The Department envisions that training for criminal justice partners will include raising awareness of stalking typologies and of the insidious nature of stalking.</p> <p>Training is paramount and will be a key work stream within the remit of the Stalking Implementation Oversight Group.</p>

<p>A clear understanding of the dynamics of stalking, how it presents and how it impacts on victims underpins the proceedings, while victims must feel believed and supported, with access to relevant support throughout proceedings.</p>		
<p>Some organisations want this to be mandatory.</p>	<p>Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women's Aid Federation</p>	<p>As above.</p>
<p>A gendered approach to training will assist agencies to better pursue offenders and support victims.</p>	<p>Victim Support NI</p>	<p>As above.</p>
<p>There must be mandatory training on best practice such as using gender neutral pronouns and sexual orientation awareness.</p>	<p>HERE NI/Cara Friend The Rainbow Project</p>	<p>As above.</p>
<p>Relevant judicial training will be arranged when the Bill attains Royal Assent.</p>	<p>Office of the Lord Chief Justice</p>	<p>As above.</p>
<p>Raises serious concerns about the lack of training and information available in relation to the stalking section of the DASH form – the risk assessment tool used by the PSNI – and recommends that a review and roll out of training in relation to DASH takes place together with the training for the stalking legislation.</p>	<p>Women's Aid Federation</p>	<p>As above.</p>

<p>Existing organisations in the domestic abuse sector, including voluntary sector organisations providing support to victims and survivors would be well placed to either provide capacity building or at the least contribute to the development of capacity building programmes and materials.</p>	<p>NIWEP</p>	
<p>Training should also cover Stalking Protection Orders.</p>	<p>NIWEP</p>	
<p>Specialised training programmes for police and prosecutors is very important.</p>	<p>Scottish Charity Action Against Stalking</p>	
<p>There will be a significant training requirement for Police in respect of the Bill, with in- built need for annual refresher training</p>	<p>PSNI</p>	<p>As above.</p>

DATA COLLECTION		
<p>Establish an obligation for agencies to collect data on stalking incidents and crimes reported, with clear instructions that any stalking behaviours by ex-partners should be recorded as stalking as opposed to being recorded more generically under domestic abuse. It may also be valuable to differentiate between stranger, acquaintance and ex-partner stalking within the figures to monitor the prevalence of the different types of stalking and the effectiveness of the law with regard to its applicability to each type.</p>	<p>Victim Support NI</p>	<p>The Department will carry out an evaluation of the new stalking legislation after a specified period of time.</p> <p>The type of data collected on stalking incidents and crimes will be a matter for PSNI.</p>
<p>Statistical Data should be recorded.</p>	<p>La Dolce Vita Project</p>	<p>The PSNI, PPS and NICTS already record statistical data on offences, prosecutions etc.</p>
<p>Robust, high quality data is essential to include stalking reports made to the PSNI along with monitoring the length of processes and the effectiveness of case handling procedures and protocols</p>	<p>NIWEP</p>	<p>The Department will carry out an evaluation of the new stalking legislation post implementation.</p>
<p>All Section 75 groups should be monitored inclusive of sexual orientation and gender identity.</p>	<p>Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations HERE NI/Cara-Friend, NIWEP</p>	<p>As above</p>

<p>Is concerned that currently very little data on stalking exists in Northern Ireland and recommends that the DoJ works with the relevant public authorities and civil society organisations to systematically collect and publish data on stalking that is disaggregated by sex, gender, ethnicity, disability and age. It should also record the journey of stalking investigations through the criminal justice system including the number of initial reports, number of referrals to PPS, how may reach different stages of the court process, how many result in prosecutions, what is the resulting remedy and how many repeat offences occur.</p>	<p>NI Human Rights Commission</p>	<p>As above.</p>
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RESEARCH		
<p>Research into the prevalence of stalking in NI is required both generally and in relation to specific groups</p> <p>Research into stalking of older people</p> <p>Funded research on the experiences of LGBTQIA+ victims and survivors of crime is required.</p> <p>All the research on stalking comes from Australia or America and most of it is out of date. Have formed a partnership with the University of the West of Scotland to take forward research and try to get up-to-date empirical research to understand this crime across the UK</p>	<p>La Dolce Vita Project</p> <p>Hourglass</p> <p>The Rainbow Project</p> <p>Scottish Charity Action Against Stalking</p>	<p>The capacity to do further research at this stage is limited as stalking is not identified as a discreet offence however when the new offence comes into operation the Department will be better placed to look at the impact of stalking on any of these specific groups.</p>

