

Harassment & Stalking



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By the end of this lesson, you will be able to:

1. **Outline** the offence of harassment as stipulated by S1 of the Protection from harassment Act 1997.
2. **Outline** the offence of harassment as stipulated by S2 and S4 of the Protection from Harassment Act 1997 and defences applicable in the Act.
3. **State** the offence of stalking as stipulated by S2A and S4A of the protection from Harassment Act 1997 and defences applicable in the Act.
4. **Identify** behaviours that constitute stalking and harassment.
5. **State** the offence of racially and religiously aggravated harassment as stipulated by the Crime and Disorder Act 1998.
6. **Describe** the information to be recorded by an officer when dealing with a victim of stalking/harassment.
7. **Describe** the actions that can be taken by the police when safeguarding a victim of stalking/harassment.

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Harassment: S1 & 2 Protection from Harassment Act 1997

A person must not pursue a course of conduct which:



(a) amounts to harassment of another,

AND

(b) he knows or ought to know amounts to harassment of the other



A person who pursues a course of conduct in breach of S1 is guilty of an offence



Trainer to write 'Harassment' on the whiteboard and pass a number of pens to students to write what they know in relation to harassment on the whiteboard.

Trainer to debrief using PPT slides

Section 2 merely states that – a person who pursues a course of conduct in breach of section 1 or 1A commits an offence

Summary Offence – 6 months imprisonment and/or fine - not exceeding £5000

Court can also impose a Restraining Order

Three defences are available to the section 2 offence:
that the course of conduct was pursued for the purpose of preventing or detecting crime;
that it was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment; or
that in the particular circumstances the pursuit of the course of conduct was

reasonable

Section 1 (1A)

A person **must not pursue a course of conduct:**

(a) which involves **harassment** of two or more persons AND

(b) which **he knows or ought to know** involves **harassment of those persons** AND

(c) by which **he intends to persuade any person** (whether or not one of those mentioned above)

(i) **not to do something** that he is **entitled or required** to do OR

(ii) to do something that he is **not under any obligation to do**



Summary Offence, 6 months imprisonment and/or Fine

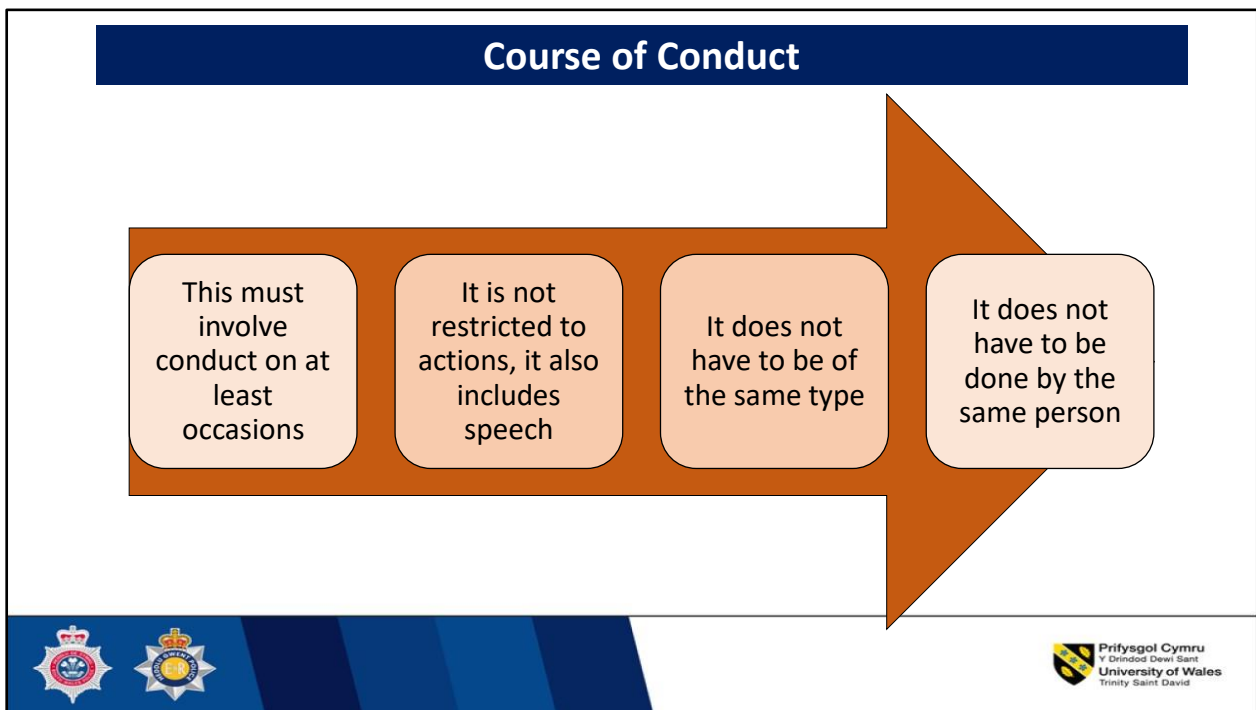
S1(1A) was inserted in 2005 by the Serious organised Crime act 2005

Section 125(2) of the SOCPA added a new subsection 1(1A) to the PHA making it an offence for a person (or persons) to pursue a course of conduct involving the harassment of two or more persons on separate occasions which the defendant knows or ought to know involves harassment, the purpose of which is to persuade (i.e that Mens Rea that intent)any person (not necessarily one of the persons being harassed) not to do something that he is entitled to do or to do something he is not under any obligation to do.

