

Proposed Stalking Protection (Scotland) Bill

Introduction

A proposal for a Bill to increase protection of victims of stalking by giving police the power to apply for stalking protection orders on behalf of victims. The consultation runs from 29 April 2019 to 21 July 2019. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation document](#) [Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

About you

Please choose whether you are responding as an individual or on behalf of an organisation. Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

Amina: The Muslim Women's Resource Centre's mission is to empower, inspire and support Muslim Women by working with partners to influence and create change in society to ensure that their voices are heard and needs are met. This response has been written by Sara McHaffie of our Ending Violence

Please select the category which best describes your organisation

against Women and Girls Programme, and has been approved by the wider team. It was written in consultation with a small group of service users, many of whom have lived experience of stalking, but also draws on our experience of supporting thousands of women on our helpline and on information and opinions shared with us when we run awareness-raising courses on issues relating to violence against women and girls.

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Amina: The Muslim Women's Resource Centre

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

Aim and approach

Q1. Which of the following best expresses your view of increasing protections for victims of stalking by giving police the power to apply for Stalking Protection Orders on behalf of victims?

Fully supportive

Please explain the reasons for your response, including any advantages and/or disadvantages of the proposed Bill.

Stalking can easily be overlooked compared to other forms of violence against women and girls. The campaign we developed in partnership with Zero Tolerance and the Church of Scotland, AnyWomanAnywhere, clearly names stalking as one of the forms of violence we fight against. We work, and campaign on behalf of women and girls who are at risk of forced marriage, and those who have experienced it. We have seen the difference the legislation on Forced Marriage Protection Orders has made. It is a strong deterrent, even if actual orders are not awarded often. I am a trainer and I work in communities raising awareness of issues related to violence against women and girls and legislation condemning acts of violence and abuse is very helpful when it comes to illustrating the sort of society we wish for ourselves. I can say to people 'this is against the law – we are against this' and my words carry more weight than if we were to say 'we think, as an organisation, that this behaviour is wrong'. We have made films where police officials have said 'our law says this is not permitted' alongside Muslim Imams and Shaykhs condemning these behaviours from an Islamic perspective. Therefore we believe that Stalking Protection Orders would have the same deterrent effect and would allow us the same ability to educate people about expectations placed upon their behaviour.

Stalking can cause extreme distress and can impinge upon a victim/survivor's liberty and sense of self. It disproportionately affects young women, and the young women we work with are already facing sexism, often racism and usually Islamophobia so additional harm can hugely affect them.

Q1. Which of the following best expresses your view of increasing protections for victims of stalking by giving police the power to apply for Stalking Protection Orders on behalf of victims?

Stalking can be linked in with other forms of violence against women:

A case study from someone from our focus group, who wishes to remain anonymous, who worked with migrant women in Egypt "A woman was raped by a person in authority. She was a migrant and the perpetrator felt he could take advantage of her vulnerability. He expressed a sense that he owned her because she could not report this crime as she felt she wouldn't be protected due to her migrant status. This ownership took the form of stalking behaviours: she felt monitored and was followed, for example. The lack of awareness within migrant communities was a factor here as she lacked knowledge of her rights. Additionally, the lack of effective punishment of stalking behaviour meant it continued for a long time. Eventually we were able to relocate her but there was no legal redress available to her at the time."

A case study from our own work shows that stalking can be linked with so-called 'honour'-based violence. We do not provide 1:1 in-person support for women who have experienced violence, but we do refer on, and we often keep in touch and learn about how things have worked out. We worked with a woman who left an abusive relationship and went back to live with her parents. Although her parents were very supportive, the ex-husband was able to intimidate this woman through his connections to family and friends, as well as directly. She could get no peace. Due to being easily identifiable as part of this community, she was easily found wherever she went.

Her ex-husband even wrote to us with 'his side of the story' and told her he had done so, to try and alienate her from her only form of support.

She tried to resolve things through the courts but there was not enough proof linking the harassment (often one incident per perpetrator) to the ex-husband so nothing could be done. She has moved on to an extent but often still feels hopeless.

We note that legislation in England and Wales is for victim/survivors who have "not been intimate relationship with their stalker". Our experience, borne out by available statistics, is that a great deal of stalking does coincide with an intimate relationship. We know women who have been stalked by ex-partners, and it's been difficult to prove other forms of abuse, but the stalking has been evidenced. The police in Scotland have been very supportive of these women. Sadly, the COPFS does not always choose to proceed so I think SPOs could really help women in these cases, as the police would clearly believe they were at risk.

