



Women's Regional Consortium

Consortium for the Regional Support for Women in Disadvantaged and Rural Areas

Response to: Stalking – A Serious Concern

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Foyle Women's
Information
Network



Women's Regional Consortium: Working to Support Women in Rural Communities and Disadvantaged Urban Areas

1. Introduction

1.1 This response has been undertaken collaboratively by the Women's Regional Consortium which is funded by the Department for Communities and the Department of Agriculture, Environment and Rural Affairs.

1.2 The Women's Regional Consortium consists of seven established women's sector organisations working in partnership with government, statutory organisations and women's organisations, centres and groups in disadvantaged and rural areas, to ensure women are given the best possible support in the work they do in tackling disadvantage and social exclusion.¹ The groups are as follows:

- ♀ Training for Women Network (TWN) – Project lead
- ♀ Women's Resource and Development Agency (WRDA)
- ♀ Women's Support Network (WSN)
- ♀ Northern Ireland's Rural Women's Network (NIRWN)
- ♀ Women's TEC
- ♀ Women's Centre Derry
- ♀ Foyle Women's Information Network (FWIN)

1.3 The Consortium is the established link and strategic partner between government and statutory agencies and women in disadvantaged and rural areas, including all groups, centres and organisations delivering essential frontline services, advice and support. The Consortium ascertains the views, needs and aspirations of women in disadvantaged and rural areas to influence policy development and future government planning.

¹ Sections 1.2-1.3 represent the official description of the Consortium's work, as agreed and authored by its seven partner organisation

1.4 The Women’s Regional Consortium appreciates the opportunity to respond to Stalking – A Serious Concern.

2. General Comments

2.1 Stalking has been defined by Stalking NI² as occurring when “*an individual becomes excessively obsessed with another, and starts a relentless campaign of following and intimidation, for no other reason than their need to be close to their victim, to gain revenge for their rejection, or avenge a “wrong” they believe was caused to them.*”³ It is defined by the Suzy Lamplugh Trust as “*a pattern of fixated and obsessive behaviour which is repeated, persistent, intrusive and causes fear of violence or engenders alarm and distress in the victim.*”⁴

2.2 What is common among the definitions and considered by charities providing support to victims is that stalking is characterised by the perpetrators’ persistence, fixation and obsession.⁵

2.3 In Northern Ireland stalking is mainly dealt with under The Protection from Harassment (Northern Ireland) Order 1997. This legislation prohibits a person pursuing a course of conduct that amounts to the harassment of another person.⁶ The legislation also provides for the offence of ‘putting people in fear of violence’ when a person’s course of conduct causes another to fear, on at least two occasions, that violence will be used against them.⁷

2.4 While stalking bears similarities to harassment its impact may be of a distinct nature, as ‘the defining characteristic of stalking is its relentless and persistent nature – it is not so much the conduct which causes distress as the

² Stalking NI is an organisation established by a survivor of stalking.

³ <http://www.stalkingni.com/what-is-stalking/>

⁴ Suzy Lamplugh Trust <https://www.suzylamplugh.org/Pages/FAQs/Category/anti-stalking>

⁵ Stalking and Harassment, POSTNOTE Number 592, Parliamentary Office of Science and Technology, December 2018 <http://researchbriefings.files.parliament.uk/documents/POST-PN-0592/POST-PN-0592.pdf>

⁶ Section 3, The Protection from Harassment Order (Northern Ireland) 1997

⁷ Section 6, The Protection from Harassment Order (Northern Ireland) 1997

continuation of the conduct and the ensuing uncertainty and anxiety which this engenders in the victim. Victims experience stalking continually, regardless of the frequency of the stalker's acts, as the intervening periods are filled with trepidation.⁸

2.5 There is often a lack of understanding around the issue of stalking not only among the public but also within the criminal justice system. This is largely due to the fact that stalking consists of a series of behaviours which may not seem harmful when seen in isolation.⁹ Stalking behaviours can, when viewed in isolation, be regarded as minor. It is when these behaviours are looked at in the wider context of a course of conduct or the meaning behind the action that they can be seen to be more sinister.

2.6 Stalking is often a 'hidden' crime with many victims fearing that they will not be taken seriously by the criminal justice system. Indeed responses to a 2017 survey¹⁰ showed that many police officers did not take the victim's experiences seriously and were dismissive, unless an 'actual crime' happened. Victims felt the police were too busy with 'more serious matters'. Many victims wanted 'low level' behaviours to be taken more seriously, rather than only considering the victim's situation to be serious if there was physical injury.