Section 125(7) of the SOCPA amended the definition of course of conduct in section 7(3) of the PHA so that in relation to two or more persons a course of conduct means conduct on at least one occasion in relation to each person. Again this allows a wider application of the legislation in terms of activities carried out in a group context. This means that companies now have the option to take out injunctions against people harassing their employees in the name of the company and will not have to take action in the name of a particular employee.

However, a course of conduct must involve conduct on at least two occasions, and in relation to the harassment of two or more persons, it means conduct on at least one occasion in relation to each person. It is clearly a matter for the courts, on a case by

case basis to determine whether two or more incidents amount to a course of conduct which consequently leads to persons being alarmed or distressed.



At least 2 occasions, however the fewer and wider spread the incidents, the less likely that harassment will be proven.

Incidents a year apart could be a course of conduct –e.g. a threat to do something bad on an anniversary

In relation to two or more persons, conduct on at least one occasion in relation to each of those persons.

The course of conduct can be directed towards more than 1 victim in each individual instance (R v Williams 1998). 2 women shared a flat. Female 1 was in the shower when she found Williams attempting to open the bathroom window. She screamed and female 2 came running but Williams had gone. 2 days later female 2 was in the shower when she saw Williams looking through the bedroom window. Police were called, he was arrested and convicted of harassment. He appealed on the grounds that although it was 2 incidents they were towards 2 different people. Appeal failed in that as female 2 was present during the first incident she had been alarmed by the knowledge of it.

In the case of R v Kelly 2003 several calls made to a mobile phone over a very short period of time were found to be a harassing course of action. The phone calls were not even answered – with the victim later listening to the messages left by the defendant – replaying each message one after another.

The victim was found to be harassed by the conduct as a whole rather than each individual call or message

*******Trainer to highlight*******

There has been media attention in respect of course of conduct crimes and you may have seen reports in the media that [Greater Manchester Police's service to victims of crime is "a serious cause of concern"](#). This is the conclusion of an inspection of the service conducted by the HMICFRS.

Within South Wales Police, a recent [BOB article](#) has been published, which includes an animated video to assist with the explanation of how to record 'course of conduct' crimes. This is also pertinent to Gwent Officers as it is a joint video so should be on 'The BEAT'. **It is important that these course of conduct crimes are recorded within the guidelines of the [National Crime Recording Standards](#) to promote more accurate and consistent crime recording, and to ensure a victim oriented approach.**

Other police forces nationally have been under scrutiny and suffered media attention with regards to the way they record and investigate Stalking in particular, and whilst we are good at recording Stalking – the recording of such offences is often left to the **point of finalisation** by the Crime Integrity Team (and of particular note, these recorded offences are often finalised and not tasked back to the OIC).

If the officer in the case/investigators/custody are **not** creating or causing the recording of such crimes alongside other offences – a strong inference can be made, that the crime is not being recognised and therefore not investigated. That said, there are occasions where arresting officers/OIC/investigators **do recognise** a course of conduct offence alongside other crimes (such as assaults) **and conduct enquiries** however, **do not** create the necessary occurrence for crime recording purposes.

NOTE: In cases where there is a 'main occurrence' such as an assault or crime that does not constitute a course of conduct – if there are stalking behaviours identified through antecedence and/or surrounding the 'main' offence - there is a requirement for the crime of Stalking to be recorded on a separate occurrence, linked appropriately to the main occurrence AND a further arrest record (A) which is linked to the separately created occurrence. It is significantly important that at the time a crime is identified that said crime is recorded in order to comply with Home Office Crime Recording (HOCR) rules.

Furthermore, recent changes to the [Director's Guidance](#) (DG6) mean that ALL cases of both Stalking or Harassment, regardless of whether they are Domestic or Non-Domestic MUST NOW be referred to the CPS for charging decisions even where there is an admission of guilt – with regards to these cases, there is no longer a 'police decision to charge' option which is likely to have a significant impact on the way we investigate, record evidence, disclosure and safeguarding.

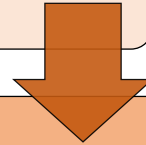
****Of note: Please remind officers regarding cases where new course of conduct crimes are recognised and an arrest is made where the perpetrator is (at the time of the offence) subject to court/police bail; an arrest should be made for the substantive offence, and not for any breach of bail until the criminal matters are dealt with****

Further resources can be found on [BOB/THE BEAT](#)

Harassment

Section 7 PHA 1997
determines the meaning of
harassment

‘Harassment’ *includes*
alarm & distress



‘Likely to cause’ alarm or distress

It can be either/or alarm or distress – it does not have to be both together (DPP v Ramsdale 2000)

The behaviour is repeated and unwanted by the victim which causes the victim alarm or distress.

Prosecution under 2 or 4 requires proof of harassment. In addition, there must be proof the conduct was targeted at an individual, was calculated to cause alarm/distress and was oppressive and unreasonable.

Closely connected groups may also be subjected to ‘collective’ harassment. This is not generally directed at an individual but rather at members of a group. Eg, those engaged in a specific trade or profession.