REVIEW OF IMPLEMENTATION OF THE LEGISLATION		
<p>Consideration should be given to how the legislation will be reviewed and monitored to ensure effective implementation</p> <p>The challenges of stalking legislation implementation are far outweighed by the benefits. The challenges include a lack of understanding within the police and CPS about what stalking is and issues of communication between the two agencies.</p>	<p>NIWEP HERE NI/Cara-Friend Women’s Aid Federation</p> <p>The Multi-Agency Stalking Project (MASP) in Hampshire.</p>	<p>The Department keeps all policy and legislation under continuous review and a post-implementation review of the Protection from Stalking Bill will be carried out by the Department to aid identification of any future reform requirements</p> <p>All criminal justice partners wish to see the effective implementation of the new stalking legislation.</p>

STALKERS REGISTER		
Mandatory Stalkers Register	La Dolce Vita Project	<p>There are currently no plans to introduce a register for stalkers in Northern Ireland, as is the position in England and Wales and Scotland, however, this will be kept under the review.</p> <p>Although there were calls for a specific stalkers’ register to be included in the recent Westminster Domestic Abuse Bill in E&W, the Government instead agreed to improve statutory guidance around the current system for monitoring high-risk criminals to better include serial stalkers and domestic abusers.</p> <p>Multi-agency public protection arrangements (MAPPA) in England & Wales will now include sections on domestic abuse and stalking.</p> <p>Similar public protection arrangements here within PPANI enables agencies to work together to enhance public protection and provide effective assessment and management of the risks posed by certain sexual and violent individuals.</p> <p>The Department has commenced collaboration and discussion with colleagues in Public Protection Branch regarding the stalking offence and subsequent SPOs coming within Public Protection Arrangements NI (PPANI). This workstream is being developed further within the remit of the Stalking Implementation Oversight Group.</p> <p>The overall aim of the Bill is to provide protection to the victim from risk of stalking from their perpetrator.</p> <p>Stalking Protection Orders (SPOs) will manage that risk by placing notification requirements on the perpetrator (Clause 14 of the Bill) and this information (name and address) will provide a “register” of sorts.</p>

<p>Implementation of a stalker tagging location system</p> <p>Establishment of a Stalking Register for serial perpetrators of stalking and abuse which pose a high risk to victims</p> <p>Westminster Domestic Abuse Bill - Amendment 73 – Registration of serial perpetrators. It makes arrangements for serial domestic abuse or stalking perpetrators to be registered on the Violent Offender and Sex Offender Register and be subjected to supervision, monitoring and management through Multi-Agency Public Protection Arrangements. The amendment also requires the government to provide a comprehensive perpetrator strategy for domestic abusers and stalkers within one year of the new law being passed – this amendment should be made to the Bill and a register for serial stalkers in NI should be created.</p>	<p>Victim Support NI</p> <p>Women’s Aid Federation Belfast Area Domestic & Sexual Violence and Abuse Partnership</p>	<p>The requirement on the individual to notify their name and address to police within 3 days of an order coming into force, will enable police to manage risk for the purpose of preventing them from carrying out further acts associated with stalking towards their victim.</p> <p>The protection orders have a duration of at least 2 years and they may be varied or renewed depending on the risk assessed and need to continue further protection of the victim.</p> <p>As above.</p> <p>As above.</p>
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PUBLIC AWARENESS CAMPAIGN		
<p>Public Awareness Campaign to raise awareness of what constitutes the new offence of stalking and dispel key myths.</p> <p>Should be co-designed with relevant stakeholder organisations</p> <p>Campaign should also cover the consequences of committing the offence</p> <p>Inclusive of LGBTQ+ people</p> <p>Consideration should be given to what specific actions may be required to raise awareness in rural areas</p> <p>The media has a huge role to play in educating the public.</p> <p>The biggest challenge was getting the media to start to help people to understand that crimes of a psychological and abusive nature are every bit as serious as other crimes.</p>	<p>Belfast Area Domestic & Sexual Violence and Abuse Partnership Probation Board NI Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations Women’s Aid Federation NIWEP</p> <p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p> <p>NI Human Rights Commission</p> <p>HERe NI/Cara Friend</p> <p>Committee for Agriculture, Environment and Rural Affairs</p> <p>Scottish Charity Action Against Stalking</p>	<p>The Department recognizes that the successful implementation of the new legislation is paramount and that our criminal justice partners will require training on the new offences.</p> <p>The Department intends running an awareness raising campaign for the new stalking legislation when it becomes law.</p> <p>The content of such an advertising has yet to be determined. The Department notes the comments made around any campaign being inclusive of all sections of society.</p> <p>The Department recognizes that the successful implementation of NI Rural Women’s Network and RCN should be included in any general awareness raising campaign to ensure coverage in rural areas.</p>

