

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

Other (e.g. clubs, local groups, groups of individuals, etc.)

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).

Glasgow Violence Against Women Partnership: a multi agency partnership concerned with preventing and eradicating 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).

Glasgow Violence Against Women Partnership

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.

We are fully supportive of increasing protections for victims of stalking by giving police the power to apply for Stalking Protection Orders on behalf of victims. Recorded incidents of stalking and harassment have almost doubled in the last 5 years and there has been a significant rise of stalking through social media and mobile phone apps. It is recognised that stalking and harassment has a profound impact on the mental, emotional and physical health of those who are subjected to this unwanted behaviour. While GCC acknowledge that stalking is not a gender specific crime, more women than men experience it, often from former male partners and it disproportionately impacts on the lives of women and girls and is a frequent feature of domestic abuse and other forms of male violence against women and girls. Prior to the inception of the 2010 legislation there was very little legal protection for anyone experiencing stalking and/or harassment. Currently there are no orders that manage all aspects of stalking. Stalking behaviour is about fixation and obsession and very few professionals understand the serial nature of stalking and the significant levels of preoccupation that one person (usually male) has over another person (usually female). Any order must place positive obligations on the perpetrator to change their behaviour and should be managed robustly. By empowering the police to apply for a protective order on behalf of the victim while the investigation is underway offers the victim protection from continued harassment. If Police Scotland apply for the order it removes responsibility from a traumatised victim and should form part of a comprehensive safety plan. It also sends a clear and direct message to the alleged perpetrator that they must cease to contact or cause fear or alarm to the victim and makes visible to criminal justice agencies the behaviour of the alleged perpetrator. Stalking by its nature is often hidden and it can take some time for victims to name and identify what they are experiencing. Very often it is only their reaction to their experiences of being stalked that are visible while the behaviour of the alleged perpetrator remains invisible. Stalking and harassment are frequent features of domestic abuse, pieces of paper in and of themselves are often not sufficient to deter a fixated and obsessed perpetrator and we would recommend that robust mechanisms form part of any order to manage and monitor the alleged offender.

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 supportive

Please explain the reasons for your response.

Investigating a crime of stalking can take some time to gather evidence that concurs with the victim's experience. Stalking can never be underestimated and the impact on the victim can be profound. It is the continuous, repetitive nature of seemingly small incidents which manifest themselves and it is only when all the available evidence is brought together the full impact is visible. It is a pattern of repeated, persistent, unwanted contact that often escalates over time. Stalking covers a vast range of behaviours, it is all predatory and changes in its presentation from unwanted contact, unwanted gifts, to threats and symbolic violence e.g. from damage to property to actual violence. It is therefore important that protective orders form part of a coordinated safety plan to keep victims safe while allowing Police opportunity to fully investigate the allegations.

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.

The breach of any protective order needs to be responded to seriously. Those who breach a Stalking Protection Order need to be aware that there are swift and robust criminal justice responses to predatory behaviour. Those subject to an order must be aware that if they fail to take responsibility for their behaviour and comply with an order, then there is no other option but to impose a term of imprisonment. These are highly motivated individuals who are prepared to go to any lengths to ensure contact with their intended victim. Stalking is a frequent feature of domestic abuse and once women leave relationships their safety is not guaranteed nor is it immediate. Women are most likely to be at risk of serious hurt, harm or murder when they have just left or about to leave a relationship. As a society we have a responsibility to impose the most stringent of consequences should any order be breached. Perpetrators need to know that their behaviour is unacceptable and they will be held responsible and accountable.

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.

Little is known about the prevalence of stalking behaviour in adolescents in Scotland. While we accept that dating is awkward for any adolescent, we would be concerned that ignoring and minimising any stalking behaviour in an adolescent may well lead to longer term harm both for a victim and the perpetrator. Early and effective intervention is key here and that may well include imposing an order on a child perpetrator.

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.

Any Bill should be subject to a full cost benefit analysis. We would expect increased expenditure for Police and Courts in the short term. However the preventative nature of these orders should in the longer term balance out. It is significantly more cost effective to impose a protective order on a stalking perpetrator than it is to investigate and prosecute the murder of a stalked victim. It is however imperative that Police and courts are adequately funded to apply and make for these orders or it may well be the case that resources drive the level of protection any victim may have access to. We would expect to see costs in relation to training of police officers regarding the seriousness and impact of stalking and how to apply for a protective order. We would expect there would be an increase in police time in order to apply for an order. We are unsure of the costs there maybe to business's however if a victim is afforded robust public protection it is hoped that they feel sufficiently safe to return or remain in employment and therefore business's may expect improved staff attendance and therefore productivity. We are unsure of any costs there maybe for other services such as solicitors and lawyers. Currently existing protective orders are applied for via the civil route and this cost is either borne by the individual or by Legal Aid Boards and we would expect to see the costs reduce.

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.

From our understanding women and girls will be afforded better protection in law. Protective Orders are not limited to any sex or gender and therefore application will be based on evidenced need, but must take into consideration any additional protected characteristics that may increase any individual's vulnerability. Any additional vulnerabilities should also form part of any risk assessment and corresponding safety plan.

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

This Bill is focused on the protection of individuals and we can think of no reason that equality issues would be impacted negatively.

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

Please explain the reasons for your response.

We do not have sufficient information to make an informed responses here. On the balance of probability we do not anticipate that there would be a disproportionate impact on any of the above.

General

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

we have none.