Acts of Harassment via a 3rd Party

It is **possible** for the acts of harassment to be passed on via a 3rd party

R v Kellett 2001 – Kellett phoned the victim's work on 2 occasions. On each occasion speaking with the employer & claimed that the victim was pursuing her own personal enterprises when she should be working

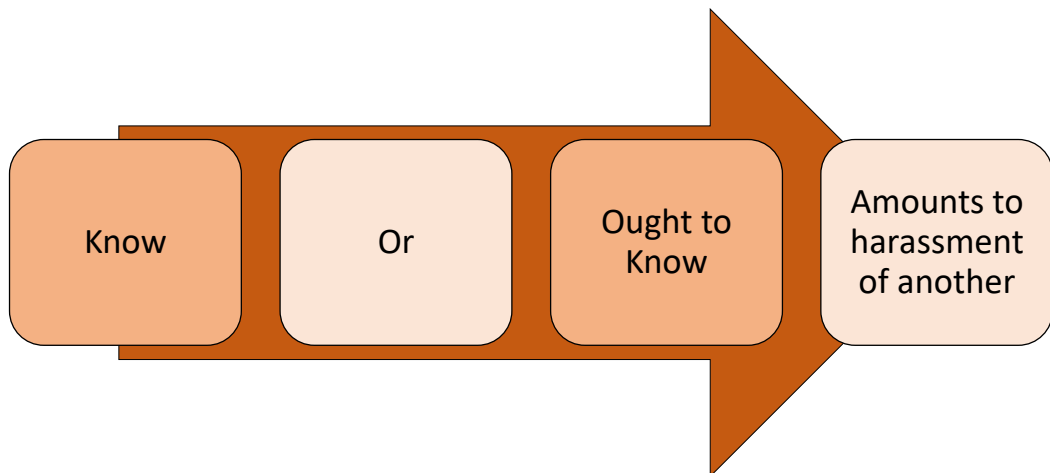
Kellett on each occasion requested that the victim should not be informed of the allegations

However, this was ignored & the victim was informed of the allegations by the 3rd party employer & caused upset



Kellett was convicted of pursuing a course of conduct which amounted to harassment contrary to Sections 1 & 2 PHA 1997. The offence was complete when the victim was told of the calls by the 3rd party employer – so long as Kellett knew or ought to have known the calls he made to the employer amounted to harassment. That was so even if Kellett asked that the victim not be told about the allegations

Mens Rea



OUGHT TO KNOW - Objective test - It is **irrelevant** whether the accused was actually **subjectively aware** that their **conduct amounted to harassment**. Even if they are oblivious to the fact their conduct amounted to harassment – they would still be guilty **if a reasonable person** in possession of the same information would **think** the **conduct would amount to harassment**.

KNOW -Straightforward concept. Subjective awareness in the mind of the defendant that what they were doing amounted to harassment.



Putting People in Fear of Violence Section 4 Protection From Harassment Act 1997



Defence - Putting People in Fear of Violence - s.4

Section 4 also includes the following statutory defences. It is for the defendant to show that:

the course of conduct was pursued for the purpose of preventing or detecting crime;
the course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment; or
pursuit of the course of conduct was reasonable for the protection of him or herself or another or for the protection of her, his or another's property.

S4 PHA 1997

A person whose course of conduct causes another to fear on at least **TWO** occasions that violence will be used against them is guilty of an offence



IF



they know or ought to know that their course of conduct will cause the other to fear violence on each of those occasions



Either way offence

5 years imprisonment on indictment

6 months and/or Fine summarily

The elements of the section 4 offence are:

a course of conduct;

which causes another to fear that violence will be used against him Personally and not a 3rd party (**Mohammed Ali Caurti v DPP 2001**); and which the defendant knows or ought to know will cause another to fear that violence will be used against him; and

the defendant ought to know that his course of conduct will cause another to fear that violence will be used against them if a reasonable person in possession of the same information would think that the course of conduct would cause the other so to fear on that occasion.

The **course of conduct** must cause the victim to fear the violence **WILL** rather than **MIGHT** be used. Classic exam trip up involves circumstances causing the victim to be in fear of what **might happen in the future – this is not enough (R v Henley 2002)**

Defence - Putting People in Fear of Violence - s.4

Section 4 also includes the following statutory defences. It is for the defendant to

show that:

the course of conduct was pursued for the purpose of preventing or detecting crime;
the course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment; or
pursuit of the course of conduct was reasonable for the protection of him or herself or another or for the protection of her, his or another's property.

S4 PHA 1997



KEEP
CALM
I'M COMING
TO GET
YOU

The violence in this offence can be in the future as long as the fear of it is in the present tense. I.e. at the time of the conduct



Racially or Religiously Aggravated

Section 32 Crime & Disorder Act 1998

Specifies the offence of Harassment (S2, 2A, 4, 4A) which can be racially or religiously aggravated thereby increasing the powers available to courts when sentencing



S2 and 2A

Either way offence

Summary 6 months imprisonment and/or fine

Indictment maximum 2 years imprisonment and/or fine

S4 and 4A

Either way offence

Summary 6 months imprisonment

Crown court 14 years

The Crime & Disorder Act takes existing offences and sets out circumstances in which those existing offences become racially or religiously aggravated.

