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The British Psychological Society, incorporated by Royal Charter, is the learned and professional body for psychologists in the United Kingdom. We are a registered charity with a total membership of almost 50,000.

Under its Royal Charter, the objective of the British Psychological Society is “to promote the advancement and diffusion of the knowledge of psychology pure and applied and especially to promote the efficiency and usefulness of members by setting up a high standard of professional education and knowledge”.

We are committed to providing and disseminating evidence-based expertise and advice, engaging with policy and decision makers, and promoting the highest standards in learning and teaching, professional practice and research.

The British Psychological Society is an examining body granting certificates and diplomas in specialist areas of professional applied psychology.

Publication and Queries

We are content for our response, as well as our name and address, to be made public. We are also content for the Home Office to contact us in the future in relation to this consultation response. Please direct all queries to:-

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About this Response

This response was prepared for the British Psychological Society by Dr Kerry Beckley, CPsychol, committee member and responding on behalf of the Faculty of Clinical Forensic Psychology, member of the Division of Clinical Psychology (DCP) and the Division of Forensic Psychology (DFP), with contributions from: Andrew Bates, CPsychol, AFBPsS, member of the DFP; Dr Simon Duff, CPsychol, member of the DFP; Dr Michele Newberry, CPsychol; and Dr Adrian J. Scott, CPsychol, AFBPsS.

The Society would also like to thank Dr Gary Macpherson, CPsychol, CSci, AFBPsS, member of the DCP, the DFP and the Faculty of Clinical Forensic Psychology, and Dr Peter Beazley, CPsychol, member of the DCP and the DFP for commenting on a draft version of this response.

We hope you find our comments useful.

David J Murphy CPsychol
Chair, Professional Practice Board
The British Psychological Society (BPS) thanks the Home Office for the opportunity to respond to this consultation.

Q1. In your view, how effective are Police Information Notices in tackling stalking in the early stages? Please provide additional reasons to support your views.

Police Information Notices (PINs) may play a useful role where an individual does not know that their behaviour may constitute an offence or to ensure that an individual is aware that their behaviour has been reported to the police. Clinical experience suggests that they are more effective when used with individuals who do not have a history of antisocial conduct *per se*. However, PINs may also have the potential to increase the likelihood of an angry or violent response towards the victim for the purpose of intimidation. The BPS therefore recommends that research be carried out in order to examine both their effectiveness and their impact.

Q2. Should the police have the power, in addition to the limited powers available for summary only offences, to search premises and seize property in relation to offences under section 2 of the Protection from Harassment Act 1997? Please provide additional reasons to support your views.

There are circumstances when this might be helpful to determine the extent of an individual’s behaviour. However, the BPS recommends that guidance on this be carefully considered to minimize the risks of individuals who are not dangerous but have mental health difficulties being unreasonably targeted. We also recommend that consideration be given to the evidence of persistence and threat to ensure there are clear grounds for such intrusion.

Q3. In your view, do you consider that local agencies (including the police, other Criminal Justice partners and other police services) and the public are sufficiently aware of what stalking is and the behaviour it covers? Please provide additional reasons to support your views.

Research evidences has shown that there is not a sufficient understanding of stalking among either local agencies or the public. For example, stalking behaviour is perceived to be more serious when performed by a stranger as compared to an ex-partner (Scott *et al.*, 2010; Scott & Sheridan, 2011; Sheridan *et al.*, 2003) even though ex-partner stalkers have been found to present a greater threat to the personal safety of their victims than stalkers who are strangers (e.g. James & Farnham, 2003; Duff & Scott, under review). Other studies have demonstrated that professionals do not have a consistent understanding of what stalking/harassment may be (e.g. Farrell *et al.*, 2000; Tjaden & Thoennes, 2000).

There are a number of good information sources and helplines for victims but these are only useful if the victim recognises they are being stalked or harassed: when such behaviour occurs within the context of a past relationship, it is not always recognised as such. Similarly, certain behaviours of individuals with mental disorders such as Asperger’s Syndrome, psychosis or learning disability may be construed as simply a harmless ‘nuisance’ while this may not always be the case.
Q4. In your view, are local agencies (including the police, other Criminal Justice partners and other police services) provided with sufficient training on how to address stalking? Please provide additional reasons to support your view.

