

**Committee for Justice – Protection from Stalking Bill**  
**Record of Issues raised by – Alan Thompson**  
**Informal Meeting conducted via MS Teams on 27 July 2021 at 4pm**

Present: Mervyn Storey MLA (Chairperson) & Sinéad Bradley MLA

Staff in Attendance: Clairita Frazer

Members of the Committee met with Mr Thompson to discuss his personal experience in researching the crime of stalking, and delivering training to police organisations in England, specifically to call handlers, front line response officers, investigators and supervisors dealing with stalking cases on a daily basis.

Mr Thompson thanked Members for giving him the opportunity to provide comment and indicated that he trained some of the English police forces on stalking legislation. Even though the legislation has been in place since 2012 some of the forces haven't got to grips with it correctly which has led to some horrific crimes.

Mr Thompson indicated that not all stalkers were the same and that behaviour of stalkers can change, sometimes even during the same event, and can become more dangerous over time. He outlined and gave examples of the different types of stalkers and their behaviour patterns based on an Australian study by Mullen and others in 1999. The different types are:

- Intimacy seeking stalker
- Rejected stalker
- Predatory stalker
- Incompetent suitor
- Resentful stalker

Each of these different types of stalkers have different motivations, sense of direction, aims, types of behaviours, will display different characteristics and will ultimately have different aims & goals when pursuing their victims.

Mr Thompson noted that the NI legislation appears to be following the Scottish route in respect of their Stalking Legislation but he is not sure that it is the correct way on this occasion.

### **Stalking Offence**

Within the proposed Bill there doesn't appear to be scope to charge unless Fear, Alarm and Significant Distress (FASD) is caused or likely to be intended. The English and Welsh legislation provides for a summary only offence which doesn't require FASD to have been caused. A summary offence gives the police the ability to deal with an individual early when they may be at the start of their stalking career and

have not yet caused FASD to their victims, but left unchecked would be likely to move on to cause that. Early intervention and a prosecution for a less serious offence may deter a perpetrator from continuing on their stalking journey. It will also highlight a more serious perpetrator who, despite having a conviction for a less serious offence, continues to stalk. This also gives police a more rounded picture of what they are dealing with when doing a risk assessment for the victim.

When questioned about this further, in light of the reasonableness clause and 2nd offence created by the Bill, Mr Thompson believed that there is still a need to insert this provision into the NI Stalking legislation. A victim may be fully aware of what is going on but not experiencing FASD. As the Bill stands, however, the victim would have to suffer FASD before police can act and he believes that they shouldn't have to get to this point before a prosecution can occur. The offence would still be stalking – but the summary offence would be there to deal with it.

In Mr Thompson's experience this provision has been used effectively in England and Wales and in his opinion this has been advantageous – both from the police perspective but also the victims. The likelihood is that the more serious offence will be triggered when the lesser offence is being investigated but investigating officers and victims should not have to wait until FASD has been experienced before officers can take action.

The Chair indicated that this issue would potentially be raised with officials when departmental officials returned to the Committee in September.

Mr Thompson then outlined the different types of behaviour which can be displayed and considered as feeder behaviours which can continue and which may lead to more serious actions.

### **Disjoint between Stalking and Harassment Legislation**

Mr Thompson then outlined his concern that there may be a disjoint between stalking and harassment offences as they sit in separate pieces of legislation that are not cross-referenced. A common issue for police officers is the difficulty in understanding the differences between stalking and harassment. The behaviours could involve the same act but take place in a different context with different motivations of the defendant causing a different impact on the victim. It is the context, motivation and impact which is different between stalking and harassment.

Mr Thompson gave the example of the English & Welsh legislation which has the stalking summary only offence and hybrid offences sitting alongside summary and hybrid harassment offences which allows police officers to consider and determine which applies when an offence is reported.

Mr Thompson is concerned that the two things go hand in hand and that this is not being made clear in the proposed Bill. There should be some way to indicate the connection between the two; it has been highlighted in the responses to the consultation and was a common complaint in GB that complaints were often dealt

with as harassment rather than stalking and some cases later became much more serious.

