

UNDER EMBARGO UNTIL 00.01 ON WEDNESDAY 5 JULY 2017



Living in fear – the police and CPS response to harassment and stalking

A joint inspection by HMIC and HMCPSI

July 2017

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ISBN: 978-1-78655-414-7

www.justiceinspectors.gov.uk/hmic

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Foreword

“You carry it all the time. You carry it and it’s with you day in day out. Day in day out. And you breathe it, and ... it’s in the back of your mind all the time, ‘What is he going to do? What are we going to find ... Who’s going to come knocking at our door?’”

Stalking victim

This is the first time that Her Majesty’s Inspectorate of Constabulary and Her Majesty’s Crown Prosecution Service Inspectorate have inspected and reported on the police service’s and Crown Prosecution Service’s approach to tackling crimes of harassment and stalking.

Harassment and stalking crimes are damaging and pervade all sections of society. They can devastate lives and in some cases they end in death. In a digital world, they are crimes that can take place all too easily and frequently.

They may be high-profile crimes and often gain the attention of the media when they affect public figures. However, the criminal justice system has a responsibility to all victims whatever the apparent level of seriousness of the actions complained about.

Much has been done by government in recent years to try to improve how the criminal justice system tackles stalking in particular. Our inspection shows that actions taken have had mixed success. We now need to consider what more can be done to prevent crimes of harassment and stalking, to protect victims and to bring perpetrators to justice.

We would like to record our very great appreciation for the contribution made to our work by the many victims and their representatives throughout this inspection. We are grateful for the work of our expert reference group and also undertaken on our behalf by the University of Worcester, assisted by the Suzy Lamplugh Trust.¹ We would like the voice of the victim to be heard through the content of this report.

This report must be a catalyst for change and improvement: in some cases victims’ lives will depend on it.

¹ For more information about the Suzy Lamplugh Trust, see: www.suzylamplugh.org/

Summary

“And you realise ... people who are under this kind of stress on a ... on a daily basis sometimes, I can understand how suicides occur. Because people feel that they don't know where to turn.”

Stalking victim

In 2016/17, Her Majesty's Inspectorate of Constabulary and Her Majesty's Crown Prosecution Service Inspectorate conducted a joint inspection of how the police and the Crown Prosecution Service tackle crimes of harassment and stalking. This report sets out our findings, and makes a series of recommendations aimed at improving police and CPS practice and therefore the service provided to victims.

Background

Harassment and stalking

Harassment and stalking are crimes of persistence. It is the unrelenting repeat behaviour by the perpetrator experienced in its totality, which seems inescapable and inevitable, that has such a detrimental effect on the victim. The actions in themselves may seem unremarkable, and this may partly explain why some victims suffer repeat behaviour over a prolonged period before reporting it to police,² or do not report it at all.

Harassment and stalking can often also be crimes of control. This is particularly the case when the victimisation is associated with a current or previous controlling and coercive relationship.

A report by Dr Lorraine Sheridan and the Network for Surviving Stalking, in which 829 victims of stalking were surveyed, found that the victims were aged between 10 and 73. Men and women from all backgrounds were affected and many were professionals (38 percent). Dr Sheridan concluded that almost anyone can become a victim of stalking.³

² *Paper on Key findings from the www.stalkingsurvey.com*, L. Sheridan, 2005. Data quoted in *Introduction to stalking, risk & advocacy*, Home Office, undated. Available from www.data.gov.uk The findings state that 70 percent of victims do not report to the police until the hundredth incident.

³ *Paper on Key findings from the www.stalkingsurvey.com*, L. Sheridan, 2005. Data quoted in *Introduction to stalking, risk & advocacy*, Home Office, undated. Available from www.data.gov.uk

In this inspection, we used the term stalking for behaviour that constituted harassment and where the perpetrator appeared to be fixated and/or obsessed with another.⁴

Legislation

Under the Protection from Harassment Act 1997, it is an offence for a person to pursue a course of conduct that amounts to harassment of another individual, and that they know (or ought to know) amounts to harassment.⁵ The Act defines harassment and states: "References to harassing a person include alarming the person or causing the person distress."⁶

A 'course of conduct' in the case of harassment of a single person must involve conduct on at least two occasions. The course of conduct in relation to two or more persons means conduct on at least one occasion in relation to each of those persons.⁷

Before the introduction of stalking legislation, there was debate about the need to define stalking specifically in law.⁸ One concern raised was that being too prescriptive might limit unduly the application of the offence. As a result, section 2A(3) of the Protection from Harassment Act 1997 instead gives examples of behaviours associated with stalking "in particular circumstances" (without detailing what these are). The list is not exhaustive but gives an indication of the types of behaviour that may be displayed in a stalking offence. Section 2A(2) of the Protection from Harassment Act 1997 specifies when a person's course of conduct amounts to stalking of another person.

Main findings

The findings below are the most significant and those where we believe positive changes will make the biggest difference to victims. Please read the full report for a complete picture of our findings, more extensive examples of good and poor practice, and word-for-word testimonies from victims who participated in our research project, which add context to the findings.

⁴ The terms 'fixated' and 'obsessed' are contained in Home Office circular 018/2012 'A change to the Protection from Harassment Act 1997: introduction of two new specific offences of stalking'.

⁵ Protection from Harassment Act 1997, section 1.

⁶ Protection from Harassment Act 1997, section 7(2).

⁷ Protection from Harassment Act 1997, section 7(3).

⁸ Some of this debate is contained in the *Independent Parliamentary Inquiry into Stalking Law Reform*, Justice Unions' Parliamentary Group, February 2012.

Understanding and recognising stalking: problems with definitions

There are many links between harassment and stalking, including the legislation itself.⁹ However, we found that the police and the CPS frequently struggled to separate the two offences.

We found that stalking in particular was misunderstood by the police and the CPS. As a result, it often went unrecognised. The police sometimes mis-recorded stalking offences, or worse, did not record them at all. Prosecutors on occasions missed opportunities to charge stalking offences, instead preferring other offences, particularly harassment.

We also found that the absence of a single accepted, consistent definition of stalking is a very significant contributory factor to the unacceptably low number of recorded crimes and prosecutions. It is also one of the main reasons that police officers, staff and prosecutors gave us varying interpretations of stalking.

The result for victims was that offences were not dealt with appropriately by using stalking-specific powers (for example, the power to search premises and seize evidence).¹⁰ Incidents of victimisation were dealt with as isolated cases and were not treated seriously or quickly enough, and victims were left at risk. In some cases, the charges did not reflect the seriousness of the offending.

There is not an exhaustive definition of stalking in legislation. This is one of the main reasons why there is a lack of common understanding about which actions can be counted as stalking. At present, identifying stalking is frequently a matter of subjectivity, which can lead to error and/or omission, as we found in our case file review.

As a result, we consider the harassment and stalking legislation should be reviewed to ensure it is as effective as possible in protecting victims of stalking and bringing perpetrators to justice.

Crime-recording

Accurate crime-recording should be an important part of the way criminal justice tackles harassment and stalking because it helps police forces to decide where they need to allocate their officers and spend their money, including commissioning victims' services.

The crime survey for England and Wales indicates a discrepancy between the number of victims reporting that they have experienced harassment and stalking

⁹ Stalking was introduced in 2012 by inserting sections into the Protection from Harassment Act 1997.

¹⁰ Under section 2B of the Protection from Harassment Act 1997 (as amended by the Protection of Freedoms Act 2012).

behaviour¹¹ and those crimes recorded by the police. The latest police-recorded crime figures show that for the year to December 2016, 4,613 stalking offences and 202,755 harassment offences were recorded.¹²

Stalking crimes were first recorded in their own right in 2014, and the number of recorded offences has increased since then. Despite this, we found that stalking crimes are not always recorded accurately by police forces.

We found that:

- crimes of harassment and stalking reported by victims were sometimes not recorded at all;
- when crimes were recorded, they were sometimes not recorded correctly; and
- cases of stalking were sometimes recorded as harassment.

In addition, there are wide variations between forces in the number of stalking crimes recorded. The evidence suggests we cannot be confident about the accuracy of the recorded crime figures for stalking in any of the forces we visited.

Context and escalation

Victims of harassment and stalking have long complained that police do not ‘see the bigger picture’.¹³

Little has changed. One of the main messages from the victims we spoke with as part of our engagement project was:

“The importance of context cannot be overestimated. Incidents that may appear innocent or innocuous to a police officer are likely to carry significant meaning to the victim – this is relevant in both domestic abuse and non-domestic abuse cases – and so officers must take the time to place the most recent incident in context.”

We found that both police and prosecutors continue to treat incidents as a single event, and therefore the patterns of behaviour are not properly understood. As a

¹¹ *The crime survey for England and Wales* year ending 2016 indicates that about 1 in 5 women and about 1 in 10 men aged 16 to 59 have experienced stalking behaviour since the age of 16 (Office for National Statistics, December 2016, www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingdec2016).

¹² Home Office data published by the Office for National Statistics. This includes crimes of malicious communications contrary to the Malicious Communications Act 1988. See ‘Reporting and recording’ chapter for further details.

¹³ *Stalking and harassment – the victim’s voice. A briefing from Protection Against Stalking for the independent parliamentary inquiry into stalking law reform*, Laura Richards, 2011.

result, the severity, continuity and escalation of the offending are sometimes overlooked.

Risk assessment

In this inspection we use the term risk assessment as meaning “the process of estimating and regularly reviewing the likelihood and nature of a risk posed by a perpetrator to a particular victim, children or others”.¹⁴

Victims of harassment or stalking crimes that had not been categorised as domestic abuse were less likely to have had a risk assessment. Some of the forces we visited did not have a policy to ensure that a risk assessment was always done for all victims of harassment and stalking, and when they did have a policy it related only to domestic abuse or stalking crimes.

For domestic abuse victims, although a risk assessment was often completed, the specific questions relating to harassment and stalking were sometimes overlooked.

Therefore some victims of harassment and stalking are left unprotected because the risks to them are not assessed routinely. In addition, the lack of risk assessments is contributing to the problems that victims told us about, that they are not taken seriously and patterns of victimisation are often not identified.

Risk management

In this inspection, we have used the term risk management as meaning the “management of the responses adopted in cases where risk is identified, to minimise risk of further harm by the offender”.¹⁵

Risk management plans are a vital way of keeping victims safe because they enable criminal justice practitioners to:

- understand the risks to the victim that have been identified;
- consider what interventions are available; and
- choose and implement the most suitable actions to manage the identified risks and protect the victim.

We found that a structured risk management plan was often not completed for victims of harassment and stalking. When a plan was completed, it was haphazard and frequently did not follow a recognised model and/or did not explain adequately how the risks to the victim would be managed.

¹⁴ Authorised Professional Practice on domestic abuse – Understanding risk and vulnerability in the context of domestic abuse, College of Policing, London, 2015.

¹⁵ Authorised Professional Practice on domestic abuse – Understanding risk and vulnerability in the context of domestic abuse, College of Policing, London, 2015.

The absence of risk management plans means that we cannot be reassured that victims are routinely being protected through the criminal justice process and beyond.

Police Information Notices¹⁶

Police Information Notices (PINs) are used to inform alleged harassment and stalking perpetrators that their actions may constitute an offence. While not the intention, they are used as warnings to harassment and stalking perpetrators about their future behaviour. PINs have no basis in law and are not a type of out-of-court disposal.¹⁷ As a result, PINs have not been used consistently and their use has not been monitored and analysed.

In the part of our inspection which included all forces in England and Wales, we reviewed 270 cases in which PINs had been used.¹⁸ We found PINs were not appropriate responses in the majority of cases. In the reviewed cases, PINs were sometimes used as informal sanctions and instead of, rather than after, thorough investigations.

There have been several inquiries into the use of PINs¹⁹ and many recommendations made to prevent their misuse and to increase the accountability of police forces. We have seen no evidence that any of these recommendations have been effective. In fact some of the specific recommendations,²⁰ for example consistent publication of data about the number of PINs issued and better training for officers, have never been implemented in some forces.

We found compelling evidence in some cases that the use of PINs meant no thorough investigation had taken place and there had been little positive action to protect the victim. Many of the cases we examined featured victims of domestic abuse, and some of the cases involved significant risks to the victim. These included cases in which:

¹⁶ We have used the term PIN to describe the process of giving information to a person who it is alleged has committed an offence of harassment or stalking. Different terms may be used, such as Harassment Warning Notices.

¹⁷ Out-of-court disposals are a way of dealing with offences that do not require prosecutions in court, and include cautions and conditional cautions.

¹⁸ For forces that did not use PINs, other alternative methods were reviewed.

¹⁹ *Actions of Sussex Police: final report*, House of Commons Committee of Privileges, HC 588, 22 July 2014; *Police Information Notices*, House of Commons Home Affairs Committee, HC 901 2014–15, 8 March 2015.

²⁰ *Police Information Notices*, House of Commons Home Affairs Committee, HC 901 2014–15, 8 March 2015.

- a violent domestic abuse perpetrator with a knife threatened to cut the throat of the victim;
- a serial stalker set up false Facebook accounts to make baseless allegations about the victim's partner; and
- a vulnerable victim with a learning disability was subjected to a 10-month campaign of harassment by a neighbour, which had already been reported to police numerous times.

PINs should be withdrawn from use immediately. We have made recommendations for a useful replacement for PINs in certain circumstances. We discuss this in more detail on page 60.

Stalking Protection Orders

In December 2015, the Government began a consultation on a proposed Stalking Protection Order (SPO),²¹ and in December 2016 announced plans to establish them in law.²² The intention of this new order is to protect stalking victims at the very earliest stages of an investigation before a prosecution can begin.

In circumstances of domestic abuse, victims can be protected by Domestic Violence Protection Notices²³ (DVPNs) and Orders (DVPOs).²⁴ It is intended that SPOs will fill the gap in the law for those victims who experience stalking by a perpetrator with whom they have not had an intimate or familial relationship.

This is a welcome step, and we are aware of the significant consultation that has been undertaken. However, the effective use of SPOs will rely on stalking being recognised by criminal justice practitioners, which we found is not occurring consistently.

The proposed SPOs are also not intended to protect victims of harassment, in particular vulnerable domestic abuse victims, who have left a relationship but are experiencing behaviour which may fall short of (or which is not recognised as) stalking. We found many such victims in the cases that we assessed as part of our inspection.

²¹ *Introducing a Stalking Protection Order – a consultation*, Home Office, December 2015.

²² *Introducing a Stalking Protection Order – a consultation. Summary of responses*, Home Office, December 2016.

²³ DVPOs and DVPNs were introduced in 2014 under the Crime and Security Act 2010.

²⁴ Victims, or their representatives, can also obtain a non-molestation order under section 42(2) or section 45(1) (*ex parte* applications) Family Law Act 1996, or a harassment injunction under section 3 Protection from Harassment Act 1997.

We are concerned that there are victims who are at high risk of harm who are not protected by DVPOs, and who will not be protected by SPOs. We have included a flow chart in annex C to show how this might happen.

This gap in the law should be closed. We recommend an approach to harassment crimes that is similar to that proposed for stalking. This would provide consistency and further protect vulnerable victims. It would also mean that police officers could have a preventative measure that does not need the consent of the victim and could be used instead of a PIN.

The use of an order to deal with crimes of harassment would address many of the problems with PINs. For example, information about the number of orders applied for would be more easily accessible, and this information would enable police officers to conduct a more comprehensive risk assessment on both the victim and perpetrator.

Victim care

Victims of harassment and stalking crimes are often vulnerable and have frequently suffered the actions of perpetrators over a long period of time. We also know that many are survivors of domestic abuse, who leave coercive and controlling relationships only to become the victims of an extension of this behaviour by way of harassment and stalking.

On too many occasions the police failed to take robust action to protect victims. We have written above about the inappropriate use of PINs. When police officers did conduct an investigation, we found:

- perpetrators being asked to attend voluntary interviews rather than being arrested and therefore no bail conditions being imposed to protect the victim;
- police not charging but instead using postal requisition²⁵ to summons perpetrators, thereby removing the opportunity to impose bail conditions to protect the victim;
- police failing to assess the need to protect victims by way of special measures during the court process;²⁶ and
- police failing to request a restraining order²⁷ on conviction or acquittal.

²⁵ Postal requisition is a means by which offenders can be summonsed to court without entering police custody.

²⁶ Special measures are a series of provisions that help vulnerable and intimidated witnesses to give their best evidence in court.

²⁷ Restraining orders were introduced under section 5 of the Protection from Harassment Act 1997.

We also found that some prosecutors did not always protect victims by:

- seeking bail conditions or remands in custody, or appealing when an application for a remand in custody was refused;
- communicating with the police when important evidence was missing from files; and
- applying for restraining orders on conviction or acquittal.

The combined effect of these failures was to leave victims vulnerable to repeat victimisation and serious harm, either during the criminal justice process itself or afterwards.

Investigations and prosecutions

HMIC and HMCPSI jointly assessed 112 cases of harassment or stalking from the six forces and CPS Areas we visited. None of these cases had been dealt with well. This is a disturbing indication of the prosecution team's treatment of victims, many of whom were also survivors of domestic abuse. Later in this report we provide examples of the failures in these cases.

We found examples of individual officers and prosecutors taking positive action to protect victims, and investigate and prosecute the perpetrators. However, these actions were too often let down by other failings. For example:

- positive action only taking place after numerous reports by the victim;
- good investigations followed by poor victim care during the criminal justice process; and
- successful prosecutions but a failure to apply for restraining orders.

It is also of concern that the number of prosecutions for stalking remained static between 2014–15 and 2015–16, despite an increase in recorded stalking crimes over the same time period.

College of Policing Authorised Professional Practice

The College of Policing practice advice on investigating stalking and harassment²⁸ was introduced in 2009. In 2013, after the introduction of specific stalking legislation, the College of Policing released short supplementary guidance on stalking.²⁹

²⁸ *Practice advice on investigating stalking and harassment*, National Policing Improvement Agency, London, 2009.

²⁹ Briefing note for amendments to the Protection from Harassment Act 1997, College of Policing, London, 22 January 2013.

There have been many major changes and improvements in policing practice since 2009 and the current harassment and stalking guidance is out of date.

The College of Policing is a central interested party in our inspection and has been involved in our expert reference group (see annex B) from the beginning. This has enabled us to work together and share our findings during the inspection process.

We have been told by the College of Policing that draft guidance on harassment and stalking is complete but will not be issued until the publication of our report. We welcome this decision because the new Authorised Professional Practice should take into consideration the findings of our report and therefore may need to be revised.

However, we have been told by forces that the considerable delay in new guidance has caused them significant problems in formulating their own procedures for tackling harassment and stalking. Some forces had decided to develop policies that do not match the proposed national guidance. We have described in this report how the use of PINs exemplifies this.

Summary of recommendations

In this report we have brought our recommendations from different chapters together, in order for the reader to understand more easily the reasons and context for them. In this summary of our recommendations, the wording of recommendations may therefore differ slightly from that found in individual chapters. The definitive list of recommendations is given on page 89.

To the Home Office

- The Home Office should undertake a review of the Protection from Harassment Act 1997 with particular reference to:
 - including a provision for harassment causing serious distress to bring this into line with the stalking provisions; and
 - defining stalking more clearly.
- The Home Office should ensure better recording practices for harassment and stalking crimes, by changing the Home Office Counting Rules for recorded crime so that harassment crimes are recorded in preference to any other crimes (in particular malicious communications) where it is obvious that there has been a 'course of conduct'.
- The Home Office should introduce protection orders for harassment crimes to close a gap in the current (and proposed) provision of orders.

To chief constables

- Chief constables should stop the use of Police Information Notices and their equivalents immediately, to ensure that all victims of harassment and stalking are protected and crimes are investigated appropriately.
- Chief constables should make sure stalking investigations are improved by ensuring that:
 - officers are aware of the powers of entry and search for stalking, and use them appropriately; and
 - adequate records of these searches are compiled for audit and compliance purposes.
- Chief constables should work with criminal justice partners to identify what programmes are available to manage offenders convicted of harassment and stalking offences in their respective force areas. In the absence of such programmes, they should review whether interventions could and should be established.

To chief constables and CPS Area leads

- Chief constables and CPS Area leads should monitor and ensure compliance with the stalking protocol.

To the College of Policing

- The College of Policing should ensure that there is a consistent and appropriate approach to harassment and stalking investigations by publishing the new harassment and stalking Authorised Professional Practice as a matter of urgency. This should include:
 - highlighting the complexities and risks associated with harassment and stalking offences, and advising forces to consider them as part of the crime allocation process;
 - using data on the power of search in stalking cases as best practice in audit and performance arrangements; and
 - providing improved guidance to officers on crime prevention advice for victims, particularly about online offending.
- The College of Policing should consider how to raise awareness of the differences between harassment and stalking, including how to ensure that these crimes are correctly recorded. As part of this review, we propose that the training provided to force crime registrars incorporates a specific module on harassment and stalking.

To the Crown Prosecution Service

- The CPS should ensure that improvements are made to the prosecution of harassment and stalking offences by:
 - reinforcing and reiterating guidance to prosecutors on accepting pleas to harassment instead of pursuing stalking charges;
 - ensuring that all prosecutors have received training about harassment and stalking;
 - monitoring and ensuring compliance with the stalking protocol; and
 - considering the contents of this report, and the College of Policing Authorised Professional Practice when published, and reviewing the current CPS legal guidance.
- The CPS should ensure that the prosecution of harassment and stalking offences is subject to continual improvement by:
 - introducing a process into scrutiny panels to examine harassment and stalking cases on a regular basis; and
 - improving the process whereby lessons learned can be passed between CPS Direct and CPS Areas.

To the College of Policing and the Crown Prosecution Service

- The College of Policing and the CPS should ensure that victims are properly protected through the use of restraining orders by respectively:
 - revising the summary of evidence form to ensure a consistent and appropriate response to such applications; and
 - providing clear guidance about applications for restraining orders.

To the National Police Chiefs' Council and CPS leads for harassment and stalking

- The National Police Chiefs' Council lead and the CPS policy lead for harassment and stalking should ensure that the investigation and prosecution of harassment and stalking offences is improved by:
 - reviewing and re-issuing the stalking protocol to forces and CPS Areas; and
 - reviewing the stalking single point of contact (SPOC) system and ensuring that it is fully effective and operating consistently for victims in all areas.

