

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).

Suzy Lamplugh Trust is the UK's pioneering personal safety charity and leading stalking authority. Our vision is a society in which people are safer and feel safer from stalking, violence and aggression, so they can live life to the full. The Trust was founded by Diana and Paul Lamplugh following the disappearance of

Please select the category which best describes your organisation

their 25-year-old daughter Suzy in 1986. Our mission is to campaign, educate and support people to help reduce the risk of violence and aggression and to create a "safer society for all. In 2010 we launched the National Stalking Helpline (covering the entire UK) and have given advice and support to over 30,000 victims. Our service supports and advises clients, so they can take control back over their lives. This response is submitted on behalf of the Trust and has been approved by the Acting CEO.

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).

Suzy Lamplugh Trust

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.

Suzy Lamplugh Trust supports the proposed Bill and believes that the introduction of Stalking Protection Orders in Scotland would be a positive step to increase the protections available for victims of stalking. It would provide a useful tool to help police address stalking at an early stage, and would avoid the creation of a disparity in the protections available to victims of stalking in Scotland compared to England and Wales following the passage of Westminster legislation. The Bill would be advantageous in providing police with a tool to both prohibit stalking behaviors and prescribe positive obligations to help address these behaviors by the perpetrator. It is also beneficial that the police, rather than the victim, would be responsible for applying for the order. This will help to ease the burden on victims, including the financial burden of applying for a civil order and the time and stress that this involves. We support the onus being on police rather than victims to apply for SPOs. However, it must be made clear to the police through guidance and training that victims must be consulted appropriately, particularly on the detail of the prohibitions placed on the stalker to keep the victim safe. In making breach of an order a criminal offence, the Bill allows action to be taken to protect victims at an early stage, without having to wait for a full stalking case to be built which can take time. This should help police to manage risk and keep victims safe. As with the England and Wales Act, it will be crucial to ensure that these orders are used as an early intervention tool to manage risk while the criminal investigation into the stalker is ongoing, rather than a replacement for a criminal investigation. It must be made clear that bringing an order under the proposed legislation should be seen as preliminary to the full investigation and, where appropriate, the bringing of charges under the legislation.

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?

Breaches of SPOs should be viewed as part of the course of conduct under the full investigation, as well as incurring criminal charges in their own right.

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?

Fully opposed

Please explain the reasons for your response.

We are concerned that a maximum duration of two years in Scotland, and a minimum duration of two years in England and Wales, will lead to a disparity in treatment of similar stalking cases. We know that the average stalking victim has experienced more than 100 incidents before they report their case to the police. We would therefore expect that the vast majority of stalking cases reported to police would be serious cases which require long-term protection of the victim from further abuse by the perpetrator. A maximum duration of two years could leave some victims vulnerable if police do not regularly renew the order, for example due to resource or time constraints.

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?

Partially supportive

Please explain the reason for your response.

Suzy Lamplugh Trust supports making the breach of a Scottish Stalking Protection Order a criminal offence which can result in a prison sentence. This is essential to protect victims of stalking, and avoid the dangerous situation in which stalkers are not punished for breaches of orders and their behavior therefore escalates because they feel that the police will not take steps to enforce the order and they can stalk with impunity. It is really important that SPOs are enforced by police and that there are appropriate penalties attached to a breach, including the option of a custodial sentence. We note that the proposed maximum sentence for breaching an SPO in Scotland would be five years imprisonment, which is the same maximum sentence for the criminal offence of stalking in Scotland. In England and Wales, the maximum sentences are five years for breaching an SPO and 10 years for the offence of stalking. We would support a maximum sentence of 5 years for breach of an SPO in Scotland, and suggest that the Scottish authorities consider addressing the disparity of maximum sentence length for the criminal offence in Scotland so that this is treated as seriously in Scotland as in England and Wales. Increasing the maximum sentence for conviction of the criminal offence of stalking in Scotland from five years to ten years would also prevent there being the same maximum sentence length for a breach of an SPO and the criminal offence of stalking. Regarding the maximum sentence for summary conviction for breach of an SPO, we would suggest that this should be 12 months rather than 6 months, to align with SPOs in England and Wales. We note that this would then create a disparity in the Scottish legislation, with breaches of SPOs carrying a longer maximum sentence for summary conviction than NHOs, despite their similarities. We suggest that to address this the maximum sentence for NHOs should be increased.