2.7 Given these factors it is difficult to get a complete understanding of the extent and nature of stalking. An analysis of the extent of the problem in Northern Ireland must rely on figures relating to harassment since stalking is not a specific offence here. PSNI figures show that incidents of harassment are on the increase, increasing from 3,114 in 2016/17 to 4,231 in 2017/18 (an

⁸ Finch (2006) cited in Review of the Need for Stalking Legislation in Northern Ireland, Killean, Rachel; Stannard, John; McNaull, Gillian; Beigi, Shaghayegh; Born, Alexandra; Johnston, Stephanie; O'Malley, Grace; Watters, Jaclyn, Queen's University Belfast, 2016

⁹ Review of the Need for Stalking Legislation in Northern Ireland, Killean, Rachel; Stannard, John; McNaull, Gillian; Beigi, Shaghayegh; Born, Alexandra; Johnston, Stephanie; O'Malley, Grace; Watters, Jaclyn, Queen's University Belfast, 2016

¹⁰ Victim's Voices Survey 2017, Network for Surviving Stalking, 2017

https://www.scaredofsomeone.org/wp-content/uploads/NSS_Survey_Report_Final-2.pdf

increase of 35.9%).¹¹ Further complicating the identification of the scale of stalking is that there is likely to be a high level of under-reporting. Research shows that victims experience, on average, 100 incidents of stalking behaviour before realising what they are experiencing is stalking and reporting to the police.¹²

2.8 The development of policy and law relating to stalking would benefit from a clear understanding of the nature and extent of this type of victimisation or harassment.¹³

2.9 In England and Wales a review was carried out into the effectiveness of The Protection from Harassment Act 1997 for protecting victims of stalking. The Protection from Harassment (Northern Ireland) Order 1997 corresponds to this Act prior to its recent reform. The Act was criticised for losing its impact and focus and being used for relatively trivial offences such as disputes between neighbours.¹⁴

2.10 This has led to concerns that without a specific offence of stalking that stalking will remain a largely hidden crime, that it will fail to acknowledge the specific harms felt by victims and that the stalking behaviours of perpetrators can be diminished to merely nuisance crimes.

Victims of Stalking

2.11 Research suggests that women are more likely to be victims of stalking than men. Women are twice as likely as men to experience stalking, with

¹¹ Police Recorded Crime in Northern Ireland, Update to 31 August 2018, PSNI, September 2018 https://www.psnipolice.uk/globalassets/inside-the-psni/our-statistics/police-recorded-crime-statistics/2018/august/crime_bulletin-aug-18.pdf

¹² Stalking Survey, Dr Lorraine Sheridan, University of Leicester and Network for Surviving Stalking, September 2005

¹³ Incidence and Prevalence of Stalking in Northern Ireland, Adrienne Reilly & Tim Moore, Research and Information Service Briefing Paper 19/17, Northern Ireland Assembly, January 2017 <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2017/justice/1917.pdf>

¹⁴ Review of the Protection from Harassment Act 1997: Improving Protection for Victims of Stalking, Home Office, July 2012

mixed-race women and those aged 20-24 years at greatest risk.¹⁵ Other figures indicate that 1 in 5 women will experience stalking in their adult life and that the majority of stalking victims (80.4%) are female.¹⁶ Women are more likely to suffer serious harm or homicide when they are stalked, especially where there is a previous (or current) intimate relationship with the stalker.¹⁷

Case Study – Atlas Women’s Centre

“When I was 16 I was being stalked by a man who was heavy breathing on the phone and texting for sexual favours.

I shouted and swore at him on the phone and my mum told me off for using bad language.

I contacted the police but I felt that they were not very helpful and after talking to them I felt that they thought I was to blame. They just suggested that I change my phone number.

This made me mistrust the police and it meant that I didn’t contact them for help later in my life when I was in an abusive relationship.

The stalking made me feel very anxious and I felt like I was seen as stupid and naïve by the stalker because I was young.

I heard he was arrested a short time after stalking me for stalking someone else and threatening this person’s safety.

I feel that if someone had listened to me or had taken action to stop this person when I reported the stalking that he wouldn’t have been able to do something worse to someone else.”

¹⁵ Stalking and Harassment, POSTNOTE Number 592, Parliamentary Office of Science and Technology, December 2018 <http://researchbriefings.files.parliament.uk/documents/POST-PN-0592/POST-PN-0592.pdf>

¹⁶ <https://paladinservice.co.uk/key-facts-and-figures/>

¹⁷ (McFarlane et al 2002) cited in Exploring the Relationship between Stalking and Homicide, Suzy Lamplugh Trust, 2017 <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=1a6cf4d9-0df5-42be-8b02-4bdb75fa264>

Human Rights Standards

2.12 There are a number of binding international human rights standards which have stressed the need to protect women against gender-based violence. These standards have recognised psychological violence as part of gender-based violence against women.