To the National Police Chiefs' Council lead for harassment and stalking

- The National Police Chiefs' Council lead should ensure that the risks to victims of harassment and stalking are properly assessed and managed by:
 - commissioning work to develop an evidence-based approach to risk assessment in harassment and stalking crimes;
 - ensuring that any review considers whether a risk management plan should be included with any risk assessment tool; and
 - advising forces that until the above review has been completed, forces should use a domestic abuse, stalking, harassment and honour-based violence risk identification, assessment and management model³⁰ (or equivalent) for all harassment and stalking crimes as an interim measure.

³⁰ A domestic abuse, stalking, harassment and honour-based violence risk identification, assessment and management model (DASH) is a risk assessment tool in common use in police forces.

1. Introduction

Harassment and stalking crimes are personal, widespread and can have tragic consequences. Victims can feel compelled to change their way of life, including moving houses and jobs and cutting themselves off from social media, and being afraid in their homes.

The Criminal Justice Chief Inspectors³¹ therefore agreed to inspect the criminal justice response to these crimes, and to the victims of them. They announced this through a study of harassment and stalking in the *Joint inspection business plan 2014–16*:

“A study supported by ACPO suggests that victims of stalking and harassment are systemically failed by the CJS, being put at risk by poor police response, poor understanding of risk and a failure to prosecute stalking perpetrators. Despite the introduction of guidance, police and CPS responses are reported as inconsistent. In scoping this work, inspectors will liaise with ACPO to identify the best way to understand and address the barriers to consistent and effective agency response.”³²

In addition to this study and after consultation with interested parties, a joint inspection between HMIC and HMCPSP was included in the *Joint inspection business plan 2016–17*.³³

The joint inspection by HMIC and HMCPSP has allowed the whole of a victim’s experience of the criminal justice system to be examined. A victim’s journey does not always start and end with one single service, and requires effective partnership working between different organisations. Therefore, it was appropriate that this inspection focused on that experience.

Background

The Protection from Harassment Act 1997 introduced harassment as a specific offence. Section 1 of the Act states that a person must not pursue a course of conduct which “amounts to harassment of another” and which “he knows or ought to know” amounts to harassment of the other. Such conduct could lead to a criminal penalty (under section 2).

³¹ The Chief Inspectors of Constabulary, the Crown Prosecution Service, Prisons and Probation.

³² *Joint inspection business plan 2014-16*, Criminal Justice Joint Inspection, London, 2014, page 9.

³³ *Joint inspection business plan 2016-17*, Criminal Justice Joint Inspection, London, 2016, page 6.

Section 4 of the Act created a more serious criminal offence of carrying out a course of conduct which puts another person in fear of violence.

The Crime and Disorder Act 1998 added separate offences for when the harassment is racially or religiously aggravated.

After a consultation on stalking in 2011 and an Independent Parliamentary Inquiry into stalking in 2012, new offences of stalking were inserted into the Protection from Harassment Act 1997 in 2012.

Section 2A of the 1997 Act prohibits a person from pursuing a course of conduct that amounts to stalking.

Section 4A of the 1997 Act prohibits a course of conduct which amounts to stalking and causes either the victim to fear, on at least two occasions, that violence will be used against them or causes the victim serious alarm or distress which has a substantial adverse effect on their usual day-to-day activities.

However, the term stalking is not exhaustively defined and this lack of a clear definition of stalking as a criminal act is unusual in recent criminal legislative history. Instead, section 2A(3) states (emphasis added):

The following are examples of acts or omissions which, *in particular circumstances*, are ones associated with stalking –

- (a) following a person,
- (b) contacting, or attempting to contact, a person by any means,
- (c) publishing any statement or other material—
 - (i) relating or purporting to relate to a person, or
 - (ii) purporting to originate from a person,
- (d) monitoring the use by a person of the internet, email or any other form of electronic communication,
- (e) loitering in any place (whether public or private),
- (f) interfering with any property in the possession of a person,
- (g) watching or spying on a person.

The Act does not go on to detail what the particular circumstances are that differentiate these acts from harassment. We acknowledge that before the introduction of stalking legislation there was debate about the need to define stalking

specifically in law,³⁴ with concerns that being too prescriptive might limit unduly the application of the offence.

There are a number of other offences³⁵ associated with harassment and stalking, but we did not specifically consider these as part of our inspection.

About this inspection

The inspection followed the typical progress of a victim's journey from initial contact with the police to the end of the involvement with a prosecution (when one took place). It included police and CPS awareness and understanding of harassment and stalking; measures and mechanisms to identify and protect victims; identifying and managing offenders; the investigation and prosecution of offences; and the leadership provided by forces and the CPS.

The aims of the inspection were to:

- assess the effectiveness of police forces at identifying and managing the vulnerability and risk associated with victims of harassment and stalking;
- assess the effectiveness of police forces and the CPS at investigating and prosecuting cases of harassment and stalking; and
- identify effective practice and lessons learned and to make recommendations for improvement.

To address the above aims, we:

- reviewed research literature, findings from other relevant HMIC inspections (for instance, those related to the police approach to domestic abuse), relevant legislation and guidance, and statistical information; and
- convened an expert reference group.

This was followed by an inspection, which was carried out in four phases.

³⁴ Some of this debate is contained in the *Independent Parliamentary Inquiry into Stalking Law Reform*, Justice Unions' Parliamentary Group, February 2012.

³⁵ These include 'Harassment of two or more persons' contrary to section 1(1A) of the Protection from Harassment Act 1997 as amended by the Serious Organised Crime and Police Act 2005; 'Harassment of a person in their own home' contrary to section 42A(1) Criminal Justice and Police Act 2001; and 'Disclosing private sexual photographs and films with intent to cause distress' contrary to Part 1, section 33 Criminal Justice and Courts Act 2015.

In phase one, we visited all 43 police forces in England and Wales as part of HMIC's annual PEEL effectiveness inspection.³⁶ We completed case assessments of six³⁷ PINs (or equivalents) in each force and the circumstances surrounding their issue. At the same time, we completed a review of relevant documents and data provided by forces. Lastly, we interviewed the force single point of contact (SPOC) for stalking. This phase of the inspection was designed both to assess the effectiveness of PINs and to provide points of comparison to inform activity in phase two.

In phase two, HMIC and HMCPSI inspectors worked together to conduct fieldwork in six³⁸ police forces and corresponding CPS Areas.³⁹ We completed assessments of 16⁴⁰ cases in each force in which a charge of harassment and/or stalking had been laid. In police forces we interviewed senior and operational lead officers, and held focus groups with frontline officers, staff and partner agencies.⁴¹ In CPS Areas we interviewed senior staff responsible for harassment and stalking prosecutions, and held focus groups with prosecutors.

Phase three was conducted on our behalf by the University of Worcester, which interviewed victims of harassment and stalking predominantly from the areas that we had visited as part of phase-two fieldwork. In this process, we were grateful for the assistance of the forces concerned and the National Stalking Helpline, which helped to identify the victims concerned. The report is available at:

www.justiceinspectorates.gov.uk/hmic/publications/living-in-fear-the-police-and-cps-response-to-harassment-and-stalking/

Phase four consisted of interviews with national leads from the National Police Chiefs' Council, the CPS, the Home Office and representatives from victims' groups.

Further detail about our inspection methodology can be found in annex A.

³⁶ PEEL is the programme in which HMIC draws together evidence from its annual all-force inspections to assess the effectiveness, efficiency and legitimacy of the police. See: www.justiceinspectorates.gov.uk/hmic/peel-assessments/how-we-inspect/

³⁷ We completed nine case assessments in the larger forces of Greater Manchester Police, the Metropolitan Police Service, West Midlands Police and West Yorkshire Police.

³⁸ Avon and Somerset Constabulary, Gwent Police, Sussex Police, Hampshire Constabulary, Durham Constabulary and Greater Manchester Police.

³⁹ CPS South West, CPS Wales, CPS South East, CPS Wessex, CPS North East and CPS North West.

⁴⁰ We conducted 32 case assessments in one larger force.

⁴¹ This included agencies working with victims of harassment and stalking.

2. Findings

In order to help explain our findings in more detail, we consider first the nature and context of harassment and stalking.

We then follow the stages of a victim's experience from the point of reporting to the police and through the investigation. Thereafter we consider the progress of a case through the criminal justice system.

Finally, we consider the organisational arrangements that play a part in the way that the police service and the Crown Prosecution Service deal with allegations of harassment and stalking.

Nature and context

Victims of harassment and stalking

The crime survey for England and Wales estimates that, for the year ending 31 March 2016, 15 percent of adults aged 16 to 59 have been victims of some stalking and/or harassment behaviours since the age of 16.⁴²

Harassment and stalking can affect women and men of all ages and backgrounds. Some evidence⁴³ suggests that victims are more likely to be female.

There is clearly a link between the coercive and controlling behaviours seen in domestic abuse and those seen in harassment and stalking offences. Police recorded crime data⁴⁴ show that 54 percent of stalking crimes in the 12 months to 31 March 2016 were flagged as domestic abuse related.

In a recent study of 358 homicides of women in the UK,⁴⁵ 71 percent were identified as involving a past or current intimate relationship. The study found that stalking behaviours were present in 94 percent of cases.

⁴² Office for National Statistics, February 2017, www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2016/domesticabusesexualassaultandstalking

⁴³ Office for National Statistics, February 2017, www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2016/domesticabusesexualassaultandstalking

⁴⁴ Office for National Statistics, February 2017, www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/compendium/focusonviolentcrimeandsexualoffences/yearendingmarch2016/domesticabusesexualassaultandstalking

⁴⁵ *Exploring the relationship between stalking and homicide*, J. Monckton-Smith, K. Szymanska and S. Haile, University of Gloucestershire, Suzy Lamplugh Trust, 2017.

In the cases that HMIC and HMCPSP jointly examined, we found that some victims were vulnerable, other than on the basis of being a victim of crime. Examples of vulnerabilities included mental health, age, learning disabilities and language barriers.

We were concerned to find some cases in which, despite there being clear evidence of vulnerability, adequate consideration and referrals for support were not always given to those in need of this support.

The victim had been subject to stalking by a perpetrator when the victim was 14 years old. Some time later, the perpetrator again tried to make contact with the victim by way of social media and he was also seen outside the victim's home. She contacted police immediately. No risk assessment took place and there was no referral to victim support services.

We heard from victims of the importance of police recognising the risks to victims. One victim told our researcher:

“And it got to the point where I actually said to me mum one night that “Do you know what? I'm going to be a story in the newspaper. I'm going to be another one of these girls that gets murdered by her ex.”

Harassment legislation

The offences of harassment have existed since 1997 and are generally well understood by the police and the CPS. However, we found some serious offences, which included clear threats of violence that had been recorded and charged as the less serious section 2 Protection from Harassment Act 1997 offence. We also found instances of PINs being issued in such serious circumstances.

Not recognising the seriousness of the harassment offending means that:

- police powers are limited, including that of search;
- there is less likelihood of victims being protected by way of bail conditions; and
- the powers of the court to sentence will be more limited.

There is also a potential anomaly in regards to the current legislation on harassment that causes serious distress to the victim, but where the actions of the offender do not amount to threats of violence. In cases of stalking, this loophole was closed, as detailed below.

We found cases of harassment that had clearly had a significant negative effect on the victim. However, because the behaviour of the offender had not amounted to threats of violence, there was little alternative other than to charge the less serious section 2 Protection from Harassment Act 1997 offence.

The victim was vulnerable, suffered from mental health problems and had a learning disability. The victim was targeted by the perpetrator, who would pester her for food, beer and cigarettes. On one occasion the perpetrator waited with the victim at a cash dispenser until her social security payment had entered her bank account. The victim reported this behaviour on numerous occasions to the police over a ten-month period. After one incident the police issued a PIN. The victim unsuccessfully attempted to move home. The behaviour continued and the perpetrator was then charged with section 2 harassment because he had not used or threatened the victim with violence. However, the behaviour had clearly had a serious and distressing effect on the victim.

Therefore, in some cases of harassment, we found the charges available to police and prosecutors were not sufficient to deal with offending behaviour that was having a serious and distressing effect on the victim.

Stalking legislation

The introduction of stalking as an offence in its own right in 2012 was an important change to legislation that recognised both the serious nature of the offence and the potential devastating effect on victims. It is right to recognise the work of victims' groups, interested parties and Government in taking this first step to improving the lives of stalking victims and bringing perpetrators to justice.

The Protection of Freedoms Act 2012 amended the Protection from Harassment Act 1997 by introducing the offence of stalking. It also recognised the serious distressing nature of some stalking behaviours that did not involve the use or threat of violence.

However, as we noted above, legislation does not exhaustively define stalking or the particular circumstances that make stalking different from those of harassment. Therefore, without any additional clarification, what differentiates harassment and stalking can be open to interpretation and result in confusion.

We found various definitions of stalking being used by police forces. In one force, the definition of stalking in their stalking policy differed from that in the training package provided to officers. We heard different definitions from police officers, police staff and prosecutors.

The result of this lack of understanding and recognition of stalking was that some offences were recorded as section 2 harassment offences (the least serious harassment offence). Once this (incorrect) recording decision was made, it led to

officers seeking CPS charging advice on harassment, and CPS prosecutors sometimes advising such a charge rather than identifying the case as stalking.

We also found that PINs were sometimes issued to offenders in stalking cases which had been misidentified as harassment. The effect of this misidentification on the protection of victims and appropriate outcomes for perpetrators is clear.

The victim reported to police that a perpetrator was continually calling her, following her in his car, turning up at her son's school, and contacting her by other means. The offender was twice given a PIN by police, but his behaviour continued. Police eventually investigated the matter. The perpetrator was not arrested but instead invited for interview on a voluntary basis, so no bail conditions could be used to protect the victim. The perpetrator was subsequently convicted and a restraining order imposed. However, the restraining order was breached on three occasions. The police and prosecutors failed to recognise the escalating stalking behaviour.

The effect of the lack of understanding of what constitutes stalking is also seen in the under-recording of stalking offences, and the wide variation of recorded stalking offences between police forces. We discuss this in more detail below.

There are a number of other consequences of stalking not being identified correctly, including:

- if a case has been incorrectly viewed as harassment not stalking, victims may not be referred to specialist stalking support services (when available);
- police officers will not be able to use the stalking-specific power of search;⁴⁶
- police officers may not properly understand the nature of the offending and the risks to the victim;
- investigations may not be allocated to specially trained officers (when available);
- perpetrators may not be dealt with appropriately and intelligence may not be gathered about serial offenders; and
- there may not be adequate provision of victim support services.

⁴⁶ Under section 2B of the Protection from Harassment Act 1997.

There is also an effect on the prosecution of stalking. In 2015-16, a total of 12,986 prosecutions for harassment and stalking offences were begun. This was the highest ever number for these combined crimes. However, the number of stalking offences within that figure was only 1,102, which was consistent with the number in the previous year (2014-15) of 1,103.⁴⁷

While more crimes of stalking are being recorded, the proportion progressing to a prosecution is decreasing.

Despite the training for criminal justice practitioners (as detailed below) to help them interpret this stalking legislation, the number of recorded crimes and prosecutions is unacceptably low. We found that the absence of a single accepted consistent definition of stalking is a very significant contributory factor to this situation.

One option would be for more guidance and training to be given, but in view of the lack of progress so far, it is difficult to see how this alone would be effective. Therefore we consider that a more fundamental review of the legislation and its effectiveness should occur. This could take place alongside the planned wider review⁴⁸ by the Home Office of the Act which introduced the stalking legislation.

Recommendation

- The Home Office should undertake a review of the Protection from Harassment Act 1997 with particular reference to:
 - including a provision for harassment causing serious distress to bring this into line with the stalking provisions; and
 - defining stalking more clearly.

Digital crime

The digital age means that crimes of harassment and stalking are much easier to commit. This may partly account for the increase in recorded crime. It should also be noted that crimes of 'malicious communication'⁴⁹ have emerged and are now being recorded. For the reasons we describe later in our report, these crimes are often indistinguishable from recorded harassment and stalking crimes.

⁴⁷ *Violence against women and girls crime report 2015-16*, Crown Prosecution Service, September 2016. See: www.cps.gov.uk/publications/docs/cps_vawg_report_2016.pdf

⁴⁸ The Home Office review of the Protection of Freedoms Act 2012.

⁴⁹ Contrary to section 1 Malicious Communications Act 1988.

We also know⁵⁰ that police forces' approach to digital crime has been inconsistent and that some forces are struggling to respond effectively to crimes that have taken place either online or by other digital media.

In our assessment of 270 PIN cases, we found that 176 had featured some form of digital contact between the victim and the alleged perpetrator.

We also found evidence of some elements of the use of digital and/or communications technology in 82 of the 112 harassment and stalking cases reviewed. Examples included the use of social media, emails, texting and telephone calls. Some cases showed evidence of poor practice and a lack of understanding about how to gather evidence when offences are committed online. One victim told our researcher:

“Basically they’ve told me, any contact that I receive through social media is irrelevant, because they can’t prove that it’s associated to them. Even though their daughter set up four different Facebook accounts, with her name just spelt in four different ways, with the same profile picture.”

The combination of the widespread nature of harassment and stalking as a crime type and the digital means by which many of the crimes are committed makes this a considerable resource problem for forces.

In some forces this was creating significant backlogs and delays. As a result, in one force an officer had asked a victim to take screen-shots of items on social media and email them to the force, rather than ensuring the evidence was properly retrieved. We also found that officers were using body-worn video cameras to obtain evidence instead of submitting items for evidential analysis using proper procedures.

We also found that in some cases officers provided well-meaning advice to victims about the use of digital media that actually increased the risk to victims (see ‘Crime prevention advice’ below).

However, some forces have invested heavily in technology and training to assist with evidence retrieval from digital devices.

One force had made a significant investment in digital technology and had provided digital workstations, where investigators could quickly and easily download digital evidence, with sufficient numbers of trained staff to support them. Not only did this help in the interviews of perpetrators, but it also helped inform charging and bail decisions. This system also meant that victims could have their digital devices returned to them quickly.

⁵⁰ PEEL: *Police efficiency 2016 – A national overview*, HMIC, London, 2016. See: www.justiceinspectorates.gov.uk/hmic/publications/peel-police-efficiency-2016/

In one force we visited, a software programme was being developed to enable call handlers to obtain digital evidence available on social media at the outset, before the opportunity was lost. The same software will allow investigators to take over a victim's social media account to help acquire evidence of the offending. An App will enable victims to report offences and collect evidence.

There are opportunities to share such innovative practice better and this is detailed under 'Stalking single points of contact' below.

When forces have good systems for digital evidence retrieval:

- victims' devices can be analysed and returned more quickly;
- cases can be investigated more efficiently, thus avoiding victims being deterred or re-victimised during long delays;
- there is an increased likelihood of perpetrators making admissions and pleading guilty;
- it is more likely that correct charges will be laid because prosecutors have better information; and
- courts may make more appropriate sentencing decisions, having clearer information about the nature and extent of the offending.

The overall result is that when the force has invested in digital technology, victims should feel more involved with investigations and have more confidence in the police and criminal justice system.

In conclusion, we found that harassment and stalking crimes are increasingly likely to feature some form of digital offending and that crimes of harassment and stalking are sometimes committed solely by digital means.

Those forces that have recognised the need for technological solutions to assist crime investigations and have already invested in them are at a significant advantage, and by extension victims in those areas are likely to receive a significantly better service from the police and criminal justice partners.

Repeat victimisation

Reducing the likelihood of victimisation is achieved by agencies working together effectively and in partnership with the victim. Many of the factors involved are described elsewhere in this report, such as risk assessment and crime prevention.

Early, effective and positive action taken against a perpetrator when a victim first reports harassment or stalking can play an important part in protecting the victim from future offending, especially when the perpetrator is displaying signs of fixation and obsession.

In the cases we examined, too often the police failed to take early positive action. We have described examples of the inappropriate use of PINs, ineffective investigations and the lack of bail conditions in some cases.

We also noted failures by the CPS to seek bail conditions and a small number of missed opportunities to apply for restraining orders. In addition, cases were dealt with in isolation and the escalation of offending was not recognised by the police or the CPS.

A perpetrator was convicted of stalking and had a restraining order imposed. The perpetrator breached the order seven days later. The police failed to consider a further charge of stalking, dealing only with the breach of the order. A CPS lawyer correctly identified a charge of stalking, but included instructions in the file that a guilty plea to breach of the restraining order was acceptable. At the first hearing in the magistrates' court, the defendant pleaded guilty to breaching the restraining order and was sentenced to 16 weeks in custody. The CPS should have proceeded with the stalking charge, and failed to recognise the escalating nature of the defendant's behaviour. Some months later the victim reported that the defendant had continued to follow her. The defendant was subsequently charged with, and convicted of, two breaches of the restraining order. The defendant had continued to stalk the victim, but this was not recognised.

In some cases, police advised victims to report further incidents, but no action was taken when this was done. One victim told us:

“It's so disheartening, it's really disheartening ... I just have to keep reporting stuff basically!”

Crimes of harassment and stalking, by their very nature, mean that victims will be repeatedly offended against. Police and prosecutors must do more to prevent such repeat victimisation, and recognise and respond to the escalation of offending.

Reporting and investigation

Reporting and recording

Harassment and stalking are categorised as crimes of ‘violence non injury’ according to the Home Office national crime recording standard.⁵¹

In the year to 31 December 2016 there were 202,755 recorded harassment crimes,⁵² an increase of 53 percent from the same period in 2015. However, there were 4,613 recorded stalking crimes in the year to 31 December 2016, an increase of 23 percent from the same period in 2015.

The discrepancy between the increases in harassment and stalking can partly be explained by the addition of malicious communication offences⁵³ to the harassment offence category from April 2015.⁵⁴ The Office for National Statistics estimated that without the additions of these offences, there would have been a 19 percent increase in harassment.⁵⁵

⁵¹ The national crime recording standard is a standard for recording crime in accordance with the law.