Although Nixon et al. (2010) found non-specialist police officers to perceive the same behaviour to be more serious when performed by a stranger as compared to an ex-partner, specialist domestic abuse police officers did not share these misperceptions. It is not clear to the BPS that local agencies are, or could be expected to be, sufficiently trained. For example, the Crown Prosecution Service (CPS) guidelines suggest that the police should provide “the police officer’s view on the chances that the defendant will re-offend”. However, it may not be reasonable to expect police officers to be able to make an informed decision about this. A recent report (Victim’s Voice Survey, 2011) found that only one in five women who were victims of stalking involved the CPS and that more than 75% of these were not satisfied with the response. This suggests that statutory agencies do not have sufficient understanding of harassment and its impact in order to respond adequately to victim’s needs. Stalking is still a relatively new area for professionals involved in assessment and treatment and although there are useful assessment tools and publications these are not commonly utilised in risk assessment. The associated risk factors differ from other forms of violence (i.e. they focus on victim characteristics) and so an understanding of these is imperative.

Q5. In your view how effective are restraining orders and civil injunctions in tackling stalking? Please provide additional reasons to support your views.

Restraining orders may be useful in preventing further contact from either ‘accidental’ or ‘casual’ stalkers. However, it is not clear that they will have an impact on ‘rejected’, ‘resentful’, or ‘predatory’ stalkers, where there appears to be an element of criminality within the behaviour.

There is evidence that restraining orders have been effective when used with individuals with a mental disorder, in part because their enforcement can be supported by clinicians working with the individual.

A telephone survey of 8,000 men and 8,000 women, (Tjaden 1997) found that only approximately 50% of stalking victims reported the stalking to the police and 25% obtained restraining orders, of which 80% were violated. As Wallace and Kelty (1995) claim:

Restraining orders are effective when the stalker is rational and can control his/her behavior to avoid legal consequences. They are ineffective when the stalker has little regard for the consequences of stalking behavior and is obsessed with harming or harassing the victim. (p.99).

In addition, given that research has found that the persistence of stalkers is strongly associated with psychotic illness and an intimacy-seeking motivation (James et al., 2010) restraining orders may be less helpful for use with psychotic/intimacy-seeking individuals.

Q6. In your view how effective, if at all, are sanctions for breaching restraining orders? Please provide additional reasons to support your views.

Sanctions for the more serious breaches (e.g. involving significant violence or psychological harm) would seem to be effective from the point of view of the victim as the harasser is removed from the environment. However, for the lower levels of sanction (e.g., low range community order) there is still the possibility, intentional or otherwise, that an
offender may come into contact with their victim or may continue to pursue contact. The BPS therefore recommends that the use of sanctions takes into account the potential harm for the victim as well as the element of punishing the offender for the breach. We also recommend consideration of the option of indeterminate sentences for persistent breaching of restraining orders in order that the risk of harm from the most serious stalkers be reduced and the best protection be provided for the public.

Q7. In your view, what, if any, improvements could local agencies make to their response to victim complaints? Please provide additional reasons to support your views.

If possible, it may be useful for local agencies to liaise with well-informed charities and psychologists in order to develop officers who are trained to work with these cases (i.e. in the gathering of evidence, the appropriate management of victims and in informing the CPS of the impact for the victim) based on a thorough understanding of the current state of knowledge. Further, a campaign, perhaps similar to drink-driving or alcohol awareness campaigns, which highlights the nature of what harassment, the potential impacts and the legal sanctions, may be useful in raising general awareness.

The recent improvements (training for police officers, single point of contact, better links with the National Stalking Hotline, specific risk assessment tools for police, and leaflet guidance) are all important and necessary steps which will hopefully improve the victim’s experience of reporting stalking.

Q8. In your view, what, if any, barriers are there to victims coming forward to the police? Please provide additional reasons to support your views.

In the BPS’ view, these are likely to be similar to reporting of rape, namely: concerns that they won’t be believed and/or that their experiences will be trivialised; lack of knowledge as to what could be done to help them; a poor sense of what behaviours are inappropriate from, for example, ex-partners, friends, bosses, strangers and casual sexual partners; and concerns about their private life becoming public. In addition, there is the possible fear of retribution by the stalker, particularly if there is an intervention by the police that doesn’t result in an order being put in place.

Q9. In your view, what, if any, barriers are there to the Crown Prosecution Service gaining prosecutions that result in conviction? Please provide additional reasons to support your views.