The 'aggravated' form of the offence carries a higher maximum penalty than the ordinary form of the offence

Offences that can become racially or religiously aggravated can be grouped into **4 categories**:

Assaults – s20 wounding or GBH – s47 ABH – common assault/battery s.39 CJA 1988 – note that s18 GBH with intent is not covered as already carries a maximum sentence

Criminal Damage – simple' criminal damage (basic offence) s1 Criminal Damage Act 1971

Public Order – s4 – s4a – s5 POA 1986

Harassment – s2 – s2a – s4 – s4a PHA 1997

Racially or Religiously Aggravated

At the time OR
immediately before OR
immediately after
committing the offence

The offender
demonstrates towards
the victim hostility
based on the victim's

Membership OR
presumed membership
of a racial or religious
group OR

The offence is **motivated**
(wholly or partly) by
hostility towards
members of a

Racial **OR** Religious
group based on their
membership of that
group



Membership,

in relation to a racial or religious group, includes association with members of that group;

Presumed

means presumed by the offender.

In this section **racial group** means a group of persons defined by reference to race, colour, nationality (including citizenship) or ethnic or national origins.

In this section **religious group** means a group of persons defined by reference to religious belief or lack of religious belief.

It will be for the courts to define the extent of the term 'immediately' (as referred to in subsection (1)(a) above). The longer the interval between the demonstration of hostility and the offence itself, the less likely it will be that the circumstances will pass the test of racial or religious aggravation.

(ii) Members of the Police Service are just as entitled to protection under these provisions as anyone else. For example, someone committing the offence of threatening behaviour by using racial taunts against the police could be prosecuted for the racially aggravated version of the offence under section

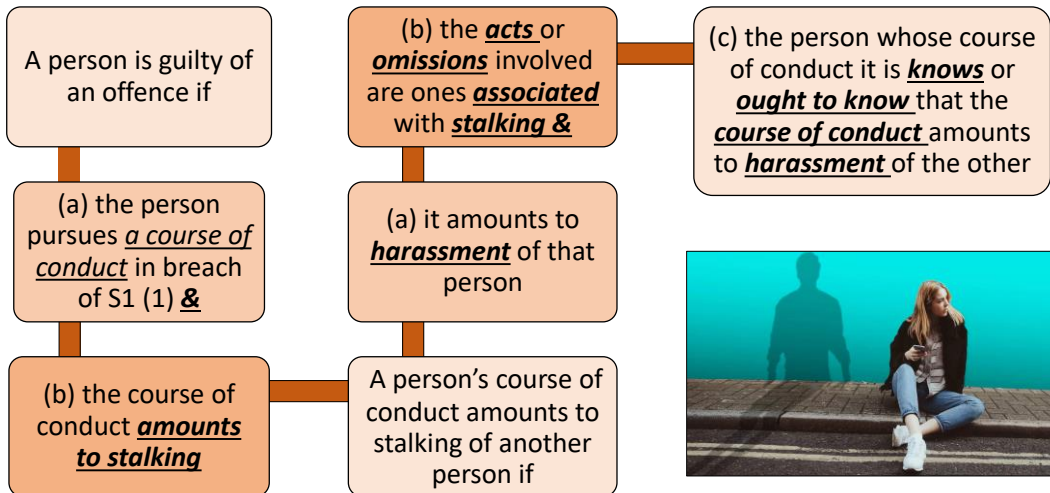
Hostility is not defined in the legislation. Consideration should be given to ordinary dictionary definitions, which include ill-will, ill-feeling, spite, prejudice, unfriendliness,

antagonism, resentment, and dislike.

The second part is concerned with the offender's motivation, requiring proof that the substantive offence was wholly or partly motivated by hostility towards persons who are of a particular race or religion. Motive can be established by evidence relating to what the defendant may have said or done on other occasions or prior to the current incident. In some cases, background evidence could well be important if relevant to establish motive, for example, evidence of membership of, or association with, a racist group, or evidence of expressed racist views in the past might, depending on the facts, be admissible in evidence.

All of the 'acts' within the course of conduct **MUST** be racially or religiously aggravated not just one of the acts

Stalking: Section 2A PHA 1997



Trainer to write 'stalking' on the whiteboard and pass a number of pens to students to write what they know in relation to harassment on the whiteboard.

Trainer to debrief using PPT slides

Summary offence

6 months imprisonment and/or fine

The Protection from Harassment Act 1997 was initially introduced as a Stalking Bill and was always intended to tackle all forms of harassment including stalking. Although stalking offences were prosecuted under the PHA 1997, many victims of stalking felt that they were not taken seriously by the criminal justice system and that stalking should be a specific offence. The Protection of Freedoms Act 2012, s.111 created 2 new offences (inserted in PHA 1997):

The elements of the section 2A offence are:

a course of conduct

which is in breach of section 1(1) of the Protection from Harassment Act 1997 (i.e. a course of conduct which amounts to harassment) and the course of conduct amounts to stalking.

This means that there has to be a course of conduct which amounts to harassment and that particular harassment can be described as stalking behaviour.

The new stalking offences highlighted:

Stalking as a specific behaviour as opposed to harassment more generally.

Closed the lacuna when a course of conduct fell short of causing a victim to feel fear of violence but nevertheless caused a victim serious alarm or distress. (In this circumstance the police and prosecutors could only consider a section 2 summary offence).

The additional element in the new section 4A offence enable cases to be prosecuted when the defendant's behaviour falls short of fear of violence.

Affords more protection to victims of stalking.

Defence - Stalking - section 2A

If the suspect is able to show that any of the defences to harassment under section 1(3) of the PHA are made out, he or she can not be guilty of stalking as without harassment there can be no conviction for stalking.

What is Stalking?

