



ASSOCIATION OF
CHIEF POLICE OFFICERS



**Protocol on the appropriate
handling of stalking
offences between the Crown
Prosecution Service &
ACPO**

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1. SECTION 1 – INTRODUCTION AND SCOPE OF THE PROTOCOL

- 1.1 The Crown Prosecution Service (CPS) is the principal prosecuting authority dealing with criminal prosecutions in England and Wales.
- 1.2 Chief Constables with Chief Officers at ACC level and above who are members of ACPO are responsible for the investigation of alleged criminal activity in their individual force Area. The Association of Chief Police Officers (ACPO) brings together the expertise and experience of chief police officers from the United Kingdom, providing a professional forum to share ideas and best practice, co-ordinate resources and help deliver policing which keeps the public safe.
- 1.3 This document sets out the principles governing the investigation and prosecution of stalking offences under sections 2A and 4A of the Protection from Harassment Act 1997 (PHA 1997) and covers all forms of stalking.
- 1.4 The College of Policing notes this protocol and this document will be reviewed once current work to update and consolidate the ACPO/NPIA (2009) Practice Advice on Investigating Stalking and Harassment into Authorised Professional Practice (APP) has been completed.

2. SECTION 2 – PURPOSE OF THIS PROTOCOL

- 2.1 The purpose of this protocol is to:
 - Reflect National Policing and CPS policy;
 - Ensure a robust and appropriate criminal justice response to stalking;
 - Establish early and effective liaison between the police and CPS in stalking cases;
 - Achieve improved and consistent performance in the investigation and prosecution of stalking offences;
 - Improve the service to victims of stalking, and increase public confidence more widely in the ability of the Criminal Justice System to deal with stalking cases.

3. SECTION 3 – VICTIMS AND WITNESSES

- 3.1 At the beginning of any investigation the police will ensure that victims are referred to relevant specialist support services.
- 3.2 Victims of stalking are entitled to an enhanced service under the Victim's Code. The police and CPS will comply with their responsibilities as set out in the Victim's Code.
- 3.3 The police will ensure that in every case the victim has the opportunity to provide a Victim Personal Statement (VPS). The purpose of a VPS is to assist the court by enabling the victim to describe the effect the offending has had on them and their lives and to express an opinion on bail and other issues. Victims are entitled to say whether they would like to read their VPS aloud in court or whether they would like it read aloud or played (if recorded) for them. In all cases, the VPS and the information about the victim's preference will be relayed to the court at the first hearing by the CPS advocate.
- 3.4 It is essential that all witnesses in stalking cases receive from the police an accurate explanation of the special measures for which they are eligible and are made aware that the court will determine whether any special measures will be granted. The police will consult with witnesses and obtain their views, which will be passed to the CPS to inform any special measures application.
- 3.5 The police and prosecutors will consider holding early special measures meetings to cover the requirements of witnesses for special measures and to enable the investigating officer to inform the prosecutor of the views of the witnesses. Prior to this meeting the investigating officer will contact the relevant support service for an update on the victim's situation and any recent developments.
- 3.6 The police and prosecutors will consider whether a special measures meeting should be held with the witness.

- 3.7 The Witness Care Unit will arrange a court familiarisation visit for the victim where required. Where the victim requires additional assistance such as an interpreter, or intermediary, or help in gaining access to the premises due to disability, such assistance will be provided.

4. SECTION 4 – INVESTIGATION

- 4.1 The police will focus on building strong cases for prosecution from the outset. The Joint CPS ACPO Domestic Violence Evidence Checklist will be relevant in domestic violence cases and should be referred to. The police will consider the following potential sources of evidence in relation to stalking offences during the course of an investigation:

- Suspect admissions;
- Forensics e.g. fingerprint, footwear and DNA analysis;
- CCTV;
- 999 calls;
- The content of the suspect's computer or smartphone, for example emails, GPS location evidence, photographs;
- Social media sites - screen shots of behaviour online;
- Text messages or call records from the victim's phone;
- Statements from further witnesses, for example, neighbours, other family members or work colleagues;
- Details of previous bail history including any breaches;
- Any relevant bad character evidence;
- Details of any civil orders such as non-molestation orders or domestic violence protection orders imposed on the suspect.

- 4.2 The police will ensure that incidents are not considered in isolation, and where victim reports incidents that may be typical of stalking behaviour, the police interrogate their systems to identify whether there are any linked incidents that could indicate a pattern of behaviour.

- 4.3 The police will ensure that the Domestic Abuse, Stalking and Harassment risk assessment (DASH) and the stalking risk screening tool is used to assess the risk to the victim and inform the development of safeguarding plans in relation to the victim.