2.13 The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) defines gender-based violence against women as “*violence that is directed against a woman because she is a woman or that affects women disproportionately.*”¹⁸ Article 34 of the Convention states in relation to stalking that parties should: “*take the necessary legislative or other measures to ensure that the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is criminalised.*”

2.14 To date the UK government has signed but not ratified the Istanbul Convention. In its concluding observations the UN Committee on the Elimination of Discrimination Against Women (CEDAW) recommended that the UK ratify the Istanbul Convention.¹⁹ In its concluding observations the UN Committee on the Rights of the Child (UNCRC) also recommended the UK ratify the Convention.²⁰ Locally the Northern Ireland Human Rights Commission (NIHRC) has advised the UK government to move from signatory to ratification of the Istanbul Convention and has encouraged the NI Executive

¹⁸ Article 3 (d) Definitions <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e>

¹⁹ UN Committee on the Elimination of Discrimination against Women, Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland, CEDAW/C/GBR/CO/7, July 2013
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGBR%2fCO%2f7&Lang=en

²⁰ UN Committee on the Rights of the Child, Concluding observations on the fifth periodic report the United Kingdom of Great Britain and Northern Ireland, CRC/C/GBR/CO/5, July 2016
https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en

to engage with the UK government and ensure the full implementation of the Convention in Northern Ireland.²¹

2.15 Until the UK ratifies the treaty it is not required to implement its terms in full and therefore cannot be held fully accountable under international human rights law. Ratifying the Convention would send out a strong public message and ensure that the treaty's obligations would be fully implemented in domestic law, policy and practice.

2.16 In its General Recommendation Number 19²² CEDAW recommended that state parties should take *“appropriate and effective measures to overcome all forms of gender-based violence”* and that state parties should *“take all legal and other measures that are necessary to provide effective protection of women against gender-based violence.”* We welcome the recommendation from the Northern Ireland Women's European Platform (NIWEP) that the Committee asks the state party to *“develop for Northern Ireland a comprehensive strategy on violence against women and girls, including an action plan and budget; and to ratify the Istanbul Convention.”*²³

Perpetrators of Stalking

2.17 Perpetrators of stalking may or may not be known to the victim and can include current or former partners. It is the experience of Women's Aid in Northern Ireland that stalking is much more likely to occur within the context of domestic violence or a previously established relationship, or be

²¹ Briefing Note –Preventing and Combating Violence Against Women and Domestic Violence (Ratification of Convention) Bill, NIHRC, November 2016
http://www.nihrc.org/uploads/publications/Briefing_Note_on_Preventing_and_Combating_Violence_Against_Women_and_Domestic_Violence_%28Ratification_of_Convention%29_Bill.pdf

²² General recommendations made by the Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 (11th session, 1992)
<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

²³ Submission to the List of Issues examination of the UK by the Committee of the Convention to Eliminate Discrimination against Women, NIWEP, June 2018
https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GBR/INT_CEDAW_ICO_GBR_31471_E.pdf

perpetrated by someone who is known in some way to the victim.²⁴ In 55% of cases of stalking reported to the National Stalking Helpline there has been an intimate relationship between the victim and the perpetrator.²⁵ Stalking and domestic abuse are highly correlated, and there is suggestion in the literature that coercive control and stalking are often simultaneously present.²⁶ Figures indicate that the majority of perpetrators (70.5%) are male.²⁷

Impact of Stalking

2.18 There is growing recognition of the extent and impact of stalking. It is recognised that stalking is a serious offence that can have significant impacts on a person's life. The consequences of stalking for victims can be physical, psychological, social and economic. Many victims feel so concerned or fearful about what is happening that they feel the need to change their behaviour to feel safer, including not going out in public, reducing social outings, and moving home.²⁸

2.19 A 2017 survey²⁹ found that 95% of respondents said stalking had a negative effect on their mental health and wellbeing, with issues including panic attacks, difficulty sleeping and a loss of confidence. 31% of victims had taken sick leave from work because of their experiences and 25% were forced to move home.