⁵² Home Office data published by the Office for National Statistics. Includes data from the British Transport Police. This includes crimes of malicious communications contrary to the Malicious Communications Act 1988. This number excludes racially or religiously aggravated harassment. Additionally, some stalking and harassment crimes may be recorded under section 76 of the Serious Crime Act 2015 – Controlling or Coercive Behaviour in an Intimate or Family Relationship and these are not included in this figure.

⁵³ Contrary to section 1, Malicious Communications Act 1988.

⁵⁴ Since April 2015 there has been an expansion in the harassment category to include two additional notifiable offences that previously were not included in the police recorded crime series. These are “Disclosure of private sexual photographs and films (including on the internet) with the intent to cause distress or anxiety” and “Sending letters (including emails) with intent to cause distress or anxiety”.

⁵⁵ Based on data from 38 forces which are on the Home Office Data Hub.

Figure 1: Number of recorded harassment crimes in England and Wales by financial year quarter from quarter 1 – 2012/13 to quarter 3 – 2016/17⁵⁶

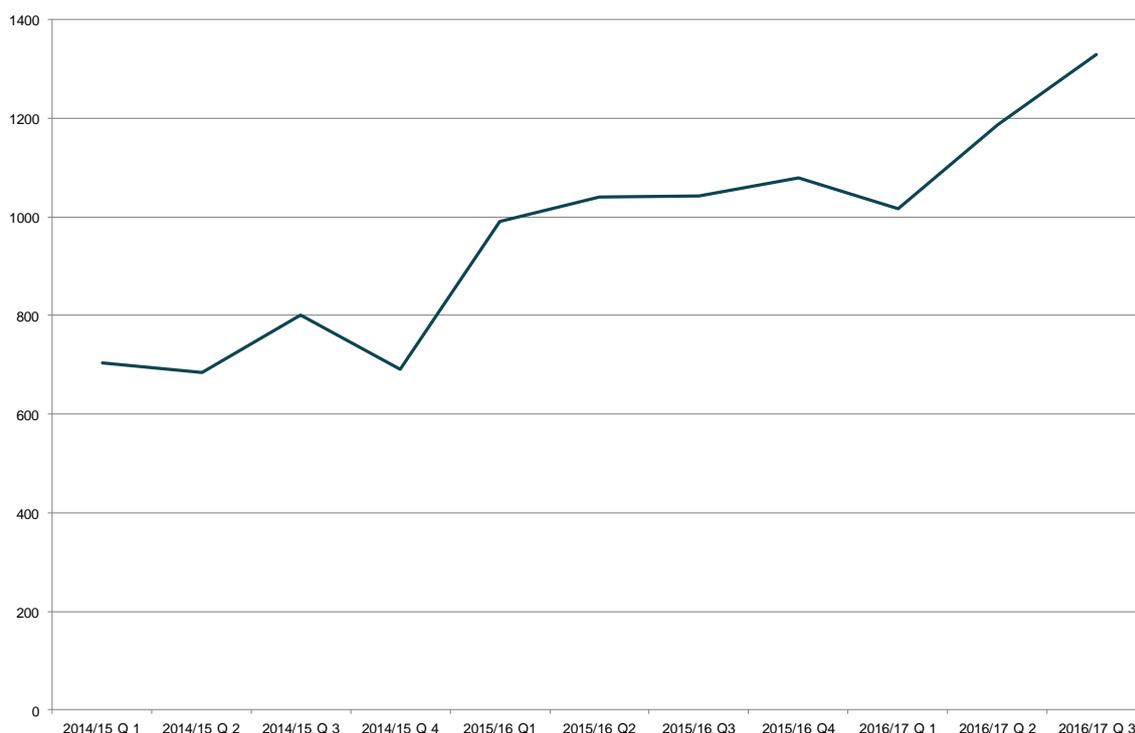


Source: Home Office data published by the Office for National Statistics

Stalking crimes were recorded in their own category from 2014, and these are shown in figure 2 on the following page.

⁵⁶ Home Office data published by the Office for National Statistics. Includes data from British Transport Police. This includes crimes of malicious communications contrary to the Malicious Communications Act 1988. This number excludes racially or religiously aggravated harassment. Additionally, some stalking and harassment crimes may be recorded under section 76 of the Serious Crime Act 2015 – Controlling or Coercive Behaviour in an Intimate or Family Relationship, and these are not included in this figure.

Figure 2: Number of recorded stalking crimes in England and Wales by financial year quarter from quarter 1 – 2014/15 to quarter 3 – 2016/17⁵⁷

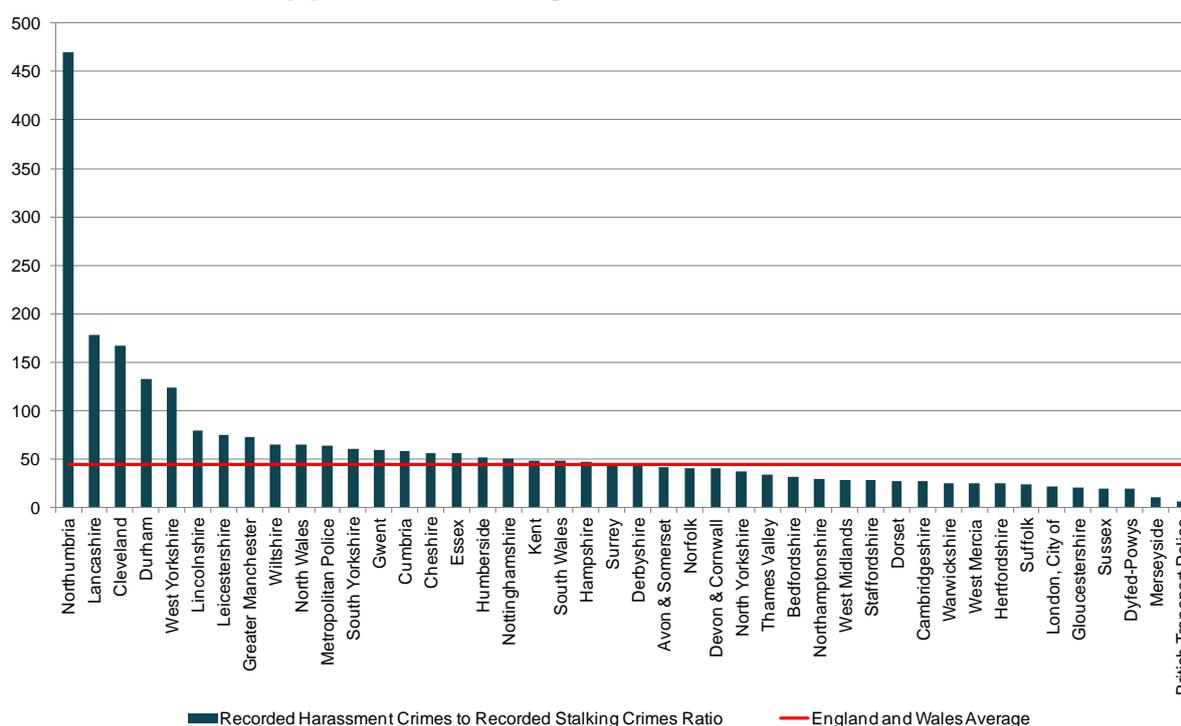


Source: Home Office data published by the Office for National Statistics

There has been a steady increase in the number of stalking offences recorded, but there are variations between forces. Figure 3 on the following page shows how many harassment offences are recorded for every one of stalking.

⁵⁷ This includes data from British Transport Police.

Figure 3: Ratio of recorded harassment⁵⁸ crimes to recorded stalking crimes in the 12 months to 31 December 2016 by police forces in England and Wales



Source: Home Office data published by the Office for National Statistics

One explanation for this disparity in recording practices between forces is that some forces may be better than others at recognising stalking. However, we consider it likely that all forces are incorrectly recording these offences.

In phase one of our inspection, we examined the use of PINs and as part of this we also considered the crime-recording of the incident. We were concerned to find that some incidents had not been recorded as crimes at all when they should have been, or the crimes had not been recorded correctly.

A woman met a man in a gym. She described him as acting “weirdly” and exercising uncomfortably close to her. The man somehow managed to obtain details of the woman’s Facebook account and began to send her messages. The victim blocked these, but then received messages from a woman purporting to be having an affair with the victim’s boyfriend. The police were called and discovered that the woman was in fact the man from the gym. Enquiries revealed that this man had committed similar offences previously and had numerous aliases. No crime was recorded and the man was issued with a PIN.

⁵⁸ This includes crimes of malicious communications contrary to the Malicious Communications Act 1988. This number excludes racially or religiously aggravated harassment. Additionally, some stalking and harassment crimes may be recorded under section 76 of the Serious Crime Act 2015 – Controlling or Coercive Behaviour in an Intimate or Family Relationship, and these are not included in this figure.

In addition to this inspection, since April 2016 HMIC has been undertaking a rolling programme of inspections into the accuracy of crime-recording by police forces. At the time of writing, ten police forces have been inspected.⁵⁹ These inspections do not specifically explore cases of harassment and stalking, but they have found cases in which harassment and stalking crimes have not been recorded when they should have been.

The result of incorrectly recording an offence, particularly when it relates to stalking, is that it is more likely that the investigating officer will not recognise the seriousness of the offence, and the escalation of the offending, and therefore the risks to the victim may also be overlooked.

Victims also told us that the correct recognition and recording of offences gave them confidence:

“I feel like I’ve been taken seriously this time, and someone has actually said ‘Yes, it is harassment’. That’s the biggest thing, as well, is for someone to say ‘Well, actually, all this stuff you’ve got here, all these letters, all these things you’ve been sent, all the situation I’ve gone through, solicitors, Police Information Notice. It is harassment’.”

If stalking offences are not correctly recorded, it is difficult for forces to understand the nature and extent of the offences in their areas and to create appropriate problem profiles.⁶⁰ Accurate problem profiles allow forces to consider what is required to meet the needs of the victim, and the training needs to achieve this.

As part of our inspection, we spoke with the force crime registrar in all the forces we visited. This person is responsible for, among other things, ensuring that harassment and stalking offences are correctly recorded and that the force is complying with the Home Office’s national crime recording standard.

In the six forces that we visited, none of the force crime registrars (or the staff responsible for auditing crimes to ensure that they had been correctly recorded) had received specific training on stalking. We also found that all of the force crime registrars had a different interpretation of what might constitute a stalking offence.

⁵⁹ Rolling programme of crime data integrity inspections. See www.justiceinspectors.gov.uk/hmic/our-work/crime-data-integrity/reports-rolling-programme-crime-data-integrity/

⁶⁰ A report commissioned to provide a greater understanding of a problem in order to generate activity.

We were told by force crime registrars that there had been some limited auditing of stalking crimes in certain forces, but this was usually in response to a force action plan after a critical incident. There was no routine auditing of harassment crimes to establish whether stalking offences had been missed, and to learn any lessons from these errors or omissions. We were told that this would not be practicable due to the very large number of harassment crimes in a context of competing demands and lack of resources.

Therefore, we could not be confident that any of the forces had a robust system to remedy any of the problems that we mention above that may arise from incorrectly recorded harassment and stalking crimes.

Recommendation

- The College of Policing should consider how to raise awareness of the differences between harassment and stalking, including how to ensure that these crimes are correctly recorded. As part of this review, we propose that the training provided to force crime registrars incorporates a specific module on harassment and stalking.

Misidentification and the lack of an accurate picture of harassment and stalking crime are deep-rooted and are strongly influenced by the current national crime recording standard.

On stalking, the national crime recording standard states that under the 'principal crime' rule:

Stalking should be considered the most serious violent crime over assaults up to and including offences contrary to section 20 of the Offences against the Person Act. 8Q stalking offences should therefore be recorded where Class 105A or 8N⁶¹ offences have also been committed.⁶²

In other words, stalking should be recorded instead of other 'lesser' offences. This is positive and correctly demonstrates to forces the serious nature of stalking offences, confirming that these should take precedence over other, lesser crime types.

However, for harassment offences, the guidance states:

⁶¹ These are assaults (with or without injury) crime classifications.

⁶² *Counting rules for recorded crime*, Offence classification index 8Q, Home Office, London, 2013.

The Protection from Harassment Act 1997 is designed to be used where no other substantive notifiable offence exists. It addresses series of incidents that do not amount to the commission of a substantive offence per se, but when looked at as a course of conduct are likely to cause fear, alarm or distress.

It is important that where evidence exists to support the report of another substantive crime, an offence under the Protection from Harassment Act 1997 is not recorded. This Act also does not apply to controlling or coercive behaviour that takes place in an ongoing intimate relationship.⁶³

Therefore, any other crimes should be recorded in preference to harassment. As a result:

- crimes of harassment are likely to be hidden in other recorded crimes;
- it is even harder for forces to understand properly the nature of the offending in their area;
- escalation of behaviour is harder to identify; and
- the lack of recording of stalking offences when they have been misinterpreted is made even worse.

We also found cases where neither the harassment nor the offence had been recorded.

As a result of the current crime-recording guidance, we found that crimes of harassment or stalking that have taken place using digital means, for example, emails, texts or social media, could therefore be recorded as malicious communications crimes. It would be possible for the CPS to advise that the charge of harassment better reflected the nature and continuity of the offending. Therefore, a recurring anomaly is likely to occur between the recording of offences on the one hand and the charging of offences on the other.

The current approach to recording harassment crimes does not properly reflect the negative effect on the victim, or the persistence of their victimisation. In addition, as we have illustrated above, it does not help forces to understand the nature of harassment and stalking in their areas.

Harassment and stalking crimes are often those of an offender attempting to exert control over a victim. The Government introduced the Serious Crime Act 2015 to recognise offences and protect victims in circumstances in which this controlling and coercive behaviour exists in an ongoing intimate or familial relationship.

⁶³ *Counting rules for recorded crime*, Offence classification index 8L, Home Office, London, 2013.

The national crime recording standard, recognising the need to identify these offences and reflect the seriousness of the offending, introduced a similar rule to that in place for stalking:

Controlling and coercive behaviour should be considered the most serious violent crime over assaults up to and including offences contrary to section 20 of the Offences Against the Person Act. Controlling or coercive behaviour should therefore be recorded where other 105A or 8N offences have also been committed.⁶⁴

However, when a relationship has ended (however temporarily) but the controlling and coercive behaviour continues, the Serious Crime Act 2015 is less likely to be applicable. In these cases, the offending is more likely to result in a different charge and frequently that of harassment or stalking.

There is no national crime recording standard to take into account the continuation of the controlling and coercive behaviour once a relationship has finished.

This is an anomaly that is not in the best interests of the victim. While we acknowledge that to adopt such a crime-recording counting rule would have an effect on recorded crime within certain categories, the current rules do not fully consider the true nature of domestic abuse crimes. This is particularly the case for those victims who leave relationships but who continue to suffer from coercive and controlling behaviour from the same offender.

Recommendation

- The Home Office should change the Home Office Counting Rules for recorded crime to ensure that harassment crimes are recorded in preference to other crimes (in particular malicious communications) when it is obvious that there has been a 'course of conduct'.

Despite the above recommendations, there will be little improvement in the recording of stalking offences in particular until there is a better understanding of the difference between harassment and stalking.

Risk identification and assessment

For the purposes of this inspection we use the term risk assessment as meaning "the process of estimating and regularly reviewing the likelihood and nature of a risk posed by a perpetrator to a particular victim, children or others".⁶⁵

⁶⁴ *Counting rules for recorded crime*, Offence classification index 105A, Home Office, London, 2013.

⁶⁵ *Authorised Professional Practice on domestic abuse – Understanding risk and vulnerability in the context of domestic abuse*, College of Policing, London, 2015.

In the forces that we visited as part of phase two of our inspection, we considered risk assessments in two ways:

- whether or not at the victim's initial point of contact with the police a risk assessment screening tool had been used to assess risk to victims and families; and
- whether or not an 'enhanced' risk assessment had taken place subsequently.

Initial risk assessments take place to enable police forces to consider the immediate risks to victims and are often used as a way for the force to determine the priority of response, and by what means the victim should be contacted.

Of the 112 cases we examined, we found evidence that an initial risk assessment had taken place in 60 cases (54 percent).⁶⁶

Enhanced risk assessments often take place after a victim has been spoken with, when the victim's circumstances can be considered more fully.

We have considered enhanced risk assessments for domestic abuse and non-domestic abuse cases separately. However, we have noted a finding from a College of Policing report⁶⁷ regarding risk identification that:

“In particular, poor decisions tended to arise from dealing with cases on an incident-by-incident basis and/or not checking thoroughly the history and context of the case.”

As we detail elsewhere in this report, the nature of harassment and stalking cases means that this finding is likely to be relevant to both domestic and non-domestic crimes.

Domestic abuse cases

The current College of Policing practice guidance for stalking and harassment infers that the domestic abuse, stalking, harassment and honour-based violence risk identification, assessment and management model (DASH),⁶⁸ or similar risk assessment tools, should be used for domestic abuse crimes.

Enhanced risk assessments may take a number of different forms, depending on the force. However, the DASH is used in some form by most forces in domestic abuse crimes to make enhanced assessments of risk. All of the six forces we visited used the DASH to assess the risks to domestic abuse victims.

⁶⁶ In one case it was not known if an initial risk assessment had taken place.

⁶⁷ *Risk identification in cases of domestic abuse. Evaluation of a pilot project*, A. Myhill, College of Policing, London, 2016.

⁶⁸ Further information and an example of a DASH form can be found at www.dashriskchecklist.co.uk/

The most commonly used versions of the DASH incorporate a question that asks the victim whether the perpetrator is “constantly texting, calling, contacting, following, stalking or harassing them”. The form explains that as these are risk factors for further violence, if the answer is “yes” to any of these questions, an extra set of 11 questions should be asked of the victim.

In one force, we found that the electronic version of the DASH did not include these supplementary questions. Because of this, some specialist investigators told us that they were not even aware of their existence.

In the cases we examined that featured domestic abuse, we examined whether a DASH risk assessment had taken place and, if it had, whether the supplementary harassment and stalking questions had been completed.

We found that of the 82 domestic abuse cases reviewed, there was evidence that an enhanced risk assessment had been completed in 78⁶⁹ cases and there was no evidence of an enhanced risk assessment in four cases. In 34 of the 74 cases where a DASH had been completed, the supplementary stalking and harassment questions were not answered.

In domestic abuse cases we found that while it was likely that a risk assessment would take place, the specific risks associated with harassment and stalking were not assessed comprehensively in 40 out of 82 cases.⁷⁰

Non-domestic abuse cases

The current College of Policing practice guidance for stalking and harassment is not clear about how risk should be assessed in non-domestic abuse harassment crimes.

In non-domestic abuse cases, we found that 22 of the 30 cases there was no evidence an enhanced risk assessment had taken place. This is a serious problem.

For cases of stalking, the College of Policing Stalking Authorised Professional Practice advises that risk assessments should take the form of either the DASH or stalking screening tool (see below), with a note that officers should refer to local force procedures about how to assess the risk in stalking cases.

Despite the DASH being designed to risk assess all harassment and stalking victims, we found limited evidence to suggest this was happening routinely in non-domestic abuse cases. This apparent gap in risk assessment for non-domestic abuse victims was filled in some cases by the use of the S-DASH in stalking cases.

⁶⁹ A DASH was completed in 74 cases, an S-DASH was completed in two cases and an alternative screening tool was used in two cases.

⁷⁰ Four cases had no enhanced risk assessment, 34 cases did not have the supplementary questions completed, and two cases had an S-DASH completed without any other form of assessment.

The S-DASH contains the questions present in a DASH that identify the risk factors of the behaviour exhibited by the perpetrator. However, these are insufficient on their own to properly assess the risks to the victim and should be read in conjunction with questions regarding the effect of the behaviour on the victim. The S-DASH does not currently contain these extra questions.

Two of the forces visited used stalking screening tools, such as the screening assessment for stalking and harassment (SASH).⁷¹ Although not a comprehensive risk assessment tool, these screening tools do allow forces to identify the cases of most concern and allow decisions to be made about future action to protect victims and address offending behaviour.

The use of such stalking screening tools is good practice, but we have a reservation that these can only be effective when the police correctly identify stalking, and this in itself depends on comprehensive training backed up by efficient systems and processes to correct any errors or omissions.

The perpetrator approached the victim in a cafe and asked her to go with him to his home. She was unnerved and refused. However, he followed her home and exposed himself to her. He then stayed in the area and tried to contact her by shouting up at her window. The perpetrator returned during the night. The victim called police and the offender was located and arrested on suspicion of indecent exposure. He was also arrested on suspicion of harassment and charged by police with the same. No risk assessment took place and no referral for specialist support was made. The CPS later changed the charges to stalking and sexual exposure. No details of the requirement for a restraining order were sent to the CPS.

One of the purposes of enhanced risk assessments is to allow the person assessing the risks to piece together the actions of the perpetrator so that the behaviour is considered in totality and incidents are not dealt with in isolation. We have detailed this in 'Context and escalation' above.

We have concluded that in the forces we visited:

- initial risk assessments are not completed consistently;
- while domestic abuse victims will often have a secondary risk assessment completed, the specific questions related to harassment and stalking are not always asked;
- non-domestic abuse victims frequently do not have a secondary risk assessment completed; and

⁷¹ More information can be found at www.stalkingriskprofile.com

- the use of the S-DASH in isolation does not show the full effect of the stalking behaviour and the consequent needs of the victim.

As a result, victims of harassment and stalking are sometimes placed in danger because the risks to them are not properly assessed. The lack of risk assessments is also likely to be contributing to the concerns reported by victims, namely that patterns of offending against them are not identified and that the escalation of behaviour by perpetrators is being missed.

The DASH form is a well-established method of assessing risks to victims and is in common use in the majority of police forces. Although not all the questions in the DASH will be relevant to all victims of non-domestic abuse harassment and stalking, completing this form as a means of risk assessment for these victims would enable consistent information to be gathered and a comprehensive view of all the risks faced by the victims.

The DASH also explores the effect that the behaviour has had on the victim. This in turn enables the full needs of the victim to be taken into account by criminal justice and support agencies.

