

Consultation Response

Suzy Lamplugh Trust

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Review of the Need for Stalking Legislation in Northern Ireland

Suzy Lamplugh Trust runs the National Stalking Helpline - the only dedicated helpline for victims of stalking in the UK. Over the past six years the Helpline has provided expert support, advice and information to more than 15,000 people affected by stalking as well as providing training to hundreds of professionals from across the criminal justice system.

There is a high demand for our expert service and in 2015 we received over 6,500 calls and emails for help and advice. Unfortunately, the Helpline was not able to answer all calls because of limited capacity and a year-on-year increase in demand for the service.

All of our campaign work is developed based on the knowledge and experience we have gained through talking to people affected by stalking.

The extent, types and impact of stalking experienced by victims in Northern Ireland

Suzy Lamplugh Trust defines stalking as repeated, unwanted contact that occurs as a result of fixation or obsession and causes the victim(s) to feel distressed, fearful or alarmed.

Research released by Suzy Lamplugh Trust in April 2016 found that 1 in 5 British women and 1 in 10 British men have experienced stalking in their lifetime¹. Whilst no data is collected specifically for Northern Ireland, The Crime Survey for England and Wales has found that 4.9% of women and 2.4% of men reported experiencing stalking² in the last year. This equates to 734,000 women and 388,000 men.

Stalking is characterised by obsession and is a crime of persistence. 30% of people who contact the National Stalking Helpline have experienced stalking for over two years and a further 13% have been stalked for over five years³ however, cases have been recorded as extending over 43 years.

Stalkers are most likely to target someone known to them. The largest group of stalkers is ex-partners, accounting for 45%¹⁶ of all cases. Non ex-intimate stalking however, accounts for 55% of stalking cases 22% of relationships being classed as 'acquaintance' and 10% of people being stalked by someone they have no prior relationship with. Whilst each case is different it is important to recognise there are themes of motivation of including revenge or power and control.

¹ James, D. & Persaud, R., *The Stalker In Your Pocket* 2016

² Office for National Statistics, *Intimate personal violence and partner abuse* February 2016 ¹⁶ National Stalking Helpline 2015

³ National Stalking Helpline 2015

80% of victims who contact the National Stalking Helpline are female and the majority of their stalkers are male. Stalkers can be any age and the Helpline has dealt with cases where the stalker was under 18 years old and others where the stalker was over 70 years old.

The consequences of stalking for victims can be physical, psychological, social and economic⁴. Victims can develop anxiety, depression and agoraphobia and report physical and sexual violence. Between 30% and 40% of victims report physical and sexual violence⁵ whilst research conducted by the National Stalking Consortium found that stalking behaviour was present in the lead up to 27 domestic homicides in the last six years.

Beyond the victim themselves, there is the ever present problem of secondary victims of stalking. Research suggests up to 21 people beyond the victim can be affected by stalking perpetrators; 1 in 4 target the children of the victim.

Many victims feel so concerned or fearful about what is happening that they often feel the need to change their behaviour in order to feel safer. Victims can become hypersensitive and hyper-vigilant with stalking behaviour leading to isolation, loss of job, loss of family, and social life

Research released by Suzy Lamplugh Trust has revealed that:

- 28% of people who had been stalked felt concerned about going out in public
- 1 in 5 reduced their social outings
- 1 in 10 moved home⁶

The key issues relating to stalking offences and the handling of stalking cases by the criminal justice agencies

Stalking is a complex and serious crime. Victims are often scared to go to the police for fear that the stalker will escalate their behaviour or for fear that they will not be believed. On average, victims of stalking who do go to the police will have experienced 100 incidents³ of stalking over a period of months or years.

In our experience, many police officers, prosecutors, judges, magistrates, and probation officers across the UK and including Northern Ireland are unable to recognise stalking and do not understand the risks associated with stalking behaviour. Too often stalking incidences are viewed in isolation as singular activities as opposed to being viewed as a pattern of behaviour. There are two main concerns with this; firstly, the risk to the victim is not fully assessed. Examining a low impact incident in isolation (such as sending a text message) does not take into account the wider context of the behaviours or the impact they have upon the victim. Some stalking behaviours, such as loitering or following the victim can be explained by a stalker as circumstantial: walking dogs in the same park or using shops

⁴ Mullen, P., & Pathe, M. *The Impact of Stalkers on their Victims* British Journal of Psychiatry 1997

⁵ Rosenfield, B. & Harmon, R. *Factors Associated with violence in stalking and obsessional harassment cases* Criminal Justice Behavior 2002; Spitzberg, B.H., & Cupach, W.R. The state of the art of stalking: Taking stock of the emerging literature. *Aggression and Violent Behaviour* 2007

⁶ James, D., & Persaud R. *The Stalker In Your Pocket* 2016

near the victim's work. It can be simple to explain away these behaviours when viewed as single incidences.

Secondly, when viewed in isolation, stalking behaviours are not often recorded as stalking but as harassment or another crime altogether. If the crime is not recorded correctly, it will not be charged or prosecuted correctly. If the fixated stalking behaviour is not identified and addressed, it cannot be dealt with and the fixation will continue and become more embedded; we have heard from some victims that the stalking behaviours have continued from prison in some circumstances.

The effectiveness of the current legislation in dealing with stalking

There are two main concerns with the legislation in Northern Ireland which is letting down victims of this crime.

Firstly, Northern Ireland prosecutes stalking behaviours under the Protection from Harassment Order 1997. This Order does not give a legal definition of stalking but suggests it 'includes repeated attempts to impose unwanted communications and/or contacts on another in a manner that could be expected to cause distress and/or fear in any reasonable person.' It is vitally important that the two crimes of harassment and stalking are not considered interchangeable and the fixated nature of stalking is properly addressed. The Protection from Harassment Order has been used by criminal justice professionals as a tool against such behaviours as neighbour disputes and anti-social behaviour, and it is not appropriate to categorise stalking within this.