WIDER SERVICES		
<p>Early Intervention Assessment model adapted to include stalking behaviours and available across all legal and mental health services</p> <p>Direct links between legal and mental health professionals in criminal and civil family law proceedings is necessary to ensure transparency and protection for victims and their children.</p> <p>Information should be made widely available, e.g. in accident and emergency rooms, GP surgeries, mental health services, domestic abuse services etc and easy online access regarding what constitutes stalking behaviour, how to report, what happens next, available resources and support etc.</p> <p>Mandatory training is essential for all services working with the vulnerable in relation to a disclosure of stalking to ensure early intervention plans are in place to protect from potential harms from stalking.</p>	<p>La Dolce Vita Project</p>	<p>The Department recognizes that the introduction of stalking legislation is only the beginning of address stalking behaviour in NI; there is a significant amount of work to be done which will cut across other government departments and agencies.</p>

<p>Capacity building and appropriate screening procedures should be put in place as part of key frontline services, such as housing providers and NIHE, healthcare etc. to enable women to approach these services with confidence that service providers have an understanding of stalking as an offence. Provision for this has been made elsewhere in the UK – in England and Wales a bespoke service for high risk stalking victims is available.</p> <p>You need to have specialized services wrapped around the legislation. It is a complex crime and requires specialized knowledge and services. In recognition of the trauma and long-standing effects of this type of crime Action Against Stalking is aligning its services with mental health services</p>	<p>NIWEP</p> <p>Scottish Charity Action Against Stalking</p>	<p>As above.</p> <p>As above.</p>
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FINANCIAL REQUIREMENTS		
<p>The EFM indicates that the financial effects arising from the Bill will be considered in a separate Business Case. Any financial effects should however be quantified in the EFM so that the full effects of any proposed legislation are understood.</p> <p>There are cost implications relating to the implementation of the Bill including training and reporting requirements and, as highlighted, in relation to monitoring of compliance with the Orders.</p> <p>Appropriate financial resources required for support services to victims and survivors and their children and for the criminal justice agencies to implement the legislation.</p> <p>Well-resourced services for victims and survivors, including LGBT+ people and women with no recourse to public funds is required</p>	<p>The Permanent Secretary of the Department of Finance</p> <p>PSNI</p> <p>HERe NI/Cara Friend, La Dolce Vita Project, Suzy Lamplugh Trust</p> <p>NIWEP</p>	<p>The business case for the Protection from Stalking Bill is in progress and the costs for implementation of the Bill will be provided in the business case.</p> <p>It is considered that a significant proportion of costs associated with current related offences of harassment and fear of violence will come within the remit of the new stalking offence once in place.</p> <p>The introduction of Stalking Protection Orders will have some financial effects for their application by police to the courts.</p> <p>The Department is aware that training for PSNI and other criminal justice partners will be required for successful implementation of the Protection from Stalking Bill.</p>

<p>Emphasis the need for adequate resourcing to ensure the legislation is implemented</p> <p>States there is an issue to be raised in relation to the finance effects of the Bill – any new legislation needs sustainable funding</p>	<p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p> <p>Women’s Aid Federation</p>	<p>The business case for the Protection from Stalking Bill is in progress and the costs for implementation of the Bill will be provided in the business case. The Department recognizes that resources will be required for training and for implementation of the new legislation.</p> <p>It is considered that a significant proportion of costs associated with current related offences of harassment and fear of violence will come within the remit of the new stalking offence once in place.</p> <p>The introduction of Stalking Protection Orders will have some financial effects covering their application by police to the courts.</p>
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<p>LGBT+ SERVICES</p>		
<p>In addition to mainstream services, which should be inclusive in their resources and awareness campaigns there should be LGBTQ+ specific services for people who have been stalked and sustainable long-term funding needs to be put in place.</p>	<p>Here NI/Cara Friend</p>	<p>The business case for the Protection from Stalking Bill is in progress and the costs for implementation of the Bill will be provided in the business case. The Department recognizes that resources will be required for training and for implementation of the new legislation.</p>