Following a person

Contacting or attempting to contact a person by any means

Monitoring the use by a person of the internet/ email/ any other electronic communication

Loitering in any place (public or private)

Interfering with any property in a person's possession

Watching or spying on a person



Publishing any statement or material relating or purporting to relate to a person or purporting to originate from a person



Not an exhaustive list

Stalking: Section 4A PHA 1997

A person (A) whose course of conduct

(a) amounts to stalking AND

(b) either

(i) causes another (B) to fear on at least two occasions that violence will be used against B, OR

(ii) causes B serious alarm or distress which has a substantial adverse effect on B's usual day-to-day activities

Is guilty of an offence if A knows or ought to know that A's course of conduct will cause B so to fear on each of those occasions or (as the case may be) will cause such alarm or distress



Either Way offence

5 years imprisonment on indictment

6 months and/or fine summarily

Elements of stalking as per the Section 2A offence. Section 4A offence includes extra elements of the course of conduct causing the victim to fear violence (on at least 2 occasions) and also – the course of conduct causing the victim serious alarm or distress which has a substantial adverse effect on their day to day life.

This is designed to recognise the huge impact that stalking can have on a victim of it – even where no fear of violence is present on each occasion

This offence closed the gap when a course of conduct fell short of causing a victim to feel fear of violence but nevertheless caused a victim serious alarm or distress. (In this circumstance the police and prosecutors could only consider a section 2 summary offence).

The additional element in the new section 4A offence enable cases to be prosecuted when the defendant's behaviour falls short of fear of violence. Affords more protection to victims of stalking.

The crucial difference between the offence under section 4 Harassment and the new offence under section 4A Stalking is that the latter introduces an additional element, namely that the defendant's offending behaviour causes a victim "serious alarm or distress that has a substantial adverse effect on their usual day-to-day activities". Whereas in previous incidents and prior to the stalking legislation, if there was insufficient evidence to prove "fear of violence", the only option was to prefer a summary charge. However, under section 4A, the additional element will allow prosecutors to consider an either way offence.

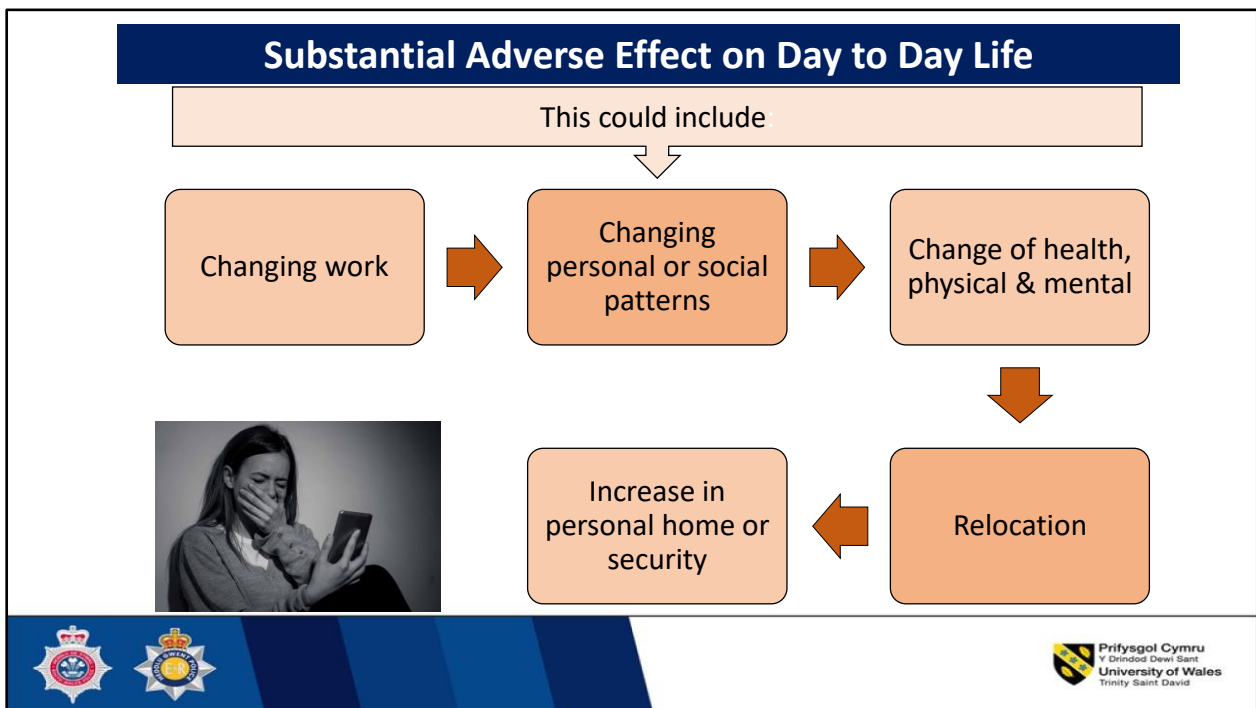
Unlike the existing s.4 and the new s.4A(1)(b)(i), however, it is the cumulative effect of the stalking which is important and it does not require any particular incident in the stalking to be especially alarming or serious.

Defence - Section 4A

In contrast to section 2A, the defences at section 1(3) are specifically included in section 4A.