Whilst the law covers a number of offences including harassment, causing another to fear violence, breach of an injunction prohibiting harassment and breach of a restraining order, the number of convictions for offences under the Act is not reflective of the problem and certainly not stalking. In 2014, no one was convicted of causing fear of violence. Four were convicted for breach of an injunction prohibiting harassment, and two were convicted for the breach of a restraining order.

In both Scotland, and England and Wales, this law has been amended to reflect further understanding of stalking behaviours, the seriousness of the crime, and the psychological impact of living under alarm and distress.

Secondly, within Northern Ireland there is no definition of stalking. Whilst the Police Service of Northern Ireland's website states: 'it is generally accepted that it includes repeated attempts to impose unwanted communications and/or contacts on another in a manner that could be expected to cause distress and/or fear in any reasonable person', it does not, unlike the system in England and Wales, give a list of behaviours (this is not, however, prescriptive) which amount to stalking and does not clearly differentiate harassment and stalking by highlighting the fixation and obsession of stalking.

The National Stalking Helpline lists the following as possible stalking behaviours. This is not, however, exhaustive:

Gang stalking

Hacking technology
Harassment
Loitering
Revenge porn
Spying
Stalking behaviours unclear
Threats
Use of tracking device
Watching
Phone calls
Emails
Text messages
Social networking sites
Letters
Gifts
Third party contact
Vexatious complaints
Threaten suicide
Following
Visit house/work
Break in
Criminal damage
Physical assault
Sexual assault
Death threats

It would be helpful if police in Northern Ireland were able to refer to a similar list at the point at which a victim complained.

The need for and potential benefits of having specific stalking legislation for Northern Ireland

Stalking is a serious and complex crime affecting 1 in 5 women and 1 in 10 men over their lifetime. The persistent, fixated nature of stalking means that the behaviour needs to be recognised and addressed quickly to try and prevent fixation.

Giving criminal justice professionals the tools, and importantly, the corresponding training, to address stalking specific behaviour would allow victims to be better supported in their need for help. This includes being able to address the fixation and obsession directly.

Being able to identify stalkers allows for the potential to address the stalking behaviours. This can be done through placing specific restrictions on their behaviour or positive obligations. The sooner the behaviour is identified the better it can be managed.

Consider examples of stalking legislation in other comparable jurisdictions

Looking at the legislation in England Wales, the amendments introduced in 2012 specifically identifies the need to show a course of conduct to prove stalking and, for a 4(a) offence 'fear

of violence or serious alarm or distress'. The tools are therefore there to identify stalking behaviour and to address it with criminal sanctions. The concerns surrounding this legislation are less about its content and more about the lack of training criminal justice professionals have received in implementing these new laws.

Frontline professionals have little understanding of what stalking encompasses. The number of cases of stalking currently being recorded by the police represents less than 1% of stalking experienced in England and Wales and the money spent on stalking specific services by police and crime commissioners represents only 0.18% of total budgets. Provision of specialist stalking services and corresponding training for frontline staff would be the area Suzy Lamplugh Trust would most recommend the NI Assembly focuses on whilst introducing specific stalking legislation.

The new Stalking Protection Orders, announced by the Home Secretary on 7th December should complement the current legislation and we will be monitoring their use closely. The aim of the SPO is allow the police to intervene early in cases, before the stage is reached when a charge can be brought. The three main tenets of the SPO are:

- It will be available on application from the police to the courts where a victim of stalking requires protection, ensuring the onus to take action is not on the victim;
- It will have the flexibility to impose both restrictions and positive requirements on the perpetrator, to allow the imposition of effective and appropriate interventions; and
- It will have a criminal penalty for breach, to ensure that there are consequences where an individual does not comply with its conditions.

Whilst Suzy Lamplugh Trust welcomes this stalking Protection Order we remain concerned by the Government's reliance on 'appropriate interventions' that are not available, and upon the belief that the police are sufficiently trained in stalking to be confident in applying for an SPO. There is also a concern that the penalty for breaching an SPO is the same as for a 4(a) stalking charge and thus trepidation that a charge under the stalking amendments will be pursued.

Prior to 2010 stalking was prosecuted in Scotland as a form of harassment under the common law 'Breach of the Peace'. However, this did not fully encompass, define or reflect the seriousness of stalking and victim impact held no place. Stalking was first considered a criminal offence in 2010 with the passing of the Criminal Justice and Licensing Act. The Scottish legislation is similar to the England and Wales legislation, though the sentencing differs in that Clause 38 (putting someone in fear, alarm or distress) is a summary offence with a maximum sentence of 12 months. A Clause 39 offence, which creates the specific offence of stalking, has a maximum sentence of 5 years.

Suzy Lamplugh Trust favours the longer sentences for Clause 38 offences as it offers the opportunity for time to assess the perpetrator and offer intervention. We would argue that the sentencing for both levels of offence ought to be longer as it allows more time for a perpetrator to receive intervention or treatment to try and break the fixation. We do not suggest that incarceration is the answer to stalking as, anecdotally we know that stalking behaviours can, firstly continue from prison, and secondly that without treatment

imprisonment gives stalkers the opportunity to focus on their victim and increase potential resentment towards them.

The crux of these two legislative systems, and their European equivalents, is the focus on the 'course of conduct'. This is vital to differentiate stalking from harassment and to help identify the fixation of stalking. It also aims to ensure criminal justice professionals focus on the pattern of behaviour and adequately assess the risk to the victim, both physical and psychological. We would strongly recommend Northern Ireland considers this when debating introducing stalking specific legislation.

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