²⁴ Evidence to the Justice Committee on a potential stalking law for Northern Ireland, Women's Aid Northern Ireland, December 2016 <http://www.womensaidni.org/assets/uploads/2017/05/WAFNI-Stalking-evidence-for-Justice-Committee-December-2016.pdf>

²⁵ Out of Sight Out of Mind, Two Years On, Suzy Lamplugh Trust, April 2018 <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=796cceb9-497e-4d70-abf3-73bf4e328de0>

²⁶ Norris et al (2011) cited in Exploring the Relationship between Stalking and Homicide, Suzy Lamplugh Trust, 2017 <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=1a6cf4d9-0df5-42be-8b02-4bdbc75fa264>

²⁷ <https://paladinservice.co.uk/key-facts-and-figures/>

²⁸ Out of Sight Out of Mind, Two Years On, Suzy Lamplugh Trust, April 2018 <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=796cceb9-497e-4d70-abf3-73bf4e328de0>

²⁹ Victim's Voices Survey 2017, Network for Surviving Stalking, 2017 https://www.scaredofsomeone.org/wp-content/uploads/NSS_Survey_Report_Final-2.pdf

2.20 Criminal justice services which do not take victims seriously or treat them insensitively can cause secondary victimisation. Stalking must be dealt with quickly and effectively and patterns of behaviour must be joined-up in order to protect victims from both the crime of stalking and also from secondary victimisation.

2.21 The impacts of stalking are wide and varied and can affect not only the victim but their family, colleagues and wider society. It is a significant public health issue and one which we believe now requires specific and targeted legislation.

Other jurisdictions

2.22 We welcome the introduction of stalking legislation in Scotland (2010) and in England and Wales (2012). The creation of stalking-specific provisions helps to ensure that stalking is properly responded to. In addition both England and Wales (2015) and Scotland (2018) have introduced new laws creating a coercive control offence. Women's Aid Northern Ireland have highlighted that there is much overlap between these types of offence and that it could be argued that stalking in the context of domestic violence is a form of coercive control.³⁰

Northern Ireland

2.23 While these advances in England, Wales and Scotland are to be broadly welcomed it leaves Northern Ireland in the invidious position of being left behind. The collapse of the Northern Ireland Assembly has meant that draft legislation on coercive control has not been passed and without a Minister in place new legislation on stalking will not be created. We remain disappointed about the lack of local government in Northern Ireland which is holding up progress on many women's issues.

³⁰ Evidence to the Justice Committee on a potential stalking law for Northern Ireland, Women's Aid Northern Ireland, December 2016 <http://www.womensaidni.org/assets/uploads/2017/05/WAFNI-Stalking-evidence-for-Justice-Committee-December-2016.pdf>

2.24 In recognition of the devastating effects of domestic abuse, stalking and sexual violence in Northern Ireland the Attorney General, Sir John Larkin QC, has published guidance for criminal justice agencies on compliance with international human rights standards.³¹ We welcome this guidance as a means of ensuring that the existing law is used as effectively as possible but stress the need for specific legislation on this issue to ensure that victims are properly protected against stalking.

3. Specific Comments

We have attempted to answer the specific questions asked in the 'Stalking – A Serious Concern' consultation document. We have not provided an answer to a question where we believe we have insufficient information to provide an informed response.

Q.1 Do you think the offences of "harassment" and "putting people in fear of violence" in the current legislation provide sufficient protection to victims?

Please select:

- Yes, I think the Legislation is sufficient
- No, I think there are gaps in the Legislation
- Don't know

Do you have you any additional comments to make?

We believe that there is a need to strengthen the law around stalking and that victims would benefit from specific legislation on stalking.

As previously stated stalking and harassment are interrelated but there are distinct differences and the existing legislation is too broad to effectively provide protection for victims in this situation. Harassment legislation is being

³¹ Human Rights Guidance for the PSNI, PPS, PBNI and NICTS, Domestic Abuse and Stalking, Attorney General for Northern Ireland, April 2018
https://www.attorneygeneralni.gov.uk/sites/ag/files/media-files/Section%208%20Guidance%20in%20Relation%20to%20Domestic%20Abuse%20and%20Stalking%20-%20Final_0.pdf

used to deal with a range of other behaviour including neighbour disputes and protests and is too general to properly deal with the specifics of stalking.

In addition victims may need to turn to several different pieces of legislation depending on how they are being stalked, for example, there are various pieces of legislation which relate to communications which may be able to help someone who is a victim of 'cyberstalking'. This can further complicate the issue for victims who just feel the impact of stalking behaviour on their lives and do not understand the complexities of the legal system.

We believe that creating a specific law around stalking would help victims to access justice and make the process of seeking redress clearer and more effective.