- 4.4 Police Information Notices (PIN) can stop acts of stalking/harassment becoming more serious however, a PIN should only be used in accordance with the ACPO/NPIA (2009) Practice Advice on Investigating Stalking and Harassment. This sets out the circumstances to which it is appropriate to issue a PIN as an alternative to the arrest or prosecution under the Protection from Harassment act (PHA). This will usually be at the early stage of the situation when there is no evidence that an offence of harassment has occurred (i.e.: a course of conduct has not been proved). The suspect may appear to be genuinely unaware of the provision of the PHA and that their actions could constitute a criminal offence. Early intervention by using a PIN may prevent the behaviour escalating into harassment. Any decision to issue a PIN should be authorised by a supervising officer.

- 4.5 Stalking offences can also be committed in an online environment, e.g., through social media platforms. The principles for investigating 'online' stalking are the same as those that apply to any form of stalking. Investigating officers should, however, be cognisant of the CPS guidelines on prosecuting cases involving communications sent via social media.

5. SECTION 5 – FULL AND EARLY CONSULTATION

- 5.1. To facilitate effective and early consultation between the CPS and the police, all police forces, and all CPS areas will appoint Single Points of Contact (SPOCs) for stalking cases. A list of SPOCs will be contained as a separate annex for police forces and the CPS which will be held with the National Policing Stalking & Harassment Lead.

- 5.2. The Director's Guidance on Charging sets out arrangements prescribed by the Director of Public Prosecutions for the joint working of police officers and prosecutors during the investigation and prosecution of criminal cases. The police do not have to refer every case to the CPS, although all domestic violence cases do require referral to CPS for a charging decision. The police will seek

full and early advice where the case is complex or involves challenging issues. Chief Constables and Chief Crown Prosecutors will agree local arrangements for full and early consultation to take place.

- 5.3. Prosecutors will ensure that the DASH and the stalking risk screening tool have been applied by the police, and used to inform decisions regarding bail or remand and used to inform safeguarding plans in relation to the victim. In cases of domestic violence this will be in addition to the Joint CPS ACPO Domestic Violence Evidence Checklist.
- 5.4. Early consultation with the officer in the case and contact with the Witness Care Unit will help prosecutors to understand and manage the risks in the case. This can ensure that any further offending reported is addressed as quickly as possible; as such behaviour can often escalate in frequency and seriousness and place the victim at increased risk.
- 5.5. In cases where the police may grant pre-charge conditional bail under section 47 of the Police and Criminal Evidence Act (PACE) 1984, the police will seek the victim's views regarding the conditions to be imposed and will consider imposing the same conditions as would be appropriate in a Restraining Order.
- 5.6. Prosecutors will remind the police of the option to use conditional bail where appropriate.

6. SECTION 6 – CHARGING

- 6.1. Prosecutors and the police will work closely together to build cases, ensuring that all possible avenues of evidence are explored and that the correct charge is identified.
- 6.2. The police will ensure that any statements supplied to the prosecutor at the pre charge stage will, where required, be accompanied by a completed MG2 to ensure that any requirement for special measures receives early informed consideration. The police will also ensure that the DASH and the stalking risk screening tool are supplied to the prosecutor at the pre charge stage.
- 6.3. Prosecutors will examine the impact on the victim as well as the conduct of the suspect to determine whether someone has been stalked or harassed. The detailed statement from the victim along with a Victim Personal Statement will help determine the right charge.
- 6.4. In some cases, the distinction between a stalked person and a harassed person will not be clear-cut as the definitions overlap. However, where the course of conduct involves significant elements of stalking behaviour, a charge under section 2A or 4A of the PHA 1997 will always be the starting point.
- 6.5. Prosecutors will inform the police promptly when a charging decision is made. The police will notify the victim of the charging decision at the earliest opportunity.
- 6.6. Prosecutors will consider the history of the case, including any previous, breaches of restraining orders or non-molestation orders in relation to the suspect, which may be used either to support the establishment of a course of conduct or as bad character evidence. Previous use of PINs may also be used as bad character evidence.
- 6.7. Where the police seek a charging decision based on an application of the threshold test¹ as per the Code for Crown Prosecutors, they will provide detailed and comprehensive information to enable the prosecutor to determine whether the application of the threshold test is appropriate and to fully consider issues surrounding opposition to bail. The police will also provide details of the further evidence likely to be obtained which will have a significant impact on the case.
- 6.8. The prosecutor will ensure that MG3s contains a full record of the decisions taken with reasons for those decisions. Every MG3 will also contain an Action Plan unless there is no additional or outstanding work required from the police. To ensure cases are managed efficiently, action dates will be agreed between the CPS and the police on the recorded Action Plan.