It's very difficult to get legal aid for a civil non-harassment order as things stand. If SPO applications could be supported by the police, this could help a lot of victim/survivors feel safer.

Q2. Which of the following best expresses your view of limiting Stalking Protection Orders to a maximum duration of two years, with the possibility of renewal by the court?

Partially opposed

Please explain the reasons for your response.

We believe it would be best not to limit the length of the order, as women who have been stalked and harassed don't tend to become less fearful about their stalker the longer time has gone on. Although the behaviours themselves may have stopped, and although the victim/survivor may have recovered her mental and physical health, this recovery is often contingent on a feeling of safety which is dependent on an ongoing sense that the harasser would be punished if he were to resume the behaviour. With forced marriage protection orders, not many are given out and those which are, are often interim orders. This can give the sense that gender-based violence of this sort is not taken seriously. We would ask that the court is empowered to create these orders when needed, and that the orders last for a long period of time, or indeed for life. The only possible reason for making them shorter would be if this would increase the chances of them being used by a sheriff – something is better than nothing. But we would hope, in this case, that victim/survivors benefiting from the order are able to access information about how to obtain further support, should they need it. We would also hope that the orders are straightforward to renew based on the original evidence, rather than requiring additional evidence. Often, victim/survivors instincts bear out (there are many instances of women who have been stalked and harassed who have asked the police for support but who have then sadly been murdered by their harasser) but they can be hard to prove to a legal standard. If there was enough evidence in the first place for an order, and the situation was proven to be intolerable for the victim/survivor in the first instance, this should be good enough for the court. We foresee no serious impingement upon the liberty of the person named in the order.

Q3. Which of the following best expresses your view of making the breach of a Stalking Protection Order a criminal offence, with a maximum sentence of up to 6 months imprisonment and/or a fine on summary conviction, and up to 5 years imprisonment and/or a fine for conviction on indictment?

Fully supportive

Please explain the reason for your response.

We approve of this level of sentencing, as it reflects the harm caused by stalking and harassment, and the effect on social life, professional life, reputation and mental health of the victim/survivor.

Q4. Which of the following best expresses your view of allowing a Stalking Protection Order to be made against a child (i.e. under the age of 16 and above the age of criminal responsibility in Scotland)?

Fully supportive

Please explain the reasons for this response.

As with any other crime, the court should be able to use its powers to limit the actions of anyone committing it, as long as they are over the age of criminal responsibility. The younger the perpetrator, the greater the hope for rehabilitation and we would hope that resources would be available for perpetrators to understand the harm of their offense and consider their behaviour, especially when the perpetrators are of a young age.

Financial implications

Q5. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) Government and the public sector, including the police and courts				X		
(b) Businesses				X		
(c) Individuals					X	

Please explain the reasons for your response.

Violence against women and girls causes a huge financial strain on our health service, on our police, on our businesses (as staff are affected) and an even greater strain on the victim/survivors themselves. They may have to pay for therapy. They may have to relocate at huge cost. One woman discussed in our focus group had to move country to escape her stalker.

Equalities

Q6. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Positive

Please explain the reasons for your response.

This law will have a positive effect on the victims of stalking who are often people with a protected characteristic, predominantly women. I can see no reason why this bill would disproportionately adversely affect a person with a protected characteristic. If someone is behaving in this way and does not have capacity to understand the impact of their actions, this would presumably be reflected in any order and potential sentencing.

Q7. In what ways could any negative impact of the Bill on equality be minimised or avoided?

Court staff such as sheriffs should have the opportunity to access training on this new bill and also on the dynamics of violence against women and girls more generally, to help them correctly apply orders and weigh evidence.

Anyone who seems not to understand the impact or illegality of their actions should have access to support and education but this should not mean an order fails to be made.

The victim/survivor must be central in the considerations as they will be suffering a great deal of harm.

Sustainability

Q8. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

Please explain the reasons for your response.

Yes. Legal tools to restrict instances of violence against women have a positive effect on our economy, our social structure and cannot be seen to have a detrimental effect on the environment.

General

Q9. Do you have any other comments or suggestions on the proposal?

No Response