

# 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).**

Victim Support Scotland provides support and information services to victims and witnesses of crime in Scotland. We're proud to serve victims and witnesses in Scotland by campaigning for their rights and helping to improve their experiences of the criminal justice system. Through our services, we can help to

Please select the category which best describes your organisation

lessen the impact of crime upon individuals and communities by supporting people affected by crime and keeping them at the heart of justice in Scotland.

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).

Chloë Minish, Policy and Research Officer for Victim Support Scotland

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?

Partially supportive

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

Victim Support Scotland would support any initiative that seeks to increase the protection of victims of stalking. If Stalking Protection Orders are to be implemented, we would want assurances that this measure is properly resourced and that victims are fully supported throughout the process. It's important that victims feel communicated with and have a clear understanding of what Stalking Protection Orders mean and how this can protect them at a time when they feel vulnerable. VSS is of the view that care should be taken to ensure the benefits of Stalking Protection Orders are realised and to avoid unhelpful duplication of protections and powers that already exist in Scotland through Non-Harassment Orders for example. Interdicts and exclusion orders can be put in place to protect victims from anti-social behaviour and domestic abuse, which are not subject to the same two-year maximum duration period. The victim is eligible to apply for legal aid to cover the costs of pursuing these measures.

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 supportive

**Please explain the reasons for your response.**

Victim Support Scotland is broadly supportive of the proposal that Stalking Protection Orders be limited to

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?

a maximum duration of two years, with the potential to be renewed by the court. VSS would want to see that victims of stalking are not at risk from repeat offending, and therefore robust assessments must be in place to prevent this from happening after the two-year period. The conclusion not to renew the order must be taken using a considered and transparent approach with full consent of the victim in our view. VSS would express concern that possible circumstances which would necessitate a renewal of a Stalking Protection Order have the potential to retraumatise the victim in the event of having to recount previous experiences and/or provide new information in order to ensure that a renewal was granted. VSS is keen that this is avoided wherever possible. VSS would also seek assurances that the support available to victims once the Stalking Protection Order has expired is clearly signposted and that they are satisfied that they are no longer at risk of being targeted.

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.**

VSS is broadly supportive of this approach as it helps ensure victims' safety is paramount. In addition, VSS would recommend that victims of stalking who have had a Stalking Protection Order issued on their behalf by police and granted by the courts are eligible for updates as part of the Victim Notification Scheme or other type of scheme so they were made aware if a breach has occurred and resulted in a custodial sentence of 18 months or more being issued. This would act as a mechanism to inform the victim of the pending release of their stalker to ensure they can be adequately prepared should another offence occur and access additional support services if they deem it to be necessary.

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.**

VSS believes that there needs to be protections in place to protect victims of stalking where the child is the offender. Whilst we agree this needs to be balanced with child protection and child rights' legislation, we are aware of significant issues experienced by victims of children and young people who carry out offences against them. For example, there are gaps in information these victims compared with victims of adult offenders. We would expect provisions to be put in place to close these gaps.

## 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.**

VSS would expect to see a significant reduction in cost for individuals as a result of the proposals laid out in the Stalking Bill, due in large part to the responsibility to lodge a request for a Stalking Protection Order falling to the police, whereas the process to raise and pursue a Non-Harassment Order lies with the victim. We would anticipate that there would be an increase in reporting and prosecution as Stalking Protection Orders come into place, and public awareness of their existence is heightened, resulting in more offences being reported to police. This poses the potential to result in an increase in administrative costs to the police. The need for a dedicated reporting service and training of staff to identify a risk of secondary stalking, in addition to reporting as a separate offence, may also arise.

## 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.**

As stated in the initial research accompanying consultation, in the 16-21 age group, women (26.9%) are more likely to experience stalking than men (12.1%) in the same age group. While in older age groups, men and women experience a similar level. While the proposed Stalking Protection Orders have the potential to protect this more vulnerable group, we would want to ensure that awareness of the process and support services available are made known across all groups.

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

Stalking Protection Orders have the potential to protect the most vulnerable group, identified as women aged 16-21. It is vital that this at-risk grouping receives tailored information to make them aware of the process involved in a Stalking Protection Order being issued and upheld, as well as information on the support services available to them.

However, this should not be at the expense of providing information of the process and available support services to other groupings that also carry protected characteristics.

## 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?

Unsure

## General

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

VSS would suggest that there is an updated definition of cyber harassment and cyber stalking included to capture prevalence of social media as a tool to contact victims. This should outline how information can be captured and used as evidence from social media platforms, and expectations on social media providers to respond to complaints and work with police and courts to ensure victims are protected online by Stalking Protection Orders.