¹ DN: definition of threshold test

- 6.9. Where the threshold test is applied, prosecutors will set out clearly what further evidence is required in order to support a charge on the Full Code Test.
- 6.10. The police will gather and forward the further evidence identified, within the timescale required, in order to support a charge on the Full Code Test that properly reflects the level of criminality.
- 6.11. Where a defendant breaches bail conditions, the police will investigate this as potential further/continued stalking of the victim. This may lead to additional charges or extension of the dates on the existing charge where appropriate.

7. SECTION 7 – CASE PREPARATION

- 7.1. If the defendant pleads not guilty, the full evidential file sent by the police will include:
- The Victim Personal Statement;
 - Completed MG2, as necessary;
 - DASH and Stalking Risk Screening Tool to inform decision regarding bail or remand;
 - In domestic violence cases, a completed Joint CPS ACPO Domestic Violence Evidence Checklist;
 - The victim's view on bail;
 - The victim's views on an application for a restraining order; and
 - Confirmation that the police have discussed the proposed terms of a restraining order with victim and a draft restraining order setting out proposed conditions tailored to victim's needs and addressing the specific circumstances of the stalking behaviour.
- 7.2. When a victim asks the police not to proceed or withdraws their support for a prosecution the police will take a written statement that will:
- Explain the reasons for withdrawing support;
 - State whether the original complaint was true;
 - Set out whether the victim has been pressurised to withdraw their complaint by any person;
 - Confirm whether the victim is pursuing any civil action.
- 7.3. In addition, the police will provide a report that will:
- Set out the investigator's views about the case, in particular the reasons for withdrawal and its impact on the case;
 - Confirm if the victim is supported by any specialist support service;
 - Assess the risks to the victim and any other persons safety; and
 - Assess how the victim might react if required to attend court.
- 7.4. If it is suspected that the victim has been pressurised or is frightened, the police will investigate further and assess any support that has been offered and whether the intervention of a local specialist support service could make a difference. The prosecutor will, if appropriate, ask the court to delay any hearing to enable this to be done.
- 7.5. In preparing a case for trial, the prosecutor will ensure that any required relevant special measures applications are made in accordance within the prescribed timescale.

8. SECTION 8 – PLEAS

- 8.1. The reviewing prosecutor will give clear instructions to the advocate conducting the case at court regarding the acceptability of pleas, in accordance with the Attorney General's Guidelines on the Acceptance of Pleas and the Prosecutors Role in the Sentencing Exercise.
- 8.2. Where stalking is charged and the defendant offers to plead guilty to harassment the victim's view will be considered. Prosecutors will then consider:
- Whether there have been any changes in circumstances since the decision to charge stalking was made.

- If the victim is reluctant to attend court, would it be in the public interest to witness summons him or her?
- How strong is the evidence to demonstrate behaviours associated with stalking?
- What reasons are the defence giving for suggesting that a plea to harassment should be accepted?
- How could it be explained to a victim who felt that they had been stalked why a plea was taken to harassment?

9. SECTION 9 – TRIAL

- 9.1. The prosecuting advocate will introduce themselves to the victim at court prior to the commencement of the trial. This is especially important if a special measures meeting with the victim has not taken place.
- 9.2. The prosecuting advocate will challenge offensive and seemingly irrelevant questioning and object to any inappropriate cross-examination of the victim.
- 9.3. If a decision is taken at court to offer no evidence or accept a lesser plea the views of the victim will be taken into account before a final decision is reached and the advocate will speak to the victim to explain the issues surrounding the decision.

10. SECTION 10 – RESTRAINING ORDERS

- 10.1. Restraining orders will often be essential to ensure the ongoing safety and security of victims of stalking. The police will explain to victims that restraining orders may be applied for on conviction, or where possible, on acquittal.
- 10.2. The police will seek the victim's views regarding restraining orders and will provide accurate and up to date information to support an application for a restraining order where required. This will entail, for example, checking the accuracy of addresses and ensuring these details are reflected in a draft restraining order setting out the proposed prohibitions.
- 10.3. Prosecutors will ensure that the police have sought the victim's views, and provided accurate information to support the application for a restraining order.
- 10.4. Prosecutors will inform the police if a restraining order is granted by the court. The police will promptly inform the victim of the particular conditions of the restraining order.

11. SECTION 11 – SIGNATORIES



Alison Saunders
Director of Public Prosecutions



ACC Garry Shewan – Greater Manchester Police
Association of Chief Police Officers