The College of Policing is currently undertaking a review of enhanced risk assessments,⁷² and the findings from our inspection should inform this.

Recommendation

- The National Police Chiefs' Council lead should ensure that the risks to victims of harassment and stalking are properly assessed by:
 - commissioning work to develop an evidence-based approach to risk assessment in harassment and stalking crimes; and
 - advising forces that until the above review has been completed, forces should use a domestic abuse, stalking, harassment and honour-based violence risk identification, assessment and management model (or equivalent) for all harassment and stalking crimes as an interim measure.

These recommendations should be read in conjunction with those that follow the section on risk management, below.

⁷² This review followed a recommendation in HMIC's 2014 report *Everyone's business: Improving the police response to domestic abuse* (www.justiceinspectors.gov.uk/hmic/publication/improving-the-police-response-to-domestic-abuse/) that the College of Policing should consider the approach to risk assessment and evaluate the effectiveness of existing risk assessment tools.

Risk management

For this inspection, we have used the term risk management as meaning the “Management of the responses adopted in cases where risk is identified, to minimise risk of further harm by the offender”.⁷³

We found that a structured risk management plan was often not completed for victims of harassment and stalking. When a plan was completed, it sometimes did not follow a recognised model and/or did not explain adequately how the risks to the victim were going to be managed.

In our case assessments we found no evidence of a risk management plan in 68 of the 112 (61 percent) cases reviewed.⁷⁴

Risk management plans are vitally important to keeping victims safe, because they enable criminal justice practitioners to:

- understand the risks to the victim that have been identified;
- consider what interventions are available; and
- choose and take the most suitable actions to manage the identified risks and protect the victim.

The College of Policing Authorised Professional Practice, in relation to domestic abuse, states risk management plans should:

- describe a tactical menu of intervention options for victims and offenders corresponding to each grading of risk – standard, medium and high;
- be able to be adapted from a standard response to meet the needs of a serious and complex case, allowing for professional judgment and decisions to be made based on individual cases and problem-solving in partnership; and
- remain dynamic so that significant changes may be reflected easily within assessments and management plans.⁷⁵

⁷³ Authorised Professional Practice on domestic abuse – Understanding risk and vulnerability in the context of domestic abuse, College of Policing, London, 2015.

⁷⁴ In five of the 112 cases it was not known if there was a risk management plan.

⁷⁵ Authorised Professional Practice on domestic abuse – Victim safety and support, Risk management, College of Policing, London, 2015.

Although we found that structured risk management plans were often not completed, we were also concerned that guidance given to officers by forces was not sufficiently clear and that the systems used to record the management plans did not direct officers to a menu of possible interventions as described by College of Policing guidance.

In some of the forces that we visited there was an expectation that a risk management plan should follow the risk assessment in the DASH form. In other forces, the DASH was seen as a risk assessment tool only and the plan to document the management of the risks was completed separately and in free text on the force crime system log. The latter system meant that the completion of the risk management plan could be partial or missed and not follow logically from the risk assessment.

We consider that the best place to document a risk management plan is where the risks themselves have been identified, that is, within the risk assessment form.

We consider the College of Policing's current review of risk assessments should also examine whether the risk assessment form should incorporate a risk management plan.

Recommendation

- The National Police Chiefs' Council lead should ensure that the risks to victims of harassment and stalking are properly managed by ensuring that any commissioned work to develop an evidence-based approach to risk assessment in harassment and stalking crimes also considers whether a risk management plan should be included with any risk assessment tool.

Police Information Notices

Police Information Notices (PINs)⁷⁶ have been introduced by forces in a number of forms after the introduction of the Protection from Harassment Act 1997.

The initial intention of the notices was to deal with the difficulty of proving that individual acts (which did not in themselves amount to offences) had been committed by an accused who knew or ought to have known that this would cause the victim harassment, alarm or distress.

⁷⁶ We have used the term PINs to cover notices issued by police after an allegation of harassment but acknowledge that there are different terms in use.

In 2007, Assistant Chief Constable Garry Shewan stated:

“Early ‘loopholes’ were identified after the enactment of the Protection from Harassment Act 1997 when ‘stalkers’ claimed that they did not know that their behaviour (such as sending flowers, cards etc.) amounted to harassment. That their intention was not to cause the victim to be either harassed, alarmed or distressed. To this end, police forces began issuing suspects with a formal notice of warning that the victim alleges that their behaviour does indeed cause harassment, alarm and distress and that, should such activity continue, then a prosecution will ensue.”⁷⁷

PINs have no legal or statutory basis and because the decision to issue them is purely an operational matter for the police, they could best be described as a tactic to prevent further offending.

There are numerous other criminal offences that require the prosecution to show beyond reasonable doubt that the defendant knew or ought to have known a fact. However, it is unusual for this to result in approved police practice to warn an offender regarding their future behaviour before further action is taken.

It is also noteworthy that, since the introduction of PINs, “bad character evidence”⁷⁸ has become admissible on a statutory basis to assist the prosecution with the *mens rea*⁷⁹ required for this and other offences.

The use of PINs has been the subject of inquiry a number of times⁸⁰ and there have been many recommendations to stop them being misused. We have seen no evidence that any of these recommendations have been effective. In fact, with regard to some of the specific recommendations, for example the consistent publication of data on numbers issued and better training for officers, we found no evidence to suggest that the recommendations had ever been implemented.

In 2011 the Government carried out a consultation⁸¹ on whether to introduce a stalking-specific law, and in relation to PINs it was acknowledged:

⁷⁷ Written evidence submitted by Assistant Chief Constable Shewan to the Home Affairs Committee, Domestic violence, ‘honour’-based violence and forced marriage, October 2007. www.publications.parliament.uk/pa/cm200708/cmselect/cmhaff/263/26302.htm#evidence

⁷⁸ Sections 98 to 113 Criminal Justice Act 2003.

⁷⁹ The intention or knowledge of wrongdoing.

⁸⁰ *Actions of Sussex Police: final report*, House of Commons Committee of Privileges, HC 588, 22 July 2014; *Police Information Notices*, House of Commons Home Affairs Committee, HC 901 2014–15, 8 March 2015.

⁸¹ *Consultation on stalking*, Home Office, London, November 2011.

“We recognise that there are concerns around the process by which these notices are issued. Some argue that those issued with a Police Information Notice are not given a fair hearing. Equally we are aware that some consider Police Information Notices to lack teeth and that they give victims a false sense of security.”

The College of Policing guidance for professional practice on the use of PINs dates from 2009 and, despite many assurances, a replacement has not yet been produced for consultation. However, we understand that the current proposals include the continued use of notices in certain circumstances. We acknowledge that much work has taken place so far to formulate proposals suitable for consultation.

In our inspection, we examined the use of PINs throughout all 43 police forces. We found that some forces had stopped using PINs altogether. Other forces had placed significant restrictions on their use such that they should rarely be used, for example that they can only be used with the authority of a superintendent.

In 2016, Surrey Police conducted an internal review of the use of PINs. The review concluded that, in a large proportion of cases that it examined, the PINs had not been issued appropriately, some investigations had not been as thorough as they should have been and some risks to victims had been missed. After careful consideration, the force decided to stop using PINs.

Subsequently, as part of an overall drive to improve the force’s approach to harassment and stalking cases, the force found that there had been an increase in the use of risk assessments, there were better crime-recording practices and more thorough investigations, and there had been an increase in the involvement of partner agencies to help safeguard victims and their families.

Surrey Police considers that this approach is a positive step in prioritising the needs of victims and represents a significant improvement in managing risk and ensuring crimes of harassment and stalking are effectively investigated.

In the 39 forces that used PINs at the time of our inspection, we examined 270 cases in which a PIN (or a similar alternative) had been issued.

We found compelling evidence in some cases that victims had not been properly protected, no thorough investigation had taken place and there was no positive action to protect the victim. Many of the cases we examined featured victims of domestic abuse.

UNDER EMBARGO UNTIL 00.01 ON WEDNESDAY 5 JULY 2017

In addition, we also saw evidence of the use of PINs when we examined a sample of cases that had been charged as harassment or stalking in the six forces we visited as part of the fieldwork for this inspection (see 'About this inspection').

The police received an anonymous call to say that a man had entered the address of his ex-partner while she was out and had armed himself with a knife. The man was intending to cut the woman's throat when she returned. Police attended and arrested him. No crime was recorded. Investigative leads were not followed up and the case was closed by issuing the man with a PIN.

Following a brief relationship which had ended, the victim was subjected to stalking behaviour by her ex-partner. This consisted of continually calling and texting the victim (sometimes from different phone numbers), sending the victim gifts and turning up at the victim's place of work, the nursery that her child attended and her home address. The police were called and issued a PIN. The behaviour did not stop but escalated, and continued for another three months before the victim called the police again. The police charged the ex-partner but he breached the conditions of bail a number of times before the court case concluded.

We found many examples of inappropriate use of a PIN, where what was required was a robust investigation with positive action to protect the vulnerable victim. Instead, a PIN had been issued as a means of 'solving' the crime, with little consideration of the likely need for the future protection of the victim.

A victim who worked in a bank reported to police that a male stranger kept visiting her at work, leaving gifts for her and waiting for her to finish work before following her to a bus stop. The same man had previously acted in a similar way with the victim's work colleague. The victim asked to be transferred to another bank branch some distance away, only for the man to track her down and begin to act in a similar fashion. The victim confronted the man, who became angry. No risk assessment took place. The police did not arrest or interview the man, but instead issued him with a PIN.

In gathering evidence as part of the inspection, we also heard from victims and victims' groups about their continuing concern about the use of PINs.

A number of victims told us that after the issue of a PIN the behaviour continued, as the following example shows.

We heard from a woman who had been harassed by her ex-partner. She told us that the perpetrator was issued with a PIN, but he then made contact again. The police warned him and reminded him about the previous issue of the PIN. In this case, the harassment and stalking escalated and the offender was eventually convicted of harassment and issued with a restraining order.

Views have been expressed that PINs can be useful tools in stopping harassment.⁸² We have, however, been unable to find any research that proves this view is correct or on whether issuing a PIN is more or less effective than any other form of police action (informal or otherwise).

However, the more serious concern is that there is evidence⁸³ that suggests that PINs have been used inappropriately in cases which have progressed to homicides or other serious crimes.

There are also a number of other problems with PINs. We detail these below.

Forces have different approaches to the use of PINs and some have decided not to use PINs at all. Therefore, it is difficult to see how the College of Policing can accommodate these different approaches in one revised Authorised Professional Practice. Some forces may choose not to adopt national practice.

In our inspection we found that some forces were unable to give us accurate information about how many PINs had been issued, despite a specific recommendation in the Home Affairs Committee report on Police Information Notices in 2015:

“Each force should publish the number of PINs issued on their websites on a monthly basis. The Home Office should collate and publish annual data about the number of PINs issued by each force, including the number of cases in which repeat victimisation was reported following the issuing of a PIN, and the number of prosecutions that followed.”⁸⁴

⁸² *Police Information Notices*, House of Commons Home Affairs Committee, HC 901 2014–15, 8 March 2015.

⁸³ *Police Information Notices*, House of Commons Home Affairs Committee, HC 901 2014–15, 8 March 2015, Assistant Chief Constable Shewan evidence, page 5; and *Exploring the relationship between stalking and homicide*, J. Monckton-Smith, K. Szymanska and S. Haile, University of Gloucestershire, Suzy Lamplugh Trust, 2017.

⁸⁴ *Police Information Notices*, House of Commons Home Affairs Committee, HC 901 2014–15, 8 March 2015, page 4.

The issue of a PIN can in certain circumstances seem unfair to the person being accused of the behaviour concerned. This was again noted by the Home Affairs Committee report on Police Information Notices in 2015:

“The lack of any procedure for appealing against a PIN can feel very unfair to recipients. As already specified in the guidance, the intended recipient of a PIN should at least be given the opportunity to give their account of the situation before a police decision is made on the issuance of a PIN. This is not happening in many cases at the moment. Each police force should provide details of the complaints process to recipients alongside the original PIN.”⁸⁵

We found little evidence to suggest that anything had changed in regard to the above since this report was published.

As PINs are a matter for individual police forces, there is no information-sharing between forces, either regarding vulnerable victims or offenders who have received a PIN. There is no current facility to circulate this information on the Police National Computer.

Therefore, it is possible that an offender could be given a PIN multiple times in different force areas with no individual force knowing about the actions of the others. In some forces, due to recording problems, we found that it would have been possible for an offender to have been given numerous PINs within a force area without this being highlighted to other officers. It is possible that in these circumstances the escalation of the offending behaviour would be missed.

PINs may also be confusing for victims. As part of HMIC’s annual PEEL effectiveness inspection, focus groups with victims of domestic abuse took place. It was clear that some victims (incorrectly) believed that a PIN had some form of legal standing, and that to breach a PIN was a criminal act that would necessarily result in arrest and positive action.

There are systemic and enduring problems with PINs. PINs act as a potential barrier to effective investigation, and are likely to remain so despite the best intentions of the revised guidance of the College of Policing.

Recommendation

- Chief constables should stop the use of Police Information Notices and their equivalents immediately.

⁸⁵ *Police Information Notices*, House of Commons Home Affairs Committee, HC 901 2014–15, 8 March 2015, page 4.

We recognise that to remove PINs from use may leave a gap in the options available, particularly for those victims who do not want to support police action but just want the behaviour to stop. However, PINs could be replaced by an order for harassment crimes similar to the proposed Stalking Protection Orders (SPOs), which we discuss below at page 60.

In addition, in some police forces stopping the use of PINs may affect their investigative resources. For example, it may mean that officers spend longer investigating crimes, rather than seeking to ‘close down’ cases before a thorough investigation has taken place.

As a consequence of more thorough investigations:

- the risks to victims should be better assessed and managed;
- more perpetrators should be brought to justice, particularly in cases of domestic abuse; and
- victims should be better protected through the use of bail conditions and restraining orders.

All of the above outcomes will have a positive effect on victims of harassment and stalking.

Specialist support

Since 2014, it has been the responsibility of police and crime commissioners to ensure adequate provision of support services for victims.

The right support for victims of crime is of paramount importance to ensure their continued safety and co-operation. A report in 2016 by the Victims’ Commissioner⁸⁶ highlighted the importance of a trained and professional single point of contact service with sufficient knowledge of the criminal justice system as an effective way of providing emotional support and timely and accurate information for victims.

Victim support services provide general support to victims of crime, such as reassurance and practical crime prevention advice, but may not have sufficient training or expertise to understand fully the negative effect of the harassment and stalking behaviour on the victim.

Specialist stalking support workers, where available, should have received specific stalking training. They will be better placed to identify the risks to victims, in particular of any escalation of behaviour by the perpetrator, and to help victims to make more effective safety plans.

⁸⁶ *What works in supporting victims of crime*, E. Wedlock and J. Tapley, Victims’ Commissioner, London, 2016.

Referral to support has been shown to improve outcomes for victims through better victim participation in the criminal justice process, and to lead to a higher proportion of guilty pleas and guilty verdicts.⁸⁷

In our case assessments, we found no evidence that the victim had received a referral (or offer of referral) to the victim support service in 25 of 112 cases examined (22 percent).⁸⁸ Additionally, there was no evidence that the victim was referred to specialist support agencies in 55 of the 112 cases reviewed (49 percent).⁸⁹

Although in most forces there were good referral pathways to independent domestic violence advisers (IDVAs)⁹⁰ for victims of domestic abuse, this was sometimes only for those cases that had been assessed as high risk. This meant that, depending on the risk assessment, victims were sometimes not referred or directed to specialist advice and support.

We were told by police forces that in most areas there were no specialist support agencies for victims of stalking outside a context of domestic abuse.

In two of the forces visited, we found that effective commissioning and joint working had resulted in the use of a specialist service for victims of harassment and stalking.

Hampshire's independent stalking advocacy service provides support and advice to both victims and agencies that work with victims of stalking. The independent stalking advocate is a highly trained specialist who works closely with other support agencies, including IDVAs, and the constabulary's single points of contact (SPOCs) for stalking. Referrals to the service are made by the police as well as other agencies.

The service ensures that the safety of the victim is prioritised and uses a specific stalking screening tool to assess risk. The advocate will provide support, advice and safety planning to victims throughout the criminal justice process as well as afterwards. For those cases that are identified as very high risk, which are heard at the Hampshire Stalking Clinic, the advocate works closely with victims to ensure that the voice of the victim is heard throughout this process.

Nationally, there are a small number of independent specialist services that provide valuable support and advice for victims of harassment and stalking as well as training and advice to police forces, CPS and other agencies. Many of these services

⁸⁷ 'The impact of victim advocacy on the prosecution of domestic violence offences: Lessons from a realistic evaluation', H. Taylor-Dunn, *Criminology & Criminal Justice* 16 (2016), pages 21–39.

⁸⁸ In one case it was not known if the victim had received a referral (or offer of referral) to the victim support service.

⁸⁹ In two cases it was not known if the victim was referred to specialist support agencies.

⁹⁰ IDVAs are victim workers with a main purpose of safeguarding high-risk victims of domestic abuse.

form part of a wider National Stalking Consortium, which aims to raise awareness of the dangers of this type of offending.

Suzy Lamplugh Trust⁹¹

The Suzy Lamplugh Trust provides a range of services for victims of stalking throughout the United Kingdom, including:

- the National Stalking Helpline, which provides support, advocacy and advice for victims;
- education and training; and
- campaigning.

Paladin⁹²

Paladin provides a range of services for high-risk victims of stalking in England and Wales, including:

- advocacy and support for victims of stalking;
- raising awareness of dangers and risks of stalking;
- training professionals; and
- campaigning.

Network for Surviving Stalking⁹³

The charity Network for Surviving Stalking (NSS) represents UK stalking victims and their families. Established by stalking victim Tracey Morgan nine years ago, NSS listens to the views of victims and professionals and uses their knowledge and experience to help others. NSS helps run the National Stalking Helpline.

Victims' groups told us that there were inconsistencies between police forces. The victims' groups for stalking sometimes encountered reluctance by investigating officers to share information, and found that police forces did not have a consistent referral process.

⁹¹ Suzy Lamplugh Trust. See: www.suzylamplugh.org

⁹² Paladin - National Stalking Advocacy Service. See: <http://paladinservice.co.uk>

⁹³ Network for Surviving Stalking. See: www.nss.org.uk

In addition, we were told that there were sometimes difficulties in contacting the force stalking single points of contact. We consider single points of contact later in the report, because this system could be better used to improve outcomes for victims.

Therefore, we have concluded that support for victims of harassment and stalking crimes can be improved in two main ways:

- more provision of local specialist victim support; and
- better engagement by police forces with national support agencies.

Crime prevention advice

Effective crime prevention advice is important for victim reassurance, to help prevent further offences and to secure evidence of further offending if it occurs.

In the cases we reviewed, we found evidence that victims had been given some form of prevention advice in 48 out of 112 cases (43 percent).

In some cases, we found that prevention advice was unsafe and might increase the risks to the victim. In other cases, the effect of the advice was to extend the risks to victims' families, as the case below shows.

The victim had experienced numerous texts and phone calls of a threatening nature, over a period of eight months following separation from her partner. The police advised the victim simply to block the perpetrator's number. The perpetrator then started to contact her through the children, by texting and calling them. The perpetrator put pressure on the children to get the victim to return his calls and texts. The perpetrator was initially dealt with through the issue of a PIN and words of advice, before finally being arrested.

One victim told our researcher that she had been advised to stop using social media as a way to end the harassment:

“It wasn't her (the perpetrator's) fault for sending abusive Facebook messages, it was my fault for being on Facebook ... And the only way to stop these messages is if I deactivate my Facebook account, and come off social media. I didn't think that was very fair at all.”

We were also told by victims' groups that police officers sometimes advised victims to change their phone numbers, or not to check their Facebook account. Such advice not only fails to recognise that this may cause the perpetrator to find other ways of offending, but it also does not allow the victim to monitor and understand the nature of the risks that they face and report them.

The College of Policing practice guidance for investigating harassment and stalking provides little practical prevention guidance for officers to give to victims about online offending. The supplementary stalking guidance does provide some limited advice to officers, but this could be improved.

Recommendation

The College of Policing, when compiling revised harassment and stalking Authorised Professional Practice, should include improved guidance to officers on crime prevention advice for victims, particularly about online offending.

Initial victim care

The victims of harassment and stalking crimes deserve the highest standards of care and protection. This requirement continues throughout the criminal justice process, but it is imperative that the police get this right at the first opportunity.

Many of the victims we spoke with recognised the enormous pressures on the police and criminal justice system. When asked for suggestions for improving services, they told us that improvements which would have the greatest positive effect for them would be the early recognition of the signs of harassment and stalking.

One victim told us:

“So if they’d had looked at it as a broader picture, and not just on a specific event, I think it would have helped me more, and they could have helped me more in that respect.”

Another victim we spoke with said:

“At least, even if they weren’t able to, um, give me, like, a proper interview or anything, but just to just spare me ten minutes to just speak to me and say, y’know, ‘Yes, we realise this is upsetting you. We’re not ignoring you, we want you to come back so we can spend more time with you’.”

In our review of 112 case files, we found that victim care was not good enough in 106 (95 percent). We have cited a number of case studies in this report and a lack of victim care is a consistent theme.

The recording of a crime is an essential first stage in the process of victim care. If a crime is not recorded at all, then it is unlikely that the victim will be referred to victim support services. We have detailed above why we are concerned about some aspects of crime-recording.

When a victim makes an allegation of harassment and stalking, and the identity of the perpetrator is established, the subsequent decisions made by the police and prosecutors are of vital importance to the safety of the victim.

In some cases officers had invited perpetrators to attend police stations to give their accounts, otherwise known as voluntary interviews, rather than using a power of arrest. Not only did this give entirely the wrong impression of the seriousness with which the police were treating the case, it also meant that bail conditions could not be imposed to protect the victim while the investigation progressed.

The use of voluntary interviews also extended the time taken to investigate offences, because appointments were sometimes made at the convenience of the alleged perpetrator and the investigating officer, rather than putting the needs of the victim first.