There is a defence to stalking involving fear of violence or serious alarm or distress, as set out in section 4A(3), where it can be shown that the course of conduct was:

- (a) pursued for the purpose of preventing or detecting crime;
- (b) the conduct was pursued under any enactment or rule of law; or
- (c) **the pursuit of A's course of conduct was reasonable for the protection of A or another or for the protection of A's or another's property.**



The phrase "substantial adverse effect on ... usual day-to-day activities" is not defined in section 4A and thus its construction will be a matter for the courts. However, the guidelines (<http://www.homeoffice.gov.uk/about-us/corporate-publications-strategy/home-office-circulars/circulars-2012/018-2012/>) issued by the Home Office suggest that evidence of a substantial adverse effect may include the following:

- (a) the victim changing their routes to work, work patterns, or employment;
- (b) the victim arranging for friends or family to pick up children from school (to avoid contact with the stalker);
- (c) the victim putting in place additional security measures in their home;
- (d) the victim moving home;
- (e) physical or mental ill-health;
- (f) the deterioration in the victim's performance at work due to stress;
- (g) the victim stopping /or changing the way they socialise.

The above list is not exhaustive and that there may be some victims who will try to continue their lives as usual in defiance of a stalker. So the absence of factors such as those listed above does not necessarily mean that stalking is not taking place.

Stalking: Power of Entry



Under Section 2B PHA 1997 - the police have a power of entry in relation to the Stalking offence where a constable can apply to the Magistrates Court for the issue of a Warrant of entry and search providing there are reasonable grounds to believe an offence has been, or is being committed

The constable may use force if necessary to execute the warrant – and seize any relevant material



2B(1) A justice of the peace may, on an application by a constable, issue a **warrant** authorising a constable to **enter and search premises** if the justice of the peace is satisfied that there are **reasonable grounds for believing** that –

A) **an offence under Sec 2A has been, or is being, committed,**

(b) there is **material** on the premises which is **likely to be of substantial value** (whether by itself or together with other material) to the investigation of the offence

(c) the **material** is likely to be **admissible** in evidence at a trial for the offence, and does not consist of, or include, items subject to legal privilege, excluded material or special procedure material

and

(d) either –

(i) **entry** to the premises **will not be granted** unless a warrant is

produced,

or

(ii) the purpose of a search may be frustrated or seriously prejudiced unless a constable arriving at the premises can secure immediate entry to them

A constable may **seize and retain** anything for which a search has been authorised under subsection (1).

A constable **may use reasonable force**, if necessary, in the exercise of any power conferred by virtue of this section.

3 Defences to the Act

No offence will be committed if the course of conduct was carried out either:



For the purpose of either preventing or detecting crime



Under a rule of law



That in particular circumstances the pursuit of the conduct was reasonable



QTS – what defences do you think certain people such as police officers may have in relation to harassment?

Defences generally

The first defence is that the course of conduct was pursued for the purpose of preventing or detecting crime. This most obviously applies to the police and any other investigative agencies such as the Post Office or HMRC. It is possible that it could be raised as by individuals such as investigative journalists or Neighbourhood Watch members who claim that their activities are for the purpose of detecting or preventing crime.

The second defence to sections 2 and 4 states that the course of conduct was pursued under any enactment or rule of law or to comply with any condition or requirement imposed by any person under the enactment. This most obviously applies to companies acting within their legal entitlement, for example, a Building Society manager warning in writing of repossession proceedings, because of default in mortgage payments, followed by repossession taking place.

The third defence to section 2 is that the defendant was acting reasonably in the particular circumstances. This is a wide defence, which covers the pursuit of a legitimate trade or profession. Ultimately, the decision as to what amounts to reasonable behaviour will rest with the courts.

Who might rely on the 1st defence - Police officers, Special constables (when on duty), Police support staff (Such as warrant officers), Other law enforcement officers such as those employed by the Department of Social Security, Customs and Excise, or the Immigration Service, Store detectives, Security officers, Bus inspectors, Gamekeepers.

This list is by no means exhaustive. Any person who, in any capacity, pursues a course of conduct in the prevention or detection of crime, could seek to rely upon the defence. The defence, however, is not automatic. The onus is on the accused person to raise the defence in the first instance

2nd defence - The second defence is available to those people who are exercising legal powers for a purpose other than preventing or detecting crime

Persons acting on behalf of utilities (such as gas and water companies) who enter premises to collect supplies

Bailiffs and other officers executing court warrants or orders

3rd defence - Someone's actions at an early hour in the morning instead of a more respectable hour of

the day. Collecting signatures outside a fur shop would be reasonable but if they were covered in theatrical blood that wouldn't be.

The burden of proof for these defences lies with the defence – on the balance of probabilities.

Dealing with Harassment/Stalking Offences: Information Gathering

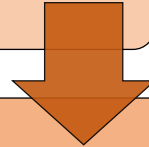


Group work – Trainer to split the class into 3 groups to not down on flipchart what they would want to know and record when dealing with victims of harassment/stalking

See Handout – information gathering to assist de-brief

Dealing with Harassment/Stalking Offences

Remember, always examine the details & history of what is being reported to you



Have there been previous incidents or occasions? Is a course of conduct already present?



RISK MANAGEMENT – Forces to localise as appropriate

Effective risk management is key to safeguarding victims from harassment and stalking. It is essential that all those involved in responding to a report of harassment or stalking take appropriate action to reduce or remove such risks. This requires the identification of risk factors that relate to the harassment/stalking itself, the suspect and the victim. All information gathered should be recorded.