Sinéad Bradley questioned what the cleanest (legally) way of ensuring the difference was considered by officers - would it be on the face of the Bill or in the explanatory memorandum or would it be as part of the training delivered. The Chair indicated that this is another issue for discussion with Departmental officials.

### **Threatening or Abusive Behaviour Offence**

Mr Thompson indicated this provision was included in the Scottish Bill because harassment isn't a criminal offence in Scotland (it is a civil matter) so Scotland has created this because of this whereas we don't need that as we have harassment legislation. The attractive point about this is that it only requires one instance/report of the behaviour. However, the offence requires that the victim must suffer fear or alarm – this again eliminates the chance to help victims who have been abused but didn't suffer fear or alarm and consideration should again be given to a summary offence for the same reasons as set out earlier.

In NI we have the Protection from Harassment Order 1997 (a direct lift from the English Legislation). The English harassment legislation fits very neatly with the stalking legislation.

The Chair indicated that this is why legislation needs to be watertight; it needs to be cleaner and tighter to close any potential loop holes which will allow perpetrators to continue their behaviour.

Mr Thompson indicated agreement with this. He believes that from an operational policing point of view it needs to be clear and easy which will make it much more effective for the victim.

The Chair indicated that in relation to the Domestic Abuse Bill the police had implemented training modules and that there may be direct read across for the stalking bill. There could be a separate piece of work in having a conversation with the Police about drawing harassment element together too.

Sinéad Bradley indicated that it might be worthwhile asking the officials what has been picked up in this proposed Bill which is not already included in existing harassment legislation or if the lesser offence might be picked up in the harassment.

### **Course of Conduct/Number of incidents**

Mr Thompson advised that it is likely that a victim of stalking will have suffered a number of incidents before going to the police. Research has shown that Domestic Abuse victims experience around 35 incidents before reporting to the Police. In the case of Stalking this number rises to around 100 incidents, which reduces the

significance of only needing one incident before reporting to police as the course of conduct will likely have been established long before the initial complaint is made.

When it comes to low level of reporting stalking behaviours there is a fear that people won't be believed; they are afraid they may put themselves at greater risk, they may be embarrassed or ashamed; actions won't be identified or they don't know when they have been exposed to stalking behaviours; don't understand the risk. Mr Thompson gave the example of an individual who didn't know that he was being closely stalked and was potentially subject to a potential kidnap and murder before police, by good luck, stumbled across the plot.

Police officers in England must ask certain questions when properly questioning a victim by using a specially designed risk assessment form; when completed correctly and evidence is gathered the true extent of stalking becomes apparent. Even if a victim is unaware of all the incidences, they should be taken into consideration and used to establish a course of conduct from the first report being made to police.

### **Stalking Protection Orders (SPOs)**

Mr Thompson believes that SPOs that are issued by the court can be very effective in protecting the victim from the perpetrator. They can be put in place whether or not there is going to be a court case and can still be left in place even when there is no criminal conviction.

Mr Thompson pointed to Justice Act (NI) 2015 which has the Domestic Violence Protection Order issued by the courts, but also the Domestic Violence Protection Notice which is issued by police and provides immediate protection for the victim as an interim measure before getting to court and having the Order issued. The provisions in the Bill relating to SPOs are similar to those in England and Wales but neither provide for a Stalking Protection Notice providing immediate protection before a SPO is issued by the court. He believes that a similar stalking protection notice could be issued - this would be a useful effective and efficient addition to the Bill – and we need to ask why they have not been introduced here. The Assembly could lead the way in the UK in terms of providing protection for stalking victims.

Mr Thompson is of the opinion that a stalking protection notice would give victims immediate protection.

An interim stalking protection order also must be issued by the court so does not have the immediacy of a notice and still must wait on a date for court.

The Chair concluded the meeting by thanking Mr Thompson for his useful paper and the discussion today and advised that the issues would be discussed with departmental officials. He advised that Mr Thompson would be kept informed of any relevant developments and if there was anything else he felt the Committee should be aware of that he should contact the Committee office.

The meeting concluded at 4.50pm.