We agree with the NIHRC recommendation that *“a consolidated piece of legislation prohibiting stalking would better protect victims of stalking and harassment in line with the Executive’s obligations under the international human rights standards.”*³²

Advances in technology over the last number of years and the growth in social media have created new challenges around stalking. Social media and technology are the stalker’s friend and the legislation has not kept pace with modern technology. Currently online stalking is dealt with through the Malicious Communications (Northern Ireland) Order 1988 which prohibits sending communications which are *“indecent or grossly offensive, a threat, or information which is false and known or believed to be false by the sender.”*³³ This legislation is however silent on other online activity such as monitoring a person’s communication or movements and is silent on the use of the internet and social media. Specific anti-stalking legislation must take the opportunity of updating and unifying existing legislation on electronic stalking and recent

³² Committee Review of the Need for Stalking Legislation in Northern Ireland, NIHRC, January 2017 <http://www.niassembly.gov.uk/globalassets/documents/justice/stalking-inquiry/nihrc.pdf>

³³ Art 3 (1), The Malicious Communications (Northern Ireland) Order 1988

advances in technology. Any new legislation must have the flexibility to respond to new methods of stalking as technology continues to advance.

Q2. Have you any direct experience of how stalking cases have been handled by the Criminal Justice System?

– Yes

– No

If Yes, how can we make the system be more effective in supporting victims of stalking and dealing with such offences? Please comment:

n/a

Q3. What do you consider to be the main challenges in identifying cases of stalking at an early stage (as opposed to harassment)? Please comment:

Early intervention in stalking cases is important to break the cycle of obsession and fixation. However there are many challenges in identifying cases of stalking at an early stage including:

- A lack of understanding about what stalking is both among the public and in the criminal justice system.
- Stalking is often underreported with research showing that victims experience, on average, 100 incidents of stalking behaviour before realising what they are experiencing is stalking and reporting to the police.
- Periods of stalking behaviours may be infrequent and therefore more likely to be viewed as isolated incidents. This is compounded by the fact that in many cases every time a victim complains about a stalking incident they may see a different police officer and this makes it even more difficult to join the dots on a series of incidents.
- There are difficulties with identifying stalking in the context of intimate partner relationships.

- Many stalking behaviours can be regarded as minor or not viewed as an 'actual crime' because of their nature, for example, sending flowers to someone. However given the context and meaning behind these actions they can instil fear and anxiety in victims.
- Inadequate responses by the criminal justice system have the potential to deter victims from reporting stalking incidents. Research has shown that many police officers did not take victim's experiences seriously and were dismissive particularly of 'low level' behaviours. Victims felt that the police were too busy with more serious matters and only considered the victim's situation to be serious if there was physical injury.

We believe that the legal recognition of stalking as a specific offence may help to raise awareness of stalking behaviours and the impact on victims. It may empower victims to report stalking behaviours at an early stage so that effective action can be taken quickly before stalking behaviours escalate.

However a new law alone is not enough without being backed up by a successful awareness raising campaign among the public, police and judiciary. Knowledge and awareness of the law is vital in ensuring that the crime of stalking is understood and identified at an early stage both by victims and those within the criminal justice system.

Effective training for those within the criminal justice system who deal with victims and perpetrators of stalking will also help to identify and respond to stalking cases as early as possible. This is particularly important when the victim first makes contact with the police as this experience can significantly impact how a stalking case is progressed. When a victim takes the step of coming forward to make a complaint they are often very vulnerable. If they have to keep repeating the same information to different police officers or encounter someone who is unfamiliar with the insidious nature of stalking behaviour they can be easily put off or feel like they are not being taken seriously.

Providing a single point of contact for victims of stalking could be one way of helping to ensure that victims are put in contact with someone who knows the issues and will take their complaint seriously. This should also ensure that seemingly innocent actions or isolated incidents are given priority and viewed for what they really are in the context of their impact on the victim.

Q4: Do you think more could be done to support the effective gathering of evidence to bring stalking charges?

– Yes

- No

- Don't know

If Yes, Please provide comments:

'Insufficient evidence' is likely to be the reason the majority of criminal harassment cases fail, as evidence is not easy to obtain. When the threats are at their highest and most sinister, they are normally done in a way that is undetected to witnesses, and anonymously.³⁴ The criminal justice system looks for a certain level of evidence that can stand up in court but this can only be gathered if the victim knows what to look for and how to evidence it. This is difficult when the victim is living with the everyday anxiety and fear that comes from being stalked. Victims are not trained police officers and may not know or realise the importance of recording every incident to demonstrate a course of conduct and enable the police to take action.

