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POLICE SERVICE OF NORTHERN IRELAND RESPONSE – COMMITTEE FOR JUSTICE CONSULTATION ON PROTECTION FROM STALKING BILL

Stalking Protection Bill

The Police Service of Northern Ireland (PSNI) recognise that the Stalking Protection Bill, which as drafted, creates two distinct offences of Stalking and threatening or abuse behaviour. We believe this is a welcome step in protecting victims both within a domestic and non-domestic setting. We have reviewed the Stalking Protection Bill and are satisfied with the construction and content, save for a small number of points below.

We would however highlight that PSNI will in due course seek to discuss with the Department costs related to the implementation of the Bill, including in particular training and reporting requirements. We would also like to highlight that similar to the Domestic Abuse Bill, detailed guidance from the Department will also be essential to its successful “operationalisation”.

Clause 7 “Application for Orders”

We ask for greater clarity in respect of the reference to “Chief Constable” in respect of who can seek a Stalking Protection Order. We would argue that is operationally essential that the decision making be capable of lawful delegation to make the process efficient. This can be considered either within the legislation, or the accompanying guidance document.

We would also ask for greater clarity on the relationship between Clause 7(3) ‘i.e. Police can only seek orders on those resident in NI’ and clause 3(4) and clause 11 (5)(a) & (b), albeit re interim orders, regarding all of the UK. Whilst these provisions would appear to reflect Section 10 of the Domestic Abuse and Civil Proceedings Act (NI) 2021, we seek clarity 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 United Kingdom rather than Northern Ireland. If not, we will need to understand how this gap could be remedied. This will be specifically relevant in respect of “Cyber Stalking”.

We also seek further clarity as to definitively understanding if these applications are Civil or criminal. It is noted that a breach of same gives rise to criminal culpability but is the standard of proof before the Magistrates’ Court the civil standard or a ‘balance of probabilities’?

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Clause 8 “Power to make orders”.

There may be a requirement to clarify and include how an order is served – at what point do the powers of the Stalking Protection Order come into force? Can this be in an ex parte manner without attendance of the offender/alleged offender or in their presence?

Clause 8(3)

Further clarity is sought in respect of the positive obligations/requirements which are placed on an individual as a result of the Stalking Protection Order and how can this information be effectively and efficiently shared with police. Who has the responsibility to share this information? Will it be the agency/department/organisation providing the service who has the responsibility to report non-attendance/non-engagement to police to effect the breach of order? It is the view of PSNI that this should be the case.

Clause 14 “Notification requirements”

Meaning of notification

There is a requirement for the subject of a Stalking Protection Order to “notify” a series of information including their names and address. The Bill identifies clearly that those who are already subject to notification for example as Part 2 of the Sexual offences Act 2003 would not be subject to two different notification requirements. Whilst the legislation does include what home address means, it does not go as far as other guidance in respect of temporary accommodation/stays away from their permanent residence.

For example does a subject have to notify if they are staying in a holiday property somewhere else within the UK, indeed if they are leaving the UK, or if they stay in a hotel overnight? It would also be helpful in respect of clarification does this notification mean that they would be subject to management in the same way as a Public Protection Arrangements for Northern Ireland (PPANI) offender? Further, will a Stalking Protection Order be expected to bring an individual into the Public Protection Arrangements for Northern Ireland? If so, at what point – is it upon conviction, interim Stalking Protection Order or full Stalking and Protection Order?

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In respect of compliance with such an order, will there be a positive obligation on police to visit / monitor or manage an individual who is subject to a Stalking Protection Order (full or interim) in the same way they would a Violent Offender or Registered Sex Offender? This will have a significant resource and financial implication for police and other PPANI agencies, and will also need revision in respect of the Manual of Practice for PPANI.

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 – for example their online monitoring of the victim. If there was a positive provision within a Stalking Protection order, similar to that within a Sexual Offences Prevention Order, this would allow officers to examine devices to ensure compliance with the said order. This area would benefit from further discussion and further guidance. Whilst again this would be supported in principle by Police, as an effective tool to prevent further or ongoing stalking behaviour it will have a significant impact on resources and budgets to be able to robustly manage the resultant demand.

Clause 15 “Method of notification and related matters”.

Linked with Clause 14 PSNI are seeking 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 video conferencing for example?

Ends