In some cases that we examined, investigations had ended in the use of a PIN, sometimes despite sufficient evidence to either deal with the allegation by way of an out-of-court disposal or charge. We have detailed above why we are concerned that the use of a PIN can sometimes mean victims are not given adequate protection against future victimisation.

Sometimes a number of the above problems were found in the same case. This had the effect of compounding the risks to victims and leaving them vulnerable to repeat victimisation and serious harm throughout the criminal justice process, as well as afterwards.

We heard from victims who felt let down by the criminal justice process that had left them at risk and in danger:

“After my experience I personally felt like I should never have opened my mouth. I don’t feel I was taken seriously or my concerns and this resulted in me being attacked even after a restraining order was put into place. Even after contacting the police about being attacked once again I felt as though I wasn’t taken seriously.”

The victims that we spoke with corroborated what we found in the cases that we assessed. There is clearly much work to do to provide victims with a better service.

Investigation

Harassment and stalking crimes can be complex. The course of conduct of the perpetrator means the offences may have taken place over a significant period of time. Offences now also increasingly involve the use of digital media. Many crimes involve vulnerable victims, requiring officers to have specialist interview skills.

We found a variety of methods by which forces allocated crimes for investigation. In one force, domestic abuse crimes were allocated based on the DASH risk assessment, with low- and medium-risk crimes being allocated to frontline officers. However, the level of complexity of the crime investigation itself was not systematically assessed to establish whether frontline officers had the skills, experience and/or time to investigate the crime effectively.

In addition, forces that do use a risk assessment score from the DASH to allocate investigative resources may not use a DASH for non-domestic abuse victims of harassment and stalking. This means that the decision-making in these cases is inconsistent and subjective. One consequence is that victims of non-domestic abuse harassment and stalking may not have their cases investigated by officers who have received enhanced investigative training.

Of the 112 cases examined, 84 cases (75 percent) were dealt with by an officer who was not from a Criminal Investigation Department (CID) or specialist investigation unit. In 60 of the 112 cases (54 percent), the investigator was from a response⁹⁴ or neighbourhood⁹⁵ team.

In one force, all of the stalking crimes that we assessed had been dealt with by frontline officers. Other serious cases which were clearly stalking but had been treated as harassment had also been dealt with by frontline officers.

The victim reported that the perpetrator had been following her, calling at her house and had made threats to both her and her boyfriend. The victim was more than eight months pregnant. No risk assessment or management plan was completed. The police did not recognise stalking and charged the perpetrator with section 2 harassment. The CPS did not amend the charge at initial review. The perpetrator had a previous conviction for rape of a different victim and had two previous convictions for breach of a restraining order, one of which was for the rape victim.

In the case sample, 65 of the 112 cases (58 percent) we assessed had delays in the investigation that were avoidable.

The negative effect of delayed investigations on victims is significant. Delays may lead to increased anxiety, repeat victimisation and/or may lead to the victim becoming disillusioned and deciding not to support the investigation.

⁹⁴ Officers whose primary responsibility is to respond to calls for service by members of the public.

⁹⁵ Officers who are allocated to dedicated areas.

The main factors that affect allocation of investigations are crime type, risk, complexity and availability of resource. When allocation is not based on all of the above factors, then victims may be let down by the investigative response.

The College of Policing practice guidance for harassment and stalking covers investigative actions in detail and there are numerous linked guidance documents. However, the supplementary stalking Authorised Professional Practice does not detail investigative actions in stalking cases.

Our researcher was told by one victim:

“He was waiting for me. Now, I got home and phoned the police straight away, and I said ‘Look, there’s CCTV right outside that supermarket.’ Police never bothered to get the CCTV.”

If our recommendation regarding the use of a risk assessment in all harassment and stalking cases is implemented, it will enable forces to see the risks and complexities of the case more clearly. They will then be able to take more informed decisions regarding the resource allocation for the investigation.

Recommendation

- The College of Policing, when revising the harassment and stalking Authorised Professional Practice, should highlight the complexities and risks associated with harassment and stalking offences and advise forces to consider these as part of the crime allocation process.

Power of search

The less serious offences of harassment contrary to section 2 of the Protection from Harassment Act 1997 and stalking (section 2A of the Act) are summary only offences, meaning that the cases can only be heard in the magistrates’ court. The law does not ordinarily allow officers to search premises for evidence when investigating such offences.

However, the 2012 stalking legislation introduced a provision to allow officers investigating section 2A Protection from Harassment Act 1997 stalking offences to apply to a magistrate for a warrant to enter and search premises for evidence.⁹⁶

In the cases examined, we did not see any evidence that officers were aware of this power. The forces we visited did not gather this information as part of any routine performance management process. From a national perspective, the Ministry of

⁹⁶ Section 2B, Protection from Harassment Act 1997.

Justice does not keep data on police forces' applications to search premises under stalking legislation.

Therefore, we are unable to say how often and in what circumstances this power of search has ever been used. In view of the relatively small number of stalking offences recorded under section 2A Protection from Harassment Act 1997, it is reasonable to conclude that the power has not been widely used. The result of this is that investigating officers and the CPS will not necessarily be in possession of all the facts when building cases, and a successful outcome for the victim is therefore less likely.

Recommendations

- Chief constables should ensure that officers are aware of, and use appropriately, the powers of entry and search in respect of offences of stalking. Chief constables should also ensure that adequate records of these searches are compiled for audit and compliance purposes.
- The College of Policing, when compiling revised stalking Authorised Professional Practice, should include the use of data on the power of search in stalking cases as best practice in audit and performance arrangements.

Outcomes of investigations

The Home Office publishes the outcomes of recorded crimes, including harassment and stalking. Data show the most common outcome of both harassment and stalking crimes was evidential difficulties where the victim does not support action.⁹⁷

⁹⁷ Includes evidential difficulties where the suspect was/was not identified and the victim does not support further action.

Table 1: Harassment and stalking recorded outcomes in the 12 months to 31 December 2016⁹⁸

Outcome Group	Harassment	Stalking
Evidential difficulties (victim does not support action)	39%	33%
Evidential difficulties (suspect identified; victim supports action)	23%	28%
Investigation complete – no suspect identified	19%	11%
Charged/Summoned	11%	20%
Prosecution prevented or not in the public interest	2%	2%
Out-of-court (informal)	2%	1%
Out-of-court (formal)	2%	3%
Further investigation to support formal action not in the public interest – police decision	1%	1%
Responsibility for further investigation transferred to another body	0%	1%
Taken into consideration	0%	0%

Source: Home Office

NB: Numbers may not total to 100 due to rounding

In addition to this inspection, HMIC undertakes inspections of all police forces in England and Wales on an annual basis to assess their effectiveness. The national effectiveness report in 2016⁹⁹ raised concerns about the use of the outcome “Evidential difficulties (victim does not support action)”, which included:

- The language of “victim does not support further action” is unhelpful. The reasons that victims may not support police action are complex and varied. In some cases, it is because they are vulnerable and unable, rather than unwilling. It should be the duty of criminal justice agencies to seek justice on behalf of the victim, rather than of the victim to support the actions of the police and other agencies.
- High proportions of this outcome might indicate that the force is not sufficiently supporting victims or is in some way causing them to be less likely to work with the police.
- Another explanation for high proportions of this outcome might be that this is a convenient category to use to stop an investigation. Officers with high workloads and limited time to pursue lines of enquiry may, on occasions, use this category to clear some of their cases.

These concerns were the basis of an HMIC recommendation to the Home Office and police forces, and will be followed up in the 2017 effectiveness inspection.

⁹⁸ The outcome volumes and rates shown relate to outcomes recorded in the 12 months to December 2016 regardless of when the associated crime was recorded. These provide a useful indication of police activity in resolving crime. This includes data from British Transport Police.

⁹⁹ *PEEL: Police effectiveness 2016. A national overview*, HMIC, London, 2017. See: www.justiceinspectorates.gov.uk/hmic/publications/peel-police-effectiveness-2016/

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As evidential difficulties (victim does not support action) formed the largest percentage outcome for both harassment and stalking investigations, it is reasonable to conclude that some of the problems listed above are relevant to harassment and stalking investigations.

3. Criminal justice process

Stalking Protection Orders

In December 2015, the Government carried out a consultation on a proposed Stalking Protection Order (SPO)¹⁰⁰ and in December 2016 announced an intention to introduce legislation.¹⁰¹ The aim of this new order is to protect stalking victims at the very earliest stages of an investigation before a prosecution can begin.

In circumstances of domestic abuse, victims can be protected by Domestic Violence Protection Notices and Orders¹⁰² (DVPNs and DVPOs). It is intended that SPOs will fill the gap for those victims who experience stalking from a perpetrator with whom they have not had an intimate or familial relationship.

An important strength of the proposed SPOs and the current DVPOs is that they do not require the consent of the victim.¹⁰³

Police forces can also apply for anti-social behaviour injunctions.¹⁰⁴ Injunctions can seek to prevent harassment, but they are generally seen as being associated with anti-social behaviour rather than harassment and stalking crimes.

We welcome and support the intention to introduce SPOs. However, the use of SPOs will be limited for the reasons we have explained above, namely that SPOs will require that the behaviour of stalking is recognised by criminal justice practitioners.

The proposed SPOs will also do nothing to protect victims of harassment, in particular vulnerable domestic abuse victims who have left a relationship but who are experiencing behaviour that may fall short of (or which is not recognised as) stalking. Annex C contains a flow chart to show how this might happen.

A similar order could be adopted for harassment crimes, as is intended for stalking. This in itself will close a gap in the current proposals for SPOs, and the existing DVPOs, to further protect vulnerable victims. It would also mean that police officers

¹⁰⁰ *Introducing a Stalking Protection Order – a consultation*, Home Office, London, December 2015.

¹⁰¹ *Introducing a Stalking Protection Order – a consultation. Summary of responses*, Home Office, London, December 2016.

¹⁰² DVPOs and DVPNs were introduced to all forces in 2014 as a result of the Crime and Security Act 2010.

¹⁰³ Victims, or their representatives, can currently obtain a non-molestation order under section 42(2) or section 45(1) (ex parte applications) Family Law Act 1996, or a harassment injunction under section 3 Protection from Harassment Act 1997.

¹⁰⁴ Under Part 1, Anti-social Behaviour, Crime and Policing Act 2014.

have a preventative tactic that does not need the consent of the victim and could be used instead of a PIN.

The circumstances in which such an order would be useful are given in the following case study.

The victim and the perpetrator had been in a relationship which had ended. The perpetrator had not used or threatened violence towards the victim, but the perpetrator had assaulted the victim's son from a previous relationship. The victim began to receive unwanted contact from the perpetrator by phone and email. Police were called and issued a PIN. However the behaviour continued for another two months before the victim called police again. The police asked the perpetrator to attend a voluntary interview, and he was then summonsed to appear at court by way of postal requisition nearly three months later.

The use of a statutory order to deal with crimes of harassment would resolve many of the current problems with PINs. For example, the numbers of orders applied for would be more easily gathered and published, and their use made more visible to police officers, thus enabling a more comprehensive risk assessment in respect of both the victim and perpetrator.

However, it is important that in order to avoid some of the problems we have found with PINs, it should be made clear that applications for orders should not be made instead of thorough investigations, but alongside them.

In its consultation on the introduction of an SPO, the Home Office asked whether a new order should be established to protect victims of both harassment and stalking. This consultation subsequently reported:

“69% of respondents believe that a new order should protect victims of harassment as well as stalking. 21% answered ‘don't know’ (including nil responses) and 11% answered ‘no’. Of those who answered ‘yes’ many respondents believed that there was confusion between stalking and harassment and that there was a risk of stalking victims being left unprotected due to cases not being recognised as stalking early enough. Others believed that stalking and harassment were linked and/or the same and that the order should therefore cover both.”¹⁰⁵

Therefore, of those respondents who expressed an opinion, the vast majority favoured an order for both harassment and stalking offences. Despite this outcome, the announcement of the intention to introduce protection orders related only to

¹⁰⁵ *Introducing a Stalking Protection Order – a consultation. Summary of responses*, Home Office, London, December 2016.

stalking offences. This is a missed opportunity to increase police powers and will leave many vulnerable victims without protection.

Recommendation

- The Home Office should introduce legislation to create protection orders for harassment crimes.

The national stalking protocol

In September 2014, the CPS and the Association of Chief Police Officers established a protocol for the appropriate handling of stalking offences.¹⁰⁶ The purpose of the 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 the CPS in stalking cases;
- achieve improved and consistent performance in the investigation and prosecution of stalking offences; and
- 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.

We found that there was poor compliance with this protocol by the police, and prosecutors rarely brought this to the attention of the police. Many officers we spoke with were unaware of the existence of the protocol or had limited knowledge of its content. Prosecutors demonstrated better knowledge of the protocol but were not proactive in its implementation.

¹⁰⁶ *Protocol on the appropriate handling of stalking offences between the Crown Prosecution Service & ACPO*, Association of Chief Police Officers and Crown Prosecution Service, London, September 2014.

The perpetrator and the victim were college classmates three years before the incident. After college, the perpetrator returned to his own country, while the victim went on to university. The defendant then started to send the victim unwanted Facebook messages. This continued over a two-year period. The defendant posted pictures from the victim's Facebook page onto his own, acting as if they were in a relationship. The victim never responded and eventually 'blocked' him, but he created different profiles and continued messaging her. The perpetrator then travelled to England and turned up at the university campus. He sent her a message saying that he wanted to stay with her. She saw him on campus with some suitcases. She fled but he followed her, which made her afraid. She was able to alert security and the perpetrator was arrested. The perpetrator was charged but the police file contained no risk assessment or safety plan. The perpetrator was bailed from court and the CPS did not appeal this decision. The charge was inappropriately changed to harassment but the case was later dismissed.

One of the provisions of the protocol relates to the domestic abuse, stalking, harassment and honour-based violence risk identification, assessment and management model (DASH) and the stalking risk screening tool:

“6.2 The police will also ensure that the DASH and the stalking risk screening tool are supplied to the prosecutor at the pre charge stage.”¹⁰⁷

One of the purposes of this important provision is to ensure that prosecutors are aware of the full facts behind any risks faced by the victim, and therefore enable informed decisions to be made about additional measures to protect the victim. These could include the imposition of bail conditions, whether special measures are required, or whether it would be appropriate to use a witness summons or even a warrant to ensure attendance of the victim at court.

We found that when the DASH was completed, it was seldom provided to the CPS to inform the charging decision. In one force, some officers believed wrongly that the risk assessment should not be provided to the CPS because it would be disclosed to the defence.

However, as we have described above, some forces visited did not complete a risk assessment in relation to stalking offences and therefore it was impossible for them to comply with the protocol in this regard.

¹⁰⁷ 'Protocol on the appropriate handling of stalking offences between the Crown Prosecution Service & ACPO', Association of Chief Police Officers and Crown Prosecution Service, London, September 2014, page 5.

We were concerned that a national protocol had been produced that could not be, and has not since been, complied with by all forces, especially in such an important aspect of criminal justice practice as victim safety.

It is notable that the stalking protocol was introduced after the College of Policing stalking Authorised Professional Practice. There has been no revision of the harassment and stalking practice guidance since the introduction of the protocol, so there has been no opportunity to incorporate it into revised guidance. This may in part explain some of the problems that we have found regarding the awareness of, and compliance with, the protocol.

At the time of this inspection, the stalking protocol was not contained within the stalking and harassment thematic section of the College of Policing Authorised Professional Practice. However, the protocol was specifically mentioned, and a link provided to it, in the introduction to the CPS legal guidance on stalking and harassment.¹⁰⁸

The protocol also details the requirement for the police to provide a copy of the victim personal statement to the CPS. This was not always done in the cases we reviewed. We have considered this in more detail below in 'Case file quality'.

Recommendations

- The National Police Chiefs' Council lead and the CPS policy lead for harassment and stalking should review the stalking protocol and re-issue it to forces and CPS Areas.
- Chief constables and CPS Area leads should monitor and ensure compliance with the stalking protocol.

In view of our findings regarding risk assessments above, before conducting such a review the National Police Chiefs' Council lead should work with forces to ensure that they can comply with the protocol, and also with the College of Policing to ensure that the protocol is incorporated into any revised Authorised Professional Practice.

¹⁰⁸ Stalking and Harassment, Crown Prosecution Service, 2017. See www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/#a01

Protecting victims during the criminal justice process

At the conclusion of an investigation, in cases in which a perpetrator has been charged, the victim requires continuing protection while the case progresses through the criminal justice system.

Some forces used a process called 'postal requisition' in some of the cases that we examined. This is a process whereby the perpetrator is sent a letter summoning him or her to attend court.

In a similar way to voluntary interviews, the use of postal requisition prevents bail conditions being placed on the perpetrator to protect the victim, and in some of the cases we examined it significantly added to the time taken to bring the matter to court.

The ability of prosecutors to argue that bail conditions are necessary and proportionate to protect the victim when the case is heard at court is limited when the police have already decided not to impose bail conditions.

In addition, the lack of positive action by the police in imposing bail conditions when appropriate could in certain circumstances allow the perpetrator to make representations regarding the seriousness of the behaviour alleged to have taken place.

In our case assessments, other problems that contributed towards the lack of victim care after cases had been charged were:

- special measures assessments not taking place;
- police failing to request restraining orders; and
- police not consulting victims about what conditions for a restraining order were required.

In addition, some prosecutors did not protect victims in:

- failing to seek bail conditions or remands in custody, or not appealing when an application for a remand in custody was refused;
- not communicating with the police when important items were missing from files; and
- failing to apply for restraining orders on conviction or acquittal.

A couple had separated because of earlier domestic abuse including assault and harassment. The perpetrator then texted the victim and turned up outside her home. He was issued with two PINs two months apart and told not to contact the victim or their child except through solicitors. He continued to attend the school and the victim's home. Postal requisition was used to summons the perpetrator to court. The charging lawyer did not consider the risk to the victim given the previous history. Prosecutors at court did not identify the lack of protection for the victim, and the perpetrator was remanded on unconditional bail. The victim complained months later that there was no protection in place and nothing was being done to address the defendant's continued behaviour. The case was subsequently listed at court for the imposition of bail conditions.

Case file quality

The ability of a police force to present the results of its investigations to the CPS, including the risks faced by the victim, is of critical importance. The CPS must be in a position to assess the evidence easily and advise on remedial investigative action and/or the correct charge.

The CPS must also be able to understand the risks to, and the particular needs of, the victim. For this reason, the national stalking protocol was agreed between the police and the CPS. We considered this in more detail above.

We have reported on some aspects of the quality of case files in previous inspections¹⁰⁹ and most notably in the report *Witness for the prosecution: Identifying victim and witness vulnerability in criminal case files*,¹¹⁰ which concluded:

“We were concerned to note that in one third of the case files that we examined risks to vulnerable and intimidated witnesses were not properly dealt with either by the police or prosecutors. We conclude therefore that the identification of vulnerability and the management of associated risks to

¹⁰⁹ *Stop the drift: a focus on 21st century criminal justice*, HMIC, London, October 2010. See: www.justiceinspectorates.gov.uk/hmic/publications/stop-the-drift/; *Stop the drift 2 – a continuing focus on 21st century criminal justice, a joint review by HMIC and HMCPSI*, HMIC, London, 2013. See: www.justiceinspectorates.gov.uk/hmic/publications/stop-the-drift-2/

¹¹⁰ *Witness for the prosecution: Identifying victim and witness vulnerability in criminal case files*, HMIC, London, 2015. See: www.justiceinspectorates.gov.uk/hmic/publications/vulnerability-in-criminal-case-files/

victims and witnesses by both the police service and the CPS need to improve.”¹¹¹

In our case assessments there had been no improvement in the identification of vulnerability. In the 112 case files reviewed, there were 51 cases (46 percent) for which a special measures assessment was required but that had not been completed.

Victim personal statements¹¹² are required to be submitted to the CPS under the ACPO-CPS Protocol and the CPS guidance on stalking¹¹³ when a charging decision is sought, or in police charged cases when the prosecution file is sent to the CPS.

The purpose of a victim personal statement is to:

- give victims the opportunity to provide a more structured response about how the crime has affected them – physically, emotionally, psychologically, financially or in any other way;
- allow victims to express their concerns about bail or the fear of intimidation by or on behalf of the defendant;
- provide victims with a means by which they can say whether they feel that the crime was racially motivated or that their age, gender, faith, sexuality or disability played a part in the crime;
- provide victims with the opportunity of stating whether or not they wish to claim compensation or request assistance from Victim Support or any other help agency; and
- provide the criminal justice agencies with a source of information on how the particular crime has affected the victim (or in the cases of homicide, the family of the victim) and a practical way of ensuring that the sentencing court will consider (in accordance with section 143 of the Criminal Justice Act 2003) any harm that the offence caused.

¹¹¹ *Witness for the prosecution: Identifying victim and witness vulnerability in criminal case files*, HMIC, London, 2015, page 11. See: www.justiceinspectrates.gov.uk/hmic/publications/vulnerability-in-criminal-case-files/

¹¹² *Code of Practice for Victims of Crime*, Ministry of Justice, 2015. Available at: www.cps.gov.uk/legal/assets/uploads/files/OD_000049.pdf

¹¹³ ‘Protocol on the appropriate handling of stalking offences between the Crown Prosecution Service & ACPO’, Association of Chief Police Officer and Crown Prosecution Service, London, September 2014. CPS guidance on stalking and harassment, see www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/#a01

The victim personal statement is of critical importance to the criminal justice process, yet we found that such statements were not always sought and submitted.

We found that officers did not always understand the importance of taking a victim personal statement at the earliest stages of a prosecution, sometimes believing that the victim personal statement should be provided to the CPS only to inform sentencing.

This finding is corroborated by HMIC's annual assessment of the effectiveness of forces,¹¹⁴ which concluded that some forces did not have a clear approach on the most appropriate time to take victim personal statements – whether this should be at an early or later stage in the investigative process.

Victim personal statements are required to be submitted to the CPS for the charging decision. When this is not done, it is another missed opportunity to assess the correct charge of stalking as opposed to harassment, or to assess the negative effect of the offending in order to select a more serious charge if appropriate.