WORKPLACE STALKING		
<p>The issue of stalking in the workplace requires further consideration and it would be beneficial to look at workplace policies on stalking and how this correlates with existing work on domestic abuse workplace policies would welcome this area being included in the Bill.</p>	<p>Belfast Area Domestic & Sexual Violence and Abuse Partnership</p> <p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p>	<p>Workplace policy on stalking is not for DOJ alone to consider – this would involve several other departments including DfE, DOH & DOF.</p>

COURT PROCESS		
<p>Support for victims of stalking through the police and court process is necessary because stalking is an immensely damaging crime with victims often reporting that they have made significant changes to their lives due to the behaviours they have been experiencing.</p>	<p>The Multi-Agency Stalking Project (MASP) in Hampshire</p>	<p>There are a number of organizations in NI who assist victims of crime, eg Victim Support which can offer support for those victims going through the court system.</p>

GENDER-AWARE POLICY AND STRATEGY		
<p>The legislation should be accompanied by a gender- aware policy and strategic framework to ensure that everyone applying the law understands the dynamics, root causes and red flags of different forms of stalking.</p>	<p>Victim Support NI</p>	<p>Legislation has to be gender neutral and be accessible to anyone in the community.</p> <p>The Department is aware that a high proportion of stalking victims are female and the perpetrators mainly male and this can be reflected in any guidance and training delivered to our criminal justice partners, but equally the Department will also want to make sure that the guidance is also inclusive of the LGBTQ+ community.</p>

EDUCATION		
<p>Would advocate the inclusion of early intervention and preventative education about healthy relationships and stalking as part of the implementation of standardised RSE education across schools</p> <p>Education on Image Based Sexual Abuse (IBSA) should also be introduced as a preventative measure</p>	<p>Victim Support NI</p> <p>Women’s Aid Federation</p> <p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p> <p>NIWEP</p> <p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p>	<p>Noted and will feature as part of the Department’s planning for implementation of the provisions of the Bill.</p>

CYBER STALKING		
<p>The current legislation across the UK to deal with social media and the cyber world is wholly inadequate and there is an urgent need to address the inability for legislation created before the existence of social media to effectively address the growing problem of targeted abuse, harassment, cyberstalking and threats towards women, particularly women from marginalized groups. The legislation also needs to be broad enough to encompass future possibilities in technological stalking and abuse.</p> <p>Suggests that there are two image-based sexual offences in Ireland that could potentially offer a model for NI:</p> <ul style="list-style-type: none"> • Distributing, publishing or threatening to distribute or publish an intimate image without consent with intent to cause harm; • Recording, distributing or publishing an intimate image without consent even if there is no specific intent to cause harm. 	<p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations.</p>	<p>The Department is confident that the provisions of the Bill are equally capable of capturing and protecting victims from both cyber and in-person stalking behavior.</p>

<p>It is not the legislation that is the problem – it is the technology and the police are just not up to speed with it. Technology will always be faster than the slow response of our systems</p>	<p>Scottish Charity Action Against Stalking</p>	<p>As above</p>
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OFFENCE OF UPSKIRTING		
<p>Department of Justice should introduce a specific criminal offence of upskirting in NI and ensure effective protection of victims or potential victims without further delay.</p> <p>Highlights the need for a specific offence of upskirting</p>	<p>NI Human Rights Commission</p> <p>NIWEP</p>	<p>Provisions to provide for the specific offence of the highly intrusive behaviour known as ‘upskirting’ are included in the (Justice (Sexual Offences and Trafficking Victims) Bill) which was introduced in the Assembly on 5 July.</p> <p>The Bill also includes provisions to provide for the offence of the equally intrusive behavior known as ‘down-blousing’.</p> <p>Those convicted of either offence will be liable, on summary conviction, to a term of imprisonment of up to six months or a fine of up to £5,000, or both.</p> <p>Those convicted on indictment in the Crown Court will be liable to a term of imprisonment of up to 2 years, or a fine, or both.</p> <p>Up-skirting is already an offence in the rest of the UK. The offence of down-blousing would be unique to Northern Ireland.</p>