Research evidence has shown that misperceptions present a barrier to the Crown Prosecution Service gaining prosecutions that result in conviction. For example, Harris (2000) found that a greater proportion of cases referred to the Crown Prosecution Service for a decision on prosecution were dropped when they involved an ‘intimate’ rather than a stranger (41% vs. 0%).

Work with mock juries has demonstrated that victims of crimes are expected to present in a particular way if they are to be believed (e.g. Ellison & Munro, 2010). Harassment is an offence that becomes apparent over time, so victims may not have collected evidence until late on in the process; in other instances, the victim may, for an extended period of time, have not thought the behaviour to be inappropriate. Similarly, the defence of not being aware of the impact on the victim may seem entirely plausible if the victim did not communicate with the defendant and a PIN was not issued.
Q10. The current legislation addresses cyber stalking and the Association of Chief Police Officers (ACPO) and the Crown Prosecution Service (CPS) guidance makes this explicit. In your view, is the current legislation and supporting guidance ‘sufficient’? Please provide additional reasons to support your views.

The current legislation and guidance does appear sufficient; however, legislation against cyber stalking may be more difficult to impose due to the potential for cross-border or remote stalking to take place and because it is relatively easy for individuals to exchange identities and to maintain a greater level of anonymity than in non-cyber stalking.

Q11. In your view, is there anything that could make a difference to how cases are investigated and prosecuted? Please provide additional reasons to support your views.

The BPS suggests that it might make a different if the police were viewed as not being in a position to make judgements concerning harm and risk but, rather, that such judgements may be provided by other professionals who are experts in the field. A greater involvement of suitably trained psychologists for consultation and/or assessment purposes could improve both the understanding of the crime itself and identify effective interventions for the offending behaviour and/or associated factors (such as mental health).

It would also be useful for the police to have powers of search in cases where this is warranted.

Q12. Is the current legislation sufficient in dealing with stalking perpetrators? If not, what evidence do you have of the gap in the law and does a specific offence of “stalking” need to be defined on the face of legislation? If you consider there should be a specific offence, we would be grateful for your views on what it should contain. Please provide additional reasons to support your views.

The BPS does not consider a specific offence of ‘stalking’ to be needed as it seems to be covered by the law concerning harassment. However, ‘stalking’ is a term used to describe much of this behaviour so the inclusion of the word in harassment law could serve to highlight the criminality of the behaviour. This, in turn, might result in more victims coming forward and make more potential offenders aware of their behaviour before it comes to the point of requiring legal intervention. The inclusion of a more commonly used term as part of the legal definition might also make it easier for juries to conceptualise a case.

Q13. Do you think there is a need to increase the number of stalking perpetrators we bring to justice, and if so how? Please provide additional reasons to support your views.

This is something which may result from increasing the awareness of all to the offence itself but it is not something the BPS would consider to be a goal per se.

Q14. Do you think we need to protect stalking victims more effectively, and if so how? Please provide additional reasons to support your views.

Yes. Victims need to understand the evidence for increasing risk, the factors that may make an individual more or less likely to respond with violence, and the courses of action.
that are available to them if they feel threatened or harassed. It is the BPS' view that a risk assessment should not be considered complete unless there is a clear understanding of the impact that the behaviour has had upon the victim. Professional organisations (such as the Police and the CPS) need to be similarly aware so that they can respond early in the process, before a victim becomes traumatised or is physically harmed. They also need to be mindful of potential biases within the legal system (e.g. the biases of jurors) and how these may impact upon verdicts. We also recommend that those involved in mental health services be trained in how to support victims that require treatment.

Q15. In your view, who do you think will be impacted by this consultation? Please provide additional reasons to support your views.

As the consultation will contribute to the legislation that is to be put in place and subsequently publicised to all, we would expect it to impact on organisations such as the police, the CPS, the judicial system, victims (via relevant charities) and, more widely, the general public.

Q16. In your view, what impacts do you think this consultation will have? Please provide additional reasons to support your views.

It is possible that it might assist in making more explicit the difficulties associated with the lack of a clear, unbiased appreciation of the complex nature of stalking among that the majority of the population, including relevant professionals. Through this, there may be moves to develop more extensive and specific training procedures for those professions who deal with victims and offenders.

Q17. Do you have any other observations on the operation of the 1997 Act? Please provide additional reasons to support your view.

The BPS has no further observations to make.

References