Of the 112 case files reviewed, a victim personal statement was taken in 73 cases (65 percent). In the 39 cases in which a victim personal statement had not been taken, there was evidence that the victim had been offered the opportunity to provide it in 21 cases. Consequently, in 18 cases reviewed, no victim personal statement had been taken and there was no evidence that the victim had been offered the opportunity to provide one.

Another implication for victims is that if a victim personal statement is not taken and the perpetrator pleads guilty at the first court appearance, the court will not have all the information available in order to consider the negative effect on the victim and impose an appropriate sentence.

In some of the cases reviewed, victim personal statements were not used effectively during the court process by the CPS. This meant that the voice of the victim was not always heard by the court.

In addition to using the victim personal statement effectively, the CPS must comply with a number of duties in relation to victim and witness care. The victims' code,¹¹⁵ Prosecutor's Pledge¹¹⁶ and other relevant policy guidance on the treatment of witnesses were complied with by the CPS in 70 of the 112 cases (63 percent).

¹¹⁴ *PEEL: Police effectiveness 2016 – A national overview*, HMIC, London, 2017, page 87. Available at: www.justiceinspectorates.gov.uk/hmic/wp-content/uploads/peel-police-effectiveness-2016.pdf

¹¹⁵ *Code of Practice for Victims of Crime*, Ministry of Justice, 2015. Available at: www.cps.gov.uk/legal/assets/uploads/files/OD_000049.pdf

¹¹⁶ *The Prosecutors' Pledge*. See www.cps.gov.uk/publications/prosecution/prosecutor_pledge.html

All necessary steps were taken by the CPS throughout the case to protect the victim, witness and public from harm in 88 of the 112¹¹⁷ cases (79 percent).

As already highlighted, the information relevant to a special measures application was not always provided by the police at charge. This would have enabled an appropriate application to be made during the 'not guilty anticipated plea' hearing at the magistrates' court when trial problems are often resolved.

However, when the information for a special measures application was correctly forwarded by the police, it was used appropriately by the CPS in the majority of cases that we reviewed. There were also instances when it was only a proactive advocate at court who made the application in case it was required in the absence of any other information.

In the file sample there were some victims who stated they had felt let down and disengaged from the process, and had even formally complained about the way they had been treated.

A victim was confronted in his home by a perpetrator who was angry at the victim's friendship with the perpetrator's ex-girlfriend. The victim then received phone calls and was sent threatening messages over social media. The victim stated he was so frightened he was moving away from the area. No risk assessment or safety planning took place. There was no consideration of special measures for the victim and no referral to specialist support services. The perpetrator was charged but acquitted. However, the victim was left furious at the verdict, and about the fact that the police admitted that they had not analysed the perpetrator's computers to prove who had sent the messages.

In the 112 case files reviewed, the overall police file quality from a CPS perspective was not good enough in about half of the cases. Examples included items missing from the file or action plans not having been responded to. Additionally, the overall quality of service provided by the police to the CPS was not good enough in over half of the case files reviewed. Examples included police failure to respond to queries or delays in the response. This indicates that the police supervision of case files is less effective than it should be.

Of the case files reviewed, the police did not always provide all the relevant background material at the pre-charge stage.

The ability of the police to present the outcome of an investigation to the CPS is of vital importance for the victim. Thereafter, the effectiveness with which the CPS uses

¹¹⁷ One case was not applicable as in the circumstances this question was not relevant.

the case file to achieve an appropriate outcome for the victim can have a powerful and long-lasting effect, both on the victim and the perpetrator.

None of the 112 cases that we assessed was dealt with well enough by the police and CPS. The quality of the case files themselves was a major factor in this.

Restraining orders

Restraining orders, imposed by a criminal court, prohibit perpetrators from doing anything specified in the order, for the purposes of protecting victims or potential victims. Section 5 of the Protection from Harassment Act 1997 enables a criminal court to make a restraining order following a conviction under either section 2 or section 4 of the Act. Since 2009, section 12 of the Domestic Violence, Crime and Victims Act 2004 extended the power to impose orders for any criminal offence, and on acquittal as well as conviction.

Restraining orders are a valuable tool in protecting victims from further harm. However, when orders are breached there should be proper consideration of the continued offending, instead of an assumption that the breach will be prosecuted ahead of substantive offences.

Ministry of Justice figures show that in 2015 more restraining orders were issued on conviction and acquittal than in 2014. Additionally, more people were prosecuted for breaches of restraining orders in 2015 than in 2014.¹¹⁸

In the case assessments, it was positive to note police requests for the CPS to apply to the courts for restraining orders to be imposed. These requests were mainly made through completing a box on the police summary of evidence form (MG5).

However, prosecutors told us that it was sometimes difficult to establish what conditions were appropriate to protect the victim, and whether the victim had been consulted as part of these considerations. This could mean:

- last-minute attempts to contact the officer in the case or the victim, to establish what conditions were required;
- prosecutors relying on assumptions about what may be appropriate; or
- prosecutors relying on standard conditions that did not take the victim's specific needs into account.

¹¹⁸ In 2015, 20,693 restraining orders were issued on conviction in England and Wales (compared with 19,410 in 2014) and 2,328 were issued on acquittal (compared with 2,062 in 2014). In 2015 there were 9,594 defendants prosecuted for breaches of restraining orders, with 8,631 convicted. This was an increase from the 8,506 prosecutions and 7,543 convictions in 2014. For full information, please see annex D – About the Data.

In the case files reviewed, the vast majority of cases that required a restraining order had one applied for and had one granted. This was positive.

In relation to applications for restraining orders in domestic abuse cases, the College of Policing Authorised Professional Practice states that the views of victims about restraining orders should 'preferably' be contained in a witness statement.

The College of Policing practice advice on investigating stalking and harassment states the information regarding a restraining order should be included in the 'case file evidence and information form' (MG6).

CPS guidance also differs and states that police should make representations regarding restraining orders using both MG5 and MG6 forms.

The guidance given to officers about the completion of case papers¹¹⁹ advises that sufficient details to justify the application for an order should be included on the MG5 form. However, in the forces that we visited we found that the MG5 form did not contain a space suitable for officers to note down both the proposed conditions for a restraining order and the rationale to justify them.

We therefore conclude that the national guidance is confusing and that the MG5 form in use is not fit for purpose, leading to errors and omissions. Both of these problems are contributing to a criminal justice response that can be improved.

The victim had received numerous threats from the perpetrator, including via social media and text. This had taken place over a three-month period before the police were informed. The perpetrator was quickly arrested and was remanded in custody due to the serious nature of the threats. The perpetrator pleaded guilty to section 2 harassment. There was no request by the police for a restraining order and this omission was neither identified nor remedied by the CPS.

Recommendation

- The College of Policing and the CPS should revise the summary of evidence form to ensure its consistent and appropriate use, and provide clear guidance on how it should be completed.

¹¹⁹ *The Prosecution Team Manual of Guidance for the preparation, processing and submission of prosecution files*, The Prosecution Team, ACPO and NPIA, London, 2011.

Prosecuting harassment and stalking cases

Along with an increase in recorded offences of harassment, there has been a corresponding increase in harassment prosecutions.

Ministry of Justice data¹²⁰ for England and Wales show that in 2015 there were 8,419 defendants prosecuted for section 2 Protection from Harassment Act 1997 offences of harassment without violence and section 4 offences of harassment – putting people in fear of violence. This compares with 7,875 in 2014.

However, there was not a similar rise in stalking prosecutions in 2015 compared with 2014, despite the rise in recorded stalking offences.¹²¹

There were similar numbers of overall prosecutions for stalking (1,102 in 2015 compared with 1,103 in 2014); there were more convictions overall and for the more serious stalking offences. Additionally, the conviction ratio rose for all types of stalking from 2014 to 2015.¹²² More needs to be done to understand why fewer stalking prosecutions took place and what is driving the fluctuation in the numbers of the separate stalking offences.

Charging decisions are regulated by the *Director's Guidance on Charging 2013* (DG5).¹²³ This guidance states that police do not have to refer 'summary only' cases (which can only be heard in magistrates' courts) to the CPS for charging advice provided that the case is not classified as domestic violence or hate crime under CPS policies. This would include cases of harassment under section 2 Protection from Harassment Act 1997 or stalking under section 2A of the Act.

¹²⁰ CPS data are for the financial year; Ministry of Justice (MoJ) data are for the calendar year. MoJ offenders convicted covers those convicted in 2015, who may have been prosecuted in previous years. MoJ conviction ratio is the number of defendants convicted divided by the number of defendants prosecuted (there may be some convictions in 2015 for cases that were prosecuted before 2015 and there will be some prosecutions in this data that are not yet completed at the Crown Court).

¹²¹ It should be noted that this may be attributable in part to delays between recording and prosecution.

¹²² There were 481 defendants prosecuted for section 2A Protection from Harassment Act 1997 offences in 2015, compared with 509 in 2014. The conviction ratio rose slightly, from 68 percent to 70 percent. In 2015, 74 defendants were prosecuted under the section 4A Protection from Harassment Act 1997 offence of stalking involving fear of violence, compared with 94 in 2014; there was a rise in the conviction ratio to 61 percent compared with 40 percent in the previous year. In 2015, 225 defendants were prosecuted under the section 4A offence of stalking involving serious alarm or distress compared with 218 in 2014, with 149 convicted compared with 109 in 2014. There was a rise in the conviction ratio to 66 percent compared with 50 percent in the previous year. For full information, please see annex D – About the Data.

¹²³ *The Director's Guidance On Charging 2013 - fifth edition*, Crown Prosecution Service, May 2013 (revised arrangements). See www.cps.gov.uk/Publications/directors_guidance/dpp_guidance_5.html

In the case file review, 20 cases were charged by the police. Of these, four should have been referred to the CPS for charging in accordance with the Director's Guidance. It is important that cases are sent to the CPS for authority to charge because it allows the CPS to consider the most appropriate charge taking into account the seriousness of the offending and the needs of the victim. However, in all 20 police-charged cases reviewed, the police decision to charge applied the *Code for Crown Prosecutors*¹²⁴ correctly.

In the cases of stalking we found that were inappropriately charged as harassment by the police, it was unlikely that CPS prosecutors would identify this, either when conducting initial reviews or when the case came to court.

The most appropriate charges were advised at the pre-charge stage in 70 of 88 applicable¹²⁵ cases (80 percent). There were a number of instances when the most appropriate charge would have been a stalking offence instead of the harassment charge put forward. There were also instances when the more serious 'either way'¹²⁶ stalking offence should have been charged instead of the 'summary only' alternative.

We found cases that had been submitted by the police to the CPS for charging advice in which harassment had been incorrectly identified as the most appropriate charge. In these cases, the CPS sometimes advised on the suggested charge of harassment, rather than establishing that stalking was the most suitable offence, as the following example shows.

The victim and perpetrator had been in a relationship for six months. The defendant forced his way into the victim's home that she shared with her mother and was removed by the police. On another occasion she awoke to find him in her bedroom. He sent numerous abusive text messages and there were many unanswered phone calls from an unknown number, which the victim blocked. This should have been identified as stalking. However, the charging lawyer's analysis was that if there were the text messages alone, the case would not amount to harassment. The lawyer also noted "To save a trial I would be willing to accept the messages would be harassing". However, no stalking charge was considered and the perpetrator was charged with section 2 harassment.

¹²⁴ *The Code for Crown Prosecutors* is a public document, issued by the Director of Public Prosecutions, that sets out the general principles Crown Prosecutors should follow when they make decisions on cases. See: www.cps.gov.uk/publications/code_for_crown_prosecutors/

¹²⁵ Cases were not applicable if the cases were charged by police or discontinued due to insufficient evidence.

¹²⁶ These are offences that can be tried either in the magistrates' courts or the Crown Court.

Section 2A offences comprise stalking, whereas section 4A offences involve stalking which includes the victim being put in fear of violence or in a state of serious alarm or distress, which has a substantial adverse effect on his or her day-to-day activities. Despite the Ministry of Justice figures regarding the reduction in prosecutions for the lesser stalking offence under section 2A Protection from Harassment Act 1997 and the increase in prosecutions under the more serious offences under section 4A of the Act, we found a number of serious cases that had been incorrectly charged as the less serious offence.

The perpetrator bombarded the victim with vile, abusive and threatening text and social media messages. This was despite the perpetrator having a previous caution and conviction for similar behaviour towards the victim. The perpetrator was charged with section 2A stalking despite the threatening nature of the messages and the significant distress that the behaviour had caused the victim over a prolonged period.

The effective preparation and presentation of a case by the CPS is vital for a successful result, and for achieving positive and appropriate outcomes for victims.

In the review of case files, the charging decision (MG3) included a proper case analysis and strategy in 32 out of 92¹²⁷ cases reviewed (35 percent); in 50 cases this partially met the needs of the case and in 10 cases it did not. The action plan of work that needed to be undertaken before a charging decision could be made, or after charge to build a case successfully, met a satisfactory standard in 36 of cases, partially met the needs of the case in 37 cases, and did not meet them in 13 cases.¹²⁸

It was noticeable that many items requested in the action plan should have been provided in compliance with the joint protocol and were necessary to inform the charging decision. However, Crown Prosecution Service Direct (CPS Direct)¹²⁹ often authorised charges without this information in order to progress the case and included the deficiencies in the plans provided to the police that set out remedial actions. The missing details were not always later provided by the police.

¹²⁷ The remaining cases were charged by the police and therefore not submitted for charging advice.

¹²⁸ The remaining cases did not have an action plan.

¹²⁹ CPS Direct provides charging decisions to all police forces and other investigators in England and Wales.

In a very poorly prepared case that alleged harassment in a domestic abuse context, the case file was submitted to CPS Direct for charging advice on three occasions. This resulted in action plans before a charge was authorised. Even after a charge was authorised, the CPS Area reviewing lawyer sent a request to the police for a number of items that had previously been requested in the action plans. This caused delay in the progression of the case, created wasteful duplication of effort and reduced the chance of a successful prosecution.

Victim and witness problems were clearly set out in the MG3 form in 20 cases; in 58 cases the MG3 form partially met the needs of the case and in 14 cases it did not.¹³⁰

We found evidence in the cases we examined that prosecutors sometimes accepted a guilty plea to harassment although the defendant was initially charged with stalking.

CPS guidance¹³¹ states:

“In general, we should proceed on the basis that if the behaviour is clearly indicative of stalking, then that is the appropriate charge and should not accept a plea to harassment simply out of expediency.”

The decision to accept pleas or a basis of plea was sound and in writing in eight out of 12 relevant¹³² cases reviewed. When proposing to stop the case or alter the charges, the police were consulted by the CPS in 19 of 30 relevant cases where it was practicable to do so.

Prosecutors told us that the similar maximum sentences for the section 2 harassment and section 2A stalking offences and the current lack of sentencing guidelines were reasons for a pragmatic approach to accepting pleas to harassment. We found varying practices in different CPS Areas on whether decisions to alter charges had to be approved by supervisors.

We were told by prosecutors that defendants offered to plead guilty to harassment in a desire not to be labelled as a stalker. Prosecutors cited additional reasons why pleas may be accepted for harassment rather than pursuing a stalking charge.

These were:

- the desire to avoid victims having to give evidence;
- the pressure from magistrates to avoid trials; and

¹³⁰ The remaining cases were charged by the police and therefore not submitted for charging advice.

¹³¹ *Stalking and Harassment*, Crown Prosecution Service, 2017. See: www.cps.gov.uk/legal/s_to_u/stalking_and_harassment/#a01

¹³² Relevant cases were those in which a defendant offered to plead guilty to a lesser or alternative offence.

- the likelihood of similar sentences on conviction.

The acceptance of pleas to harassment can fail to recognise the full effect of the offending behaviour on the victim, and the future risks to that or other victims. We therefore consider that the decision to accept a plea of guilty to harassment instead of stalking should only be made on the rarest of occasions and only when it has been suitably approved and after the victim and police have been consulted.

Recommendation

- The CPS should reinforce and reiterate guidance to prosecutors on accepting pleas to harassment instead of pursuing stalking charges.

There is a duty on the CPS to review cases continually, but there were a number of cases for which there was no further review for several weeks following a decision to charge on the threshold test.¹³³ There were also examples where the case was not reviewed until immediately before trial, which gave little time for remedial work to take place.

Of the case files reviewed, the lawyer or team exercised sound judgment and control of the case in 16 cases, partially in 52 cases and not at all in 22 cases.¹³⁴

The victim was repeatedly contacted by an ex-partner by way of phone calls. The perpetrator also befriended third parties on Facebook to monitor the victim and created a false Facebook account. After the offence was reported, the perpetrator was seen outside the victim's house. The victim made six statements and it was clear she was very scared. The perpetrator was arrested but breached his bail conditions a number of times. The police were sent a typed retraction letter with a poor signature at the bottom. The officer in the case was of the view that the perpetrator and his family had written this. At the CPS 'upgrade file review' discontinuance was proposed. It was decided that it was not in the public interest to issue a witness summons, even though there were two other witnesses supporting the prosecution case. The case was discontinued without speaking to the victim. The apparently false letter was not investigated further.

¹³³ This is a test applied by prosecutors when the suspect presents a substantial bail risk and not all the evidence is available at the time when he or she must be released from custody unless charged.

¹³⁴ The remaining cases were not relevant, for example when there was an early plea of guilty after a police-charged case.

Sentencing

The recent doubling of the maximum sentence for serious cases of stalking under section 4A Protection from Harassment Act 1997 from five to ten years is welcomed.¹³⁵ This should give courts the power to sentence the most serious perpetrators appropriately.

In March 2017, the Sentencing Council consulted¹³⁶ on the introduction of sentencing guidelines for ‘intimidatory’ offences and domestic abuse, which include harassment and stalking offences. This is a welcome but overdue step towards improving the criminal justice response to these offences.

Offender management

Perpetrators of harassment and stalking can be dangerous and can have complex needs. Offenders should be carefully managed in order to address their offending behaviour and reduce the risk of harm to the public.

Multi-agency public protection arrangements (MAPPA) mean the police, probation and prison services can work together with other agencies to assess and manage violent and sexual offenders in order to protect the public from harm. MAPPA are well established and exist in all police force areas.

In 2016, 37 stalking offenders and 93¹³⁷ harassment offenders received a sentence of 12 months imprisonment or more, and were therefore automatically eligible to be managed under the MAPPA process as ‘category 2’ offenders.¹³⁸ However, we do not know how many of these offenders were either referred to, or subsequently managed under, MAPPA.

As the number of automatically eligible offences is low, and the number of prosecutions for serious harassment and stalking is considerably higher, we can infer that a substantial number of potentially dangerous individuals may not be managed under recognised offender management processes.

¹³⁵ Policing and Crime Act 2017.

¹³⁶ Intimidatory offences and domestic abuse guidelines consultation, Sentencing Council, March 2017.

¹³⁷ Under the category “Other harassment – Putting people in fear of violence”.

¹³⁸ More information regarding MAPPA can be found at:
www.mappa.justice.gov.uk/connect.ti/MAPPA/groupHome

In some high-risk domestic abuse cases, a multi-agency risk assessment conference¹³⁹ (MARAC) will take place when the victim has been the subject of harassment and stalking. However, in general, MARACs focus on preventing harm to victims rather than addressing the cause of the offender behaviour.

Some police force areas have recognised this gap in offender management arrangements and have sought to introduce multi-agency partnership arrangements specifically to address stalking behaviour.

The Hampshire Stalking Clinic is funded by Hampshire's police and crime commissioner. The aim of the clinic is to provide a forum for the identification, referral, consultation, case formation and risk assessment of stalking cases. A multi-agency panel reviews high-risk stalking cases using the stalking risk profile assessment process. The agencies involved are the police, CPS, National Probation Service, local NHS foundation, and a local charity working with survivors of domestic abuse and sexual violence. Perpetrators can be referred for mental health treatment, or for more robust management under MAPPA.

Offender programmes

As part of this inspection, we worked with colleagues from Her Majesty's Inspectorate of Probation to establish what, if any, offender programmes or interventions were in use for harassment and stalking offenders.

HMI Probation sent a short survey to all 21 Community Rehabilitation Company (CRC) chief executives and all seven National Probation Service (NPS) Regional and Wales directors.

We were disappointed that only five CRC and NPS areas responded to this survey. None of the areas reported having any specific intervention provision for harassment and stalking perpetrators. One of the areas was in the process of reviewing their 'tool kit' of interventions, with the intention of developing a suitable programme.

Harassment and stalking offenders can have specific and complex needs to address the sometimes fixated and obsessive nature of their behaviour. There is a lack of suitable programmes for harassment and stalking offenders that will reduce the likelihood of reoffending and protect members of the public.

¹³⁹ A MARAC is a multi-agency meeting mainly aimed at protecting vulnerable domestic abuse victims.

Recommendation

- Chief constables should work with criminal justice partners to identify what programmes are available to manage offenders convicted of harassment and stalking offences in their respective force areas and, in the absence of such programmes, review whether they should be established.

4. Organisational problems

Leadership

All of the police forces we visited had a senior officer responsible for harassment and stalking as the strategic lead. Although the rank varied, it was usually at the level of assistant chief constable, and this was sufficient to influence change in the forces concerned.

Police leadership nationally is provided by Assistant Chief Constable Garry Shewan, who has been the national lead for harassment and stalking since 2007.

In CPS Areas, strategic leadership for harassment and stalking usually fell to the lead for violence against women and girls. The national CPS lead for harassment and stalking is a Chief Crown Prosecutor, who also has responsibility for violence against women and girls. This means that strong links can be made with other areas of vulnerability, such as domestic abuse. The CPS also has a harassment and stalking policy lead.

We have also noted elsewhere in this report the increasing influence of police and crime commissioners, including providing funding for:

- advocacy services for victims;
- stalking clinics;
- training for officers and staff; and
- reviews of harassment and stalking provision with recommendations for improvement.

Although we saw evidence of leadership at all levels within the police service and the CPS, and recognition of the need to improve the service provided to harassment and stalking victims, changes have not been quick enough. The evidence of this lies in the experiences of victims that we spoke with, and the cases that we assessed.