With effect from Monday 26th November 2012 call handlers will have access to a dynamic risk management tool which will assist them in interpreting the callers concerns and the risk presented.

In addition, officers that are dispatched to either a harassment/stalking event (where a course of conduct has been reported) or to an ASB Personal (where there has been only one incident) must consider whether or not the incident meets the current ACPO definition of Domestic Abuse.

Any incident of threatening behaviour, violence or abuse (psychological, physical, sexual, financial or emotional) between adults, aged 18 and over, who are or have been intimate partners or family members, regardless of gender and sexuality.’
(Family members are defined as mother, father, son, daughter, brother, sister and

grandparents, whether directly related, in-laws or step-family).

Where the definition is met, officers must complete a DASH risk assessment with the victim and ensure it is tasked to the relevant Public Protection Unit. Question 8 of the DASH determines whether or not the victim believes they are being harassed or stalked by the alleged perpetrator. If the victim believes this to be the case then officers must also complete the newly introduced Stalking Screening Tool. Aide memoires will be circulated and a template is available on RMS for linking to the occurrence. On completion of the screening tool officers should seek to identify the risk posed and take steps to eliminate or reduce the risk.

Where the definition is not met officers must make use of the Stalking Screening Tool in cases where stalking is suspected (or they are uncertain) in order to determine the risks presented and consider how best to address them. Again this document must be held on the occurrence.

The Stalking Screening Tool can be located on RMS via the aggrieved person - occurrence/reports tab.

Advice to Victims

Record ***ALL*** events no matter how minor

Retain physical evidence such as letters, notes etc

To take photographs of any visible evidence. These can then be exhibited subject to admissibility

Victims should also be advised to keep copies of any injunctions or restraining orders & to produce their copy to the police if the order is breached



Safeguarding Victims



Group work – Trainer to split the class into 3 groups to not down on flipchart how they would safeguard a victim of harassment/stalking

Stalking Protection Orders (SPOs)

The Stalking Protection Act 2019 introduces a new civil order which can be sought by police. These came into effect on 20th January 2020

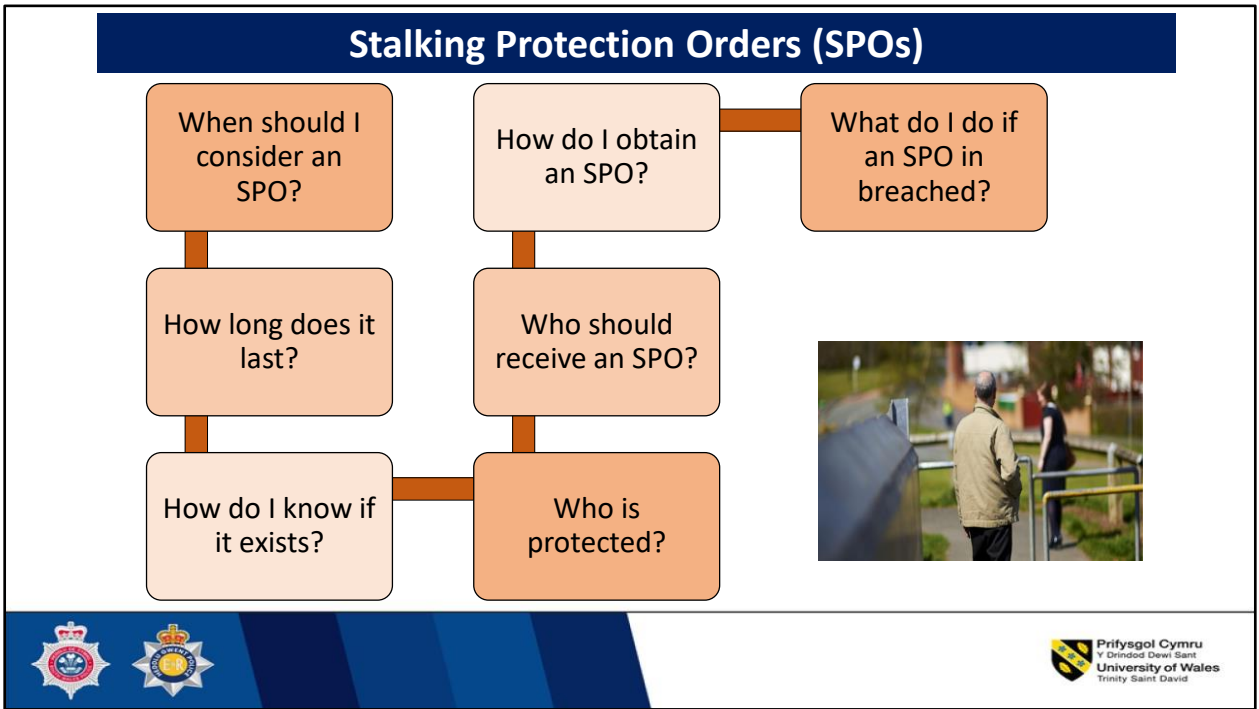
These orders manage the alleged suspect through use of prohibitions &/or positive requirements as well as imposing notification requirements on the suspect