RATIFICATION OF THE ISTANBUL CONVENTION		
<p>Calls on the UK Government to ratify the Istanbul Convention and advises the DoJ to continue to work with the UK Government on achieving this goal.</p> <p>Vital that this Bill contributes to ensuring UK compliance and enables ratification</p>	<p>NI Human Rights Commission</p> <p>Women’s Aid Federation</p> <p>NIWEP</p>	<p>The new offence of stalking will ensure compliance with the Council of Europe convention on preventing and combating violence against women and domestic violence - known as the Istanbul Convention.</p> <p>This requires extra-territorial jurisdiction (ETJ) to be extended to the stalking offence.</p> <p>Under the legislation, where inappropriate stalking conduct or behaviour occurs outside the United Kingdom, it can constitute a stalking offence as if it occurred in Northern Ireland.</p>

IMPLEMENTATION OF GILLEN RECOMMENDATIONS		
<p>Calls on the DoJ to be effectively resourced in order to fully implement the Gillen Report recommendations - Recommendation 13 is of particular relevance to the implementation of this Bill</p> <p>Implementation of all the outstanding Gillen Review recommendations</p>	<p>NI Human Rights Commission</p> <p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p>	<p>The DOJ has established and has appropriately resourced the Gillen Review Implementation Team to lead and coordinate the implementation of the Gillen Review into the law and procedures in serious sexual offences in Northern Ireland.</p> <p>The recommendations made by Sir John Gillen are complex and they require collaboration and choreography across many agencies and Departments, not just DOJ. However, in spite of the challenges presented by the Covid pandemic, good progress is being made, with 26% of all recommendations now fully completed with the vast majority of others in train.</p> <p>In relation to Key Recommendation 13, The Gillen Strategic Training Group was established in January 2020 to develop a training strategy to support increased awareness, sensitivity and handling of serious sexual offences cases with the aim of ensuring a co-ordinated multi-agency response to learning.</p> <p>The DOJ, PSNI, PPS, NI Guardian Ad Litem Agency, Prison Service, the Law Society (NI) and the Bar of NI are represented on the group and it is chaired by Geri Hanna, CEO of Victim Support NI. The Group also liaises closely with Judicial Studies Board in relation to Gillen recommendations relating to judicial training.</p> <p>In the coming weeks the Group will present a Learning Framework to the Criminal Justice Board on themes such as the impact of trauma, marginalised groups, disclosure and file quality, child rights, rape myths and human rights. This Framework contains a list of mandatory and recommended training for justice professionals and includes a wide range of internal and external expert training providers.</p>

		<p>The Justice (Sexual Offences & Trafficking Victims) Bill, introduced in the Assembly in July 2021, contains provisions relating to Gillen recommendation to implement the recommendations: 19,21 and 159.</p> <p>Recommendation 19 relates to excluding the public at large from hearings of serious sexual offences. Relevant clauses are contained in Clauses 4 -7 of the Bill. Under these provisions all persons will be excluded from the court with the exception of members and officers of the court; persons directly involved in the proceedings; a relative or friend of the complainant as nominated by the complainant; a relative or friend of the accused as nominated by the accused; bona fide representatives of news gathering or reporting organisations; and any other person excepted from the exclusion direction at the discretion of the court.</p>
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VIOLENCE AGAINST WOMEN AND GIRLS STRATEGY		
<p>Highlights the need for a dedicated Violence Against Women and Girls Strategy – NI is only part of the UK that does not have a specific strategy.</p> <p>Supports the need for a Violence Against Women and Girls Strategy to tackle gender- based violence including stalking given women making up the vast majority of victims.</p>	<p>Women’s Aid Federation NIWEP</p> <p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p>	<p>This matter was brought to the Assembly in March 2021, where the recognition and commitment to address structural violence which impacts the lives of women and girls was supported unanimously.</p> <p>It is recognised that any strategy to address violence against women and girls, to be effective and holistic, requires societal and cultural change from the roots up as early as possible. Behaviours need to change, ensuring that there is meaningful change upstream, on preventative initiatives, and a commitment to changing societal attitudes through more targeted education and relationship awareness.</p> <p>As such, this is a cross cutting issue that will have Executive leadership, cross-departmental co-operation and support to deliver effectively.</p> <p>The Executive has agreed to bring forward a cross-Departmental violence against women and girls strategy, to be co-ordinated by the Executive Office and which will focus on tackling root causes of violence against women and girls. The Minister and Department are supportive of any measures to ensure that we take a coordinated and joined up approach to produce this strategy.</p>