Organisational understanding

We were not convinced that any of the forces or CPS Areas that we visited comprehensively understood the nature of harassment and stalking in their areas. There were some limited attempts to understand the profile and needs of victims, but we saw no evidence of offender profiling.¹⁴⁰

¹⁴⁰ This is a tool used by criminal justice practitioners to identify likely suspects and analyse patterns of offending.

Profiling based on recorded crimes figures alone raises difficulties. As we have described above, these figures are currently unlikely to provide a true picture of harassment and stalking. We would therefore advocate a multi-agency approach to such work.

Some of the forces we inspected had action plans to address harassment and stalking. This was sometimes as a result of previous critical incidents culminating in a fatality, when the force had been criticised for the way the incident had been handled.

None of the forces or CPS Areas had specific performance management arrangements for harassment and stalking, although all forces monitored recorded crime data. There was some limited dip sampling activity in police forces and CPS Areas, but there was little evidence to suggest that lessons were being learned and shared.

The CPS publishes an annual national violence against women and girls crime report,¹⁴¹ which shows the national situation using data for the CPS as a whole.

There were performance management arrangements in place between the police and CPS in all of the CPS Areas we inspected. These meetings took place at an operational level to deal with specific cases, and also at a more senior level to consider wider concerns. However, these did not routinely deal specifically with harassment and stalking cases.

We were told by prosecutors that the process by which lessons learned should be shared between the CPS Areas and CPS Direct was not effective; and that no such process existed at all between forces and CPS Direct (which is responsible for the charging decisions in the majority of harassment and stalking cases).

The result was that it was difficult for police and CPS Area prosecutors to work with CPS Direct on errors and omissions and to be reassured that lessons were being learned. It is recognised that the CPS is undergoing some organisational change whereby CPS Areas will take on some additional responsibility for charging, which should help improve this situation.

The national case file quality monitoring arrangements show police file quality, but again this does not identify harassment and stalking offences or gather all relevant data.

When harassment and stalking featured in domestic abuse circumstances, crimes were more likely to be subject to wider scrutiny. For example, we found that there

¹⁴¹ For more information, see: www.cps.gov.uk/publications/equality/vaw/index.html

were established 'scrutiny panels'¹⁴² in all of the areas that we visited, which examined problems relating to violence against women and girls.

Harassment and stalking crimes could feature in this scrutiny process, although only domestic abuse cases were likely to be chosen. Therefore, there are opportunities to expand the scrutiny process to include harassment and stalking cases, regardless of the existence of domestic abuse in the circumstances of the case. This would enable lessons learned to be fed back into improving casework, and provide an opportunity to improve all CPS decision-making, particularly at the charging stage.

Bringing criminal justice partners together to discuss harassment and stalking cases on a regular basis should help agencies to better understand the experiences of victims, improve partnership working and improve victims' safety.

Recommendations

- The CPS should introduce a process into scrutiny panels to examine harassment and stalking cases on a regular basis.
- The CPS should improve the process whereby lessons learned can be passed between CPS Direct and CPS Areas.

Awareness, guidance and training

We have written above about the lack of understanding of what constitutes stalking. Some officers we spoke with considered stalking to exist only in the most serious of circumstances, for example when life was threatened, so missing the less serious section 2A Protection from Harassment Act 1997 stalking offence.

One of the forces visited did not have a policy on harassment and stalking, relying instead on the (outdated) national policy. The delay in the introduction of the revised College of Policing Authorised Professional Practice has caused forces significant problems. Some have produced guidance in draft form pending the Authorised Professional Practice publication, whereas others have developed policies that will not match the forthcoming national guidance.

The delay in the publication of the Authorised Professional Practice has helped lead to an inconsistent approach to dealing with harassment and stalking. The use of PINs has meant victims have been left vulnerable to repeat victimisation.

¹⁴² Scrutiny panels are multi-agency forums (including the police) designed to improve the experience of women and girls who are victims of violence.

The CPS legal guidance is comprehensive and, as national policy, should not be subject to variation within CPS Areas. However, the contents of this report should support a review of the CPS guidance as soon as possible.

Recommendations

- The College of Policing should consider the contents of this report and publish the new harassment and stalking Authorised Professional Practice as a matter of urgency.
- The CPS should consider the contents of this report, and the College of Policing Authorised Professional Practice when published, and thereafter review the current CPS legal guidance.

Effective training is of vital importance for an appropriate response to harassment and stalking. We have used the term training to include both formal training as part of professional development and awareness-raising in a more informal environment.

There was an inconsistent picture of training provision in the forces and CPS Areas we visited.

The College of Policing provides an e-learning or National Centre for Applied Learning Technologies (NCALT) package on harassment and stalking. We have been told by the College of Policing that nationally 88,000 police officers and staff completed this online training between 17 October 2012 and 28 February 2017. Some of the forces that we visited had instructed all officers to complete this training.

The majority of the officers we spoke with during our fieldwork had undertaken the NCALT course, although many had forgotten the specific content and most told us that they preferred face-to-face training.

The College of Policing is currently reviewing the training provision for stalking. We welcome this review and the contents of this report should be considered as part of that process.

Some forces had developed bespoke training after obtaining funding from the relevant office of the police and crime commissioner (OPCC). This either took the form of a video package or training given in person, sometimes with the assistance of specialist stalking support services. However, none of the training that we were told about had a specific CPS input and this could have improved the training further.

We were pleased to find this increased awareness in some forces of the need to develop bespoke training to help officers understand harassment and stalking, and the commitment of OPCCs to provide funding for these courses.

The CPS also had an inconsistent approach to training. Although the Stalking and Harassment e-learning course was mandatory for CPS Direct lawyers who provided pre-charge advice, it was not mandatory for all other lawyers and prosecutors. However, the cyber-stalking e-learning course is mandatory for all lawyers and prosecutors. This gap in the training provision should be closed.

Recommendation

- The CPS should ensure that all prosecutors have received training about harassment and stalking.

Stalking single points of contact

The national stalking protocol (see above) requires each police force and CPS Area to appoint a single point of contact (SPOC) for stalking to facilitate effective and early consultation between the police and the CPS.

The role of the SPOC should include close liaison with third-sector¹⁴³ organisations that provide support to victims of stalking. The police SPOC should have an important role in ensuring that referrals are made to specialist support services.

Although some police forces had established SPOCs, others had not. Some SPOCs were recent appointments who were not readily known throughout the force, to the CPS or to third-sector agencies.

Few SPOCs had received specific training in the role, and we heard that because police officers often changed roles it was difficult for partner agencies to keep track of these changes and build sustainable relationships. The SPOCs had limited engagement with counterparts in other areas.

Although the CPS Areas had also established a network of SPOCs, again these were not always known to staff or partner agencies within their respective CPS Areas.

The CPS SPOCs appear to have limited interactions with their counterparts in other CPS Areas and there are therefore missed opportunities to disseminate learning and ensure consistency throughout CPS Areas.

We were also told that it was sometimes difficult for third-sector stalking advocacy services working nationally to establish the identity of the different force or CPS Area

¹⁴³ These are voluntary and community organisations which are generally independent of government, and in the case of harassment and stalking include specialist support agencies.

stalking SPOCs. There was also an inconsistent referral process, with some forces having no specific links with the national stalking support services.

The system of SPOCs is a valuable initiative and could drive real improvements for victims. However, currently we do not believe that it is working to its full potential.

Recommendation

- The National Police Chiefs' Council and CPS stalking leads should review the stalking single point of contact system and ensure that this is:
 - fully effective; and
 - operating consistently for victims in all areas.

5. Conclusion

The risks posed to victims of harassment and stalking are often significant, due to the nature of the offending and the motivations of the perpetrators. In the cases that we examined, and from the victims who we spoke with, it was clear that the offending had a very detrimental effect on their lives on a daily and recurring basis.

“He said ‘I will stay in your life forever ... I will make sure nothing in your life or your family’s ever runs smoothly’.”

Stalking victim

The findings from this inspection lead us to conclude that there is still much work to do at every level in order to improve the experiences of harassment and stalking victims, and to ensure that all victims are given a consistent high-quality service in the criminal justice system.

Victims have the right to expect that the risks posed by perpetrators will be both assessed and managed, in partnership with other agencies such as specialist support services and the victims themselves. However, we found all too often that this was not done, leaving victims vulnerable to increasingly violent behaviour.

Victims also have the right to be protected throughout their experience of the criminal justice system. This should be done through conducting a thorough investigation with resultant bail conditions or other safeguards; statutory orders designed to prevent further offending; and appropriate charging, prosecution and sentencing.

We found that if an investigation was started, victims were often badly let down throughout the criminal justice process. One reason for this was the failure to impose bail conditions on perpetrators, which sometimes left the victim at risk of further offending. Changes have recently been made to the use of bail.¹⁴⁴ While it is too early to assess the effect of these changes, we will remain alert to any indication that forces and the CPS are failing to protect victims by not imposing or applying for bail conditions respectively, when appropriate.

What makes harassment and stalking different from other types of offending is the persistence of the behaviour, and the often fixated and obsessive motivations of the perpetrators. Despite victims consistently highlighting the failure of the criminal justice service to consider all of the actions of the perpetrator taken together, we found this failure persists.

¹⁴⁴ The changes to pre-charge bail are contained in the Policing and Crime Act 2017, sections 52–69.

Victims' advocates told us that they sometimes had to coach victims in how to convince the police that apparently innocuous acts by perpetrators were part of a wider pattern of offending so that their case would be treated seriously.

The increasing prevalence of the use of digital media gives perpetrators another easily accessible method by which to torment victims. As with other types of online offending, we should expect to see an increase in the use of digital media as a means of offending. Everyone involved in the criminal justice system needs to realise that urgent action is needed.

In some forces and CPS Areas, work has begun to address some of the problems that we deal with in this report. We have highlighted a number of areas of good practice to protect victims and address perpetrator behaviour. We also saw some effective work by police and the CPS in the application for restraining orders.

Notwithstanding the pockets of good practice, we found considerable inconsistencies both between forces and CPS Areas, and within those forces and Areas themselves.

We have also highlighted where more work needs to be done in other areas of the criminal justice system, such as intervention programmes for convicted offenders.

We welcome the Government's continued commitment to the protection of victims of stalking, including the announcement of proposals to introduce a Stalking Protection Order (SPO) and the increase in the maximum sentence for some offences of stalking. There is an opportunity to use the momentum behind SPOs to introduce a similar order for harassment crimes to further protect vulnerable victims.

Long-term problems deserve solutions that can protect victims over both the short and longer terms. Using the impetus behind SPOs to introduce measures to include harassment crimes and robust investigations followed by the implementation of restraining orders are a powerful combination of tactics that could provide the protection that victims need.

The Home Office can also lay the foundations for improvement by providing the clarity of understanding and recording of stalking that is so obviously missing, and which is needed before any consistency of practice can develop.

The College of Policing and the CPS need to work together to improve how officers and prosecutors work with victims to ensure their safety and make certain that perpetrators are dealt with effectively. The clearest areas for improvement are:

- a revised police Authorised Professional Practice;
- consistent high-quality training;
- ensuring a consistent approach to risk assessment and risk management; and
- compliance with the national stalking protocol.

In order to make rapid change a reality for victims, bold decisions need to be taken by senior leaders. Despite the best of intentions, proposals for the replacement of PINs and the introduction of SPOs do not go far enough to protect all victims of harassment and stalking.

However, the police service and the CPS rely on the availability of other public and specialist voluntary sector services to help discharge their safeguarding responsibilities. Police and crime commissioners have a statutory responsibility to provide victim services. Some have demonstrated a commitment to harassment and stalking victims by funding training and specialist services to understand and prevent stalking. Others have not, and this is yet another demonstration of the inconsistency that exists in the services to victims.

We have made a number of recommendations in this report. We firmly believe that, if implemented, they will make the lives of victims of harassment and stalking safer, and help prevent some of the tragic deaths that occur all too frequently.

Recommendations

To the Home Office

1. The Home Office should undertake a review of the Protection from Harassment Act 1997 with particular reference to:
 - including a provision for harassment causing serious distress to bring this into line with the stalking provisions; and
 - defining stalking more clearly.
2. The Home Office should change the Home Office Counting Rules for recorded crime to ensure that harassment crimes are recorded in preference to any other crimes (in particular malicious communications) when it is obvious that there has been a 'course of conduct'.
3. The Home Office should introduce protection orders for harassment crimes.

To the National Police Chiefs' Council

4. The National Police Chiefs' Council lead should ensure that the risks to victims of harassment and stalking are properly assessed by:
 - commissioning work to develop an evidence-based approach to risk assessment in harassment and stalking crimes;
 - advising forces that until the above review has been completed, forces should use a domestic abuse, stalking, harassment and honour-based violence risk identification, assessment and management model (or equivalent) for all harassment and stalking crimes as an interim measure.
5. The National Police Chiefs' Council lead should ensure that the risks to victims of harassment and stalking are properly managed by:
 - ensuring that any commissioned work to develop an evidence-based approach to risk assessment in harassment and stalking crimes also considers whether a risk management plan should be included with any risk assessment tool.

To the National Police Chiefs' Council and CPS lead

6. The National Police Chiefs' Council lead and the CPS policy lead for harassment and stalking should review the stalking protocol and re-issue it to forces and CPS Areas.
7. The National Police Chiefs' Council and CPS stalking leads should review the stalking single point of contact system and ensure that this is:
 - fully effective; and
 - operating consistently for victims in all areas.

To chief constables

8. Chief constables should stop the use of Police Information Notices and their equivalents immediately.
9. Chief constables should ensure that officers are aware of, and use appropriately, the powers of entry and search for stalking. Chief constables should also ensure that adequate records of these searches are compiled for audit and compliance purposes.
10. Chief constables should work with criminal justice partners to identify what programmes are available to manage offenders convicted of harassment and stalking offences in their respective force areas. In the absence of such programmes, they should review whether interventions could and should be established.

To chief constables and CPS Area leads

11. Chief constables and CPS Area leads should monitor and ensure compliance with the stalking protocol.

To the College of Policing

12. The College of Policing should consider how to raise awareness of the differences between harassment and stalking, including how to ensure that these crimes are correctly recorded. As part of this review, we propose that the training provided to force crime registrars incorporates a specific module on harassment and stalking.
13. The College of Policing, when compiling revised harassment and stalking Authorised Professional Practice, should include improved guidance to officers on crime prevention advice for victims, particularly about online offending.

14. The College of Policing, when revising the harassment and stalking Authorised Professional Practice, should highlight the complexities and risks associated with harassment and stalking offences and advise forces to consider these as part of the crime allocation process.
15. The College of Policing, when compiling revised stalking Authorised Professional Practice, should include the use of data on the power of search in stalking cases as best practice in audit and performance arrangements.
16. The College of Policing should consider the contents of this report and publish the new harassment and stalking Authorised Professional Practice as a matter of urgency.

To the College of Policing and Crown Prosecution Service

17. The College of Policing and the CPS should work together and respectively revise the summary of evidence form to ensure a consistent and appropriate response to such applications, and provide clear guidance on the application for restraining orders.

To the Crown Prosecution Service

18. The CPS should reinforce and reiterate guidance to prosecutors on accepting pleas to harassment instead of pursuing stalking charges.
19. The CPS should introduce a process into scrutiny panels to examine harassment and stalking cases on a regular basis.
20. The CPS should improve the process whereby lessons learned can be passed between CPS Direct and CPS Areas.
21. The CPS should consider the contents of this report, and the College of Policing Authorised Professional Practice when published, and thereafter review the current CPS legal guidance.
22. The CPS should ensure that all prosecutors have received training about harassment and stalking.

Definitions and interpretation

In this report, the following words, phrases and expressions in the left-hand column have the meanings assigned to them in the right-hand column. Sometimes, the definition will be followed by a fuller explanation of the matter in question, with references to sources and other material which may be of assistance to the reader.

ACPO	Association of Chief Police Officers (replaced by National Police Chiefs' Council)
anti-social behaviour	behaviour by a person which causes or is likely to cause harassment, alarm or distress to one of more persons not of the same household as the perpetrator of that behaviour (section 52(8), Domestic Violence, Crime Victims Act 2004)
Association of Chief Police Officers	professional association of police officers of assistant chief constable rank and above, and their police staff equivalents, in England, Wales and Northern Ireland, which led and co-ordinated operational policing nationally; replaced by the National Police Chiefs' Council on 1 April 2015
audit	means of checking upon and monitoring the accuracy of recorded data in order to oversee the effectiveness and efficiency of the recording system and the accuracy of the records it contains
Authorised Professional Practice	official source of professional practice on policing, developed and approved by the College of Policing, to which police officers and staff are expected to have regard in the discharge of their duties
bail conditions	conditions imposed to ensure that a defendant attends the next court hearing, commits no new offences in the meantime and does not interfere with any witnesses or obstruct the course of justice; a court can remand a defendant in custody or grant bail,

with or without conditions attached; before the first court hearing, the police can also retain a defendant in custody or grant bail with or without conditions attached, but their powers to do so are more limited than those of the court

Code of Practice for Victims of Crime

statutory code of practice issued by the Secretary of State for Justice under section 32 of the Domestic Violence, Crime and Victims Act 2004; the code establishes minimum standards on the rights, support and protection of victims of crime; its stated objective is to ensure the criminal justice system puts victims first, making the system more responsive to them and easier for them to navigate; it also aims to ensure that victims of crime are treated well and receive appropriate support to help them cope and recover, and to protect them from becoming victims again; the code specifies the services which must be provided to victims of crime in England and Wales, and sets a minimum for the standard of those services; higher entitlements are set for victims of the most serious crime, persistently targeted victims and vulnerable or intimidated victims; the public sector bodies which are obliged to provide services to victims of crime are specified in the code, and include police forces and police and crime commissioners; the Victims' Commissioner has a statutory duty to keep the code under regular review; the code is at:

www.cps.gov.uk/legal/assets/uploads/files/OD_000049.pdf

coercive control

a term and concept developed by Evan Stark which seeks to explain the range of tactics used by perpetrators and the negative effects these tactics have on victims; highlights the continuing nature of the behaviour and the extent to which the actions of the perpetrator control the victim

	<p>through isolation, intimidation, degradation and micro-regulation of everyday life; crucially, it sets out that such abuse can be psychological as well as physical; is explicitly covered by the definition of domestic abuse (section 76, Serious Crime Act 2016)</p>
College of Policing	<p>the professional body for policing; established to set standards in professional development, including codes of practice and regulations, to ensure consistency throughout the 43 forces in England and Wales; also has a remit to set standards for the police service on training, development, skills and qualifications</p>
Commissioner for Victims and Witnesses	<p>statutory office-holder appointed by the Secretary of State for Justice under section 48 of the Domestic Violence, Crime and Victims Act 2004; the commissioner is required (by section 49 of that Act) to promote the interests of victims and witnesses, encourage good practice in the treatment of victims and witnesses, and keep under review the victims' code; the commissioner is also required to give advice to ministers on matters relating to victims and witnesses, and to prepare and publish an annual report on the carrying out of his or her functions</p>
controlling behaviour	<p>range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour (section 76, Serious Crime Act 2015)</p>

conviction ratio	measure which is calculated by dividing the number of defendants convicted in court by the total number of defendants prosecuted during the period in question
course of conduct	behaviour which has been undertaken on at least two occasions
CPS	Crown Prosecution Service
Crown Prosecution Service	principal prosecuting authority in England and Wales responsible for: prosecuting criminal cases investigated by the police and other investigating bodies, advising the police on cases for possible prosecution, reviewing cases submitted by the police, determining any charges in more serious or complex cases, preparing cases for court, and presenting cases at court; set up by Prosecution of Offences Act 1985
Crown Prosecution Service Direct	unit within CPS that is responsible for providing charging decisions to all police forces and other investigators in England and Wales; operates 24 hours a day, 365 days a year
DASH	domestic abuse, stalking and harassment and honour-based violence assessment; see also S-DASH
domestic abuse	incident or pattern of incidents of controlling, coercive, threatening behaviour, violence or abuse between those aged 16 or over who are, or have been, intimate partners, or family members, regardless of gender or sexuality; the abuse can encompass, but is not limited to, psychological, physical, sexual, financial and emotional means
domestic abuse, stalking and harassment and honour-based violence assessment	risk identification, assessment and management model adopted by United Kingdom police forces and partner agencies in 2009

domestic violence protection notice	initial notice issued by the police under sections 21 to 33 of the Crime and Security Act 2010 to provide emergency protection to an individual believed to be the victim of domestic violence; must be authorised by a police superintendent; contains prohibitions that effectively bar the suspected perpetrator from returning to the victim's home or otherwise contacting the victim; may be issued to an adult if the police superintendent has reasonable grounds for believing that the adult has been violent towards, or has threatened violence towards an associated person, and the notice is necessary to protect that person from violence or a threat of violence by the intended recipient of the notice
domestic violence protection order	order imposed by a court to protect victims of domestic abuse
DVPN	domestic violence protection notice
DVPO	domestic violence protection order
'either way' offence	offence of middle-range seriousness which can be heard either in the magistrates' court or Crown Court
enhanced risk assessment	additional detailed risk assessment carried out by police
expert reference group	group of specialist agencies, including voluntary and statutory sectors, convened for the purpose of providing expertise and advice in relation to specific tasks such as an inspection on a specialist theme
force crime registrar	person in a police force who is responsible for ensuring compliance with crime-recording rules; the rules provide that he is ultimately responsible for all decisions to record a crime, or to make a crime cancellation decision, as the final arbiter;

	responsibilities include training staff in the crime-recording process and carrying out audits to check that the force is complying with all applicable rules
harassment	criminal conduct which causes alarm or distress or puts people in fear of violence; offences under sections 2 and 4 of the Protection from Harassment Act 1997
high risk	grade of risk; used if, following a risk assessment, there are identifiable indicators of risk of serious harm; the potential event could happen at any time; and the adverse effect would be serious
Home Office Counting Rules for recorded crime	set of standards and principles under which crime is recorded by police forces, in order to promote accurate and consistent crime-recording between police forces and take a victim-oriented approach to crime-recording
IDVA	independent domestic violence adviser
incident	record created by the police when a member of the public calls for police assistance, or a police officer observes or discovers a crime, before a decision whether a crime has been committed
independent domestic violence adviser	support worker specially trained to provide a service to victims at high risk of harm from intimate partners, ex-partners or family members, with the aim of securing their safety and the safety of their children; serves as a victim's primary point of contact; normally works with a victim from the point of crisis, to assess the level of risk, discuss the range of suitable options and develop safety plans
independent stalking advocate	support worker specially trained to work with victims of stalking
initial risk assessment	risk assessment undertaken at the first point of contact with police

intelligence	information that is evaluated and risk-assessed to assist the police in their decision-making
malicious communication	sending or delivering letters or other articles (including electronically) for the purpose of causing distress or anxiety; an offence under the Malicious Communications Act 1988
MAPPA	multi-agency public protection arrangements
MARAC	multi-agency risk assessment conference
MG forms	series of template forms designed to communicate information between the police and the CPS in any case; prescribed by ACPO/CPS Manual of Guidance
MG3	form used by police to record the charging decision
MG5	form used to detail the police report; a case file summary setting out the circumstances of the offence(s) and the evidence that is relied upon in the case
MG6	form used for case file evidence and information
multi-agency public protection arrangements	arrangements put in place to ensure the successful management of violent and sexual offenders
multi-agency risk assessment conference	locally held meeting where statutory and voluntary agency representatives come together and share information about high-risk victims of domestic abuse; any agency can refer an adult or child whom they believe to be at high risk of harm; the aim of the meeting is to produce a co-ordinated action plan to increase an adult or child's safety, health and well-being; agencies that attend vary, but are likely to include the police, probation, children's, health and housing services; over 250 currently in operation in England and Wales