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)?

Partially supportive

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)?

Please explain the reasons for this response.

We suggest that the Scottish Bill could consider using the same wording as the Westminster legislation, which does not specify the age limits for the applications of SPOs but does clarify that defendants under the age of 18 will be dealt with by the youth court rather than the magistrates court.

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.

We note that the economic assessment of the SPO legislation passed for England and Wales found that, while there would be small increases in upfront costs for police, the court system and probation, these are relatively small compared to the monetary and non-monetary benefits gained by the harms avoided to victims of stalking. We think that a similar situation would be very likely to apply in Scotland, and that the introduction of the proposed legislation would have a positive overall financial impact. Acting quickly to stop stalkers from continuing to target victims would be likely to be financially beneficial for victims of stalking, their workplaces and wider society. While there would be an increase in upfront costs in putting into place and enforcing SPOs, we believe that these would also be significantly smaller than the costs avoided to police, probation and courts by preventing an escalation of stalking behaviors and incidences of more serious violence. The potential harms caused to victims if stalking perpetrators are not dealt with rapidly and robustly include serious violence and homicide. The financial impacts of these serious crimes include significant additional spending on prisons, courts and perpetrator management. These costs are much greater than the cost of implementing an SPO.

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.

Stalking is often a gender-based crime, and the majority of victims are female. Increased protection for

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victims of stalking and improved powers for police to intervene effectively in stalking cases would help to reduce gender-based violence and improve equalities.

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

We believe that the Bill would have a positive impact on equalities. It would improve protections for vulnerable people and help to reduce gender-based violence. It would improve protections for both male and female victims of stalking. By removing the need for victims themselves to go through the time-consuming and expensive process of applying for an order, it would also improve access to justice for disadvantaged groups who are reluctant or cannot afford to take out an order themselves.

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?

Please explain the reasons for your response.

We do not believe that there would be any environmental consequences to the proposed legislation. On the economic impacts, as set out in the response to Q5, we believe that these would be positive overall, and would be a case of spending a relatively small amount of money to prevent greater harms occurring which would incur higher costs, both for public services and for affected individuals. In helping to prevent further harm to victims, including the risk of serious violence, SPOs in Scotland would have a beneficial social impact. By protecting victims of what is a heavily gendered crime, it would also help to improve gender equality. The impacts of being stalked on victims and the people close to them are severe. Victims' wellbeing, mental health and safety are at risk while they are being stalked, and their family, friends and workplace may also be targeted by the stalker. Stalkers will typically target 21 people who are close to the victim as part of their attempts to contact, monitor or distress their victim. Victims' relationships with their friends and family may deteriorate, or their performance at work might suffer due to the impact on them of the psychological trauma of being stalked. Preventing stalking cases from continuing and escalating would therefore bring significant social benefits.

General

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

We would like to emphasise that, for SPOs to be an effective tool which makes stalking victims more rather than less safe, it must be made clear to police by appropriate training and guidance that SPOs must be seen as a preliminary rather than an alternative to a full investigation and the bringing of charges under the legislation. If, after the SPO is in place, the investigation reveals a course of conduct by the perpetrator which amounts to stalking, then the SPO by itself is not sufficient and charges must be brought. It must also be made clear to police forces that breaches of SPOs, in addition to incurring criminal charges themselves, must be viewed by police as part of the perpetrator's course of conduct and included in their assessment of the risk to victims. While we support putting in place obligations on perpetrators to attend programmes aimed at reducing reoffending or addressing underlying issues, where appropriate programmes exist, it must be made clear that this should not be viewed as a reason for a more lenient sentence. Care should also be taken to avoid requiring perpetrators to attend programmes which are unsuitable for them and may raise the risk they pose, for example programmes aimed at reducing violence within relationships. The legislation should also allow SPOs to include the placing of

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

other positive obligations on perpetrators, such as attending a mental health assessment or surrendering their electronic devices.

When police are assessing the risk posed by a perpetrator the victim's voice and perspective must be central, and this should be made clear in the guidance.

We think it is unlikely that vexatious complaints would result in the wrongful making of an SPO. SPOs would not be made before police have carried out an initial investigation and applied to the court, so checks and safeguards would be in place to prevent this.