<p>There is an urgent need to further investigate the issue of gender-based violence against disabled women, particularly in relation to stalking.</p> <p>There is an urgent need for prevention as well as better enforcement to tackle the widespread violence against women and these should be integrated into the Violence against Women and Girls Strategy.</p>	<p>NIWEP</p>	<p>The Executive has agreed to bring forward a cross-Departmental violence against women and girls strategy, to be co-ordinated by the Executive Office and which will focus on tackling root causes of violence against women and girls. The Minister and Department are supportive of any measures to ensure that we take a coordinated and joined up approach to produce this strategy.</p>
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<p>SENTENCING GUIDELINES</p>		
<p>Sentencing guidelines should be developed for stalking cases to support and encourage consistency across courts.</p>	<p>NIWEP</p>	<p>This would be a matter for the Judiciary and the Courts which operate independently of the Department.</p>

VICTIM IMPACT STATEMENTS		
<p>Given the concerns regarding the current use of victim statements there is an opportunity to review the full process and proceedings and ensure that victim impact statements are used effectively and in ways that cannot be used to intimidate, harass or harm victims further.</p>	<p>NIWEP</p>	<p>The Department recently carried a consultation on a new Victims and Witnesses Strategy. The draft Strategy was developed to address a number of overarching themes which have been highlighted through recent inspections and surveys of victim and witness experiences. It aims to reinforce a multi-agency commitment to delivering procedural and cultural changes that are intended to deliver improved outcomes for victims and witnesses in the criminal justice system and it represents a collective programme of work for system-wide change and improvement.</p> <p>The draft Strategy set out the background, strategic context and drivers for a new Strategy. Consultees were asked to consider and comment on the proposed mission statement and strategic aim; strategic priorities; and associated objectives and actions. Within the draft Strategy, Strategic Priority 4 includes a measure to develop a plan to increase awareness of the availability of Victim Impact Statements and how to make one. This should help address the concerns raised. Colleagues in Victims and Witnesses Branch have considered the responses to the consultation and are in the process of seeking Ministerial and Justice Committee approval before publishing the revised Strategy.</p> <p>Once approved the Strategy will be published and work will begin on implementing the proposals. It should also be noted that, in line with Strategic Recommendation 4 of the July 2020 CJNI Inspection Report into the Care & Treatment of Victims and Witnesses, scoping work has been undertaken for the establishment of a Needs Assessment Service provided by Victim Support Northern Ireland (VSNI) within the Victim and Witness Care Unit (VWCU) to establish a preferred model. This will improve on the delivery of care to victims and witnesses. As the VWCU is entrusted to provide the victim with information on how to make a victim personal statement this approach should bolster that information sharing.</p>

		The development of the 'My Justice Journey' platform as part of the Criminal Justice's Digital Strategy should also assist with regards to promoting and ensuring a two-way information sharing process between victims of crime and the criminal justice system thus ensuring victims of crime are aware of the information required whilst informing criminal justice organisations of their changing needs/circumstances.
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HONOUR-BASED ABUSE AND STALKING		
Believes it is necessary for the Committee to explore the nuances between honour- based abuse and how it can relate to stalking and recommends reaching out to groups supporting the victims of honour-based abuse in NI	Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations	For Committee to consider and respond.

NO RECOURSE TO PUBLIC FUNDS		
<p>Home Office Policy of No Recourse to Public Funds – guarantees need to be made for women with uncertain immigration status so that they can seek justice without their cases being reported to the Home Office.</p> <p>CEDAW General Recommendation 35 specifically states that access to “all legal proceedings, protective and support measures and services concerning victims/survivors respect and strengthen their autonomy” should be available irrespective of residency status</p>	<p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p> <p>NIWEP</p>	<p>Immigration is not a devolved matter – Women’s Policy Group should raise this issue with the Home Office directly</p>