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National Centre for Applied Learning Technologies	organisation that provides local and national e-learning training packages to police forces in England and Wales
national crime recording standard	standard of crime-recording introduced in 2002 and published as part of the Home Office Counting Rules; it has the twin objectives of ensuring the police focus more on victims of crime and ensuring consistency in crime-recording in all police forces
National Police Chiefs' Council	organisation which brings together 43 operationally independent and locally accountable chief constables and their chief officer teams to co-ordinate national operational policing; works closely with the College of Policing, which is responsible for developing professional standards, to develop national approaches on matters such as finance, technology and human resources; replaced the Association of Chief Police Officers on 1 April 2015
national stalking protocol	agreement on the appropriate handling of stalking offences between the Crown Prosecution Service and the Association of Chief Police Officers; sets out the principles governing the investigation and prosecution of stalking offences under sections 2A and 4A of the Protection from Harassment Act 1997; covers all forms of stalking
NCALT	National Centre for Applied Learning Technologies
NCALT packages	online training modules produced by NCALT; approved for use in all forces; cover a range of topics
'no crime'	incident reported to the police subsequently established not to have been a crime on the basis of additional verifiable information
non-molestation order	civil court order which aims to protect the victims of domestic violence

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notifiable offence	offence where the police must inform the Home Office by completing a crime report form for statistical purposes
perpetrator	someone who has, or is believed to have, committed a crime
PIN	Police Information Notice
Police Information Notice	written information notice issued by police to individuals where allegations of harassment or stalking have been made
police and crime commissioner	elected individual for a police area, established under section 1 of the Police Reform and Social Responsibility Act 2011, who is responsible for: securing the maintenance of the police force for that area and ensuring that the police force is efficient and effective; holding the relevant chief constable to account for the policing of the area; establishing the budget and police and crime plan for the police force; and appointing and, after due process, removing the chief constable from office
positive action	action taken at all stages of the police response to ensure effective protection of victims and children, while allowing the criminal justice system to hold the offender to account; often used in the context of arrest policy
postal requisition	method used by the police to inform individuals that they are required to attend court to face a criminal allegation; came into effect under the Criminal Justice Act 2003
pre-charge advice	advice given by the CPS to the police on whether there is sufficient evidence for a suspect to be prosecuted
problem profile	review of a problem; based on information gathered on the potential scale of that problem in the relevant area; informs the police's handling of the problem

Prosecutor's Pledge	ten-point pledge that describes the level of service that a victim can expect to receive from prosecutors
restraining order	order used by a court to protect a person or entity and the general public in a situation involving alleged domestic violence, harassment, stalking or sexual assault
risk assessment	assessment intended to assist officers in deciding appropriate levels of intervention for victims
risk management plan	plan which describes the actions to be taken to reduce the risk to a victim of crime and to keep victims safe; sometimes called a safety plan
S-DASH	recognised stalking screening tool comprising 11 questions to assess the risk to victims of stalking and harassment; see also DASH
safeguarding	process of protecting vulnerable people from abuse or neglect and promoting welfare
sexual violence	any act, attempt or threat of a sexual nature that results, or is likely to result, in physical, psychological and emotional harm; a form of gender-based violence
single point of contact	person who is designated as the contact for a specific area of activity; each police force and each CPS Area should have a designated single point of contact for stalking
special measures	methods to enable vulnerable or intimidated witnesses in a criminal trial to give their best evidence; special measures can include screening in court or giving evidence via video link; established under the Youth Justice and Criminal Evidence Act 1999
SPO	stalking protection order
SPOC	single point of contact

stalking	in this report, a pattern of unwanted, persistent pursuit and intrusive behaviour directed by one person to another, that engenders fear and distress in the victim and is characterised by an obsessive fixation with the victim; offences under sections 2A and 4A of the Protection from Harassment Act 1997; examples of the types of behaviour that may be displayed in a stalking offences are given in section 2A(3) of the Protection from Harassment Act 1997, and include following a person; contacting, or attempting to contact, a person by any means; and monitoring the use by a person of the internet, email or any form of electronic communication
stalking protection order	proposed order designed to intervene early to keep victims safe and stop “stranger stalking” before it escalates
victim personal statement	statement which victims may choose to make at the same time as a witness statement; gives victims an opportunity to describe the wider effects of the crime upon them, express their concerns and indicate whether or not they require any support; provisions relating to the making of a statement and its use in criminal proceedings are included in the Code of Practice for Victims of Crime, which was first published on 29 October 2013 and came into force on 10 December 2013
victims' code	Code of Practice for Victims of Crime
Victims Commissioner	Commissioner for Victims and Witnesses
violence against women	gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life; a form of gender-based violence and includes sexual violence

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voluntary interview

interview conducted of a person who is not under arrest

vulnerable

person who is in need of special care, support or protection because of age, disability or risk of abuse or neglect

Annex A – Methodology

The purpose of this inspection was to:

- assess the effectiveness of police forces at identifying and managing the vulnerability and risk associated with victims of stalking and harassment;
- assess the effectiveness of police forces and the CPS at investigating and prosecuting cases of stalking and harassment; and
- identify effective practice and lessons learned and make recommendations for improvement.

A phased approach was considered to be the most appropriate means of exploring these areas.

Pre-inspection

The inspection was undertaken jointly by HMIC and HMCPSI. However, phase one was conducted by HMIC only.

Following an initial desk-based review of literature, including legislation and policy, an expert reference group was formed. The purpose of the group was to:

- provide specialist advice, support and constructive challenge to the scoping, methodology and development of the inspection; and
- act as critical advisers throughout the inspection process.

A list of expert reference group members is given in annex B.

A set of inspection criteria was developed (see table 1) based on known risks identified through the initial literature review and consultation with our expert reference group.

We identified six principal areas within the scope of this inspection:

- effective strategies and leadership at local and national levels;
- effective identification of stalking and harassment crimes;
- assessment and management of risk to victims;
- provision of appropriate support to victims;
- effective investigation; and

- how the police and CPS work together to progress cases through the criminal justice process.

Table 1: Harassment and stalking inspection criteria

General criteria	Specific criteria
1. There are effective strategies in place and strong leadership is demonstrated at local and national level.	1.1 There is effective strategic leadership at national level.
	1.2 Police and CPS National Guidance are available and fit for purpose.
	1.3 The force and CPS Area understand the nature and extent of stalking and harassment.
	1.4 There is effective strategic leadership at force and CPS Area level.
	1.5 The force and CPS Area both have an effective lead/single point of contact (SPOC) for stalking and harassment.
	1.6 The force has an effective, clearly stated policy on stalking and harassment.
	1.7 The force and CPS Area have oversight and performance management arrangements in place in relation to stalking and harassment.
	1.8 The police and CPS provide effective training to officers on dealing with stalking and harassment and ensure that all relevant staff have received this training.
	1.9 The force has effective planning in place to identify and meet current and future demands in dealing with stalking and harassment cases.
2. Police and CPS staff effectively identify reports of stalking and harassment.	2.1 Police and CPS staff recognise reports of stalking and harassment, including offences committed via digital medium.
	2.2 Officers and staff recognise the likely adverse effect of stalking and harassment offences on the victim.

	2.3 Officers and staff understand the risks and links between stalking and harassment and domestic abuse.
3. The police assess and manage the risk to victims from offenders effectively.	3.1 The police use risk assessment screening tools effectively to assess risk to victims and families.
	3.2 The police are able to identify and highlight repeat victims and repeat offenders.
	3.3 The police and CPS respond appropriately to manage risks from offenders to stalking and harassment victims.
4. Victims receive appropriate care and support from agencies.	4.1 Agencies are responsive to the needs of victims.
	4.2 Victims receive the enhanced entitlements of Code of Practice for Victims of Crime.
	4.3 Victims feel safer as a result of effective engagement with agencies.
5. Police investigations are conducted effectively.	5.1 Police investigations are timely and thorough.
	5.2 Police investigations are effectively supervised.
	5.3 Decisions on disposal of cases are appropriate and taken at the right level (i.e. police/CPS), in accordance with guidance/protocols.
	5.4 Victims are notified of decisions in a timely manner to ensure they are kept safe, especially where there is higher risk.
6. The CPS and police work together to progress cases involving stalking or harassment to court effectively.	6.1 Police case files accord with national file standards.
	6.2 Prosecution decision-making is sound and meets the needs of the case.
	6.3 Cases progress effectively and there is appropriate assurance.

	6.4 The needs of victims and witnesses are met.
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Inspection

The inspection was divided into four phases.

Phase one

This phase was undertaken by HMIC. It took place between October and December 2016 and was incorporated into the Autumn PEEL inspections of all 43 forces. This phase of the inspection included:

- examination of Police Information Notice (PIN) data from all 43 forces, including policy submissions;
- case assessments of six cases in each force (nine cases for the four larger forces: Greater Manchester Police, the Metropolitan Police Service, West Midlands Police and West Yorkshire Police) where Police Information Notices (PINs) had been issued (or first incident harassment cases in forces where PINs were not used); and
- an interview with each force single point of contact for stalking.

The data gathered from this phase informed the selection of forces for the inspection work in phase two.

Phase two

This phase comprised in-depth fieldwork and focused on six force areas and their corresponding CPS Areas:

- Avon and Somerset Police/CPS South West;
- Durham Constabulary/CPS North East;
- Greater Manchester Police/CPS North West;
- Gwent Police/CPS Wales;
- Hampshire Constabulary/CPS Wessex; and
- Sussex Police/CPS South East.

The inspection was conducted jointly by HMIC and HMCPSI. Fieldwork included an examination of 16 cases¹⁴⁵ in each of the forces where a charge of stalking or harassment had been laid, from initial report through to finalisation by the CPS. Cases were selected randomly by HMCPSI from those finalised in November 2016. Cases were chosen to reflect a balance of criteria such as defendants who had pleaded guilty and those who had pleaded not guilty, cases which were flagged as domestic abuse and non-domestic abuse.

In addition to the case assessments, we conducted interviews in forces with a range of senior and operational lead officers and held focus groups with frontline officers, staff and partner agencies, such as victim support services. In CPS Areas we interviewed senior staff responsible for harassment and stalking prosecutions, and held focus groups with prosecutors.

Phase three

HMIC commissioned the University of Worcester to undertake a participative research project to engage with victims of stalking and harassment. The work was designed to gain the views of victims of these crimes to provide a victim perspective to the inspection finding. A copy of the report is available at:

www.justiceinspectors.gov.uk/hmic/

Phase four

For the final phase of the inspection we carried out interviews with a number of principal national figures in the field of harassment and stalking. Those interviewed included representatives from:

- National Police Chiefs' Council;
- CPS;
- Home Office;
- Suzy Lamplugh Trust; and
- Paladin.

We are grateful to all those who assisted this inspection.

¹⁴⁵ For Greater Manchester Police, because of its size, we examined 32 cases.

Annex B – HMIC harassment and stalking expert reference group

HMIC set up a reference group for this inspection. The objectives of such a reference group are to:

- represent the principal stakeholders in the area under scrutiny;
- provide advice to the inspection team on strategic, technical and/or operational issues associated with the service under inspection;
- help to provide direct links into the organisations or groups which the members represent for consultative purposes; and
- comment on emerging findings and final recommendations.

The following people were members of the HMIC harassment and stalking expert reference group. The reference group was chaired by Her Majesty's Inspector Wendy Williams and met three times during the inspection programme.

Name	Organisation
Alison ¹⁴⁶	Paladin
Aissa Gaye	Home Office
Lena Goodfellow	Home Office
Rachel Griffin	Suzy Lamplugh Trust
Diane Hurtle	HM Crown Prosecution Service Inspectorate
Samantha Magness	Crown Prosecution Service
Estelle Mathieson	Greater Manchester Police
Lena Parmar	Victims' Commissioner
Elsbeth Rogers	Independent Police Complaints Commission
Dr Emma Short	University of Bedfordshire
Til Somer	Internet Service Providers' Association
Sharon Stratton	College of Policing

¹⁴⁶ Surname not shown as per Paladin policy.

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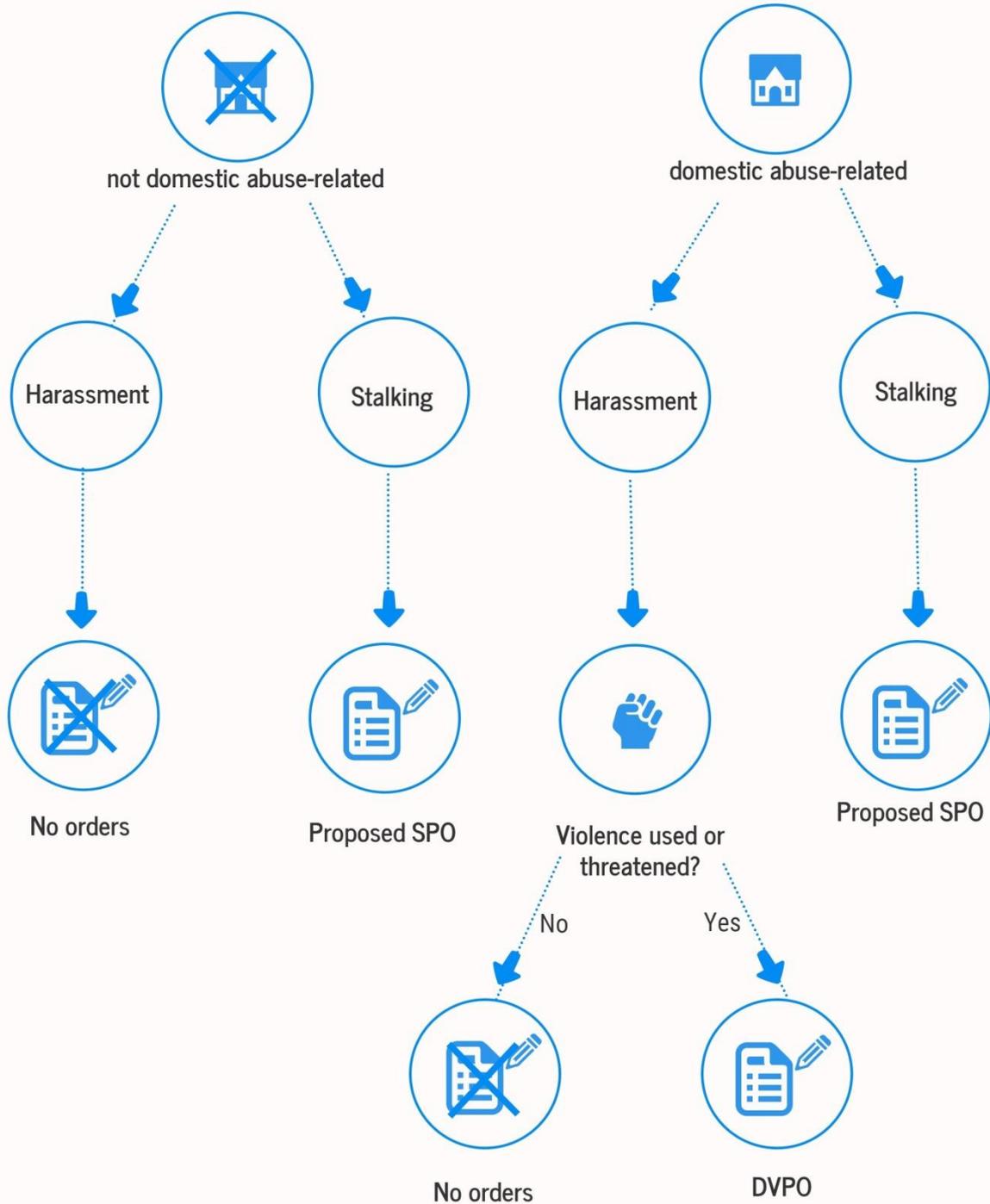
Dr Holly Taylor-Dunn

University of Worcester

HMIC is extremely grateful for the time and expertise that all individuals and organisations gave to support the development of the inspection programme.

Annex C – Protection orders flow chart

Specific powers available to police forces to deal with incidents



In certain circumstances, police forces can also apply for anti-social behaviour injunctions under Part 1, Anti-social Behaviour, Crime and Policing Act 2014.

Annex D – About the data

The information presented in this report comes from a range of sources, including published data, case file reviews and inspection fieldwork.

Published data

Source	Timings	Notes about the data
Crime Survey for England and Wales	Year ending 31 March 2016	<p>The Crime Survey for England and Wales definition of stalking is not consistent with the legal definition because of the introduction of the offence of “coercive and controlling behaviour” in December 2015, which includes stalking by a current partner.</p> <p>From April 2013, the definition of stalking in the Crime Survey of England and Wales was changed to include the legal definition of “two or more incidents”.</p>
Home Office Recorded Crime	Year ending 31 December 2016	<p>Data are for England and Wales and include the British Transport Police.</p> <p>Harassment data refer to crimes recorded under the crime code 8L. This includes crimes of malicious communications contrary to the Malicious Communications Act 1988. This number excludes racially or religiously aggravated harassment. Stalking data refer to crimes recorded under the crime code 8Q. Some stalking and harassment crimes may be recorded under section 76 of the Serious Crime Act 2015 – Controlling or Coercive Behaviour in an Intimate or Family Relationship, and these are not included.</p>
Home Office Crime Outcomes	Year ending 31 December 2016	<p>Data are for England and Wales and include the British Transport Police.</p> <p>Crime outcomes data provided in this report refer to the outcomes of crimes recorded in the 12 months to 31 December 2016 regardless of when the associated outcome was recorded.</p> <p>Harassment data refer to crimes recorded under the crime code 8L. This includes crimes of malicious communications contrary to the Malicious Communications Act 1988. This number excludes racially or religiously aggravated harassment. Stalking data refer to crimes recorded under</p>

		<p>the crime code 8Q. Some stalking and harassment crimes may be recorded under section 76 of the Serious Crime Act 2015 – Controlling or Coercive Behaviour in an Intimate or Family Relationship, and these are not included. Devon and Cornwall, Hertfordshire, Kent, City of London, Metropolitan Police, Sussex and Northumbria police forces have all recorded offences against expired codes in 2016/17. The number of crimes represented in the outcomes publication for 2016/17 therefore may not match the figures published in the recorded crime publication.</p>
<p>Crown Prosecution Service/Violence Against Women and Girls</p>	<p>Year ending 31 March 2016</p>	<p>Offences recorded in the Crown Prosecution Service’s Management Information System Offences Universe are those that reached a hearing. Data relate to the number of offences recorded in magistrates’ courts, in which a prosecution commenced, as recorded in the Case Management System database. Offences data are not held by defendant or outcome. Offences recorded in the Management Information System are those which were charged at any time and reached at least one hearing. This offence will remain recorded whether or not that offence was proceeded with and there is no indication of final outcome or if the offence charged was the substantive offence at finalisation.</p>
<p>Ministry of Justice</p>	<p>Calendar years 2014, 2015 and 2016</p>	<p>The figures given relate to defendants for whom these offences were the principal offences for which they were dealt with. When a defendant has been found guilty of two or more offences, it is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe – although this does not apply to the number of restraining orders issued, since this takes into account those given as secondary or tertiary disposals for the principle offence.</p> <p>Every effort is made to ensure that the figures presented are accurate and complete. However, it is important to note that these data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes, and their inevitable limitations, are taken into account when these data are used.</p>

		<p>The number of defendants found guilty in a particular year may differ from the group proceeded against if the proceedings in the magistrates' court took place in an earlier year and the defendants were found guilty at the Crown Court in the following year; or the defendants were found guilty of a different offence to that for which they were originally proceeded against.</p> <p>Due to updates following quality assurance in the latest year, including the reclassification of some offences, pre-2015 results may not match those previously published.</p> <p>Conviction ratios are calculated as the number of convictions as a proportion of the number of proceedings. This gives a measure of the relative number of defendants who are found guilty within a given year for a certain offence, when compared with the number who are prosecuted that year for the same offence.</p>
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Additional data collected by HMIC

Police Information Notice (PIN) case file review

HMIC reviewed 270 PIN cases in all 43 police forces in England and Wales (excluding British Transport Police): six cases each from 39 forces, and nine cases each from four larger urban police forces. Some police forces do not use PINs, and in these forces we reviewed cases involving their alternative to PINs.

Joint HMIC and HMCPSI case file reviews

HMIC and HMCPSI jointly examined cases of stalking and harassment in six police forces. In total 112 cases were examined: 16 cases each from five smaller forces and 32 cases from one large urban force. Cases chosen were from a list which were finalised on the Case Management System in November 2016.

College of Policing

Data on the number of times National Crime for Applied Learning Technologies training for Stalking and Harassment had been accessed between 17 October 2012 and 28 February 2017 were supplied by the College of Policing.