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**Committee for Justice Review on Stalking Legislation in Northern Ireland: Call for Evidence Briefing Note**

***Stalking: Prevalence***

The Society is supportive of the initiative by the Minister and the Committee to look at the introduction of specific stalking legislation in Northern Ireland. This is a crime which is insidious and growing, particularly in the context of multiple access points to people's lives in the age of social media. Taking the figures released by the PSNI for the current statutory offences of harassment and intimidation, in the case of the former there has been a substantial increase over the last 18 years, with a 64.5% increase between 2012 and 2014 (from 1,608-2,651). Although the figures for 2015/2016 show a reduction, they remain at a higher level than 2014 (2,759 recorded offences).

It is impossible without further information to quantify the proportion of these which can be classified as stalking or indeed how many cases go unreported in this jurisdiction. However, it is reasonable to infer that given the overall trends, stalking has been an increasing problem over the last five or six years. On the issue of reporting and classification, it is notable that in 2014/2015, CPS Data in England and Wales showed an almost 50% increase in prosecutions under the stalking provisions when compared with 2013-2014 (the legislation came into force in 2012).

***Limitations of the Current Law***

In the local context, It is important that lessons are learned from the limitations of existing legislation (principally the Protection from Harassment (Northern Ireland) Order 1997) and to ensure that stalking is separately treated as signifying behaviour of a more extreme and dangerous character. The present initiative by the Minister and the Committee presents this jurisdiction with an opportunity to lead in this area, building on recent initiatives in England and Wales and Scotland. Broadly, the offence of stalking can occur in various forms and the salient issues are the course of conduct by the aggressor and the psychological and emotional impact on the victim.

The impact on the victim and the persistence of these behaviours clearly distinguishes stalking from neighbour disputes for example, as it induces a relationship of domination and intimidation over the victim of a different order to annoyance or mere discomfort. Ensuring this is discretely recorded, combated and monitored should improve evidence-based risk assessments in future.

Moreover, the insidious nature of stalking and the difficulties of evidence gathering from often clever and evasive perpetrators places considerable importance on early detection and prevention. An early-intervention approach reflects the fact that stalking can escalate to causing serious personal harm or the victim being murdered by their stalker, as a number of tragic cases have shown. Accordingly, effective anti-stalking strategies are about putting in place a battery of protections to ensure that dangerous behaviour is prevented from escalating to even more serious harm.

Similarly, if we consider the use of technology and social media in such behaviour, it is clear that provisions of the Section 1 of the Malicious Communications Act ('poison pen' letters for example) or Section 127 of the Communications Act 2003 (improper use of a communications network) may be engaged. However, these offences carry much lighter sentencing than the stalking offences recently established in other jurisdictions and are not directed towards dealing with persistent patterns of abusive behaviour. These provisions only capture an element of the range of behaviour which constitutes stalking; what is required is a robust and flexible definition which takes into account that this behaviour is often multi-faceted, directed and persistent.

### ***Identifying Best Practice and Plugging Gaps***

The Society is keen to facilitate a 'learning lessons' event, drawing together the DOJ, the PSNI, the PPS, victim's groups, the profession, political representatives and any other relevant stakeholders to look at issues to be explored in scoping any new legislation. This may cover matters such as defining the offence, prosecutorial guidance, the treatment of victims and the processes for dealing with complaints. The Society believes that a comprehensive approach is needed, which will capture both stalking by ex-partners and those known to victims, as well as 'stranger stalking'. The UK Government has announced plans to introduce a civil Stalking Protection Order to address 'stranger stalking', which would be supplementary to the traditional non-molestation order available in cases of close relationships. This development shows that Northern Ireland has an opportunity to design a legal framework to combat stalking which is cohesive and comprehensive.

### ***Scoping the Offence***

When trying to reach a definition, it is important to ensure it is clearly worded to catch a course of conduct which causes alarm or distress, rather than simply limiting it to fear of physical harm. This reflects the profound psychological damage which can be caused from a feeling of intrusion into one's privacy and the loss of control to the aggressor. The offence should not be so strictly drawn as to fail to recognise the nuanced ways in which stalking and intimidation can occur and should draw on evidence from other jurisdictions. Conversely, it should not be drawn so widely as to extend to lesser offences, which would undermine the purpose of a piece of legislation targeted at often subtle yet menacing behaviour.

The Department may propose to adopt a similar approach to Section 39 of the Criminal Justice and Licensing (Scotland) Act 2010, which lists 'red flag' behaviours with a general flexibility clause allowing for other types of conduct, or the English model which adopts a list of examples. Whichever approach is taken, it is important examples should be non-exhaustive but also sufficiently precise to capture the behaviours targeted. The England and Wales model in Section 111 of the Protection of Freedoms Act 2012 puts in place a graduated scale, with a less serious offence for causing harassment due to stalking and a more serious offence of causing fear of violence or serious alarm or distress.

### ***Practical Issues***

As mentioned above, there are a range of practical issues arising for key agencies in combating stalking, such as guidance for those assessing the persistence and level of threat of the perpetrator and providing flexible victim support mechanisms. These issues should form part of the discussion on the strategy moving forward and it must be stressed that reform in this area is not limited to legislation, but also the range of protections put in place by enforcement agencies. The interface with harassment can be complex in lower level instances and finding a preventative framework at the initial stages of stalking behaviour is to be welcomed.

The Society notes the interconnection between this area and the Minister's proposals for combating domestic abuse issues. A 'joined up' approach is required to ensure the Assembly does not have to re-visit these issues to address preventable gaps. Recent figures in England and Wales suggested that both men and women are impacted by stalking, with women twice as likely to be stalked in their lifetime. This supports the view that the conduct of stalkers is likely to vary significantly depending on circumstances, strengthening the case for an overall strategy encompassing legislation, enforcement and the availability of support services. The Society is happy to make a contribution to the public debate on these issues and should the Committee require further clarification around the points raised or generally, please do not hesitate to contact us.