A SPO is not an alternative to prosecution



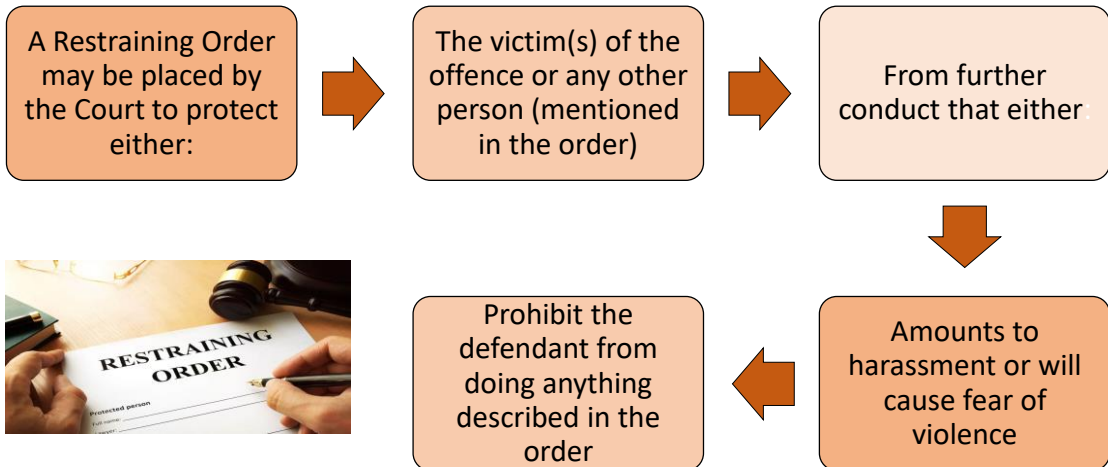
Trainer please see handout from the C of P for this slide and the following slide. The criminal threshold must be met for a full SPO to be made. However, the test for an interim SPO is lower and can be granted 'if the court considers it appropriate to do so.'

Positive requirements such as attending a police station and signing



Trainer to see handout, practitioner guidance attached to Moodle to facilitate the above points with students.

Restraining Orders: S360 –Sentencing Act 2020



Restraining Orders which were previously covered by S5 of the PHA 1997) are now covered by the Sentencing Act 2020 which consolidates various provisions relating to sentencing into one piece of legislation.

Restraining orders should be drafted to meet the particular risks presented in each case and should not be a repetition of routine clauses. Suggested conditions include:

- not (either alone or by means of agents) to directly or indirectly contact, harass, alarm, or distress the victim and others as appropriate;
- not to knowingly approach within the boundary of (specify street or road names and attach a copy of an annotated map to clarify parameters) any premises where the victim and others as appropriate reside, work or frequent;
- not to telephone, fax, communicate by letter, text, electronic mail or internet with the victim and others as appropriate, or to send or solicit any correspondence whatsoever;
- not to display any material relating to the victim on social networking sites including YouTube, Facebook and Twitter;
- not to retain, record or research by any means, private, confidential or personal facts, or information relating to the victim and others as appropriate; or
- not to use a different name or to change names without immediately notifying the



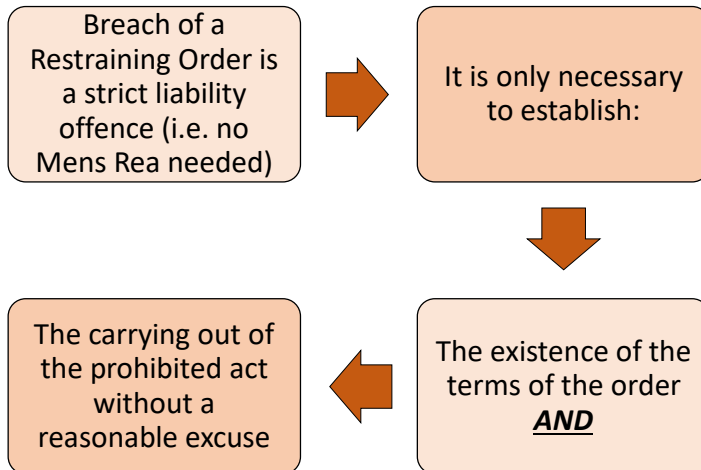
court and/or the police.

The purpose of the order is to protect the victim (or other named person) from any future harassment or fear of violence, rather than to punish the defendant. The order can be granted for a specified or indeterminate period of time, therefore, leaving the onus on the defendant to satisfy the court that they no longer present a risk to the victim. When preparing an order, consideration should be given to specifying the period of time that it should remain in force.

Domestic Violence, Crime and Victims Act 2004

Section 12 of the Domestic Violence, Crime and Victims Act 2004, as well as extending the availability of restraining orders to all offences, provides the court with the power to make a restraining order even when a person has been acquitted, where the court considers it necessary to do so to protect a person from ongoing stalking or harassment from the defendant.

Breach of Restraining Orders



Sections 3(6) and 5(5) make it an offence for the defendant to do anything which he is prohibited from doing under an injunction issued under section 3, or a restraining order issued under section 5.

It should be noted that whereas the section 2 and 4 offences require a course of conduct, breaches of court orders require only a single act.

Support Agencies

1. National Stalking Helpline

- T: 0300 636 0300
- W: www.stalkinghelpline.org
- E: advice@stalkinghelpline.org

2. Protection Against Stalking (PAS)

- E: info@protectionagainststalking.org
- W: www.protectionagainststalking.org

3. Network for Surviving stalking (NSS)

- W: www.nss.org.uk

4. Suzy Lamplugh Trust (SLT)

- T: 020 7091 0014
- W: www.suzylamplugh.org