Specialised support should be provided to victims to ensure not only that they can cope with the impact of stalking (see Q11) but also that they understand the importance of gathering evidence and how to go about providing it in a systematic way.

³⁴ <http://www.stalkingni.com/report/>

Q5. If a new offence of stalking were to be introduced, are the behaviours listed in other jurisdictions above relevant and sufficient?

- Option 1 – yes similar to Scotland
- Option 2 – yes similar to England and Wales
- Option 3 – other

If other: please provide comments

n/a

Q6. If a new offence of stalking were to be introduced, are the behaviours listed in other jurisdictions above relevant and sufficient?

Yes we believe the behaviours listed in the Scottish legislation are relevant. Section 39(6) of the Criminal Justice and Licensing (Scotland) Act 2010 provides a list of conduct which can amount to stalking and includes a 'catch all' of behaviour: "*acting in any other way that a reasonable person would expect would cause B to suffer fear or alarm.*" This allows the legislation to be more flexible allowing it to recognise emerging forms of stalking which any new legislation should be able to deal with.

We would also like to see the introduction of Stalking Protection Orders as part of a range responses to stalking behaviour which is difficult to categorise (see Q13).

Q7. Should a new stalking offence require more than one incident to constitute an offence?

- One incident
- Two incidents
- More than two incidents
- Other

If more than two incidents, please tell us why?

n/a

Q8. Should a further offence be considered if threatening or abusive behaviour is committed after a single act?

– Yes

– No

Please provide any additional comments:

The ability to take action after a single act may be enough to deter a stalker from this type of behaviour and send a warning about stalking behaviour. Early identification of stalking is key to preventing these crimes escalating.

Q9. Where should we set our levels of penalties?

– Option 1 – similar to Scotland

– Option 2 – similar to England and Wales

– Option 3 – other

If Other - please provide comments:

n/a

Q10. Do you agree that stalking should not be treated solely as a criminal justice issue? What other agencies should be involved?

– Yes

– No

Please list the other agencies you think should be involved:

In stalking cases the focus is often on changing the behaviour of the victim. Victims are encouraged to change their telephone numbers, names, home

addresses, etc. These attempts to manage the victim's behaviour miss the point about stalking as they have no impact on changing or stopping the perpetrator's behaviour.

Stalking is a behaviour not a mental disorder however research suggests that stalkers frequently suffer from mental disorders.³⁵ The prevalence of psychiatric illness in perpetrators of stalking raises issues about increased criminalisation of offenders with mental health issues.³⁶ Psychiatric and psychological treatments may provide more effective responses to stalking behaviour than criminal justice measures.

Being able to stop stalking behaviours early is the ideal. Where appropriate it is better to treat the cause of the stalking behaviour and try to ensure that it does not continue than to merely punish the behaviour.

For these reasons we believe that there are a number of agencies that should be involved in the issue of stalking. This requires a public health approach where multiple agencies such as mental health services, criminal justice services, victims organisations and other relevant voluntary and community organisations are brought together to create effective interventions.

We understand that the DoJ has been to visit specialist stalking units, for example, the Hampshire Stalking Clinic. We welcome the learning from these multi-agency stalking intervention programmes in the formulation of any new stalking legislation for Northern Ireland.

Q11. How can we ensure that any new offence of stalking will protect victims from the outset? Please provide comments:

Any new law on stalking will not improve the lives of victims on its own and it must be accompanied by an awareness raising campaign (for both the public

³⁵ <https://www.stalkingriskprofile.com/what-is-stalking/stalking-and-mental-illness>

³⁶ Review of the Need for Stalking Legislation in Northern Ireland, Killean, Rachel; Stannard, John; McNaul, Gillian; Beigi, Shaghayegh; Born, Alexandra; Johnston, Stephanie; O'Malley, Grace; Watters, Jaclyn, Queen's University Belfast, 2016

and the criminal justice system) and training for the police and criminal justice professionals to ensure they are able to identify stalking and respond appropriately (see answer to Q3).

Resources must be made available for training law enforcement agencies about stalking and its impact on victims as this is essential in ensuring that any new legislation is used.

In the words of Stalking NI *“laws without application are like police without enforcement.”* Stalking NI has suggested the need for a monitoring body to check that the police and courts actually use new laws on stalking.

Women’s Aid Federation Northern Ireland has suggested that any new law should be victim-focused. A victim’s reaction of fear and alarm, and the reasonableness of this fear given the context of the relationship between stalker and victim, should be central to this offence.³⁷ We agree with our colleagues in Women’s Aid Northern Ireland and believe that any future legislation should focus on the impact stalking has on its victims in order to identify the crime.