PARAMILITARY LINKS TO STALKING		
<p>The particular context of NI and the links between some perpetrators and paramilitary groups and the particular circumstances faced by victims needs to be recognised and addressed</p> <p>Important that risk factors relating to a stalker's connection to paramilitary organisations are recognised and safety planning adapted accordingly.</p> <p>Highlights the NI context in relation to stalking and the issue of paramilitary involvement.</p>	<p>Women's Aid Federation Victim Support NI Women's Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p> <p>Victim Support NI</p> <p>Women's Aid Federation</p>	<p>The provisions of the Protection from Stalking Bill will apply equally to all members and sections of society.</p>

DOMESTICE VIOLENCE DISCLOSURE SCHEME		
<p>The Domestic Violence Disclosure Scheme (Clare’s Law) needs urgent reform in order for it to be useful to those it is intended to help: It needs extended to cover former partners where abuse, stalking and other menacing behaviours extend beyond the life of the relationship</p> <ul style="list-style-type: none"> • Where there are children it should be possible for victims to have up to date relevant information to make informed decisions re shared custody • The public information campaign needs re- launched and updated • The length of time it takes for the information to be ready for disclosure must be shortened • A review of the information included should be conducted so that it spans all gender- based crimes that may be relevant • The information given must be clear enough for the recipient to understand it and act accordingly 	<p>Women’s Policy Group NI Joint Evidence Submission on behalf of a number of organisations</p>	<p>The guidance to the scheme sets out that the scheme can apply to former partners. This would most typically be appropriate where there is considered to be an ongoing risk posed. Each case would be judged on the information that is available at the time, to identify and mitigate any risks. The Department will also, in conjunction with PSNI on its practical application, consider whether this needs to be made clearer in the current guidance and leaflet associated with the scheme as well as the associated online materials.</p> <p>It is important to remember that the purpose of the scheme is about advising individuals as to whether or not there is a risk of domestic abuse to them, where this is not already known. It is not about providing detail on, or a history of, convictions or charges against another person, to be used for other purposes. Informing custody matters and decisions is not the purpose of the scheme. If there were a child protection concern relating to an individual this should be considered through other appropriate routes, including involving the use of social services. It is consider that there would also be a linkage in with the Child Protection Disclosure Scheme, where there may be considered to be a risk and this is not already known about. Neither schemes are intended to confirm, or provide details, as to risks (or convictions) that individuals already know about. Where there are imminent/current child protection concerns, or offending behaviours, these should be reported to the police or to a local social services gateway team.</p> <p>The Department previously ran a three year advertising campaign from the launch of the DVADS scheme in March 2018. The purpose of the campaign was two-fold, to raise awareness of domestic abuse and inform the public about the DVADS scheme. There was a very clear uplift in the number of visits to the NI Direct website during periods of campaign activity and anecdotal evidence that suggested increased reporting. The Department will have discussions with PSNI as to how best the scheme can be further promoted going forward.</p>

		<p>The time frame associated with the operation of the scheme is broadly consistent with the position for similar schemes in the rest of the UK and where these apply internationally. If police identify an immediate/imminent risk of harm to the applicant or any other person at any point in the process, they will take steps to disclose any information they have as soon as possible. There is also the Power to Tell process whereby police can proactively consider advising an individual of the risk posed to them. Previously this has accounted for in the region of 50% of cases under the scheme.</p> <p>The scheme applies to all genders. In deciding whether to make a disclosure a wide range of information is considered. This will include offences, incidents and intelligence that are considered relevant in a domestic abuse context. There is no restriction in terms of what may be considered, unlike the scheme in England and Wales that ties in with a list of prescribed offences (largely violent offences).</p> <p>It is important to remember that the purpose of the scheme is to highlight if there is a risk posed to an individual, as a result of which they can make a more informed decision as to whether or not to continue in a relationship, rather than give precise details as to the person's offending history. For the disclosure there is a need to balance information sharing, considering the Article 2 rights of the individual the information is about as well as those that are at risk. Working in partnership to create a fair, just and safe community where we respect the law and each other.</p> <p>While we can appreciate the desire of recipients to have detailed information the underlying intent, in highlighting that there is a risk, must take account of a range of factors. We understand that the extent of disclosure/style of information provided is similar to other schemes such as the Child Protection Disclosure Scheme and disclosures under public protection arrangements (PPANI). It focuses on identifying the level of risk and managing the risk through disclosure of information, it is not to provide detailed access to police information. (VAP)</p>
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