The Suzy Lamplugh Trust has said that victims *“after receiving initial advice and guidance from the National Stalking Helpline, many need the support of specialist, local services to help them build the emotional resilience to manage the impact of the ongoing stalking. Specialist safety planning, from organisations that understand the specific risks associated with stalking, and advocacy from independent professionals who have a comprehensive understanding of the law, are essential components of this support.”*³⁸ This shows the need for and value of specialist services for victims of stalking.

³⁷ Evidence to the Justice Committee on a potential stalking law for Northern Ireland, Women’s Aid Northern Ireland, December 2016 <http://www.womensaidni.org/assets/uploads/2017/05/WAFNI-Stalking-evidence-for-Justice-Committee-December-2016.pdf>

³⁸ Out of Sight Out of Mind, Two Years On, Suzy Lamplugh Trust, April 2018 <https://www.suzylamplugh.org/Handlers/Download.ashx?IDMF=796cceb9-497e-4d70-abf3-73bf4e328de0>

We strongly agree with the need to provide specialist services for victims of stalking in Northern Ireland. However strong any new legislation is it is not enough without adequately funded specialist services to support stalking victims. We would argue that this support must be locally provided and adequately funded so that it can effectively support victims in Northern Ireland. Parachuting in services/companies from outside Northern Ireland to do this work is not the answer as there are many local issues which can impact on stalking in this jurisdiction including where stalking interacts with paramilitary activity to name but one.

Funding for victims services is a critical issue both in terms of emotional and practical support. Unfortunately funding for many community and voluntary organisations in Northern Ireland is being cut and services are shrinking. The women's sector is one example of this with funding for the sector continually diminishing over the past ten years. In the last five years alone, the women's sector has faced cuts of 2-5% per year from budgets with more year-on-year cuts planned. Women's organisations have seen a shift from core funding to short-term project funding. This limits their ability to respond to emerging issues, retain key experienced staff and develop any long term planning to meet the needs of women. The current political situation, the lack of a devolved government in Northern Ireland, only serves to intensify this funding uncertainty.

Specialist stalking services must be provided in trusted, safe spaces where victims feel they can talk about the issues affecting them and access appropriate signposting and support. Without adequate and sustained funding for such services this will not be possible and will ultimately be to the detriment of victims of stalking.

Many victims are put off by a complicated and unfamiliar criminal justice system and the time and money required pursuing a case. Many victims of stalking will be outside the boundaries for legal aid if they are working. Independent, free legal representation for victims of stalking should also be available to ensure that all stalking victims have access to justice. Victims

often need help to navigate complex and frightening legal systems and specialist help should be provided to ensure that they are not deterred from accessing justice and that they are fully supported through the process both practically and emotionally.

Q12. Do you think there could be a role for using the problem solving justice approach to address stalking?

– Yes

– No

– Don't know

Please provide comments:

As previously stated an effective strategy for stalking will involve implementing several different responses depending on the nature of the case. Criminal justice responses alone may not be effective in reducing or solving the problem especially when mental health issues or addictions are involved.

We think there could be a role for the problem solving justice approach to enable the development of an effective response for the particular victim. Tailoring the response to the threat posed by each stalking incident increases the likelihood of effectiveness while conserving scarce resources.

Using a collaborative, multi-disciplinary approach would ensure all applicable stakeholders are included in the problem-solving effort and result in a wide-ranging response. This would require the development of effective working relationships between relevant stakeholders to ensure that all those involved work together to solve the problem.

Q13. Do we need to consider introducing a stalking protection order or make changes to an existing order?

– Yes

– No

– Don't know

If yes, please give further details:

As previously stated we are broadly in support of the introduction of Stalking Protection Orders (SPOs) in Northern Ireland. SPOs can impose restrictions on perpetrators such as staying away from the victim or restricting internet use. They may also include requirements such as attending a rehabilitation programme or seeking treatment for mental health issues. They have the ability to impose comprehensive restrictions on perpetrators. If a perpetrator breached the conditions of an SPO it would be a criminal offence. We therefore believe that these could be a useful early intervention measure which would help to protect victims at the earliest opportunity and potentially could help to deter perpetrators.

One of the benefits of an SPO is that it would not require the victim to apply for it but instead the police would apply. This removes the onus for taking action from the victim.

Critics fear that SPOs will be used as a substitute for pursuing criminal prosecutions by poorly trained police and prosecutors unable to gather evidence. They also voiced concerns that breaches would not be rigorously enforced.³⁹

The Suzy Lamplugh Trust has welcomed the introduction of SPOs in England and Wales however they have reported a number of concerns which we

³⁹ Legislative Position on Stalking and Relevant Statistics in the UK and the Republic of Ireland, Adrienne Reilly, Research and Information Service Briefing Paper 20/17, Northern Ireland Assembly, January 2017 <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2016-2021/2017/justice/2017.pdf>

would encourage the DoJ to be cognisant of in the possible development of SPOs in Northern Ireland.⁴⁰ SPOs should not replace criminal convictions. It is vital that this legislation is used in the short-term to give stalking victims more protection while information and evidence is being collected. The Trust is concerned about the introduction of SPOs with positive obligations without having appropriate services and specialists to which perpetrators can be referred. This could increase the risk to victims. The Trust also believes that the introduction of SPOs must be supported by appropriate training for police officers.

Q14. Should the court be able to convict of an alternative offence?

– Yes

– No

– Don't know

Please add any additional comments in the box below:

Additional protection could be provided for victims of stalking by allowing the court to convict of an alternative offence. In our answer to Q8 we agreed that a further offence of threatening or abusive behaviour should be considered. This would allow some remedy for stalking victims where the court is not satisfied that the accused is guilty of stalking.

Q15. Do we need the power of entry provision to allow police to apply for a warrant to search premises for evidence?

– Yes

– No

– Don't know

⁴⁰ <https://www.s/uzylamplugh.org/what-is-the-stalking-protection-bill>

Please enter comments in the box below:

Any new legislation should include enhanced rights of entry in relation to stalking offences to seize evidence which may help bring stalking charges. As previously stated 'insufficient evidence' is likely to be the reason the majority of criminal harassment cases fail. Powers of entry may be particularly important around the area of cyberstalking so that technology can be seized.

4. Conclusion

Stalking is a significant public health issue and one which has many damaging and often long-term impacts. It can isolate victims from their friends and families, cause fear and distress and in some cases lead to death.

Cases of harassment are on the increase in Northern Ireland and advances in 'smart' technology and the growth in social media have made the process of stalking easier. It is a crime which has, only in recent times, been acknowledged in terms of its frequency and its detrimental impact on victims.

The time has come for something to be done about stalking and we believe that it is a crime which must be tackled through the creation of specific legislation. Early identification of stalking and harassment is key to preventing these crimes escalating. Creating a specific offence helps the criminal justice system to address stalking and may empower victims to report the offence so that it can be identified and responded to promptly and effectively.

However creating specific legislation on stalking will be insufficient on its own. To be effective any changes in the law must be accompanied by training and awareness raising. Training must be provided across the criminal justice system so that there is a comprehensive understanding of the law and how and when it should be applied. Successful awareness raising campaigns among the public are also necessary to ensure that victims and potential victims of stalking understand that it is a crime and know how and where to seek help.

We believe that there is no 'one size fits all' solution to stalking and that a solely criminal justice solution may not be the most appropriate way of dealing with it. There needs to be a range of options available to ensure the best outcomes for victims. We are clear that any solution to stalking must be victim-focused so that the needs of the victim are always at the centre of this process.

Throughout any new process victims must have access to the relevant statutory and non-governmental organisations that can help and support them both practically and emotionally. Criminal justice organisations must work collaboratively to ensure that victims receive information on specialist support services as early as possible.

In 2016 the Justice Committee held a Review of the need for Stalking Legislation in Northern Ireland. The Committee were due to conclude the Review in April 2007 but due to the collapse of devolution in Northern Ireland this work was not completed. We are pleased that the DoJ has incorporated some of this work into this consultation. However we remain disappointed that over ten years later there is still no specific crime of stalking in Northern Ireland.

We acknowledge that some progress can be made on this issue without local government however the issue of bringing forward legislation will not be progressed without having a local Minister in place. While there is no local government in Northern Ireland the legislative components of this consultation cannot be brought into law and that is to the detriment of stalking victims in Northern Ireland. We do not wish another ten years to go by without legislation on this issue and we remain concerned about the impact on women who have the potential to suffer further harm as a result.

We welcome this consultation but we remain concerned that the collapse of the Northern Ireland Assembly has led to a derogation of women's rights in Northern Ireland. England, Wales and Scotland now have legislation on stalking and coercive control both of which are missing from the Northern Ireland statute books. The collapse of the Assembly has stalled much-needed

progress on women's rights in Northern Ireland and we do not wish to see this important issue being added to this list.